

As Passed by the Senate

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Sub. H. B. No. 153

Representative Amstutz

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Uecker Speaker Batchelder**

**Senators Bacon, Beagle, Coley, Daniels, Faber, Gillmor, Hite, Jones, LaRose,
Lehner, Manning, Niehaus, Schaffer, Wagoner, Widener**

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

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6119.22, 6119.25, and 6119.58 be amended; sections 124.85 (9.04), 609
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(505.482), 505.482 (505.481), 3306.12 (3317.0212), 3314.20 611
(3313.473), 3721.561 (3721.56), 3722.01 (5119.70), 3722.011 612
(5119.701), 3722.02 (5119.71), 3722.021 (5119.711), 3722.022 613
(5119.712), 3722.03 (5119.72), 3722.04 (5119.73), 3722.041 614
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(5101.273), 5101.5110 (5101.5111), 5111.14 (5111.141), 5111.261 630
(5111.263), 5111.892 (5111.893), 5119.612 (5119.613), and 5119.613 631
(5119.614) be amended for the purpose of adopting new section 632
numbers as indicated in parentheses; that new sections 3314.016, 633
3314.20, 5101.271, 5101.5110, 5111.14, 5111.261, 5111.861, 634
5111.892, 5119.612, 5126.18, and 5747.52 and sections 7.16, 9.334, 635

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5119.693, 5120.092, 5122.341, 5123.0418, 5123.0419, 5703.059, 671
5705.55, 5725.34, 5729.17, 5748.09, 5751.41, 6115.231, and 672
6119.061 of the Revised Code be enacted to read as follows: 673

Sec. 7.10. For the publication of advertisements, notices, 674
and proclamations, except those relating to proposed amendments to 675
the Ohio ~~constitution~~ Constitution, required to be published by a 676
public officer of the state, ~~county, municipal corporation,~~ 677
~~township, school,~~ a benevolent or other public institution, ~~or by~~ 678
a trustee, assignee, executor, or administrator, or by or in any 679
court of record, except when the rate is otherwise fixed by law, 680
publishers of newspapers may charge and receive for such 681
advertisements, notices, and proclamations rates charged on annual 682
contracts by them for a like amount of space to other advertisers 683
who advertise in its general display advertising columns. ~~Legal~~ 684

For the publication of advertisements, notices, or 685
proclamations required to be published by a public officer of a 686
county, municipal corporation, township, school, or other 687
political subdivision, publishers of newspapers shall establish a 688
government rate, which shall include free publication of 689
advertisements, notices, or proclamations on the newspaper's 690
internet web site, if the newspaper has one. The government rate 691
shall not exceed the lowest classified advertising rate and lowest 692
insert rate paid by other advertisers. 693

Legal advertising, except that relating to proposed 694
amendments to the Ohio ~~constitution~~ Constitution, shall be set up 695
in a compact form, without unnecessary spaces, blanks, or 696
headlines, and printed in not smaller than six-point type. The 697
type used must be of such proportions that the body of the capital 698

letter M is no wider than it is high and all other letters and characters are in proportion.

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

Sec. 7.11. A proclamation for an election, an order fixing the time of holding court, notice of the rates of taxation, bridge and pike notices, notice to contractors, and such other advertisements of general interest to the taxpayers as the county auditor, county treasurer, probate judge, or board of county commissioners deems proper shall be published in ~~two newspapers a newspaper of opposite politics of~~ general circulation, as defined in section ~~5721.01~~ 7.12 of the Revised Code at the county seat ~~if there are such newspapers published thereat. If there are not two newspapers of opposite politics and of general circulation published in said county seat, such publication shall be made in one newspaper published in said county seat and in any other newspaper of general circulation in said county as defined in section 5721.01 of the Revised Code, wherever published, without regard to the politics of such other newspaper.~~ In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of such notice shall be made in ~~two newspapers a newspaper of opposite politics and of~~ general circulation ~~in such city,~~ as defined in such section, in such city. ~~For purposes of this section, a newspaper independent in politics is a newspaper of opposite politics to a newspaper of designated political affiliation. Sections 7.10 to 7.13, inclusive, of the Revised Code, do not apply to the publication of notices of delinquent and forfeited land sales.~~

The cost of any publication authorized by this section, which 731
~~is shall be~~ printed in display form, shall be the ~~commercial~~ 732
government rate ~~charged~~ established by such newspaper under 733
section 7.10 of the Revised Code. 734

Sec. 7.12. (A) ~~Whenever any legal publication a state agency~~ 735
~~or a political subdivision of the state is required by law to be~~ 736
~~made~~ make any legal publication in a newspaper ~~published in a~~ 737
~~municipal corporation, county, or other political subdivision,~~ the 738
newspaper shall also be a newspaper of general circulation ~~in the~~ 739
~~municipal corporation, county, or other political subdivision,~~ 740
~~without further restriction or limitation upon a selection of the~~ 741
~~newspaper to be used. If no newspaper is published in such~~ 742
~~municipal corporation, county, or other political subdivision,~~ 743
~~such legal publication shall be made in any newspaper of general~~ 744
~~circulation therein. If there are less than two newspapers~~ 745
~~published in any municipal corporation, county, or other political~~ 746
~~subdivision in the manner defined by this section, then any legal~~ 747
~~publication required by law to be made in a newspaper published in~~ 748
~~a municipal corporation, county, or other political subdivision~~ 749
~~may be made in any newspaper regularly issued at stated intervals~~ 750
~~from a known office of publication located within the municipal~~ 751
~~corporation, county, or other political subdivision. As used in~~ 752
~~this section, a known office of publication is a public office~~ 753
~~where the business of the newspaper is transacted during the usual~~ 754
~~business hours, and such office shall be shown by the publication~~ 755
~~itself. As used in the Revised Code,~~ 756

~~In addition to all other requirements, a "newspaper" or~~ 757
~~"newspaper of general circulation," except those publications~~ 758
daily law journals in existence on or before July 1, 2011, and 759
performing the functions described in section 2701.09 of the 760
Revised Code for a period of ~~one year~~ three years immediately 761
preceding any such legal publication required to be made, ~~shall be~~ 762

~~is a publication bearing a title or name, that is regularly issued 763
as frequently as at least once a week for a definite price or 764
consideration paid for by not less than fifty per cent of those to 765
whom distribution is made, having a second class mailing 766
privilege, being not less than four pages, published continuously 767
during the immediately preceding one year period, and circulated 768
generally in the political subdivision in which it is published. 769
Such publication must be of a type to which the general public 770
resorts for passing events of a political, religious, commercial, 771
and social nature, current happenings, announcements, 772
miscellaneous reading matter, advertisements, and other notices, 773
and that meets all of the following requirements: 774~~

(1) It is printed in the English language using standard 775
printing methods, being not less than eight pages in the 776
broadsheet format or sixteen pages in the tabloid format. 777

(2) It contains at least twenty-five per cent editorial 778
content, which includes, but is not limited to, local news, 779
political information, and local sports. 780

(3) It has been published continuously for at least three 781
years immediately preceding legal publication by the state agency 782
or political subdivision. 783

(4) The publication has the ability to add subscribers to its 784
distribution list. 785

(5) The publication is circulated generally by United States 786
mail or carrier delivery in the political subdivision responsible 787
for legal publication or in the state, if legal publication is 788
made by a state agency, by proof of the filing of a United States 789
postal service "Statement of Ownership, Management, and 790
Circulation" (PS form 3526) with the local postmaster, or by proof 791
of an independent audit of the publication performed, within the 792
twelve months immediately preceding legal publication. 793

(B) A person who disagrees that a publication is a "newspaper of general circulation" in which legal publication may be made under this section may deliver a written request for mediation to the publisher of the publication and to the court of common pleas of the county in which is located the political subdivision in which the publication is circulated, or in the Franklin county court of common pleas if legal publication is to be made by a state agency. The court of common pleas shall appoint a mediator, and the parties shall follow the procedures of the mediation program operated by the court. 794
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Sec. 7.16. (A) If a section of the Revised Code or an administrative rule requires a state agency or a political subdivision of the state to publish a notice or advertisement two or more times in a newspaper of general circulation and the section or administrative rule refers to this section, the first publication of the notice or advertisement shall be made in its entirety in a newspaper of general circulation and may be made in a preprinted insert in the newspaper, but the second publication otherwise required by that section or administrative rule may be made in abbreviated form in a newspaper of general circulation in the state or in the political subdivision, as designated in that section or administrative rule, and on the newspaper's internet web site, if the newspaper has one. The state agency or political subdivision may eliminate any further newspaper publications required by that section or administrative rule, provided that the second, abbreviated notice or advertisement meets all of the following requirements: 804
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(1) It is published in the newspaper of general circulation in which the first publication of the notice or advertisement was made and is published on that newspaper's internet web site, if the newspaper has one. 821
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(2) It includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice or advertisement, and includes a statement that the notice or advertisement is posted in its entirety on the state public notice web site established under section 125.182 of the Revised Code. The notice or advertisement also may be posted on the state agency's or political subdivision's internet web site. 825
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(3) It includes the internet addresses of the state public notice web site, and of the newspaper's and state agency's or political subdivision's internet web site if the notice or advertisement is posted on those web sites, and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice or advertisement. 832
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(B) A notice or advertisement published under this section on an internet web site shall be published in its entirety in accordance with the section of the Revised Code or the administrative rule that requires the publication. 839
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(C) If a state agency or political subdivision does not operate and maintain, or ceases to operate and maintain, an internet web site, and if the state public notice web site established under section 125.182 of the Revised Code is not operational, the state agency or political subdivision shall not publish a notice or advertisement under this section, but instead shall comply with the publication requirements of the section of the Revised Code or the administrative rule that refers to this section. 843
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Sec. 9.03. (A) As used in this section, "political subdivision" means any body corporate and politic, except a municipal corporation that has adopted a charter under Section 7 of Article XVIII, Ohio Constitution, and except a county that has 852
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adopted a charter under Sections 3 and 4 of Article X, Ohio 856
Constitution, to which both of the following apply: 857

(1) It is responsible for governmental activities only in a 858
geographic area smaller than the state. 859

(2) It is subject to the sovereign immunity of the state. 860

(B) Except as otherwise provided in division (C) of this 861
section, the governing body of a political subdivision may use 862
public funds to publish and distribute newsletters, or to use any 863
other means, to communicate information about the plans, policies, 864
and operations of the political subdivision to members of the 865
public within the political subdivision and to other persons who 866
may be affected by the political subdivision. 867

(C) Except as otherwise provided in division (A)~~(7)~~(6) of 868
section 340.03 or division (A)(12) of section 340.033 of the 869
Revised Code, no governing body of a political subdivision shall 870
use public funds to do any of the following: 871

(1) Publish, distribute, or otherwise communicate information 872
that does any of the following: 873

(a) Contains defamatory, libelous, or obscene matter; 874

(b) Promotes alcoholic beverages, cigarettes or other tobacco 875
products, or any illegal product, service, or activity; 876

(c) Promotes illegal discrimination on the basis of race, 877
color, religion, national origin, handicap, age, or ancestry; 878

(d) Supports or opposes any labor organization or any action 879
by, on behalf of, or against any labor organization; 880

(e) Supports or opposes the nomination or election of a 881
candidate for public office, the investigation, prosecution, or 882
recall of a public official, or the passage of a levy or bond 883
issue. 884

(2) Compensate any employee of the political subdivision for 885

time spent on any activity to influence the outcome of an election 886
for any of the purposes described in division (C)(1)(e) of this 887
section. Division (C)(2) of this section does not prohibit the use 888
of public funds to compensate an employee of a political 889
subdivision for attending a public meeting to present information 890
about the political subdivision's finances, activities, and 891
governmental actions in a manner that is not designed to influence 892
the outcome of an election or the passage of a levy or bond issue, 893
even though the election, levy, or bond issue is discussed or 894
debated at the meeting. 895

(D) Nothing in this section prohibits or restricts any 896
political subdivision from sponsoring, participating in, or doing 897
any of the following: 898

(1) Charitable or public service advertising that is not 899
commercial in nature; 900

(2) Advertising of exhibitions, performances, programs, 901
products, or services that are provided by employees of a 902
political subdivision or are provided at or through premises owned 903
or operated by a political subdivision; 904

(3) Licensing an interest in a name or mark that is owned or 905
controlled by the political subdivision. 906

(E) As used in this section, "cigarettes" and "tobacco 907
product" have the same meanings as in section 5743.01 of the 908
Revised Code. 909

Sec. ~~124.85~~ 9.04. (A) As used in this section: 910

(1) "Nontherapeutic abortion" means an abortion that is 911
performed or induced when the life of the mother would not be 912
endangered if the fetus were carried to term or when the pregnancy 913
of the mother was not the result of rape or incest reported to a 914
law enforcement agency. 915

(2) "Policy, contract, or plan" means a policy, contract, or plan of one or more insurance companies, medical care corporations, health care corporations, health maintenance organizations, preferred provider organizations, or other entities that provides health, medical, hospital, or surgical coverage, benefits, or services to elected or appointed officers or employees of the state, ~~including or any political subdivision thereof~~. "Policy, contract, or plan" includes a plan that is associated with a self-insurance program and a policy, contract, or plan that implements a collective bargaining agreement.

(3) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state, except that "political subdivision" does not include either of the following:

(a) A municipal corporation;

(b) A county that has adopted a charter under Section 3 of Article X, Ohio Constitution, to the extent that it is exercising the powers of local self-government as provided in that charter and is subject to Section 3 of Article XVIII, Ohio Constitution.

~~(4) "State" has the same meaning as in section 2744.01 of the Revised Code means the state of Ohio, including the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.~~

(B) Subject to division (C) of this section, but notwithstanding other provisions of the Revised Code that conflict with the prohibition specified in this division, funds of the state or any political subdivision thereof shall not be expended directly or indirectly to pay the costs, premiums, or charges

associated with a policy, contract, or plan if the policy, 947
contract, or plan provides coverage, benefits, or services related 948
to a nontherapeutic abortion. 949

(C) Division (B) of this section does not preclude the state 950
or any political subdivision thereof from expending funds to pay 951
the costs, premiums, or charges associated with a policy, 952
contract, or plan that includes a rider or other provision offered 953
on an individual basis under which an elected or appointed 954
official or employee who accepts the offer of the rider or 955
provision may obtain coverage of a nontherapeutic abortion through 956
the policy, contract, or plan if the individual pays for all of 957
the costs, premiums, or charges associated with the rider or 958
provision, including all administrative expenses related to the 959
rider or provision and any claim made for a nontherapeutic 960
abortion. 961

(D) In addition to the laws specified in division (A) of 962
section 4117.10 of the Revised Code that prevail over conflicting 963
provisions of agreements between employee organizations and public 964
employers, divisions (B) and (C) of this section shall prevail 965
over conflicting provisions of that nature. 966

Sec. 9.06. (A)(1) The department of rehabilitation and 967
correction may contract for the private operation and management 968
pursuant to this section of the initial intensive program prison 969
established pursuant to section 5120.033 of the Revised Code, if 970
one or more intensive program prisons are established under that 971
section, and may contract for the private operation and management 972
of any other facility under this section. Counties and municipal 973
corporations to the extent authorized in sections 307.93, 341.35, 974
753.03, and 753.15 of the Revised Code may contract for the 975
private operation and management of a facility under this section. 976
A contract entered into under this section shall be for an initial 977

~~term of not more than two years~~ specified in the contract with an 978
option to renew for additional periods of two years. 979

(2) The department of rehabilitation and correction, by rule, 980
shall adopt minimum criteria and specifications that a person or 981
entity, other than a person or entity that satisfies the criteria 982
set forth in division (A)(3)(a) of this section and subject to 983
division (I) of this section, must satisfy in order to apply to 984
operate and manage as a contractor pursuant to this section the 985
initial intensive program prison established pursuant to section 986
5120.033 of the Revised Code, if one or more intensive program 987
prisons are established under that section. 988

(3) Subject to division (I) of this section, any person or 989
entity that applies to operate and manage a facility as a 990
contractor pursuant to this section shall satisfy one or more of 991
the following criteria: 992

(a) The person or entity ~~is accredited by the American~~ 993
~~correctional association and~~, at the time of the application, 994
operates and manages one or more facilities accredited by the 995
American correctional association. 996

(b) The person or entity satisfies all of the minimum 997
criteria and specifications adopted by the department of 998
rehabilitation and correction pursuant to division (A)(2) of this 999
section, provided that this alternative shall be available only in 1000
relation to the initial intensive program prison established 1001
pursuant to section 5120.033 of the Revised Code, if one or more 1002
intensive program prisons are established under that section. 1003

(4) Subject to division (I) of this section, before a public 1004
entity may enter into a contract under this section, the 1005
contractor shall convincingly demonstrate to the public entity 1006
that it can operate the facility with the inmate capacity required 1007
by the public entity and provide the services required in this 1008

section and realize at least a five per cent savings over the 1009
projected cost to the public entity of providing these same 1010
services to operate the facility that is the subject of the 1011
contract. No out-of-state prisoners may be housed in any facility 1012
that is the subject of a contract entered into under this section. 1013

(B) Subject to division (I) of this section, any contract 1014
entered into under this section shall include all of the 1015
following: 1016

(1) A requirement that ~~the contractor retain the contractor's~~ 1017
~~accreditation from the American correctional association~~ 1018
~~throughout the contract term or~~, if the contractor applied 1019
pursuant to division (A)(3)(b) of this section, the contractor 1020
continue complying with the applicable criteria and specifications 1021
adopted by the department of rehabilitation and correction 1022
pursuant to division (A)(2) of this section; 1023

(2) A requirement that all of the following conditions be 1024
met: 1025

(a) The contractor begins the process of accrediting the 1026
facility with the American correctional association no later than 1027
sixty days after the facility receives its first inmate. 1028

(b) The contractor receives accreditation of the facility 1029
within twelve months after the date the contractor applies to the 1030
American correctional association for accreditation. 1031

(c) Once the accreditation is received, the contractor 1032
maintains it for the duration of the contract term. 1033

(d) If the contractor does not comply with divisions 1034
(B)(2)(a) to (c) of this section, the contractor is in violation 1035
of the contract, and the public entity may revoke the contract at 1036
its discretion. 1037

(3) A requirement that the contractor comply with all rules 1038

promulgated by the department of rehabilitation and correction 1039
that apply to the operation and management of correctional 1040
facilities, including the minimum standards for jails in Ohio and 1041
policies regarding the use of force and the use of deadly force, 1042
although the public entity may require more stringent standards, 1043
and comply with any applicable laws, rules, or regulations of the 1044
federal, state, and local governments, including, but not limited 1045
to, sanitation, food service, safety, and health regulations. The 1046
contractor shall be required to send copies of reports of 1047
inspections completed by the appropriate authorities regarding 1048
compliance with rules and regulations to the director of 1049
rehabilitation and correction or the director's designee and, if 1050
contracting with a local public entity, to the governing authority 1051
of that entity. 1052

(4) A requirement that the contractor report for 1053
investigation all crimes in connection with the facility to the 1054
public entity, to all local law enforcement agencies with 1055
jurisdiction over the place at which the facility is located, and, 1056
for a crime committed at a state correctional institution, to the 1057
state highway patrol; 1058

(5) A requirement that the contractor immediately report all 1059
escapes from the facility, and the apprehension of all escapees, 1060
by telephone and in writing to all local law enforcement agencies 1061
with jurisdiction over the place at which the facility is located, 1062
to the prosecuting attorney of the county in which the facility is 1063
located, to the state highway patrol, to a daily newspaper having 1064
general circulation in the county in which the facility is 1065
located, and, if the facility is a state correctional institution, 1066
to the department of rehabilitation and correction. The written 1067
notice may be by either facsimile transmission or mail. A failure 1068
to comply with this requirement regarding an escape is a violation 1069
of section 2921.22 of the Revised Code. 1070

(6) A requirement that, if the facility is a state 1071
correctional institution, the contractor provide a written report 1072
within specified time limits to the director of rehabilitation and 1073
correction or the director's designee of all unusual incidents at 1074
the facility as defined in rules promulgated by the department of 1075
rehabilitation and correction or, if the facility is a local 1076
correctional institution, that the contractor provide a written 1077
report of all unusual incidents at the facility to the governing 1078
authority of the local public entity; 1079

(7) A requirement that the contractor maintain proper control 1080
of inmates' personal funds pursuant to rules promulgated by the 1081
department of rehabilitation and correction for state correctional 1082
institutions or pursuant to the minimum standards for jails along 1083
with any additional standards established by the local public 1084
entity for local correctional institutions and that records 1085
pertaining to these funds be made available to representatives of 1086
the public entity for review or audit; 1087

(8) A requirement that the contractor prepare and distribute 1088
to the director of rehabilitation and correction or, if 1089
contracting with a local public entity, to the governing authority 1090
of the local entity annual budget income and expenditure 1091
statements and funding source financial reports; 1092

(9) A requirement that the public entity appoint and 1093
supervise a full-time contract monitor, that the contractor 1094
provide suitable office space for the contract monitor at the 1095
facility, and that the contractor allow the contract monitor 1096
unrestricted access to all parts of the facility and all records 1097
of the facility except the contractor's financial records; 1098

(10) A requirement that if the facility is a state 1099
correctional institution designated department of rehabilitation 1100
and correction staff members be allowed access to the facility in 1101
accordance with rules promulgated by the department; 1102

- (11) A requirement that the contractor provide internal and perimeter security as agreed upon in the contract; 1103
1104
- (12) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in ~~a state correctional institution~~ the facility only in accordance with rules promulgated by the department of rehabilitation and correction; 1105
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- (13) A requirement that the facility be staffed at all times with a staffing pattern approved by the public entity and adequate both to ensure supervision of inmates and maintenance of security within the facility and to provide for programs, transportation, security, and other operational needs. In determining security needs, the contractor shall be required to consider, among other things, the proximity of the facility to neighborhoods and schools. 1110
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- (14) If the contract is with a local public entity, a requirement that the contractor provide services and programs, consistent with the minimum standards for jails promulgated by the department of rehabilitation and correction under section 5120.10 of the Revised Code; 1118
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- (15) A clear statement that no immunity from liability granted to the state, and no immunity from liability granted to political subdivisions under Chapter 2744. of the Revised Code, shall extend to the contractor or any of the contractor's employees; 1123
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- (16) A statement that all documents and records relevant to the facility shall be maintained in the same manner required for, and subject to the same laws, rules, and regulations as apply to, the records of the public entity; 1128
1129
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- (17) Authorization for the public entity to impose a fine on the contractor from a schedule of fines included in the contract 1132
1133

for the contractor's failure to perform its contractual duties or 1134
to cancel the contract, as the public entity considers 1135
appropriate. If a fine is imposed, the public entity may reduce 1136
the payment owed to the contractor pursuant to any invoice in the 1137
amount of the imposed fine. 1138

(18) A statement that all services provided or goods produced 1139
at the facility shall be subject to the same regulations, and the 1140
same distribution limitations, as apply to goods and services 1141
produced at other correctional institutions; 1142

(19) ~~Authorization~~ If the facility is a state correctional 1143
institution, authorization for the department to establish one or 1144
more prison industries at a the facility ~~operated and managed by a~~ 1145
~~contractor for the department;~~ 1146

(20) A requirement that, if the facility is an intensive 1147
program prison established pursuant to section 5120.033 of the 1148
Revised Code, the facility shall comply with all criteria for 1149
intensive program prisons of that type that are set forth in that 1150
section; 1151

(21) If the ~~institution~~ facility is a state correctional 1152
institution, a requirement that the contractor provide clothing 1153
for all inmates housed in the facility that is conspicuous in its 1154
color, style, or color and style, that conspicuously identifies 1155
its wearer as an inmate, and that is readily distinguishable from 1156
clothing of a nature that normally is worn outside the facility by 1157
non-inmates, that the contractor require all inmates housed in the 1158
facility to wear the clothing so provided, and that the contractor 1159
not permit any inmate, while inside or on the premises of the 1160
facility or while being transported to or from the facility, to 1161
wear any clothing of a nature that does not conspicuously identify 1162
its wearer as an inmate and that normally is worn outside the 1163
facility by non-inmates. 1164

(C) No contract entered into under this section may require, 1165
authorize, or imply a delegation of the authority or 1166
responsibility of the public entity to a contractor for any of the 1167
following: 1168

(1) Developing or implementing procedures for calculating 1169
inmate release and parole eligibility dates and recommending the 1170
granting or denying of parole, although the contractor may submit 1171
written reports that have been prepared in the ordinary course of 1172
business; 1173

(2) Developing or implementing procedures for calculating and 1174
awarding earned credits, approving the type of work inmates may 1175
perform and the wage or earned credits, if any, that may be 1176
awarded to inmates engaging in that work, and granting, denying, 1177
or revoking earned credits; 1178

(3) For inmates serving a term imposed for a felony offense 1179
committed prior to July 1, 1996, or for a misdemeanor offense, 1180
developing or implementing procedures for calculating and awarding 1181
good time, approving the good time, if any, that may be awarded to 1182
inmates engaging in work, and granting, denying, or revoking good 1183
time; 1184

(4) Classifying an inmate or placing an inmate in a more or a 1185
less restrictive custody than the custody ordered by the public 1186
entity; 1187

(5) Approving inmates for work release; 1188

(6) Contracting for local or long distance telephone services 1189
for inmates or receiving commissions from those services at a 1190
facility that is owned by or operated under a contract with the 1191
department. 1192

(D) A contractor that has been approved to operate a facility 1193
under this section, and a person or entity that enters into a 1194
contract for specialized services, as described in division (I) of 1195

this section, relative to an intensive program prison established 1196
pursuant to section 5120.033 of the Revised Code to be operated by 1197
a contractor that has been approved to operate the prison under 1198
this section, shall provide an adequate policy of insurance 1199
specifically including, but not limited to, insurance for civil 1200
rights claims as determined by a risk management or actuarial firm 1201
with demonstrated experience in public liability for state 1202
governments. The insurance policy shall provide that the state, 1203
including all state agencies, and all political subdivisions of 1204
the state with jurisdiction over the facility or in which a 1205
facility is located are named as insured, and that the state and 1206
its political subdivisions shall be sent any notice of 1207
cancellation. The contractor may not self-insure. 1208

A contractor that has been approved to operate a facility 1209
under this section, and a person or entity that enters into a 1210
contract for specialized services, as described in division (I) of 1211
this section, relative to an intensive program prison established 1212
pursuant to section 5120.033 of the Revised Code to be operated by 1213
a contractor that has been approved to operate the prison under 1214
this section, shall indemnify and hold harmless the state, its 1215
officers, agents, and employees, and any local government entity 1216
in the state having jurisdiction over the facility or ownership of 1217
the facility, shall reimburse the state for its costs in defending 1218
the state or any of its officers, agents, or employees, and shall 1219
reimburse any local government entity of that nature for its costs 1220
in defending the local government entity, from all of the 1221
following: 1222

(1) Any claims or losses for services rendered by the 1223
contractor, person, or entity performing or supplying services in 1224
connection with the performance of the contract; 1225

(2) Any failure of the contractor, person, or entity or its 1226
officers or employees to adhere to the laws, rules, regulations, 1227

or terms agreed to in the contract; 1228

(3) Any constitutional, federal, state, or civil rights claim 1229
brought against the state related to the facility operated and 1230
managed by the contractor; 1231

(4) Any claims, losses, demands, or causes of action arising 1232
out of the contractor's, person's, or entity's activities in this 1233
state; 1234

(5) Any attorney's fees or court costs arising from any 1235
habeas corpus actions or other inmate suits that may arise from 1236
any event that occurred at the facility or was a result of such an 1237
event, or arise over the conditions, management, or operation of 1238
the facility, which fees and costs shall include, but not be 1239
limited to, attorney's fees for the state's representation and for 1240
any court-appointed representation of any inmate, and the costs of 1241
any special judge who may be appointed to hear those actions or 1242
suits. 1243

(E) Private correctional officers of a contractor operating 1244
and managing a facility pursuant to a contract entered into under 1245
this section may carry and use firearms in the course of their 1246
employment only after being certified as satisfactorily completing 1247
an approved training program as described in division (A) of 1248
section 109.78 of the Revised Code. 1249

(F) Upon notification by the contractor of an escape from, or 1250
of a disturbance at, the facility that is the subject of a 1251
contract entered into under this section, the department of 1252
rehabilitation and correction and state and local law enforcement 1253
agencies shall use all reasonable means to recapture escapees or 1254
quell any disturbance. Any cost incurred by the state or its 1255
political subdivisions relating to the apprehension of an escapee 1256
or the quelling of a disturbance at the facility shall be 1257
chargeable to and borne by the contractor. The contractor shall 1258

also reimburse the state or its political subdivisions for all 1259
reasonable costs incurred relating to the temporary detention of 1260
the escapee following recapture. 1261

(G) Any offense that would be a crime if committed at a state 1262
correctional institution or jail, workhouse, prison, or other 1263
correctional facility shall be a crime if committed by or with 1264
regard to inmates at facilities operated pursuant to a contract 1265
entered into under this section. 1266

(H) A contractor operating and managing a facility pursuant 1267
to a contract entered into under this section shall pay any inmate 1268
workers at the facility at the rate approved by the public entity. 1269
Inmates working at the facility shall not be considered employees 1270
of the contractor. 1271

(I) In contracting for the private operation and management 1272
pursuant to division (A) of this section of any intensive program 1273
prison established pursuant to section 5120.033 of the Revised 1274
Code, the department of rehabilitation and correction may enter 1275
into a contract with a contractor for the general operation and 1276
management of the prison and may enter into one or more separate 1277
contracts with other persons or entities for the provision of 1278
specialized services for persons confined in the prison, 1279
including, but not limited to, security or training services or 1280
medical, counseling, educational, or similar treatment programs. 1281
If, pursuant to this division, the department enters into a 1282
contract with a contractor for the general operation and 1283
management of the prison and also enters into one or more 1284
specialized service contracts with other persons or entities, all 1285
of the following apply: 1286

(1) The contract for the general operation and management 1287
shall comply with all requirements and criteria set forth in this 1288
section, and all provisions of this section apply in relation to 1289
the prison operated and managed pursuant to the contract. 1290

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

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

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

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

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

(4) After the sale and conveyance of the facility, all of the following apply:

(a) Before the contractor may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that also was transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that was transferred under the contract, the contractor first must offer the state the opportunity to repurchase the facility, real property, and surrounding land that is to be resold or transferred and must sell the facility, real property, and surrounding land to the state if the state so desires, pursuant to and in accordance with the repurchase clause included in the contract.

(b) Upon the default by the contractor of any financial agreement for the purchase of the facility and the real property on which it is situated, any surrounding land that also was transferred under the contract, or both the facility and real

property on which it is situated plus the surrounding land that 1355
was transferred under the contract, upon the default by the 1356
contractor of any other term in the contract, or upon the 1357
financial insolvency of the contractor or inability of the 1358
contractor to meet its contractual obligations, the state may 1359
repurchase the facility, real property, and surrounding land, if 1360
the state so desires, pursuant to and in accordance with the 1361
repurchase clause included in the contract. 1362

(K) Any action asserting that section 9.06 of the Revised 1363
Code or section 753.10 of the act in which this amendment was 1364
adopted violates any provision of the Ohio constitution and any 1365
claim asserting that any action taken by the governor or the 1366
department of administrative services or the department of 1367
rehabilitation and correction pursuant to section 9.06 of the 1368
Revised Code or section 753.10 of the act in which this amendment 1369
was adopted violates any provision of the Ohio constitution or any 1370
provision of the Revised Code shall be brought in the court of 1371
common pleas of Franklin county. The court shall give any action 1372
filed pursuant to this division priority over all other civil 1373
cases pending on its docket and expeditiously make a determination 1374
on the claim. If an appeal is taken from any final order issued in 1375
a case brought pursuant to this division, the court of appeals 1376
shall give the case priority over all other civil cases pending on 1377
its docket and expeditiously make a determination on the appeal. 1378

(L) As used in this section: 1379

(1) "Public entity" means the department of rehabilitation 1380
and correction, or a county or municipal corporation or a 1381
combination of counties and municipal corporations, that has 1382
jurisdiction over a facility that is the subject of a contract 1383
entered into under this section. 1384

(2) "Local public entity" means a county or municipal 1385
corporation, or a combination of counties and municipal 1386

corporations, that has jurisdiction over a jail, workhouse, or 1387
other correctional facility used only for misdemeanants that is 1388
the subject of a contract entered into under this section. 1389

(3) "Governing authority of a local public entity" means, for 1390
a county, the board of county commissioners; for a municipal 1391
corporation, the legislative authority; for a combination of 1392
counties and municipal corporations, all the boards of county 1393
commissioners and municipal legislative authorities that joined to 1394
create the facility. 1395

(4) "Contractor" means a person or entity that enters into a 1396
contract under this section to operate and manage a jail, 1397
workhouse, or other correctional facility. 1398

(5) "Facility" means ~~the~~ any of the following: 1399

(a) The specific county, multicounty, municipal, 1400
municipal-county, or multicounty-municipal jail, workhouse, 1401
prison, or other type of correctional institution or facility used 1402
only for misdemeanants, ~~or a~~ that is the subject of a contract 1403
entered into under this section; 1404

(b) Any state correctional institution, that is the subject 1405
of a contract entered into under this section, including any 1406
facility described in Section 753.10 of the act in which this 1407
amendment was adopted at any time prior to or after any sale to a 1408
contractor of the state's right, title, and interest in the 1409
facility, the land situated thereon, and specified surrounding 1410
land. 1411

(6) "Person or entity" in the case of a contract for the 1412
private operation and management of a state correctional 1413
institution, includes an employee organization, as defined in 1414
section 4117.01 of the Revised Code, that represents employees at 1415
state correctional institutions. 1416

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of 1417
this section, a governmental entity shall not disburse money 1418
totaling twenty-five thousand dollars or more to any person for 1419
the provision of services for the primary benefit of individuals 1420
or the public and not for the primary benefit of a governmental 1421
entity or the employees of a governmental entity, unless the 1422
contracting authority of the governmental entity first enters into 1423
a written contract with the person that is signed by the person or 1424
by an officer or agent of the person authorized to legally bind 1425
the person and that embodies all of the requirements and 1426
conditions set forth in sections 9.23 to 9.236 of the Revised 1427
Code. If the disbursement of money occurs over the course of a 1428
governmental entity's fiscal year, rather than in a lump sum, the 1429
contracting authority of the governmental entity shall enter into 1430
the written contract with the person at the point during the 1431
governmental entity's fiscal year that at least seventy-five 1432
thousand dollars has been disbursed by the governmental entity to 1433
the person. Thereafter, the contracting authority of the 1434
governmental entity shall enter into the written contract with the 1435
person at the beginning of the governmental entity's fiscal year, 1436
if, during the immediately preceding fiscal year, the governmental 1437
entity disbursed to that person an aggregate amount totaling at 1438
least seventy-five thousand dollars. 1439

(2) If the money referred to in division (A)(1) of this 1440
section is disbursed by or through more than one state agency to 1441
the person for the provision of services to the same population, 1442
the contracting authorities of those agencies shall determine 1443
which one of them will enter into the written contract with the 1444
person. 1445

(3) The requirements and conditions set forth in divisions 1446
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) 1447
and (B) of section 9.234, divisions (A)(2) and (B) of section 1448

9.235, and sections 9.233 and 9.236 of the Revised Code do not 1449
apply with respect to the following: 1450

(a) Contracts to which all of the following apply: 1451

(i) The amount received for the services is a set fee for 1452
each time the services are provided, is determined in accordance 1453
with a fixed rate per unit of time or per service, or is a 1454
capitated rate, and the fee or rate is established by competitive 1455
bidding or by a market rate survey of similar services provided in 1456
a defined market area. The market rate survey may be one conducted 1457
by or on behalf of the governmental entity or an independent 1458
survey accepted by the governmental entity as statistically valid 1459
and reliable. 1460

(ii) The services are provided in accordance with standards 1461
established by state or federal law, or by rules or regulations 1462
adopted thereunder, for their delivery, which standards are 1463
enforced by the federal government, a governmental entity, or an 1464
accrediting organization recognized by the federal government or a 1465
governmental entity. 1466

(iii) Payment for the services is made after the services are 1467
delivered and upon submission to the governmental entity of an 1468
invoice or other claim for payment as required by any applicable 1469
local, state, or federal law or, if no such law applies, by the 1470
terms of the contract. 1471

(b) Contracts under which the services are reimbursed through 1472
or in a manner consistent with a federal program that meets all of 1473
the following requirements: 1474

(i) The program calculates the reimbursement rate on the 1475
basis of the previous year's experience or in accordance with an 1476
alternative method set forth in rules adopted by the Ohio 1477
department of job and family services. 1478

(ii) The reimbursement rate is derived from a breakdown of 1479

direct and indirect costs.	1480
(iii) The program's guidelines describe types of expenditures that are allowable and not allowable under the program and delineate which costs are acceptable as direct costs for purposes of calculating the reimbursement rate.	1481 1482 1483 1484
(iv) The program includes a uniform cost reporting system with specific audit requirements.	1485 1486
(c) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that calculates the reimbursement rate on a fee for service basis in compliance with United States office of management and budget Circular A-87, as revised May 10, 2004.	1487 1488 1489 1490 1491
(d) Contracts for services that are paid pursuant to the earmarking of an appropriation made by the general assembly for that purpose.	1492 1493 1494
(B) Division (A) of this section does not apply if the money is disbursed to a person pursuant to a contract with the United States or a governmental entity under any of the following circumstances:	1495 1496 1497 1498
(1) The person receives the money directly or indirectly from the United States, and no governmental entity exercises any oversight or control over the use of the money.	1499 1500 1501
(2) The person receives the money solely in return for the performance of one or more of the following types of services:	1502 1503
(a) Medical, therapeutic, or other health-related services provided by a person if the amount received is a set fee for each time the person provides the services, is determined in accordance with a fixed rate per unit of time, or is a capitated rate, and the fee or rate is reasonable and customary in the person's trade or profession;	1504 1505 1506 1507 1508 1509

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

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

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

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

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

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

federal law+ 1541

~~(h) Services, including administrative and management 1542
services, provided under the children's buy in program established 1543
under sections 5101.5211 to 5101.5216 of the Revised Code. 1544~~

(3) The person receives the money solely in return for the 1545
performance of services intended to help preserve public health or 1546
safety under circumstances requiring immediate action as a result 1547
of a natural or man-made emergency. 1548

(C) With respect to a nonprofit association, corporation, or 1549
organization established for the purpose of providing educational, 1550
technical, consulting, training, financial, or other services to 1551
its members in exchange for membership dues and other fees, any of 1552
the services provided to a member that is a governmental entity 1553
shall, for purposes of this section, be considered services "for 1554
the primary benefit of a governmental entity or the employees of a 1555
governmental entity. 1556

Sec. 9.24. (A) Except as may be allowed under division (F) of 1557
this section, no state agency and no political subdivision shall 1558
award a contract as described in division (G)(1) of this section 1559
for goods, services, or construction, paid for in whole or in part 1560
with state funds, to a person against whom a finding for recovery 1561
has been issued by the auditor of state on and after January 1, 1562
2001, if the finding for recovery is unresolved. 1563

A contract is considered to be awarded when it is entered 1564
into or executed, irrespective of whether the parties to the 1565
contract have exchanged any money. 1566

(B) For purposes of this section, a finding for recovery is 1567
unresolved unless one of the following criteria applies: 1568

(1) The money identified in the finding for recovery is paid 1569
in full to the state agency or political subdivision to whom the 1570

money was owed; 1571

(2) The debtor has entered into a repayment plan that is 1572
approved by the attorney general and the state agency or political 1573
subdivision to whom the money identified in the finding for 1574
recovery is owed. A repayment plan may include a provision 1575
permitting a state agency or political subdivision to withhold 1576
payment to a debtor for goods, services, or construction provided 1577
to or for the state agency or political subdivision pursuant to a 1578
contract that is entered into with the debtor after the date the 1579
finding for recovery was issued. 1580

(3) The attorney general waives a repayment plan described in 1581
division (B)(2) of this section for good cause; 1582

(4) The debtor and state agency or political subdivision to 1583
whom the money identified in the finding for recovery is owed have 1584
agreed to a payment plan established through an enforceable 1585
settlement agreement. 1586

(5) The state agency or political subdivision desiring to 1587
enter into a contract with a debtor certifies, and the attorney 1588
general concurs, that all of the following are true: 1589

(a) Essential services the state agency or political 1590
subdivision is seeking to obtain from the debtor cannot be 1591
provided by any other person besides the debtor; 1592

(b) Awarding a contract to the debtor for the essential 1593
services described in division (B)(5)(a) of this section is in the 1594
best interest of the state; 1595

(c) Good faith efforts have been made to collect the money 1596
identified in the finding of recovery. 1597

(6) The debtor has commenced an action to contest the finding 1598
for recovery and a final determination on the action has not yet 1599
been reached. 1600

(C) The attorney general shall submit an initial report to 1601
the auditor of state, not later than December 1, 2003, indicating 1602
the status of collection for all findings for recovery issued by 1603
the auditor of state for calendar years 2001, 2002, and 2003. 1604
Beginning on January 1, 2004, the attorney general shall submit to 1605
the auditor of state, on the first day of every January, April, 1606
July, and October, a list of all findings for recovery that have 1607
been resolved in accordance with division (B) of this section 1608
during the calendar quarter preceding the submission of the list 1609
and a description of the means of resolution. The attorney general 1610
shall notify the auditor of state when a judgment is issued 1611
against an entity described in division (F)(1) of this section. 1612

(D) The auditor of state shall maintain a database, 1613
accessible to the public, listing persons against whom an 1614
unresolved finding for recovery has been issued, and the amount of 1615
the money identified in the unresolved finding for recovery. The 1616
auditor of state shall have this database operational on or before 1617
January 1, 2004. The initial database shall contain the 1618
information required under this division for calendar years 2001, 1619
2002, and 2003. 1620

Beginning January 15, 2004, the auditor of state shall update 1621
the database by the fifteenth day of every January, April, July, 1622
and October to reflect resolved findings for recovery that are 1623
reported to the auditor of state by the attorney general on the 1624
first day of the same month pursuant to division (C) of this 1625
section. 1626

(E) Before awarding a contract as described in division 1627
(G)(1) of this section for goods, services, or construction, paid 1628
for in whole or in part with state funds, a state agency or 1629
political subdivision shall verify that the person to whom the 1630
state agency or political subdivision plans to award the contract 1631
has no unresolved finding for recovery issued against the person. 1632

A state agency or political subdivision shall verify that the person does not appear in the database described in division (D) of this section or shall obtain other proof that the person has no unresolved finding for recovery issued against the person.

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

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

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

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

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

(a) The cost for the goods, services, or construction 1664
provided under the contract is estimated to exceed twenty-five 1665
thousand dollars. 1666

(b) The aggregate cost for the goods, services, or 1667
construction provided under multiple contracts entered into by the 1668
particular state agency and a single person or the particular 1669
political subdivision and a single person within the fiscal year 1670
preceding the fiscal year within which a contract is being entered 1671
into by that same state agency and the same single person or the 1672
same political subdivision and the same single person, exceeded 1673
fifty thousand dollars. 1674

(c) The contract is a renewal of a contract previously 1675
entered into and renewed pursuant to that preceding contract. 1676

(2) This section does not apply to employment contracts. 1677

(H) As used in this section: 1678

(1) "State agency" has the same meaning as in section 9.66 of 1679
the Revised Code. 1680

(2) "Political subdivision" means a political subdivision as 1681
defined in section 9.82 of the Revised Code that has received more 1682
than fifty thousand dollars of state money in the current fiscal 1683
year or the preceding fiscal year. 1684

(3) "Finding for recovery" means a determination issued by 1685
the auditor of state, contained in a report the auditor of state 1686
gives to the attorney general pursuant to section 117.28 of the 1687
Revised Code, that public money has been illegally expended, 1688
public money has been collected but not been accounted for, public 1689
money is due but has not been collected, or public property has 1690
been converted or misappropriated. 1691

(4) "Debtor" means a person against whom a finding for 1692
recovery has been issued. 1693

(5) "Person" means the person named in the finding for recovery. 1694
1695

(6) "State money" does not include funds the state receives from another source and passes through to a political subdivision. 1696
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Sec. 9.33. As used in sections 9.33 to ~~9.333~~ 9.335 of the Revised Code: 1698
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(A) "Construction manager" means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement, but does not mean the person who provides the professional design services or who actually performs the construction, demolition, alteration, repair, or reconstruction work on the project. 1700
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(B)(1) "Construction manager at risk" means a person with substantial discretion and authority to plan, coordinate, manage, direct, and construct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement and who provides the public owner a guaranteed maximum price as determined in section 9.334 of the Revised Code. 1708
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(2) As used in division (B)(1) of this section: 1715

(a) "Construct" includes performing, or subcontracting for performing, construction, demolition, alteration, repair, or reconstruction; 1716
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(b) "Manage" includes approving bidders and awarding subcontracts for furnishing materials regarding, or for performing, construction, demolition, alteration, repair, or reconstruction. 1719
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(C) "Construction management contract" means a contract 1723

between a public owner and another person obligating the person to 1724
provide construction management services. 1725

(D) "Construction management services" or "management 1726
services" means the range of services that either a construction 1727
manager or a construction manager at risk may provide. 1728

(E) "Qualified" means having the following qualifications: 1729

(1) Competence to perform the required management services as 1730
indicated by the technical training, education, and experience of 1731
the construction manager's or construction manager at risk's 1732
personnel, especially the technical training, education, and 1733
experience of the construction manager's or construction manager 1734
at risk's employees who would be assigned to perform the services; 1735

(2) Ability in terms of workload and the availability of 1736
qualified personnel, equipment, and facilities to perform the 1737
required management services competently and expeditiously; 1738

(3) Past performance as reflected by the evaluations of 1739
previous clients with respect to factors such as control of costs, 1740
quality of work, and meeting of deadlines; 1741

(4) Financial responsibility as evidenced by the capability 1742
to provide a letter of credit pursuant to Chapter 1305. of the 1743
Revised Code, a surety bond, certified check, or cashier's check 1744
in an amount equal to the value of the construction management 1745
contract, or by other means acceptable to the public owner; 1746

(5) Other similar factors. 1747

~~(C) "Public~~ (F)(1) Except as otherwise provided in division 1748
(F)(2) of this section, "public owner" means the state, or any 1749
county, township, municipal corporation, school district, or other 1750
political subdivision, or any instrumentality or special purpose 1751
district of the state or a political subdivision. 1752

(2) In the context of a contract with a construction manager 1753

at risk, "public owner" means a state agency, state institution of higher education, or county. 1754
1755

(G) "Open book pricing method" means a method in which a construction manager at risk provides the public owner, at the public owner's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a construction management contract awarded to the construction manager at risk. 1756
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(H) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, except the Ohio turnpike commission and any special purpose district of the state. 1762
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(I) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code. 1766
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Sec. 9.331. (A) Before entering into a contract to employ a construction manager or construction manager at risk, a public owner shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, notice of its intent to employ a construction manager or construction manager at risk. The notice of intent may also be advertised by electronic means pursuant to rules adopted by the director of administrative services. 1768
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The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting the proposals. The public owner also may advertise the information contained in the notice in appropriate trade journals and otherwise notify persons believed to be interested in employment as a construction manager or construction manager at risk.

(B) The advertisement shall include a general description of the project, a statement of the specific management services required, and a description of the qualifications required for the 1782
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project. 1785

~~Sec. 9.332. For every construction management contract, the~~ 1786
Every public owner planning to contract for construction 1787
management services with a construction manager shall evaluate the 1788
proposals submitted and may hold discussions with individual 1789
construction managers to explore further their proposals, the 1790
scope and nature of the services they would provide, and the 1791
various technical approaches they may take regarding the project. 1792
Following this evaluation, the public owner shall: 1793

(A) Select and rank no fewer than three construction managers 1794
that it considers to be the most qualified to provide the required 1795
construction management services, except when the public owner 1796
determines in writing that fewer than three qualified construction 1797
managers are available in which case it shall select and rank 1798
them; 1799

(B) Negotiate a contract with the construction manager ranked 1800
most qualified to perform the required services at a compensation 1801
determined in writing to be fair and reasonable. Contract 1802
negotiations shall be directed toward: 1803

(1) Ensuring that the construction manager and the public 1804
owner have a mutual understanding of the essential requirements 1805
involved in providing the required services; 1806

(2) Determining that the construction manager will make 1807
available the necessary personnel, equipment, and facilities to 1808
perform the services within the required time. 1809

(C) Upon failure to negotiate a contract with the 1810
construction manager ranked most qualified, the public owner shall 1811
inform the construction manager in writing of the termination of 1812
negotiations and enter into negotiations with the construction 1813
manager ranked next most qualified. If negotiations again fail, 1814

the same procedure shall be followed with each next most qualified 1815
construction manager selected and ranked pursuant to division (A) 1816
of this section, in order of ranking, until a contract is 1817
negotiated. 1818

(D) If the public owner fails to negotiate a contract with 1819
any of the construction managers selected pursuant to division (A) 1820
of this section, the public owner shall select and rank additional 1821
construction managers, based on their qualifications, and 1822
negotiations shall continue as with the construction managers 1823
selected and ranked initially until a contract is negotiated. 1824

Sec. 9.333. (A) No public owner shall enter into a 1825
construction management contract with a construction manager 1826
unless the construction manager provides a letter of credit 1827
pursuant to Chapter 1305. of the Revised Code, a surety bond 1828
pursuant to sections 153.54 and 153.57 of the Revised Code, a 1829
certified check or cashier's check in an amount equal to the value 1830
of the construction management contract for the project, or 1831
provides other reasonable financial assurance of a nature and in 1832
an amount satisfactory to the owner. The public owner may waive 1833
this requirement for good cause. 1834

(B) Before construction begins pursuant to a construction 1835
management contract with a construction manager at risk, the 1836
construction manager at risk shall provide a surety bond to the 1837
public owner in accordance with rules adopted by the director of 1838
administrative services under Chapter 119. of the Revised Code. 1839

Sec. 9.334. (A) Every public owner planning to contract for 1840
construction management services with a construction manager at 1841
risk shall evaluate the proposals submitted and select not fewer 1842
than three construction managers at risk the public owner 1843
considers to be the most qualified to provide the required 1844

construction management services, except that the public owner 1845
shall select and rank fewer than three when the public owner 1846
determines in writing that fewer than three qualified construction 1847
managers at risk are available. 1848

(B) The public owner shall provide each construction manager 1849
at risk selected under division (A) of this section with a 1850
description of the project, including a statement of available 1851
design detail, a description of how the guaranteed maximum price 1852
for the project shall be determined, including the estimated level 1853
of design detail upon which the guaranteed maximum price shall be 1854
based, the form of the construction management contract, and a 1855
request for a pricing proposal. 1856

(C) The pricing proposal of each construction manager at risk 1857
shall include at least the following regarding the construction 1858
manager at risk: 1859

(1) A list of key personnel for the project and a staffing 1860
chart; 1861

(2) A statement of the general conditions and contingency 1862
requirements; 1863

(3) A fee proposal divided into a preconstruction fee, a 1864
construction fee, and the portion of the construction fee to be at 1865
risk in a guaranteed maximum price. 1866

(D) The public owner shall evaluate the submitted pricing 1867
proposals and may hold discussions with individual construction 1868
managers at risk to explore their proposals further, including the 1869
scope and nature of the proposed services and potential technical 1870
approaches. 1871

(E) After evaluating the pricing proposals, the public owner 1872
shall rank the selected construction managers at risk based on its 1873
evaluation of the value of each pricing proposal, with such 1874

evaluation considering the proposed cost and qualifications. 1875

(F) The public owner shall enter into negotiations for a 1876
construction management contract with the construction manager at 1877
risk whose pricing proposal the public owner determines to be the 1878
best value under division (E) of this section. Contract 1879
negotiations shall be directed toward: 1880

(1) Ensuring that the construction manager at risk and the 1881
public owner mutually understand the essential requirements 1882
involved in providing the required construction management 1883
services, including the awarding of subcontracts and their terms, 1884
the provisions for the use of contingency funds, and the possible 1885
distribution of savings in the final costs of the project; 1886

(2) Ensuring that the construction manager at risk will be 1887
able to provide the necessary personnel, equipment, and facilities 1888
to perform the construction management services within the time 1889
required by the construction management contract; 1890

(3) Agreeing upon a procedure and schedule for determining a 1891
guaranteed maximum price using an open book pricing method that 1892
shall represent the total maximum amount to be paid by the public 1893
owner to the construction manager at risk for the project and that 1894
shall include the costs of all the work, the cost of its general 1895
conditions, the contingency, and the fee payable to the 1896
construction manager at risk. 1897

(G)(1) If the public owner fails to negotiate a construction 1898
management contract with the construction manager at risk whose 1899
pricing proposal the public owner determines to be the best value 1900
under division (E) of this section, the public owner shall inform 1901
the construction manager at risk, in writing, of the termination 1902
of negotiations. 1903

(2) Upon terminating negotiations, the public owner shall 1904
enter into negotiations as provided in this section with the 1905

construction manager at risk that the public owner ranked next highest under division (E) of this section. If negotiations fail, the public owner shall enter into negotiations as provided in this section with the construction manager at risk the public owner ranked next highest under division (E) of this section. 1906
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(3) If a public owner fails to negotiate a construction management contract with a construction manager at risk whose pricing proposal the public owner determines to be the best value under division (E) of this section, the public owner may select additional construction managers at risk to provide pricing proposals to the public owner pursuant to this section or may select an alternative delivery method for the project. 1911
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(H) If the public owner and construction manager at risk fail to agree on a guaranteed maximum price, nothing in this section shall prohibit the public owner from allowing the construction manager at risk to provide the management services that a construction manager is authorized to provide. 1918
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Sec. 9.335. The requirements set forth in sections 9.33 to 9.334 of the Revised Code for the bidding, selection, and award of a construction management contract by a public owner prevail in the event of any conflict with a provision of Chapter 153. of the Revised Code. 1923
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Sec. 9.482. (A) As used in this section, "political subdivision" has the meaning defined in section 2744.01 of the Revised Code. 1928
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(B) When authorized by their respective legislative authorities, a political subdivision may enter into an agreement with another political subdivision whereby a contracting political subdivision agrees to exercise any power, perform any function, or render any service for another contracting recipient political 1931
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subdivision that the contracting recipient political subdivision 1936
is otherwise legally authorized to exercise, perform, or render. 1937

In the absence in the agreement of provisions determining by 1938
what officer, office, department, agency, or other authority the 1939
powers and duties of a contracting political subdivision shall be 1940
exercised or performed, the legislative authority of the 1941
contracting political subdivision shall determine and assign the 1942
powers and duties. 1943

An agreement shall not suspend the possession by a 1944
contracting recipient political subdivision of any power or 1945
function that is exercised or performed on its behalf by another 1946
contracting political subdivision under the agreement. 1947

A political subdivision shall not enter into an agreement to 1948
levy any tax or to exercise, with regard to public moneys, any 1949
investment powers, perform any investment function, or render any 1950
investment service on behalf of a contracting subdivision. Nothing 1951
in this paragraph prohibits a political subdivision from entering 1952
into an agreement to collect, administer, or enforce any tax on 1953
behalf of another political subdivision or to limit the authority 1954
of political subdivisions to create and operate joint economic 1955
development zones or joint economic development districts as 1956
provided in sections 715.69 to 715.83 of the Revised Code. 1957

(C) No power shall be exercised, no function shall be 1958
performed, and no service shall be rendered by a contracting 1959
political subdivision pursuant to an agreement entered into under 1960
this section within a political subdivision that is not a party to 1961
the agreement, without first obtaining the written consent of the 1962
political subdivision that is not a party to the agreement and 1963
within which the power is to be exercised, a function is to be 1964
performed, or a service is to be rendered. 1965

(D) Chapter 2744. of the Revised Code, insofar as it applies 1966

to the operation of a political subdivision, applies to the 1967
political subdivisions that are parties to an agreement and to 1968
their employees when they are rendering a service outside the 1969
boundaries of their employing political subdivision under the 1970
agreement. Employees acting outside the boundaries of their 1971
employing political subdivision while providing a service under an 1972
agreement may participate in any pension or indemnity fund 1973
established by the political subdivision to the same extent as 1974
while they are acting within the boundaries of the political 1975
subdivision, and are entitled to all the rights and benefits of 1976
Chapter 4123. of the Revised Code to the same extent as while they 1977
are performing a service within the boundaries of the political 1978
subdivision. 1979

Sec. 9.82. As used in sections 9.82 to 9.83 of the Revised 1980
Code: 1981

(A) "State" means the state of Ohio, including, but not 1982
limited to, the general assembly, the supreme court, the offices 1983
of all elected state officers, and all departments, boards, 1984
offices, commissions, agencies, institutions, and other 1985
instrumentalities of the state of Ohio. "State" does not include 1986
political subdivisions. 1987

For purposes of the judicial liability program, "state" means 1988
the supreme court, the courts of appeals, the courts of common 1989
pleas and any division of courts of common pleas, municipal 1990
courts, and county courts. 1991

(B) "Political subdivision" means a county, city, village, 1992
township, park district, or school district. 1993

(C) "Personal property" means tangible personal property 1994
owned, leased, controlled, or possessed by a state agency and 1995
includes, but is not limited to, chattels, movable property, 1996
merchandise, furniture, goods, livestock, vehicles, watercraft, 1997

aircraft, movable machinery, movable tools, movable equipment, 1998
general operating supplies, and media. 1999

(D) "Media" means all active information processing material, 2000
including all forms of data, program material, and related 2001
engineering specifications employed in any state agency's 2002
information processing operation. 2003

(E) "Property" means real and personal property as defined in 2004
divisions (C) and (F) of this section and any other property in 2005
which the state determines it has an insurable interest. 2006

(F) "Real property" means land or interests in land whose 2007
title is vested in the state or that is under the control of the 2008
state through a lease purchase agreement, installment purchase, 2009
mortgage, lien, or otherwise, and includes, but is not limited to, 2010
all buildings, structures, improvements, machinery, equipment, or 2011
fixtures erected on, above, or under such land. 2012

(G) "State agency" means every department, bureau, board, 2013
commission, office, or other organized body established by the 2014
constitution or laws of this state for the exercise of any 2015
function of state government, the general assembly, all 2016
legislative agencies, the supreme court, and the court of claims. 2017
"State agency" does not include any state-supported institutions 2018
of higher education, the public employees retirement system, the 2019
Ohio police and ~~and Fire~~ fire pension fund, the state teachers 2020
retirement system, the school employees retirement system, the 2021
state highway patrol retirement system, or the city of Cincinnati 2022
retirement system. 2023

Sec. 9.823. (A) All contributions collected by the director 2024
of administrative services under division (E) of this section 2025
shall be deposited into the state treasury to the credit of the 2026
risk management reserve fund, which is hereby created. The fund 2027
shall be used to provide insurance and self-insurance for the 2028

state under sections 9.822 and 9.83 of the Revised Code. All 2029
investment earnings of the fund shall be credited to it. 2030

(B) The director, through the office of risk management, 2031
shall operate the risk management reserve fund on an actuarially 2032
sound basis. 2033

(C) Reserves shall be maintained in the risk management 2034
reserve fund in any amount that is necessary and adequate, in the 2035
exercise of sound and prudent actuarial judgment, to cover 2036
potential liability claims, expenses, fees, or damages. Money in 2037
the fund may be applied to the payment of liability claims that 2038
are filed against the state ~~in the court of claims and determined~~ 2039
~~in the manner provided for under Chapter 2743. of the Revised~~ 2040
~~Code.~~ The director may procure the services of a qualified 2041
actuarial firm for the purpose of recommending the specific amount 2042
of money that would be required to maintain adequate reserves for 2043
a given period of time. 2044

(D) A report of the amounts reserved and disbursements made 2045
from the reserves, together with a written report of a competent 2046
property and casualty actuary, shall be submitted, on or before 2047
the last day of March for the preceding calendar year, to the 2048
speaker of the house of representatives and the president of the 2049
senate. The actuary shall certify the adequacy of the rates of 2050
contributions, the sufficiency of excess insurance, and whether 2051
the amounts reserved conform to the requirements of this section, 2052
are computed in accordance with accepted loss reserving standards, 2053
and are fairly stated in accordance with sound loss reserving 2054
principles. The report shall include disbursements made for the 2055
administration of the fund, including claims paid, cost of legal 2056
representation of state agencies and employees, and fees paid to 2057
consultants. 2058

(E) The director shall collect from each state agency or any 2059
participating state body its contribution to the risk management 2060

reserve fund for the purpose of purchasing insurance or 2061
administering self-insurance programs for coverages authorized 2062
under sections 9.822 and 9.83 of the Revised Code. The 2063
contribution shall be determined by the director, with the 2064
approval of the director of budget and management, and shall be 2065
based upon actuarial assumptions and the relative risk and loss 2066
experience of each state agency or participating state body. The 2067
contribution shall further include a reasonable sum to cover the 2068
department's administrative costs. 2069

Sec. 9.833. (A) As used in this section, "political 2070
subdivision" ~~means a municipal corporation, township, county, or~~ 2071
~~other body corporate and politic responsible for governmental~~ 2072
~~activities in a geographic area smaller than that of the state,~~ 2073
~~and agencies and instrumentalities of these entities~~ has the 2074
meaning defined in sections 2744.01 and 3905.36 of the Revised 2075
Code. For purposes of this section, "political subdivision" 2076
includes municipal corporations as defined in section 5705.01 of 2077
the Revised Code. 2078

(B) Political subdivisions that provide health care benefits 2079
for their officers or employees may do any of the following: 2080

(1) ~~Establish~~ If a self-insurance program is approved by the 2081
department of administrative services under section 9.901 of the 2082
Revised Code, establish and maintain an individual self-insurance 2083
program with public moneys to provide authorized health care 2084
benefits, including but not limited to, health care, prescription 2085
drugs, dental care, and vision care, in accordance with division 2086
(C) of this section; 2087

(2) Establish and maintain a health savings account program 2088
whereby employees or officers may establish and maintain health 2089
savings accounts in accordance with section 223 of the Internal 2090
Revenue Code. Public moneys may be used to pay for or fund 2091

federally qualified high deductible health plans that are linked 2092
to health savings accounts or to make contributions to health 2093
savings accounts. A health savings account program may be a part 2094
of a self-insurance program. 2095

(3) After establishing an individual self-insurance program, 2096
agree with other political subdivisions that have established 2097
individual self-insurance programs for health care benefits, that 2098
their programs will be jointly administered in a manner specified 2099
in the agreement pursuant to approval under section 9.901 of the 2100
Revised Code; 2101

(4) Pursuant to a written agreement, pursuant to approval 2102
under section 9.901 of the Revised Code, and in accordance with 2103
division (C) of this section, join in any combination with other 2104
political subdivisions to establish and maintain a joint 2105
self-insurance program to provide health care benefits; 2106

(5) Pursuant to a written agreement, join in any combination 2107
with other political subdivisions to procure or contract for 2108
policies, contracts, or plans of insurance to provide ~~health care~~ 2109
~~benefits, which may include a health savings account program,~~ for 2110
their officers and employees subject to the agreement; 2111

(6) Use in any combination any of the policies, contracts, 2112
plans, or programs authorized under this division. 2113

(7) Any agreement made under divisions (B)(3), (4), (5), or 2114
(6) of this section shall be in writing, comply with division (C) 2115
of this section, and contain best practices established in 2116
consultation with and approved by the department of administrative 2117
services. These best practices shall provide standards upon which 2118
the program providing benefits shall adhere to in the selection 2119
and implementation of the health care plan. The best practices may 2120
be reviewed and amended at the discretion of the political 2121
subdivisions in consultation with the department. Detailed 2122

information regarding the best practices shall be made available 2123
to any employee upon that employee's request. 2124

(8) The department of administrative services may adopt rules 2125
for the adoption and enforcement of the best practices standards. 2126

(C) Except as otherwise provided in division (E) of this 2127
section or by section 9.901 of the Revised Code, the following 2128
apply to individual or joint self-insurance programs established 2129
pursuant to this section: 2130

(1) Such funds shall be reserved as are necessary, in the 2131
exercise of sound and prudent actuarial judgment, to cover 2132
potential cost of health care benefits for the officers and 2133
employees of the political subdivision. A certified audited 2134
financial statement and a report of amounts so reserved and 2135
disbursements made from such funds, together with a written report 2136
of a member of the American academy of actuaries certifying 2137
whether the amounts reserved conform to the requirements of this 2138
division, are computed in accordance with accepted loss reserving 2139
standards, and are fairly stated in accordance with sound loss 2140
reserving principles, shall be prepared and maintained, within 2141
ninety days after the last day of the fiscal year of the entity 2142
for which the report is provided for that fiscal year, in the 2143
office of the program administrator described in division (C)(3) 2144
of this section. 2145

The report required by division (C)(1) of this section shall 2146
include, but not be limited to, disbursements made for the 2147
administration of the program, including claims paid, costs of the 2148
legal representation of political subdivisions and employees, and 2149
fees paid to consultants. 2150

The program administrator described in division (C)(3) of 2151
this section shall make the report required by this division 2152
available for inspection by any person at all reasonable times 2153

during regular business hours, and, upon the request of such 2154
person, shall make copies of the report available at cost within a 2155
reasonable period of time. The program administrator shall further 2156
provide the report to the auditor of state under Chapter 117. of 2157
the Revised Code. 2158

(2) Each political subdivision shall reserve funds necessary 2159
for an individual or joint self-insurance program in a special 2160
fund that may be established for political subdivisions other than 2161
an agency or instrumentality pursuant to an ordinance or 2162
resolution of the political subdivision and not subject to section 2163
5705.12 of the Revised Code. An agency or instrumentality shall 2164
reserve the funds necessary for an individual or joint 2165
self-insurance program in a special fund established pursuant to a 2166
resolution duly adopted by the agency's or instrumentality's 2167
governing board. The political subdivision may allocate the costs 2168
of insurance or any self-insurance program, or both, among the 2169
funds or accounts established under this division on the basis of 2170
relative exposure and loss experience. 2171

(3) A contract may be awarded, without the necessity of 2172
competitive bidding, to any person, political subdivision, 2173
nonprofit corporation organized under Chapter 1702. of the Revised 2174
Code, or regional council of governments created under Chapter 2175
167. of the Revised Code for purposes of administration of an 2176
individual or joint self-insurance program. No such contract shall 2177
be entered into without full, prior, public disclosure of all 2178
terms and conditions. The disclosure shall include, at a minimum, 2179
a statement listing all representations made in connection with 2180
any possible savings and losses resulting from the contract, and 2181
potential liability of any political subdivision or employee. The 2182
proposed contract and statement shall be disclosed and presented 2183
at a meeting of the political subdivision not less than one week 2184
prior to the meeting at which the political subdivision authorizes 2185

the contract. 2186

A contract awarded to a nonprofit corporation or a regional 2187
council of governments under this division may provide that all 2188
employees of the nonprofit corporation or regional council of 2189
governments and the employees of all entities related to the 2190
nonprofit corporation or regional council of governments may be 2191
covered by the individual or joint self-insurance program under 2192
the terms and conditions set forth in the contract. 2193

(4) The individual or joint self-insurance program shall 2194
include a contract with a certified public accountant and a member 2195
of the American academy of actuaries for the preparation of the 2196
~~written evaluation of the reserve funds~~ evaluations required under 2197
division (C)(1) of this section. 2198

(5) A joint self-insurance program may allocate the costs of 2199
funding the program among the funds or accounts established under 2200
this division to the participating political subdivisions on the 2201
basis of their relative exposure and loss experience. 2202

(6) An individual self-insurance program may allocate the 2203
costs of funding the program among the funds or accounts 2204
established under this division to the political subdivision that 2205
established the program. 2206

(7) Two or more political subdivisions may also authorize the 2207
establishment and maintenance of a joint health care cost 2208
containment program, including, but not limited to, the employment 2209
of risk managers, health care cost containment specialists, and 2210
consultants, for the purpose of preventing and reducing health 2211
care costs covered by insurance, individual self-insurance, or 2212
joint self-insurance programs. 2213

(8) A political subdivision is not liable under a joint 2214
self-insurance program for any amount in excess of amounts payable 2215
pursuant to the written agreement for the participation of the 2216

political subdivision in the joint self-insurance program. Under a 2217
joint self-insurance program agreement, a political subdivision 2218
may, to the extent permitted under the written agreement, assume 2219
the risks of any other political subdivision. A joint 2220
self-insurance program established under this section is deemed a 2221
separate legal entity for the public purpose of enabling the 2222
members of the joint self-insurance program to obtain insurance or 2223
to provide for a formalized, jointly administered self-insurance 2224
fund for its members. An entity created pursuant to this section 2225
is exempt from all state and local taxes. 2226

(9) Any political subdivision, other than an agency or 2227
instrumentality, may issue general obligation bonds, or special 2228
obligation bonds that are not payable from real or personal 2229
property taxes, and may also issue notes in anticipation of such 2230
bonds, pursuant to an ordinance or resolution of its legislative 2231
authority or other governing body for the purpose of providing 2232
funds to pay expenses associated with the settlement of claims, 2233
whether by way of a reserve or otherwise, and to pay the political 2234
subdivision's portion of the cost of establishing and maintaining 2235
an individual or joint self-insurance program or to provide for 2236
the reserve in the special fund authorized by division (C)(2) of 2237
this section. 2238

In its ordinance or resolution authorizing bonds or notes 2239
under this section, a political subdivision may elect to issue 2240
such bonds or notes under the procedures set forth in Chapter 133. 2241
of the Revised Code. In the event of such an election, 2242
notwithstanding Chapter 133. of the Revised Code, the maturity of 2243
the bonds may be for any period authorized in the ordinance or 2244
resolution not exceeding twenty years, which period shall be the 2245
maximum maturity of the bonds for purposes of section 133.22 of 2246
the Revised Code. 2247

Bonds and notes issued under this section shall not be 2248

considered in calculating the net indebtedness of the political 2249
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 2250
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 2251
hereby made applicable to bonds or notes authorized under this 2252
section. 2253

(10) A joint self-insurance program is not an insurance 2254
company. Its operation does not constitute doing an insurance 2255
business and is not subject to the insurance laws of this state. 2256

(D) A political subdivision may procure group life insurance 2257
for its employees in conjunction with an individual or joint 2258
self-insurance program authorized by this section, provided that 2259
the policy of group life insurance is not self-insured. 2260

(E) ~~Divisions (C)(1), (2), and (4) of this~~ This section de 2261
does not apply to individual self-insurance programs ~~in~~ created 2262
solely by municipal corporations, ~~townships, or counties as~~ 2263
defined in section 5705.01 of the Revised Code. 2264

(F) A public official or employee of a political subdivision 2265
who is or becomes a member of the governing body of the program 2266
administrator of a joint self-insurance program in which the 2267
political subdivision participates is not in violation of division 2268
(D) or (E) of section 102.03, division (C) of section 102.04, or 2269
section 2921.42 of the Revised Code as a result of either of the 2270
following: 2271

(1) The political subdivision's entering under this section 2272
into the written agreement to participate in the joint 2273
self-insurance program; 2274

(2) The political subdivision's entering under this section 2275
into any other contract with the joint self-insurance program. 2276

Sec. 9.90. (A) ~~The governing board of any public institution~~ 2277
~~of higher education, including without limitation state~~ 2278

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

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

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

regulated investment company stock for the purpose of providing 2311
retirement benefits as described in section 403(b)(7) of the 2312
Internal Revenue Code of 1954, as amended. Such stock shall be 2313
purchased only from persons authorized to sell such stock in this 2314
state. 2315

Any income of an employee deferred under divisions (A)(1) and 2316
(2) of this section in a deferred compensation program eligible 2317
for favorable tax treatment under the Internal Revenue Code of 2318
1954, as amended, shall continue to be included as regular 2319
compensation for the purpose of computing the contributions to and 2320
benefits from the retirement system of such employee. Any sum so 2321
deferred shall not be included in the computation of any federal 2322
and state income taxes withheld on behalf of any such employee. 2323

(B) All or any portion of the cost, premium, or charge 2324
therefor may be paid in such other manner or combination of 2325
manners as the ~~governing~~ board or governing body may determine, 2326
including direct payment by the employee in cases under division 2327
(A)(1) of this section, and, if authorized in writing by the 2328
employee in cases under division (A)(1) or (2) of this section, by 2329
~~such governing~~ the board or governing body with moneys made 2330
available by deduction from or reduction in salary or wages or by 2331
the foregoing of a salary or wage increase. Nothing in section 2332
3917.01 or section 3917.06 of the Revised Code shall prohibit the 2333
issuance or purchase of group life insurance authorized by this 2334
section by reason of payment of premiums therefor by the ~~governing~~ 2335
board or governing body from its funds, and such group life 2336
insurance may be so issued and purchased if otherwise consistent 2337
with the provisions of sections 3917.01 to 3917.07 of the Revised 2338
Code. 2339

(C) The board of education of any school district may 2340
exercise any of the powers granted to the governing boards of 2341
public institutions of higher education under divisions (A) and 2342

(B) of this section, except in relation to the provision of health care benefits to employees. All health care benefits provided to persons employed by the public schools of this state shall be through health care plans that contain best practices established by the school employees health care board or the department of administrative services pursuant to section 9.901 of the Revised Code, until the department implements for public school districts the health care plans designed under section 9.901 of the Revised Code.

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

Sec. 9.901. (A)(1) ~~All~~ Until the department implements for public school districts the health care plans designed under this section, all health care benefits provided to persons employed by the political subdivisions and public school districts of this state shall be provided by health care plans that contain best practices established pursuant to this section by the school employees health care board or the department of administrative services. Twelve months after the release of best practices by the board all policies or contracts for health care benefits provided to public school district employees that are issued or renewed after the expiration of any applicable collective bargaining agreement must contain best practices established pursuant to this section by the board. Any or all of the health care plans that contain best practices specified by the board may be self-insured. ~~As used in this section, a "public school district" means a city, local, exempted village, or joint vocational school district, and includes the educational service centers associated with those~~

~~districts but not charter schools.~~ 2375

(2) ~~The board shall determine what strategies are used by the~~ 2376
~~existing medical plans to manage health care costs and shall study~~ 2377
~~the potential benefits of state or regional consortiums of public~~ 2378
~~schools offering multiple health care plans. Upon completion of~~ 2379
~~the consultant's report under division (E) of this section and~~ 2380
~~once the plans are released in final form by the department, all~~ 2381
~~health care benefits provided to persons employed by political~~ 2382
~~subdivisions, public school districts, and state institutions of~~ 2383
~~higher education may be provided by health care plans designed~~ 2384
~~under this section by the department. The department, in~~ 2385
~~consultation with the superintendent of insurance, may negotiate~~ 2386
~~with and, in accordance with the competitive selection procedures~~ 2387
~~of Chapter 125. of the Revised Code, contract with one or more~~ 2388
~~insurance companies authorized to do business in this state for~~ 2389
~~the issuance of the plans. Any or all of the health care plans~~ 2390
~~designed by the department may be self-insured. All self-insured~~ 2391
~~plans adopted shall be administered by the department in~~ 2392
~~accordance with this section. The plans shall incorporate the best~~ 2393
~~practices adopted by the department under division (C)(3) of this~~ 2394
~~section.~~ 2395

(3) ~~Before soliciting proposals from insurance companies for~~ 2396
~~the issuance of health care plans, the department shall determine~~ 2397
~~what geographic regions exist in the state based on the~~ 2398
~~availability of providers, networks, costs, and other factors~~ 2399
~~relating to providing health care benefits. The department shall~~ 2400
~~then determine what health care plans offered by political~~ 2401
~~subdivisions, public school districts, state institutions, and~~ 2402
~~existing consortiums in the region offer the most cost-effective~~ 2403
~~plan.~~ 2404

(4) ~~The department shall develop a request for proposals and~~ 2405
~~solicit bids for health care plans for political subdivisions,~~ 2406

public school districts, and state institutions in a region 2407
similar to the existing plans. The department shall also determine 2408
the benefits offered by existing health care plans, the employees' 2409
costs, and the cost-sharing arrangements used by political 2410
subdivisions, schools, and institutions participating in a 2411
consortium. The department shall determine what strategies are 2412
used by the existing plans to manage health care costs and shall 2413
study the potential benefits of state or regional consortiums 2414
offering multiple health care plans. 2415

(5) No political subdivision, public school district, or 2416
state institution may be required to offer the health care plans 2417
designed under this section until they are released in final form 2418
by the department. 2419

In addition, political subdivisions, public school districts, 2420
or state institutions offering employee health care benefits 2421
through a plan offered by a consortium of two or more political 2422
subdivisions, districts, or state institutions, or a consortium of 2423
one or more political subdivisions, districts, or state 2424
institutions and one or more other political subdivisions, as 2425
defined in section 9.833 of the Revised Code may request 2426
permission from the department to continue offering consortium 2427
plans to the political subdivisions', districts', or institutions' 2428
employees at the discretion of the department. 2429

(6) As used in this section: 2430

(a) "Public school district" means a city, local, exempted 2431
village, or joint vocational school district; a STEM school 2432
established under Chapter 3326. of the Revised Code; or an 2433
educational service center. "Public school district" does not mean 2434
a community school established under Chapter 3314. of the Revised 2435
Code. 2436

(b) "State institution of higher education" or "state 2437

institution" means a state institution of higher education as 2438
defined in section 3345.011 of the Revised Code. 2439

(c) "Political subdivision" has the same meaning as defined 2440
in section 9.833 of the Revised Code. 2441

(d) A "health care plan" includes group policies, contracts, 2442
and agreements that provide hospital, surgical, or medical expense 2443
coverage, including self-insured plans. A "health care plan" does 2444
not include an individual plan offered to the employees of a 2445
political subdivision, public school district, or state 2446
institution, or a plan that provides coverage only for specific 2447
disease or accidents, or a hospital indemnity, medicare 2448
supplement, or other plan that provides only supplemental 2449
benefits, paid for by the employees of a political subdivision, 2450
public school district, or state institution. 2451

~~(b)~~(e) A "health plan sponsor" means a political subdivision, 2452
public school district, a state institution of higher education, a 2453
consortium of political subdivisions, public school districts, or 2454
state institutions, or a council of governments. 2455

~~(B) The school employees health care board is hereby created.~~ 2456
~~The school employees health care board shall consist of the~~ 2457
~~following twelve members and shall include individuals with~~ 2458
~~experience with public school district benefit programs, health~~ 2459
~~care industry providers, and health care plan beneficiaries:~~ 2460

~~(1) Four members appointed by the governor, one of whom shall~~ 2461
~~be representative of nonadministrative public school district~~ 2462
~~employees;~~ 2463

~~(2) Four members appointed by the president of the senate,~~ 2464
~~one of whom shall be representative of nonadministrative public~~ 2465
~~school district employees;~~ 2466

~~(3) Four members appointed by the speaker of the house of~~ 2467
~~representatives, one of whom shall be representative of~~ 2468

~~nonadministrative public school district employees.~~ 2469

~~A member of the school employees health care board shall not
be employed by, represent, or in any way be affiliated with a
private entity that is providing services to the board, an
individual school district, employers, or employees in the state
of Ohio.~~ 2470
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~~(C)(1) Members of the school employees health care board
shall serve four year terms, but may be reappointed, except as
otherwise specified in division (B) of this section.~~ 2475
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~~A member shall continue to serve subsequent to the expiration
of the member's term until a successor is appointed. Any vacancy
occurring during a member's term shall be filled in the same
manner as the original appointment, except that the person
appointed to fill the vacancy shall be appointed to the remainder
of the unexpired term.~~ 2478
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~~(2) Members shall receive compensation fixed pursuant to
division (J) of section 124.15 of the Revised Code and shall be
reimbursed from the school employees health care fund for actual
and necessary expenses incurred in the performance of their
official duties as members of the board.~~ 2484
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~~(3) Members may be removed by their appointing authority for
misfeasance, malfeasance, incompetence, dereliction of duty, or
other just cause.~~ 2489
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~~(D)(1) At the first meeting of the board after the first day
of January of each calendar year, the board shall elect a
chairperson and may elect members to other positions on the board
as the board considers necessary or appropriate. The board shall
meet at least nine times each calendar year and shall also meet at
the call of the chairperson or four or more board members. The
chairperson shall provide reasonable advance notice of the time
and place of board meetings to all members.~~ 2492
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~~(2) A majority of the board constitutes a quorum for the transaction of business at a board meeting. A majority vote of the members present is necessary for official action.~~

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

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

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

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

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

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

~~(2)(4) Require that the plans the health plan sponsors administer make readily available to the public all cost and~~

design elements of the plan;	2531
(3) Work with health plan sponsors through educational outlets and consultation;	2532 2533
(4) Maintain a commitment to transparency and public access of its meetings and activity pursuant to division (E) of this section;	2534 2535 2536
<u>(5) Set employee and employer health care plan premiums for the plans designed under division (C)(2) of this section;</u>	2537 2538
<u>(6) Promote cooperation among all organizations affected by this section in identifying the elements for the successful implementation of this section;</u>	2539 2540 2541
(6)(7) Promote cost containment measures aligned with patient, plan, and provider management strategies in developing and managing health care plans;	2542 2543 2544
(7)(8) Prepare and disseminate to the public an annual report on the status of health plan sponsors' effectiveness in making progress to reduce the rate of increase in insurance premiums and employee out of pocket expenses, as well as progress in improving the health status of <u>political subdivision, public school district, and state institution</u> employees and their families.	2545 2546 2547 2548 2549 2550
(H)(D) The sections in Chapter 3923. of the Revised Code regulating public employee benefit plans are not applicable to the health care plans designed pursuant to this section.	2551 2552 2553
(I) The board may contract with one or more independent consultants to analyze costs related to employee health care benefits provided by existing public school district plans in this state. The consultants may evaluate the benefits offered by existing health care plans, the employees' costs, and the cost sharing arrangements used by public school districts either participating in a consortium or by other means. The consultants	2554 2555 2556 2557 2558 2559 2560

may evaluate what strategies are used by the existing health care 2561
plans to manage health care costs and the potential benefits of 2562
~~state or regional consortiums of public schools offering multiple~~ 2563
health care plans. Based on the findings of the analysis, the 2564
consultants may submit written recommendations to the board for 2565
the development and implementation of successful best practices 2566
and programs for improving school districts' purchasing power for 2567
the acquisition of employee health care plans (E) Before the 2568
department's release of the initial health care plans, the 2569
department shall contract with an independent consultant to 2570
analyze costs related to employee health care benefits provided by 2571
existing political subdivision, public school district, and state 2572
institution plans. All political subdivisions shall provide 2573
information requested by the department that the department 2574
determines is needed to complete this study. The information 2575
requested shall be held confidentially by the department and shall 2576
not be considered a public record under Chapter 149. of the 2577
Revised Code. The department may release the information after 2578
redacting all personally identifiable information. The consultant 2579
shall determine the benefits offered by existing plans, the 2580
employees' costs, and the cost-sharing arrangements used by 2581
political subdivisions, schools, and institutions participating in 2582
a consortium. The consultant shall determine what strategies are 2583
used by the existing plans to manage health care costs and shall 2584
study the potential benefits of state or regional consortiums of 2585
political subdivisions, public schools, and institutions offering 2586
multiple health care plans. Based on the findings of the analysis, 2587
the consultant shall submit written recommendations to the 2588
department for the development and implementation of a successful 2589
program for pooling purchasing power for the acquisition of 2590
employee health care plans. The consultant's recommendations shall 2591
address, at a minimum, all of the following issues: 2592

(1) The development of a plan for regional coordination of 2593

<u>the health care plans;</u>	2594
<u>(2) The establishment of regions for the provision of health care plans, based on the availability of providers and plans in the state at the time;</u>	2595 2596 2597
<u>(3) The viability of voluntary and mandatory participation by political subdivisions, public schools, and institutions of higher education;</u>	2598 2599 2600
<u>(4) The use of regional preferred provider and closed panel plans, health savings accounts, and alternative health care plans, to stabilize both costs and the premiums charged to political subdivisions, public school districts, and state institutions and their employees;</u>	2601 2602 2603 2604 2605
<u>(5) The use of the competitive bidding process for regional health care plans;</u>	2606 2607
<u>(6) The use of information on claims and costs and of information reported by political subdivisions, public school districts, and state institutions pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) 100 Stat. 227, 29 U.S.C. 1161, as amended in analyzing administrative and premium costs;</u>	2608 2609 2610 2611 2612
<u>(7) The experience of states that have statewide health care plans for political subdivision, public school district, and state institution employees, including the implementation strategies used by those states;</u>	2613 2614 2615 2616
<u>(8) Recommended strategies for the use of first-year roll-in premiums in the transition from political subdivision, district, and state institution health care plans to department plans;</u>	2617 2618 2619
<u>(9) The option of allowing political subdivisions, public school districts, and state institutions to join an existing regional consortium as an alternative to department plans;</u>	2620 2621 2622
<u>(10) Mandatory and optional coverages to be offered by the</u>	2623

<u>department's plans;</u>	2624
<u>(11) Potential risks to the state from the use of plans developed under this section;</u>	2625
<u>(12) Any legislation needed to ensure the long-term financial solvency and stability of a health care purchasing system;</u>	2627
<u>(13) The potential impacts of any changes to the existing purchasing structure on all of the following:</u>	2629
<u>(a) Existing health care pooling and consortiums;</u>	2630
<u>(b) Political subdivision, school district, and state institution employees;</u>	2631
<u>(c) Individual political subdivisions, school districts, and state institutions.</u>	2632
<u>(14) Issues that could arise when political subdivisions, school districts, and state institutions transition from the existing purchasing structure to a new purchasing structure;</u>	2633
<u>(15) Strategies available to the department in the creation of fund reserves and the need for stop-loss insurance coverage for catastrophic losses;</u>	2634
<u>(16) Impact on eliminating the premium tax or excise currently received on behalf of a public employer under division (A) of section 5725.18 and division (A) of 5729.03 of the Revised Code;</u>	2636
<u>(17) How development of the federal health exchange in Ohio may impact public employees and the private health insurance market;</u>	2637
<u>(18) Impact of joint health insurance regional program on insurance carriers and agents.</u>	2638
(J)(F) The public schools health care advisory committee is hereby created under the school employees health care board	2639
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department of administrative services. The committee shall make 2653
recommendations to the ~~school employees health care board related~~ 2654
~~to the board's accomplishment of the duties assigned to the board~~ 2655
director of administrative services or the director's designee on 2656
the development and adoption of best practices under this section. 2657
The committee shall consist of ~~eighteen~~ fifteen members appointed 2658
by the speaker of the house of representatives, the president of 2659
the senate, and the governor and shall include representatives 2660
from state and local government employers, state and local 2661
government employees, insurance agents, health insurance 2662
companies, and joint purchasing arrangements currently in 2663
existence. The governor shall appoint two representatives each 2664
from the Ohio education association, the Ohio school boards 2665
association, and a health insuring corporation licensed to do 2666
business in Ohio and recommended by the Ohio association of Health 2667
Plans. The speaker shall appoint two representatives each from the 2668
Ohio association of school business officials, the Ohio federation 2669
of teachers, and the buckeye association of school administrators. 2670
The president of the senate shall appoint two representatives each 2671
from the Ohio association of health underwriters, an existing 2672
health care consortium serving public schools, and the Ohio 2673
association of public school employees. The initial appointees 2674
shall serve until December 31, 2007; subsequent two year 2675
appointments, to commence on the first day of January of each year 2676
thereafter, and shall be made in the same manner. A member shall 2677
continue to serve subsequent to the expiration of the member's 2678
term until the member's successor is appointed. Any vacancy 2679
occurring during a member's term shall be filled in the same 2680
manner as the original appointment, except that the person 2681
appointed to fill the vacancy shall be appointed to the remainder 2682
of the unexpired term. The advisory committee shall elect a 2683
chairperson at its first meeting after the first day of January 2684
each year who shall call the time and place of future committee 2685

~~meetings in addition to the meetings that are to be held jointly~~ 2686
~~with the school employees health care board. Committee members are~~ 2687
~~not subject to the conditions for eligibility set by division (B)~~ 2688
~~of this section for members of the school employees health care~~ 2689
~~board. Nothing in this section prohibits a political subdivision~~ 2690
~~from adopting a delivery system of benefits that is not in~~ 2691
~~accordance with the department's adopted best practices if it is~~ 2692
~~considered to be most financially advantageous to the political~~ 2693
~~subdivision.~~ 2694

~~(K)~~(G) The ~~board~~ department may adopt rules for the 2695
enforcement of health plan sponsors' compliance with the best 2696
practices standards adopted by the ~~board~~ department pursuant to 2697
this section. 2698

~~(L) Any districts providing health care plan coverage for the~~ 2699
~~employees of public school districts shall provide nonidentifiable~~ 2700
~~aggregate claims data for the coverage to the school employees~~ 2701
~~health care board, without charge, within sixty days after~~ 2702
~~receiving a written request from the board. (H) Any health care~~ 2703
~~plan providing coverage for the employees of political~~ 2704
~~subdivisions, public school districts, or state institutions of~~ 2705
~~higher education, or that have provided coverage within two years~~ 2706
~~before the effective date of this amendment, shall provide~~ 2707
~~nonidentifiable aggregate claims data for the coverage provided to~~ 2708
~~the department, without charge, within thirty days after receiving~~ 2709
~~a written request from the department.~~ The claims data shall 2710
include data relating to employee group benefit sets, 2711
demographics, and claims experience. 2712

~~(M)~~(I)(1) The ~~school employees health care board~~ department 2713
may contract with other state agencies for services as the ~~board~~ 2714
department deems necessary for the implementation and operation of 2715
this section, based on demonstrated experience and expertise in 2716
administration, management, data handling, actuarial studies, 2717

quality assurance, or for other needed services. ~~The school~~ 2718
~~employees health care board may contract with the department of~~ 2719
~~administrative services for central services until such time the~~ 2720
~~board deems itself able to obtain such services from its own staff~~ 2721
~~or from other sources. The board shall reimburse the department of~~ 2722
~~administrative services for the reasonable cost of those services.~~ 2723

(2) The ~~board~~ department shall hire staff as necessary to 2724
provide administrative support to the ~~board~~ department and the 2725
public ~~school~~ employee health care plan program established by 2726
this section. 2727

~~(N)~~(J) Not more than ninety days before coverage begins for 2728
political subdivision, public school district, and state 2729
institution employees under health care plans ~~containing best~~ 2730
~~practices prescribed~~ designed by the ~~school employees health care~~ 2731
~~board department, a~~ political subdivision's governing body, public 2732
school district's board of education, and a state institution's 2733
board of trustees or managing authority shall provide detailed 2734
information about the health care plans to the employees. 2735

~~(O)~~(K) Nothing in this section shall be construed as 2736
prohibiting political subdivisions, public school districts, or 2737
state institutions from consulting with and compensating insurance 2738
agents and brokers for professional services or from establishing 2739
a self-insurance program, if the department approves that program 2740
as specified under section 9.833 of the Revised Code. 2741

~~(P)~~(1)(L) Pursuant to Chapter 117. of the Revised Code, the 2742
auditor of state shall conduct all necessary and required audits 2743
of the ~~board~~ department. The auditor of state, upon request, also 2744
shall furnish to the ~~board~~ department copies of audits of 2745
political subdivisions, public school districts, or consortia 2746
performed by the auditor of state. 2747

Sec. 101.36. (A) As used in this section: 2748

(1) "Tax expenditure" has the same meaning as in section 2749
5703.48 of the Revised Code. 2750

(2) "Tax expenditure bill" means a bill introduced in the 2751
house of representatives or the senate that proposes to enact or 2752
modify one or more tax expenditures. 2753

(B) There is hereby created the joint tax expenditure review 2754
committee, consisting of eight members, composed of the following: 2755

(1) The chair and ranking minority member of the house of 2756
representatives committee that deals primarily with tax 2757
legislation; 2758

(2) The chair and ranking minority member of the senate 2759
committee that deals primarily with tax legislation; 2760

(3) Two members of the house of representatives appointed by 2761
the speaker of the house of representatives; 2762

(4) Two members of the senate appointed by the president of 2763
the senate. 2764

The speaker of the house of representatives and the president 2765
of the senate shall make initial appointments to the board not 2766
later than thirty days following the effective date of the 2767
enactment of this section. Thereafter, the terms of the office 2768
shall be the same as the term of each general assembly. Members 2769
may be reappointed, provided the member continues to meet all 2770
other eligibility requirements. Vacancies shall be filled in the 2771
manner provided for original appointments. Any member appointed to 2772
fill a vacancy before the expiration of the term for which the 2773
predecessor was appointed shall hold office as a member for the 2774
remainder of that term. Appointed members of the committee serve 2775
at the pleasure of the members' appointing authority and may be 2776
removed only by the appointing authority. 2777

(C) The joint tax expenditure review committee shall hold its 2778

first meeting within ninety days after the effective date of the 2779
enactment of this section. At the first meeting, the members shall 2780
elect a chairperson. Thereafter, the committee shall meet at least 2781
twice per year at the call of the chairperson. The committee is a 2782
public body for the purposes of section 121.22 of the Revised 2783
Code. 2784

A vacancy on the committee does not impair the right of the 2785
other members to exercise all the functions of the committee. The 2786
presence of a majority of the members of the committee constitutes 2787
a quorum for the conduct of business of the committee. The 2788
concurrence of at least a majority of the members of the committee 2789
is necessary for any action to be taken by the committee. 2790

The committee shall permit any person to present evidence or 2791
testimony related to tax expenditures at a meeting of the 2792
committee. Upon the committee's request, the department of 2793
taxation, department of development, office of budget and 2794
management, or other state agency shall provide any information in 2795
its possession that the committee requires to perform its duties. 2796

(D) The committee shall establish a schedule for review for 2797
each tax expenditure so that each expenditure is reviewed at least 2798
once every eight years. The schedule may provide for the review of 2799
each tax expenditure in the order the expenditures were enacted or 2800
modified, beginning with the least recently enacted or modified 2801
tax expenditure. Alternatively, the review schedule may group tax 2802
expenditures by the individuals or industries benefiting from the 2803
expenditures, the objectives of each expenditure, or the policy 2804
rationale of each expenditure. In its review, the committee shall 2805
make recommendations as to whether each tax expenditure should be 2806
continued without modification, modified, scheduled for further 2807
review at a future date to consider repealing the expenditure, or 2808
repealed outright. For each expenditure reviewed, the committee 2809
may recommend accountability standards for the future review of 2810

the expenditure. The committee may consider, when reviewing a tax expenditure, any of the relevant factors in division (F) of this section. 2811
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(E) Any tax expenditure bill shall include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification. Before a tax expenditure bill may be scheduled for a vote in any legislative committee, the bill must be reviewed by the joint tax expenditure review committee. The committee shall commence its review following the introduction of the tax expenditure bill in the chamber in which the bill originates. During the committee's review, the committee may consider any of the relevant factors in division (F) of this section. The committee shall issue copies of its review to each member of the legislative committee to which the bill has been referred upon the conclusion of the committee's review. 2814
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(F) In conducting reviews pursuant to division (D) or (E) of this section, the committee may consider the following factors: 2827
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(1) The number and classes of persons, organizations, businesses, or types of industries that would receive the direct benefit or consequences of the tax expenditure; 2829
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(2) The fiscal impact of the tax expenditure on state and local taxing authorities, including, in the case of a review under division (D) of this section, any past fiscal effects and expected future fiscal impacts of the tax expenditure in the following eight-year period; 2832
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(3) Public policy objectives that might support the tax expenditure. In researching such objectives, the committee may consider the expenditure's legislative history, the tax expenditure's sponsor's intent in proposing the tax expenditure, the extent to which the tax expenditure encourages or would 2837
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encourage business growth or relocation into the state, promotes 2842
or would promote growth or retention of high-wage jobs in the 2843
state, or aids or would aid community stabilization. 2844

(4) Whether the tax expenditure successfully accomplishes any 2845
of the objectives identified in division (F)(3) of this section; 2846

(5) Whether the objectives identified in division (F)(3) of 2847
this section would or could have been accomplished successfully in 2848
the absence of the tax expenditure or with less cost to the state 2849
or local governments; 2850

(6) Whether the objectives identified in division (F)(3) of 2851
this section could have been accomplished successfully through a 2852
program that requires legislative appropriations for funding; 2853

(7) The extent to which the tax expenditure may provide 2854
unintended benefits to an individual, organization, or industry 2855
other than those the legislature or sponsor intended or creates an 2856
unfair competitive advantage for its recipient with respect to 2857
other businesses in the state; 2858

(8) The extent to which terminating the tax expenditure may 2859
have negative effects on taxpayers that currently benefit from the 2860
tax expenditure; 2861

(9) The extent to which the repeal of the tax expenditure may 2862
have negative effects on the state's employment and economy; 2863

(10) The feasibility of modifying the tax expenditure to 2864
provide for adjustment or recapture of the proceeds of the tax 2865
expenditure if the objectives of the tax expenditure are not 2866
fulfilled by the recipient of the tax expenditure. 2867

(G) The committee shall annually prepare a report of its 2868
determinations under this section and, not later than the 2869
thirty-first day of December of each year, provide a copy of the 2870
report to the governor, the speaker of the house of 2871

representatives, the president of the senate, the minority leader 2872
of the house of representatives, and the minority leader of the 2873
senate. The first annual report may be submitted either in the 2874
year of the effective date of this act or in the following year. 2875

Sec. 101.532. The main operating appropriations bill shall 2876
not contain appropriations for the industrial commission,~~the~~ 2877
~~workers' compensation council,~~ or the bureau of workers' 2878
compensation. Appropriations for the bureau ~~and the council~~ shall 2879
be enacted in one bill, and appropriations for the industrial 2880
commission shall be enacted in a separate bill. 2881

Sec. 101.711. (A) As used in this section: 2882

(1) "Public office" has the meaning defined in section 117.01 2883
of the Revised Code. 2884

(2) "Legislative agent" has the meaning defined in section 2885
101.70 of the Revised Code. 2886

(B) No public office shall enter into a contract with a 2887
legislative agent, with a cost exceeding fifty thousand dollars in 2888
a calendar year, without the approval of the controlling board. 2889

This section does not apply to an employment contract 2890
pursuant to which an individual is employed directly by a public 2891
office as a legislative agent. 2892

Sec. 101.82. As used in sections 101.82 to 101.87 of the 2893
Revised Code: 2894

(A) "Agency" means any board, commission, committee, or 2895
council, or any other similar state public body required to be 2896
established pursuant to state statutes for the exercise of any 2897
function of state government and to which members are appointed or 2898
elected. "Agency" does not include the following: 2899

(1) The general assembly, or any commission, committee, or other body composed entirely of members of the general assembly;	2900 2901
(2) Any court;	2902
(3) Any public body created by or directly pursuant to the constitution of this state;	2903 2904
(4) The board of trustees of any institution of higher education financially supported in whole or in part by the state;	2905 2906
(5) Any public body that has the authority to issue bonds or notes or that has issued bonds or notes that have not been fully repaid;	2907 2908 2909
(6) The public utilities commission of Ohio;	2910
(7) The consumers' council <u>counsel</u> governing board;	2911
(8) The Ohio board of regents;	2912
(9) Any state board or commission that has the authority to issue any final adjudicatory order that may be appealed to the court of common pleas under Chapter 119. of the Revised Code;	2913 2914 2915
(10) Any board of elections;	2916
(11) The board of directors of the Ohio insurance guaranty association and the board of governors of the Ohio fair plan underwriting association;	2917 2918 2919
(12) The Ohio public employees deferred compensation board;	2920
(13) The Ohio retirement study council;	2921
(14) The board of trustees of the Ohio police and fire pension fund, public employees retirement board, school employees retirement board, state highway patrol retirement board, and state teachers retirement board;	2922 2923 2924 2925
(15) The industrial commission;	2926
(16) The parole board;	2927

(17) The board of tax appeals;	2928
(18) The controlling board;	2929
(19) The release authority of department of youth services;	2930
(20) The environmental review appeals commission;	2931
(21) The Ohio ethics commission;	2932
(22) The Ohio public works commission;	2933
(23) The self-insuring employers evaluation board;	2934
(24) The state board of deposit;	2935
(25) The state employment relations board;	2936
(26) The workers' compensation council.	2937
(B) "Abolish" means to repeal the statutes creating and empowering an agency, remove its personnel, and transfer its records to the department of administrative services pursuant to division (E) of section 149.331 of the Revised Code.	2938 2939 2940 2941
(C) "Terminate" means to amend or repeal the statutes creating and empowering an agency, remove its personnel, and reassign its functions and records to another agency or officer designated by the general assembly.	2942 2943 2944 2945
(D) "Transfer" means to amend the statutes creating and empowering an agency so that its functions, records, and personnel are conveyed to another agency or officer.	2946 2947 2948
(E) "Renew" means to continue an agency, and may include amendment of the statutes creating and empowering the agency, or recommendations for changes in agency operation or personnel.	2949 2950 2951
Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate	2952 2953 2954 2955

commission: every person who is elected to or is a candidate for a 2956
state, county, or city office and every person who is appointed to 2957
fill a vacancy for an unexpired term in such an elective office; 2958
all members of the state board of education; the director, 2959
assistant directors, deputy directors, division chiefs, or persons 2960
of equivalent rank of any administrative department of the state; 2961
the president or other chief administrative officer of every state 2962
institution of higher education as defined in section 3345.011 of 2963
the Revised Code; the executive director and the members of the 2964
capitol square review and advisory board appointed or employed 2965
pursuant to section 105.41 of the Revised Code; all members of the 2966
Ohio casino control commission, the executive director of the 2967
commission, all professional employees of the commission, and all 2968
technical employees of the commission who perform an internal 2969
audit function; the individuals set forth in division (B)(2) of 2970
section 187.03 of the Revised Code; the chief executive officer 2971
and the members of the board of each state retirement system; each 2972
employee of a state retirement board who is a state retirement 2973
system investment officer licensed pursuant to section 1707.163 of 2974
the Revised Code; the members of the Ohio retirement study council 2975
appointed pursuant to division (C) of section 171.01 of the 2976
Revised Code; employees of the Ohio retirement study council, 2977
other than employees who perform purely administrative or clerical 2978
functions; the administrator of workers' compensation and each 2979
member of the bureau of workers' compensation board of directors; 2980
the bureau of workers' compensation director of investments; the 2981
chief investment officer of the bureau of workers' compensation; 2982
~~the director appointed by the workers' compensation council;~~ 2983
members of the board of commissioners on grievances and discipline 2984
of the supreme court and the ethics commission created under 2985
section 102.05 of the Revised Code; every business manager, 2986
treasurer, or superintendent of a city, local, exempted village, 2987
joint vocational, or cooperative education school district or an 2988

educational service center; every person who is elected to or is a 2989
candidate for the office of member of a board of education of a 2990
city, local, exempted village, joint vocational, or cooperative 2991
education school district or of a governing board of an 2992
educational service center that has a total student count of 2993
twelve thousand or more as most recently determined by the 2994
department of education pursuant to section 3317.03 of the Revised 2995
Code; every person who is appointed to the board of education of a 2996
municipal school district pursuant to division (B) or (F) of 2997
section 3311.71 of the Revised Code; all members of the board of 2998
directors of a sanitary district that is established under Chapter 2999
6115. of the Revised Code and organized wholly for the purpose of 3000
providing a water supply for domestic, municipal, and public use, 3001
and that includes two municipal corporations in two counties; 3002
every public official or employee who is paid a salary or wage in 3003
accordance with schedule C of section 124.15 or schedule E-2 of 3004
section 124.152 of the Revised Code; members of the board of 3005
trustees and the executive director of the southern Ohio 3006
agricultural and community development foundation; all members 3007
appointed to the Ohio livestock care standards board under section 3008
904.02 of the Revised Code; and every other public official or 3009
employee who is designated by the appropriate ethics commission 3010
pursuant to division (B) of this section. 3011

The disclosure statement shall include all of the following: 3012

(1) The name of the person filing the statement and each 3013
member of the person's immediate family and all names under which 3014
the person or members of the person's immediate family do 3015
business; 3016

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 3017
and except as otherwise provided in section 102.022 of the Revised 3018
Code, identification of every source of income, other than income 3019
from a legislative agent identified in division (A)(2)(b) of this 3020

section, received during the preceding calendar year, in the 3021
person's own name or by any other person for the person's use or 3022
benefit, by the person filing the statement, and a brief 3023
description of the nature of the services for which the income was 3024
received. If the person filing the statement is a member of the 3025
general assembly, the statement shall identify the amount of every 3026
source of income received in accordance with the following ranges 3027
of amounts: zero or more, but less than one thousand dollars; one 3028
thousand dollars or more, but less than ten thousand dollars; ten 3029
thousand dollars or more, but less than twenty-five thousand 3030
dollars; twenty-five thousand dollars or more, but less than fifty 3031
thousand dollars; fifty thousand dollars or more, but less than 3032
one hundred thousand dollars; and one hundred thousand dollars or 3033
more. Division (A)(2)(a) of this section shall not be construed to 3034
require a person filing the statement who derives income from a 3035
business or profession to disclose the individual items of income 3036
that constitute the gross income of that business or profession, 3037
except for those individual items of income that are attributable 3038
to the person's or, if the income is shared with the person, the 3039
partner's, solicitation of services or goods or performance, 3040
arrangement, or facilitation of services or provision of goods on 3041
behalf of the business or profession of clients, including 3042
corporate clients, who are legislative agents. A person who files 3043
the statement under this section shall disclose the identity of 3044
and the amount of income received from a person who the public 3045
official or employee knows or has reason to know is doing or 3046
seeking to do business of any kind with the public official's or 3047
employee's agency. 3048

(b) If the person filing the statement is a member of the 3049
general assembly, the statement shall identify every source of 3050
income and the amount of that income that was received from a 3051
legislative agent during the preceding calendar year, in the 3052
person's own name or by any other person for the person's use or 3053

benefit, by the person filing the statement, and a brief 3054
description of the nature of the services for which the income was 3055
received. Division (A)(2)(b) of this section requires the 3056
disclosure of clients of attorneys or persons licensed under 3057
section 4732.12 of the Revised Code, or patients of persons 3058
certified under section 4731.14 of the Revised Code, if those 3059
clients or patients are legislative agents. Division (A)(2)(b) of 3060
this section requires a person filing the statement who derives 3061
income from a business or profession to disclose those individual 3062
items of income that constitute the gross income of that business 3063
or profession that are received from legislative agents. 3064

(c) Except as otherwise provided in division (A)(2)(c) of 3065
this section, division (A)(2)(a) of this section applies to 3066
attorneys, physicians, and other persons who engage in the 3067
practice of a profession and who, pursuant to a section of the 3068
Revised Code, the common law of this state, a code of ethics 3069
applicable to the profession, or otherwise, generally are required 3070
not to reveal, disclose, or use confidences of clients, patients, 3071
or other recipients of professional services except under 3072
specified circumstances or generally are required to maintain 3073
those types of confidences as privileged communications except 3074
under specified circumstances. Division (A)(2)(a) of this section 3075
does not require an attorney, physician, or other professional 3076
subject to a confidentiality requirement as described in division 3077
(A)(2)(c) of this section to disclose the name, other identity, or 3078
address of a client, patient, or other recipient of professional 3079
services if the disclosure would threaten the client, patient, or 3080
other recipient of professional services, would reveal details of 3081
the subject matter for which legal, medical, or professional 3082
advice or other services were sought, or would reveal an otherwise 3083
privileged communication involving the client, patient, or other 3084
recipient of professional services. Division (A)(2)(a) of this 3085
section does not require an attorney, physician, or other 3086

professional subject to a confidentiality requirement as described 3087
in division (A)(2)(c) of this section to disclose in the brief 3088
description of the nature of services required by division 3089
(A)(2)(a) of this section any information pertaining to specific 3090
professional services rendered for a client, patient, or other 3091
recipient of professional services that would reveal details of 3092
the subject matter for which legal, medical, or professional 3093
advice was sought or would reveal an otherwise privileged 3094
communication involving the client, patient, or other recipient of 3095
professional services. 3096

(3) The name of every corporation on file with the secretary 3097
of state that is incorporated in this state or holds a certificate 3098
of compliance authorizing it to do business in this state, trust, 3099
business trust, partnership, or association that transacts 3100
business in this state in which the person filing the statement or 3101
any other person for the person's use and benefit had during the 3102
preceding calendar year an investment of over one thousand dollars 3103
at fair market value as of the thirty-first day of December of the 3104
preceding calendar year, or the date of disposition, whichever is 3105
earlier, or in which the person holds any office or has a 3106
fiduciary relationship, and a description of the nature of the 3107
investment, office, or relationship. Division (A)(3) of this 3108
section does not require disclosure of the name of any bank, 3109
savings and loan association, credit union, or building and loan 3110
association with which the person filing the statement has a 3111
deposit or a withdrawable share account. 3112

(4) All fee simple and leasehold interests to which the 3113
person filing the statement holds legal title to or a beneficial 3114
interest in real property located within the state, excluding the 3115
person's residence and property used primarily for personal 3116
recreation; 3117

(5) The names of all persons residing or transacting business 3118

in the state to whom the person filing the statement owes, in the 3119
person's own name or in the name of any other person, more than 3120
one thousand dollars. Division (A)(5) of this section shall not be 3121
construed to require the disclosure of debts owed by the person 3122
resulting from the ordinary conduct of a business or profession or 3123
debts on the person's residence or real property used primarily 3124
for personal recreation, except that the superintendent of 3125
financial institutions shall disclose the names of all 3126
state-chartered savings and loan associations and of all service 3127
corporations subject to regulation under division (E)(2) of 3128
section 1151.34 of the Revised Code to whom the superintendent in 3129
the superintendent's own name or in the name of any other person 3130
owes any money, and that the superintendent and any deputy 3131
superintendent of banks shall disclose the names of all 3132
state-chartered banks and all bank subsidiary corporations subject 3133
to regulation under section 1109.44 of the Revised Code to whom 3134
the superintendent or deputy superintendent owes any money. 3135

(6) The names of all persons residing or transacting business 3136
in the state, other than a depository excluded under division 3137
(A)(3) of this section, who owe more than one thousand dollars to 3138
the person filing the statement, either in the person's own name 3139
or to any person for the person's use or benefit. Division (A)(6) 3140
of this section shall not be construed to require the disclosure 3141
of clients of attorneys or persons licensed under section 4732.12 3142
or 4732.15 of the Revised Code, or patients of persons certified 3143
under section 4731.14 of the Revised Code, nor the disclosure of 3144
debts owed to the person resulting from the ordinary conduct of a 3145
business or profession. 3146

(7) Except as otherwise provided in section 102.022 of the 3147
Revised Code, the source of each gift of over seventy-five 3148
dollars, or of each gift of over twenty-five dollars received by a 3149
member of the general assembly from a legislative agent, received 3150

by the person in the person's own name or by any other person for 3151
the person's use or benefit during the preceding calendar year, 3152
except gifts received by will or by virtue of section 2105.06 of 3153
the Revised Code, or received from spouses, parents, grandparents, 3154
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 3155
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 3156
fathers-in-law, mothers-in-law, or any person to whom the person 3157
filing the statement stands in loco parentis, or received by way 3158
of distribution from any inter vivos or testamentary trust 3159
established by a spouse or by an ancestor; 3160

(8) Except as otherwise provided in section 102.022 of the 3161
Revised Code, identification of the source and amount of every 3162
payment of expenses incurred for travel to destinations inside or 3163
outside this state that is received by the person in the person's 3164
own name or by any other person for the person's use or benefit 3165
and that is incurred in connection with the person's official 3166
duties, except for expenses for travel to meetings or conventions 3167
of a national or state organization to which any state agency, 3168
including, but not limited to, any legislative agency or state 3169
institution of higher education as defined in section 3345.011 of 3170
the Revised Code, pays membership dues, or any political 3171
subdivision or any office or agency of a political subdivision 3172
pays membership dues; 3173

(9) Except as otherwise provided in section 102.022 of the 3174
Revised Code, identification of the source of payment of expenses 3175
for meals and other food and beverages, other than for meals and 3176
other food and beverages provided at a meeting at which the person 3177
participated in a panel, seminar, or speaking engagement or at a 3178
meeting or convention of a national or state organization to which 3179
any state agency, including, but not limited to, any legislative 3180
agency or state institution of higher education as defined in 3181
section 3345.011 of the Revised Code, pays membership dues, or any 3182

political subdivision or any office or agency of a political 3183
subdivision pays membership dues, that are incurred in connection 3184
with the person's official duties and that exceed one hundred 3185
dollars aggregated per calendar year; 3186

(10) If the disclosure statement is filed by a public 3187
official or employee described in division (B)(2) of section 3188
101.73 of the Revised Code or division (B)(2) of section 121.63 of 3189
the Revised Code who receives a statement from a legislative 3190
agent, executive agency lobbyist, or employer that contains the 3191
information described in division (F)(2) of section 101.73 of the 3192
Revised Code or division (G)(2) of section 121.63 of the Revised 3193
Code, all of the nondisputed information contained in the 3194
statement delivered to that public official or employee by the 3195
legislative agent, executive agency lobbyist, or employer under 3196
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 3197
the Revised Code. 3198

A person may file a statement required by this section in 3199
person or by mail. A person who is a candidate for elective office 3200
shall file the statement no later than the thirtieth day before 3201
the primary, special, or general election at which the candidacy 3202
is to be voted on, whichever election occurs soonest, except that 3203
a person who is a write-in candidate shall file the statement no 3204
later than the twentieth day before the earliest election at which 3205
the person's candidacy is to be voted on. A person who holds 3206
elective office shall file the statement on or before the 3207
fifteenth day of April of each year unless the person is a 3208
candidate for office. A person who is appointed to fill a vacancy 3209
for an unexpired term in an elective office shall file the 3210
statement within fifteen days after the person qualifies for 3211
office. Other persons shall file an annual statement on or before 3212
the fifteenth day of April or, if appointed or employed after that 3213
date, within ninety days after appointment or employment. No 3214

person shall be required to file with the appropriate ethics 3215
commission more than one statement or pay more than one filing fee 3216
for any one calendar year. 3217

The appropriate ethics commission, for good cause, may extend 3218
for a reasonable time the deadline for filing a statement under 3219
this section. 3220

A statement filed under this section is subject to public 3221
inspection at locations designated by the appropriate ethics 3222
commission except as otherwise provided in this section. 3223

(B) The Ohio ethics commission, the joint legislative ethics 3224
committee, and the board of commissioners on grievances and 3225
discipline of the supreme court, using the rule-making procedures 3226
of Chapter 119. of the Revised Code, may require any class of 3227
public officials or employees under its jurisdiction and not 3228
specifically excluded by this section whose positions involve a 3229
substantial and material exercise of administrative discretion in 3230
the formulation of public policy, expenditure of public funds, 3231
enforcement of laws and rules of the state or a county or city, or 3232
the execution of other public trusts, to file an annual statement 3233
on or before the fifteenth day of April under division (A) of this 3234
section. The appropriate ethics commission shall send the public 3235
officials or employees written notice of the requirement by the 3236
fifteenth day of February of each year the filing is required 3237
unless the public official or employee is appointed after that 3238
date, in which case the notice shall be sent within thirty days 3239
after appointment, and the filing shall be made not later than 3240
ninety days after appointment. 3241

Except for disclosure statements filed by members of the 3242
board of trustees and the executive director of the southern Ohio 3243
agricultural and community development foundation, disclosure 3244
statements filed under this division with the Ohio ethics 3245
commission by members of boards, commissions, or bureaus of the 3246

state for which no compensation is received other than reasonable 3247
and necessary expenses shall be kept confidential. Disclosure 3248
statements filed with the Ohio ethics commission under division 3249
(A) of this section by business managers, treasurers, and 3250
superintendents of city, local, exempted village, joint 3251
vocational, or cooperative education school districts or 3252
educational service centers shall be kept confidential, except 3253
that any person conducting an audit of any such school district or 3254
educational service center pursuant to section 115.56 or Chapter 3255
117. of the Revised Code may examine the disclosure statement of 3256
any business manager, treasurer, or superintendent of that school 3257
district or educational service center. Disclosure statements 3258
filed with the Ohio ethics commission under division (A) of this 3259
section by the individuals set forth in division (B)(2) of section 3260
187.03 of the Revised Code shall be kept confidential. The Ohio 3261
ethics commission shall examine each disclosure statement required 3262
to be kept confidential to determine whether a potential conflict 3263
of interest exists for the person who filed the disclosure 3264
statement. A potential conflict of interest exists if the private 3265
interests of the person, as indicated by the person's disclosure 3266
statement, might interfere with the public interests the person is 3267
required to serve in the exercise of the person's authority and 3268
duties in the person's office or position of employment. If the 3269
commission determines that a potential conflict of interest 3270
exists, it shall notify the person who filed the disclosure 3271
statement and shall make the portions of the disclosure statement 3272
that indicate a potential conflict of interest subject to public 3273
inspection in the same manner as is provided for other disclosure 3274
statements. Any portion of the disclosure statement that the 3275
commission determines does not indicate a potential conflict of 3276
interest shall be kept confidential by the commission and shall 3277
not be made subject to public inspection, except as is necessary 3278
for the enforcement of Chapters 102. and 2921. of the Revised Code 3279

and except as otherwise provided in this division.		3280
(C) No person shall knowingly fail to file, on or before the		3281
applicable filing deadline established under this section, a		3282
statement that is required by this section.		3283
(D) No person shall knowingly file a false statement that is		3284
required to be filed under this section.		3285
(E)(1) Except as provided in divisions (E)(2) and (3) of this		3286
section, the statement required by division (A) or (B) of this		3287
section shall be accompanied by a filing fee of forty dollars.		3288
(2) The statement required by division (A) of this section		3289
shall be accompanied by the following filing fee to be paid by the		3290
person who is elected or appointed to, or is a candidate for, any		3291
of the following offices:		3292
For state office, except member of the		3293
state board of education	\$65	3294
For office of member of general assembly	\$40	3295
For county office	\$40	3296
For city office	\$25	3297
For office of member of the state board		3298
of education	\$25	3299
For office of member of the Ohio		3300
livestock care standards board	\$25	3301
For office of member of a city, local,		3302
exempted village, or cooperative		3303
education board of		3304
education or educational service		3305
center governing board	\$20	3306
For position of business manager,		3307
treasurer, or superintendent of a		3308
city, local, exempted village, joint		3309
vocational, or cooperative education		3310

school district or	3311
educational service center	\$20 3312
(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.	3313 3314 3315 3316
(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.	3317 3318 3319 3320 3321
(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.	3322 3323 3324 3325 3326 3327
(G)(1) The appropriate ethics commission other than the Ohio ethics commission and the joint legislative ethics committee shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.	3328 3329 3330 3331
(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section, <u>investigative or other fees, costs, or other funds it receives as a result of court orders</u> , and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.	3332 3333 3334 3335 3336 3337 3338 3339 3340
(3) The joint legislative ethics committee shall deposit all	3341

receipts it receives from the payment of financial disclosure 3342
statement filing fees under divisions (E) and (F) of this section 3343
into the joint legislative ethics committee investigative fund. 3344

(H) Division (A) of this section does not apply to a person 3345
elected or appointed to the office of precinct, ward, or district 3346
committee member under Chapter 3517. of the Revised Code; a 3347
presidential elector; a delegate to a national convention; village 3348
or township officials and employees; any physician or psychiatrist 3349
who is paid a salary or wage in accordance with schedule C of 3350
section 124.15 or schedule E-2 of section 124.152 of the Revised 3351
Code and whose primary duties do not require the exercise of 3352
administrative discretion; or any member of a board, commission, 3353
or bureau of any county or city who receives less than one 3354
thousand dollars per year for serving in that position. 3355

Sec. 105.41. (A) There is hereby created in the legislative 3356
branch of government the capitol square review and advisory board, 3357
consisting of thirteen members as follows: 3358

(1) Two members of the senate, appointed by the president of 3359
the senate, both of whom shall not be members of the same 3360
political party; 3361

(2) Two members of the house of representatives, appointed by 3362
the speaker of the house of representatives, both of whom shall 3363
not be members of the same political party; 3364

(3) Five members appointed by the governor, with the advice 3365
and consent of the senate, not more than three of whom shall be 3366
members of the same political party, one of whom shall be the 3367
chief of staff of the governor's office, one of whom shall 3368
represent the Ohio arts council, one of whom shall represent the 3369
Ohio historical society, one of whom shall represent the Ohio 3370
building authority, and one of whom shall represent the public at 3371
large; 3372

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

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

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

(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only so long as they are members of the general assembly and the chief of staff of the governor's office shall be a member of the board only so long as the appointing governor remains in office. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In case of a vacancy occurring on the board, the president of the senate, the speaker of the house of representatives, or the governor, as the case may be, shall in the same manner prescribed for the regular appointment to the commission, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of

sixty days has elapsed, whichever occurs first. 3405

(C) The board shall hold meetings in a manner and at times 3406
prescribed by the rules adopted by the board. A majority of the 3407
board constitutes a quorum, and no action shall be taken by the 3408
board unless approved by at least six members or by at least seven 3409
members if a person is appointed under division (A)(4) or (5) of 3410
this section. At its first meeting, the board shall adopt rules 3411
for the conduct of its business and the election of its officers, 3412
and shall organize by selecting a chairperson and other officers 3413
as it considers necessary. Board members shall serve without 3414
compensation but shall be reimbursed for actual and necessary 3415
expenses incurred in the performance of their duties. 3416

(D) The board may do any of the following: 3417

(1) Employ or hire on a consulting basis professional, 3418
technical, and clerical employees as are necessary for the 3419
performance of its duties~~+~~. All employees of the board are in the 3420
unclassified service and serve at the pleasure of the board. For 3421
purposes of section 4117.01 of the Revised Code, employees of the 3422
board shall be considered employees of the general assembly, 3423
except that employees who are covered by a collective bargaining 3424
agreement on the effective date of this amendment shall remain 3425
subject to the agreement until the agreement expires on its terms, 3426
and the agreement shall not be extended or renewed. Upon 3427
expiration of the agreement, the employees are considered 3428
employees of the general assembly for purposes of section 4117.01 3429
of the Revised Code and are in the unclassified service and serve 3430
at the pleasure of the board. 3431

(2) Hold public hearings at times and places as determined by 3432
the board; 3433

(3) Adopt, amend, or rescind rules necessary to accomplish 3434
the duties of the board as set forth in this section; 3435

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

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

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

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

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

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

(4) Establish and maintain the capitol collection trust. The capitol collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in

suitable facilities until they are ready to be displayed in the 3467
capitol square. 3468

(5) Perform repair, construction, contracting, purchasing, 3469
maintenance, supervisory, and operating activities the board 3470
determines are necessary for the operation and maintenance of the 3471
capitol square; 3472

(6) Maintain and preserve the capitol square, in accordance 3473
with guidelines issued by the United States secretary of the 3474
interior for application of the secretary's standards for 3475
rehabilitation adopted in 36 C.F.R. part 67; 3476

(7) Plan and develop a center at the capitol building for the 3477
purpose of educating visitors about the history of Ohio, including 3478
its political, economic, and social development and the design and 3479
erection of the capitol building and its grounds. 3480

(F)(1) The board shall lease capital facilities improved or 3481
financed by the Ohio building authority pursuant to Chapter 152. 3482
of the Revised Code for the use of the board, and may enter into 3483
any other agreements with the authority ancillary to improvement, 3484
financing, or leasing of those capital facilities, including, but 3485
not limited to, any agreement required by the applicable bond 3486
proceedings authorized by Chapter 152. of the Revised Code. Any 3487
lease of capital facilities authorized by this section shall be 3488
governed by division (D) of section 152.24 of the Revised Code. 3489

(2) Fees, receipts, and revenues received by the board from 3490
the state underground parking garage constitute available receipts 3491
as defined in section 152.09 of the Revised Code, and may be 3492
pledged to the payment of bond service charges on obligations 3493
issued by the Ohio building authority pursuant to Chapter 152. of 3494
the Revised Code to improve, finance, or purchase capital 3495
facilities useful to the board. The authority may, with the 3496
consent of the board, provide in the bond proceedings for a pledge 3497

of all or a portion of those fees, receipts, and revenues as the 3498
authority determines. The authority may provide in the bond 3499
proceedings or by separate agreement with the board for the 3500
transfer of those fees, receipts, and revenues to the appropriate 3501
bond service fund or bond service reserve fund as required to pay 3502
the bond service charges when due, and any such provision for the 3503
transfer of those fees, receipts, and revenues shall be 3504
controlling notwithstanding any other provision of law pertaining 3505
to those fees, receipts, and revenues. 3506

(3) All moneys received by the treasurer of state on account 3507
of the board and required by the applicable bond proceedings or by 3508
separate agreement with the board to be deposited, transferred, or 3509
credited to the bond service fund or bond service reserve fund 3510
established by the bond proceedings shall be transferred by the 3511
treasurer of state to such fund, whether or not it is in the 3512
custody of the treasurer of state, without necessity for further 3513
appropriation, upon receipt of notice from the Ohio building 3514
authority as prescribed in the bond proceedings. 3515

(G) All fees, receipts, and revenues received by the board 3516
from the state underground parking garage shall be deposited into 3517
the state treasury to the credit of the underground parking garage 3518
operating fund, which is hereby created, to be used for the 3519
purposes specified in division (F) of this section and for the 3520
operation and maintenance of the garage. All investment earnings 3521
of the fund shall be credited to the fund. 3522

(H) All donations received by the board shall be deposited 3523
into the state treasury to the credit of the capitol square 3524
renovation gift fund, which is hereby created. The fund shall be 3525
used by the board as follows: 3526

(1) To provide part or all of the funding related to 3527
construction, goods, or services for the renovation of the capitol 3528
square; 3529

(2) To purchase art, antiques, and artifacts for display at 3530
the capitol square; 3531

(3) To award contracts or make grants to organizations for 3532
educating the public regarding the historical background and 3533
governmental functions of the capitol square. Chapters 125., 127., 3534
and 153. and section 3517.13 of the Revised Code do not apply to 3535
purchases made exclusively from the fund, notwithstanding anything 3536
to the contrary in those chapters or that section. All investment 3537
earnings of the fund shall be credited to the fund. 3538

(I) Except as provided in divisions (G), (H), and (J) of this 3539
section, all fees, receipts, and revenues received by the board 3540
shall be deposited into the state treasury to the credit of the 3541
sale of goods and services fund, which is hereby created. Money 3542
credited to the fund shall be used solely to pay costs of the 3543
board other than those specified in divisions (F) and (G) of this 3544
section. All investment earnings of the fund shall be credited to 3545
the fund. 3546

(J) There is hereby created in the state treasury the capitol 3547
square improvement fund, to be used by the board to pay 3548
construction, renovation, and other costs related to the capitol 3549
square for which money is not otherwise available to the board. 3550
Whenever the board determines that there is a need to incur those 3551
costs and that the unencumbered, unobligated balance to the credit 3552
of the underground parking garage operating fund exceeds the 3553
amount needed for the purposes specified in division (F) of this 3554
section and for the operation and maintenance of the garage, the 3555
board may request the director of budget and management to 3556
transfer from the underground parking garage operating fund to the 3557
capitol square improvement fund the amount needed to pay such 3558
construction, renovation, or other costs. The director then shall 3559
transfer the amount needed from the excess balance of the 3560
underground parking garage operating fund. 3561

(K) As the operation and maintenance of the capitol square 3562
constitute essential government functions of a public purpose, the 3563
board shall not be required to pay taxes or assessments upon the 3564
square, upon any property acquired or used by the board under this 3565
section, or upon any income generated by the operation of the 3566
square. 3567

(L) As used in this section, "capitol square" means the 3568
capitol building, senate building, capitol atrium, capitol 3569
grounds, the state underground parking garage, and the warehouse 3570
owned by the board. 3571

(M) The capitol annex shall be known as the senate building. 3572

Sec. 107.09. Immediately after the determination of each 3573
decennial apportionment for members of the general assembly the 3574
governor shall cause such apportionment to be published for four 3575
consecutive weeks, or as provided in section 7.16 of the Revised 3576
Code, in three newspapers, one in Cincinnati, one in Cleveland, 3577
and one in Columbus. 3578

Sec. 109.36. As used in this section and sections 109.361 to 3579
109.366 of the Revised Code: 3580

(A)(1) "Officer or employee" means any of the following: 3581

(a) A person who, at the time a cause of action against the 3582
person arises, is serving in an elected or appointed office or 3583
position with the state or is employed by the state. 3584

(b) A person that, at the time a cause of action against the 3585
person, partnership, or corporation arises, is rendering medical, 3586
nursing, dental, podiatric, optometric, physical therapeutic, 3587
psychiatric, or psychological services pursuant to a personal 3588
services contract or purchased service contract with a department, 3589
agency, or institution of the state. 3590

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

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

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

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

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

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

courts of appeals, any office of an elected state officer, or any 3622
department, board, office, commission, agency, institution, or 3623
other instrumentality of the state of Ohio that employs or 3624
contracts with an officer or employee or to which an officer or 3625
employee is elected or appointed. 3626

Sec. 109.43. (A) As used in this section: 3627

(1) "Designee" means a designee of the elected official in 3628
the public office if that elected official is the only elected 3629
official in the public office involved or a designee of all of the 3630
elected officials in the public office if the public office 3631
involved includes more than one elected official. 3632

(2) "Elected official" means an official elected to a local 3633
or statewide office. "Elected official" does not include the chief 3634
justice or a justice of the supreme court, a judge of a court of 3635
appeals, court of common pleas, municipal court, or county court, 3636
or a clerk of any of those courts. 3637

(3) "Public office" has the same meaning as in section 3638
149.011 of the Revised Code. 3639

(4) "Public record" has the same meaning as in section 149.43 3640
of the Revised Code. 3641

(B) The attorney general shall develop, provide, and certify 3642
training programs and seminars for all elected officials or their 3643
appropriate designees in order to enhance the officials' knowledge 3644
of the duty to provide access to public records as required by 3645
section 149.43 of the Revised Code. The training shall be three 3646
hours for every term of office for which the elected official was 3647
appointed or elected to the public office involved. The training 3648
shall provide elected officials or their appropriate designees 3649
with guidance in developing and updating their offices' policies 3650
as required under section 149.43 of the Revised Code. The 3651

successful completion by an elected official or by an elected 3652
official's appropriate designee of the training requirements 3653
established by the attorney general under this section shall 3654
satisfy the education requirements imposed on elected officials or 3655
their appropriate designees under division (E) of section 149.43 3656
of the Revised Code. Prior to providing the training programs and 3657
seminars under this section to satisfy the education requirements 3658
imposed on elected officials or their appropriate designees under 3659
division (E) of section 149.43 of the Revised Code, the attorney 3660
general shall ensure that the training programs and seminars are 3661
accredited by the commission on continuing legal education 3662
established by the supreme court. 3663

(C) The attorney general shall not charge any elected 3664
official or the appropriate designee of any elected official any 3665
fee for attending the training programs and seminars that the 3666
attorney general conducts under this section. The attorney general 3667
may allow the attendance of any other interested persons at any of 3668
the training programs or seminars that the attorney general 3669
conducts under this section and shall not charge the person any 3670
fee for attending the training program or seminar. 3671

(D) In addition to developing, providing, and certifying 3672
training programs and seminars as required under division (B) of 3673
this section, the attorney general may contract with one or more 3674
other state agencies, political subdivisions, or other public or 3675
private entities to conduct the training programs and seminars for 3676
elected officials or their appropriate designees under this 3677
section. The contract may provide for the attendance of any other 3678
interested persons at any of the training programs or seminars 3679
conducted by the contracting state agency, political subdivision, 3680
or other public or private entity. The contracting state agency, 3681
political subdivision, or other public or private entity may 3682
charge an elected official, an elected official's appropriate 3683

designee, or an interested person a registration fee for attending 3684
the training program or seminar conducted by that contracting 3685
agency, political subdivision, or entity pursuant to a contract 3686
entered into under this division. The attorney general shall 3687
determine a reasonable amount for the registration fee based on 3688
the actual and necessary expenses associated with the training 3689
programs and seminars. If the contracting state agency, political 3690
subdivision, or other public or private entity charges an elected 3691
official or an elected official's appropriate designee a 3692
registration fee for attending the training program or seminar 3693
conducted pursuant to a contract entered into under this division 3694
by that contracting agency, political subdivision, or entity, the 3695
public office for which the elected official was appointed or 3696
elected to represent may use the public office's own funds to pay 3697
for the cost of the registration fee. 3698

(E) The attorney general shall develop and provide to all 3699
public offices a model public records policy for responding to 3700
public records requests in compliance with section 149.43 of the 3701
Revised Code in order to provide guidance to public offices in 3702
developing their own public record policies for responding to 3703
public records requests in compliance with that section. 3704

(F) The attorney general may provide any other appropriate 3705
training or educational programs about Ohio's "Sunshine Laws," 3706
sections 121.22, 149.38, 149.381, and 149.43 of the Revised Code, 3707
as may be developed and offered by the attorney general or by the 3708
attorney general in collaboration with one or more other state 3709
agencies, political subdivisions, or other public or private 3710
entities. 3711

(G) The auditor of state, in the course of an annual or 3712
biennial audit of a public office pursuant to Chapter 117. of the 3713
Revised Code, shall audit the public office for compliance with 3714
this section and division (E) of section 149.43 of the Revised 3715

Code. 3716

Sec. 109.57. (A)(1) The superintendent of the bureau of 3717
criminal identification and investigation shall procure from 3718
wherever procurable and file for record photographs, pictures, 3719
descriptions, fingerprints, measurements, and other information 3720
that may be pertinent of all persons who have been convicted of 3721
committing within this state a felony, any crime constituting a 3722
misdemeanor on the first offense and a felony on subsequent 3723
offenses, or any misdemeanor described in division (A)(1)(a), 3724
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 3725
of all children under eighteen years of age who have been 3726
adjudicated delinquent children for committing within this state 3727
an act that would be a felony or an offense of violence if 3728
committed by an adult or who have been convicted of or pleaded 3729
guilty to committing within this state a felony or an offense of 3730
violence, and of all well-known and habitual criminals. The person 3731
in charge of any county, multicounty, municipal, municipal-county, 3732
or multicounty-municipal jail or workhouse, community-based 3733
correctional facility, halfway house, alternative residential 3734
facility, or state correctional institution and the person in 3735
charge of any state institution having custody of a person 3736
suspected of having committed a felony, any crime constituting a 3737
misdemeanor on the first offense and a felony on subsequent 3738
offenses, or any misdemeanor described in division (A)(1)(a), 3739
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 3740
having custody of a child under eighteen years of age with respect 3741
to whom there is probable cause to believe that the child may have 3742
committed an act that would be a felony or an offense of violence 3743
if committed by an adult shall furnish such material to the 3744
superintendent of the bureau. Fingerprints, photographs, or other 3745
descriptive information of a child who is under eighteen years of 3746
age, has not been arrested or otherwise taken into custody for 3747

committing an act that would be a felony or an offense of violence 3748
who is not in any other category of child specified in this 3749
division, if committed by an adult, has not been adjudicated a 3750
delinquent child for committing an act that would be a felony or 3751
an offense of violence if committed by an adult, has not been 3752
convicted of or pleaded guilty to committing a felony or an 3753
offense of violence, and is not a child with respect to whom there 3754
is probable cause to believe that the child may have committed an 3755
act that would be a felony or an offense of violence if committed 3756
by an adult shall not be procured by the superintendent or 3757
furnished by any person in charge of any county, multicounty, 3758
municipal, municipal-county, or multicounty-municipal jail or 3759
workhouse, community-based correctional facility, halfway house, 3760
alternative residential facility, or state correctional 3761
institution, except as authorized in section 2151.313 of the 3762
Revised Code. 3763

(2) Every clerk of a court of record in this state, other 3764
than the supreme court or a court of appeals, shall send to the 3765
superintendent of the bureau a weekly report containing a summary 3766
of each case involving a felony, involving any crime constituting 3767
a misdemeanor on the first offense and a felony on subsequent 3768
offenses, involving a misdemeanor described in division (A)(1)(a), 3769
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 3770
or involving an adjudication in a case in which a child under 3771
eighteen years of age was alleged to be a delinquent child for 3772
committing an act that would be a felony or an offense of violence 3773
if committed by an adult. The clerk of the court of common pleas 3774
shall include in the report and summary the clerk sends under this 3775
division all information described in divisions (A)(2)(a) to (f) 3776
of this section regarding a case before the court of appeals that 3777
is served by that clerk. The summary shall be written on the 3778
standard forms furnished by the superintendent pursuant to 3779
division (B) of this section and shall include the following 3780

information:	3781
(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;	3782 3783 3784
(b) The style and number of the case;	3785
(c) The date of arrest, offense, summons, or arraignment;	3786
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	3787 3788 3789 3790 3791 3792 3793 3794 3795 3796 3797 3798
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	3799 3800
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	3801 3802 3803 3804
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	3805 3806 3807 3808 3809
(3) The superintendent shall cooperate with and assist	3810

sheriffs, chiefs of police, and other law enforcement officers in 3811
the establishment of a complete system of criminal identification 3812
and in obtaining fingerprints and other means of identification of 3813
all persons arrested on a charge of a felony, any crime 3814
constituting a misdemeanor on the first offense and a felony on 3815
subsequent offenses, or a misdemeanor described in division 3816
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 3817
Revised Code and of all children under eighteen years of age 3818
arrested or otherwise taken into custody for committing an act 3819
that would be a felony or an offense of violence if committed by 3820
an adult. The superintendent also shall file for record the 3821
fingerprint impressions of all persons confined in a county, 3822
multicounty, municipal, municipal-county, or multicounty-municipal 3823
jail or workhouse, community-based correctional facility, halfway 3824
house, alternative residential facility, or state correctional 3825
institution for the violation of state laws and of all children 3826
under eighteen years of age who are confined in a county, 3827
multicounty, municipal, municipal-county, or multicounty-municipal 3828
jail or workhouse, community-based correctional facility, halfway 3829
house, alternative residential facility, or state correctional 3830
institution or in any facility for delinquent children for 3831
committing an act that would be a felony or an offense of violence 3832
if committed by an adult, and any other information that the 3833
superintendent may receive from law enforcement officials of the 3834
state and its political subdivisions. 3835

(4) The superintendent shall carry out Chapter 2950. of the 3836
Revised Code with respect to the registration of persons who are 3837
convicted of or plead guilty to a sexually oriented offense or a 3838
child-victim oriented offense and with respect to all other duties 3839
imposed on the bureau under that chapter. 3840

(5) The bureau shall perform centralized recordkeeping 3841
functions for criminal history records and services in this state 3842

for purposes of the national crime prevention and privacy compact 3843
set forth in section 109.571 of the Revised Code and is the 3844
criminal history record repository as defined in that section for 3845
purposes of that compact. The superintendent or the 3846
superintendent's designee is the compact officer for purposes of 3847
that compact and shall carry out the responsibilities of the 3848
compact officer specified in that compact. 3849

(B) The superintendent shall prepare and furnish to every 3850
county, multicounty, municipal, municipal-county, or 3851
multicounty-municipal jail or workhouse, community-based 3852
correctional facility, halfway house, alternative residential 3853
facility, or state correctional institution and to every clerk of 3854
a court in this state specified in division (A)(2) of this section 3855
standard forms for reporting the information required under 3856
division (A) of this section. The standard forms that the 3857
superintendent prepares pursuant to this division may be in a 3858
tangible format, in an electronic format, or in both tangible 3859
formats and electronic formats. 3860

(C)(1) The superintendent may operate a center for 3861
electronic, automated, or other data processing for the storage 3862
and retrieval of information, data, and statistics pertaining to 3863
criminals and to children under eighteen years of age who are 3864
adjudicated delinquent children for committing an act that would 3865
be a felony or an offense of violence if committed by an adult, 3866
criminal activity, crime prevention, law enforcement, and criminal 3867
justice, and may establish and operate a statewide communications 3868
network to be known as the Ohio law enforcement gateway to gather 3869
and disseminate information, data, and statistics for the use of 3870
law enforcement agencies and for other uses specified in this 3871
division. The superintendent may gather, store, retrieve, and 3872
disseminate information, data, and statistics that pertain to 3873
children who are under eighteen years of age and that are gathered 3874

pursuant to sections 109.57 to 109.61 of the Revised Code together 3875
with information, data, and statistics that pertain to adults and 3876
that are gathered pursuant to those sections. 3877

(2) The superintendent or the superintendent's designee shall 3878
gather information of the nature described in division (C)(1) of 3879
this section that pertains to the offense and delinquency history 3880
of a person who has been convicted of, pleaded guilty to, or been 3881
adjudicated a delinquent child for committing a sexually oriented 3882
offense or a child-victim oriented offense for inclusion in the 3883
state registry of sex offenders and child-victim offenders 3884
maintained pursuant to division (A)(1) of section 2950.13 of the 3885
Revised Code and in the internet database operated pursuant to 3886
division (A)(13) of that section and for possible inclusion in the 3887
internet database operated pursuant to division (A)(11) of that 3888
section. 3889

(3) In addition to any other authorized use of information, 3890
data, and statistics of the nature described in division (C)(1) of 3891
this section, the superintendent or the superintendent's designee 3892
may provide and exchange the information, data, and statistics 3893
pursuant to the national crime prevention and privacy compact as 3894
described in division (A)(5) of this section. 3895

(4) The attorney general may adopt rules under Chapter 119. 3896
of the Revised Code establishing guidelines for the operation of 3897
and participation in the Ohio law enforcement gateway. The rules 3898
may include criteria for granting and restricting access to 3899
information gathered and disseminated through the Ohio law 3900
enforcement gateway. The attorney general shall permit the state 3901
medical board and board of nursing to access and view, but not 3902
alter, information gathered and disseminated through the Ohio law 3903
enforcement gateway. 3904

The attorney general may appoint a steering committee to 3905
advise the attorney general in the operation of the Ohio law 3906

enforcement gateway that is comprised of persons who are 3907
representatives of the criminal justice agencies in this state 3908
that use the Ohio law enforcement gateway and is chaired by the 3909
superintendent or the superintendent's designee. 3910

(D)(1) The following are not public records under section 3911
149.43 of the Revised Code: 3912

(a) Information and materials furnished to the superintendent 3913
pursuant to division (A) of this section; 3914

(b) Information, data, and statistics gathered or 3915
disseminated through the Ohio law enforcement gateway pursuant to 3916
division (C)(1) of this section; 3917

(c) Information and materials furnished to any board or 3918
person under division (F) or (G) of this section. 3919

(2) The superintendent or the superintendent's designee shall 3920
gather and retain information so furnished under division (A) of 3921
this section that pertains to the offense and delinquency history 3922
of a person who has been convicted of, pleaded guilty to, or been 3923
adjudicated a delinquent child for committing a sexually oriented 3924
offense or a child-victim oriented offense for the purposes 3925
described in division (C)(2) of this section. 3926

(E) The attorney general shall adopt rules, in accordance 3927
with Chapter 119. of the Revised Code, setting forth the procedure 3928
by which a person may receive or release information gathered by 3929
the superintendent pursuant to division (A) of this section. A 3930
reasonable fee may be charged for this service. If a temporary 3931
employment service submits a request for a determination of 3932
whether a person the service plans to refer to an employment 3933
position has been convicted of or pleaded guilty to an offense 3934
listed in division (A)(1), (3), (4), (5), or (6) of section 3935
109.572 of the Revised Code, the request shall be treated as a 3936
single request and only one fee shall be charged. 3937

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

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

education may request, with regard to the individual, whether the 3971
bureau has any information gathered under division (A) of this 3972
section that pertains to that individual. On receipt of the 3973
request, the superintendent shall determine whether that 3974
information exists and, upon request of the person, board, or 3975
entity requesting information, also shall request from the federal 3976
bureau of investigation any criminal records it has pertaining to 3977
that individual. The superintendent or the superintendent's 3978
designee also may request criminal history records from other 3979
states or the federal government pursuant to the national crime 3980
prevention and privacy compact set forth in section 109.571 of the 3981
Revised Code. Within thirty days of the date that the 3982
superintendent receives a request, the superintendent shall send 3983
to the board, entity, or person a report of any information that 3984
the superintendent determines exists, including information 3985
contained in records that have been sealed under section 2953.32 3986
of the Revised Code, and, within thirty days of its receipt, shall 3987
send the board, entity, or person a report of any information 3988
received from the federal bureau of investigation, other than 3989
information the dissemination of which is prohibited by federal 3990
law. 3991

(b) When a board of education or a registered private 3992
provider is required to receive information under this section as 3993
a prerequisite to employment of an individual pursuant to division 3994
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 3995
may accept a certified copy of records that were issued by the 3996
bureau of criminal identification and investigation and that are 3997
presented by an individual applying for employment with the 3998
district in lieu of requesting that information itself. In such a 3999
case, the board shall accept the certified copy issued by the 4000
bureau in order to make a photocopy of it for that individual's 4001
employment application documents and shall return the certified 4002
copy to the individual. In a case of that nature, a district or 4003

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

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

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

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

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

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

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

In addition to or in conjunction with any request that is required to be made under section 173.394 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an individual, the

chief administrator of a community-based long-term care agency may 4067
request that the superintendent investigate and determine, with 4068
respect to any individual who has applied for employment in a 4069
position that does not involve providing direct care, whether the 4070
bureau has any information gathered under division (A) of this 4071
section that pertains to that applicant. 4072

On receipt of a request under this division, the 4073
superintendent shall determine whether that information exists 4074
and, on request of the individual requesting information, shall 4075
also request from the federal bureau of investigation any criminal 4076
records it has pertaining to the applicant. The superintendent or 4077
the superintendent's designee also may request criminal history 4078
records from other states or the federal government pursuant to 4079
the national crime prevention and privacy compact set forth in 4080
section 109.571 of the Revised Code. Within thirty days of the 4081
date a request is received, the superintendent shall send to the 4082
requester a report of any information determined to exist, 4083
including information contained in records that have been sealed 4084
under section 2953.32 of the Revised Code, and, within thirty days 4085
of its receipt, shall send the requester a report of any 4086
information received from the federal bureau of investigation, 4087
other than information the dissemination of which is prohibited by 4088
federal law. 4089

(H) Information obtained by a government entity or person 4090
under this section is confidential and shall not be released or 4091
disseminated. 4092

(I) The superintendent may charge a reasonable fee for 4093
providing information or criminal records under division (F)(2) or 4094
(G) of this section. 4095

(J) As used in this section, ~~"sexually;~~ 4096

(1) "Sexually oriented offense" and "child-victim oriented 4097

offense" have the same meanings as in section 2950.01 of the Revised Code.

(2) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

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

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

2905.04 of the Revised Code as it existed prior to July 1, 1996, 4129
had the violation been committed prior to that date, or a 4130
violation of section 2925.11 of the Revised Code that is not a 4131
minor drug possession offense; 4132

(b) A violation of an existing or former law of this state, 4133
any other state, or the United States that is substantially 4134
equivalent to any of the offenses listed in division (A)(1)(a) of 4135
this section. 4136

(2) On receipt of a request pursuant to section 5123.081 of 4137
the Revised Code with respect to an applicant for employment in 4138
any position with the department of developmental disabilities, 4139
pursuant to section 5126.28 of the Revised Code with respect to an 4140
applicant for employment in any position with a county board of 4141
developmental disabilities, or pursuant to section 5126.281 of the 4142
Revised Code with respect to an applicant for employment in a 4143
direct services position with an entity contracting with a county 4144
board for employment, a completed form prescribed pursuant to 4145
division (C)(1) of this section, and a set of fingerprint 4146
impressions obtained in the manner described in division (C)(2) of 4147
this section, the superintendent of the bureau of criminal 4148
identification and investigation shall conduct a criminal records 4149
check. The superintendent shall conduct the criminal records check 4150
in the manner described in division (B) of this section to 4151
determine whether any information exists that indicates that the 4152
person who is the subject of the request has been convicted of or 4153
pleaded guilty to any of the following: 4154

(a) A violation of section 2903.01, 2903.02, 2903.03, 4155
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4156
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 4157
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 4158
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 4159
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 4160

2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 4161
2925.03, or 3716.11 of the Revised Code; 4162

(b) An existing or former municipal ordinance or law of this 4163
state, any other state, or the United States that is substantially 4164
equivalent to any of the offenses listed in division (A)(2)(a) of 4165
this section. 4166

(3) On receipt of a request pursuant to section 173.27, 4167
173.394, 3712.09, 3721.121, 5119.693, or ~~3722.151~~ 5119.85 of the 4168
Revised Code, a completed form prescribed pursuant to division 4169
(C)(1) of this section, and a set of fingerprint impressions 4170
obtained in the manner described in division (C)(2) of this 4171
section, the superintendent of the bureau of criminal 4172
identification and investigation shall conduct a criminal records 4173
check with respect to any person who has applied for employment in 4174
a position for which a criminal records check is required by those 4175
sections. The superintendent shall conduct the criminal records 4176
check in the manner described in division (B) of this section to 4177
determine whether any information exists that indicates that the 4178
person who is the subject of the request previously has been 4179
convicted of or pleaded guilty to any of the following: 4180

(a) A violation of section 2903.01, 2903.02, 2903.03, 4181
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4182
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 4183
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 4184
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 4185
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 4186
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 4187
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 4188
2925.22, 2925.23, or 3716.11 of the Revised Code; 4189

(b) An existing or former law of this state, any other state, 4190
or the United States that is substantially equivalent to any of 4191
the offenses listed in division (A)(3)(a) of this section. 4192

(4) On receipt of a request pursuant to section 3701.881 of 4193
the Revised Code with respect to an applicant for employment with 4194
a home health agency as a person responsible for the care, 4195
custody, or control of a child, a completed form prescribed 4196
pursuant to division (C)(1) of this section, and a set of 4197
fingerprint impressions obtained in the manner described in 4198
division (C)(2) of this section, the superintendent of the bureau 4199
of criminal identification and investigation shall conduct a 4200
criminal records check. The superintendent shall conduct the 4201
criminal records check in the manner described in division (B) of 4202
this section to determine whether any information exists that 4203
indicates that the person who is the subject of the request 4204
previously has been convicted of or pleaded guilty to any of the 4205
following: 4206

(a) A violation of section 2903.01, 2903.02, 2903.03, 4207
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4208
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 4209
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 4210
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 4211
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 4212
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 4213
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 4214
violation of section 2925.11 of the Revised Code that is not a 4215
minor drug possession offense; 4216

(b) An existing or former law of this state, any other state, 4217
or the United States that is substantially equivalent to any of 4218
the offenses listed in division (A)(4)(a) of this section. 4219

(5) On receipt of a request pursuant to section 5111.032, 4220
5111.033, or 5111.034 of the Revised Code, a completed form 4221
prescribed pursuant to division (C)(1) of this section, and a set 4222
of fingerprint impressions obtained in the manner described in 4223
division (C)(2) of this section, the superintendent of the bureau 4224

of criminal identification and investigation shall conduct a 4225
criminal records check. The superintendent shall conduct the 4226
criminal records check in the manner described in division (B) of 4227
this section to determine whether any information exists that 4228
indicates that the person who is the subject of the request 4229
previously has been convicted of, has pleaded guilty to, or has 4230
been found eligible for intervention in lieu of conviction for any 4231
of the following, regardless of the date of the conviction, the 4232
date of entry of the guilty plea, or the date the person was found 4233
eligible for intervention in lieu of conviction: 4234

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 4235
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 4236
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 4237
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 4238
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 4239
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 4240
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 4241
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 4242
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 4243
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 4244
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 4245
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 4246
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 4247
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 4248
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 4249
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 4250
penetration in violation of former section 2907.12 of the Revised 4251
Code, a violation of section 2905.04 of the Revised Code as it 4252
existed prior to July 1, 1996, a violation of section 2919.23 of 4253
the Revised Code that would have been a violation of section 4254
2905.04 of the Revised Code as it existed prior to July 1, 1996, 4255
had the violation been committed prior to that date; 4256

(b) A violation of an existing or former municipal ordinance 4257
or law of this state, any other state, or the United States that 4258
is substantially equivalent to any of the offenses listed in 4259
division (A)(5)(a) of this section. 4260

(6) On receipt of a request pursuant to section 3701.881 of 4261
the Revised Code with respect to an applicant for employment with 4262
a home health agency in a position that involves providing direct 4263
care to an older adult, a completed form prescribed pursuant to 4264
division (C)(1) of this section, and a set of fingerprint 4265
impressions obtained in the manner described in division (C)(2) of 4266
this section, the superintendent of the bureau of criminal 4267
identification and investigation shall conduct a criminal records 4268
check. The superintendent shall conduct the criminal records check 4269
in the manner described in division (B) of this section to 4270
determine whether any information exists that indicates that the 4271
person who is the subject of the request previously has been 4272
convicted of or pleaded guilty to any of the following: 4273

(a) A violation of section 2903.01, 2903.02, 2903.03, 4274
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4275
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 4276
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 4277
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 4278
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 4279
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 4280
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 4281
2925.22, 2925.23, or 3716.11 of the Revised Code; 4282

(b) An existing or former law of this state, any other state, 4283
or the United States that is substantially equivalent to any of 4284
the offenses listed in division (A)(6)(a) of this section. 4285

(7) When conducting a criminal records check upon a request 4286
pursuant to section 3319.39 of the Revised Code for an applicant 4287
who is a teacher, in addition to the determination made under 4288

division (A)(1) of this section, the superintendent shall 4289
determine whether any information exists that indicates that the 4290
person who is the subject of the request previously has been 4291
convicted of or pleaded guilty to any offense specified in section 4292
3319.31 of the Revised Code. 4293

(8) On receipt of a request pursuant to section 2151.86 of 4294
the Revised Code, a completed form prescribed pursuant to division 4295
(C)(1) of this section, and a set of fingerprint impressions 4296
obtained in the manner described in division (C)(2) of this 4297
section, the superintendent of the bureau of criminal 4298
identification and investigation shall conduct a criminal records 4299
check in the manner described in division (B) of this section to 4300
determine whether any information exists that indicates that the 4301
person who is the subject of the request previously has been 4302
convicted of or pleaded guilty to any of the following: 4303

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 4304
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 4305
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 4306
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 4307
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 4308
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 4309
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 4310
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 4311
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 4312
of the Revised Code, a violation of section 2905.04 of the Revised 4313
Code as it existed prior to July 1, 1996, a violation of section 4314
2919.23 of the Revised Code that would have been a violation of 4315
section 2905.04 of the Revised Code as it existed prior to July 1, 4316
1996, had the violation been committed prior to that date, a 4317
violation of section 2925.11 of the Revised Code that is not a 4318
minor drug possession offense, two or more OVI or OVUAC violations 4319
committed within the three years immediately preceding the 4320

submission of the application or petition that is the basis of the 4321
request, or felonious sexual penetration in violation of former 4322
section 2907.12 of the Revised Code; 4323

(b) A violation of an existing or former law of this state, 4324
any other state, or the United States that is substantially 4325
equivalent to any of the offenses listed in division (A)(8)(a) of 4326
this section. 4327

(9) Upon receipt of a request pursuant to section 5104.012 or 4328
5104.013 of the Revised Code, a completed form prescribed pursuant 4329
to division (C)(1) of this section, and a set of fingerprint 4330
impressions obtained in the manner described in division (C)(2) of 4331
this section, the superintendent of the bureau of criminal 4332
identification and investigation shall conduct a criminal records 4333
check in the manner described in division (B) of this section to 4334
determine whether any information exists that indicates that the 4335
person who is the subject of the request has been convicted of or 4336
pleaded guilty to any of the following: 4337

(a) A violation of section 2903.01, 2903.02, 2903.03, 4338
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 4339
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 4340
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 4341
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 4342
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 4343
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 4344
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 4345
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 4346
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 4347
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 4348
3716.11 of the Revised Code, felonious sexual penetration in 4349
violation of former section 2907.12 of the Revised Code, a 4350
violation of section 2905.04 of the Revised Code as it existed 4351
prior to July 1, 1996, a violation of section 2919.23 of the 4352

Revised Code that would have been a violation of section 2905.04 4353
of the Revised Code as it existed prior to July 1, 1996, had the 4354
violation been committed prior to that date, a violation of 4355
section 2925.11 of the Revised Code that is not a minor drug 4356
possession offense, a violation of section 2923.02 or 2923.03 of 4357
the Revised Code that relates to a crime specified in this 4358
division, or a second violation of section 4511.19 of the Revised 4359
Code within five years of the date of application for licensure or 4360
certification. 4361

(b) A violation of an existing or former law of this state, 4362
any other state, or the United States that is substantially 4363
equivalent to any of the offenses or violations described in 4364
division (A)(9)(a) of this section. 4365

(10) Upon receipt of a request pursuant to section 5153.111 4366
of the Revised Code, a completed form prescribed pursuant to 4367
division (C)(1) of this section, and a set of fingerprint 4368
impressions obtained in the manner described in division (C)(2) of 4369
this section, the superintendent of the bureau of criminal 4370
identification and investigation shall conduct a criminal records 4371
check in the manner described in division (B) of this section to 4372
determine whether any information exists that indicates that the 4373
person who is the subject of the request previously has been 4374
convicted of or pleaded guilty to any of the following: 4375

(a) A violation of section 2903.01, 2903.02, 2903.03, 4376
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 4377
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 4378
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 4379
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 4380
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 4381
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 4382
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 4383
felonious sexual penetration in violation of former section 4384

2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

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

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

(12) On receipt of a request pursuant to section 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of

this section, and a set of fingerprint impressions obtained in the 4417
manner described in division (C)(2) of this section, the 4418
superintendent of the bureau of criminal identification and 4419
investigation shall conduct a criminal records check with respect 4420
to any person who has applied for a license, permit, or 4421
certification from the department of commerce or a division in the 4422
department. The superintendent shall conduct the criminal records 4423
check in the manner described in division (B) of this section to 4424
determine whether any information exists that indicates that the 4425
person who is the subject of the request previously has been 4426
convicted of or pleaded guilty to any of the following: a 4427
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 4428
2925.03 of the Revised Code; any other criminal offense involving 4429
theft, receiving stolen property, embezzlement, forgery, fraud, 4430
passing bad checks, money laundering, or drug trafficking, or any 4431
criminal offense involving money or securities, as set forth in 4432
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 4433
the Revised Code; or any existing or former law of this state, any 4434
other state, or the United States that is substantially equivalent 4435
to those offenses. 4436

(13) On receipt of a request for a criminal records check 4437
from the treasurer of state under section 113.041 of the Revised 4438
Code or from an individual under section 4701.08, 4715.101, 4439
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4440
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4441
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4442
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4443
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 4444
a completed form prescribed under division (C)(1) of this section 4445
and a set of fingerprint impressions obtained in the manner 4446
described in division (C)(2) of this section, the superintendent 4447
of the bureau of criminal identification and investigation shall 4448
conduct a criminal records check in the manner described in 4449

division (B) of this section to determine whether any information 4450
exists that indicates that the person who is the subject of the 4451
request has been convicted of or pleaded guilty to any criminal 4452
offense in this state or any other state. The superintendent shall 4453
send the results of a check requested under section 113.041 of the 4454
Revised Code to the treasurer of state and shall send the results 4455
of a check requested under any of the other listed sections to the 4456
licensing board specified by the individual in the request. 4457

(14) On receipt of a request pursuant to section 1121.23, 4458
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 4459
Code, a completed form prescribed pursuant to division (C)(1) of 4460
this section, and a set of fingerprint impressions obtained in the 4461
manner described in division (C)(2) of this section, the 4462
superintendent of the bureau of criminal identification and 4463
investigation shall conduct a criminal records check in the manner 4464
described in division (B) of this section to determine whether any 4465
information exists that indicates that the person who is the 4466
subject of the request previously has been convicted of or pleaded 4467
guilty to any criminal offense under any existing or former law of 4468
this state, any other state, or the United States. 4469

(15) On receipt of a request for a criminal records check 4470
from an appointing or licensing authority under section 3772.07 of 4471
the Revised Code, a completed form prescribed under division 4472
(C)(1) of this section, and a set of fingerprint impressions 4473
obtained in the manner prescribed in division (C)(2) of this 4474
section, the superintendent of the bureau of criminal 4475
identification and investigation shall conduct a criminal records 4476
check in the manner described in division (B) of this section to 4477
determine whether any information exists that indicates that the 4478
person who is the subject of the request previously has been 4479
convicted of or pleaded guilty or no contest to any offense under 4480
any existing or former law of this state, any other state, or the 4481

United States that is a disqualifying offense as defined in 4482
section 3772.07 of the Revised Code or substantially equivalent to 4483
such an offense. 4484

(16) Not later than thirty days after the date the 4485
superintendent receives a request of a type described in division 4486
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 4487
(14), or (15) of this section, the completed form, and the 4488
fingerprint impressions, the superintendent shall send the person, 4489
board, or entity that made the request any information, other than 4490
information the dissemination of which is prohibited by federal 4491
law, the superintendent determines exists with respect to the 4492
person who is the subject of the request that indicates that the 4493
person previously has been convicted of or pleaded guilty to any 4494
offense listed or described in division (A)(1), (2), (3), (4), 4495
(5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this 4496
section, as appropriate. The superintendent shall send the person, 4497
board, or entity that made the request a copy of the list of 4498
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 4499
(7), (8), (9), (10), (11), (12), (14), or (15) of this section, as 4500
appropriate. If the request was made under section 3701.881 of the 4501
Revised Code with regard to an applicant who may be both 4502
responsible for the care, custody, or control of a child and 4503
involved in providing direct care to an older adult, the 4504
superintendent shall provide a list of the offenses specified in 4505
divisions (A)(4) and (6) of this section. 4506

Not later than thirty days after the superintendent receives 4507
a request for a criminal records check pursuant to section 113.041 4508
of the Revised Code, the completed form, and the fingerprint 4509
impressions, the superintendent shall send the treasurer of state 4510
any information, other than information the dissemination of which 4511
is prohibited by federal law, the superintendent determines exist 4512
with respect to the person who is the subject of the request that 4513

indicates that the person previously has been convicted of or 4514
pleaded guilty to any criminal offense in this state or any other 4515
state. 4516

(B) The superintendent shall conduct any criminal records 4517
check requested under section 113.041, 121.08, 173.27, 173.394, 4518
1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 4519
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 4520
3701.881, 3712.09, 3721.121, ~~3722.151~~, 3772.07, 4701.08, 4715.101, 4521
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4522
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4523
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4524
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4525
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 4526
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 4527
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as 4528
follows: 4529

(1) The superintendent shall review or cause to be reviewed 4530
any relevant information gathered and compiled by the bureau under 4531
division (A) of section 109.57 of the Revised Code that relates to 4532
the person who is the subject of the request, including, if the 4533
criminal records check was requested under section 113.041, 4534
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 4535
1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 4536
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 4537
~~3722.151~~, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 4538
5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 4539
5126.28, 5126.281, or 5153.111 of the Revised Code, any relevant 4540
information contained in records that have been sealed under 4541
section 2953.32 of the Revised Code; 4542

(2) If the request received by the superintendent asks for 4543
information from the federal bureau of investigation, the 4544
superintendent shall request from the federal bureau of 4545

investigation any information it has with respect to the person 4546
who is the subject of the request, including fingerprint-based 4547
checks of national crime information databases as described in 42 4548
U.S.C. 671 if the request is made pursuant to section 2151.86, 4549
5104.012, or 5104.013 of the Revised Code or if any other Revised 4550
Code section requires fingerprint-based checks of that nature, and 4551
shall review or cause to be reviewed any information the 4552
superintendent receives from that bureau. If a request under 4553
section 3319.39 of the Revised Code asks only for information from 4554
the federal bureau of investigation, the superintendent shall not 4555
conduct the review prescribed by division (B)(1) of this section. 4556

(3) The superintendent or the superintendent's designee may 4557
request criminal history records from other states or the federal 4558
government pursuant to the national crime prevention and privacy 4559
compact set forth in section 109.571 of the Revised Code. 4560

(C)(1) The superintendent shall prescribe a form to obtain 4561
the information necessary to conduct a criminal records check from 4562
any person for whom a criminal records check is requested under 4563
section 113.041 of the Revised Code or required by section 121.08, 4564
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 4565
1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 4566
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~, 3772.07, 4567
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4568
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4569
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4570
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4571
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 4572
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 4573
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 4574
form that the superintendent prescribes pursuant to this division 4575
may be in a tangible format, in an electronic format, or in both 4576
tangible and electronic formats. 4577

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is requested under or required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, ~~3722.151~~, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091,

4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4611
4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4612
4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 4613
5119.693, 5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the 4614
Revised Code. The person making a criminal records request under 4615
any of those sections shall pay the fee prescribed pursuant to 4616
this division. A person making a request under section 3701.881 of 4617
the Revised Code for a criminal records check for an applicant who 4618
may be both responsible for the care, custody, or control of a 4619
child and involved in providing direct care to an older adult 4620
shall pay one fee for the request. In the case of a request under 4621
section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 4622
5111.032 of the Revised Code, the fee shall be paid in the manner 4623
specified in that section. 4624

(4) The superintendent of the bureau of criminal 4625
identification and investigation may prescribe methods of 4626
forwarding fingerprint impressions and information necessary to 4627
conduct a criminal records check, which methods shall include, but 4628
not be limited to, an electronic method. 4629

(D) A determination whether any information exists that 4630
indicates that a person previously has been convicted of or 4631
pleaded guilty to any offense listed or described in division 4632
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 4633
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 4634
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) 4635
of this section, or that indicates that a person previously has 4636
been convicted of or pleaded guilty to any criminal offense in 4637
this state or any other state regarding a criminal records check 4638
of a type described in division (A)(13) of this section, and that 4639
is made by the superintendent with respect to information 4640
considered in a criminal records check in accordance with this 4641
section is valid for the person who is the subject of the criminal 4642

records check for a period of one year from the date upon which 4643
the superintendent makes the determination. During the period in 4644
which the determination in regard to a person is valid, if another 4645
request under this section is made for a criminal records check 4646
for that person, the superintendent shall provide the information 4647
that is the basis for the superintendent's initial determination 4648
at a lower fee than the fee prescribed for the initial criminal 4649
records check. 4650

(E) When the superintendent receives a request for 4651
information from a registered private provider, the superintendent 4652
shall proceed as if the request was received from a school 4653
district board of education under section 3319.39 of the Revised 4654
Code. The superintendent shall apply division (A)(7) of this 4655
section to any such request for an applicant who is a teacher. 4656

(F) As used in this section: 4657

(1) "Criminal records check" means any criminal records check 4658
conducted by the superintendent of the bureau of criminal 4659
identification and investigation in accordance with division (B) 4660
of this section. 4661

(2) "Minor drug possession offense" has the same meaning as 4662
in section 2925.01 of the Revised Code. 4663

(3) "Older adult" means a person age sixty or older. 4664

(4) "OVI or OVUAC violation" means a violation of section 4665
4511.19 of the Revised Code or a violation of an existing or 4666
former law of this state, any other state, or the United States 4667
that is substantially equivalent to section 4511.19 of the Revised 4668
Code. 4669

(5) "Registered private provider" means a nonpublic school or 4670
entity registered with the superintendent of public instruction 4671
under section 3310.41 of the Revised Code to participate in the 4672
autism scholarship program or section 3310.58 of the Revised Code 4673

to participate in the Jon Peterson special needs scholarship 4674
program. 4675

Sec. 109.64. The bureau of criminal identification and 4676
investigation shall prepare a periodic information bulletin 4677
concerning missing children whom it determines may be present in 4678
this state. The bureau shall compile the bulletin from information 4679
contained in the national crime information center computer. The 4680
bulletin shall indicate the names and addresses of these minors 4681
who are the subject of missing children cases and other 4682
information that the superintendent of the bureau considers 4683
appropriate. The bulletin shall contain a reminder to law 4684
enforcement agencies of their responsibilities under section 4685
2901.30 of the Revised Code. 4686

The bureau shall send a copy of each periodic information 4687
bulletin to the missing children clearinghouse established under 4688
section 109.65 of the Revised Code for use in connection with its 4689
responsibilities under division (E) of that section. Upon receipt 4690
of each periodic information bulletin from the bureau, the missing 4691
children clearinghouse shall send a copy of the bulletin to each 4692
sheriff, marshal, police department of a municipal corporation, 4693
police force of a township police district or joint ~~township~~ 4694
police district, and township constable in this state, to the 4695
board of education of each school district in this state, and to 4696
each nonpublic school in this state. The bureau shall provide a 4697
copy of the bulletin, upon request, to other persons or entities. 4698
The superintendent of the bureau, with the approval of the 4699
attorney general, may establish a reasonable fee for a copy of a 4700
bulletin provided to persons or entities other than law 4701
enforcement agencies in this or other states or of the federal 4702
government, the department of education, governmental entities of 4703
this state, and libraries in this state. The superintendent shall 4704
deposit all such fees collected ~~by him~~ into the missing children 4705

fund created by section 109.65 of the Revised Code. 4706

As used in this section, "missing children," "information," 4707
and "minor" have the same meanings as in section 2901.30 of the 4708
Revised Code. 4709

Sec. 109.71. There is hereby created in the office of the 4710
attorney general the Ohio peace officer training commission. The 4711
commission shall consist of nine members appointed by the governor 4712
with the advice and consent of the senate and selected as follows: 4713
one member representing the public; two members who are incumbent 4714
sheriffs; two members who are incumbent chiefs of police; one 4715
member from the bureau of criminal identification and 4716
investigation; one member from the state highway patrol; one 4717
member who is the special agent in charge of a field office of the 4718
federal bureau of investigation in this state; and one member from 4719
the department of education, trade and industrial education 4720
services, law enforcement training. 4721

This section does not confer any arrest authority or any 4722
ability or authority to detain a person, write or issue any 4723
citation, or provide any disposition alternative, as granted under 4724
Chapter 2935. of the Revised Code. 4725

As used in sections 109.71 to 109.801 of the Revised Code: 4726

(A) "Peace officer" means: 4727

(1) A deputy sheriff, marshal, deputy marshal, member of the 4728
organized police department of a township or municipal 4729
corporation, member of a township police district or joint 4730
~~township~~ police district police force, member of a police force 4731
employed by a metropolitan housing authority under division (D) of 4732
section 3735.31 of the Revised Code, or township constable, who is 4733
commissioned and employed as a peace officer by a political 4734
subdivision of this state or by a metropolitan housing authority, 4735

and whose primary duties are to preserve the peace, to protect 4736
life and property, and to enforce the laws of this state, 4737
ordinances of a municipal corporation, resolutions of a township, 4738
or regulations of a board of county commissioners or board of 4739
township trustees, or any of those laws, ordinances, resolutions, 4740
or regulations; 4741

(2) A police officer who is employed by a railroad company 4742
and appointed and commissioned by the secretary of state pursuant 4743
to sections 4973.17 to 4973.22 of the Revised Code; 4744

(3) Employees of the department of taxation engaged in the 4745
enforcement of Chapter 5743. of the Revised Code and designated by 4746
the tax commissioner for peace officer training for purposes of 4747
the delegation of investigation powers under section 5743.45 of 4748
the Revised Code; 4749

(4) An undercover drug agent; 4750

(5) Enforcement agents of the department of public safety 4751
whom the director of public safety designates under section 4752
5502.14 of the Revised Code; 4753

(6) An employee of the department of natural resources who is 4754
a natural resources law enforcement staff officer designated 4755
pursuant to section 1501.013, a park officer designated pursuant 4756
to section 1541.10, a forest officer designated pursuant to 4757
section 1503.29, a preserve officer designated pursuant to section 4758
1517.10, a wildlife officer designated pursuant to section 4759
1531.13, or a state watercraft officer designated pursuant to 4760
section 1547.521 of the Revised Code; 4761

(7) An employee of a park district who is designated pursuant 4762
to section 511.232 or 1545.13 of the Revised Code; 4763

(8) An employee of a conservancy district who is designated 4764
pursuant to section 6101.75 of the Revised Code; 4765

(9) A police officer who is employed by a hospital that 4766
employs and maintains its own proprietary police department or 4767
security department, and who is appointed and commissioned by the 4768
secretary of state pursuant to sections 4973.17 to 4973.22 of the 4769
Revised Code; 4770

(10) Veterans' homes police officers designated under section 4771
5907.02 of the Revised Code; 4772

(11) A police officer who is employed by a qualified 4773
nonprofit corporation police department pursuant to section 4774
1702.80 of the Revised Code; 4775

(12) A state university law enforcement officer appointed 4776
under section 3345.04 of the Revised Code or a person serving as a 4777
state university law enforcement officer on a permanent basis on 4778
June 19, 1978, who has been awarded a certificate by the executive 4779
director of the Ohio peace officer training commission attesting 4780
to the person's satisfactory completion of an approved state, 4781
county, municipal, or department of natural resources peace 4782
officer basic training program; 4783

(13) A special police officer employed by the department of 4784
mental health pursuant to section 5119.14 of the Revised Code or 4785
the department of developmental disabilities pursuant to section 4786
5123.13 of the Revised Code; 4787

(14) A member of a campus police department appointed under 4788
section 1713.50 of the Revised Code; 4789

(15) A member of a police force employed by a regional 4790
transit authority under division (Y) of section 306.35 of the 4791
Revised Code; 4792

(16) Investigators appointed by the auditor of state pursuant 4793
to section 117.091 of the Revised Code and engaged in the 4794
enforcement of Chapter 117. of the Revised Code; 4795

(17) A special police officer designated by the 4796
superintendent of the state highway patrol pursuant to section 4797
5503.09 of the Revised Code or a person who was serving as a 4798
special police officer pursuant to that section on a permanent 4799
basis on October 21, 1997, and who has been awarded a certificate 4800
by the executive director of the Ohio peace officer training 4801
commission attesting to the person's satisfactory completion of an 4802
approved state, county, municipal, or department of natural 4803
resources peace officer basic training program; 4804

(18) A special police officer employed by a port authority 4805
under section 4582.04 or 4582.28 of the Revised Code or a person 4806
serving as a special police officer employed by a port authority 4807
on a permanent basis on May 17, 2000, who has been awarded a 4808
certificate by the executive director of the Ohio peace officer 4809
training commission attesting to the person's satisfactory 4810
completion of an approved state, county, municipal, or department 4811
of natural resources peace officer basic training program; 4812

(19) A special police officer employed by a municipal 4813
corporation who has been awarded a certificate by the executive 4814
director of the Ohio peace officer training commission for 4815
satisfactory completion of an approved peace officer basic 4816
training program and who is employed on a permanent basis on or 4817
after March 19, 2003, at a municipal airport, or other municipal 4818
air navigation facility, that has scheduled operations, as defined 4819
in section 119.3 of Title 14 of the Code of Federal Regulations, 4820
14 C.F.R. 119.3, as amended, and that is required to be under a 4821
security program and is governed by aviation security rules of the 4822
transportation security administration of the United States 4823
department of transportation as provided in Parts 1542. and 1544. 4824
of Title 49 of the Code of Federal Regulations, as amended; 4825

(20) A police officer who is employed by an owner or operator 4826
of an amusement park that has an average yearly attendance in 4827

excess of six hundred thousand guests and that employs and 4828
maintains its own proprietary police department or security 4829
department, and who is appointed and commissioned by a judge of 4830
the appropriate municipal court or county court pursuant to 4831
section 4973.17 of the Revised Code; 4832

(21) A police officer who is employed by a bank, savings and 4833
loan association, savings bank, credit union, or association of 4834
banks, savings and loan associations, savings banks, or credit 4835
unions, who has been appointed and commissioned by the secretary 4836
of state pursuant to sections 4973.17 to 4973.22 of the Revised 4837
Code, and who has been awarded a certificate by the executive 4838
director of the Ohio peace officer training commission attesting 4839
to the person's satisfactory completion of a state, county, 4840
municipal, or department of natural resources peace officer basic 4841
training program; 4842

(22) An investigator, as defined in section 109.541 of the 4843
Revised Code, of the bureau of criminal identification and 4844
investigation who is commissioned by the superintendent of the 4845
bureau as a special agent for the purpose of assisting law 4846
enforcement officers or providing emergency assistance to peace 4847
officers pursuant to authority granted under that section; 4848

(23) A state fire marshal law enforcement officer appointed 4849
under section 3737.22 of the Revised Code or a person serving as a 4850
state fire marshal law enforcement officer on a permanent basis on 4851
or after July 1, 1982, who has been awarded a certificate by the 4852
executive director of the Ohio peace officer training commission 4853
attesting to the person's satisfactory completion of an approved 4854
state, county, municipal, or department of natural resources peace 4855
officer basic training program; 4856

(24) A gaming agent employed under section 3772.03 of the 4857
Revised Code. 4858

(B) "Undercover drug agent" has the same meaning as in 4859
division (B)(2) of section 109.79 of the Revised Code. 4860

(C) "Crisis intervention training" means training in the use 4861
of interpersonal and communication skills to most effectively and 4862
sensitively interview victims of rape. 4863

(D) "Missing children" has the same meaning as in section 4864
2901.30 of the Revised Code. 4865

Sec. 109.801. (A)(1) Each year, any of the following persons 4866
who are authorized to carry firearms in the course of their 4867
official duties shall complete successfully a firearms 4868
requalification program approved by the executive director of the 4869
Ohio peace officer training commission in accordance with rules 4870
adopted by the attorney general pursuant to section 109.743 of the 4871
Revised Code: any peace officer, sheriff, chief of police of an 4872
organized police department of a municipal corporation or 4873
township, chief of police of a township police district or joint 4874
police district police force, superintendent of the state highway 4875
patrol, state highway patrol trooper, or chief of police of a 4876
university or college police department; any parole or probation 4877
officer who carries a firearm in the course of official duties; 4878
the house of representatives sergeant at arms if the house of 4879
representatives sergeant at arms has arrest authority pursuant to 4880
division (E)(1) of section 101.311 of the Revised Code; any 4881
assistant house of representatives sergeant at arms; or any 4882
employee of the department of youth services who is designated 4883
pursuant to division (A)(2) of section 5139.53 of the Revised Code 4884
as being authorized to carry a firearm while on duty as described 4885
in that division. 4886

(2) No person listed in division (A)(1) of this section shall 4887
carry a firearm during the course of official duties if the person 4888
does not comply with division (A)(1) of this section. 4889

(B) The hours that a sheriff spends attending a firearms 4890
requalification program required by division (A) of this section 4891
are in addition to the sixteen hours of continuing education that 4892
are required by division (E) of section 311.01 of the Revised 4893
Code. 4894

(C) As used in this section, "firearm" has the same meaning 4895
as in section 2923.11 of the Revised Code. 4896

Sec. 111.12. ~~(A) Except as otherwise provided in division (B)~~ 4897
~~of this section, the~~ The secretary of state shall compile and 4898
publish biennially in a paper, book, or ~~other nonelectronic~~ 4899
electronic format ~~twenty five hundred copies of~~ the election 4900
statistics of Ohio, ~~four thousand copies of~~ the official roster of 4901
federal, state, and county officers, and ~~twenty five hundred~~ 4902
~~copies of~~ the official roster of township and municipal officers. 4903

~~(B) The secretary of state may compile and publish biennially~~ 4904
~~the election statistics of Ohio, the official roster of federal,~~ 4905
~~state, and county officers, and the official roster of township~~ 4906
~~and municipal officers in an electronic format instead of~~ 4907
~~compiling and publishing these documents biennially in a paper,~~ 4908
~~book, or other nonelectronic format in the numbers specified in~~ 4909
~~division (A) of this section. If the secretary of state does so,~~ 4910
~~the secretary of state shall maintain the ability to provide~~ 4911
~~copies of the election statistics of Ohio, the official roster of~~ 4912
~~federal, state, and county officers, and the official roster of~~ 4913
~~township and municipal officers in accordance with section 149.43~~ 4914
~~of the Revised Code.~~ 4915

Sec. 111.16. The secretary of state shall charge and collect, 4916
for the benefit of the state, the following fees: 4917

(A) For filing and recording articles of incorporation of a 4918
domestic corporation, including designation of agent: 4919

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, one hundred twenty-five dollars;	4920 4921
(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:	4922 4923
(a) Ten cents for each share authorized up to and including one thousand shares;	4924 4925
(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;	4926 4927
(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;	4928 4929
(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;	4930 4931
(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;	4932 4933 4934
(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than one hundred twenty-five dollars or greater than one hundred thousand dollars.	4935 4936 4937 4938
(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:	4939 4940 4941 4942 4943
(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars;	4944 4945
(2) If the domestic corporation is authorized to issue shares of capital stock, fifty dollars, and in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division	4946 4947 4948 4949

(A)(2) of this section less a credit computed in the same manner 4950
for the number of shares previously authorized to be issued by the 4951
corporation; provided no fee under division (B)(2) of this section 4952
shall be greater than one hundred thousand dollars; 4953

(3) If the foreign corporation is not authorized to issue any 4954
shares of capital stock, fifty dollars; 4955

(4) If the foreign corporation is authorized to issue shares 4956
of capital stock, fifty dollars. 4957

(C) For filing and recording articles of incorporation of a 4958
savings and loan association, one hundred twenty-five dollars; and 4959
for filing and recording a certificate of amendment to or amended 4960
articles of incorporation of a savings and loan association, fifty 4961
dollars; 4962

(D) For filing and recording a certificate of conversion, 4963
including a designation of agent, a certificate of merger, or a 4964
certificate of consolidation, one hundred twenty-five dollars and, 4965
in the case of any new corporation resulting from a consolidation 4966
or any surviving corporation that has an increased number of 4967
shares authorized to be issued resulting from a merger, an 4968
additional sum computed in accordance with the schedule set forth 4969
in division (A)(2) of this section less a credit computed in the 4970
same manner for the number of shares previously authorized to be 4971
issued or represented in this state by each of the corporations 4972
for which a consolidation or merger is effected by the 4973
certificate; 4974

(E) For filing and recording articles of incorporation of a 4975
credit union or the American credit union guaranty association, 4976
one hundred twenty-five dollars, and for filing and recording a 4977
certificate of increase in capital stock or any other amendment of 4978
the articles of incorporation of a credit union or the 4979
association, fifty dollars; 4980

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

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

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

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

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

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

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

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

(K)(1) For making copies of any certificate or other paper 5012
filed in the office of the secretary of state, a fee not to exceed 5013
one dollar per page, except as otherwise provided in the Revised 5014
Code, and for creating and affixing the seal of the office of the 5015
secretary of state to any good standing or other certificate, five 5016
dollars. For copies of certificates or papers required by state 5017
officers for official purpose, no charge shall be made. 5018

(2) For creating and affixing the seal of the office of the 5019
secretary of state to the certificates described in division (E) 5020
of section 1701.81, division (E) of section 1701.811, division (E) 5021
of section 1705.38, division (E) of section 1705.381, division (D) 5022
of section 1702.43, division (E) of section 1775.47, division (E) 5023
of section 1775.55, division (E) of section 1776.70, division (E) 5024
of section 1776.74, division (E) of section 1782.433, or division 5025
(E) of section 1782.4310 of the Revised Code, twenty-five dollars. 5026

(L) For a minister's license to solemnize marriages, ten 5027
dollars; 5028

(M) For examining documents to be filed at a later date for 5029
the purpose of advising as to the acceptability of the proposed 5030
filing, fifty dollars; 5031

(N) Fifty dollars for filing and recording any of the 5032
following: 5033

(1) A certificate of dissolution and accompanying documents, 5034
or a certificate of cancellation, under section 1701.86, 1702.47, 5035
1705.43, 1776.65, or 1782.10 of the Revised Code; 5036

(2) A notice of dissolution of a foreign licensed corporation 5037
or a certificate of surrender of license by a foreign licensed 5038
corporation under section 1703.17 of the Revised Code; 5039

(3) The withdrawal of registration of a foreign or domestic 5040
limited liability partnership under section 1775.61, 1775.64, 5041
1776.81, or 1776.86 of the Revised Code, or the certificate of 5042

cancellation of registration of a foreign limited liability company under section 1705.57 of the Revised Code;	5043 5044
(4) The filing of a statement of denial under section 1776.34 of the Revised Code, a statement of dissociation under section 1776.57 of the Revised Code, a statement of disclaimer of general partner status under Chapter 1782. of the Revised Code, or a cancellation of disclaimer of general partner status under Chapter 1782. of the Revised Code.	5045 5046 5047 5048 5049 5050
(O) For filing a statement of continued existence by a nonprofit corporation, twenty-five dollars;	5051 5052
(P) For filing a restatement under section 1705.08 or 1782.09 of the Revised Code, an amendment to a certificate of cancellation under section 1782.10 of the Revised Code, an amendment under section 1705.08 or 1782.09 of the Revised Code, or a correction under section 1705.55, 1775.61, 1775.64, 1776.12, or 1782.52 of the Revised Code, fifty dollars;	5053 5054 5055 5056 5057 5058
(Q) For filing for reinstatement of an entity cancelled by operation of law, by the secretary of state, by order of the department of taxation, or by order of a court, twenty-five dollars;	5059 5060 5061 5062
(R) For filing a <u>and recording any of the following:</u>	5063
(1) <u>A change of agent, resignation of agent, or change of agent's address under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, twenty-five dollars;</u>	5064 5065 5066 5067
(2) <u>A multiple change of agent name or address, standardization of agent address, or resignation of agent under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, 1776.07, or 1782.04 of the Revised Code, one hundred twenty-five dollars, plus three dollars per entity record being changed, by the multiple agent update.</u>	5068 5069 5070 5071 5072 5073

(S) For filing and recording any of the following:	5074
(1) An application for the exclusive right to use a name or	5075
an application to reserve a name for future use under section	5076
1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised	5077
Code, fifty dollars;	5078
(2) A trade name or fictitious name registration or report,	5079
fifty dollars;	5080
(3) An application to renew any item covered by division	5081
(S)(1) or (2) of this section that is permitted to be renewed,	5082
twenty-five dollars;	5083
(4) An assignment of rights for use of a name covered by	5084
division (S)(1), (2), or (3) of this section, the cancellation of	5085
a name registration or name reservation that is so covered, or	5086
notice of a change of address of the registrant of a name that is	5087
so covered, twenty-five dollars.	5088
(T) For filing and recording a report to operate a business	5089
trust or a real estate investment trust, either foreign or	5090
domestic, one hundred twenty-five dollars; and for filing and	5091
recording an amendment to a report or associated trust instrument,	5092
or a surrender of authority, to operate a business trust or real	5093
estate investment trust, fifty dollars;	5094
(U)(1) For filing and recording the registration of a	5095
trademark, service mark, or mark of ownership, one hundred	5096
twenty-five dollars;	5097
(2) For filing and recording the change of address of a	5098
registrant, the assignment of rights to a registration, a renewal	5099
of a registration, or the cancellation of a registration	5100
associated with a trademark, service mark, or mark of ownership,	5101
twenty-five dollars.	5102
(V) For filing a service of process with the secretary of	5103

state, five dollars, except as otherwise provided in any section 5104
of the Revised Code. 5105

Fees specified in this section may be paid by cash, check, or 5106
money order, by credit card in accordance with section 113.40 of 5107
the Revised Code, or by an alternative payment program in 5108
accordance with division (B) of section 111.18 of the Revised 5109
Code. Any credit card number or the expiration date of any credit 5110
card is not subject to disclosure under Chapter 149. of the 5111
Revised Code. 5112

Sec. 111.18. (A) The secretary of state shall keep a record 5113
of all fees collected by the secretary of state and, ~~subject to~~ 5114
~~division (B) of section 1309.528 of the Revised Code and~~ except as 5115
otherwise provided in the Revised Code, shall pay them into the 5116
state treasury to the credit of the corporate and uniform 5117
commercial code filing fund created by section 1309.528 of the 5118
Revised Code. 5119

(B) The secretary of state may implement alternative payment 5120
programs that permit payment of any fee charged by the secretary 5121
of state by means other than cash, check, money order, or credit 5122
card; an alternative payment program may include, but is not 5123
limited to, one that permits a fee to be paid by electronic means 5124
of transmission. Fees paid under an alternative payment program 5125
shall be deposited to the credit of the secretary of state 5126
alternative payment program fund, which is hereby created in the 5127
state treasury. Any investment income of the secretary of state 5128
alternative payment program fund shall be credited to that fund 5129
and used to operate the alternative payment program. Within two 5130
working days following the deposit of funds to the credit of the 5131
secretary of state alternative payment program fund, the secretary 5132
of state shall pay those funds to the credit of the corporate and 5133
uniform commercial code filing fund, subject to division (B) of 5134

section 1309.401 of the Revised Code and except as otherwise 5135
provided in the Revised Code. 5136

The secretary of state shall adopt rules necessary to carry 5137
out the purposes of this division. 5138

Sec. 111.181. There is hereby created in the state treasury 5139
the information systems fund. The fund shall receive revenues from 5140
fees charged to customers for special database requests, including 5141
corporate and uniform commercial code filings. The secretary of 5142
state shall use the fund for information technology related 5143
expenses of the office. 5144

Sec. 111.28. (A) There is hereby created in the state 5145
treasury the help America vote act (HAVA) fund. All moneys 5146
received by the secretary of state from the United States election 5147
assistance commission shall be credited to the fund. The secretary 5148
of state shall use the moneys credited to the fund for activities 5149
conducted pursuant to the "Help America Vote Act of 2002," Pub. L. 5150
No. 107-252, 116 Stat. 1666. All investment earnings of the fund 5151
shall be credited to the fund. 5152

(B) There is hereby created in the state treasury the 5153
election reform/health and human services fund. All moneys 5154
received by the secretary of state from the United States 5155
department of health and human services shall be credited to the 5156
fund. The secretary of state shall use the moneys credited to the 5157
fund for activities conducted pursuant to grants awarded to the 5158
state under Title II, Subtitle D, Sections 261 to 265 of the Help 5159
America Vote Act of 2002 to assure access for individuals with 5160
disabilities. All investment earnings of the fund shall be 5161
credited to the fund. 5162

Sec. 111.29. There is hereby created in the state treasury 5163
the citizen education fund. The fund shall receive gifts, grants, 5164

fees, and donations from private individuals and entities for 5165
voter education purposes. The secretary of state shall use the 5166
moneys credited to the fund for preparing, printing, and 5167
distributing voter registration and educational materials and for 5168
conducting related workshops and conferences for public education. 5169

Sec. 113.42. (A) As used in this section: 5170

(1) "School employee" means both of the following: 5171

(a) Any employee of a city, vocational, exempted village, or 5172
local school district; 5173

(b) Any employee of a community college, technical college, 5174
or state community college. 5175

(2) "Supplemental employee deferral plan" means a tax 5176
deferred annuity, as described in 26 U.S.C. 403(b), including a 5177
custodial account as described in 26 U.S.C. 403(b)(7). 5178

(B) The treasurer of state may offer to all eligible school 5179
employees, and thereafter administer on behalf of participating 5180
employees, a supplemental employee deferral plan. The treasurer 5181
shall establish eligibility criteria for plan participation. 5182

The treasurer may designate third parties to act on behalf of 5183
the treasurer as the administrator of the plan. The plan may 5184
invest in such investments as are considered appropriate by the 5185
treasurer, including life insurance, annuity contracts, or mutual 5186
funds. Any investment included in the plan shall be reviewed and 5187
selected by the treasurer based on a competitive bidding process 5188
established by the treasurer and as the treasurer considers 5189
appropriate. 5190

(C) If the administrative entity of a school district, 5191
community college, technical college, or state community college 5192
elects to participate in the supplemental employee deferral plan 5193

established under this section, any school employee who meets the 5194
eligibility criteria established by the treasurer of state may 5195
participate in the plan. An election to participate in the plan 5196
shall be made in the manner and form prescribed by the treasurer 5197
of state. Notwithstanding any law to the contrary, a school 5198
district, community college, technical college, or state community 5199
college electing to participate in the supplemental employee 5200
deferral plan may elect exclusively to offer the supplemental 5201
employee deferral plan to employees or may elect to offer the 5202
supplemental employee deferral plan as one of a limited number of 5203
options. 5204

(D)(1) An election by an employee to participate in the plan 5205
authorizes the employer to make reductions from the employee's 5206
compensation for contributions to the plan. The total of the 5207
amount contributed and the employee's nondeferred income for any 5208
year shall not exceed the employee's total compensation under the 5209
existing salary schedule or classification plan applicable to the 5210
employee in that year. For purposes of this section, 5211
"compensation" includes any compensation received as a lump sum 5212
for accumulated unused vacation, personal leave, or sick leave. 5213

A deferred compensation program shall be in addition to any 5214
retirement or any other benefit program provided by law for 5215
employees of the school district or college. The treasurer of 5216
state shall adopt rules pursuant to Chapter 119. of the Revised 5217
Code to provide any necessary standards or conditions for the 5218
administration of the plan, including any limits on the portion of 5219
a participating employee's compensation that may be deferred in 5220
order to avoid adverse treatment of the plan by the internal 5221
revenue service or the occurrence of a reduction in compensation 5222
in excess of the compensation available for any pay period. 5223

Any compensation deferred under the supplemental employee 5224
deferral plan shall continue to be included as regular 5225

compensation for the purpose of computing the contributions to and 5226
benefits from the retirement system of a participating employee, 5227
if applicable. Compensation deferred shall not be included in the 5228
computation of any federal or state income taxes withheld on 5229
behalf of a participating employee. 5230

Employee contributions and earnings on those contributions 5231
are immediately vested. 5232

(2) If permitted by the plan, an employer may make employer 5233
contributions to the plan on behalf of participating employees. 5234
Employer contributions, if any, and the earnings on those 5235
contributions shall vest according to the schedule established in 5236
the plan. 5237

(E) Any administrative expenses of the plan shall be applied 5238
in any of the following ways: 5239

(1) Against earnings from investments; 5240

(2) As prorated fees charged equitably among the participants 5241
of the plan; 5242

(3) By another method determined by the treasurer of state. 5243

The treasurer may apply different methods or amounts of 5244
recovery of administrative expenses for different types of 5245
investment options provided under the plan. 5246

Sec. 113.43. Except as provided in sections 3105.171 and 5247
3105.63 and Chapters 3119., 3121., 3123., and 3125. of the Revised 5248
Code, an account, benefit, or other right accrued or accruing to 5249
any person under the supplemental employee deferral plan 5250
established under section 113.42 of the Revised Code shall not be 5251
subject to execution, garnishment, attachment, sale to satisfy a 5252
judgment or order, the operation of bankruptcy or insolvency laws, 5253
or other process of law and shall be unassignable. 5254

Sec. 113.44. Notwithstanding any provision of section 113.42 5255
or 113.43 of the Revised Code: 5256

(A) Any payment, other than a survivorship benefit, that is 5257
made to a person by the supplemental employee deferral plan is 5258
subject to any withholding order issued pursuant to section 5259
2907.15 or division (C)(2)(b) of section 2921.41 of the Revised 5260
Code. The treasurer of state or third party administering the plan 5261
shall comply with that withholding order in making payment. 5262

(B) If the plan receives a notice pursuant to section 2907.15 5263
or division (D) of section 2921.41 of the Revised Code that a 5264
person who has an account has been charged with a violation of 5265
section 2907.02, 2907.03, 2907.04, 2907.05, or 2921.41 of the 5266
Revised Code, no payment from that account shall be made prior to 5267
whichever of the following is applicable: 5268

(1) If the person is convicted of or pleads guilty to the 5269
violation, but a motion for a withholding order for purposes of 5270
restitution has not been filed under section 2907.15 or division 5271
(C)(2)(b)(i) of section 2921.41 of the Revised Code, thirty days 5272
after the day on which the person is sentenced for the violation; 5273

(2) If the person is convicted of or pleads guilty to the 5274
violation and a motion for a withholding order for purposes of 5275
restitution has been filed under section 2907.15 or division 5276
(C)(2)(b)(i) of section 2921.41 of the Revised Code, the day on 5277
which the court decides the motion; 5278

(3) If the charge is dismissed or the person found not guilty 5279
or not guilty by reason of insanity of the violation, the day on 5280
which the dismissal of the charge or the verdict is entered in the 5281
journal of the court. 5282

Sec. 113.45. There is created the supplemental employee 5283
deferral plan administration fund, which shall be in the custody 5284

of the treasurer of state but shall not be part of the state 5285
treasury. The fund shall consist of payments made to the treasurer 5286
of state with respect to a plan created under section 113.42 of 5287
the Revised Code. Money in the fund shall be used to pay the 5288
actual and necessary expenses of the treasurer of state in 5289
administering the plan. 5290

Sec. 113.47. (A) As used in this section: 5291

(1) "Governmental entity" means a governmental entity, as 5292
defined in section 9.23 of the Revised Code, that pays wages, as 5293
defined in section 4111.01 of the Revised Code, to employees or 5294
elected officials. 5295

(2) "Reportable information" means, for any calendar year: 5296

(a) The name, title, gross pay, employer, and years of 5297
service of each employee or elected official of a governmental 5298
entity; and 5299

(b) Any cost associated with employment other than gross pay, 5300
including, but not limited to, pension, medical insurance, dental 5301
insurance, vision insurance, vacation leave, sick leave, personal 5302
time, disability leave, and any other type of leave. 5303

(B) Each governmental entity shall submit reportable 5304
information to the treasurer of state in the form and manner 5305
prescribed by the treasurer of state by the first day of March of 5306
each calendar year following the year for which reportable 5307
information is being submitted, except that reportable information 5308
for calendar year 2010 shall be submitted by September 1, 2011. 5309

(C) The treasurer of state shall make the reportable 5310
information submitted to the treasurer of state available to the 5311
public by the fifteenth day of April of each year on the treasurer 5312
of state's web site or in any other convenient and accessible 5313
manner determined by the treasurer of state. 5314

(D) The treasurer of state may adopt rules under Chapter 119. 5315
of the Revised Code to prescribe incentives to enforce compliance 5316
with the requirement set forth in division (B) of this section. 5317

Sec. 117.101. The auditor of state shall provide, operate, 5318
and maintain a uniform and compatible computerized financial 5319
management and accounting system known as the uniform accounting 5320
network. The network shall be designed to provide public offices, 5321
other than state agencies and the Ohio education computer network 5322
and public school districts, with efficient and economical access 5323
to data processing and management information facilities and 5324
expertise. In accordance with this objective, activities of the 5325
network shall include, but not be limited to, provision, 5326
maintenance, and operation of the following facilities and 5327
services: 5328

(A) A cooperative program of technical assistance for public 5329
offices, other than state agencies and the Ohio education computer 5330
network and public school districts, including, but not limited 5331
to, an adequate computer software system and a data base; 5332

(B) An information processing service center providing 5333
approved computerized financial accounting and reporting services 5334
to participating public offices. 5335

The auditor of state and any public office, other than a 5336
state agency and the Ohio education computer network and public 5337
school districts, may enter into any necessary agreements, without 5338
advertisement or bidding, for the provision of necessary goods, 5339
materials, supplies, and services to such public offices by the 5340
auditor of state through the network. 5341

The auditor of state may, by rule, provide for a system of 5342
user fees to be charged participating public offices for goods, 5343
materials, supplies, and services received from the network. All 5344
such fees shall be paid into the state treasury to the credit of 5345

the uniform accounting network fund, which is hereby created. The 5346
fund shall be used by the auditor of state to pay the costs of 5347
establishing and maintaining the network. The fund shall be 5348
assessed a proportionate share of the auditor of state's 5349
administrative costs in accordance with procedures prescribed by 5350
the auditor of state ~~and approved by the director of budget and~~ 5351
~~management.~~ 5352

Sec. 117.13. (A) The costs of audits of state agencies shall 5353
be recovered by the auditor of state in the following manner: 5354

(1) The costs of all audits of state agencies shall be paid 5355
to the auditor of state on statements rendered by the auditor of 5356
state. Money so received by the auditor of state shall be paid 5357
into the state treasury to the credit of the public audit expense 5358
fund--intrastate, which is hereby created, and shall be used to 5359
pay costs related to such audits. The costs of audits of a state 5360
agency shall be charged to the state agency being audited. The 5361
costs of any assistant auditor, employee, or expert employed 5362
pursuant to section 117.09 of the Revised Code called upon to 5363
testify in any legal proceedings in regard to any audit, or called 5364
upon to review or discuss any matter related to any audit, may be 5365
charged to the state agency to which the audit relates. 5366

(2) The auditor of state shall establish by rule rates to be 5367
charged to state agencies for recovering the costs of audits of 5368
state agencies. 5369

(B) As used in this division, "government auditing standards" 5370
means the government auditing standards published by the 5371
comptroller general of the United States general accounting 5372
office. 5373

(1) Except as provided in divisions (B)(2) and (3) of this 5374
section, any costs of an audit of a private institution, 5375
association, board, or corporation receiving public money for its 5376

use shall be charged to the public office providing the public 5377
money in the same manner as costs of an audit of the public 5378
office. 5379

(2) If an audit of a private child placing agency or private 5380
noncustodial agency receiving public money from a public children 5381
services agency for providing child welfare or child protection 5382
services sets forth that money has been illegally expended, 5383
converted, misappropriated, or is unaccounted for, the costs of 5384
the audit shall be charged to the agency being audited in the same 5385
manner as costs of an audit of a public office, unless the 5386
findings are inconsequential, as defined by government auditing 5387
standards. 5388

(3) If such an audit does not set forth that money has been 5389
illegally expended, converted, misappropriated, or is unaccounted 5390
for or sets forth findings that are inconsequential, as defined by 5391
government auditing standards, the costs of the audit shall be 5392
charged as follows: 5393

(a) One-third of the costs to the agency being audited; 5394

(b) One-third of the costs to the public children services 5395
agency that provided the public money to the agency being audited; 5396

(c) One-third of the costs to the department of job and 5397
family services. 5398

(C) The costs of audits of local public offices shall be 5399
recovered by the auditor of state in the following manner: 5400

(1) The total amount of compensation paid assistant auditors 5401
of state, their expenses, the cost of employees assigned to assist 5402
the assistant auditors of state, the cost of experts employed 5403
pursuant to section 117.09 of the Revised Code, and the cost of 5404
typing, reviewing, and copying reports shall be borne by the 5405
public office to which such assistant auditors of state are so 5406
assigned, ~~except that annual vacation and sick leave of assistant~~ 5407

~~auditors of state, employees, and typists shall be financed from~~ 5408
~~the general revenue fund. The necessary traveling and hotel~~ 5409
~~expenses of the deputy inspectors and supervisors of public~~ 5410
~~offices shall be paid from the state treasury.~~ Assistant auditors 5411
of state shall be compensated by the taxing district or other 5412
public office audited for activities undertaken pursuant to 5413
division (B) of section 117.18 and section 117.24 of the Revised 5414
Code. The costs of any assistant auditor, employee, or expert 5415
employed pursuant to section 117.09 of the Revised Code called 5416
upon to testify in any legal proceedings in regard to any audit, 5417
or called upon to review or discuss any matter related to any 5418
audit, may be charged to the public office to which the audit 5419
relates. 5420

(2) The auditor of state shall certify the amount of such 5421
compensation, expenses, cost of experts, reviewing, copying, and 5422
typing to the fiscal officer of the local public office audited. 5423
The fiscal officer of the local public office shall forthwith draw 5424
a warrant upon the general fund or other appropriate funds of the 5425
local public office to the order of the auditor of state; 5426
provided, that the auditor of state is authorized to negotiate 5427
with any local public office and, upon agreement between the 5428
auditor of state and the local public office, may adopt a schedule 5429
for payment of the amount due under this section. Money so 5430
received by the auditor of state shall be paid into the state 5431
treasury to the credit of the public audit expense fund--local 5432
government, which is hereby created, and shall be used to pay the 5433
compensation, expense, cost of experts and employees, reviewing, 5434
copying, and typing of reports. 5435

(3) At the conclusion of each audit, or analysis and report 5436
made pursuant to section 117.24 of the Revised Code, the auditor 5437
of state shall furnish the fiscal officer of the local public 5438
office audited a statement showing the total cost of the audit, or 5439

of the audit and the analysis and report, and the percentage of 5440
the total cost chargeable to each fund audited. The fiscal officer 5441
may distribute such total cost to each fund audited in accordance 5442
with its percentage of the total cost. 5443

(4) The auditor of state shall provide each local public 5444
office a statement or certification of the amount due from the 5445
public office for services performed by the auditor of state under 5446
this or any other section of the Revised Code, as well as the date 5447
upon which payment is due to the auditor of state. Any local 5448
public office that does not pay the amount due to the auditor of 5449
state by that date may be assessed by the auditor of state for 5450
interest from the date upon which the payment is due at the rate 5451
per annum prescribed by section 5703.47 of the Revised Code. All 5452
interest charges assessed by the auditor of state may be collected 5453
in the same manner as audit costs pursuant to division (D) of this 5454
section. 5455

(5) The auditor of state shall establish by rule rates to be 5456
charged to local public offices for recovering the costs of audits 5457
of local public offices. 5458

(D) If the auditor of state fails to receive payment for any 5459
amount due, including, but not limited to, fines, fees, and costs, 5460
from a public office for services performed under this or any 5461
other section of the Revised Code, the auditor of state may seek 5462
payment through the office of budget and management. (Amounts due 5463
include any amount due to an independent public accountant with 5464
whom the auditor has contracted to perform services, all costs and 5465
fees associated with participation in the uniform accounting 5466
network, and all costs associated with the auditor's provision of 5467
local government services.) Upon certification by the auditor of 5468
state to the director of budget and management of any such amount 5469
due, the director shall withhold from the public office any amount 5470
available, up to and including the amount certified as due, from 5471

any funds under the director's control that belong to or are 5472
lawfully payable or due to the public office. The director shall 5473
promptly pay the amount withheld to the auditor of state. If the 5474
director determines that no funds due and payable to the public 5475
office are available or that insufficient amounts of such funds 5476
are available to cover the amount due, the director shall withhold 5477
and pay to the auditor of state the amounts available and, in the 5478
case of a local public office, certify the remaining amount to the 5479
county auditor of the county in which the local public office is 5480
located. The county auditor shall withhold from the local public 5481
office any amount available, up to and including the amount 5482
certified as due, from any funds under the county auditor's 5483
control and belonging to or lawfully payable or due to the local 5484
public office. The county auditor shall promptly pay any such 5485
amount withheld to the auditor of state. 5486

Sec. 118.023. (A) Upon determining that one or more of the 5487
conditions described in section 118.022 of the Revised Code are 5488
present, the auditor of state shall issue a written declaration of 5489
the existence of a fiscal watch to the municipal corporation, 5490
county, or township and the county budget commission. The fiscal 5491
watch shall be in effect until the auditor of state determines 5492
that none of the conditions are any longer present and cancels the 5493
watch, or until the auditor of state determines that a state of 5494
fiscal emergency exists. The auditor of state, or a designee, 5495
shall provide such technical and support services to the municipal 5496
corporation, county, or township after a fiscal watch has been 5497
declared to exist as the auditor of state considers necessary. ~~The~~ 5498
~~controlling board shall provide sufficient funds for any costs~~ 5499
~~that the auditor of state may incur in determining if a fiscal~~ 5500
~~watch exists and for providing technical and support services.~~ 5501

(B) Within one hundred twenty days after the day a written 5502
declaration of the existence of a fiscal watch is issued under 5503

division (A) of this section, the mayor of the municipal 5504
corporation, the board of county commissioners of the county, or 5505
the board of township trustees of the township for which a fiscal 5506
watch was declared shall submit to the auditor of state a 5507
financial recovery plan that shall identify actions to be taken to 5508
eliminate all of the conditions described in section 118.022 of 5509
the Revised Code, include a schedule detailing the approximate 5510
dates for beginning and completing the actions, and include a 5511
five-year forecast reflecting the effects of the actions. The 5512
financial recovery plan is subject to review and approval by the 5513
auditor of state. The auditor of state may extend the amount of 5514
time by which a financial recovery plan is required to be filed, 5515
for good cause shown. 5516

(C) If a feasible financial recovery plan for a municipal 5517
corporation, county, or township for which a fiscal watch was 5518
declared is not submitted within the time period prescribed by 5519
division (B) of this section, or within any extension of time 5520
thereof, the auditor of state shall declare that a fiscal 5521
emergency condition exists under section 118.04 of the Revised 5522
Code in the municipal corporation, county, or township. 5523

Sec. 118.025. (A) The auditor of state shall develop 5524
guidelines for identifying fiscal practices and budgetary 5525
conditions of municipal corporations, counties, and townships 5526
that, if uncorrected, could result in a future declaration of a 5527
fiscal watch or fiscal emergency. 5528

(B) If the auditor of state determines that a municipal 5529
corporation, county, or township is engaging in any of those 5530
practices or that any of those conditions exist, the auditor of 5531
state may declare the municipal corporation, county, or township 5532
to be under a fiscal caution. 5533

(C) When the auditor of state declares a fiscal caution, the 5534

auditor of state shall promptly notify the municipal corporation, 5535
county, or township of that declaration and shall request the 5536
municipal corporation, county, or township to provide written 5537
proposals for discontinuing or correcting the fiscal practices or 5538
budgetary conditions that prompted the declaration and for 5539
preventing the municipal corporation, county, or township from 5540
experiencing further fiscal difficulties that could result in a 5541
declaration of fiscal watch or fiscal emergency. 5542

(D) The auditor of state, or a designee, may visit and 5543
inspect any municipal corporation, county, or township that is 5544
declared to be under a fiscal caution. The auditor of state may 5545
provide technical assistance to the municipal corporation, county, 5546
or township in implementing proposals to eliminate the practices 5547
or budgetary conditions that prompted the declaration of fiscal 5548
caution and may make recommendations concerning those proposals. 5549

(E) If the auditor of state finds that a municipal 5550
corporation, county, or township declared to be under a fiscal 5551
caution has not made reasonable proposals or otherwise taken 5552
action to discontinue or correct the fiscal practices or budgetary 5553
conditions that prompted the declaration of fiscal caution, and if 5554
the auditor of state considers it necessary to prevent further 5555
fiscal decline, the auditor of state may determine that the 5556
municipal corporation, county, or township should be in a state of 5557
fiscal watch. 5558

Sec. 118.04. (A) The existence of a fiscal emergency 5559
condition constitutes a fiscal emergency. The existence of fiscal 5560
emergency conditions shall be determined by the auditor of state. 5561
Such determination, for purposes of this chapter, may be made only 5562
upon the filing with the auditor of state of a written request for 5563
such a determination by the governor, by the county budget 5564
commission, by the mayor of the municipal corporation, or by the 5565

presiding officer of the legislative authority of the municipal 5566
corporation when authorized by a majority of the members of such 5567
legislative authority, by the board of county commissioners, or by 5568
the board of township trustees, or upon initiation by the auditor 5569
of state. The request may designate in general or specific terms, 5570
but without thereby limiting the determination thereto, the 5571
condition or conditions to be examined to determine whether they 5572
constitute fiscal emergency conditions. Promptly upon receipt of 5573
such written request, or upon initiation by the auditor of state, 5574
the auditor of state shall transmit copies of such request or a 5575
written notice of such initiation to the mayor and the presiding 5576
officer of the legislative authority of the municipal corporation 5577
or to the board of county commissioners or the board of township 5578
trustees by personal service or certified mail. Such 5579
determinations shall be set forth in written reports and 5580
supplemental reports, which shall be filed with the mayor, fiscal 5581
officer, and presiding officer of the legislative authority of the 5582
municipal corporation, or with the board of county commissioners 5583
or the board of township trustees, and with the treasurer of 5584
state, secretary of state, governor, director of budget and 5585
management, and county budget commission, within thirty days after 5586
the request. The auditor of state shall so file an initial report 5587
immediately upon determining the existence of any fiscal emergency 5588
condition. 5589

(B) In making such determination, the auditor of state may 5590
rely on reports or other information filed or otherwise made 5591
available by the municipal corporation, county, or township, 5592
accountants' reports, or other sources and data the auditor of 5593
state considers reliable for such purpose. As to the status of 5594
funds or accounts, a determination that the amounts stated in 5595
section 118.03 of the Revised Code are exceeded may be made 5596
without need for determination of the specific amount of the 5597
excess. The auditor of state may engage the services of 5598

independent certified or registered public accountants, including 5599
public accountants engaged or previously engaged by the municipal 5600
corporation, county, or township, to conduct audits or make 5601
reports or render such opinions as the auditor of state considers 5602
desirable with respect to any aspect of the determinations to be 5603
made by the auditor of state. 5604

(C) A determination by the auditor of state under this 5605
section that a fiscal emergency condition does not exist is final 5606
and conclusive and not appealable. A determination by the auditor 5607
of state under this section that a fiscal emergency exists is 5608
final, except that the mayor of any municipal corporation affected 5609
by a determination of the existence of a fiscal emergency 5610
condition under this section, when authorized by a majority of the 5611
members of the legislative authority, or the board of county 5612
commissioners or board of township trustees, may appeal the 5613
determination of the existence of a fiscal emergency condition to 5614
the court of appeals having territorial jurisdiction over the 5615
municipal corporation, county, or township. The appeal shall be 5616
heard expeditiously by the court of appeals and for good cause 5617
shown shall take precedence over all other civil matters except 5618
earlier matters of the same character. Notice of such appeal must 5619
be filed with the auditor of state and such court within thirty 5620
days after certification by the auditor of state to the mayor and 5621
presiding officer of the legislative authority of the municipal 5622
corporation or to the board of county commissioners or board of 5623
township trustees as provided for in division (A) of this section. 5624
In such appeal, determinations of the auditor of state shall be 5625
presumed to be valid and the municipal corporation, county, or 5626
township shall have the burden of proving, by clear and convincing 5627
evidence, that each of the determinations made by the auditor of 5628
state as to the existence of a fiscal emergency condition under 5629
section 118.03 of the Revised Code was in error. If the municipal 5630
corporation, county, or township fails, upon presentation of its 5631

case, to prove by clear and convincing evidence that each such 5632
determination by the auditor of state was in error, the court 5633
shall dismiss the appeal. The municipal corporation, county, or 5634
township and the auditor of state may introduce any evidence 5635
relevant to the existence or nonexistence of such fiscal emergency 5636
conditions at the times indicated in the applicable provisions of 5637
divisions (A) and (B) of section 118.03 of the Revised Code. The 5638
pendency of any such appeal shall not affect or impede the 5639
operations of this chapter; no restraining order, temporary 5640
injunction, or other similar restraint upon actions consistent 5641
with this chapter shall be imposed by the court or any court 5642
pending determination of such appeal; and all things may be done 5643
under this chapter that may be done regardless of the pendency of 5644
any such appeal. Any action taken or contract executed pursuant to 5645
this chapter during the pendency of such appeal is valid and 5646
enforceable among all parties, notwithstanding the decision in 5647
such appeal. If the court of appeals reverses the determination of 5648
the existence of a fiscal emergency condition by the auditor of 5649
state, the determination no longer has any effect, and any 5650
procedures undertaken as a result of the determination shall be 5651
terminated. 5652

(D) All expenses incurred by the auditor of state relating to 5653
a determination or termination of a fiscal emergency under this 5654
section ~~or~~, a fiscal watch under section 118.021 of the Revised 5655
Code, or a fiscal caution under section 118.025 of the Revised 5656
Code, including providing technical and support services, shall be 5657
reimbursed from an appropriation for that purpose. If necessary, 5658
the controlling board may provide sufficient funds for these 5659
purposes. 5660

Sec. 118.05. (A) Pursuant to the powers of the general 5661
assembly and for the purposes of this chapter, upon the occurrence 5662
of a fiscal emergency in any municipal corporation, county, or 5663

township, as determined pursuant to section 118.04 of the Revised Code, there is established, with respect to that municipal corporation, county, or township, a body both corporate and politic constituting an agency and instrumentality of the state and performing essential governmental functions of the state to be known as the "financial planning and supervision commission for (name of municipal corporation, county, or township)," which, in that name, may exercise all authority vested in such a commission by this chapter. A Except as otherwise provided in division (L) of this section, a separate commission is established with respect to each municipal corporation, county, or township as to which there is a fiscal emergency as determined under this chapter.

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

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

The treasurer of state may designate a deputy treasurer or director within the office of the treasurer of state or any other appropriate person who is not an employee of the treasurer of state's office; the director of budget and management may designate an individual within the office of budget and management or any other appropriate person who is not an employee of the office of budget and management; ~~the mayor may designate a responsible official within the mayor's office or the fiscal officer of the municipal corporation;~~ the presiding officer of the

legislative authority of the municipal corporation may designate 5696
any other member of the legislative authority; the board of county 5697
commissioners may designate any other member of the board or the 5698
fiscal officer of the county; and the board of township trustees 5699
may designate any other member of the board or the fiscal officer 5700
of the township to attend the meetings of the commission when the 5701
ex officio member is absent or unable for any reason to attend. A 5702
designee, when present, shall be counted in determining whether a 5703
quorum is present at any meeting of the commission and may vote 5704
and participate in all proceedings and actions of the commission. 5705
The designations shall be in writing, executed by the ex officio 5706
member or entity making the designation, and filed with the 5707
secretary of the commission. The designations may be changed from 5708
time to time in like manner, but due regard shall be given to the 5709
need for continuity. 5710

(2) If a municipal corporation, county, or township has a 5711
population of at least one thousand, three members nominated and 5712
appointed as follows: 5713

The mayor and presiding officer of the legislative authority 5714
of the municipal corporation, the board of county commissioners, 5715
or the board of township trustees shall, within ten days after the 5716
determination of the fiscal emergency by the auditor of state 5717
under section 118.04 of the Revised Code, submit in writing to the 5718
governor the nomination of five persons agreed to by them and 5719
meeting the qualifications set forth in this division. If the 5720
governor is not satisfied that at least three of the nominees are 5721
well qualified, the governor shall notify the mayor and presiding 5722
officer, or the board of county commissioners, or the board of 5723
township trustees to submit in writing, within five days, 5724
additional nominees agreed upon by them, not exceeding three. The 5725
governor shall appoint three members from all the agreed-upon 5726
nominees so submitted or a lesser number that the governor 5727

considers well qualified within thirty days after receipt of the 5728
nominations, and shall fill any remaining positions on the 5729
commission by appointment of any other persons meeting the 5730
qualifications set forth in this division. All appointments by the 5731
governor shall be made with the advice and consent of the senate. 5732
Each of the three appointed members shall serve during the life of 5733
the commission, subject to removal by the governor for 5734
misfeasance, nonfeasance, or malfeasance in office. In the event 5735
of the death, resignation, incapacity, removal, or ineligibility 5736
to serve of an appointed member, the governor, pursuant to the 5737
process for original appointment, shall appoint a successor. 5738

~~(3) If a municipal corporation, county, or township has a 5739
population of less than one thousand, one member nominated and 5740
appointed as follows: 5741~~

~~The mayor and presiding officer of the legislative authority 5742
of the municipal corporation, the board of county commissioners, 5743
or the board of township trustees shall, within ten days after the 5744
determination of the fiscal emergency by the auditor of state 5745
under section 118.04 of the Revised Code, submit in writing to the 5746
governor the nomination of three persons agreed to by them and 5747
meeting the qualifications set forth in this division. If the 5748
governor is not satisfied that at least one of the nominees is 5749
well qualified, the governor shall notify the mayor and presiding 5750
officer, or the board of county commissioners, or the board of 5751
township trustees to submit in writing, within five days, 5752
additional nominees agreed upon by them, not exceeding three. The 5753
governor shall appoint one member from all the agreed upon 5754
nominees so submitted or shall fill the position on the commission 5755
by appointment of any other person meeting the qualifications set 5756
forth in this division. All appointments by the governor shall be 5757
made with the advice and consent of the senate. The appointed 5758
member shall serve during the life of the commission, subject to 5759~~

~~removal by the governor for misfeasance, nonfeasance, or 5760
malfeasance in office. In the event of the death, resignation, 5761
incapacity, removal, or ineligibility to serve of the appointed 5762
member, the governor, pursuant to the process for original 5763
appointment, shall appoint a successor. 5764~~

Each appointed member shall be an individual: 5765

(a) Who has knowledge and experience in financial matters, 5766
financial management, or business organization or operations; 5767

(b) Whose residency, office, or principal place of 5768
professional or business activity is situated within the municipal 5769
corporation, county, or township; 5770

(c) Who shall not become a candidate for elected public 5771
office while serving as a member of the commission. 5772

(C) Immediately after appointment of the initial appointed 5773
~~member or~~ members of the commission, the governor shall call the 5774
first meeting of the commission and shall cause written notice of 5775
the time, date, and place of the first meeting to be given to each 5776
member of the commission at least forty-eight hours in advance of 5777
the meeting. 5778

(D) The director of budget and management shall serve as 5779
chairperson of the commission. The commission shall elect one of 5780
its members to serve as vice-chairperson and may appoint a 5781
secretary and any other officers, who need not be members of the 5782
commission, it considers necessary. The chairperson may remove a 5783
member appointed by the governor if that member fails to attend 5784
three consecutive meetings. In that event, the governor shall fill 5785
the vacancy in the same manner as the original appointment. 5786

(E) The commission may adopt and alter bylaws and rules, 5787
which shall not be subject to section 111.15 or Chapter 119. of 5788
the Revised Code, for the conduct of its affairs and for the 5789
manner, subject to this chapter, in which its powers and functions 5790

shall be exercised and embodied. 5791

(F) Four members of a commission established pursuant to 5792
divisions (B)(1) and (2) of this section constitute a quorum of 5793
the commission. ~~The affirmative vote of a majority of the members~~ 5794
~~of such a commission is necessary for any action taken by vote of~~ 5795
~~the commission. Three members of a commission established pursuant~~ 5796
~~to divisions (B)(1) and (3) of this section constitute a quorum of~~ 5797
~~the commission.~~ The affirmative vote of a majority of the members 5798
of ~~such a~~ the commission is necessary for any action taken by vote 5799
of the commission. No vacancy in the membership of the commission 5800
shall impair the rights of a quorum by such vote to exercise all 5801
the rights and perform all the duties of the commission. Members 5802
of the commission, and their designees, are not disqualified from 5803
voting by reason of the functions of the other office they hold 5804
and are not disqualified from exercising the functions of the 5805
other office with respect to the municipal corporation, county, or 5806
township, its officers, or the commission. 5807

(G) The auditor of state shall serve as the "financial 5808
supervisor" to the commission unless the auditor of state elects 5809
to contract for that service. As used in this chapter, "financial 5810
supervisor" means the auditor of state. 5811

(H) At the request of the commission, the auditor of state 5812
shall designate employees of the auditor of state's office to 5813
assist the commission and the financial supervisor and to 5814
coordinate the work of the auditor of state's office and the 5815
financial supervisor. Upon the determination of a fiscal emergency 5816
in any municipal corporation, county, or township, the municipal 5817
corporation, county, or township shall provide the commission with 5818
such reasonable office space in the principal building housing 5819
city, county, or township government, where feasible, as it 5820
determines is necessary to carry out its duties under this 5821
chapter. 5822

(I) The financial supervisor, the members of the commission, 5823
the auditor of state, and any person authorized to act on behalf 5824
of or assist them shall not be personally liable or subject to any 5825
suit, judgment, or claim for damages resulting from the exercise 5826
of or failure to exercise the powers, duties, and functions 5827
granted to them in regard to their functioning under this chapter, 5828
but the commission, the financial supervisor, the auditor of 5829
state, and those other persons shall be subject to mandamus 5830
proceedings to compel performance of their duties under this 5831
chapter and with respect to any debt obligations issued pursuant 5832
or subject to this chapter. 5833

(J) At the request of the commission, the administrative head 5834
of any state agency shall temporarily assign personnel skilled in 5835
accounting and budgeting procedures to assist the commission or 5836
the financial supervisor in its duties as financial supervisor. 5837

(K) The appointed members of the commission are not subject 5838
to section 102.02 of the Revised Code. Each appointed member of 5839
the commission shall file with the commission a signed written 5840
statement setting forth the general nature of sales of goods, 5841
property, or services or of loans to the municipal corporation, 5842
county, or township with respect to which that commission is 5843
established, in which the appointed member has a pecuniary 5844
interest or in which any member of the appointed member's 5845
immediate family, as defined in section 102.01 of the Revised 5846
Code, or any corporation, partnership, or enterprise of which the 5847
appointed member is an officer, director, or partner, or of which 5848
the appointed member or a member of the appointed member's 5849
immediate family, as so defined, owns more than a five per cent 5850
interest, has a pecuniary interest, and of which sale, loan, or 5851
interest such member has knowledge. The statement shall be 5852
supplemented from time to time to reflect changes in the general 5853
nature of any such sales or loans. 5854

(L) A commission is not established with respect to any 5855
village or township with a population of less than one thousand as 5856
of the most recent federal decennial census. Upon the occurrence 5857
of a fiscal emergency in such a village or township, the auditor 5858
of state shall serve as the financial supervisor of the village or 5859
township and shall have all the powers and responsibilities of a 5860
commission. 5861

Sec. 118.06. (A) Within one hundred twenty days after the 5862
first meeting of the commission, the mayor of the municipal 5863
corporation or the board of county commissioners or board of 5864
township trustees shall submit to the commission a detailed 5865
financial plan, as approved or amended and approved by ordinance 5866
or resolution of the legislative authority, containing the 5867
following: 5868

(1) Actions to be taken by the municipal corporation, county, 5869
or township to: 5870

(a) Eliminate all fiscal emergency conditions determined to 5871
exist pursuant to section 118.04 of the Revised Code; 5872

(b) Satisfy any judgments, past due accounts payable, and all 5873
past due and payable payroll and fringe benefits; 5874

(c) Eliminate the deficits in all deficit funds; 5875

(d) Restore to construction funds and other special funds 5876
moneys from such funds that were used for purposes not within the 5877
purposes of such funds, or borrowed from such construction funds 5878
by the purchase of debt obligations of the municipal corporation, 5879
county, or township with the moneys of such funds, or missing from 5880
the construction funds or such special funds and not accounted 5881
for; 5882

(e) Balance the budgets, avoid future deficits in any funds, 5883
and maintain current payments of payroll, fringe benefits, and all 5884

accounts;	5885
(f) Avoid any fiscal emergency condition in the future;	5886
(g) Restore the ability of the municipal corporation, county, or township to market long-term general obligation bonds under provisions of law applicable to municipal corporations, counties, or townships generally.	5887 5888 5889 5890
(2) The legal authorities permitting the municipal corporation, county, or township to take the actions enumerated pursuant to division (A)(1) of this section;	5891 5892 5893
(3) The approximate dates of the commencement, progress upon, and completion of the actions enumerated pursuant to division (A)(1) of this section, <u>a five-year forecast reflecting the effects of those actions</u> , and a reasonable period of time expected to be required to implement the plan. The municipal corporation, county, or township, in consultation with the commission and the financial supervisor, shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the financial plan and the financial plan shall be consistent with that time schedule.	5894 5895 5896 5897 5898 5899 5900 5901 5902 5903
(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the municipal corporation, county, or township and the county auditor;	5904 5905 5906 5907 5908 5909
(5) Assurances that the municipal corporation, county, or township will establish monthly levels of expenditures and encumbrances pursuant to division (B)(2) of section 118.07 of the Revised Code;	5910 5911 5912 5913
(6) Assurances that the municipal corporation, county, or township will conform to statutes with respect to tax budgets and	5914 5915

appropriation measures; 5916

(7) The detail, the form, and the supporting information that 5917
the commission may direct. 5918

(B) The financial plan developed pursuant to division (A) of 5919
this section shall be filed with the financial supervisor and the 5920
financial planning and supervision commission and shall be updated 5921
annually. After consultation with the financial supervisor, the 5922
commission shall either approve or reject any initial or 5923
subsequent financial plan. If the commission rejects the initial 5924
or any subsequent financial plan, it shall forthwith inform the 5925
mayor and legislative authority of the municipal corporation or 5926
the board of county commissioners or board of township trustees of 5927
the reasons for its rejection. Within thirty days after the 5928
rejection of any plan, the mayor with the approval of the 5929
legislative authority by the passage of an ordinance or 5930
resolution, or the board of county commissioners or board of 5931
township trustees, shall submit another plan meeting the 5932
requirements of divisions (A)(1) to (7) of this section, to the 5933
commission and the financial supervisor for approval or rejection 5934
by the commission. 5935

(C) Any initial or subsequent financial plan passed by the 5936
municipal corporation, county, or township shall be approved by 5937
the commission if it complies with divisions (A)(1) to (7) of this 5938
section, and if the commission finds that the plan is bona fide 5939
and can reasonably be expected to be implemented within the period 5940
specified in the plan. 5941

(D) Any financial plan may be amended subsequent to its 5942
adoption in the same manner as the passage and approval of the 5943
initial or subsequent plan pursuant to divisions (A) to (C) of 5944
this section. 5945

(E) If a municipal corporation, county, or township fails to 5946

submit a financial plan as required by this section, or fails to 5947
substantially comply with an approved financial plan, upon 5948
certification of the commission, all state funding for that 5949
municipal corporation, county, or township other than benefit 5950
assistance to individuals shall be escrowed until a feasible plan 5951
is submitted and approved or substantial compliance with the plan 5952
is achieved, as the case may be. 5953

Sec. 118.12. (A) After the date by which the municipal 5954
corporation, county, or township is required to submit a financial 5955
plan or segment of a financial plan to the financial planning and 5956
supervision commission, if the municipal corporation, county, or 5957
township has failed to submit a financial plan or segment as 5958
required by this chapter, expenditures from the general fund of 5959
the municipal corporation, county, or township in any month may 5960
not exceed eighty-five per cent of expenditures from the general 5961
fund for such month in the preceding fiscal year, except the 5962
commission may authorize a higher per cent for any month upon 5963
justification of need by the municipal corporation, county, or 5964
township. If considered prudent by the commission, expenditures 5965
from any other fund of the municipal corporation, county, or 5966
township also may be limited. 5967

(B) After submission of a proposed financial plan by the 5968
municipal corporation, county, or township to the commission, 5969
until approval or disapproval no expenditure may be made contrary 5970
to such proposed financial plan. 5971

(C) After disapproval by the commission of a proposed 5972
financial plan, no expenditure may be made by the municipal 5973
corporation, county, or township inconsistent with the reasons for 5974
disapproval given pursuant to division (B) of section 118.06 of 5975
the Revised Code; and if the municipal corporation, county, or 5976
township fails to submit a revised financial plan within the time 5977

required, the expenditure limits of division (A) of this section 5978
are applicable. 5979

(D) After approval of a financial plan, or any amendment 5980
thereof, no expenditure may be made contrary to the approved 5981
financial plan, or amendment thereof, without the advance approval 5982
of the financial supervisor. The commission, by a majority vote, 5983
may overrule the decision of the financial supervisor. 5984

Sec. 118.17. (A) During a fiscal emergency period and with 5985
the approval of the financial planning and supervision commission, 5986
a municipal corporation, county, or township may issue local 5987
government fund notes, in anticipation of amounts to be allocated 5988
to it pursuant to division (B) of section 5747.50 of the Revised 5989
Code or to be apportioned to it under section 5747.51 or 5747.53 5990
of the Revised Code in a future year or years, for a period of no 5991
more than eight calendar years. The principal amount of the notes 5992
and interest on the notes due and payable in any year shall not 5993
exceed fifty per cent of the total amount of local government fund 5994
moneys so allocated or apportioned to the municipal corporation, 5995
county, or township for the year preceding the year in which the 5996
notes are issued. The notes may mature in semiannual or annual 5997
installments in such amounts as may be fixed by the commission, 5998
and need not mature in substantially equal semiannual or annual 5999
installments. The notes of a municipal corporation may be 6000
authorized and issued, subject to the approval of the commission, 6001
in the manner provided in sections 717.15 and 717.16 of the 6002
Revised Code, except that, notwithstanding division (A)(2) of 6003
section 717.16 of the Revised Code, the rate or rates of interest 6004
payable on the notes shall be the prevailing market rate or rates 6005
as determined and approved by the commission, and except that they 6006
shall not be issued in anticipation of bonds, shall not constitute 6007
general obligations of the municipal corporation, and shall not 6008
pledge the full faith and credit of the municipal corporation. 6009

(B) The principal and interest on the notes provided for in 6010
this section shall be payable, as provided in this section, solely 6011
from the portion of the local government fund that would otherwise 6012
be apportioned to the municipal corporation, county, or township 6013
and shall not be payable from or constitute a pledge of or claim 6014
upon, or require the levy, collection, or application of, any 6015
unvoted ad valorem property taxes or other taxes, or in any manner 6016
occupy any portion of the indirect debt limit. 6017

(C) Local government fund notes may be issued only to the 6018
extent needed to achieve one or more of the following objectives 6019
of the financial plan: 6020

(1) Satisfying any contractual or noncontractual judgments, 6021
past due accounts payable, and all past due and payable payroll 6022
and fringe benefits to be taken into account under section 118.03 6023
of the Revised Code; 6024

(2) Restoring to construction funds or other restricted funds 6025
any money applied from such funds to uses not within the purposes 6026
of such funds and which could not be transferred to such use under 6027
section 5705.14 of the Revised Code; 6028

(3) Eliminating deficit balances in all deficit funds, 6029
including funds that may be used to pay operating expenses. 6030

In addition to the objectives set forth in divisions (C)(1) 6031
to (3) of this section, local government fund notes may be issued 6032
and the proceeds of those notes may be used for the purpose of 6033
retiring or replacing other moneys used to retire current revenue 6034
notes issued pursuant to section 118.23 of the Revised Code to the 6035
extent that the proceeds of the current revenue notes have been or 6036
are to be used directly or to replace other moneys used to achieve 6037
one or more of the objectives of the financial plan specified in 6038
divisions (C)(1) to (3) of this section. Upon authorization of the 6039
local government fund notes by the legislative authority of the 6040

municipal corporation, county, or township, the proceeds of the 6041
local government fund notes and the proceeds of any such current 6042
revenue notes shall be deemed to be appropriated, to the extent 6043
that the proceeds have been or are to be so used, for the purposes 6044
for which the revenues anticipated by any such current revenue 6045
notes are collected and appropriated within the meaning of section 6046
133.10 of the Revised Code. 6047

(D) The need for an issue of local government fund notes for 6048
such purposes shall be determined by taking into consideration 6049
other money and sources of moneys available therefor under this 6050
chapter or other provisions of law, and calculating the respective 6051
amounts needed therefor in accordance with section 118.03 of the 6052
Revised Code, including the deductions or offsets therein 6053
provided, for determining that a fiscal emergency condition 6054
exists, and by eliminating any duplication of amounts thereunder. 6055
The respective amounts needed to achieve such objectives and the 6056
resulting aggregate net amount shall be determined initially by a 6057
certification of the fiscal officer as and to the extent approved 6058
by the financial supervisor. The principal amount of such notes 6059
shall not exceed the aggregate net amount needed for such 6060
purposes. The aggregate amount of all issues of such notes shall 6061
not exceed three times the average of the allocation or 6062
apportionment to the municipal corporation, county, or township of 6063
moneys from the local government fund in each of the three fiscal 6064
years preceding the fiscal year in which the notes are issued. 6065

(E) The proceeds of the sale of local government fund notes 6066
shall be appropriated by the municipal corporation, county, or 6067
township for and shall be applied only to the purposes, and in the 6068
respective amounts for those purposes, set forth in the 6069
certification given pursuant to division (D) of this section, as 6070
the purposes and amounts may be modified in the approval by the 6071
commission provided for in this section. The proceeds shall be 6072

deposited in separate accounts with a fiscal agent designated in 6073
the resolution referred to in division (F) of this section and 6074
released only for such respective purposes in accordance with the 6075
procedures set forth in division (D) of section 118.20 of the 6076
Revised Code. Any amounts not needed for such purposes shall be 6077
deposited with the fiscal agent designated to receive deposits for 6078
payment of the principal of and interest due on the notes. 6079

(F) An application for approval by the financial planning and 6080
supervision commission of an issue of local government fund notes 6081
shall be authorized by a preliminary resolution adopted by the 6082
legislative authority. The resolution may authorize the 6083
application as a part of the initial submission of the financial 6084
plan for approval or as a part of any proposed amendment to an 6085
approved financial plan or at any time after the approval of a 6086
financial plan, or amendment to a financial plan, that proposes 6087
the issue of such notes. The preliminary resolution shall 6088
designate a fiscal agent for the deposit of the proceeds of the 6089
sale of the notes, and shall contain a covenant of the municipal 6090
corporation, county, or township to comply with this chapter and 6091
the financial plan. 6092

The commission shall review and evaluate the application and 6093
supporting certification and financial supervisor action, and 6094
shall thereupon certify its approval or disapproval, or 6095
modification and approval, of the application. 6096

The commission shall certify the amounts, maturities, 6097
interest rates, and terms of issue of the local government fund 6098
notes approved by the commission and the purposes to which the 6099
proceeds of the sale of the notes will be applied in respective 6100
amounts. 6101

The commission shall certify a copy of its approval, of the 6102
preliminary resolution, and of the related certification and 6103
action of the financial supervisor to the fiscal officer, the 6104

financial supervisor, the county budget commission, the county 6105
auditor, the county treasurer, and the fiscal agent designated to 6106
receive and disburse the proceeds of the sale of the notes. 6107

(G) Upon the sale of any local government fund notes issued 6108
under this section, the commission shall determine a schedule for 6109
the deposit of local government fund distributions that are 6110
pledged for the payment of the principal of and interest on the 6111
notes with the fiscal agent or trustee designated in the agreement 6112
between the municipal corporation, county, or township and the 6113
holders of the notes to receive and disburse the distributions. 6114
The amounts to be deposited shall be adequate to provide for the 6115
payment of principal and interest on the notes when due and to pay 6116
all other proper charges, costs, or expenses pertaining thereto. 6117

The amount of the local government fund moneys apportioned to 6118
the municipal corporation, county, or township that is to be so 6119
deposited in each year shall not be included in the tax budget and 6120
appropriation measures of the municipal corporation, county, or 6121
township, or in certificates of estimated revenues, for that year. 6122

The commission shall certify the schedule to the officers 6123
designated in division (F) of this section. 6124

(H) Deposit of amounts with the fiscal agent or trustee 6125
pursuant to the schedule determined by the commission shall be 6126
made from local government fund distributions to or apportioned to 6127
the municipal corporation, county, or township as provided in this 6128
division. The apportionment of local government fund moneys to the 6129
municipal corporation, county, or township for any year from the 6130
undivided local government fund shall be determined as to the 6131
municipal corporation, county, or township without regard to the 6132
amounts to be deposited with the fiscal agent or trustee in that 6133
year in accordance with division (G) of this section. After the 6134
amount of the undivided local government fund apportioned to the 6135
municipal corporation, county, or township for a calendar year is 6136

determined, the county auditor and the county treasurer shall 6137
withhold from each monthly amount to be distributed to the 6138
municipal corporation, county, or township from the undivided 6139
local government fund, and transmit to the fiscal agent or trustee 6140
for deposit, one-twelfth of the amount scheduled for deposit in 6141
that year pursuant to division (G) of this section. 6142

(I) If the commission approves the application, the municipal 6143
corporation, county, or township may proceed with the issuance of 6144
the notes as approved by the commission. 6145

All notes issued under authority of this section are lawful 6146
investments for the entities enumerated in division (A)(1) of 6147
section 133.03 of the Revised Code and are eligible as security 6148
for the repayment of the deposit of public moneys. 6149

Upon the issuance of any notes under this section, the fiscal 6150
officer of the municipal corporation, county, or township shall 6151
certify the fact of the issuance to the county auditor and shall 6152
also certify to the county auditor the last calendar year in which 6153
any of the notes are scheduled to mature. 6154

(J) After the legislative authority of the municipal 6155
corporation, county, or township has passed an ordinance or 6156
resolution authorizing the issuance of local government fund notes 6157
and subsequent to the commission's preliminary or final approval 6158
of the ordinance or resolution, the director of law, prosecuting 6159
attorney, or other chief legal officer of the municipal 6160
corporation, county, or township shall certify a sample of the 6161
form and content of a note to be used to issue the local 6162
government fund notes to the commission. The commission shall 6163
determine whether the sample note is consistent with this section 6164
and the ordinance or resolution authorizing the issuance of the 6165
local government fund notes, and if the sample note is found to be 6166
consistent with this section and the ordinance, the commission 6167
shall approve the sample note for use by the municipal 6168

corporation, county, or township. The form and content of the 6169
notes to be used by the municipal corporation, county, or township 6170
in issuing the local government fund notes may be modified at any 6171
time subsequent to the commission's approval of the sample note 6172
upon the approval of the commission and the director of law, 6173
prosecuting attorney, or other chief legal officer of the 6174
municipal corporation, county, or township. The failure of the 6175
director of law, prosecuting attorney, or other chief legal 6176
officer of the municipal corporation, county, or township to make 6177
the certification required by this division shall not subject that 6178
legal officer to removal pursuant to the Revised Code or the 6179
charter of a municipal corporation. If the director of law, 6180
prosecuting attorney, or other chief legal officer fails or 6181
refuses to make the certification required by this division, or if 6182
any officer of the municipal corporation, county, or township 6183
fails or refuses to take any action required by this section or 6184
the ordinance or resolution authorizing the issuance or sale of 6185
local government fund notes, the mayor of the municipal 6186
corporation or the board of county commissioners or board of 6187
township trustees may cause the commencement of a mandamus action 6188
in the supreme court against the director of law, prosecuting 6189
attorney, or other chief legal officer to secure the certification 6190
required by this division or other action required by this section 6191
or the ordinance or resolution. If an adjudication of the matters 6192
that could be adjudicated in validation proceedings under section 6193
133.70 of the Revised Code is necessary to a determination of the 6194
mandamus action, the mayor, the board of county commissioners, or 6195
the board of township trustees or the mayor's or board's legal 6196
counsel shall name and cause to be served as defendants to the 6197
mandamus action all of the following: 6198

(1) The director of law, prosecuting attorney, or other chief 6199
legal officer, or other official of the municipal corporation, 6200
county, or township, whose failure or refusal to act necessitated 6201

the action; 6202

(2) The municipal corporation, through its mayor, or the 6203
board of county commissioners or board of township trustees; 6204

(3) The financial planning and supervision commission, 6205
through its chairperson; 6206

(4) The prosecuting attorney and auditor of each county in 6207
which the municipal corporation, county, or township is located, 6208
in whole or in part; 6209

(5) The auditor of state; 6210

(6) The property owners, taxpayers, citizens of the municipal 6211
corporation, county, or township and others having or claiming any 6212
right, title, or interest in any property or funds to be affected 6213
by the issuance of the local government fund notes by the 6214
municipal corporation, county, or township, or otherwise affected 6215
in any way thereby. 6216

Service upon all defendants described in division (J)(6) of 6217
this section shall be either by publication three times, with at 6218
least six days between each publication, in a newspaper of general 6219
circulation in Franklin county and a newspaper of general 6220
circulation in the county or counties where the municipal 6221
corporation, county, or township is located, or by publication in 6222
both such newspapers as provided in section 7.16 of the Revised 6223
Code. The publication and the notice shall indicate that the 6224
nature of the action is in mandamus, the name of the parties to 6225
the action, and that the action may result in the validation of 6226
the subject local government fund notes. Authorization to commence 6227
such an action by the legislative authority of the municipal 6228
corporation, county, or township is not required. 6229

A copy of the complaint in the mandamus action shall be 6230
served personally or by certified mail upon the attorney general. 6231
If the attorney general has reason to believe that the complaint 6232

is defective, insufficient, or untrue, or if in the attorney 6233
general's opinion the issuance of the local government fund notes 6234
is not lawful or has not been duly authorized, defense shall be 6235
made to the complaint as the attorney general considers proper. 6236

(K) The action in mandamus authorized by division (J) of this 6237
section shall take priority over all other civil cases pending in 6238
the court, except habeas corpus, and shall be determined with the 6239
least possible delay. The supreme court may determine that the 6240
local government fund notes will be consistent with the purpose 6241
and effects, including not occupying the indirect debt limit, 6242
provided for in this section and will be validly issued and 6243
acquired. Such a determination shall include a finding of 6244
validation of the subject local government fund notes if the court 6245
specifically finds that: 6246

(1) The complaint in mandamus, or subsequent pleadings, 6247
include appropriate allegations required by division (C) of 6248
section 133.70 of the Revised Code, and that the proceeding is in 6249
lieu of an action to validate under section 133.70 of the Revised 6250
Code; 6251

(2) All parties described in divisions (J)(1) to (6) of this 6252
section have been duly served with notice or are otherwise 6253
properly before the court; 6254

(3) Notice of the action has been published as required by 6255
division (J) of this section; 6256

(4) The effect of validation is required to provide a 6257
complete review and determination of the controversy in mandamus, 6258
and to avoid duplication of litigation, danger of inconsistent 6259
results, or inordinate delay in light of the fiscal emergency, or 6260
that a disposition in the mandamus action would, as a practical 6261
matter, be dispositive of any subsequent validation proceedings 6262
under section 133.70 of the Revised Code. 6263

(L) Any decision that includes a finding of validation has 6264
the same effect as a validation order established by an action 6265
under section 133.70 of the Revised Code. 6266

(M) Divisions (J) and (K) of this section do not prevent a 6267
municipal corporation, county, or township from using section 6268
133.70 of the Revised Code to validate local government fund notes 6269
by the filing of a petition for validation in the court of common 6270
pleas of the county in which the municipal corporation, county, or 6271
township is located, in whole or in part. 6272

(N) It is hereby determined by the general assembly that a 6273
validation action authorized by section 133.70 of the Revised Code 6274
is not an adequate remedy at law with respect to a municipal 6275
corporation, county, or township that is a party to a mandamus 6276
action pursuant to divisions (J) and (K) of this section and in 6277
which a fiscal emergency condition has been determined to exist 6278
pursuant to section 118.04 of the Revised Code because of, but not 6279
limited to, the following reasons: 6280

(1) It is urgently necessary for such a municipal 6281
corporation, county, or township to take prompt action to issue 6282
local government fund notes for the purposes provided in division 6283
(C) of this section; 6284

(2) The potentially ruinous effect upon the fiscal condition 6285
of a municipal corporation, county, or township by the passage of 6286
the time required to adjudicate such a separate validation action 6287
and any appeals thereof; 6288

(3) The reasons stated in division (K)(4) of this section. 6289

Sec. 118.31. (A) Upon petition of the financial supervisor 6290
and approval of the financial planning and supervision commission, 6291
if any, the attorney general shall file a court action to dissolve 6292
a municipal corporation or township if all of the following 6293

conditions apply: 6294

(1) The municipal corporation or township has a population of less than five thousand as of the most recent federal decennial census. 6295
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(2) The municipal corporation or township has been under a fiscal emergency for at least four consecutive years. 6298
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(3) Implementation of the financial plan of the municipal corporation or township required under this chapter cannot reasonably be expected to correct and eliminate all fiscal emergency conditions within five years. 6300
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(B) If the court finds that all of the conditions described in division (A) of this section apply to the municipal corporation or township, it shall appoint a receiver. The receiver, under court supervision, shall work with executive and legislative officers of the municipal corporation or township to wind up the affairs of and dissolve the municipal corporation in accordance with section 703.21 of the Revised Code or the township in accordance with the process in section 503.02 and sections 503.17 to 503.21 of the Revised Code. 6304
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Sec. 118.99. (A) During the fiscal emergency period, no officer or employee of the municipal corporation, county, or township shall do any of the following: 6313
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(1) Knowingly enter into any contract, financial obligation, or other liability of the municipal corporation, county, or township involving an expenditure, or make any expenditure in excess of the amount permitted by section 118.12 of the Revised Code; 6316
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(2) Knowingly enter into any contract, financial obligation, or other liability of the municipal corporation, county, or township, or knowingly execute or deliver debt obligations, or 6321
6322
6323

transfer, advance, or borrow moneys from one fund of the municipal 6324
corporation, county, or township to or for any other fund of the 6325
municipal corporation, county, or township where any of such 6326
actions are required to be approved by the financial planning and 6327
supervision commission unless such actions have been so approved 6328
or deemed to be approved as provided in or pursuant to this 6329
chapter; 6330

(3) Knowingly fail or refuse to take any of the actions 6331
required by this chapter for the preparation or amendment of the 6332
financial plan, or knowingly prepare, present, or certify any 6333
information or report for the commission or any of its employees, 6334
advisory committees, task forces, or agents that is false or 6335
misleading or which is recklessly prepared or presented without 6336
due care for its accuracy, or, upon learning that any such 6337
information is false or misleading, or was recklessly prepared or 6338
presented, knowingly fail promptly to advise the commission, or 6339
the employee, advisory committee, task force, or agent to whom 6340
such information was given, of that fact; 6341

(4) Knowingly use or cause to be used moneys of a 6342
construction fund for purposes other than the lawful purposes of 6343
the construction fund, or knowingly use or cause to be used moneys 6344
of a fund created under this chapter for the payment of principal 6345
and interest on debt obligations, or a bond retirement fund, or 6346
sinking fund for other than the payment of the principal of and 6347
interest on debt obligations or other authorized costs or payments 6348
from such funds, or knowingly fail to perform the duty of such 6349
officer or employee to cause the prompt deposit of moneys to any 6350
of the funds referred to in this division. 6351

(B) The prohibitions set forth in division (A) of this 6352
section are in addition to any other prohibitions provided by law 6353
for a municipal corporation, county, or township, or by or 6354
pursuant to a municipal charter. 6355

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

Sec. 119.032. (A) As used in this section:

(1) "Agency" includes both an agency as defined in division (A)(2) of section 111.15 and an agency as defined in division (A) of section 119.01 of the Revised Code.

(2) "Review date" means the review date assigned to a rule by an agency under division (B) or (E)(2) of this section or under section 111.15, 119.04, or 4141.14 of the Revised Code or a review date assigned to a rule by the joint committee on agency rule review under division (B) of this section.

(3)(a) "Rule" means only a rule whose adoption, amendment, or rescission is subject to review under division (D) of section 111.15 or division (H) of section 119.03 of the Revised Code.

(b) "Rule" does not include a rule adopted, amended, or rescinded by the department of taxation under section 5703.14 of the Revised Code, a rule of a state college or university, community college district, technical college district, or state community college, or a rule that is consistent with and equivalent to the form required by a federal law and that does not exceed the minimum scope and intent of that federal law.

(B) Not later than March 25, 1997, each agency shall assign a review date to each of its rules that is currently in effect and shall notify the joint committee on agency rule review of the review date for each such rule. The agency shall assign review dates to its rules so that approximately one-fifth of the rules are scheduled for review during each calendar year of the five-year period that begins March 25, 1997, except that an agency, with the joint committee's approval, may set a review schedule for the agency's rules in which there is no requirement that approximately one-fifth of the agency's rules be assigned a review date during each calendar year of the five-year period but in which all of the agency's rules are assigned a review date during that five-year period. An agency may change the review dates it has assigned to specific rules so long as the agency complies with the five-year time deadline specified in this division.

Upon the request of the agency that adopted the rule, the joint committee on agency rule review may extend a review date of a rule to a date that is not later than one hundred eighty days after the original review date assigned to the rule by the agency under this division, division (E)(2) of this section, or section 111.15, 119.04, or 4141.14 of the Revised Code. The joint committee may further extend a review date that has been extended under this paragraph if appropriate under the circumstances.

(C) Prior to the review date of a rule, the agency that adopted the rule shall review the rule to determine all of the following:

(1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;

(2) Whether the rule needs amendment or rescission to give

more flexibility at the local level; 6419

(3) Whether the rule needs amendment or rescission to 6420
eliminate unnecessary paperwork, or whether the rule incorporates 6421
a text or other material by reference and, if so, whether the text 6422
or other material incorporated by reference is deposited or 6423
displayed as required by section 121.74 of the Revised Code and 6424
whether the incorporation by reference meets the standards stated 6425
in sections 121.72, 121.75, and 121.76 of the Revised Code; 6426

(4) Whether the rule duplicates, overlaps with, or conflicts 6427
with other rules; 6428

(5) Whether the rule has an adverse impact on businesses, ~~as~~ 6429
~~determined~~ reviewing the rule as if it were a draft rule being 6430
reviewed under ~~section~~ sections 107.52 and 107.53 of the Revised 6431
Code, and whether any such adverse impact has been eliminated or 6432
reduced ~~as required under section 121.82 of the Revised Code.~~ 6433

(D) In making the review required under division (C) of this 6434
section, the agency shall consider the continued need for the 6435
rule, the nature of any complaints or comments received concerning 6436
the rule, and any relevant factors that have changed in the 6437
subject matter area affected by the rule. 6438

(E)(1) On or before the designated review date of a rule, the 6439
agency that adopted the rule shall proceed under division (E)(2) 6440
or (5) of this section to indicate that the agency has reviewed 6441
the rule. 6442

(2) If the agency has determined that the rule does not need 6443
to be amended or rescinded, the agency shall file all the 6444
following, in electronic form, with the joint committee on agency 6445
rule review, the secretary of state, and the director of the 6446
legislative service commission: a copy of the rule, a statement of 6447
the agency's determination, and an accurate rule summary and 6448
fiscal analysis for the rule as described in section 127.18 of the 6449

Revised Code. The agency shall assign a new review date to the 6450
rule, which shall not be later than five years after the rule's 6451
immediately preceding review date. After the joint committee has 6452
reviewed such a rule for the first time, including any rule that 6453
was in effect on September 26, 1996, the agency in its subsequent 6454
reviews of the rule may provide the same fiscal analysis it 6455
provided to the joint committee during its immediately preceding 6456
review of the rule unless any of the conditions described in 6457
division (B)(4), (5), (6), (8), (9), or (10) of section 127.18 of 6458
the Revised Code, as they relate to the rule, have appreciably 6459
changed since the joint committee's immediately preceding review 6460
of the rule. If any of these conditions, as they relate to the 6461
rule, have appreciably changed, the agency shall provide the joint 6462
committee with an updated fiscal analysis for the rule. If no 6463
review date is assigned to a rule, or if a review date assigned to 6464
a rule exceeds the five-year maximum, the review date for the rule 6465
is five years after its immediately preceding review date. The 6466
joint committee shall give public notice in the register of Ohio 6467
of the agency's determination after receiving a notice from the 6468
agency under division (E)(2) of this section. The joint committee 6469
shall transmit a copy of the notice in electronic form to the 6470
director of the legislative service commission. The director shall 6471
publish the notice in the register of Ohio for four consecutive 6472
weeks after its receipt. 6473

(3) During the ninety-day period following the date the joint 6474
committee receives a notice under division (E)(2) of this section 6475
but after the four-week period described in division (E)(2) of 6476
this section has ended, the joint committee, by a two-thirds vote 6477
of the members present, may recommend the adoption of a concurrent 6478
resolution invalidating the rule if the joint committee determines 6479
that any of the following apply: 6480

(a) The agency improperly applied the criteria described in 6481

divisions (C) and (D) of this section in reviewing the rule and in 6482
recommending its continuance without amendment or rescission. 6483

(b) The agency failed to file proper notice with the joint 6484
committee regarding the rule, or if the rule incorporates a text 6485
or other material by reference, the agency failed to file, or to 6486
deposit or display, the text or other material incorporated by 6487
reference as required by section 121.73 or 121.74 of the Revised 6488
Code or the incorporation by reference fails to meet the standards 6489
stated in section 121.72, 121.75, or 121.76 of the Revised Code. 6490

(c) The rule has an adverse impact on businesses, as 6491
determined under section 107.52 of the Revised Code, and the 6492
agency has not eliminated or reduced that impact as required under 6493
section 121.82 of the Revised Code. 6494

(4) If the joint committee does not take the action described 6495
in division (E)(3) of this section regarding a rule during the 6496
ninety-day period after the date the joint committee receives a 6497
notice under division (E)(2) of this section regarding that rule, 6498
the rule shall continue in effect without amendment and shall be 6499
next reviewed by the joint committee by the date designated by the 6500
agency in the notice provided to the joint committee under 6501
division (E)(2) of this section. 6502

(5) If the agency has determined that a rule reviewed under 6503
division (C) of this section needs to be amended or rescinded, the 6504
agency, on or before the rule's review date, shall file the rule 6505
as amended or rescinded in accordance with section 111.15, 119.03, 6506
or 4141.14 of the Revised Code, as applicable. 6507

(6) Each agency shall provide the joint committee with a copy 6508
of the rules that it has determined are rules described in 6509
division (A)(3)(b) of this section. At a time the joint committee 6510
designates, each agency shall appear before the joint committee 6511
and explain why it has determined that such rules are rules 6512

described in division (A)(3)(b) of this section. The joint 6513
committee, by a two-thirds vote of the members present, may 6514
determine that any of such rules are rules described in division 6515
(A)(3)(a) of this section. After the joint committee has made such 6516
a determination relating to a rule, the agency shall thereafter 6517
treat the rule as a rule described in division (A)(3)(a) of this 6518
section. 6519

(F) If an agency fails to provide the notice to the joint 6520
committee required under division (E)(2) of this section regarding 6521
a rule or otherwise fails by the rule's review date to take any 6522
action regarding the rule required by this section, the joint 6523
committee, by a majority vote of the members present, may 6524
recommend the adoption of a concurrent resolution invalidating the 6525
rule. The joint committee shall not recommend the adoption of such 6526
a resolution until it has afforded the agency the opportunity to 6527
appear before the joint committee to show cause why the joint 6528
committee should not recommend the adoption of such a resolution 6529
regarding that rule. 6530

(G) If the joint committee recommends adoption of a 6531
concurrent resolution invalidating a rule under division (E)(3) or 6532
(F) of this section, the adoption of the concurrent resolution 6533
shall be in the manner described in division (I) of section 119.03 6534
of the Revised Code. 6535

Sec. 120.40. (A) The pay ranges established by the board of 6536
county commissioners for the county public defender ~~and staff~~, and 6537
those established by the joint board of county commissioners for 6538
the joint county public defender ~~and staff~~, shall not exceed the 6539
pay ranges assigned under section ~~124.14~~ 325.11 of the Revised 6540
Code for ~~comparable positions of the Ohio public defender and~~ 6541
~~staff~~ county prosecutors. 6542

(B) The pay ranges established by the board of county 6543

commissioners for the staff of the county public defender and 6544
those established by the joint board of county commissioners for 6545
the staff of the joint county public defender shall not exceed the 6546
pay ranges assigned under section 124.14 of the Revised Code for 6547
comparable positions of the staff of the Ohio public defender. 6548

Sec. 121.03. The following administrative department heads 6549
shall be appointed by the governor, with the advice and consent of 6550
the senate, and shall hold their offices during the term of the 6551
appointing governor, and are subject to removal at the pleasure of 6552
the governor. 6553

- (A) The director of budget and management; 6554
- (B) The director of commerce; 6555
- (C) The director of transportation; 6556
- (D) The director of agriculture; 6557
- (E) The director of job and family services; 6558
- (F) Until July 1, 1997, the director of liquor control; 6559
- (G) The director of public safety; 6560
- (H) The superintendent of insurance; 6561
- (I) The director of development; 6562
- (J) The tax commissioner; 6563
- (K) The director of administrative services; 6564
- (L) The director of natural resources; 6565
- (M) The director of mental health; 6566
- (N) The director of developmental disabilities; 6567
- (O) The director of health; 6568
- (P) The director of youth services; 6569
- (Q) The director of rehabilitation and correction; 6570

(R) The director of environmental protection;	6571
(S) The director of aging;	6572
(T) The director of alcohol and drug addiction services;	6573
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	6574 6575 6576
(V) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;	6577 6578
<u>(W) The chancellor of the Ohio board of regents.</u>	6579
Sec. 121.04. Offices are created within the several departments as follows:	6580 6581
In the department of commerce:	6582
Commissioner of securities;	6583
Superintendent of real estate and professional licensing;	6584
Superintendent of financial institutions;	6585
State fire marshal;	6586
Superintendent of labor;	6587
Superintendent of liquor control;	6588
Superintendent of unclaimed funds.	6589
In the department of administrative services:	6590
State architect and engineer;	6591
Equal employment opportunity coordinator.	6592
In the department of agriculture:	6593
Chiefs of divisions as follows:	6594
Administration;	6595
Animal industry;	6596
Dairy;	6597
Food safety;	6598

Plant industry;	6599
Markets;	6600
Meat inspection;	6601
Consumer analytical laboratory;	6602
Amusement ride safety;	6603
Enforcement;	6604
Weights and measures.	6605
In the department of natural resources:	6606
Chiefs of divisions as follows:	6607
	6608
Mineral resources management;	6609
<u>Oil and gas resources management;</u>	6610
Forestry;	6611
Natural areas and preserves;	6612
Wildlife;	6613
Geological survey;	6614
Parks and recreation;	6615
Watercraft;	6616
Recycling and litter prevention;	6617
Soil and water resources;	6618
Engineering.	6619
In the department of insurance:	6620
Deputy superintendent of insurance;	6621
Assistant superintendent of insurance, technical;	6622
Assistant superintendent of insurance, administrative;	6623
Assistant superintendent of insurance, research.	6624
Sec. 121.22. (A) This section shall be liberally construed to	6625
require public officials to take official action and to conduct	6626
all deliberations upon official business only in open meetings	6627
unless the subject matter is specifically excepted by law.	6628
(B) As used in this section:	6629

- (1) "Public body" means any of the following: 6630
- (a) Any board, commission, committee, council, or similar 6631
decision-making body of a state agency, institution, or authority, 6632
and any legislative authority or board, commission, committee, 6633
council, agency, authority, or similar decision-making body of any 6634
county, township, municipal corporation, school district, or other 6635
political subdivision or local public institution; 6636
- (b) Any committee or subcommittee of a body described in 6637
division (B)(1)(a) of this section; 6638
- (c) A court of jurisdiction of a sanitary district organized 6639
wholly for the purpose of providing a water supply for domestic, 6640
municipal, and public use when meeting for the purpose of the 6641
appointment, removal, or reappointment of a member of the board of 6642
directors of such a district pursuant to section 6115.10 of the 6643
Revised Code, if applicable, or for any other matter related to 6644
such a district other than litigation involving the district. As 6645
used in division (B)(1)(c) of this section, "court of 6646
jurisdiction" has the same meaning as "court" in section 6115.01 6647
of the Revised Code. 6648
- (2) "Meeting" means any prearranged discussion of the public 6649
business of the public body by a majority of its members. 6650
- (3) "Regulated individual" means either of the following: 6651
- (a) A student in a state or local public educational 6652
institution; 6653
- (b) A person who is, voluntarily or involuntarily, an inmate, 6654
patient, or resident of a state or local institution because of 6655
criminal behavior, mental illness or retardation, disease, 6656
disability, age, or other condition requiring custodial care. 6657
- (4) "Public office" has the same meaning as in section 6658
149.011 of the Revised Code. 6659

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to

suspend a license without a prior hearing pursuant to division (D) 6690
of section 4729.16 of the Revised Code; 6691

(9) The state chiropractic board when determining whether to 6692
suspend a license without a hearing pursuant to section 4734.37 of 6693
the Revised Code; 6694

(10) The executive committee of the emergency response 6695
commission when determining whether to issue an enforcement order 6696
or request that a civil action, civil penalty action, or criminal 6697
action be brought to enforce Chapter 3750. of the Revised Code; 6698

(11) The board of directors of the nonprofit corporation 6699
formed under section 187.01 of the Revised Code or any committee 6700
thereof, and the board of directors of any subsidiary of that 6701
corporation or a committee thereof; 6702

(12) An audit conference conducted by the audit staff of the 6703
department of job and family services with officials of the public 6704
office that is the subject of that audit under section 5101.37 of 6705
the Revised Code. 6706

(E) The controlling board, the development financing advisory 6707
council, the industrial technology and enterprise advisory 6708
council, the tax credit authority, or the minority development 6709
financing advisory board, when meeting to consider granting 6710
assistance pursuant to Chapter 122. or 166. of the Revised Code, 6711
in order to protect the interest of the applicant or the possible 6712
investment of public funds, by unanimous vote of all board, 6713
council, or authority members present, may close the meeting 6714
during consideration of the following information confidentially 6715
received by the authority, council, or board from the applicant: 6716

(1) Marketing plans; 6717

(2) Specific business strategy; 6718

(3) Production techniques and trade secrets; 6719

(4) Financial projections; 6720

(5) Personal financial statements of the applicant or members 6721
of the applicant's immediate family, including, but not limited 6722
to, tax records or other similar information not open to public 6723
inspection. 6724

The vote by the authority, council, or board to accept or 6725
reject the application, as well as all proceedings of the 6726
authority, council, or board not subject to this division, shall 6727
be open to the public and governed by this section. 6728

(F) Every public body, by rule, shall establish a reasonable 6729
method whereby any person may determine the time and place of all 6730
regularly scheduled meetings and the time, place, and purpose of 6731
all special meetings. A public body shall not hold a special 6732
meeting unless it gives at least twenty-four hours' advance notice 6733
to the news media that have requested notification, except in the 6734
event of an emergency requiring immediate official action. In the 6735
event of an emergency, the member or members calling the meeting 6736
shall notify the news media that have requested notification 6737
immediately of the time, place, and purpose of the meeting. 6738

The rule shall provide that any person, upon request and 6739
payment of a reasonable fee, may obtain reasonable advance 6740
notification of all meetings at which any specific type of public 6741
business is to be discussed. Provisions for advance notification 6742
may include, but are not limited to, mailing the agenda of 6743
meetings to all subscribers on a mailing list or mailing notices 6744
in self-addressed, stamped envelopes provided by the person. 6745

(G) Except as provided in division (J) of this section, the 6746
members of a public body may hold an executive session only after 6747
a majority of a quorum of the public body determines, by a roll 6748
call vote, to hold an executive session and only at a regular or 6749
special meeting for the sole purpose of the consideration of any 6750

of the following matters: 6751

(1) To consider the appointment, employment, dismissal, 6752
discipline, promotion, demotion, or compensation of a public 6753
employee or official, or the investigation of charges or 6754
complaints against a public employee, official, licensee, or 6755
regulated individual, unless the public employee, official, 6756
licensee, or regulated individual requests a public hearing. 6757
Except as otherwise provided by law, no public body shall hold an 6758
executive session for the discipline of an elected official for 6759
conduct related to the performance of the elected official's 6760
official duties or for the elected official's removal from office. 6761
If a public body holds an executive session pursuant to division 6762
(G)(1) of this section, the motion and vote to hold that executive 6763
session shall state which one or more of the approved purposes 6764
listed in division (G)(1) of this section are the purposes for 6765
which the executive session is to be held, but need not include 6766
the name of any person to be considered at the meeting. 6767

(2) To consider the purchase of property for public purposes, 6768
or for the sale of property at competitive bidding, if premature 6769
disclosure of information would give an unfair competitive or 6770
bargaining advantage to a person whose personal, private interest 6771
is adverse to the general public interest. No member of a public 6772
body shall use division (G)(2) of this section as a subterfuge for 6773
providing covert information to prospective buyers or sellers. A 6774
purchase or sale of public property is void if the seller or buyer 6775
of the public property has received covert information from a 6776
member of a public body that has not been disclosed to the general 6777
public in sufficient time for other prospective buyers and sellers 6778
to prepare and submit offers. 6779

If the minutes of the public body show that all meetings and 6780
deliberations of the public body have been conducted in compliance 6781
with this section, any instrument executed by the public body 6782

purporting to convey, lease, or otherwise dispose of any right, 6783
title, or interest in any public property shall be conclusively 6784
presumed to have been executed in compliance with this section 6785
insofar as title or other interest of any bona fide purchasers, 6786
lessees, or transferees of the property is concerned. 6787

(3) Conferences with an attorney for the public body 6788
concerning disputes involving the public body that are the subject 6789
of pending or imminent court action; 6790

(4) Preparing for, conducting, or reviewing negotiations or 6791
bargaining sessions with public employees concerning their 6792
compensation or other terms and conditions of their employment; 6793

(5) Matters required to be kept confidential by federal law 6794
or regulations or state statutes; 6795

(6) Details relative to the security arrangements and 6796
emergency response protocols for a public body or a public office, 6797
if disclosure of the matters discussed could reasonably be 6798
expected to jeopardize the security of the public body or public 6799
office; 6800

(7) In the case of a county hospital operated pursuant to 6801
Chapter 339. of the Revised Code, a joint township hospital 6802
operated pursuant to Chapter 513. of the Revised Code, or a 6803
municipal hospital operated pursuant to Chapter 749. of the 6804
Revised Code, to consider trade secrets, as defined in section 6805
1333.61 of the Revised Code. 6806

If a public body holds an executive session to consider any 6807
of the matters listed in divisions (G)(2) to (7) of this section, 6808
the motion and vote to hold that executive session shall state 6809
which one or more of the approved matters listed in those 6810
divisions are to be considered at the executive session. 6811

A public body specified in division (B)(1)(c) of this section 6812
shall not hold an executive session when meeting for the purposes 6813

specified in that division. 6814

(H) A resolution, rule, or formal action of any kind is 6815
invalid unless adopted in an open meeting of the public body. A 6816
resolution, rule, or formal action adopted in an open meeting that 6817
results from deliberations in a meeting not open to the public is 6818
invalid unless the deliberations were for a purpose specifically 6819
authorized in division (G) or (J) of this section and conducted at 6820
an executive session held in compliance with this section. A 6821
resolution, rule, or formal action adopted in an open meeting is 6822
invalid if the public body that adopted the resolution, rule, or 6823
formal action violated division (F) of this section. 6824

(I)(1) Any person may bring an action to enforce this 6825
section. An action under division (I)(1) of this section shall be 6826
brought within two years after the date of the alleged violation 6827
or threatened violation. Upon proof of a violation or threatened 6828
violation of this section in an action brought by any person, the 6829
court of common pleas shall issue an injunction to compel the 6830
members of the public body to comply with its provisions. 6831

(2)(a) If the court of common pleas issues an injunction 6832
pursuant to division (I)(1) of this section, the court shall order 6833
the public body that it enjoins to pay a civil forfeiture of five 6834
hundred dollars to the party that sought the injunction and shall 6835
award to that party all court costs and, subject to reduction as 6836
described in division (I)(2) of this section, reasonable 6837
attorney's fees. The court, in its discretion, may reduce an award 6838
of attorney's fees to the party that sought the injunction or not 6839
award attorney's fees to that party if the court determines both 6840
of the following: 6841

(i) That, based on the ordinary application of statutory law 6842
and case law as it existed at the time of violation or threatened 6843
violation that was the basis of the injunction, a well-informed 6844
public body reasonably would believe that the public body was not 6845

violating or threatening to violate this section; 6846

(ii) That a well-informed public body reasonably would 6847
believe that the conduct or threatened conduct that was the basis 6848
of the injunction would serve the public policy that underlies the 6849
authority that is asserted as permitting that conduct or 6850
threatened conduct. 6851

(b) If the court of common pleas does not issue an injunction 6852
pursuant to division (I)(1) of this section and the court 6853
determines at that time that the bringing of the action was 6854
frivolous conduct, as defined in division (A) of section 2323.51 6855
of the Revised Code, the court shall award to the public body all 6856
court costs and reasonable attorney's fees, as determined by the 6857
court. 6858

(3) Irreparable harm and prejudice to the party that sought 6859
the injunction shall be conclusively and irrebuttably presumed 6860
upon proof of a violation or threatened violation of this section. 6861

(4) A member of a public body who knowingly violates an 6862
injunction issued pursuant to division (I)(1) of this section may 6863
be removed from office by an action brought in the court of common 6864
pleas for that purpose by the prosecuting attorney or the attorney 6865
general. 6866

(J)(1) Pursuant to division (C) of section 5901.09 of the 6867
Revised Code, a veterans service commission shall hold an 6868
executive session for one or more of the following purposes unless 6869
an applicant requests a public hearing: 6870

(a) Interviewing an applicant for financial assistance under 6871
sections 5901.01 to 5901.15 of the Revised Code; 6872

(b) Discussing applications, statements, and other documents 6873
described in division (B) of section 5901.09 of the Revised Code; 6874

(c) Reviewing matters relating to an applicant's request for 6875

financial assistance under sections 5901.01 to 5901.15 of the 6876
Revised Code. 6877

(2) A veterans service commission shall not exclude an 6878
applicant for, recipient of, or former recipient of financial 6879
assistance under sections 5901.01 to 5901.15 of the Revised Code, 6880
and shall not exclude representatives selected by the applicant, 6881
recipient, or former recipient, from a meeting that the commission 6882
conducts as an executive session that pertains to the applicant's, 6883
recipient's, or former recipient's application for financial 6884
assistance. 6885

(3) A veterans service commission shall vote on the grant or 6886
denial of financial assistance under sections 5901.01 to 5901.15 6887
of the Revised Code only in an open meeting of the commission. The 6888
minutes of the meeting shall indicate the name, address, and 6889
occupation of the applicant, whether the assistance was granted or 6890
denied, the amount of the assistance if assistance is granted, and 6891
the votes for and against the granting of assistance. 6892

Sec. 121.37. (A)(1) There is hereby created the Ohio family 6893
and children first cabinet council. The council shall be composed 6894
of the superintendent of public instruction, the administrator of 6895
the rehabilitation services commission, and the directors of youth 6896
services, job and family services, mental health, health, alcohol 6897
and drug addiction services, developmental disabilities, aging, 6898
rehabilitation and correction, and budget and management. The 6899
chairperson of the council shall be the governor or the governor's 6900
designee and shall establish procedures for the council's internal 6901
control and management. 6902

The purpose of the cabinet council is to help families 6903
seeking government services. This section shall not be interpreted 6904
or applied to usurp the role of parents, but solely to streamline 6905
and coordinate existing government services for families seeking 6906

assistance for their children. 6907

(2) In seeking to fulfill its purpose, the council may do any 6908
of the following: 6909

(a) Advise and make recommendations to the governor and 6910
general assembly regarding the provision of services to children; 6911

(b) Advise and assess local governments on the coordination 6912
of service delivery to children; 6913

(c) Hold meetings at such times and places as may be 6914
prescribed by the council's procedures and maintain records of the 6915
meetings, except that records identifying individual children are 6916
confidential and shall be disclosed only as provided by law; 6917

(d) Develop programs and projects, including pilot projects, 6918
to encourage coordinated efforts at the state and local level to 6919
improve the state's social service delivery system; 6920

(e) Enter into contracts with and administer grants to county 6921
family and children first councils, as well as other county or 6922
multicounty organizations to plan and coordinate service delivery 6923
between state agencies and local service providers for families 6924
and children; 6925

(f) Enter into contracts with and apply for grants from 6926
federal agencies or private organizations; 6927

(g) Enter into interagency agreements to encourage 6928
coordinated efforts at the state and local level to improve the 6929
state's social service delivery system. The agreements may include 6930
provisions regarding the receipt, transfer, and expenditure of 6931
funds; 6932

(h) Identify public and private funding sources for services 6933
provided to alleged or adjudicated unruly children and children 6934
who are at risk of being alleged or adjudicated unruly children, 6935
including regulations governing access to and use of the services; 6936

(i) Collect information provided by local communities 6937
regarding successful programs for prevention, intervention, and 6938
treatment of unruly behavior, including evaluations of the 6939
programs; 6940

(j) Identify and disseminate publications regarding alleged 6941
or adjudicated unruly children and children who are at risk of 6942
being alleged or adjudicated unruly children and regarding 6943
programs serving those types of children; 6944

(k) Maintain an inventory of strategic planning facilitators 6945
for use by government or nonprofit entities that serve alleged or 6946
adjudicated unruly children or children who are at risk of being 6947
alleged or adjudicated unruly children. 6948

(3) The cabinet council shall provide for the following: 6949

(a) Reviews of service and treatment plans for children for 6950
which such reviews are requested; 6951

(b) Assistance as the council determines to be necessary to 6952
meet the needs of children referred by county family and children 6953
first councils; 6954

(c) Monitoring and supervision of a statewide, comprehensive, 6955
coordinated, multi-disciplinary, interagency system for infants 6956
and toddlers with developmental disabilities or delays and their 6957
families, as established pursuant to federal grants received and 6958
administered by the department of health for early intervention 6959
services under the "Individuals with Disabilities Education Act of 6960
2004," 20 U.S.C.A. 1400, as amended. 6961

(4) The cabinet council shall develop and implement the 6962
following: 6963

(a) An interagency process to select the indicators that will 6964
be used to measure progress toward increasing child well-being in 6965
the state and to update the indicators on an annual basis. The 6966

indicators shall focus on expectant parents and newborns thriving; 6967
infants and toddlers thriving; children being ready for school; 6968
children and youth succeeding in school; youth choosing healthy 6969
behaviors; and youth successfully transitioning into adulthood. 6970

(b) An interagency system to offer guidance and monitor 6971
progress toward increasing child well-being in the state and in 6972
each county; 6973

(c) An annual plan that identifies state-level agency efforts 6974
taken to ensure progress towards increasing child well-being in 6975
the state. 6976

On an annual basis, the cabinet council shall submit to the 6977
governor and the general assembly a report on the status of 6978
efforts to increase child well-being in the state. This report 6979
shall be made available to any other person on request. 6980

(B)(1) Each board of county commissioners shall establish a 6981
county family and children first council. The board may invite any 6982
local public or private agency or group that funds, advocates, or 6983
provides services to children and families to have a 6984
representative become a permanent or temporary member of its 6985
county council. Each county council must include the following 6986
individuals: 6987

(a) At least three individuals who are not employed by an 6988
agency represented on the council and whose families are or have 6989
received services from an agency represented on the council or 6990
another county's council. Where possible, the number of members 6991
representing families shall be equal to twenty per cent of the 6992
council's membership. 6993

(b) The director of the board of alcohol, drug addiction, and 6994
mental health services that serves the county, or, in the case of 6995
a county that has a board of alcohol and drug addiction services 6996
and a community mental health board, the directors of both boards. 6997

If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.	6998 6999 7000
(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.	7001 7002 7003 7004 7005
(d) The director of the county department of job and family services;	7006 7007
(e) The executive director of the public children services agency;	7008 7009
(f) The superintendent of the county board of developmental disabilities;	7010 7011
(g) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each board of county commissioners of its determination at least biennially;	7012 7013 7014 7015 7016
(h) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;	7017 7018 7019
(i) A representative of the municipal corporation with the largest population in the county;	7020 7021
(j) The president of the board of county commissioners or an individual designated by the board;	7022 7023
(k) A representative of the regional office of the department of youth services;	7024 7025
(l) A representative of the county's head start agencies, as defined in section 3301.32 of the Revised Code;	7026 7027

(m) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Individuals with Disabilities Education Act of 2004";

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

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

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

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

(2) The purpose of the county council is to streamline and 7059
coordinate existing government services for families seeking 7060
services for their children. In seeking to fulfill its purpose, a 7061
county council shall provide for the following: 7062

(a) Referrals to the cabinet council of those children for 7063
whom the county council cannot provide adequate services; 7064

(b) Development and implementation of a process that annually 7065
evaluates and prioritizes services, fills service gaps where 7066
possible, and invents new approaches to achieve better results for 7067
families and children; 7068

(c) Participation in the development of a countywide, 7069
comprehensive, coordinated, multi-disciplinary, interagency system 7070
for infants and toddlers with developmental disabilities or delays 7071
and their families, as established pursuant to federal grants 7072
received and administered by the department of health for early 7073
intervention services under the "Individuals with Disabilities 7074
Education Act of 2004"; 7075

(d) Maintenance of an accountability system to monitor the 7076
county council's progress in achieving results for families and 7077
children; 7078

(e) Establishment of a mechanism to ensure ongoing input from 7079
a broad representation of families who are receiving services 7080
within the county system. 7081

(3) A county council shall develop and implement the 7082
following: 7083

(a) An interagency process to establish local indicators and 7084
monitor the county's progress toward increasing child well-being 7085
in the county; 7086

(b) An interagency process to identify local priorities to 7087
increase child well-being. The local priorities shall focus on 7088

expectant parents and newborns thriving; infants and toddlers 7089
thriving; children being ready for school; children and youth 7090
succeeding in school; youth choosing healthy behaviors; and youth 7091
successfully transitioning into adulthood and take into account 7092
the indicators established by the cabinet council under division 7093
(A)(4)(a) of this section. 7094

(c) An annual plan that identifies the county's interagency 7095
efforts to increase child well-being in the county. 7096

On an annual basis, the county council shall submit a report 7097
on the status of efforts by the county to increase child 7098
well-being in the county to the county's board of county 7099
commissioners and the cabinet council. This report shall be made 7100
available to any other person on request. 7101

(4)(a) Except as provided in division (B)(4)(b) of this 7102
section, a county council shall comply with the policies, 7103
procedures, and activities prescribed by the rules or interagency 7104
agreements of a state department participating on the cabinet 7105
council whenever the county council performs a function subject to 7106
those rules or agreements. 7107

(b) On application of a county council, the cabinet council 7108
may grant an exemption from any rules or interagency agreements of 7109
a state department participating on the council if an exemption is 7110
necessary for the council to implement an alternative program or 7111
approach for service delivery to families and children. The 7112
application shall describe the proposed program or approach and 7113
specify the rules or interagency agreements from which an 7114
exemption is necessary. The cabinet council shall approve or 7115
disapprove the application in accordance with standards and 7116
procedures it shall adopt. If an application is approved, the 7117
exemption is effective only while the program or approach is being 7118
implemented, including a reasonable period during which the 7119
program or approach is being evaluated for effectiveness. 7120

(5)(a) Each county council shall designate an administrative 7121
agent for the council from among the following public entities: 7122
the board of alcohol, drug addiction, and mental health services, 7123
including a board of alcohol and drug addiction or a community 7124
mental health board if the county is served by separate boards; 7125
the board of county commissioners; any board of health of the 7126
county's city and general health districts; the county department 7127
of job and family services; the county agency responsible for the 7128
administration of children services pursuant to section 5153.15 of 7129
the Revised Code; the county board of developmental disabilities; 7130
any of the county's boards of education or governing boards of 7131
educational service centers; or the county's juvenile court. Any 7132
of the foregoing public entities, other than the board of county 7133
commissioners, may decline to serve as the council's 7134
administrative agent. 7135

A county council's administrative agent shall serve as the 7136
council's appointing authority for any employees of the council. 7137
The council shall file an annual budget with its administrative 7138
agent, with copies filed with the county auditor and with the 7139
board of county commissioners, unless the board is serving as the 7140
council's administrative agent. The council's administrative agent 7141
shall ensure that all expenditures are handled in accordance with 7142
policies, procedures, and activities prescribed by state 7143
departments in rules or interagency agreements that are applicable 7144
to the council's functions. 7145

The administrative agent of a county council shall send 7146
notice of a member's absence if a member listed in division (B)(1) 7147
of this section has been absent from either three consecutive 7148
meetings of the county council or a county council subcommittee, 7149
or from one-quarter of such meetings in a calendar year, whichever 7150
is less. The notice shall be sent to the board of county 7151
commissioners that establishes the county council and, for the 7152

members listed in divisions (B)(1)(b), (c), (e), and (l) of this 7153
section, to the governing board overseeing the respective entity; 7154
for the member listed in division (B)(1)(f) of this section, to 7155
the county board of developmental disabilities that employs the 7156
superintendent; for a member listed in division (B)(1)(g) or (h) 7157
of this section, to the school board that employs the 7158
superintendent; for the member listed in division (B)(1)(i) of 7159
this section, to the mayor of the municipal corporation; for the 7160
member listed in division (B)(1)(k) of this section, to the 7161
director of youth services; and for the member listed in division 7162
(B)(1)(n) of this section, to that member's board of trustees. 7163

The administrative agent for a county council may do any of 7164
the following on behalf of the council: 7165

(i) Enter into agreements or administer contracts with public 7166
or private entities to fulfill specific council business. Such 7167
agreements and contracts are exempt from the competitive bidding 7168
requirements of section 307.86 of the Revised Code if they have 7169
been approved by the county council and they are for the purchase 7170
of family and child welfare or child protection services or other 7171
social or job and family services for families and children. The 7172
approval of the county council is not required to exempt 7173
agreements or contracts entered into under section 5139.34, 7174
5139.41, or 5139.43 of the Revised Code from the competitive 7175
bidding requirements of section 307.86 of the Revised Code. 7176

(ii) As determined by the council, provide financial 7177
stipends, reimbursements, or both, to family representatives for 7178
expenses related to council activity; 7179

(iii) Receive by gift, grant, devise, or bequest any moneys, 7180
lands, or other property for the purposes for which the council is 7181
established. The agent shall hold, apply, and dispose of the 7182
moneys, lands, or other property according to the terms of the 7183
gift, grant, devise, or bequest. Any interest or earnings shall be 7184

treated in the same manner and are subject to the same terms as 7185
the gift, grant, devise, or bequest from which it accrues. 7186

(b)(i) If the county council designates the board of county 7187
commissioners as its administrative agent, the board may, by 7188
resolution, delegate any of its powers and duties as 7189
administrative agent to an executive committee the board 7190
establishes from the membership of the county council. The board 7191
shall name to the executive committee at least the individuals 7192
described in divisions (B)(1)(b) to (h) of this section and may 7193
appoint the president of the board or another individual as the 7194
chair of the executive committee. The executive committee must 7195
include at least one family county council representative who does 7196
not have a family member employed by an agency represented on the 7197
council. 7198

(ii) The executive committee may, with the approval of the 7199
board, hire an executive director to assist the county council in 7200
administering its powers and duties. The executive director shall 7201
serve in the unclassified civil service at the pleasure of the 7202
executive committee. The executive director may, with the approval 7203
of the executive committee, hire other employees as necessary to 7204
properly conduct the county council's business. 7205

(iii) The board may require the executive committee to submit 7206
an annual budget to the board for approval and may amend or repeal 7207
the resolution that delegated to the executive committee its 7208
authority as the county council's administrative agent. 7209

(6) Two or more county councils may enter into an agreement 7210
to administer their county councils jointly by creating a regional 7211
family and children first council. A regional council possesses 7212
the same duties and authority possessed by a county council, 7213
except that the duties and authority apply regionally rather than 7214
to individual counties. Prior to entering into an agreement to 7215
create a regional council, the members of each county council to 7216

be part of the regional council shall meet to determine whether 7217
all or part of the members of each county council will serve as 7218
members of the regional council. 7219

(7) A board of county commissioners may approve a resolution 7220
by a majority vote of the board's members that requires the county 7221
council to submit a statement to the board each time the council 7222
proposes to enter into an agreement, adopt a plan, or make a 7223
decision, other than a decision pursuant to section 121.38 of the 7224
Revised Code, that requires the expenditure of funds for two or 7225
more families. The statement shall describe the proposed 7226
agreement, plan, or decision. 7227

Not later than fifteen days after the board receives the 7228
statement, it shall, by resolution approved by a majority of its 7229
members, approve or disapprove the agreement, plan, or decision. 7230
Failure of the board to pass a resolution during that time period 7231
shall be considered approval of the agreement, plan, or decision. 7232

An agreement, plan, or decision for which a statement is 7233
required to be submitted to the board shall be implemented only if 7234
it is approved by the board. 7235

(C) Each county shall develop a county service coordination 7236
mechanism. The county service coordination mechanism shall serve 7237
as the guiding document for coordination of services in the 7238
county. For children who also receive services under the help me 7239
grow program, the service coordination mechanism shall be 7240
consistent with rules adopted by the department of health under 7241
section 3701.61 of the Revised Code. All family service 7242
coordination plans shall be developed in accordance with the 7243
county service coordination mechanism. The mechanism shall be 7244
developed and approved with the participation of the county 7245
entities representing child welfare; mental retardation and 7246
developmental disabilities; alcohol, drug addiction, and mental 7247
health services; health; juvenile judges; education; the county 7248

family and children first council; and the county early 7249
intervention collaborative established pursuant to the federal 7250
early intervention program operated under the "Individuals with 7251
Disabilities Education Act of 2004." The county shall establish an 7252
implementation schedule for the mechanism. The cabinet council may 7253
monitor the implementation and administration of each county's 7254
service coordination mechanism. 7255

Each mechanism shall include all of the following: 7256

(1) A procedure for an agency, including a juvenile court, or 7257
a family voluntarily seeking service coordination, to refer the 7258
child and family to the county council for service coordination in 7259
accordance with the mechanism; 7260

(2) A procedure ensuring that a family and all appropriate 7261
staff from involved agencies, including a representative from the 7262
appropriate school district, are notified of and invited to 7263
participate in all family service coordination plan meetings; 7264

(3) A procedure that permits a family to initiate a meeting 7265
to develop or review the family's service coordination plan and 7266
allows the family to invite a family advocate, mentor, or support 7267
person of the family's choice to participate in any such meeting; 7268

(4) A procedure for ensuring that a family service 7269
coordination plan meeting is conducted for each child who receives 7270
service coordination under the mechanism and for whom an emergency 7271
out-of-home placement has been made or for whom a nonemergency 7272
out-of-home placement is being considered. The meeting shall be 7273
conducted within ten days of an emergency out-of-home placement. 7274
The meeting shall be conducted before a nonemergency out-of-home 7275
placement. The family service coordination plan shall outline how 7276
the county council members will jointly pay for services, where 7277
applicable, and provide services in the least restrictive 7278
environment. 7279

(5) A procedure for monitoring the progress and tracking the 7280
outcomes of each service coordination plan requested in the county 7281
including monitoring and tracking children in out-of-home 7282
placements to assure continued progress, appropriateness of 7283
placement, and continuity of care after discharge from placement 7284
with appropriate arrangements for housing, treatment, and 7285
education. 7286

(6) A procedure for protecting the confidentiality of all 7287
personal family information disclosed during service coordination 7288
meetings or contained in the comprehensive family service 7289
coordination plan. 7290

(7) A procedure for assessing the needs and strengths of any 7291
child or family that has been referred to the council for service 7292
coordination, including a child whose parent or custodian is 7293
voluntarily seeking services, and for ensuring that parents and 7294
custodians are afforded the opportunity to participate; 7295

(8) A procedure for development of a family service 7296
coordination plan described in division (D) of this section; 7297

(9) A local dispute resolution process to serve as the 7298
process that must be used first to resolve disputes among the 7299
agencies represented on the county council concerning the 7300
provision of services to children, including children who are 7301
abused, neglected, dependent, unruly, alleged unruly, or 7302
delinquent children and under the jurisdiction of the juvenile 7303
court and children whose parents or custodians are voluntarily 7304
seeking services. The local dispute resolution process shall 7305
comply with sections 121.38, 121.381, and 121.382 of the Revised 7306
Code. The local dispute resolution process shall be used to 7307
resolve disputes between a child's parents or custodians and the 7308
county council regarding service coordination. The county council 7309
shall inform the parents or custodians of their right to use the 7310
dispute resolution process. Parents or custodians shall use 7311

existing local agency grievance procedures to address disputes not 7312
involving service coordination. The dispute resolution process is 7313
in addition to and does not replace other rights or procedures 7314
that parents or custodians may have under other sections of the 7315
Revised Code. 7316

The cabinet council shall adopt rules in accordance with 7317
Chapter 119. of the Revised Code establishing an administrative 7318
review process to address problems that arise concerning the 7319
operation of a local dispute resolution process. 7320

Nothing in division (C)(4) of this section shall be 7321
interpreted as overriding or affecting decisions of a juvenile 7322
court regarding an out-of-home placement, long-term placement, or 7323
emergency out-of-home placement. 7324

(D) Each county shall develop a family service coordination 7325
plan that does all of the following: 7326

(1) Designates service responsibilities among the various 7327
state and local agencies that provide services to children and 7328
their families, including children who are abused, neglected, 7329
dependent, unruly, or delinquent children and under the 7330
jurisdiction of the juvenile court and children whose parents or 7331
custodians are voluntarily seeking services; 7332

(2) Designates an individual, approved by the family, to 7333
track the progress of the family service coordination plan, 7334
schedule reviews as necessary, and facilitate the family service 7335
coordination plan meeting process; 7336

(3) Ensures that assistance and services to be provided are 7337
responsive to the strengths and needs of the family, as well as 7338
the family's culture, race, and ethnic group, by allowing the 7339
family to offer information and suggestions and participate in 7340
decisions. Identified assistance and services shall be provided in 7341
the least restrictive environment possible. 7342

(4) Includes a process for dealing with a child who is	7343
alleged to be an unruly child. The process shall include methods	7344
to divert the child from the juvenile court system;	7345
(5) Includes timelines for completion of goals specified in	7346
the plan with regular reviews scheduled to monitor progress toward	7347
those goals;	7348
(6) Includes a plan for dealing with short-term crisis	7349
situations and safety concerns.	7350
(E)(1) The process provided for under division (D)(4) of this	7351
section may include, but is not limited to, the following:	7352
(a) Designation of the person or agency to conduct the	7353
assessment of the child and the child's family as described in	7354
division (C)(7) of this section and designation of the instrument	7355
or instruments to be used to conduct the assessment;	7356
(b) An emphasis on the personal responsibilities of the child	7357
and the parental responsibilities of the parents, guardian, or	7358
custodian of the child;	7359
(c) Involvement of local law enforcement agencies and	7360
officials.	7361
(2) The method to divert a child from the juvenile court	7362
system that must be included in the service coordination process	7363
may include, but is not limited to, the following:	7364
(a) The preparation of a complaint under section 2151.27 of	7365
the Revised Code alleging that the child is an unruly child and	7366
notifying the child and the parents, guardian, or custodian that	7367
the complaint has been prepared to encourage the child and the	7368
parents, guardian, or custodian to comply with other methods to	7369
divert the child from the juvenile court system;	7370
(b) Conducting a meeting with the child, the parents,	7371
guardian, or custodian, and other interested parties to determine	7372

the appropriate methods to divert the child from the juvenile court system; 7373
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(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian; 7375
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(d) A program to provide a mentor to the child or the parents, guardian, or custodian; 7379
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(e) A program to provide parenting education to the parents, guardian, or custodian; 7381
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(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school; 7383
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(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council. 7386
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(F) Each county may review and revise the service coordination process described in division (D) of this section based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds. 7390
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Sec. 121.40. (A) There is hereby created the Ohio ~~community~~ commission on service council and volunteerism consisting of twenty-one voting members including the superintendent of public instruction or the superintendent's designee, the chancellor of the Ohio board of regents or the chancellor's designee, the director of youth services or the director's designee, the director of aging or the director's designee, the chairperson of 7396
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the committee of the house of representatives dealing with 7403
education or the chairperson's designee, the chairperson of the 7404
committee of the senate dealing with education or the 7405
chairperson's designee, and fifteen members who shall be appointed 7406
by the governor with the advice and consent of the senate and who 7407
shall serve terms of office of three years. The appointees shall 7408
include educators, including teachers and administrators; 7409
representatives of youth organizations; students and parents; 7410
representatives of organizations engaged in volunteer program 7411
development and management throughout the state, including youth 7412
and conservation programs; and representatives of business, 7413
government, nonprofit organizations, social service agencies, 7414
veterans organizations, religious organizations, or philanthropies 7415
that support or encourage volunteerism within the state. The 7416
director of the governor's office of faith-based and community 7417
initiatives shall serve as a nonvoting ex officio member of the 7418
~~council~~ commission. Members of the ~~council~~ commission shall 7419
receive no compensation, but shall be reimbursed for actual and 7420
necessary expenses incurred in the performance of their official 7421
duties. 7422

(B) The ~~council~~ commission shall appoint an executive 7423
director for the ~~council~~ commission, who shall be in the 7424
unclassified civil service. The governor shall be informed of the 7425
appointment of an executive director before such an appointment is 7426
made. The executive director shall supervise the ~~council's~~ 7427
commission's activities and report to the ~~council~~ commission on 7428
the progress of those activities. The executive director shall do 7429
all things necessary for the efficient and effective 7430
implementation of the duties of the ~~council~~ commission. 7431

The responsibilities assigned to the executive director do 7432
not relieve the members of the ~~council~~ commission from final 7433
responsibility for the proper performance of the requirements of 7434

this section. 7435

(C) The ~~council~~ commission or its designee shall do all of 7436
the following: 7437

(1) Employ, promote, supervise, and remove all employees as 7438
needed in connection with the performance of its duties under this 7439
section and may assign duties to those employees as necessary to 7440
achieve the most efficient performance of its functions, and to 7441
that end may establish, change, or abolish positions, and assign 7442
and reassign duties and responsibilities of any employee of the 7443
~~council~~ commission. Personnel employed by the ~~council~~ commission 7444
who are subject to Chapter 4117. of the Revised Code shall retain 7445
all of their rights and benefits conferred pursuant to that 7446
chapter. Nothing in this chapter shall be construed as eliminating 7447
or interfering with Chapter 4117. of the Revised Code or the 7448
rights and benefits conferred under that chapter to public 7449
employees or to any bargaining unit. 7450

(2) Maintain its office in Columbus, and may hold sessions at 7451
any place within the state; 7452

(3) Acquire facilities, equipment, and supplies necessary to 7453
house the ~~council~~ commission, its employees, and files and records 7454
under its control, and to discharge any duty imposed upon it by 7455
law. The expense of these acquisitions shall be audited and paid 7456
for in the same manner as other state expenses. For that purpose, 7457
the ~~council~~ commission shall prepare and submit to the office of 7458
budget and management a budget for each biennium according to 7459
sections 101.532 and 107.03 of the Revised Code. The budget 7460
submitted shall cover the costs of the ~~council~~ commission and its 7461
staff in the discharge of any duty imposed upon the ~~council~~ 7462
commission by law. The ~~council~~ commission shall not delegate any 7463
authority to obligate funds. 7464

(4) Pay its own payroll and other operating expenses from 7465

line items designated by the general assembly; 7466

(5) Retain its fiduciary responsibility as appointing 7467
authority. Any transaction instructions shall be certified by the 7468
appointing authority or its designee. 7469

(6) Establish the overall policy and management of the 7470
~~council~~ commission in accordance with this chapter; 7471

(7) Assist in coordinating and preparing the state 7472
application for funds under sections 101 to 184 of the "National 7473
and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 7474
U.S.C.A. 12411 to 12544, as amended, assist in administering and 7475
overseeing the "National and Community Service Trust Act of 1993," 7476
P.L. 103-82, 107 Stat. 785, and the americorps program in this 7477
state, and assist in developing objectives for a comprehensive 7478
strategy to encourage and expand community service programs 7479
throughout the state; 7480

(8) Assist the state board of education, school districts, 7481
the chancellor of the board of regents, and institutions of higher 7482
education in coordinating community service education programs 7483
through cooperative efforts between institutions and organizations 7484
in the public and private sectors; 7485

(9) Assist the departments of natural resources, youth 7486
services, aging, and job and family services in coordinating 7487
community service programs through cooperative efforts between 7488
institutions and organizations in the public and private sectors; 7489

(10) Suggest individuals and organizations that are available 7490
to assist school districts, institutions of higher education, and 7491
the departments of natural resources, youth services, aging, and 7492
job and family services in the establishment of community service 7493
programs and assist in investigating sources of funding for 7494
implementing these programs; 7495

(11) Assist in evaluating the state's efforts in providing 7496

community service programs using standards and methods that are 7497
consistent with any statewide objectives for these programs and 7498
provide information to the state board of education, school 7499
districts, the chancellor of the board of regents, institutions of 7500
higher education, and the departments of natural resources, youth 7501
services, aging, and job and family services to guide them in 7502
making decisions about these programs; 7503

(12) Assist the state board of education in complying with 7504
section 3301.70 of the Revised Code and the chancellor of the 7505
board of regents in complying with division (B)(2) of section 7506
3333.043 of the Revised Code; 7507

(13) Advise, assist, consult with, and cooperate with, by 7508
contract or otherwise, agencies and political subdivisions of this 7509
state in establishing a statewide system for volunteers pursuant 7510
to section 121.404 of the Revised Code. 7511

(D) The ~~council~~ commission shall in writing enter into an 7512
agreement with another state agency to serve as the ~~council's~~ 7513
commission's fiscal agent. Before entering into such an agreement, 7514
the ~~council~~ commission shall inform the governor of the terms of 7515
the agreement and of the state agency designated to serve as the 7516
~~council's~~ commission's fiscal agent. The fiscal agent shall be 7517
responsible for all the ~~council's~~ commission's fiscal matters and 7518
financial transactions, as specified in the agreement. Services to 7519
be provided by the fiscal agent include, but are not limited to, 7520
the following: 7521

(1) Preparing and processing payroll and other personnel 7522
documents that the ~~council~~ commission executes as the appointing 7523
authority; 7524

(2) Maintaining ledgers of accounts and reports of account 7525
balances, and monitoring budgets and allotment plans in 7526
consultation with the ~~council~~ commission; and 7527

(3) Performing other routine support services that the fiscal agent considers appropriate to achieve efficiency. 7528
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(E)(1) The ~~council~~ commission, in conjunction and consultation with the fiscal agent, has the following authority and responsibility relative to fiscal matters: 7530
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(a) Sole authority to draw funds for any and all federal programs in which the ~~council~~ commission is authorized to participate; 7533
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(b) Sole authority to expend funds from their accounts for programs and any other necessary expenses the ~~council~~ commission may incur and its subgrantees may incur; and 7536
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(c) Responsibility to cooperate with and inform the fiscal agent fully of all financial transactions. 7539
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(2) The ~~council~~ commission shall follow all state procurement, fiscal, human resources, statutory, and administrative rule requirements. 7541
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(3) The fiscal agent shall determine fees to be charged to the ~~council~~ commission, which shall be in proportion to the services performed for the ~~council~~ commission. 7544
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(4) The ~~council~~ commission shall pay fees owed to the fiscal agent from a general revenue fund of the ~~council~~ commission or from any other fund from which the operating expenses of the ~~council~~ commission are paid. Any amounts set aside for a fiscal year for the payment of these fees shall be used only for the services performed for the ~~council~~ commission by the fiscal agent in that fiscal year. 7547
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(F) The ~~council~~ commission may accept and administer grants from any source, public or private, to carry out any of the ~~council's~~ commission's functions this section establishes. 7554
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Sec. 121.401. (A) As used in this section and section 121.402 7557

of the Revised Code, "organization or entity" and "unsupervised
access to a child" have the same meanings as in section 109.574 of
the Revised Code.

(B) The Ohio ~~community~~ commission on service council and
volunteerism shall adopt a set of "recommended best practices" for
organizations or entities to follow when one or more volunteers of
the organization or entity have unsupervised access to one or more
children or otherwise interact with one or more children. The
"recommended best practices" shall focus on, but shall not be
limited to, the issue of the safety of the children and, in
addition, the screening and supervision of volunteers. The
"recommended best practices" shall include as a recommended best
practice that the organization or entity subject to a criminal
records check performed by the bureau of criminal identification
and investigation pursuant to section 109.57, section 109.572, or
rules adopted under division (E) of section 109.57 of the Revised
Code, all of the following:

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

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

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

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

(1) Makes available to parents and guardians of children 7589
notice about the provisions of sections 109.574 to 109.577, 7590
section 121.401, and section 121.402 of the Revised Code and 7591
information about how to keep children safe when they are under 7592
the care, custody, or control of a person other than the parent or 7593
guardian; 7594

(2) Makes available to organizations and entities information 7595
regarding the best methods of screening and supervising 7596
volunteers, how to obtain a criminal records check of a volunteer, 7597
confidentiality issues relating to reports of criminal records 7598
checks, and record keeping regarding the reports; 7599

(3) Makes available to volunteers information regarding the 7600
possibility of being subjected to a criminal records check and 7601
displaying appropriate behavior to minors; 7602

(4) Makes available to children advice on personal safety and 7603
information on what action to take if someone takes inappropriate 7604
action towards a child. 7605

(B) The program shall begin making the materials described in 7606
this section available not later than March 22, 2002. 7607

Sec. 121.403. (A) The Ohio ~~community~~ commission on service 7608
~~council and volunteerism~~ may do any of the following: 7609

(1) Accept monetary gifts or donations; 7610

(2) Sponsor conferences, meetings, or events in furtherance 7611
of the ~~council's~~ commission's purpose described in section 121.40 7612
of the Revised Code and charge fees for participation or 7613
involvement in the conferences, meetings, or events; 7614

(3) Sell promotional items in furtherance of the ~~council's~~ 7615
commission's purpose described in section 121.40 of the Revised 7616
Code. 7617

(B) All monetary gifts and donations, funds from the sale of 7618

promotional items, contributions received from the issuance of 7619
Ohio "volunteer" license plates pursuant to section 4503.93 of the 7620
Revised Code, and any fees paid to the ~~council~~ commission for 7621
conferences, meetings, or events sponsored by the ~~council~~ 7622
commission shall be deposited into the Ohio ~~community~~ commission 7623
on service ~~council~~ and volunteerism gifts and donations fund, 7624
which is hereby created in the state treasury. Moneys in the fund 7625
may be used only as follows: 7626

(1) To pay operating expenses of the ~~council~~ commission, 7627
including payroll, personal services, maintenance, equipment, and 7628
subsidy payments; 7629

(2) To support ~~council~~ commission programs promoting 7630
volunteerism and community service in the state; 7631

(3) As matching funds for federal grants. 7632

Sec. 121.404. (A) The Ohio ~~community~~ commission on service 7633
~~council~~ and volunteerism shall advise, assist, consult with, and 7634
cooperate with agencies and political subdivisions of this state 7635
to establish a statewide system for recruiting, registering, 7636
training, and deploying the types of volunteers the ~~council~~ 7637
commission considers advisable and reasonably necessary to respond 7638
to an emergency declared by the state or political subdivision. 7639

(B) A registered volunteer is not liable in damages to any 7640
person or government entity in tort or other civil action, 7641
including an action upon a medical, dental, chiropractic, 7642
optometric, or other health-related claim or veterinary claim, for 7643
injury, death, or loss to person or property that may arise from 7644
an act or omission of that volunteer. This division applies to a 7645
registered volunteer while providing services within the scope of 7646
the volunteer's responsibilities during an emergency declared by 7647
the state or political subdivision or in disaster-related 7648
exercises, testing, or other training activities, if the 7649

volunteer's act or omission does not constitute willful or wanton
misconduct. 7650
7651

(C) The Ohio ~~community~~ commission on service ~~council~~ and
volunteerism shall adopt rules pursuant to Chapter 119. of the 7652
7653
Revised Code to establish fees, procedures, standards, and 7654
requirements the ~~council~~ commission considers necessary to carry 7655
out the purposes of this section. 7656

(D)(1) A registered volunteer's status as a volunteer, and 7657
any information presented in summary, statistical, or aggregate 7658
form that does not identify an individual, is a public record 7659
pursuant to section 149.43 of the Revised Code. 7660

(2) Information related to a registered volunteer's specific 7661
and unique responsibilities, assignments, or deployment plans, 7662
including but not limited to training, preparedness, readiness, or 7663
organizational assignment, is a security record for purposes of 7664
section 149.433 of the Revised Code. 7665

(3) Information related to a registered volunteer's personal 7666
information, including but not limited to contact information, 7667
medical information, or information related to family members or 7668
dependents, is not a public record pursuant to section 149.43 of 7669
the Revised Code. 7670

(E) As used in this section and section 121.40 of the Revised 7671
Code: 7672

(1) "Registered volunteer" means any individual registered as 7673
a volunteer pursuant to procedures established under this section 7674
and who serves without pay or other consideration, other than the 7675
reasonable reimbursement or allowance for expenses actually 7676
incurred or the provision of incidental benefits related to the 7677
volunteer's service, such as meals, lodging, and childcare. 7678

(2) "Political subdivision" means a county, township, or 7679
municipal corporation in this state. 7680

Sec. 122.121. (A) If an endorsing municipality or endorsing county enters into a joinder undertaking with a site selection organization, the endorsing municipality or endorsing county may apply to the director of development, on a form and in the manner prescribed by the director, for a grant based on the projected incremental increase in the receipts from the tax imposed under section 5739.02 of the Revised Code within the market area designated under division (C) of this section, for the two-week period that ends at the end of the day after the date on which a game will be held, that is directly attributable, as determined by the director, to the preparation for and presentation of the game. The director shall determine the projected incremental increase in the tax imposed under section 5739.02 of the Revised Code from information certified to the director by the endorsing municipality or the endorsing county including, but not limited to, historical attendance and ticket sales for the game, income statements showing revenue and expenditures for the game in prior years, attendance capacity at the proposed venues, event budget at the proposed venues, and projected lodging room nights based on historical attendance, attendance capacity at the proposed venues, and duration of the game and related activities. The endorsing municipality or endorsing county is eligible to receive a grant under this section only if the projected incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code, as determined by the director, exceeds two hundred fifty thousand dollars. The amount of the grant shall be determined by the director but shall not exceed five hundred thousand dollars. The director shall not issue grants with a total value of more than one million dollars in any fiscal year, and shall not issue any grant before July 1, ~~2011~~ 2013.

(B) If the director of development approves an application for an endorsing municipality or endorsing county and that

endorsing municipality or endorsing county enters into a joinder 7713
agreement with a site selection organization, the endorsing 7714
municipality or endorsing county shall file a copy of the joinder 7715
agreement with the director of development, who immediately shall 7716
notify the director of budget and management of the filing. Within 7717
thirty days after receiving the notice, the director of budget and 7718
management shall establish a schedule to disburse from the general 7719
revenue fund to such endorsing municipality or endorsing county 7720
payments that total the amount certified by the director of 7721
development under division (A) of this section, but in no event 7722
shall the total amount disbursed exceed five hundred thousand 7723
dollars, and no disbursement shall be made before ~~July 1, 2011~~ 7724
2013. The payments shall be used exclusively by the endorsing 7725
municipality or endorsing county to fulfill a portion of its 7726
obligations to a site selection organization under game support 7727
contracts, which obligations may include the payment of costs 7728
relating to the preparations necessary for the conduct of the 7729
game, including acquiring, renovating, or constructing facilities; 7730
to pay the costs of conducting the game; and to assist the local 7731
organizing committee, endorsing municipality, or endorsing county 7732
in providing assurances required by a site selection organization 7733
sponsoring one or more games. 7734

(C) For the purposes of division (A) of this section, the 7735
director of development, in consultation with the tax 7736
commissioner, shall designate as a market area for a game each 7737
area in which they determine there is a reasonable likelihood of 7738
measurable economic impact directly attributable to the 7739
preparation for and presentation of the game and related events, 7740
including areas likely to provide venues, accommodations, and 7741
services in connection with the game based on the information and 7742
the copy of the joinder undertaking provided to the director under 7743
divisions (A) and (B) of this section. The director and 7744
commissioner shall determine the geographic boundaries of each 7745

market area. An endorsing municipality or endorsing county that 7746
has been selected as the site for a game must be included in a 7747
market area for the game. 7748

(D) A local organizing committee, endorsing municipality, or 7749
endorsing county shall provide information required by the 7750
director of development and tax commissioner to enable the 7751
director and commissioner to fulfill their duties under this 7752
section, including annual audited statements of any financial 7753
records required by a site selection organization and data 7754
obtained by the local organizing committee, endorsing 7755
municipality, or endorsing county relating to attendance at a game 7756
and to the economic impact of the game. A local organizing 7757
committee, an endorsing municipality, or an endorsing county shall 7758
provide an annual audited financial statement if so required by 7759
the director and commissioner, not later than the end of the 7760
fourth month after the date the period covered by the financial 7761
statement ends. 7762

(E) Within sixty days after the game, the endorsing 7763
municipality or the endorsing county shall report to the director 7764
of development about the economic impact of the game. The report 7765
shall be in the form and substance required by the director, 7766
including, but not limited to, a final income statement for the 7767
event showing total revenue and expenditures and revenue and 7768
expenditures in the market area for the game, and ticket sales for 7769
the game and any related activities for which admission was 7770
charged. The director of development shall determine, based on the 7771
reported information and the exercise of reasonable judgment, the 7772
incremental increase in receipts from the tax imposed under 7773
section 5739.02 of the Revised Code directly attributable to the 7774
game. If the actual incremental increase in such receipts is less 7775
than the projected incremental increase in receipts, the director 7776
may require the endorsing municipality or the endorsing county to 7777

refund to the state all or a portion of the grant. 7778

(F) No disbursement may be made under this section if the 7779
director of development determines that it would be used for the 7780
purpose of soliciting the relocation of a professional sports 7781
franchise located in this state. 7782

(G) This section may not be construed as creating or 7783
requiring a state guarantee of obligations imposed on an endorsing 7784
municipality or endorsing county under a game support contract or 7785
any other agreement relating to hosting one or more games in this 7786
state. 7787

Sec. 122.171. (A) As used in this section: 7788

(1) "Capital investment project" means a plan of investment 7789
at a project site for the acquisition, construction, renovation, 7790
or repair of buildings, machinery, or equipment, or for 7791
capitalized costs of basic research and new product development 7792
determined in accordance with generally accepted accounting 7793
principles, but does not include any of the following: 7794

(a) Payments made for the acquisition of personal property 7795
through operating leases; 7796

(b) Project costs paid before January 1, 2002; 7797

(c) Payments made to a related member as defined in section 7798
5733.042 of the Revised Code or to a consolidated elected taxpayer 7799
or a combined taxpayer as defined in section 5751.01 of the 7800
Revised Code. 7801

(2) "Eligible business" means a taxpayer and its related 7802
members with Ohio operations satisfying all of the following: 7803

(a) The taxpayer employs at least five hundred full-time 7804
equivalent employees or has an annual payroll of at least 7805
thirty-five million dollars at the time the tax credit authority 7806
grants the tax credit under this section; 7807

(b) The taxpayer makes or causes to be made payments for the 7808
capital investment project of ~~either~~ one of the following: 7809

(i) If the taxpayer is engaged at the project site primarily 7810
as a manufacturer, at least fifty million dollars in the aggregate 7811
at the project site during a period of three consecutive calendar 7812
years, including the calendar year that includes a day of the 7813
taxpayer's taxable year or tax period with respect to which the 7814
credit is granted; 7815

(ii) If the taxpayer is engaged at the project site primarily 7816
in significant corporate administrative functions, as defined by 7817
the director of development by rule, at least twenty million 7818
dollars in the aggregate at the project site during a period of 7819
three consecutive calendar years including the calendar year that 7820
includes a day of the taxpayer's taxable year or tax period with 7821
respect to which the credit is granted; 7822

(iii) If the taxpayer is applying to enter into an agreement 7823
for a tax credit authorized under division (B)(3) of this section, 7824
at least five million dollars in the aggregate at the project site 7825
during a period of three consecutive calendar years, including the 7826
calendar year that includes a day of the taxpayer's taxable year 7827
or tax period with respect to which the credit is granted. 7828

(c) The taxpayer had a capital investment project reviewed 7829
and approved by the tax credit authority as provided in divisions 7830
(C), (D), and (E) of this section. 7831

(3) "Full-time equivalent employees" means the quotient 7832
obtained by dividing the total number of hours for which employees 7833
were compensated for employment in the project by two thousand 7834
eighty. "Full-time equivalent employees" shall exclude hours that 7835
are counted for a credit under section 122.17 of the Revised Code. 7836

(4) "Income tax revenue" means the total amount withheld 7837
under section 5747.06 of the Revised Code by the taxpayer during 7838

the taxable year, or during the calendar year that includes the 7839
tax period, from the compensation of all employees employed in the 7840
project whose hours of compensation are included in calculating 7841
the number of full-time equivalent employees. 7842

(5) "Manufacturer" has the same meaning as in section 7843
5739.011 of the Revised Code. 7844

(6) "Project site" means an integrated complex of facilities 7845
in this state, as specified by the tax credit authority under this 7846
section, within a fifteen-mile radius where a taxpayer is 7847
primarily operating as an eligible business. 7848

(7) "Related member" has the same meaning as in section 7849
5733.042 of the Revised Code as that section existed on the 7850
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 7851
general assembly, September 29, 1997. 7852

(8) "Taxable year" includes, in the case of a domestic or 7853
foreign insurance company, the calendar year ending on the 7854
thirty-first day of December preceding the day the superintendent 7855
of insurance is required to certify to the treasurer of state 7856
under section 5725.20 or 5729.05 of the Revised Code the amount of 7857
taxes due from insurance companies. 7858

(B) The tax credit authority created under section 122.17 of 7859
the Revised Code may grant tax credits under this section for the 7860
purpose of fostering job retention in this state. Upon application 7861
by an eligible business and upon consideration of the 7862
recommendation of the director of budget and management, tax 7863
commissioner, the superintendent of insurance in the case of an 7864
insurance company, and director of development under division (C) 7865
of this section, the tax credit authority may grant the following 7866
credits against the tax imposed by section 5725.18, 5729.03, 7867
5733.06, 5747.02, or 5751.02 of the Revised Code: 7868

(1) A nonrefundable credit to an eligible business; 7869

(2) A refundable credit to an eligible business meeting the following conditions, provided that the director of budget and management, tax commissioner, superintendent of insurance in the case of an insurance company, and director of development have recommended the granting of the credit to the tax credit authority before July 1, 2011:

(a) The business retains at least one thousand full-time equivalent employees at the project site.

(b) The business makes or causes to be made payments for a capital investment project of at least twenty-five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted.

(c) In 2010, the business received a written offer of financial incentives from another state of the United States that the director determines to be sufficient inducement for the business to relocate the business' operations from this state to that state.

(3) A refundable credit to an eligible business with a total annual payroll of at least twenty million dollars, provided that the tax credit authority grants the tax credit on or after July 1, 2011, and before January 1, 2014.

The credits authorized in divisions (B)(1) ~~and~~, (2), and (3) of this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. The percentage may

not exceed seventy-five per cent. The credit shall be claimed in 7901
the order required under section 5725.98, 5729.98, 5733.98, 7902
5747.98, or 5751.98 of the Revised Code. In determining the 7903
percentage and term of the credit, the tax credit authority shall 7904
consider both the number of full-time equivalent employees and the 7905
value of the capital investment project. The credit amount may not 7906
be based on the income tax revenue for a calendar year before the 7907
calendar year in which the tax credit authority specifies the tax 7908
credit is to begin, and the credit shall be claimed only for the 7909
taxable years or tax periods specified in the eligible business' 7910
agreement with the tax credit authority. In no event shall the 7911
credit be claimed for a taxable year or tax period terminating 7912
before the date specified in the agreement. Any credit granted 7913
under this section against the tax imposed by section 5733.06 or 7914
5747.02 of the Revised Code, to the extent not fully utilized 7915
against such tax for taxable years ending prior to 2008, shall 7916
automatically be converted without any action taken by the tax 7917
credit authority to a credit against the tax levied under Chapter 7918
5751. of the Revised Code for tax periods beginning on or after 7919
July 1, 2008, provided that the person to whom the credit was 7920
granted is subject to such tax. The converted credit shall apply 7921
to those calendar years in which the remaining taxable years 7922
specified in the agreement end. 7923

If a nonrefundable credit allowed under division (B)(1) of 7924
this section for a taxable year or tax period exceeds the 7925
taxpayer's tax liability for that year or period, the excess may 7926
be carried forward for the three succeeding taxable or calendar 7927
years, but the amount of any excess credit allowed in any taxable 7928
year or tax period shall be deducted from the balance carried 7929
forward to the succeeding year or period. 7930

(C) A taxpayer that proposes a capital investment project to 7931
retain jobs in this state may apply to the tax credit authority to 7932

enter into an agreement for a tax credit under this section. The 7933
director of development shall prescribe the form of the 7934
application. After receipt of an application, the authority shall 7935
forward copies of the application to the director of budget and 7936
management, the tax commissioner, the superintendent of insurance 7937
in the case of an insurance company, and the director of 7938
development, each of whom shall review the application to 7939
determine the economic impact the proposed project would have on 7940
the state and the affected political subdivisions and shall submit 7941
a summary of their determinations and recommendations to the 7942
authority. 7943

(D) Upon review and consideration of the determinations and 7944
recommendations described in division (C) of this section, the tax 7945
credit authority may enter into an agreement with the taxpayer for 7946
a credit under this section if the authority determines all of the 7947
following: 7948

(1) The taxpayer's capital investment project will result in 7949
the retention of employment in this state. 7950

(2) The taxpayer is economically sound and has the ability to 7951
complete the proposed capital investment project. 7952

(3) The taxpayer intends to and has the ability to maintain 7953
operations at the project site for at least the greater of (a) the 7954
term of the credit plus three years, or (b) seven years. 7955

(4) Receiving the credit is a major factor in the taxpayer's 7956
decision to begin, continue with, or complete the project. 7957

(5) If the taxpayer is applying to enter into an agreement 7958
for a tax credit authorized under division (B)(3) of this section, 7959
the taxpayer's capital investment project will be located in the 7960
political subdivision in which the taxpayer maintains its 7961
principal place of business. 7962

(E) An agreement under this section shall include all of the 7963

following: 7964

(1) A detailed description of the project that is the subject 7965
of the agreement, including the amount of the investment, the 7966
period over which the investment has been or is being made, the 7967
number of full-time equivalent employees at the project site, and 7968
the anticipated income tax revenue to be generated. 7969

(2) The term of the credit, the percentage of the tax credit, 7970
the maximum annual value of tax credits that may be allowed each 7971
year, and the first year for which the credit may be claimed. 7972

(3) A requirement that the taxpayer maintain operations at 7973
the project site for at least the greater of (a) the term of the 7974
credit plus three years, or (b) seven years. 7975

~~(4) A requirement that the taxpayer retain a specified number 7976
of full-time equivalent employees at the project site and within 7977
this state for the term of the credit, including a requirement 7978
that the taxpayer continue to employ at least five hundred 7979
full-time equivalent employees during the entire term of the 7980
agreement in the case of a credit granted under division (B)(1) of 7981
this section, and one thousand full-time equivalent employees in 7982
the case of a credit granted under division (B)(2) of this section 7983
(a) In the case of a credit granted under division (B)(1) of this 7984
section, a requirement that the taxpayer retain at least five 7985
hundred full-time equivalent employees at the project site and 7986
within this state for the entire term of the credit, or a 7987
requirement that the taxpayer maintain an annual payroll of at 7988
least thirty-five million dollars for the entire term of the 7989
credit; 7990~~

~~(b) In the case of a credit granted under division (B)(2) of 7991
this section, a requirement that the taxpayer retain at least one 7992
thousand full-time equivalent employees at the project site and 7993
within this state for the entire term of the credit; 7994~~

(c) In the case of a credit granted under division (B)(3) of this section, either of the following: 7995
7996

(i) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit and a requirement that the taxpayer maintain an annual payroll of at least twenty million dollars for the entire term of the credit; 7997
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(ii) A requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit. 8002
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(5) A requirement that the taxpayer annually report to the director of development employment, tax withholding, capital investment, and other information the director needs to perform the director's duties under this section. 8005
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(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code. 8009
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(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. 8020
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For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

of the statement or other information. 8058

(H) A taxpayer claiming a tax credit under this section shall 8059
submit to the tax commissioner or, in the case of an insurance 8060
company, to the superintendent of insurance, a copy of the 8061
director of development's certificate of verification under 8062
division (E)(6) of this section with the taxpayer's tax report or 8063
return for the taxable year or for the calendar year that includes 8064
the tax period. Failure to submit a copy of the certificate with 8065
the report or return does not invalidate a claim for a credit if 8066
the taxpayer submits a copy of the certificate to the commissioner 8067
or superintendent within sixty days after the commissioner or 8068
superintendent requests it. 8069

(I) For the purposes of this section, a taxpayer may include 8070
a partnership, a corporation that has made an election under 8071
subchapter S of chapter one of subtitle A of the Internal Revenue 8072
Code, or any other business entity through which income flows as a 8073
distributive share to its owners. A partnership, S-corporation, or 8074
other such business entity may elect to pass the credit received 8075
under this section through to the persons to whom the income or 8076
profit of the partnership, S-corporation, or other entity is 8077
distributed. The election shall be made on the annual report 8078
required under division (E)(5) of this section. The election 8079
applies to and is irrevocable for the credit for which the report 8080
is submitted. If the election is made, the credit shall be 8081
apportioned among those persons in the same proportions as those 8082
in which the income or profit is distributed. 8083

(J) If the director of development determines that a taxpayer 8084
that received a tax credit under this section is not complying 8085
with the requirement under division (E)(3) of this section, the 8086
director shall notify the tax credit authority of the 8087
noncompliance. After receiving such a notice, and after giving the 8088
taxpayer an opportunity to explain the noncompliance, the 8089

authority may terminate the agreement and require the taxpayer to 8090
refund to the state all or a portion of the credit claimed in 8091
previous years, as follows: 8092

(1) If the taxpayer maintained operations at the project site 8093
for less than or equal to the term of the credit, an amount not to 8094
exceed one hundred per cent of the sum of any tax credits allowed 8095
and received under this section. 8096

(2) If the taxpayer maintained operations at the project site 8097
longer than the term of the credit, but less than the greater of 8098
(a) the term of the credit plus three years, or (b) seven years, 8099
the amount required to be refunded shall not exceed seventy-five 8100
per cent of the sum of any tax credits allowed and received under 8101
this section. 8102

In determining the portion of the credit to be refunded to 8103
this state, the authority shall consider the effect of market 8104
conditions on the taxpayer's project and whether the taxpayer 8105
continues to maintain other operations in this state. After making 8106
the determination, the authority shall certify the amount to be 8107
refunded to the tax commissioner or the superintendent of 8108
insurance. If the taxpayer is not an insurance company, the 8109
commissioner shall make an assessment for that amount against the 8110
taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. 8111
If the taxpayer is an insurance company, the superintendent of 8112
insurance shall make an assessment under section 5725.222 or 8113
5729.102 of the Revised Code. The time limitations on assessments 8114
under those chapters and sections do not apply to an assessment 8115
under this division, but the commissioner or superintendent shall 8116
make the assessment within one year after the date the authority 8117
certifies to the commissioner or superintendent the amount to be 8118
refunded. 8119

(K) The director of development, after consultation with the 8120
tax commissioner and the superintendent of insurance and in 8121

accordance with Chapter 119. of the Revised Code, shall adopt 8122
rules necessary to implement this section. The rules may provide 8123
for recipients of tax credits under this section to be charged 8124
fees to cover administrative costs of the tax credit program. The 8125
fees collected shall be credited to the tax incentive programs 8126
operating fund created in section 122.174 of the Revised Code. At 8127
the time the director gives public notice under division (A) of 8128
section 119.03 of the Revised Code of the adoption of the rules, 8129
the director shall submit copies of the proposed rules to the 8130
chairpersons of the standing committees on economic development in 8131
the senate and the house of representatives. 8132

(L) On or before the first day of August of each year, the 8133
director of development shall submit a report to the governor, the 8134
president of the senate, and the speaker of the house of 8135
representatives on the tax credit program under this section. The 8136
report shall include information on the number of agreements that 8137
were entered into under this section during the preceding calendar 8138
year, a description of the project that is the subject of each 8139
such agreement, and an update on the status of projects under 8140
agreements entered into before the preceding calendar year. 8141

(M)(1) The aggregate amount of tax credits issued under 8142
division (B)(1) of this section during any calendar year for 8143
capital investment projects reviewed and approved by the tax 8144
credit authority may not exceed the following amounts: 8145

(a) For 2010, thirteen million dollars; 8146

(b) For 2011 through 2023, the amount of the limit for the 8147
preceding calendar year plus thirteen million dollars; 8148

(c) For 2024 and each year thereafter, one hundred 8149
ninety-five million dollars. 8150

(2) The aggregate amount of tax credits ~~issued~~ authorized 8151
under ~~division~~ divisions (B)(2) and (3) of this section ~~during~~ and 8152

allowed to be claimed by taxpayers in any calendar year for 8153
capital improvement projects reviewed and approved by the tax 8154
credit authority ~~may not exceed eight million dollars in 2011,~~ 8155
2012, and 2013 combined shall not exceed twenty-five million 8156
dollars. An amount equal to the aggregate amount of credits first 8157
authorized in calendar year 2011, 2012, and 2013 may be claimed 8158
over the ensuing period up to fifteen years, subject to the terms 8159
of individual tax credit agreements. 8160

The limitations in division (M) of this section do not apply 8161
to credits for capital investment projects approved by the tax 8162
credit authority before July 1, 2009. 8163

Sec. 122.175. (A) As used in this section: 8164

(1) "Capital investment project" means a plan of investment 8165
at a project site for the acquisition, construction, renovation, 8166
expansion, replacement, or repair of a computer data center or of 8167
computer data center equipment, but does not include any of the 8168
following: 8169

(a) Project costs paid before a date determined by the tax 8170
credit authority for each capital investment project; 8171

(b) Payments made to a related member as defined in section 8172
5733.042 of the Revised Code or to a consolidated elected taxpayer 8173
or a combined taxpayer as defined in section 5751.01 of the 8174
Revised Code. 8175

(2) "Computer data center" means a facility used or to be 8176
used primarily to house computer data center equipment used or to 8177
be used in conducting a computer data center business, as 8178
determined by the tax credit authority. 8179

(3) "Computer data center business" means, as may be further 8180
determined by the tax credit authority, a business that provides 8181
electronic information services as defined in division (Y)(1)(c) 8182

of section 5739.01 of the Revised Code. "Computer data center business" does not include providing electronic publishing as defined in division (LLL) of that section. 8183
8184
8185

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following: 8186
8187

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment; 8188
8189
8190

(b) To generate, transform, transmit, distribute, or manage electricity necessary to operate the tangible personal property used or to be used in conducting a computer data center business; 8191
8192
8193

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center. 8194
8195
8196

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements: 8197
8198

(a) The taxpayer will make payments for a capital investment project of at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years; 8199
8200
8201
8202

(b) The taxpayer will pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least five million dollars to employees employed at the project site for the term of the agreement. 8203
8204
8205
8206

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code. 8207
8208

(7) "Project site," "related member," and "tax credit authority" have the same meanings as in sections 122.17 and 122.171 of the Revised Code. 8209
8210
8211

(8) "Taxpayer" means any person subject to the taxes imposed 8212

under Chapters 5739. and 5741. of the Revised Code. 8213

(B) The tax credit authority may completely or partially 8214
exempt from the taxes levied under Chapters 5739. and 5741. of the 8215
Revised Code the sale, storage, use, or other consumption of 8216
computer data center equipment used or to be used at an eligible 8217
computer data center. Any such exemption shall extend to charges 8218
for the delivery, installation, or repair of the computer data 8219
center equipment subject to the exemption under this section. 8220

(C) A taxpayer that proposes a capital improvement project 8221
for an eligible computer data center in this state may apply to 8222
the tax credit authority to enter into an agreement under this 8223
section for a complete or partial exemption from the taxes imposed 8224
under Chapters 5739. and 5741. of the Revised Code on computer 8225
data center equipment used or to be used at the eligible computer 8226
data center. The director of development shall prescribe the form 8227
of the application. After receipt of an application, the authority 8228
shall forward copies of the application to the director of budget 8229
and management, the tax commissioner, and the director of 8230
development, each of whom shall review the application to 8231
determine the economic impact that the proposed eligible computer 8232
data center would have on the state and any affected political 8233
subdivisions and submit to the authority a summary of their 8234
determinations and recommendations. 8235

(D) Upon review and consideration of such determinations and 8236
recommendations, the tax credit authority may enter into an 8237
agreement with the taxpayer for a complete or partial exemption 8238
from the taxes imposed under Chapters 5739. and 5741. of the 8239
Revised Code on computer data center equipment used or to be used 8240
at an eligible computer data center if the authority determines 8241
all of the following: 8242

(1) The taxpayer's capital investment project for the 8243
eligible computer data center will increase payroll and the amount 8244

of income taxes to be withheld from employee compensation pursuant 8245
to section 5747.06 of the Revised Code. 8246

(2) The taxpayer is economically sound and has the ability to 8247
complete the proposed capital investment project. 8248

(3) The taxpayer intends to and has the ability to maintain 8249
operations at the project site for the term of the agreement. 8250

(4) Receiving the exemption is a major factor in the 8251
taxpayer's decision to begin, continue with, or complete the 8252
capital investment project. 8253

(E) An agreement entered into under this section shall 8254
include all of the following: 8255

(1) A detailed description of the capital investment project 8256
that is the subject of the agreement, including the amount of the 8257
investment, the period over which the investment has been or is 8258
being made, the annual compensation to be paid by the taxpayer to 8259
its employees at the project site, and the anticipated amount of 8260
income taxes to be withheld from employee compensation pursuant to 8261
section 5747.06 of the Revised Code. 8262

(2) The percentage of the exemption from the taxes imposed 8263
under Chapters 5739. and 5741. of the Revised Code for the 8264
computer data center equipment used or to be used at the eligible 8265
computer data center, the length of time the computer data center 8266
equipment will be exempted, and the first date on which the 8267
exemption applies. 8268

(3) A requirement that the taxpayer maintain the computer 8269
data center as an eligible computer data center during the term of 8270
the agreement and that the taxpayer maintain operations at the 8271
eligible computer data center during that term. 8272

(4) A requirement that during each year of the term of the 8273
agreement the taxpayer pay annual compensation that is subject to 8274

the withholding obligation imposed under section 5747.06 of the 8275
Revised Code of at least five million dollars to its employees at 8276
the eligible computer data center. 8277

(5) A requirement that the taxpayer annually report to the 8278
director of development employment, tax withholding, capital 8279
investment, and other information required by the director to 8280
perform the director's duties under this section. 8281

(6) A requirement that the director of development annually 8282
review the annual reports of the taxpayer to verify the 8283
information reported under division (E)(5) of this section and 8284
compliance with the agreement. Upon verification, the director 8285
shall issue a certificate to the taxpayer stating that the 8286
information has been verified and that the taxpayer remains 8287
eligible for the exemption specified in the agreement. 8288

(7) A provision providing that the taxpayer may not relocate 8289
a substantial number of employment positions from elsewhere in 8290
this state to the project site unless the director of development 8291
determines that the taxpayer notified the legislative authority of 8292
the county, township, or municipal corporation from which the 8293
employment positions would be relocated. For purposes of this 8294
paragraph, the movement of an employment position from one 8295
political subdivision to another political subdivision shall be 8296
considered a relocation of an employment position unless the 8297
movement is confined to the project site. The transfer of an 8298
employment position from one political subdivision to another 8299
political subdivision shall not be considered a relocation of an 8300
employment position if the employment position in the first 8301
political subdivision is replaced by another employment position. 8302

(8) A waiver by the taxpayer of any limitations periods 8303
relating to assessments or adjustments resulting from the 8304
taxpayer's failure to comply with the agreement. 8305

(F) The term of an agreement under this section shall be 8306
determined by the tax credit authority, and the amount of the 8307
exemption shall not exceed one hundred per cent of such taxes that 8308
would otherwise be owed in respect to the exempted computer data 8309
center equipment. 8310

(G) If a taxpayer fails to meet or comply with any condition 8311
or requirement set forth in an agreement under this section, the 8312
tax credit authority may amend the agreement to reduce the 8313
percentage of the exemption or term during which the exemption 8314
applies to the computer data center equipment used or to be used 8315
at an eligible computer data center. The reduction of the 8316
percentage or term may take effect in the current calendar year. 8317

(H) Financial statements and other information submitted to 8318
the department of development or the tax credit authority by an 8319
applicant for or recipient of an exemption under this section, and 8320
any information taken for any purpose from such statements or 8321
information, are not public records subject to section 149.43 of 8322
the Revised Code. However, the chairperson of the authority may 8323
make use of the statements and other information for purposes of 8324
issuing public reports or in connection with court proceedings 8325
concerning tax exemption agreements under this section. Upon the 8326
request of the tax commissioner, the chairperson of the authority 8327
shall provide to the tax commissioner any statement or other 8328
information submitted by an applicant for or recipient of an 8329
exemption under this section. The tax commissioner shall preserve 8330
the confidentiality of the statement or other information. 8331

(I) The tax commissioner shall issue a direct payment permit 8332
under section 5739.031 of the Revised Code to a taxpayer that 8333
enters into an agreement under this section. Such direct payment 8334
permit shall authorize the taxpayer to pay any sales and use taxes 8335
due on purchases of computer data center equipment used or to be 8336
used in an eligible computer data center and to pay any sales and 8337

use taxes due on purchases of tangible personal property or 8338
taxable services other than computer data center equipment used or 8339
to be used in an eligible computer data center directly to the tax 8340
commissioner. Each taxpayer shall pay pursuant to such direct 8341
payment permit all sales tax levied on such purchases under 8342
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 8343
Code and all use tax levied on such purchases under sections 8344
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 8345
consistent with the terms of the agreement entered into under this 8346
section. 8347

During the term of an agreement under this section the 8348
taxpayer shall submit to the tax commissioner a return that shows 8349
the amount of computer data center equipment purchased for use at 8350
the eligible computer data center, the amount of tangible personal 8351
property and taxable services other than computer data center 8352
equipment purchased for use at the eligible computer data center, 8353
the amount of tax under Chapter 5739. or 5741. of the Revised Code 8354
that would be due in the absence of the agreement under this 8355
section, the exemption percentage for computer data center 8356
equipment specified in the agreement, and the amount of tax due 8357
under Chapter 5739. or 5741. of the Revised Code as a result of 8358
the agreement under this section. The taxpayer shall pay the tax 8359
shown on the return to be due in the manner and at the times as 8360
may be further prescribed by the tax commissioner. The taxpayer 8361
shall include a copy of the director of development's certificate 8362
of verification issued under division (E)(6) of this section. 8363
Failure to submit a copy of the certificate with the return does 8364
not invalidate the claim for exemption if the taxpayer submits a 8365
copy of the certificate to the tax commissioner within sixty days 8366
after the tax commissioner requests it. 8367

(J) If the director of development determines that a taxpayer 8368
that received an exemption under this section is not complying 8369

with the requirement under division (E)(3) of this section, the 8370
director shall notify the tax credit authority of the 8371
noncompliance. After receiving such a notice, and after giving the 8372
taxpayer an opportunity to explain the noncompliance, the 8373
authority may terminate the agreement and require the taxpayer to 8374
pay to the state all or a portion of the taxes that would have 8375
been owed in regards to the exempt equipment in previous years, 8376
all as determined under rules adopted pursuant to division (K) of 8377
this section. In determining the portion of the taxes that would 8378
have been owed on the previously exempted equipment to be paid to 8379
this state by the taxpayer, the authority shall consider the 8380
effect of market conditions on the taxpayer's eligible computer 8381
data center and whether the taxpayer continues to maintain other 8382
operations in this state. After making the determination, the 8383
authority shall certify to the tax commissioner the amount to be 8384
paid by the taxpayer. The tax commissioner shall make an 8385
assessment for that amount against the taxpayer under Chapter 8386
5739. or 5741. of the Revised Code. The time limitations on 8387
assessments under those chapters do not apply to an assessment 8388
under this division, but the tax commissioner shall make the 8389
assessment within one year after the date the authority certifies 8390
to the tax commissioner the amount to be paid by the taxpayer. 8391

(K) The director of development, after consultation with the 8392
tax commissioner and in accordance with Chapter 119. of the 8393
Revised Code, shall adopt rules necessary to implement this 8394
section. The rules may provide for recipients of tax exemptions 8395
under this section to be charged fees to cover administrative 8396
costs incurred in the administration of this section. The fees 8397
collected shall be credited to the tax incentive programs 8398
operating fund created in section 122.174 of the Revised Code. At 8399
the time the director gives public notice under division (A) of 8400
section 119.03 of the Revised Code of the adoption of the rules, 8401
the director shall submit copies of the proposed rules to the 8402

chairpersons of the standing committees on economic development in 8403
the senate and the house of representatives. 8404

(L) On or before the first day of August of each year, the 8405
director of development shall submit a report to the governor, the 8406
president of the senate, and the speaker of the house of 8407
representatives on the tax exemption authorized under this 8408
section. The report shall include information on the number of 8409
agreements that were entered into under this section during the 8410
preceding calendar year, a description of the eligible computer 8411
data center that is the subject of each such agreement, and an 8412
update on the status of eligible computer data centers under 8413
agreements entered into before the preceding calendar year. 8414

Sec. 122.76. (A) The director of development, with 8415
controlling board approval, may lend funds to minority business 8416
enterprises and to community improvement corporations, Ohio 8417
development corporations, minority contractors business assistance 8418
organizations, and minority business supplier development councils 8419
for the purpose of loaning funds to minority business enterprises 8420
and for the purpose of procuring or improving real or personal 8421
property, or both, for the establishment, location, or expansion 8422
of industrial, distribution, commercial, or research facilities in 8423
the state, and to community development corporations that 8424
predominantly benefit minority business enterprises or are located 8425
in a census tract that has a population that is sixty per cent or 8426
more minority if the director determines, in the director's sole 8427
discretion, that all of the following apply: 8428

(1) The project is economically sound and will benefit the 8429
people of the state by increasing opportunities for employment, by 8430
strengthening the economy of the state, or expanding minority 8431
business enterprises. 8432

(2) The proposed minority business enterprise borrower is 8433

unable to finance the proposed project through ordinary financial channels at comparable terms.

(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project, ~~and one or more financial institutions or other governmental entities have loaned not less than thirty per cent of that amount.~~

(4) The amount to be loaned by the director will not exceed sixty per cent of the total amount expended in the procurement or improvement of the project.

(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the director.

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business

development office of the department of development, or other 8465
identified and acceptable sources. In determining whether a 8466
minority business enterprise borrower will be able to successfully 8467
compete, the director may give consideration to such factors as 8468
the successful completion of or participation in courses of study, 8469
recognized by the board of regents as providing financial, 8470
technical, or managerial skills related to the operation of the 8471
business, by the economically disadvantaged individual, owner, or 8472
partner, and the prior success of the individual, owner, or 8473
partner in personal, career, or business activities, as well as to 8474
other factors identified by the director. 8475

(D) The director shall not lend funds for the purpose of 8476
procuring or improving motor vehicles or accounts receivable. 8477

Sec. 123.01. (A) The department of administrative services, 8478
in addition to those powers enumerated in Chapters 124. and 125. 8479
of the Revised Code and provided elsewhere by law, shall exercise 8480
the following powers: 8481

(1) To prepare, or contract to be prepared, by licensed 8482
engineers or architects, surveys, general and detailed plans, 8483
specifications, bills of materials, and estimates of cost for any 8484
projects, improvements, or public buildings to be constructed by 8485
state agencies that may be authorized by legislative 8486
appropriations or any other funds made available therefor, 8487
provided that the construction of the projects, improvements, or 8488
public buildings is a statutory duty of the department. This 8489
section does not require the independent employment of an 8490
architect or engineer as provided by section 153.01 of the Revised 8491
Code in the cases to which that section applies nor affect or 8492
alter the existing powers of the director of transportation. 8493

(2) To have general supervision over the construction of any 8494
projects, improvements, or public buildings constructed for a 8495

state agency and over the inspection of materials previous to 8496
their incorporation into those projects, improvements, or 8497
buildings; 8498

(3) To make contracts for and supervise the construction of 8499
any projects and improvements or the construction and repair of 8500
buildings under the control of a state agency, except contracts 8501
for the repair of buildings under the management and control of 8502
the departments of public safety, job and family services, mental 8503
health, developmental disabilities, rehabilitation and correction, 8504
and youth services, the bureau of workers' compensation, the 8505
rehabilitation services commission, and boards of trustees of 8506
educational and benevolent institutions and except contracts for 8507
the construction of projects that do not require the issuance of a 8508
building permit or the issuance of a certificate of occupancy and 8509
that are necessary to remediate conditions at a hazardous waste 8510
facility, solid waste facility, or other location at which the 8511
director of environmental protection has reason to believe there 8512
is a substantial threat to public health or safety or the 8513
environment. These contracts shall be made and entered into by the 8514
directors of public safety, job and family services, mental 8515
health, developmental disabilities, rehabilitation and correction, 8516
and youth services, the administrator of workers' compensation, 8517
the rehabilitation services commission, the boards of trustees of 8518
such institutions, and the director of environmental protection, 8519
respectively. All such contracts may be in whole or in part on 8520
unit price basis of maximum estimated cost, with payment computed 8521
and made upon actual quantities or units. 8522

(4) To prepare and suggest comprehensive plans for the 8523
development of grounds and buildings under the control of a state 8524
agency; 8525

(5) To acquire, by purchase, gift, devise, lease, or grant, 8526
all real estate required by a state agency, in the exercise of 8527

which power the department may exercise the power of eminent 8528
domain, in the manner provided by sections 163.01 to 163.22 of the 8529
Revised Code; 8530

(6) To make and provide all plans, specifications, and models 8531
for the construction and perfection of all systems of sewerage, 8532
drainage, and plumbing for the state in connection with buildings 8533
and grounds under the control of a state agency; 8534

(7) To erect, supervise, and maintain all public monuments 8535
and memorials erected by the state, except where the supervision 8536
and maintenance is otherwise provided by law; 8537

(8) To procure, by lease, storage accommodations for a state 8538
agency; 8539

(9) To lease or grant easements or licenses for unproductive 8540
and unused lands or other property under the control of a state 8541
agency. Such leases, easements, or licenses shall be granted for a 8542
period not to exceed fifteen years and shall be executed for the 8543
state by the director of administrative services and the governor 8544
and shall be approved as to form by the attorney general, provided 8545
that leases, easements, or licenses may be granted to any county, 8546
township, municipal corporation, port authority, water or sewer 8547
district, school district, library district, health district, park 8548
district, soil and water conservation district, conservancy 8549
district, or other political subdivision or taxing district, or 8550
any agency of the United States government, for the exclusive use 8551
of that agency, political subdivision, or taxing district, without 8552
any right of sublease or assignment, for a period not to exceed 8553
fifteen years, and provided that the director shall grant leases, 8554
easements, or licenses of university land for periods not to 8555
exceed twenty-five years for purposes approved by the respective 8556
university's board of trustees wherein the uses are compatible 8557
with the uses and needs of the university and may grant leases of 8558
university land for periods not to exceed forty years for purposes 8559

approved by the respective university's board of trustees pursuant	8560
to section 123.77 of the Revised Code.	8561
(10) To lease space for the use of a state agency;	8562
(11) To have general supervision and care of the storerooms,	8563
offices, and buildings leased for the use of a state agency;	8564
(12) To exercise general custodial care of all real property	8565
of the state;	8566
(13) To assign and group together state offices in any city	8567
in the state and to establish, in cooperation with the state	8568
agencies involved, rules governing space requirements for office	8569
or storage use;	8570
(14) To lease for a period not to exceed forty years,	8571
pursuant to a contract providing for the construction thereof	8572
under a lease-purchase plan, buildings, structures, and other	8573
improvements for any public purpose, and, in conjunction	8574
therewith, to grant leases, easements, or licenses for lands under	8575
the control of a state agency for a period not to exceed forty	8576
years. The lease-purchase plan shall provide that at the end of	8577
the lease period, the buildings, structures, and related	8578
improvements, together with the land on which they are situated,	8579
shall become the property of the state without cost.	8580
(a) Whenever any building, structure, or other improvement is	8581
to be so leased by a state agency, the department shall retain	8582
either basic plans, specifications, bills of materials, and	8583
estimates of cost with sufficient detail to afford bidders all	8584
needed information or, alternatively, all of the following plans,	8585
details, bills of materials, and specifications:	8586
(i) Full and accurate plans suitable for the use of mechanics	8587
and other builders in the improvement;	8588
(ii) Details to scale and full sized, so drawn and	8589

represented as to be easily understood; 8590

(iii) Accurate bills showing the exact quantity of different 8591
kinds of material necessary to the construction; 8592

(iv) Definite and complete specifications of the work to be 8593
performed, together with such directions as will enable a 8594
competent mechanic or other builder to carry them out and afford 8595
bidders all needed information; 8596

(v) A full and accurate estimate of each item of expense and 8597
of the aggregate cost thereof. 8598

(b) The department shall give public notice, in such 8599
newspaper, in such form, and with such phraseology as the director 8600
of administrative services prescribes, published once each week 8601
for four consecutive weeks, of the time when and place where bids 8602
will be received for entering into an agreement to lease to a 8603
state agency a building, structure, or other improvement. The last 8604
publication shall be at least eight days preceding the day for 8605
opening the bids. The bids shall contain the terms upon which the 8606
builder would propose to lease the building, structure, or other 8607
improvement to the state agency. The form of the bid approved by 8608
the department shall be used, and a bid is invalid and shall not 8609
be considered unless that form is used without change, alteration, 8610
or addition. Before submitting bids pursuant to this section, any 8611
builder shall comply with Chapter 153. of the Revised Code. 8612

(c) On the day and at the place named for receiving bids for 8613
entering into lease agreements with a state agency, the director 8614
of administrative services shall open the bids and shall publicly 8615
proceed immediately to tabulate the bids upon duplicate sheets. No 8616
lease agreement shall be entered into until the bureau of workers' 8617
compensation has certified that the person to be awarded the lease 8618
agreement has complied with Chapter 4123. of the Revised Code, 8619
until, if the builder submitting the lowest and best bid is a 8620

foreign corporation, the secretary of state has certified that the 8621
corporation is authorized to do business in this state, until, if 8622
the builder submitting the lowest and best bid is a person 8623
nonresident of this state, the person has filed with the secretary 8624
of state a power of attorney designating the secretary of state as 8625
its agent for the purpose of accepting service of summons in any 8626
action brought under Chapter 4123. of the Revised Code, and until 8627
the agreement is submitted to the attorney general and the 8628
attorney general's approval is certified thereon. Within thirty 8629
days after the day on which the bids are received, the department 8630
shall investigate the bids received and shall determine that the 8631
bureau and the secretary of state have made the certifications 8632
required by this section of the builder who has submitted the 8633
lowest and best bid. Within ten days of the completion of the 8634
investigation of the bids, the department shall award the lease 8635
agreement to the builder who has submitted the lowest and best bid 8636
and who has been certified by the bureau and secretary of state as 8637
required by this section. If bidding for the lease agreement has 8638
been conducted upon the basis of basic plans, specifications, 8639
bills of materials, and estimates of costs, upon the award to the 8640
builder the department, or the builder with the approval of the 8641
department, shall appoint an architect or engineer licensed in 8642
this state to prepare such further detailed plans, specifications, 8643
and bills of materials as are required to construct the building, 8644
structure, or improvement. The department shall adopt such rules 8645
as are necessary to give effect to this section. The department 8646
may reject any bid. Where there is reason to believe there is 8647
collusion or combination among bidders, the bids of those 8648
concerned therein shall be rejected. 8649

(15) To acquire by purchase, gift, devise, or grant and to 8650
transfer, lease, or otherwise dispose of all real property 8651
required to assist in the development of a conversion facility as 8652
defined in section 5709.30 of the Revised Code as that section 8653

existed before its repeal by Amended Substitute House Bill 95 of 8654
the 125th general assembly; 8655

(16) To lease for a period not to exceed forty years, 8656
notwithstanding any other division of this section, the 8657
state-owned property located at 408-450 East Town Street, 8658
Columbus, Ohio, formerly the state school for the deaf, to a 8659
developer in accordance with this section. "Developer," as used in 8660
this section, has the same meaning as in section 123.77 of the 8661
Revised Code. 8662

Such a lease shall be for the purpose of development of the 8663
land for use by senior citizens by constructing, altering, 8664
renovating, repairing, expanding, and improving the site as it 8665
existed on June 25, 1982. A developer desiring to lease the land 8666
shall prepare for submission to the department a plan for 8667
development. Plans shall include provisions for roads, sewers, 8668
water lines, waste disposal, water supply, and similar matters to 8669
meet the requirements of state and local laws. The plans shall 8670
also include provision for protection of the property by insurance 8671
or otherwise, and plans for financing the development, and shall 8672
set forth details of the developer's financial responsibility. 8673

The department may employ, as employees or consultants, 8674
persons needed to assist in reviewing the development plans. Those 8675
persons may include attorneys, financial experts, engineers, and 8676
other necessary experts. The department shall review the 8677
development plans and may enter into a lease if it finds all of 8678
the following: 8679

(a) The best interests of the state will be promoted by 8680
entering into a lease with the developer; 8681

(b) The development plans are satisfactory; 8682

(c) The developer has established the developer's financial 8683
responsibility and satisfactory plans for financing the 8684

development. 8685

The lease shall contain a provision that construction or 8686
renovation of the buildings, roads, structures, and other 8687
necessary facilities shall begin within one year after the date of 8688
the lease and shall proceed according to a schedule agreed to 8689
between the department and the developer or the lease will be 8690
terminated. The lease shall contain such conditions and 8691
stipulations as the director considers necessary to preserve the 8692
best interest of the state. Moneys received by the state pursuant 8693
to this lease shall be paid into the general revenue fund. The 8694
lease shall provide that at the end of the lease period the 8695
buildings, structures, and related improvements shall become the 8696
property of the state without cost. 8697

(17) To lease to any person any tract of land owned by the 8698
state and under the control of the department, or any part of such 8699
a tract, for the purpose of drilling for or the pooling of oil or 8700
gas. Such a lease shall be granted for a period not exceeding 8701
forty years, with the full power to contract for, determine the 8702
conditions governing, and specify the amount the state shall 8703
receive for the purposes specified in the lease, and shall be 8704
prepared as in other cases. 8705

(18) To manage the use of space owned and controlled by the 8706
department, including space in property under the jurisdiction of 8707
the Ohio building authority, by doing all of the following: 8708

(a) Biennially implementing, by state agency location, a 8709
census of agency employees assigned space; 8710

(b) Periodically in the discretion of the director of 8711
administrative services: 8712

(i) Requiring each state agency to categorize the use of 8713
space allotted to the agency between office space, common areas, 8714
storage space, and other uses, and to report its findings to the 8715

department; 8716

(ii) Creating and updating a master space utilization plan 8717
for all space allotted to state agencies. The plan shall 8718
incorporate space utilization metrics. 8719

(iii) Conducting a cost-benefit analysis to determine the 8720
effectiveness of state-owned buildings; 8721

(iv) Assessing the alternatives associated with consolidating 8722
the commercial leases for buildings located in Columbus. 8723

(c) Commissioning a comprehensive space utilization and 8724
capacity study in order to determine the feasibility of 8725
consolidating existing commercially leased space used by state 8726
agencies into a new state-owned facility. 8727

(B) This section and section 125.02 of the Revised Code shall 8728
not interfere with any of the following: 8729

(1) The power of the adjutant general to purchase military 8730
supplies, or with the custody of the adjutant general of property 8731
leased, purchased, or constructed by the state and used for 8732
military purposes, or with the functions of the adjutant general 8733
as director of state armories; 8734

(2) The power of the director of transportation in acquiring 8735
rights-of-way for the state highway system, or the leasing of 8736
lands for division or resident district offices, or the leasing of 8737
lands or buildings required in the maintenance operations of the 8738
department of transportation, or the purchase of real property for 8739
garage sites or division or resident district offices, or in 8740
preparing plans and specifications for and constructing such 8741
buildings as the director may require in the administration of the 8742
department; 8743

(3) The power of the director of public safety and the 8744
registrar of motor vehicles to purchase or lease real property and 8745

buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to be made repairs to all property owned or under the control of the patrol;

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

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code;

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

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, developmental disabilities, and rehabilitation and correction, ~~and~~ buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody

and repair of, office space used for the purposes of the joint 8778
legislative ethics committee are not subject to the control and 8779
jurisdiction of the department of administrative services. 8780

If the joint legislative ethics committee so requests, the 8781
committee and the director of administrative services may enter 8782
into a contract under which the department of administrative 8783
services agrees to perform any services requested by the committee 8784
that the department is authorized under this section to perform. 8785

(D) Any instrument by which real property is acquired 8786
pursuant to this section shall identify the agency of the state 8787
that has the use and benefit of the real property as specified in 8788
section 5301.012 of the Revised Code. 8789

Sec. 123.011. (A) As used in this section: 8790

(1) "Construct" includes reconstruct, improve, renovate, 8791
enlarge, or otherwise alter. 8792

(2) "Energy consumption analysis" means the evaluation of all 8793
energy consuming systems, components, and equipment by demand and 8794
type of energy, including the internal energy load imposed on a 8795
facility by its occupants and the external energy load imposed by 8796
climatic conditions. 8797

(3) "Energy performance index" means a number describing the 8798
energy requirements of a facility per square foot of floor space 8799
or per cubic foot of occupied volume as appropriate under defined 8800
internal and external ambient conditions over an entire seasonal 8801
cycle. 8802

(4) "Facility" means a building or other structure, or part 8803
of a building or other structure, that includes provision for a 8804
heating, refrigeration, ventilation, cooling, lighting, hot water, 8805
or other major energy consuming system, component, or equipment. 8806

(5) "Life-cycle cost analysis" means a general approach to 8807

economic evaluation that takes into account all dollar costs 8808
related to owning, operating, maintaining, and ultimately 8809
disposing of a project over the appropriate study period. 8810

(6) "Political subdivision" means a county, township, 8811
municipal corporation, board of education of any school district, 8812
or any other body corporate and politic that is responsible for 8813
government activities in a geographic area smaller than that of 8814
the state. 8815

(7) "State funded" means funded in whole or in part through 8816
appropriation by the general assembly or through the use of any 8817
guarantee provided by this state. 8818

~~(6)~~(8) "State institution of higher education" has the same 8819
meaning as in section 3345.011 of the Revised Code. 8820

(B) There is hereby created within the department of 8821
administrative services the office of energy services. The office 8822
shall be under the supervision of a manager, who shall be 8823
appointed by the director of administrative services. The director 8824
shall assign to the office such number of employees and furnish 8825
such equipment and supplies as are necessary for the performance 8826
of the office's duties. 8827

The office shall develop energy efficiency and conservation 8828
programs in each of the following areas: 8829

- (1) New construction design and review; 8830
- (2) Existing building audit and retrofit; 8831
- (3) Energy efficient procurement; 8832
- (4) Alternative fuel vehicles. 8833

The office may accept and administer grants from public and 8834
private sources for carrying out any of its duties under this 8835
section. 8836

(C) No state agency, department, division, bureau, office, 8837

unit, board, commission, authority, quasi-governmental entity, or 8838
institution, including those agencies otherwise excluded from the 8839
jurisdiction of the department under division (A)(3) of section 8840
123.01 of the Revised Code, shall lease, construct, or cause to be 8841
leased or constructed, within the limits prescribed in this 8842
section, a state-funded facility, without ~~having secured from the~~ 8843
~~office~~ a proper life-cycle cost analysis or, in the case of a 8844
lease, an energy consumption analysis, as computed or prepared by 8845
a qualified architect or engineer in accordance with the rules 8846
required by division (D) of this section. 8847

Construction shall proceed only upon the disclosure to the 8848
office, for the facility chosen, of the life-cycle costs as 8849
determined in this section and the capitalization of the initial 8850
construction costs of the building. The results of life-cycle cost 8851
analysis shall be a primary consideration in the selection of a 8852
building design. That analysis shall be required only for 8853
construction of buildings with an area of five thousand square 8854
feet or greater. An energy consumption analysis for the term of a 8855
proposed lease shall be required only for the leasing of an area 8856
of twenty thousand square feet or greater within a given building 8857
boundary. That analysis shall be a primary consideration in the 8858
selection of a facility to be leased. 8859

Nothing in this section shall deprive or limit any state 8860
agency that has review authority over design, construction, or 8861
leasing plans from requiring a life-cycle cost analysis or energy 8862
consumption analysis. 8863

~~Whenever any state agency, department, division, bureau,~~ 8864
~~office, unit, board, commission, authority, quasi-governmental~~ 8865
~~entity, or institution requests release of capital improvement~~ 8866
~~funds for any state-funded facility, it shall submit copies of all~~ 8867
~~pertinent life-cycle cost analyses prepared pursuant to this~~ 8868
~~section and in accordance with rules adopted under Chapters 3781.~~ 8869

~~and 4101. of the Revised Code.~~ 8870

(D) For the purposes of assisting the department in its 8871
responsibility for state-funded facilities pursuant to section 8872
123.01 of the Revised Code and of cost-effectively reducing the 8873
energy consumption of those and any other state-funded facilities, 8874
thereby promoting fiscal, economic, and environmental benefits to 8875
this state, the office shall promulgate rules specifying 8876
cost-effective, energy efficiency and conservation standards that 8877
may govern the lease, design, construction, operation, and 8878
maintenance of all state-funded facilities, except facilities of 8879
state institutions of higher education or facilities operated by a 8880
political subdivision. The office of energy efficiency in the 8881
department of development shall cooperate in providing information 8882
and technical expertise to the office of energy services to ensure 8883
promulgation of rules of maximum effectiveness. The standards 8884
prescribed by rules promulgated under this division may draw from 8885
or incorporate, by reference or otherwise and in whole or in part, 8886
standards already developed or implemented by any competent, 8887
public or private standards organization or program. The rules 8888
also may include any of the following: 8889

(1) Specifications for a life-cycle cost analysis that shall 8890
determine, for the economic life of such state-funded facility, 8891
the reasonably expected costs of facility ownership, operation, 8892
and maintenance including labor and materials. Life-cycle cost may 8893
be expressed as an annual cost for each year of the facility's 8894
use. ~~Further, the life cycle cost analysis may demonstrate for~~ 8895
~~each design how the design contributes to energy efficiency and~~ 8896
~~conservation with respect to any of the following:~~ 8897

~~(a) The coordination, orientation, and positioning of the~~ 8898
~~facility on its physical site;~~ 8899

~~(b) The amount and type of glass employed in the facility and~~ 8900
~~the directions of exposure;~~ 8901

~~(c) Thermal characteristics of materials incorporated into facility design, including insulation;~~ 8902
8903

~~(d) Architectural features that affect energy consumption, including the solar absorption and reflection properties of external surfaces;~~ 8904
8905
8906

~~(e) The variable occupancy and operating conditions of the facility and portions of the facility, including illumination levels;~~ 8907
8908
8909

~~(f) Any other pertinent, physical characteristics of the design.~~ 8910
8911

A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section. 8912
8913
8914

(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment. ~~This analysis shall include both of the following:~~ 8915
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8918

~~(a) The comparison of two or more system alternatives, one of which may be a system using solar energy;~~ 8919
8920

~~(b) The projection of the annual energy consumption of those major energy consuming systems, components, and equipment, for a range of operation of the facility over the economic life of the facility and considering their operation at other than full or rated outputs.~~ 8921
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A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national bureau institute of standards and technology, the United States department of ~~housing and urban development~~ energy or other federal agencies, professional societies, and directions developed by the 8926
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department. 8932

(3) Specifications for energy performance indices, to be used 8933
to audit and evaluate competing design proposals submitted to the 8934
state. 8935

(4) A requirement that, not later than two years after ~~the~~ 8936
~~effective date of this amendment~~ April 6, 2007, each state-funded 8937
facility, except a facility of a state institution of higher 8938
education or a facility operated by a political subdivision, is 8939
managed by at least one building operator certified under the 8940
building operator certification program or any equivalent program 8941
or standards as shall be prescribed in the rules and considered 8942
reasonably equivalent. 8943

(5) An application process by which a ~~project manager, as to~~ 8944
of a specified state-funded facility, except a facility of a state 8945
institution of higher education or a facility operated by a 8946
political subdivision, may apply for a waiver of compliance with 8947
any provision of the rules required by divisions (D)(1) to (4) of 8948
this section. 8949

(E) The office of energy services shall promulgate rules to 8950
ensure that energy efficiency and conservation will be considered 8951
in the purchase of products and equipment, except motor vehicles, 8952
by any state agency, department, division, bureau, office, unit, 8953
board, commission, authority, quasi-governmental entity, or 8954
institution. Minimum energy efficiency standards for purchased 8955
products and equipment may be required, based on federal testing 8956
and labeling where available or on standards developed by the 8957
office. The rules shall apply to the competitive selection of 8958
energy consuming systems, components, and equipment under Chapter 8959
125. of the Revised Code where possible. 8960

The office also shall ensure energy efficient and energy 8961
conserving purchasing practices by doing all of the following: 8962

(1) Cooperatively with the office of energy efficiency,	8963
identifying available energy efficiency and conservation	8964
opportunities;	8965
(2) Providing for interchange of information among purchasing	8966
agencies;	8967
(3) Identifying laws, policies, rules, and procedures that	8968
need modification;	8969
(4) Monitoring experience with and the cost-effectiveness of	8970
this state's purchase and use of motor vehicles and of major	8971
energy-consuming systems, components, equipment, and products	8972
having a significant impact on energy consumption by government;	8973
(5) Cooperatively with the office of energy efficiency,	8974
providing technical assistance and training to state employees	8975
involved in the purchasing process.	8976
The department of development shall make recommendations to	8977
the office regarding planning and implementation of purchasing	8978
policies and procedures supportive of energy efficiency and	8979
conservation.	8980
(F)(1) The office of energy services shall require all state	8981
agencies, departments, divisions, bureaus, offices, units,	8982
commissions, boards, authorities, quasi-governmental entities,	8983
institutions, and state institutions of higher education to	8984
implement procedures ensuring that all their passenger automobiles	8985
acquired in each fiscal year, except for those passenger	8986
automobiles acquired for use in law enforcement or emergency	8987
rescue work, achieve a fleet average fuel economy of not less than	8988
the fleet average fuel economy for that fiscal year as shall be	8989
prescribed by the office by rule. The office shall promulgate the	8990
rule prior to the beginning of the fiscal year in accordance with	8991
the average fuel economy standards established pursuant to federal	8992
law for passenger automobiles manufactured during the model year	8993

that begins during the fiscal year. 8994

(2) Each state agency, department, division, bureau, office, 8995
unit, commission, board, authority, quasi-governmental entity, 8996
institution, and state institution of higher education shall 8997
determine its fleet average fuel economy by dividing: 8998

(a) The total number of passenger vehicles acquired during 8999
the fiscal year, except for those passenger vehicles acquired for 9000
use in law enforcement or emergency rescue work, by 9001

(b) A sum of terms, each of which is a fraction created by 9002
dividing: 9003

(i) The number of passenger vehicles of a given make, model, 9004
and year, except for passenger vehicles acquired for use in law 9005
enforcement or emergency rescue work, acquired during the fiscal 9006
year, by 9007

(ii) The fuel economy measured by the administrator of the 9008
United States environmental protection agency, for the given make, 9009
model, and year of vehicle, that constitutes an average fuel 9010
economy for combined city and highway driving. 9011

As used in division (F)(2) of this section, "acquired" means 9012
leased for a period of sixty continuous days or more, or 9013
purchased. 9014

(G) Each state agency, department, division, bureau, office, 9015
unit, board, commission, authority, quasi-governmental entity, 9016
institution, and state institution of higher education shall 9017
comply with any applicable provision of this section or of a rule 9018
promulgated pursuant to division (D) or (F) of this section. 9019

Sec. 123.10. (A) The director of administrative services 9020
shall regulate the rate of tolls to be collected on the public 9021
works of the state, and shall fix all rentals and collect all 9022
tolls, rents, fines, commissions, fees, and other revenues arising 9023

from any source in the public works, including the sale, 9024
construction, purchase, or rental of property, except that the 9025
director shall not collect a commission or fee from a real estate 9026
broker or the private owner when real property is leased or rented 9027
to the state. 9028

(B) There is hereby created in the state treasury the state 9029
architect's fund which shall consist of money received by the 9030
department of administrative services under division (A) of this 9031
section, fees paid under section 123.17 of the Revised Code, 9032
transfers of money to the fund authorized by the general assembly, 9033
and such amount of the investment earnings of the administrative 9034
building fund created in division ~~(C)~~(F) of ~~this~~ section 154.24 of 9035
the Revised Code as the director of budget and management 9036
determines to be appropriate and in excess of the amounts required 9037
to meet estimated federal arbitrage rebate requirements. Money in 9038
the fund shall be used by the department of administrative 9039
services for the following purposes: 9040

(1) To pay personnel and other administrative expenses of the 9041
department; 9042

(2) To pay the cost of conducting evaluations of public 9043
works; 9044

(3) To pay the cost of building design specifications; 9045

(4) To pay the cost of providing project management services; 9046

(5) To pay the cost of operating the local administration 9047
competency certification program prescribed by section 123.17 of 9048
the Revised Code; 9049

(6) Any other purposes that the director of administrative 9050
services determines to be necessary for the department to execute 9051
its duties under this chapter. 9052

~~(C) There is hereby created in the state treasury the 9053~~

~~administrative building fund which shall consist of proceeds of 9054
obligations authorized to pay the cost of capital facilities. 9055
Except as provided in division (B) of this section, all investment 9056
earnings of the fund shall be credited to the fund. The fund shall 9057
be used to pay the cost of capital facilities designated by or 9058
pursuant to an act of the general assembly. The director of budget 9059
and management shall approve and provide a voucher for payments of 9060
amounts from the fund that represent the portion of investment 9061
earnings to be rebated or to be paid to the federal government in 9062
order to maintain the exclusion from gross income for federal 9063
income tax purposes on interest on those obligations pursuant to 9064
section 148(f) of the Internal Revenue Code. 9065~~

~~As used in this division, "capital facilities" has the same 9066
meaning as under section 152.09 of the Revised Code. 9067~~

Sec. 123.101. (A) As used in this section: 9068

"Capital facilities project" means the construction, 9069
reconstruction, improvement, enlargement, alteration, or repair of 9070
a building by a public entity. 9071

"Public entity" includes a state agency, county, township, 9072
municipal corporation, school district, state institution of 9073
higher education, or any other political subdivision of the state. 9074

"State institution of higher education" has the same meaning 9075
as in section 3345.011 of the Revised Code. 9076

(B) Commencing not later than July 1, 2012, and upon 9077
completion of a capital facilities project that is funded wholly 9078
or in part using state funds, each public entity shall submit a 9079
report about the project to the director of administrative 9080
services. The report shall be submitted in Ohio administrative 9081
knowledge system capital improvement format or in a manner 9082
determined by the director and not later than thirty days after 9083

the project is complete. The report shall provide the total 9084
original contract bid, total cost of change orders, total actual 9085
cost of the project, total costs incurred for mediation and 9086
litigation services, and any other data requested by the director. 9087
The first report submitted pursuant to this division shall include 9088
information about any capital facilities project completed on or 9089
after July 1, 2011. 9090

(C) Commencing not later than July 1, 2012, and annually 9091
thereafter, the attorney general shall report to the director on 9092
any mediation and litigation costs associated with capital 9093
facilities projects for which a judgment has been rendered. The 9094
report shall be submitted in a manner prescribed by the director 9095
and shall contain any information requested by the director 9096
related to capital facilities project mediation and litigation 9097
costs. 9098

(D) As soon as practicable after such information is made 9099
available, the director of administrative services shall 9100
incorporate the information reported pursuant to divisions (B) and 9101
(C) of this section into the Ohio administrative knowledge system. 9102

Sec. 124.09. The director of administrative services shall do 9103
all of the following: 9104

(A) Prescribe, amend, and enforce administrative rules for 9105
the purpose of carrying out the functions, powers, and duties 9106
vested in and imposed upon the director by this chapter. Except in 9107
the case of rules adopted pursuant to section 124.14 of the 9108
Revised Code, the prescription, amendment, and enforcement of 9109
rules under this division are subject to approval, disapproval, or 9110
modification by the state personnel board of review. 9111

(B) Keep records of the director's proceedings and records of 9112
all applications for examinations and all examinations conducted 9113
by the director or the director's designee. All of those records, 9114

except examinations, proficiency assessments, and recommendations 9115
of former employers, shall be open to public inspection under 9116
reasonable regulations; provided the governor, or any person 9117
designated by the governor, may, for the purpose of investigation, 9118
have free access to all of those records, whenever the governor 9119
has reason to believe that this chapter, or the administrative 9120
rules of the director prescribed under this chapter, are being 9121
violated. 9122

(C) Prepare, continue, and keep in the office of the 9123
department of administrative services a complete roster of all 9124
persons in the classified civil service of the state who are paid 9125
directly by warrant of the director of budget and management. This 9126
roster shall be open to public inspection at all reasonable hours. 9127
It shall show in reference to each of those persons, the person's 9128
name, address, date of appointment to or employment in the 9129
classified civil service of the state, and salary or compensation, 9130
the title of the place or office that the person holds, the nature 9131
of the duties of that place or office, and, in case of the 9132
person's removal or resignation, the date of the termination of 9133
that service. 9134

(D) Approve the establishment of all new positions in the 9135
civil service of the state and the reestablishment of abolished 9136
positions; 9137

(E) Require the abolishment of any position in the civil 9138
service of the state that is not filled after a period of twelve 9139
months unless it is determined that the position is seasonal in 9140
nature or that the vacancy is otherwise justified; 9141

(F) Make investigations concerning all matters touching the 9142
enforcement and effect of this chapter and the administrative 9143
rules of the director of administrative services prescribed under 9144
this chapter. In the course of those investigations, the director 9145
or the director's deputy may administer oaths and affirmations and 9146

take testimony relative to any matter which the director has 9147
authority to investigate. 9148

(G) Have the power to subpoena and require the attendance and 9149
testimony of witnesses and the production of books, papers, public 9150
records, and other documentary evidence pertinent to the 9151
investigations, inquiries, or hearings on any matter which the 9152
director has authority to investigate, inquire into, or hear, and 9153
to examine them in relation to any matter which the director has 9154
authority to investigate, inquire into, or hear. Fees and mileage 9155
shall be allowed to witnesses and, on their certificate, duly 9156
audited, shall be paid by the treasurer of state or, in the case 9157
of municipal or civil service township civil service commissions, 9158
by the county treasurer, for attendance and traveling, as provided 9159
in section 119.094 of the Revised Code. All officers in the civil 9160
service of the state or any of the political subdivisions of the 9161
state and their deputies, clerks, and employees shall attend and 9162
testify when summoned to do so by the director or the state 9163
personnel board of review. Depositions of witnesses may be taken 9164
by the director or the board, or any member of the board, in the 9165
manner prescribed by law for like depositions in civil actions in 9166
the courts of common pleas. In case any person, in disobedience to 9167
any subpoena issued by the director or the board, or any member of 9168
the board, or the chief examiner, fails or refuses to attend and 9169
testify to any matter regarding which the person may be lawfully 9170
interrogated, or produce any documentary evidence pertinent to any 9171
investigation, inquiry, or hearing, the court of common pleas of 9172
any county, or any judge of the court of common pleas of any 9173
county, where the disobedience, failure, or refusal occurs, upon 9174
application of the director or the board, or any member of the 9175
board, or a municipal or civil service township civil service 9176
commission, or any commissioner of such a commission, or their 9177
chief examiner, shall compel obedience by attachment proceedings 9178
for contempt as in the case of disobedience of the requirements of 9179

a subpoena issued from the court or a refusal to testify in the 9180
court. 9181

(H) Make a report to the governor, on or before the first day 9182
of January of each year, showing the director's actions, the rules 9183
and all exceptions to the rules in force, and any recommendations 9184
for the more effectual accomplishment of the purposes of this 9185
chapter. The director shall also furnish any special reports to 9186
the governor whenever the governor requests them. The reports 9187
shall be printed for public distribution under the same 9188
regulations as are the reports of other state officers, boards, or 9189
commissions. 9190

Sec. 124.11. The civil service of the state and the several 9191
counties, cities, civil service townships, city health districts, 9192
general health districts, and city school districts of the state 9193
shall be divided into the unclassified service and the classified 9194
service. 9195

(A) The unclassified service shall comprise the following 9196
positions, which shall not be included in the classified service, 9197
and which shall be exempt from all examinations required by this 9198
chapter: 9199

(1) All officers elected by popular vote or persons appointed 9200
to fill vacancies in those offices; 9201

(2) All election officers as defined in section 3501.01 of 9202
the Revised Code; 9203

(3)(a) The members of all boards and commissions, and heads 9204
of principal departments, boards, and commissions appointed by the 9205
governor or by and with the governor's consent; 9206

(b) The heads of all departments appointed by a board of 9207
county commissioners; 9208

(c) The members of all boards and commissions and all heads 9209

of departments appointed by the mayor, or, if there is no mayor, 9210
such other similar chief appointing authority of any city or city 9211
school district; 9212

Except as otherwise provided in division (A)(17) or (C) of 9213
this section, this chapter does not exempt the chiefs of police 9214
departments and chiefs of fire departments of cities or civil 9215
service townships from the competitive classified service. 9216

(4) The members of county or district licensing boards or 9217
commissions and boards of revision, and not more than five deputy 9218
county auditors; 9219

(5) All officers and employees elected or appointed by either 9220
or both branches of the general assembly, and employees of the 9221
city legislative authority engaged in legislative duties; 9222

(6) All commissioned, warrant, and noncommissioned officers 9223
and enlisted persons in the Ohio organized militia, including 9224
military appointees in the adjutant general's department; 9225

(7)(a) All presidents, business managers, administrative 9226
officers, superintendents, assistant superintendents, principals, 9227
deans, assistant deans, instructors, teachers, and such employees 9228
as are engaged in educational or research duties connected with 9229
the public school system, colleges, and universities, as 9230
determined by the governing body of the public school system, 9231
colleges, and universities; 9232

(b) The library staff of any library in the state supported 9233
wholly or in part at public expense. 9234

(8) Four clerical and administrative support employees for 9235
each of the elective state officers, four clerical and 9236
administrative support employees for each board of county 9237
commissioners and one such employee for each county commissioner, 9238
and four clerical and administrative support employees for other 9239
elective officers and each of the principal appointive executive 9240

officers, boards, or commissions, except for civil service 9241
commissions, that are authorized to appoint such clerical and 9242
administrative support employees; 9243

(9) The deputies and assistants of state agencies authorized 9244
to act for and on behalf of the agency, or holding a fiduciary or 9245
administrative relation to that agency and those persons employed 9246
by and directly responsible to elected county officials or a 9247
county administrator and holding a fiduciary or administrative 9248
relationship to such elected county officials or county 9249
administrator, and the employees of such county officials whose 9250
fitness would be impracticable to determine by competitive 9251
examination, provided that division (A)(9) of this section shall 9252
not affect those persons in county employment in the classified 9253
service as of September 19, 1961. Nothing in division (A)(9) of 9254
this section applies to any position in a county department of job 9255
and family services created pursuant to Chapter 329. of the 9256
Revised Code. 9257

(10) Bailiffs, constables, official stenographers, and 9258
commissioners of courts of record, deputies of clerks of the 9259
courts of common pleas who supervise or who handle public moneys 9260
or secured documents, and such officers and employees of courts of 9261
record and such deputies of clerks of the courts of common pleas 9262
as the director of administrative services finds it impracticable 9263
to determine their fitness by competitive examination; 9264

(11) Assistants to the attorney general, special counsel 9265
appointed or employed by the attorney general, assistants to 9266
county prosecuting attorneys, and assistants to city directors of 9267
law; 9268

(12) Such teachers and employees in the agricultural 9269
experiment stations; such students in normal schools, colleges, 9270
and universities of the state who are employed by the state or a 9271
political subdivision of the state in student or intern 9272

classifications; and such unskilled labor positions as the 9273
director of administrative services or any municipal civil service 9274
commission may find it impracticable to include in the competitive 9275
classified service; provided such exemptions shall be by order of 9276
the commission or the director, duly entered on the record of the 9277
commission or the director with the reasons for each such 9278
exemption; 9279

(13) Any physician or dentist who is a full-time employee of 9280
the department of mental health, the department of developmental 9281
disabilities, or an institution under the jurisdiction of either 9282
department; and physicians who are in residency programs at the 9283
institutions; 9284

(14) Up to twenty positions at each institution under the 9285
jurisdiction of the department of mental health or the department 9286
of developmental disabilities that the department director 9287
determines to be primarily administrative or managerial; and up to 9288
fifteen positions in any division of either department, excluding 9289
administrative assistants to the director and division chiefs, 9290
which are within the immediate staff of a division chief and which 9291
the director determines to be primarily and distinctively 9292
administrative and managerial; 9293

(15) Noncitizens of the United States employed by the state, 9294
or its counties or cities, as physicians or nurses who are duly 9295
licensed to practice their respective professions under the laws 9296
of this state, or medical assistants, in mental or chronic disease 9297
hospitals, or institutions; 9298

(16) Employees of the governor's office; 9299

(17) Fire chiefs and chiefs of police in civil service 9300
townships appointed by boards of township trustees under section 9301
505.38 or 505.49 of the Revised Code; 9302

(18) Executive directors, deputy directors, and program 9303

directors employed by boards of alcohol, drug addiction, and 9304
mental health services under Chapter 340. of the Revised Code, and 9305
secretaries of the executive directors, deputy directors, and 9306
program directors; 9307

(19) Superintendents, and management employees as defined in 9308
section 5126.20 of the Revised Code, of county boards of 9309
developmental disabilities; 9310

(20) Physicians, nurses, and other employees of a county 9311
hospital who are appointed pursuant to sections 339.03 and 339.06 9312
of the Revised Code; 9313

(21) The executive director of the state medical board, who 9314
is appointed pursuant to division (B) of section 4731.05 of the 9315
Revised Code; 9316

(22) County directors of job and family services as provided 9317
in section 329.02 of the Revised Code and administrators appointed 9318
under section 329.021 of the Revised Code; 9319

(23) A director of economic development who is hired pursuant 9320
to division (A) of section 307.07 of the Revised Code; 9321

(24) Chiefs of construction and compliance, of operations and 9322
maintenance, of worker protection, and of licensing and 9323
certification in the division of labor in the department of 9324
commerce; 9325

(25) The executive director of a county transit system 9326
appointed under division (A) of section 306.04 of the Revised 9327
Code; 9328

(26) Up to five positions at each of the administrative 9329
departments listed in section 121.02 of the Revised Code and at 9330
the department of taxation, department of the adjutant general, 9331
department of education, Ohio board of regents, bureau of workers' 9332
compensation, industrial commission, state lottery commission, and 9333

public utilities commission of Ohio that the head of that 9334
administrative department or of that other state agency determines 9335
to be involved in policy development and implementation. The head 9336
of the administrative department or other state agency shall set 9337
the compensation for employees in these positions at a rate that 9338
is not less than the minimum compensation specified in pay range 9339
41 but not more than the maximum compensation specified in pay 9340
range 44 of salary schedule E-2 in section 124.152 of the Revised 9341
Code. The authority to establish positions in the unclassified 9342
service under division (A)(26) of this section is in addition to 9343
and does not limit any other authority that an administrative 9344
department or state agency has under the Revised Code to establish 9345
positions, appoint employees, or set compensation. 9346

(27) Employees of the department of agriculture employed 9347
under section 901.09 of the Revised Code; 9348

(28) For cities, counties, civil service townships, city 9349
health districts, general health districts, and city school 9350
districts, the deputies and assistants of elective or principal 9351
executive officers authorized to act for and in the place of their 9352
principals or holding a fiduciary relation to their principals; 9353

(29) Employees who receive intermittent or temporary 9354
appointments under division (B) of section 124.30 of the Revised 9355
Code; 9356

(30) Employees appointed to administrative staff positions 9357
for which an appointing authority is given specific statutory 9358
authority to set compensation; 9359

(31) Employees appointed to highway patrol cadet or highway 9360
patrol cadet candidate classifications; 9361

(32) An administrator appointed by a county board of 9362
information services and records management under section 307.847 9363
of the Revised Code; 9364

(33) Employees placed in the unclassified service by another 9365
section of the Revised Code. 9366

(B) The classified service shall comprise all persons in the 9367
employ of the state and the several counties, cities, city health 9368
districts, general health districts, and city school districts of 9369
the state, not specifically included in the unclassified service. 9370
Upon the creation by the board of trustees of a civil service 9371
township civil service commission, the classified service shall 9372
also comprise, except as otherwise provided in division (A)(17) or 9373
(C) of this section, all persons in the employ of a civil service 9374
township police or fire department having ten or more full-time 9375
paid employees. The classified service consists of two classes, 9376
which shall be designated as the competitive class and the 9377
unskilled labor class. 9378

(1) The competitive class shall include all positions and 9379
employments in the state and the counties, cities, city health 9380
districts, general health districts, and city school districts of 9381
the state, and, upon the creation by the board of trustees of a 9382
civil service township of a township civil service commission, all 9383
positions in a civil service township police or fire department 9384
having ten or more full-time paid employees, for which it is 9385
practicable to determine the merit and fitness of applicants by 9386
competitive examinations. Appointments shall be made to, or 9387
employment shall be given in, all positions in the competitive 9388
class that are not filled by promotion, reinstatement, transfer, 9389
or reduction, as provided in this chapter, and the rules of the 9390
director of administrative services, by appointment from those 9391
certified to the appointing officer in accordance with this 9392
chapter. 9393

(2) The unskilled labor class shall include ordinary 9394
unskilled laborers. Vacancies in the labor class for positions in 9395
service of the state shall be filled by appointment from lists of 9396

applicants registered by the director. Vacancies in the labor 9397
class for all other positions shall be filled by appointment from 9398
lists of applicants registered by a commission. The director or 9399
the commission, as applicable, by rule, shall require an applicant 9400
for registration in the labor class to furnish evidence or take 9401
tests as the director or commission considers proper with respect 9402
to age, residence, physical condition, ability to labor, honesty, 9403
sobriety, industry, capacity, and experience in the work or 9404
employment for which application is made. Laborers who fulfill the 9405
requirements shall be placed on the eligible list for the kind of 9406
labor or employment sought, and preference shall be given in 9407
employment in accordance with the rating received from that 9408
evidence or in those tests. Upon the request of an appointing 9409
officer, stating the kind of labor needed, the pay and probable 9410
length of employment, and the number to be employed, the director 9411
or commission, as applicable, shall certify from the highest on 9412
the list double the number to be employed; from this number, the 9413
appointing officer shall appoint the number actually needed for 9414
the particular work. If more than one applicant receives the same 9415
rating, priority in time of application shall determine the order 9416
in which their names shall be certified for appointment. 9417

(C) A municipal or civil service township civil service 9418
commission may place volunteer firefighters who are paid on a 9419
fee-for-service basis in either the classified or the unclassified 9420
civil service. 9421

(D) This division does not apply to persons in the 9422
unclassified service who have the right to resume positions in the 9423
classified service under sections 4121.121, 5119.071, 5120.38, 9424
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 9425
Code. 9426

An appointing authority whose employees are paid directly by 9427
warrant of the director of budget and management may appoint a 9428

person who holds a certified position in the classified service 9429
within the appointing authority's agency to a position in the 9430
unclassified service within that agency. A person appointed 9431
pursuant to this division to a position in the unclassified 9432
service shall retain the right to resume the position and status 9433
held by the person in the classified service immediately prior to 9434
the person's appointment to the position in the unclassified 9435
service, regardless of the number of positions the person held in 9436
the unclassified service. An employee's right to resume a position 9437
in the classified service may only be exercised when an appointing 9438
authority demotes the employee to a pay range lower than the 9439
employee's current pay range or revokes the employee's appointment 9440
to the unclassified service. An employee forfeits the right to 9441
resume a position in the classified service when the employee is 9442
removed from the position in the unclassified service due to 9443
incompetence, inefficiency, dishonesty, drunkenness, immoral 9444
conduct, insubordination, discourteous treatment of the public, 9445
neglect of duty, violation of this chapter or the rules of the 9446
director of administrative services, any other failure of good 9447
behavior, any other acts of misfeasance, malfeasance, or 9448
nonfeasance in office, or conviction of a felony. An employee also 9449
forfeits the right to resume a position in the classified service 9450
upon transfer to a different agency. 9451

Reinstatement to a position in the classified service shall 9452
be to a position substantially equal to that position in the 9453
classified service held previously, as certified by the director 9454
of administrative services. If the position the person previously 9455
held in the classified service has been placed in the unclassified 9456
service or is otherwise unavailable, the person shall be appointed 9457
to a position in the classified service within the appointing 9458
authority's agency that the director of administrative services 9459
certifies is comparable in compensation to the position the person 9460
previously held in the classified service. Service in the position 9461

in the unclassified service shall be counted as service in the 9462
position in the classified service held by the person immediately 9463
prior to the person's appointment to the position in the 9464
unclassified service. When a person is reinstated to a position in 9465
the classified service as provided in this division, the person is 9466
entitled to all rights, status, and benefits accruing to the 9467
position in the classified service during the person's time of 9468
service in the position in the unclassified service. 9469

Sec. 124.14. (A)(1) The director of administrative services 9470
shall establish, and may modify or rescind, ~~by rule,~~ a job 9471
classification plan for all positions, offices, and employments 9472
the salaries of which are paid in whole or in part by the state. 9473
The director shall group jobs within a classification so that the 9474
positions are similar enough in duties and responsibilities to be 9475
described by the same title, to have the same pay assigned with 9476
equity, and to have the same qualifications for selection applied. 9477
The director shall, ~~by rule,~~ assign a classification title to each 9478
classification within the classification plan. However, the 9479
director shall consider in establishing classifications, including 9480
classifications with parenthetical titles, and assigning pay 9481
ranges such factors as duties performed only on one shift, special 9482
skills in short supply in the labor market, recruitment problems, 9483
separation rates, comparative salary rates, the amount of training 9484
required, and other conditions affecting employment. The director 9485
shall describe the duties and responsibilities of the class, 9486
establish the qualifications for being employed in each position 9487
in the class, and file with the secretary of state a copy of 9488
specifications for all of the classifications. The director shall 9489
file new, additional, or revised specifications with the secretary 9490
of state before they are used. 9491

The director shall, ~~by rule,~~ assign each classification, 9492
either on a statewide basis or in particular counties or state 9493

institutions, to a pay range established under section 124.15 or 9494
section 124.152 of the Revised Code. The director may assign a 9495
classification to a pay range on a temporary basis for a period of 9496
six months. The director may establish, ~~by rule adopted under~~ 9497
~~Chapter 119. of the Revised Code,~~ experimental classification 9498
plans for some or all employees paid directly by warrant of the 9499
director of budget and management. ~~The rule~~ An experimental 9500
classification plan shall include specifications for each 9501
classification within the plan and shall specifically address 9502
compensation ranges, and methods for advancing within the ranges, 9503
for the classifications, which may be assigned to pay ranges other 9504
than the pay ranges established under section 124.15 or 124.152 of 9505
the Revised Code. 9506

(2) The director of administrative services may reassign to a 9507
proper classification those positions that have been assigned to 9508
an improper classification. If the compensation of an employee in 9509
such a reassigned position exceeds the maximum rate of pay for the 9510
employee's new classification, the employee shall be placed in pay 9511
step X and shall not receive an increase in compensation until the 9512
maximum rate of pay for that classification exceeds the employee's 9513
compensation. 9514

(3) The director may reassign an exempt employee, as defined 9515
in section 124.152 of the Revised Code, to a bargaining unit 9516
classification if the director determines that the bargaining unit 9517
classification is the proper classification for that employee. 9518
Notwithstanding Chapter 4117. of the Revised Code or instruments 9519
and contracts negotiated under it, these placements are at the 9520
director's discretion. 9521

(4) The director shall, ~~by rule,~~ assign related 9522
classifications, which form a career progression, to a 9523
classification series. The director shall, ~~by rule,~~ assign each 9524
classification in the classification plan a five-digit number, the 9525

first four digits of which shall denote the classification series 9526
to which the classification is assigned. When a career progression 9527
encompasses more than ten classifications, the director shall, ~~by~~ 9528
~~rule,~~ identify the additional classifications belonging to a 9529
classification series. The additional classifications shall be 9530
part of the classification series, notwithstanding the fact that 9531
the first four digits of the number assigned to the additional 9532
classifications do not correspond to the first four digits of the 9533
numbers assigned to other classifications in the classification 9534
series. 9535

(5) The director may establish, modify, or rescind a 9536
classification plan for county agencies that elect not to use the 9537
services and facilities of a county personnel department. ~~The~~ 9538
~~director shall establish any such classification plan by means of~~ 9539
~~rules adopted under Chapter 119. of the Revised Code. The rules~~ 9540
The classification plan shall include a methodology for the 9541
establishment of titles unique to county agencies, the use of 9542
state classification titles and classification specifications for 9543
common positions, the criteria for a county to meet in 9544
establishing its own classification plan, and the establishment of 9545
what constitutes a classification series for county agencies. The 9546
director may assess a county agency that chooses to use the 9547
classification plan a usage fee the director determines. All usage 9548
fees the department of administrative services receives shall be 9549
paid into the state treasury to the credit of the human resources 9550
fund created in section 124.07 of the Revised Code. 9551

(B) Division (A) of this section and sections 124.15 and 9552
124.152 of the Revised Code do not apply to the following persons, 9553
positions, offices, and employments: 9554

(1) Elected officials; 9555

(2) Legislative employees, employees of the legislative 9556
service commission, employees in the office of the governor, 9557

employees who are in the unclassified civil service and exempt 9558
from collective bargaining coverage in the office of the secretary 9559
of state, auditor of state, treasurer of state, and attorney 9560
general, and employees of the supreme court; 9561

(3) Employees of a county children services board that 9562
establishes compensation rates under section 5153.12 of the 9563
Revised Code; 9564

(4) Any position for which the authority to determine 9565
compensation is given by law to another individual or entity; 9566

(5) Employees of the bureau of workers' compensation whose 9567
compensation the administrator of workers' compensation 9568
establishes under division (B) of section 4121.121 of the Revised 9569
Code. 9570

(C) The director may employ a consulting agency to aid and 9571
assist the director in carrying out this section. 9572

(D)(1) When the director proposes to modify a classification 9573
or the assignment of classes to appropriate pay ranges, the 9574
director shall send written notice of the ~~proposed rule~~ 9575
modification to the appointing authorities of the affected 9576
employees ~~thirty days before a hearing on the proposed rule. The,~~ 9577
and the appointing authorities shall notify the affected employees 9578
regarding the ~~proposed rule modification thirty days before the~~ 9579
modification occurs. The director also shall send those appointing 9580
authorities notice of any ~~final rule that is adopted~~ modification 9581
within ten days after ~~adoption~~ the modification. 9582

(2) When the director proposes to reclassify any employee so 9583
that the employee is adversely affected, the director shall give 9584
to the employee affected and to the employee's appointing 9585
authority a written notice setting forth the proposed new 9586
classification, pay range, and salary. Upon the request of any 9587
classified employee who is not serving in a probationary period, 9588

the director shall perform a job audit to review the 9589
classification of the employee's position to determine whether the 9590
position is properly classified. The director shall give to the 9591
employee affected and to the employee's appointing authority a 9592
written notice of the director's determination whether or not to 9593
reclassify the position or to reassign the employee to another 9594
classification. An employee or appointing authority desiring a 9595
hearing shall file a written request for the hearing with the 9596
state personnel board of review within thirty days after receiving 9597
the notice. The board shall set the matter for a hearing and 9598
notify the employee and appointing authority of the time and place 9599
of the hearing. The employee, the appointing authority, or any 9600
authorized representative of the employee who wishes to submit 9601
facts for the consideration of the board shall be afforded 9602
reasonable opportunity to do so. After the hearing, the board 9603
shall consider anew the reclassification and may order the 9604
reclassification of the employee and require the director to 9605
assign the employee to such appropriate classification as the 9606
facts and evidence warrant. As provided in division (A)(1) of 9607
section 124.03 of the Revised Code, the board may determine the 9608
most appropriate classification for the position of any employee 9609
coming before the board, with or without a job audit. The board 9610
shall disallow any reclassification or reassignment classification 9611
of any employee when it finds that changes have been made in the 9612
duties and responsibilities of any particular employee for 9613
political, religious, or other unjust reasons. 9614

(E)(1) Employees of each county department of job and family 9615
services shall be paid a salary or wage established by the board 9616
of county commissioners. The provisions of section 124.18 of the 9617
Revised Code concerning the standard work week apply to employees 9618
of county departments of job and family services. A board of 9619
county commissioners may do either of the following: 9620

(a) Notwithstanding any other section of the Revised Code, 9621
supplement the sick leave, vacation leave, personal leave, and 9622
other benefits of any employee of the county department of job and 9623
family services of that county, if the employee is eligible for 9624
the supplement under a written policy providing for the 9625
supplement; 9626

(b) Notwithstanding any other section of the Revised Code, 9627
establish alternative schedules of sick leave, vacation leave, 9628
personal leave, or other benefits for employees not inconsistent 9629
with the provisions of a collective bargaining agreement covering 9630
the affected employees. 9631

(2) Division (E)(1) of this section does not apply to 9632
employees for whom the state employment relations board 9633
establishes appropriate bargaining units pursuant to section 9634
4117.06 of the Revised Code, except in either of the following 9635
situations: 9636

(a) The employees for whom the state employment relations 9637
board establishes appropriate bargaining units elect no 9638
representative in a board-conducted representation election. 9639

(b) After the state employment relations board establishes 9640
appropriate bargaining units for such employees, all employee 9641
organizations withdraw from a representation election. 9642

(F)(1) Notwithstanding any contrary provision of sections 9643
124.01 to 124.64 of the Revised Code, the board of trustees of 9644
each state university or college, as defined in section 3345.12 of 9645
the Revised Code, shall carry out all matters of governance 9646
involving the officers and employees of the university or college, 9647
including, but not limited to, the powers, duties, and functions 9648
of the department of administrative services and the director of 9649
administrative services specified in this chapter. Officers and 9650
employees of a state university or college shall have the right of 9651

appeal to the state personnel board of review as provided in this 9652
chapter. 9653

(2) Each board of trustees shall adopt rules under section 9654
111.15 of the Revised Code to carry out the matters of governance 9655
described in division (F)(1) of this section. Until the board of 9656
trustees adopts those rules, a state university or college shall 9657
continue to operate pursuant to the applicable rules adopted by 9658
the director of administrative services under this chapter. 9659

(G)(1) Each board of county commissioners may, by a 9660
resolution adopted by a majority of its members, establish a 9661
county personnel department to exercise the powers, duties, and 9662
functions specified in division (G) of this section. As used in 9663
division (G) of this section, "county personnel department" means 9664
a county personnel department established by a board of county 9665
commissioners under division (G)(1) of this section. 9666

(2)(a) Each board of county commissioners, by a resolution 9667
adopted by a majority of its members, may designate the county 9668
personnel department of the county to exercise the powers, duties, 9669
and functions specified in sections 124.01 to 124.64 and Chapter 9670
325. of the Revised Code with regard to employees in the service 9671
of the county, except for the powers and duties of the state 9672
personnel board of review, which powers and duties shall not be 9673
construed as having been modified or diminished in any manner by 9674
division (G)(2) of this section, with respect to the employees for 9675
whom the board of county commissioners is the appointing authority 9676
or co-appointing authority. 9677

(b) Nothing in division (G)(2) of this section shall be 9678
construed to limit the right of any employee who possesses the 9679
right of appeal to the state personnel board of review to continue 9680
to possess that right of appeal. 9681

(c) Any board of county commissioners that has established a 9682

county personnel department may contract with the department of 9683
administrative services, another political subdivision, or an 9684
appropriate public or private entity to provide competitive 9685
testing services or other appropriate services. 9686

(3) After the county personnel department of a county has 9687
been established as described in division (G)(2) of this section, 9688
any elected official, board, agency, or other appointing authority 9689
of that county, upon written notification to the county personnel 9690
department, may elect to use the services and facilities of the 9691
county personnel department. Upon receipt of the notification by 9692
the county personnel department, the county personnel department 9693
shall exercise the powers, duties, and functions as described in 9694
division (G)(2) of this section with respect to the employees of 9695
that elected official, board, agency, or other appointing 9696
authority. 9697

(4) Each board of county commissioners, by a resolution 9698
adopted by a majority of its members, may disband the county 9699
personnel department. 9700

(5) Any elected official, board, agency, or appointing 9701
authority of a county may end its involvement with a county 9702
personnel department upon actual receipt by the department of a 9703
certified copy of the notification that contains the decision to 9704
no longer participate. 9705

(6) The director of administrative services may, by rule 9706
adopted in accordance with Chapter 119. of the Revised Code, 9707
prescribe criteria and procedures for the following: 9708

(a) A requirement that each county personnel department, in 9709
carrying out its duties, adhere to merit system principles with 9710
regard to employees of county departments of job and family 9711
services, child support enforcement agencies, and public child 9712
welfare agencies so that there is no threatened loss of federal 9713

funding for these agencies, and a requirement that the county be 9714
financially liable to the state for any loss of federal funds due 9715
to the action or inaction of the county personnel department. The 9716
costs associated with audits conducted to monitor compliance with 9717
division (G)(6)(a) of this section shall be reimbursed to the 9718
department of administrative services as determined by the 9719
director. All money the department receives for these audits shall 9720
be paid into the state treasury to the credit of the human 9721
resources fund created in section 124.07 of the Revised Code. 9722

(b) Authorization for the director of administrative services 9723
to conduct periodic audits and reviews of county personnel 9724
departments to guarantee the uniform application of the powers, 9725
duties, and functions exercised pursuant to division (G)(2)(a) of 9726
this section. The costs of the audits and reviews shall be 9727
reimbursed to the department of administrative services as 9728
determined by the director by the county for which the services 9729
are performed. All money the department receives shall be paid 9730
into the state treasury to the credit of the human resources fund 9731
created in section 124.07 of the Revised Code. 9732

(H) The director of administrative services shall establish 9733
the rate and method of compensation for all employees who are paid 9734
directly by warrant of the director of budget and management and 9735
who are serving in positions that the director of administrative 9736
services has determined impracticable to include in the state job 9737
classification plan. This division does not apply to elected 9738
officials, legislative employees, employees of the legislative 9739
service commission, employees who are in the unclassified civil 9740
service and exempt from collective bargaining coverage in the 9741
office of the secretary of state, auditor of state, treasurer of 9742
state, and attorney general, employees of the courts, employees of 9743
the bureau of workers' compensation whose compensation the 9744
administrator of workers' compensation establishes under division 9745

(B) of section 4121.121 of the Revised Code, or employees of an 9746
appointing authority authorized by law to fix the compensation of 9747
those employees. 9748

(I) The director shall set the rate of compensation for all 9749
intermittent, seasonal, temporary, emergency, and casual employees 9750
in the service of the state who are not considered public 9751
employees under section 4117.01 of the Revised Code. Those 9752
employees are not entitled to receive employee benefits. This rate 9753
of compensation shall be equitable in terms of the rate of 9754
employees serving in the same or similar classifications. This 9755
division does not apply to elected officials, legislative 9756
employees, employees of the legislative service commission, 9757
employees who are in the unclassified civil service and exempt 9758
from collective bargaining coverage in the office of the secretary 9759
of state, auditor of state, treasurer of state, and attorney 9760
general, employees of the courts, employees of the bureau of 9761
workers' compensation whose compensation the administrator 9762
establishes under division (B) of section 4121.121 of the Revised 9763
Code, or employees of an appointing authority authorized by law to 9764
fix the compensation of those employees. 9765

Sec. 124.141. The director of administrative services may 9766
~~establish, by rule adopted under Chapter 119. of the Revised Code,~~ 9767
an appointment incentive program that allows an appointing 9768
authority to pay to an officer or employee described in division 9769
(A)(30) of section 124.11, division (B)(2) of section 124.14, or 9770
division (B) of section 126.32 of the Revised Code a salary and 9771
benefits package that differs from the salary and benefits 9772
otherwise provided by law for that officer or employee, provided 9773
that the appointment incentive program established by the director 9774
cannot include authority for an appointing authority to provide 9775
health care benefits to a covered officer or employee that are 9776
different from health care benefits otherwise provided by law for 9777

that officer or employee. 9778

Sec. 124.15. (A) Board and commission members appointed prior 9779
to July 1, 1991, shall be paid a salary or wage in accordance with 9780
the following schedules of rates: 9781

Schedule B 9782

Pay Ranges and Step Values 9783

Range	Step 1	Step 2	Step 3	Step 4	
23 Hourly	5.72	5.91	6.10	6.31	9785
Annually	11897.60	12292.80	12688.00	13124.80	9786
	Step 5	Step 6			9787
Hourly	6.52	6.75			9788
Annually	13561.60	14040.00			9789
	Step 1	Step 2	Step 3	Step 4	9790
24 Hourly	6.00	6.20	6.41	6.63	9791
Annually	12480.00	12896.00	13332.80	13790.40	9792
	Step 5	Step 6			9793
Hourly	6.87	7.10			9794
Annually	14289.60	14768.00			9795
	Step 1	Step 2	Step 3	Step 4	9796
25 Hourly	6.31	6.52	6.75	6.99	9797
Annually	13124.80	13561.60	14040.00	14539.20	9798
	Step 5	Step 6			9799
Hourly	7.23	7.41			9800
Annually	15038.40	15412.80			9801
	Step 1	Step 2	Step 3	Step 4	9802
26 Hourly	6.63	6.87	7.10	7.32	9803
Annually	13790.40	14289.60	14768.00	15225.60	9804
	Step 5	Step 6			9805
Hourly	7.53	7.77			9806
Annually	15662.40	16161.60			9807
	Step 1	Step 2	Step 3	Step 4	9808

27	Hourly	6.99	7.23	7.41	7.64	9809
	Annually	14534.20	15038.40	15412.80	15891.20	9810
		Step 5	Step 6	Step 7		9811
	Hourly	7.88	8.15	8.46		9812
	Annually	16390.40	16952.00	17596.80		9813
		Step 1	Step 2	Step 3	Step 4	9814
28	Hourly	7.41	7.64	7.88	8.15	9815
	Annually	15412.80	15891.20	16390.40	16952.00	9816
		Step 5	Step 6	Step 7		9817
	Hourly	8.46	8.79	9.15		9818
	Annually	17596.80	18283.20	19032.00		9819
		Step 1	Step 2	Step 3	Step 4	9820
29	Hourly	7.88	8.15	8.46	8.79	9821
	Annually	16390.40	16952.00	17596.80	18283.20	9822
		Step 5	Step 6	Step 7		9823
	Hourly	9.15	9.58	10.01		9824
	Annually	19032.00	19926.40	20820.80		9825
		Step 1	Step 2	Step 3	Step 4	9826
30	Hourly	8.46	8.79	9.15	9.58	9827
	Annually	17596.80	18283.20	19032.00	19926.40	9828
		Step 5	Step 6	Step 7		9829
	Hourly	10.01	10.46	10.99		9830
	Annually	20820.80	21756.80	22859.20		9831
		Step 1	Step 2	Step 3	Step 4	9832
31	Hourly	9.15	9.58	10.01	10.46	9833
	Annually	19032.00	19962.40	20820.80	21756.80	9834
		Step 5	Step 6	Step 7		9835
	Hourly	10.99	11.52	12.09		9836
	Annually	22859.20	23961.60	25147.20		9837
		Step 1	Step 2	Step 3	Step 4	9838
32	Hourly	10.01	10.46	10.99	11.52	9839
	Annually	20820.80	21756.80	22859.20	23961.60	9840
		Step 5	Step 6	Step 7	Step 8	9841

	Hourly	12.09	12.68	13.29	13.94	9842
	Annually	25147.20	26374.40	27643.20	28995.20	9843
		Step 1	Step 2	Step 3	Step 4	9844
33	Hourly	10.99	11.52	12.09	12.68	9845
	Annually	22859.20	23961.60	25147.20	26374.40	9846
		Step 5	Step 6	Step 7	Step 8	9847
	Hourly	13.29	13.94	14.63	15.35	9848
	Annually	27643.20	28995.20	30430.40	31928.00	9849
		Step 1	Step 2	Step 3	Step 4	9850
34	Hourly	12.09	12.68	13.29	13.94	9851
	Annually	25147.20	26374.40	27643.20	28995.20	9852
		Step 5	Step 6	Step 7	Step 8	9853
	Hourly	14.63	15.35	16.11	16.91	9854
	Annually	30430.40	31928.00	33508.80	35172.80	9855
		Step 1	Step 2	Step 3	Step 4	9856
35	Hourly	13.29	13.94	14.63	15.35	9857
	Annually	27643.20	28995.20	30430.40	31928.00	9858
		Step 5	Step 6	Step 7	Step 8	9859
	Hourly	16.11	16.91	17.73	18.62	9860
	Annually	33508.80	35172.80	36878.40	38729.60	9861
		Step 1	Step 2	Step 3	Step 4	9862
36	Hourly	14.63	15.35	16.11	16.91	9863
	Annually	30430.40	31928.00	33508.80	35172.80	9864
		Step 5	Step 6	Step 7	Step 8	9865
	Hourly	17.73	18.62	19.54	20.51	9866
	Annually	36878.40	38729.60	40643.20	42660.80	9867
	Schedule C					9868
		Pay Range and Values				9869
	Range	Minimum		Maximum		9870
41	Hourly	10.44		15.72		9871
	Annually	21715.20		32697.60		9872
42	Hourly	11.51		17.35		9873
	Annually	23940.80		36088.00		9874

43 Hourly	12.68	19.12	9875
Annually	26374.40	39769.60	9876
44 Hourly	13.99	20.87	9877
Annually	29099.20	43409.60	9878
45 Hourly	15.44	22.80	9879
Annually	32115.20	47424.00	9880
46 Hourly	17.01	24.90	9881
Annually	35380.80	51792.00	9882
47 Hourly	18.75	27.18	9883
Annually	39000.00	56534.40	9884
48 Hourly	20.67	29.69	9885
Annually	42993.60	61755.20	9886
49 Hourly	22.80	32.06	9887
Annually	47424.00	66684.80	9888

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 9889
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(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code. 9891
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(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints employees in the service of the state, with the approval of the director of administrative services and the director of budget and 9894
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management, may establish payments to employees for uniforms, 9907
tools, equipment, and other requirements of the department and 9908
payments for the maintenance of them. 9909

The director of administrative services may review collective 9910
bargaining agreements entered into under Chapter 4117. of the 9911
Revised Code that cover employees in the service of the state and 9912
determine whether certain benefits or payments provided to the 9913
employees covered by those agreements should also be provided to 9914
employees in the service of the state who are exempt from 9915
collective bargaining coverage and are paid in accordance with 9916
section 124.152 of the Revised Code or are listed in division 9917
(B)(2) or (4) of section 124.14 of the Revised Code. On completing 9918
the review, the director of administrative services, with the 9919
approval of the director of budget and management, may provide to 9920
some or all of these employees any payment or benefit, except for 9921
salary, contained in such a collective bargaining agreement even 9922
if it is similar to a payment or benefit already provided by law 9923
to some or all of these employees. Any payment or benefit so 9924
provided shall not exceed the highest level for that payment or 9925
benefit specified in such a collective bargaining agreement. The 9926
director of administrative services shall not provide, and the 9927
director of budget and management shall not approve, any payment 9928
or benefit to such an employee under this division unless the 9929
payment or benefit is provided pursuant to a collective bargaining 9930
agreement to a state employee who is in a position with similar 9931
duties as, is supervised by, or is employed by the same appointing 9932
authority as, the employee to whom the benefit or payment is to be 9933
provided. 9934

As used in this division, "payment or benefit already 9935
provided by law" includes, but is not limited to, bereavement, 9936
personal, vacation, administrative, and sick leave, disability 9937
benefits, holiday pay, and pay supplements provided under the 9938

Revised Code, but does not include wages or salary. 9939

(E) New employees paid in accordance with schedule B of 9940
division (A) of this section or schedule E-1 of section 124.152 of 9941
the Revised Code shall be employed at the minimum rate established 9942
for the range unless otherwise provided. Employees with 9943
qualifications that are beyond the minimum normally required for 9944
the position and that are determined by the director to be 9945
exceptional may be employed in, or may be transferred or promoted 9946
to, a position at an advanced step of the range. Further, in time 9947
of a serious labor market condition when it is relatively 9948
impossible to recruit employees at the minimum rate for a 9949
particular classification, the entrance rate may be set at an 9950
advanced step in the range by the director of administrative 9951
services. This rate may be limited to geographical regions of the 9952
state. Appointments made to an advanced step under the provision 9953
regarding exceptional qualifications shall not affect the step 9954
assignment of employees already serving. However, anytime the 9955
hiring rate of an entire classification is advanced to a higher 9956
step, all incumbents of that classification being paid at a step 9957
lower than that being used for hiring, shall be advanced beginning 9958
at the start of the first pay period thereafter to the new hiring 9959
rate, and any time accrued at the lower step will be used to 9960
calculate advancement to a succeeding step. If the hiring rate of 9961
a classification is increased for only a geographical region of 9962
the state, only incumbents who work in that geographical region 9963
shall be advanced to a higher step. When an employee in the 9964
unclassified service changes from one state position to another or 9965
is appointed to a position in the classified service, or if an 9966
employee in the classified service is appointed to a position in 9967
the unclassified service, the employee's salary or wage in the new 9968
position shall be determined in the same manner as if the employee 9969
were an employee in the classified service. When an employee in 9970
the unclassified service who is not eligible for step increases is 9971

appointed to a classification in the classified service under 9972
which step increases are provided, future step increases shall be 9973
based on the date on which the employee last received a pay 9974
increase. If the employee has not received an increase during the 9975
previous year, the date of the appointment to the classified 9976
service shall be used to determine the employee's annual step 9977
advancement eligibility date. In reassigning any employee to a 9978
classification resulting in a pay range increase or to a new pay 9979
range as a result of a promotion, an increase pay range 9980
adjustment, or other classification change resulting in a pay 9981
range increase, the director shall assign such employee to the 9982
step in the new pay range that will provide an increase of 9983
approximately four per cent if the new pay range can accommodate 9984
the increase. When an employee is being assigned to a 9985
classification or new pay range as the result of a class plan 9986
change, if the employee has completed a probationary period, the 9987
employee shall be placed in a step no lower than step two of the 9988
new pay range. If the employee has not completed a probationary 9989
period, the employee may be placed in step one of the new pay 9990
range. Such new salary or wage shall become effective on such date 9991
as the director determines. 9992

(F) If employment conditions and the urgency of the work 9993
require such action, the director of administrative services may, 9994
upon the application of a department head, authorize payment at 9995
any rate established within the range for the class of work, for 9996
work of a casual or intermittent nature or on a project basis. 9997
Payment at such rates shall not be made to the same individual for 9998
more than three calendar months in any one calendar year. Any such 9999
action shall be subject to the approval of the director of budget 10000
and management as to the availability of funds. This section and 10001
sections 124.14 and 124.152 of the Revised Code do not repeal any 10002
authority of any department or public official to contract with or 10003
fix the compensation of professional persons who may be employed 10004

temporarily for work of a casual nature or for work on a project 10005
basis. 10006

(G)(1) Except as provided in divisions (G)(2) and (3) of this 10007
section, each state employee paid in accordance with schedule B of 10008
this section or schedule E-1 of section 124.152 of the Revised 10009
Code shall be eligible for advancement to succeeding steps in the 10010
range for the employee's class or grade according to the schedule 10011
established in this division. Beginning on the first day of the 10012
pay period within which the employee completes the prescribed 10013
probationary period in the employee's classification with the 10014
state, each employee shall receive an automatic salary adjustment 10015
equivalent to the next higher step within the pay range for the 10016
employee's class or grade. 10017

Except as provided in divisions (G)(2) and (3) of this 10018
section, each employee paid in accordance with schedule E-1 of 10019
section 124.152 of the Revised Code shall be eligible to advance 10020
to the next higher step until the employee reaches the top step in 10021
the range for the employee's class or grade, if the employee has 10022
maintained satisfactory performance in accordance with criteria 10023
established by the employee's appointing authority. Those step 10024
advancements shall not occur more frequently than once in any 10025
twelve-month period. 10026

When an employee is promoted, the step entry date shall be 10027
set to account for a probationary period. When an employee is 10028
reassigned to a higher pay range, the step entry date shall be set 10029
to allow an employee who is not at the highest step of the range 10030
to receive a step advancement one year from the reassignment date. 10031
Step advancement shall not be affected by demotion. A promoted 10032
employee shall advance to the next higher step of the pay range on 10033
the first day of the pay period in which the required probationary 10034
period is completed. Step advancement shall become effective at 10035
the beginning of the pay period within which the employee attains 10036

the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose. 10037
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If determined to be in the best interest of the state service, the director of administrative services may, either statewide or in selected agencies, adjust the dates on which annual step advancements are received by employees paid in accordance with schedule E-1 of section 124.152 of the Revised Code. 10039
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(2)(a) There shall be a moratorium on annual step advancements under division (G)(1) of this section beginning June 21, 2009, through June 20, 2011. Step advancements shall resume with the pay period beginning June 21, 2011. Upon the resumption of step advancements, there shall be no retroactive step advancements for the period the moratorium was in effect. The moratorium shall not affect an employee's performance evaluation schedule. 10045
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An employee who begins a probationary period before June 21, 2009, shall advance to the next step in the employee's pay range at the end of probation, and then become subject to the moratorium. An employee who is hired, promoted, or reassigned to a higher pay range between June 21, 2009, through June 20, 2011, shall not advance to the next step in the employee's pay range until the next anniversary of the employee's date of hire, promotion, or reassignment that occurs on or after June 21, 2011. 10053
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(b) The moratorium under division (G)(2)(a) of this section shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2009. 10061
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(3) Employees in intermittent positions shall be employed at 10069
the minimum rate established for the pay range for their 10070
classification and are not eligible for step advancements. 10071

(H) Employees in appointive managerial or professional 10072
positions paid in accordance with schedule C of this section or 10073
schedule E-2 of section 124.152 of the Revised Code may be 10074
appointed at any rate within the appropriate pay range. This rate 10075
of pay may be adjusted higher or lower within the respective pay 10076
range at any time the appointing authority so desires as long as 10077
the adjustment is based on the employee's ability to successfully 10078
administer those duties assigned to the employee. Salary 10079
adjustments shall not be made more frequently than once in any 10080
six-month period under this provision to incumbents holding the 10081
same position and classification. 10082

(I) When an employee is assigned to duty outside this state, 10083
the employee may be compensated, upon request of the department 10084
head and with the approval of the director of administrative 10085
services, at a rate not to exceed fifty per cent in excess of the 10086
employee's current base rate for the period of time spent on that 10087
duty. 10088

(J) Unless compensation for members of a board or commission 10089
is otherwise specifically provided by law, the director of 10090
administrative services shall establish the rate and method of 10091
payment for members of boards and commissions pursuant to the pay 10092
schedules listed in section 124.152 of the Revised Code. 10093

(K) Regular full-time employees in positions assigned to 10094
classes within the instruction and education administration series 10095
~~under the rules of~~ by the director of administrative services, 10096
except certificated employees on the instructional staff of the 10097
state school for the blind or the state school for the deaf, whose 10098
positions are scheduled to work on the basis of an academic year 10099
rather than a full calendar year, shall be paid according to the 10100

pay range assigned by ~~such rules~~ the director, but only during 10101
those pay periods included in the academic year of the school 10102
where the employee is located. 10103

(1) Part-time or substitute teachers or those whose period of 10104
employment is other than the full academic year shall be 10105
compensated for the actual time worked at the rate established by 10106
this section. 10107

(2) Employees governed by this division are exempt from 10108
sections 124.13 and 124.19 of the Revised Code. 10109

(3) Length of service for the purpose of determining 10110
eligibility for step advancements as provided by division (G) of 10111
this section and for the purpose of determining eligibility for 10112
longevity pay supplements as provided by division (E) of section 10113
124.181 of the Revised Code shall be computed on the basis of one 10114
full year of service for the completion of each academic year. 10115

(L) The superintendent of the state school for the deaf and 10116
the superintendent of the state school for the blind shall, 10117
subject to the approval of the superintendent of public 10118
instruction, carry out both of the following: 10119

(1) Annually, between the first day of April and the last day 10120
of June, establish for the ensuing fiscal year a schedule of 10121
hourly rates for the compensation of each certificated employee on 10122
the instructional staff of that superintendent's respective school 10123
constructed as follows: 10124

(a) Determine for each level of training, experience, and 10125
other professional qualification for which an hourly rate is set 10126
forth in the current schedule, the per cent that rate is of the 10127
rate set forth in such schedule for a teacher with a bachelor's 10128
degree and no experience. If there is more than one such rate for 10129
such a teacher, the lowest rate shall be used to make the 10130
computation. 10131

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

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

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

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

(2) Annually, assign each certificated employee on the instructional staff of the superintendent's respective school to an hourly rate on the schedule that is commensurate with the employee's training, experience, and other professional qualifications.

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

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

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

Each employee shall be paid an annual salary in biweekly 10162
installments. The amount of each installment shall be calculated 10163
by dividing the employee's annual salary by the number of biweekly 10164
installments to be paid during the year. 10165

Sections 124.13 and 124.19 of the Revised Code do not apply 10166
to an employee who is paid under this division. 10167

As used in this division, "academic year" means the number of 10168
days in each school year that the schools are required to be open 10169
for instruction with pupils in attendance. Upon completing an 10170
academic year, an employee paid under this division shall be 10171
deemed to have completed one year of service. An employee paid 10172
under this division is eligible to receive a pay supplement under 10173
division (L)(1), (2), or (3) of section 124.181 of the Revised 10174
Code for which the employee qualifies, but is not eligible to 10175
receive a pay supplement under division (L)(4) or (5) of that 10176
section. An employee paid under this division is eligible to 10177
receive a pay supplement under division (L)(6) of section 124.181 10178
of the Revised Code for which the employee qualifies, except that 10179
the supplement is not limited to a maximum of five per cent of the 10180
employee's regular base salary in a calendar year. 10181

(M) Division (A) of this section does not apply to "exempt 10182
employees," as defined in section 124.152 of the Revised Code, who 10183
are paid under that section. 10184

Notwithstanding any other provisions of this chapter, when an 10185
employee transfers between bargaining units or transfers out of or 10186
into a bargaining unit, the director of administrative services 10187
shall establish the employee's compensation and adjust the maximum 10188
leave accrual schedule as the director deems equitable. 10189

Sec. 124.23. (A) All applicants for positions and places in 10190
the classified service shall be subject to examination, except for 10191
applicants for positions as professional or certified service and 10192

paraprofessional employees of county boards of developmental 10193
disabilities, who shall be hired in the manner provided in section 10194
124.241 of the Revised Code. 10195

(B) Any examination administered under this section shall be 10196
public and be open to all citizens of the United States and those 10197
persons who have legally declared their intentions of becoming 10198
United States citizens. For examinations administered for 10199
positions in the service of the state, the director of 10200
administrative services or the director's designee may determine 10201
certain limitations as to citizenship, age, experience, education, 10202
health, habit, and moral character. 10203

(C) Any person who has completed service in the uniformed 10204
services, who has been honorably discharged from the uniformed 10205
services or transferred to the reserve with evidence of 10206
satisfactory service, and who is a resident of this state and any 10207
member of the national guard or a reserve component of the armed 10208
forces of the United States who has completed more than one 10209
hundred eighty days of active duty service pursuant to an 10210
executive order of the president of the United States or an act of 10211
the congress of the United States may file with the director a 10212
certificate of service or honorable discharge, and, upon this 10213
filing, the person shall receive additional credit of twenty per 10214
cent of the person's total grade given in the ~~regular~~ examination 10215
in which the person receives a passing grade. 10216

As used in this division, "service in the uniformed services" 10217
and "uniformed services" have the same meanings as in the 10218
"Uniformed Services Employment and Reemployment Rights Act of 10219
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 10220

(D) An examination may include an evaluation of such factors 10221
as education, training, capacity, knowledge, manual dexterity, and 10222
physical or psychological fitness. An examination shall consist of 10223
one or more tests in any combination. Tests may be written, oral, 10224

physical, demonstration of skill, or an evaluation of training and 10225
experiences and shall be designed to fairly test the relative 10226
capacity of the persons examined to discharge the particular 10227
duties of the position for which appointment is sought. Tests may 10228
include structured interviews, assessment centers, work 10229
simulations, examinations of knowledge, skills, and abilities, and 10230
any other acceptable testing methods. If minimum or maximum 10231
requirements are established for any examination, they shall be 10232
specified in the examination announcement. 10233

(E) Except as otherwise provided in sections 124.01 to 124.64 10234
of the Revised Code, when a position in the classified service of 10235
the state is to be filled, an examination shall be administered. 10236
The director of administrative services shall have control of all 10237
examinations administered for positions in the service of the 10238
state and all other examinations the director administers as 10239
provided in section 124.07 of the Revised Code, except as 10240
otherwise provided in sections 124.01 to 124.64 of the Revised 10241
Code. The director shall, by rule adopted under Chapter 119. of 10242
the Revised Code, prescribe the notification method that is to be 10243
used by an appointing authority to notify the director that a 10244
position in the classified service of the state is to be filled. 10245
In addition to the positions described in section 124.30 of the 10246
Revised Code, the director may, with sufficient justification from 10247
the appointing authority, allow the appointing authority to fill 10248
the position by noncompetitive examination. The director shall 10249
establish, by rule adopted under Chapter 119. of the Revised Code, 10250
standards that the director shall use to determine what serves as 10251
sufficient justification from an appointing authority to fill a 10252
position by noncompetitive examination. 10253

(F) No questions in any examination shall relate to political 10254
or religious opinions or affiliations. No credit for seniority, 10255
efficiency, or any other reason shall be added to an applicant's 10256

examination grade unless the applicant achieves at least the 10257
minimum passing grade on the examination without counting that 10258
extra credit. 10259

(G) Except as otherwise provided in sections 124.01 to 124.64 10260
of the Revised Code, the director of administrative services or 10261
the director's designee shall give reasonable notice of the time, 10262
place, and general scope of every competitive examination for 10263
appointment that the director or the director's designee 10264
administers for positions in the classified service of the state. 10265
The director or the director's designee shall ~~send written,~~ 10266
~~printed, or electronic post~~ notices via electronic media of every 10267
examination to be conducted for positions in the classified civil 10268
service of the state ~~to each agency of the type the director of~~ 10269
~~job and family services specifies and, in the case of a county in~~ 10270
~~which no such agency is located, to the clerk of the court of~~ 10271
~~common pleas of that county and to the clerk of each city located~~ 10272
~~within that county. Those notices shall be posted in conspicuous~~ 10273
~~public places in the designated agencies or the courthouse, and~~ 10274
~~city hall of the cities, of the counties in which no designated~~ 10275
~~agency is located for at least two weeks. The electronic notice~~ 10276
shall be posted on the director's internet site on the world wide 10277
web for a minimum of one week preceding any examination involved, 10278
and in a conspicuous place in the office of the director of 10279
administrative services for at least two weeks preceding any 10280
examination involved. In case of examinations limited by the 10281
director to a district, county, city, or department, the director 10282
shall provide by rule for adequate publicity of an examination in 10283
the district, county, city, or department within which competition 10284
is permitted. 10285

Sec. 124.231. (A) As used in this section, "legally blind 10286
person" means any person who qualifies as being blind under any 10287
Ohio or federal statute, or any rule adopted thereunder. As used 10288

in this section, "legally deaf person" means any person who 10289
qualifies as being deaf under any Ohio or federal statute, or any 10290
rule adopted thereunder. 10291

(B) ~~The~~ When an examination is to be administered under 10292
sections 124.01 to 124.64 of the Revised Code, the director of 10293
administrative services or the director's designee shall whenever 10294
practicable arrange for special examinations to be administered to 10295
legally blind or legally deaf persons applying for ~~original~~ 10296
~~appointments~~ positions in the classified service to ensure that 10297
the abilities of such applicants are properly assessed and that 10298
such applicants are not subject to discrimination because they are 10299
legally blind or legally deaf persons. 10300

~~(C) The director may administer equitable programs for the~~ 10301
~~employment of legally blind persons and legally deaf persons in~~ 10302
~~the classified service.~~ 10303

~~Nothing in this section shall be construed to prohibit the~~ 10304
~~appointment of a legally blind or legally deaf person to a~~ 10305
~~position in the classified service under the procedures otherwise~~ 10306
~~provided in this chapter.~~ 10307

Sec. 124.24. (A) Notwithstanding sections 124.01 to 124.64 10308
and Chapter 145. of the Revised Code, the examinations of 10309
applicants for the positions of deputy mine inspector, 10310
superintendent of rescue stations, assistant superintendent of 10311
rescue stations, electrical inspectors, ~~gas storage well~~ 10312
~~inspector,~~ and mine chemists in the division of mineral resources 10313
management, department of natural resources, as provided in 10314
Chapters 1561., 1563., 1565., and 1567. of the Revised Code shall 10315
be provided for, conducted, and administered by the chief of the 10316
division of mineral resources management. 10317

From the returns of the examinations the chief shall prepare 10318
eligible lists of the persons whose general average standing upon 10319

examinations for such grade or class is not less than the minimum 10320
fixed by rules adopted under section 1561.05 of the Revised Code 10321
and who are otherwise eligible. All appointments to a position 10322
shall be made from ~~such~~ that eligible list in the same manner as 10323
appointments are made from eligible lists prepared by the director 10324
of administrative services. Any person upon being appointed to 10325
fill one of the positions provided for in this ~~section~~ division, 10326
from any such eligible list, shall have the same standing, rights, 10327
privileges, and status as other state employees in the classified 10328
service. 10329

(B) Notwithstanding sections 124.01 to 124.64 and Chapter 10330
145. of the Revised Code, the examinations of applicants for the 10331
position of gas storage well inspector in the division of oil and 10332
gas resources management, department of natural resources, as 10333
provided in Chapter 1571. of the Revised Code shall be provided 10334
for, conducted, and administered by the chief of the division of 10335
oil and gas resources management. 10336

From the returns of the examinations, the chief shall prepare 10337
an eligible list of the persons whose general average standing 10338
upon examinations for that position is not less than the minimum 10339
fixed by rules adopted under section 1571.014 of the Revised Code 10340
and who are otherwise eligible. An appointment to the position 10341
shall be made from that eligible list in the same manner as 10342
appointments are made from eligible lists prepared by the director 10343
of administrative services. Any person, upon being appointed to 10344
fill the position provided for in this division from any such 10345
eligible list, shall have the same standing, rights, privileges, 10346
and status as other state employees in the classified service. 10347

Sec. 124.25. The director of administrative services shall 10348
require persons applying for an examination for original 10349
appointment to file with the director or the director's designee, 10350

within reasonable time prior to the examination, a formal 10351
application, in which the applicant shall state the applicant's 10352
name, address, and such other information as may reasonably be 10353
required concerning the applicant's education and experience. No 10354
inquiry shall be made as to religious or political affiliations or 10355
as to racial or ethnic origin of the applicant, except as 10356
necessary to gather equal employment opportunity or other 10357
statistics that, when compiled, will not identify any specific 10358
individual. 10359

Blank forms for applications shall be furnished by the 10360
director or the director's designee without charge to any person 10361
requesting the same. The director or the director's designee may 10362
require in connection with such application such certificate of 10363
persons having knowledge of the applicant as the good of the 10364
service demands. The director or the director's designee may 10365
refuse to appoint or examine an applicant, or, after an 10366
examination, refuse to certify the applicant as eligible, who is 10367
found to lack any of the established preliminary requirements for 10368
the examination, who is addicted to the habitual use of 10369
intoxicating liquors or drugs to excess, who has a pattern of poor 10370
work habits and performance with previous employers, who has been 10371
convicted of a felony, who has been guilty of infamous or 10372
notoriously disgraceful conduct, who has been dismissed from 10373
either branch of the civil service for delinquency or misconduct, 10374
or who has made false statements of any material fact, or 10375
practiced, or attempted to practice, any deception or fraud in the 10376
application or examination, in establishing eligibility, or 10377
securing an appointment. 10378

Sec. 124.26. From the returns of the examinations, the 10379
director of administrative services or the director's designee 10380
shall prepare an eligible list of the persons whose general 10381
average standing upon examinations for the ~~grade or~~ class or 10382

position is not less than the minimum fixed by the rules of the 10383
director, and who are otherwise eligible. Those persons shall take 10384
rank upon the eligible list as candidates in the order of their 10385
relative excellence as determined by the examination without 10386
reference to priority of the time of examination. If two or more 10387
applicants receive the same mark in an open competitive 10388
examination, priority in the time of filing the application with 10389
the director or the director's designee shall determine the order 10390
in which their names shall be placed on the eligible list, except 10391
that applicants eligible for veteran's preference under section 10392
124.23 of the Revised Code shall receive priority in rank on the 10393
eligible list over nonveterans on the list with a rating equal to 10394
that of the veteran. Ties among veterans shall be decided by 10395
priority of filing the application. ~~If two or more applicants~~ 10396
~~receive the same mark on a promotional examination, seniority~~ 10397
~~shall determine the order in which their names shall be placed on~~ 10398
~~the eligible list. The term of eligibility of each list shall be~~ 10399
~~fixed by the director at not less than one or more than two years.~~ 10400

~~When an eligible list is reduced to ten names or less, a new~~ 10401
~~list may be prepared. The director may consolidate two or more~~ 10402
~~eligible lists of the same kind by the rearranging of eligibles~~ 10403
~~named in the lists, according to their grades. An eligible list~~ 10404
~~expires upon the filling or closing of the position. An expired~~ 10405
~~eligible list may be used to fill a position of the same~~ 10406
~~classification within the same appointing authority for which the~~ 10407
~~list was created. But, in no event shall an expired list be used~~ 10408
~~more than one year past its expiration date.~~ 10409

Sec. 124.27. (A) ~~The head of a department, office, or~~ 10410
~~institution, in which a position in the classified service is to~~ 10411
~~be filled, shall notify the director of administrative services of~~ 10412
~~the fact, and the director shall, except as otherwise provided in~~ 10413
~~this section and sections 124.30 and 124.31 of the Revised Code,~~ 10414

~~certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligible list for the class or grade to which the position belongs, except that the director may certify less than ten names if ten names are not available. When less than ten names are certified to an appointing authority, appointment from that list shall not be mandatory. When a position in the classified service in the department of mental health or the department of developmental disabilities is to be filled, the director of administrative services shall make such certification to the appointing authority within seven working days of the date the eligible list is requested.~~

~~(B) The appointing authority shall notify the director of a position in the classified service to be filled, and the appointing authority shall fill the vacant position by appointment of one of the ten persons certified by the director. If more than one position is to be filled, the director may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: beginning at the top of the list, each time a selection is made, it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position. If an eligible list becomes exhausted, and until a new list can be created, or when no eligible list for a position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified. A person who is certified from an eligible list more than three times to the same appointing authority for the same or similar positions may be omitted from future certification to that appointing authority, provided that certification for a temporary appointment shall not be counted as one of those certifications. Every person who qualifies for veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position shall be entitled to preference in original~~

~~appointments to any such competitive position in the civil service~~ 10448
~~of the state and its civil divisions over all other persons~~ 10449
~~eligible for those appointments and standing on the relevant~~ 10450
~~eligible list with a rating equal to that of the person qualifying~~ 10451
~~for veteran's preference.~~ Appointments to all positions in the 10452
classified service, that are not filled by promotion, transfer, or 10453
reduction, as provided in sections 124.01 to 124.64 of the Revised 10454
Code and the rules of the director prescribed under those 10455
sections, shall be made only from those persons whose names are 10456
~~certified to the appointing authority~~ take rank order on an 10457
eligible list, and no employment, except as provided in those 10458
sections, shall be otherwise given in the classified service of 10459
this state or any political subdivision of the state. The 10460
appointing authority shall appoint in the following manner: each 10461
time a selection is made, it shall be from one of the names that 10462
rank in the top twenty-five per cent of the eligible list. But, 10463
in the event that ten or fewer names are on the eligible list, the 10464
appointing authority may select any of the listed candidates. Each 10465
person who qualifies for the veteran's preference under section 10466
124.23 of the Revised Code, who is a resident of this state, and 10467
whose name is on the eligible list for a position is entitled to 10468
preference in original appointment to any such competitive 10469
position in the civil service of the state and its civil divisions 10470
over all other persons who are eligible for those appointments and 10471
who are standing on the relevant eligible list with a rating equal 10472
to that of the person qualifying for the veteran's preference. 10473

~~(C)~~(B) All original and promotional appointments, including 10474
appointments made pursuant to section 124.30 of the Revised Code, 10475
but not intermittent appointments, shall be for a probationary 10476
period, not less than sixty days nor more than one year, to be 10477
fixed by the rules of the director, except as provided in section 10478
124.231 of the Revised Code, and except for original appointments 10479
to a police department as a police officer or to a fire department 10480

as a firefighter which shall be for a probationary period of one 10481
year. No appointment or promotion is final until the appointee has 10482
satisfactorily served the probationary period. If the service of 10483
the probationary employee is unsatisfactory, the employee may be 10484
removed or reduced at any time during the probationary period. If 10485
the appointing authority decides to remove a probationary employee 10486
in the service of the state, the appointing authority shall 10487
communicate the removal to the director ~~the reason for that~~ 10488
~~decision~~. A probationary employee duly removed or reduced in 10489
position for unsatisfactory service does not have the right to 10490
appeal the removal or reduction under section 124.34 of the 10491
Revised Code. 10492

Sec. 124.31. ~~(A)~~ Vacancies in positions in the classified 10493
service of the state shall be filled insofar as practicable by 10494
promotions. The director of administrative services shall provide 10495
in the director's rules for keeping a record of efficiency for 10496
each employee in the classified civil service of the state, and 10497
for making promotions in the classified civil service of the state 10498
on the basis of merit, ~~to be ascertained insofar as practicable by~~ 10499
~~promotional examinations, and~~ by conduct and capacity in office, 10500
~~and by seniority in service. The director shall provide that~~ 10501
~~vacancies in positions in the classified civil service of the~~ 10502
~~state shall be filled by promotion in all cases where, in the~~ 10503
~~judgment of the director, it is for the best interest of the~~ 10504
~~service. The director's rules shall authorize each appointing~~ 10505
~~authority of a county to develop and administer in a manner it~~ 10506
~~devises, an evaluation system for the employees it appoints.~~ 10507

~~(B)~~ All examinations for promotions shall be competitive and 10508
may be conducted in the same manner as examinations described in 10509
section 124.23 of the Revised Code. In promotional examinations, 10510
seniority in service shall be added to the examination grade, but 10511
no credit for seniority or any other reason shall be added to an 10512

~~examination grade unless the applicant achieves at least the 10513
minimum passing score on the examination without counting that 10514
extra credit. Credit for seniority shall equal, for the first four 10515
years of service, one per cent of the total grade attainable in 10516
the promotion examination, and, for each of the fifth through 10517
fourteenth years of service, six tenths per cent of the total 10518
grade attainable. 10519~~

~~In all cases where vacancies are to be filled by promotion, 10520
the director shall certify to the appointing authority the names 10521
of the three persons having the highest rating on the eligible 10522
list. The method of examination for promotions, the manner of 10523
giving notice of the examination, and the rules governing it shall 10524
be in general the same as those provided for original 10525
examinations, except as otherwise provided in sections 124.01 to 10526
124.64 of the Revised Code. 10527~~

Sec. 124.34. (A) The tenure of every officer or employee in 10528
the classified service of the state and the counties, civil 10529
service townships, cities, city health districts, general health 10530
districts, and city school districts of the state, holding a 10531
position under this chapter, shall be during good behavior and 10532
efficient service. No officer or employee shall be reduced in pay 10533
or position, fined, suspended, or removed, or have the officer's 10534
or employee's longevity reduced or eliminated, except as provided 10535
in section 124.32 of the Revised Code, and for incompetency, 10536
inefficiency, dishonesty, drunkenness, immoral conduct, 10537
insubordination, discourteous treatment of the public, neglect of 10538
duty, violation of any policy or work rule of the officer's or 10539
employee's appointing authority, violation of this chapter or the 10540
rules of the director of administrative services or the 10541
commission, any other failure of good behavior, any other acts of 10542
misfeasance, malfeasance, or nonfeasance in office, or conviction 10543
of a felony. The denial of a one-time pay supplement or a bonus to 10544

an officer or employee is not a reduction in pay for purposes of 10545
this section. 10546

This section does not apply to any modifications or 10547
reductions in pay or work week authorized by division (Q) of 10548
section 124.181 or section 124.392 ~~or~~, 124.393, or 124.394 of the 10549
Revised Code. 10550

An appointing authority may require an employee who is 10551
suspended to report to work to serve the suspension. An employee 10552
serving a suspension in this manner shall continue to be 10553
compensated at the employee's regular rate of pay for hours 10554
worked. The disciplinary action shall be recorded in the 10555
employee's personnel file in the same manner as other disciplinary 10556
actions and has the same effect as a suspension without pay for 10557
the purpose of recording disciplinary actions. 10558

A finding by the appropriate ethics commission, based upon a 10559
preponderance of the evidence, that the facts alleged in a 10560
complaint under section 102.06 of the Revised Code constitute a 10561
violation of Chapter 102., section 2921.42, or section 2921.43 of 10562
the Revised Code may constitute grounds for dismissal. Failure to 10563
file a statement or falsely filing a statement required by section 10564
102.02 of the Revised Code may also constitute grounds for 10565
dismissal. The tenure of an employee in the career professional 10566
service of the department of transportation is subject to section 10567
5501.20 of the Revised Code. 10568

Conviction of a felony is a separate basis for reducing in 10569
pay or position, suspending, or removing an officer or employee, 10570
even if the officer or employee has already been reduced in pay or 10571
position, suspended, or removed for the same conduct that is the 10572
basis of the felony. An officer or employee may not appeal to the 10573
state personnel board of review or the commission any disciplinary 10574
action taken by an appointing authority as a result of the 10575
officer's or employee's conviction of a felony. If an officer or 10576

employee removed under this section is reinstated as a result of 10577
an appeal of the removal, any conviction of a felony that occurs 10578
during the pendency of the appeal is a basis for further 10579
disciplinary action under this section upon the officer's or 10580
employee's reinstatement. 10581

A person convicted of a felony immediately forfeits the 10582
person's status as a classified employee in any public employment 10583
on and after the date of the conviction for the felony. If an 10584
officer or employee is removed under this section as a result of 10585
being convicted of a felony or is subsequently convicted of a 10586
felony that involves the same conduct that was the basis for the 10587
removal, the officer or employee is barred from receiving any 10588
compensation after the removal notwithstanding any modification or 10589
disaffirmance of the removal, unless the conviction for the felony 10590
is subsequently reversed or annulled. 10591

Any person removed for conviction of a felony is entitled to 10592
a cash payment for any accrued but unused sick, personal, and 10593
vacation leave as authorized by law. If subsequently reemployed in 10594
the public sector, the person shall qualify for and accrue these 10595
forms of leave in the manner specified by law for a newly 10596
appointed employee and shall not be credited with prior public 10597
service for the purpose of receiving these forms of leave. 10598

As used in this division, "felony" means any of the 10599
following: 10600

(1) A felony that is an offense of violence as defined in 10601
section 2901.01 of the Revised Code; 10602

(2) A felony that is a felony drug abuse offense as defined 10603
in section 2925.01 of the Revised Code; 10604

(3) A felony under the laws of this or any other state or the 10605
United States that is a crime of moral turpitude; 10606

(4) A felony involving dishonesty, fraud, or theft; 10607

(5) A felony that is a violation of section 2921.05, 2921.32, 10608
or 2921.42 of the Revised Code. 10609

(B) In case of a reduction, a suspension of more than forty 10610
work hours in the case of an employee exempt from the payment of 10611
overtime compensation, a suspension of more than twenty-four work 10612
hours in the case of an employee required to be paid overtime 10613
compensation, a fine of more than forty hours' pay in the case of 10614
an employee exempt from the payment of overtime compensation, a 10615
fine of more than twenty-four hours' pay in the case of an 10616
employee required to be paid overtime compensation, or removal, 10617
except for the reduction or removal of a probationary employee, 10618
the appointing authority shall serve the employee with a copy of 10619
the order of reduction, fine, suspension, or removal, which order 10620
shall state the reasons for the action. 10621

Within ten days following the date on which the order is 10622
served or, in the case of an employee in the career professional 10623
service of the department of transportation, within ten days 10624
following the filing of a removal order, the employee, except as 10625
otherwise provided in this section, may file an appeal of the 10626
order in writing with the state personnel board of review or the 10627
commission. For purposes of this section, the date on which an 10628
order is served is the date of hand delivery of the order or the 10629
date of delivery of the order by certified United States mail, 10630
whichever occurs first. If an appeal is filed, the board or 10631
commission shall forthwith notify the appointing authority and 10632
shall hear, or appoint a trial board to hear, the appeal within 10633
thirty days from and after its filing with the board or 10634
commission. The board, commission, or trial board may affirm, 10635
disaffirm, or modify the judgment of the appointing authority. 10636
However, in an appeal of a removal order based upon a violation of 10637
a last chance agreement, the board, commission, or trial board may 10638
only determine if the employee violated the agreement and thus 10639

affirm or disaffirm the judgment of the appointing authority. 10640

In cases of removal or reduction in pay for disciplinary 10641
reasons, either the appointing authority or the officer or 10642
employee may appeal from the decision of the state personnel board 10643
of review or the commission, and any such appeal shall be to the 10644
court of common pleas of the county in which the appointing 10645
authority is located, or to the court of common pleas of Franklin 10646
county, as provided by section 119.12 of the Revised Code. 10647

(C) In the case of the suspension for any period of time, or 10648
a fine, demotion, or removal, of a chief of police, a chief of a 10649
fire department, or any member of the police or fire department of 10650
a city or civil service township, who is in the classified civil 10651
service, the appointing authority shall furnish the chief or 10652
member with a copy of the order of suspension, fine, demotion, or 10653
removal, which order shall state the reasons for the action. The 10654
order shall be filed with the municipal or civil service township 10655
civil service commission. Within ten days following the filing of 10656
the order, the chief or member may file an appeal, in writing, 10657
with the commission. If an appeal is filed, the commission shall 10658
forthwith notify the appointing authority and shall hear, or 10659
appoint a trial board to hear, the appeal within thirty days from 10660
and after its filing with the commission, and it may affirm, 10661
disaffirm, or modify the judgment of the appointing authority. An 10662
appeal on questions of law and fact may be had from the decision 10663
of the commission to the court of common pleas in the county in 10664
which the city or civil service township is situated. The appeal 10665
shall be taken within thirty days from the finding of the 10666
commission. 10667

(D) A violation of division (A)(7) of section 2907.03 of the 10668
Revised Code is grounds for termination of employment of a 10669
nonteaching employee under this section. 10670

(E) As used in this section, "last chance agreement" means an 10671

agreement signed by both an appointing authority and an officer or 10672
employee of the appointing authority that describes the type of 10673
behavior or circumstances that, if it occurs, will automatically 10674
lead to removal of the officer or employee without the right of 10675
appeal to the state personnel board of review or the appropriate 10676
commission. 10677

Sec. 124.393. (A) As used in this section: 10678

(1) "~~County exempt~~ Exempt employee" means a permanent 10679
full-time or permanent part-time county, township, or municipal 10680
corporation employee who is not subject to a collective bargaining 10681
agreement between a public employer and an exclusive 10682
representative. 10683

(2) "Fiscal emergency" means any of the following: 10684

(a) A fiscal emergency declared by the governor under section 10685
126.05 of the Revised Code. 10686

(b) A fiscal watch or fiscal emergency has been declared or 10687
determined under section 118.023 or 118.04 of the Revised Code. 10688

(c) Lack of funds as defined in section 124.321 of the 10689
Revised Code. 10690

~~(e)~~(d) Reasons of economy as described in section 124.321 of 10691
the Revised Code. 10692

(B)(1) A county, township, or municipal corporation 10693
appointing authority may establish a mandatory cost savings 10694
program applicable to its ~~county~~ exempt employees. Each ~~county~~ 10695
exempt employee shall participate in the program of mandatory cost 10696
savings for not more than eighty hours, as determined by the 10697
appointing authority, in each of state fiscal years 2010 ~~and 2011~~ 10698
to 2013. The program may include, but is not limited to, a loss of 10699
pay or loss of holiday pay. The program may be administered 10700
differently among employees based on their classifications, 10701

appointment categories, or other relevant distinctions. 10702

(2) After June 30, ~~2011~~ 2013, a county, township, or 10703
municipal corporation appointing authority may implement mandatory 10704
cost savings days as described in division (B)(1) of this section 10705
that apply to its ~~county~~ exempt employees in the event of a fiscal 10706
emergency. 10707

(C) A county, township, or municipal corporation appointing 10708
authority shall issue guidelines concerning how the appointing 10709
authority will implement the cost savings program. 10710

Sec. 124.394. (A) As used in this section: 10711

(1) "Exempt employee" means a permanent full-time or 10712
permanent part-time county employee , township, or municipal 10713
corporation who is not subject to a collective bargaining 10714
agreement between a public employer and an exclusive 10715
representative. 10716

(2) "Fiscal emergency" means any of the following: 10717

(a) A fiscal emergency declared by the governor under section 10718
126.05 of the Revised Code. 10719

(b) A fiscal watch or a fiscal emergency declared or 10720
determined by the auditor of state under section 118.023 or 118.04 10721
of the Revised Code. 10722

(c) Lack of funds as defined in section 124.321 of the 10723
Revised Code. 10724

(d) Reasons of economy as described in section 124.321 of the 10725
Revised Code. 10726

(B) A county, township, or municipal corporation appointing 10727
authority may establish a modified work week schedule program 10728
applicable to its exempt employees. Each exempt employee shall 10729
participate in any established modified work week schedule program 10730

in each of state fiscal years 2012 and 2013. The program may 10731
provide for a reduction from the usual number of hours worked 10732
during a week by exempt employees immediately before the 10733
establishment of the program by the appointing authority. The 10734
reduction in hours may include any number of hours so long as the 10735
reduction is not more than fifty per cent of the usual hours 10736
worked by exempt employees immediately before the establishment of 10737
the program. The program may be administered differently among 10738
employees based on classifications, appointment categories, or 10739
other relevant distinctions. 10740

(C) After June 30, 2013, a county, township, or municipal 10741
corporation appointing authority may implement a modified work 10742
week schedule program as described in division (B) of this section 10743
that applies to its exempt employees in the event of a fiscal 10744
emergency. 10745

Sec. 125.021. (A) Except as to the military department, the 10746
general assembly, the capitol square review advisory board, the 10747
bureau of workers' compensation, the industrial commission, and 10748
institutions administered by boards of trustees, the department of 10749
administrative services may contract for telephone, other 10750
telecommunication, and computer services for state agencies. 10751
Nothing in this division precludes the bureau or the commission 10752
from contracting with the department to authorize the department 10753
to contract for those services for the bureau or the commission. 10754

(B)(1) As used in this division: 10755

(a) "Active duty" means active duty pursuant to an executive 10756
order of the president of the United States, an act of the 10757
congress of the United States, or section 5919.29 or 5923.21 of 10758
the Revised Code. 10759

(b) "Immediate family" means a person's spouse residing in 10760
the person's household, brothers and sisters of the whole or of 10761

the half blood, children, including adopted children and 10762
stepchildren, parents, and grandparents. 10763

(2) The department of administrative services may enter into 10764
a contract to purchase bulk long distance telephone services and 10765
make them available at cost, or may make bulk long distance 10766
telephone services available at cost under any existing contract 10767
the department has entered into, to members of the immediate 10768
family of persons deployed on active duty so that those family 10769
members can communicate with the persons so deployed. If the 10770
department enters into contracts under division (B)(2) of this 10771
section, it shall do so in accordance with sections 125.01 to 10772
125.11 of the Revised Code and in a nondiscriminatory manner that 10773
does not place any potential vendor at a competitive disadvantage. 10774

(3) If the department decides to exercise either option under 10775
division (B)(2) of this section, it shall adopt, and may amend, 10776
rules under Chapter 119. of the Revised Code to implement that 10777
division. 10778

Sec. 125.024. (A) If the department of mental health provides 10779
the goods and services described in division (C)(3) of section 10780
5119.16 of the Revised Code to the persons and government entities 10781
described in that section, the department of administrative 10782
services shall issue a request for proposals for the purpose of 10783
determining whether such goods and services could be provided by a 10784
vendor, on behalf of the department of mental health, in a manner 10785
that achieves greater operational efficiencies and savings to the 10786
state than those that could be achieved if the department of 10787
mental health provides the goods and services itself. The request 10788
for proposals must be issued not later than sixty days after the 10789
effective date of this section. 10790

(B) Before issuing a request for proposals under division (A) 10791
of this section, the department of administrative services shall 10792

develop a process to be used in issuing the request for proposals, 10793
receiving responses to the request, and evaluating responses on a 10794
competitive basis. 10795

(C) If the department of administrative services determines, 10796
from a review of the proposals submitted through the process 10797
described in division (B) of this section, that a vendor is able 10798
to provide the goods and services described in division (C)(3) of 10799
section 5119.16 of the Revised Code in the manner described in 10800
division (A) of this section, the department shall enter into a 10801
contract with the vendor for the provision of such goods and 10802
services. 10803

(D) The department of administrative services shall adopt 10804
rules in accordance with Chapter 119. of the Revised Code to 10805
implement this section. At a minimum, the rules must specify the 10806
duration of a contract entered into under division (C) of this 10807
section and a process for issuing subsequent requests for 10808
proposals, receiving responses to such requests, and evaluating 10809
the responses on a competitive basis. 10810

Sec. 125.15. All state agencies required to secure any 10811
equipment, materials, supplies, or services from the department of 10812
administrative services shall make acquisition in the manner and 10813
upon forms prescribed by the director of administrative services 10814
and shall reimburse the department for the equipment, materials, 10815
supplies, or services, including a reasonable sum to cover the 10816
department's administrative costs and costs relating to energy 10817
efficiency and conservation programs, whenever reimbursement is 10818
required by the department. The money so paid shall be deposited 10819
in the state treasury to the credit of the general services fund 10820
~~or~~, the information technology fund, or the information technology 10821
governance fund, as appropriate. Those funds are hereby created. 10822

Sec. 125.18. (A) There is hereby established the office of 10823
information technology within the department of administrative 10824
services. The office shall be under the supervision of a state 10825
chief information officer to be appointed by the director of 10826
administrative services and subject to removal at the pleasure of 10827
the director. The chief information officer is an assistant 10828
director of administrative services. 10829

(B) Under the direction of the director of administrative 10830
services, the state chief information officer shall lead, oversee, 10831
and direct state agency activities related to information 10832
technology development and use. In that regard, the state chief 10833
information officer shall do all of the following: 10834

(1) Coordinate and superintend statewide efforts to promote 10835
common use and development of technology by state agencies. The 10836
office of information technology shall establish policies and 10837
standards that govern and direct state agency participation in 10838
statewide programs and initiatives. 10839

(2) Establish policies and standards for the acquisition and 10840
use of common information technology by state agencies, including, 10841
but not limited to, hardware, software, technology services, and 10842
security, and the extension of the service life of information 10843
technology systems, with which state agencies shall comply; 10844

(3) Establish criteria and review processes to identify state 10845
agency information technology projects or purchases that require 10846
alignment or oversight. As appropriate, the department of 10847
administrative services shall provide the governor and the 10848
director of budget and management with notice and advice regarding 10849
the appropriate allocation of resources for those projects. The 10850
state chief information officer may require state agencies to 10851
provide, and may prescribe the form and manner by which they must 10852
provide, information to fulfill the state chief information 10853

officer's alignment and oversight role; 10854

(4) Establish policies and procedures for the security of 10855
personal information that is maintained and destroyed by state 10856
agencies; 10857

(5) Employ a chief information security officer who is 10858
responsible for the implementation of the policies and procedures 10859
described in division (B)(4) of this section and for coordinating 10860
the implementation of those policies and procedures in all of the 10861
state agencies; 10862

(6) Employ a chief privacy officer who is responsible for 10863
advising state agencies when establishing policies and procedures 10864
for the security of personal information and developing education 10865
and training programs regarding the state's security procedures; 10866

(7) Establish policies on the purchasing, use, and 10867
reimbursement for use of handheld computing and telecommunications 10868
devices by state agency employees; 10869

(8) Establish policies for the reduction of printing and the 10870
use of electronic records by state agencies; 10871

(9) Establish policies for the reduction of energy 10872
consumption by state agencies; 10873

(10) Compute the amount of revenue attributable to the 10874
amortization of all equipment purchases and capitalized systems 10875
from information technology service delivery and major information 10876
technology purchases operating appropriation items and major 10877
computer purchases capital appropriation items that is recovered 10878
as part of the information technology services rates the 10879
department of administrative services charges and deposits into 10880
the information technology fund created in section 125.15 of the 10881
Revised Code. 10882

(C)(1) The chief information security officer shall assist 10883

each state agency with the development of an information 10884
technology security strategic plan and review that plan, and each 10885
state agency shall submit that plan to the state chief information 10886
officer. The chief information security officer may require that 10887
each state agency update its information technology security 10888
strategic plan annually as determined by the state chief 10889
information officer. 10890

(2) Prior to the implementation of any information technology 10891
data system, a state agency shall prepare or have prepared a 10892
privacy impact statement for that system. 10893

(D) When a state agency requests a purchase of information 10894
technology supplies or services under Chapter 125. of the Revised 10895
Code, the state chief information officer may review and reject 10896
the requested purchase for noncompliance with information 10897
technology direction, plans, policies, standards, or 10898
project-alignment criteria. 10899

(E) The office of information technology may operate 10900
technology services for state agencies in accordance with this 10901
chapter. 10902

(F) With the approval of the director of administrative 10903
services, the office of information technology may establish 10904
cooperative agreements with federal and local government agencies 10905
and state agencies that are not under the authority of the 10906
governor for the provision of technology services and the 10907
development of technology projects. 10908

(G) The office of information technology may operate a 10909
program to make information technology purchases. The director of 10910
administrative services may recover the cost of operating the 10911
program from all participating government entities by issuing 10912
intrastate transfer voucher billings for the procured technology 10913
or through any pass-through billing method agreed to by the 10914

director of administrative services, the director of budget and 10915
management, and the participating government entities that will 10916
receive the procured technology. 10917

If the director of administrative services chooses to recover 10918
the program costs through intrastate transfer voucher billings, 10919
the participating government entities shall process the intrastate 10920
transfer vouchers to pay for the cost. Amounts received under this 10921
section for the information technology purchase program shall be 10922
deposited to the credit of the information technology governance 10923
fund created in section 125.15 of the Revised Code. 10924

(H) Upon request from the director of administrative 10925
services, the director of budget and management may transfer cash 10926
from the information technology fund created in section 125.15 of 10927
the Revised Code to the major information technology purchases 10928
fund in an amount not to exceed the amount computed under division 10929
(B)(10) of this section. The major information technology 10930
purchases fund is hereby created in the state treasury. 10931

(I) As used in this section: 10932

(1) "Personal information" has the same meaning as in section 10933
149.45 of the Revised Code. 10934

(2) "State agency" means every organized body, office, or 10935
agency established by the laws of the state for the exercise of 10936
any function of state government, other than any state-supported 10937
institution of higher education, the office of the auditor of 10938
state, treasurer of state, secretary of state, or attorney 10939
general, the adjutant general's department, the bureau of workers' 10940
compensation, the industrial commission, the public employees 10941
retirement system, the Ohio police and fire pension fund, the 10942
state teachers retirement system, the school employees retirement 10943
system, the state highway patrol retirement system, the general 10944
assembly or any legislative agency, the capitol square review 10945

advisory board, or the courts or any judicial agency. 10946

Sec. 125.182. The office of information technology, by itself 10947
or by contract with another entity, shall establish, operate, and 10948
maintain a state public notice web site. In establishing, 10949
maintaining, and operating the state public notice web site, the 10950
office of information technology shall: 10951

(A) Use a domain name for the web site that will be easily 10952
recognizable and remembered by and understandable to users of the 10953
web site; 10954

(B) Maintain the web site so that it is fully accessible to 10955
and searchable by members of the public at all times; 10956

(C) Not charge a fee to a person who accesses, searches, or 10957
otherwise uses the web site; 10958

(D) Not charge a fee to a state agency or political 10959
subdivision for publishing a notice on the web site; 10960

(E) Ensure that notices displayed on the web site conform to 10961
the requirements that would apply to the notices if they were 10962
being published in a newspaper, as directed in section 7.16 of the 10963
Revised Code or in the relevant provision of the statute or rule 10964
that requires the notice; 10965

(F) Ensure that notices continue to be displayed on the web 10966
site for not less than the length of time required by the relevant 10967
provision of the statute or rule that requires the notice; 10968

(G) Devise and display on the web site a form that may be 10969
downloaded and used to request publication of a notice on the web 10970
site; 10971

(H) Enable responsible parties to submit notices and requests 10972
for their publication; 10973

(I) Maintain an archive of notices that no longer are 10974

<u>displayed on the web site;</u>	10975
<u>(J) Enable notices, both those currently displayed and those</u>	10976
<u>archived, to be accessed by key word, by party name, by case</u>	10977
<u>number, by county, and by other useful identifiers;</u>	10978
<u>(K) Maintain adequate systemic security and backup features,</u>	10979
<u>and develop and maintain a contingency plan for coping with and</u>	10980
<u>recovering from power outages, systemic failures, and other</u>	10981
<u>unforeseeable difficulties;</u>	10982
<u>(L) Maintain the web site in such a manner that it will not</u>	10983
<u>infringe legally protected interests, so that vulnerability of the</u>	10984
<u>web site to interruption because of litigation or the threat of</u>	10985
<u>litigation is reduced; and</u>	10986
<u>(M) Submit a status report to the secretary of state twice</u>	10987
<u>annually that demonstrates compliance with statutory requirements</u>	10988
<u>governing publication of notices.</u>	10989
<u>The office of information technology shall bear the expense</u>	10990
<u>of maintaining the state public notice web site domain name.</u>	10991
<u>Sec. 125.213.</u> <u>There is hereby created the state employee</u>	10992
<u>child support fund. The fund shall be in the custody of the</u>	10993
<u>treasurer of state, but shall not be part of the state treasury.</u>	10994
<u>The fund shall consist of all money withheld or deducted from</u>	10995
<u>salaries and wages of state officials and employees pursuant to a</u>	10996
<u>withholding or deduction notice described in section 3121.03 of</u>	10997
<u>the Revised Code for forwarding to the office of child support in</u>	10998
<u>the department of job and family services pursuant to section</u>	10999
<u>3121.19 of the Revised Code. All money in the fund, including</u>	11000
<u>investment earnings thereon, shall be used only for the following</u>	11001
<u>purposes:</u>	11002
<u>(A) Forwarding to the office of child support money withheld</u>	11003
<u>or deducted from salaries and wages of state officials and</u>	11004

employees pursuant to a withholding or deduction notice described 11005
in section 3121.03 of the Revised Code; 11006

(B) Paying any direct or indirect costs associated with 11007
maintaining the fund. 11008

Sec. 125.28. (A)(1) Each state agency that is supported in 11009
whole or in part by nongeneral revenue fund money and that 11010
occupies space in the James A. Rhodes or Frank J. Lausche state 11011
office tower, Toledo government center, Senator Oliver R. Ocasek 11012
government office building, Vern Riffe center for government and 11013
the arts, ~~state of Ohio computer center~~, capitol square, or 11014
governor's mansion shall reimburse the general revenue fund for 11015
the cost of occupying the space in the ratio that the occupied 11016
space in each facility attributable to the nongeneral revenue fund 11017
money bears to the total space occupied by the state agency in the 11018
facility. 11019

(2) All agencies that occupy space in the old blind school or 11020
that occupy warehouse space in the general services facility shall 11021
reimburse the department of administrative services for the cost 11022
of occupying the space. The director of administrative services 11023
shall determine the amount of debt service, if any, to be charged 11024
to building tenants and shall collect reimbursements for it. 11025

(3) Each agency that is supported in whole or in part by 11026
nongeneral revenue fund money and that occupies space in any other 11027
facility or facilities owned and maintained by the department of 11028
administrative services or space in the general services facility 11029
other than warehouse space shall reimburse the department for the 11030
cost of occupying the space, including debt service, if any, in 11031
the ratio that the occupied space in each facility attributable to 11032
the nongeneral revenue fund money bears to the total space 11033
occupied by the state agency in the facility. 11034

(B) The director of administrative services may provide 11035

building maintenance services and skilled trades services to any 11036
state agency occupying space in a facility that is not owned by 11037
the department of administrative services and may collect 11038
reimbursements for the cost of providing those services. 11039

(C) All money collected by the department of administrative 11040
services for operating expenses of facilities owned or maintained 11041
by the department shall be deposited into the state treasury to 11042
the credit of the building management fund, which is hereby 11043
created. All money collected by the department for skilled trades 11044
services shall be deposited into the state treasury to the credit 11045
of the skilled trades fund, which is hereby created. All money 11046
collected for debt service shall be deposited into the general 11047
revenue fund. 11048

(D) The director of administrative services shall determine 11049
the reimbursable cost of space in state-owned or state-leased 11050
facilities and shall collect reimbursements for that cost. 11051

Sec. 125.89. Subject to the approval of the governor, the 11052
department of administrative services may enter into contracts, 11053
compacts, and cooperative agreements for and on behalf of the 11054
state of Ohio with the several states or the federal government, 11055
singularly or severally, in order to provide, with or without 11056
reimbursement, for the utilization by and exchange between them, 11057
singularly or severally, of property, facilities, personnel, and 11058
services of each by the other, and, for the same purpose, to enter 11059
into contracts and cooperative agreements with eligible public or 11060
private state or local authorities, institutions, organizations, 11061
or activities. ~~The department shall make, annually, a report of~~ 11062
~~its actions under sections 125.84 to 125.90 of the Revised Code,~~ 11063
~~in accordance with section 149.01 of the Revised Code, and file~~ 11064
~~such report with the general assembly.~~ 11065

Sec. 126.021. Whenever, pursuant to section 126.06 of the Revised Code, the department of ~~administrative services~~ commerce files with the director of budget and management its estimate of proposed expenditures for the succeeding biennium, the department shall request, and the director of budget and management shall approve the request for, the following general revenue fund appropriations for operating the construction compliance section ~~of the equal employment opportunity office~~ of the department of ~~administrative services~~ commerce:

(A) For the first fiscal year of the biennium, an appropriation equal to fifty-three one-thousandths of one per cent of the total new capital appropriations provided for in the most recently enacted main capital appropriations act;

(B) For the second fiscal year of the biennium, an appropriation equal to the amount computed under division (A) of this section, adjusted for anticipated changes in operating costs based upon the inflation/deflation factor used by the director of budget and management for that fiscal year.

The amounts of the appropriations requested pursuant to divisions (A) and (B) of this section shall be in addition to the amounts provided for staff in the construction compliance section as of January 1, 1988.

Sec. 126.10. No certificate of participation or any similar debt instrument may be obtained or entered into by the state without the prior approval of the general assembly.

Sec. 126.12. (A)(1) The office of budget and management shall prepare and administer a statewide indirect cost allocation plan that provides for the recovery of statewide indirect costs from any fund of the state. The director of budget and management may make transfers of statewide indirect costs from the appropriate

fund of the state to the general revenue fund on an intrastate 11096
transfer voucher. The director, for reasons of sound financial 11097
management, also may waive the recovery of statewide indirect 11098
costs. Prior to making a transfer in accordance with this 11099
division, the director shall notify the affected agency of the 11100
amounts to be transferred. 11101

(2) To support development and upgrade costs to the state's 11102
enterprise resource planning system, the director also may make 11103
transfers of statewide indirect costs attributable to debt service 11104
paid for the system to the OAKS support organization fund created 11105
in section 126.24 of the Revised Code. Transfers may be made from 11106
either of the following: 11107

(a) The appropriate fund of the state; 11108

(b) The general revenue fund, if the statewide indirect costs 11109
have been collected under division (A)(1) of this section and 11110
deposited in the general revenue fund. 11111

(B) As used in this section, "statewide indirect costs" means 11112
operating costs incurred by an agency in providing services to any 11113
other agency, for which there was no billing to such other agency 11114
for the services provided, and for which disbursements have been 11115
made from the general revenue fund or other funds. 11116

(C) Notwithstanding any provision of law to the contrary, in 11117
order to reduce the payment of adjustments to the federal 11118
government as determined under the plan prepared under division 11119
(A)(1) of this section, the director of budget and management 11120
shall, on or before the first day of September each fiscal year, 11121
designate such funds of the state as the director considers 11122
necessary to retain their own interest earnings. 11123

Sec. 126.141. Any request for release of capital 11124
appropriations by the director of budget and management or the 11125

controlling board for projects, the contracts of which are awarded 11126
by the department of administrative services, shall contain a 11127
contingency reserve, the amount of which shall be determined by 11128
the department of administrative services, for payment of 11129
unanticipated project expenses. Any amount deducted from the 11130
encumbrance for a contractor's contract as an assessment for 11131
liquidated damages shall be added to the encumbrance for the 11132
contingency reserve. Contingency reserve funds shall be used to 11133
pay costs resulting from unanticipated job conditions, to comply 11134
with rulings regarding building and other codes, to pay costs 11135
related to errors, omissions, or other deficiencies in contract 11136
documents, to pay costs associated with changes in the scope of 11137
work, to pay interest due on late payments, and to pay the costs 11138
of settlements and judgments related to the project. 11139

Any funds remaining upon completion of a project may, upon 11140
approval of the Controlling Board, be released for the use of the 11141
agency or instrumentality to which the appropriation was made for 11142
other capital facilities projects. 11143

Sec. 126.21. (A) The director of budget and management shall 11144
do all of the following: 11145

(1) Keep all necessary accounting records; 11146

(2) Prescribe and maintain the accounting system of the state 11147
and establish appropriate accounting procedures and charts of 11148
accounts; 11149

(3) Establish procedures for the use of written, electronic, 11150
optical, or other communications media for approving and reviewing 11151
payment vouchers; 11152

(4) Reconcile, in the case of any variation between the 11153
amount of any appropriation and the aggregate amount of items of 11154
the appropriation, with the advice and assistance of the state 11155

agency affected by it and the legislative service commission, 11156
totals so as to correspond in the aggregate with the total 11157
appropriation. In the case of a conflict between the item and the 11158
total of which it is a part, the item shall be considered the 11159
intended appropriation. 11160

(5) Evaluate on an ongoing basis and, if necessary, recommend 11161
improvements to the internal controls used in state agencies; 11162

(6) Authorize the establishment of petty cash accounts. The 11163
director may withdraw approval for any petty cash account and 11164
require the officer in charge to return to the state treasury any 11165
unexpended balance shown by the officer's accounts to be on hand. 11166
Any officer who is issued a warrant for petty cash shall render a 11167
detailed account of the expenditures of the petty cash and shall 11168
report when requested the balance of petty cash on hand at any 11169
time. 11170

(7) Process orders, invoices, vouchers, claims, and payrolls 11171
and prepare financial reports and statements; 11172

(8) Perform extensions, reviews, and compliance checks prior 11173
to or after approving a payment as the director considers 11174
necessary; 11175

(9) Issue the official comprehensive annual financial report 11176
of the state. The report shall cover all funds of the state 11177
reporting entity and shall include basic financial statements and 11178
required supplementary information prepared in accordance with 11179
generally accepted accounting principles and other information as 11180
the director provides. All state agencies, authorities, 11181
institutions, offices, retirement systems, and other component 11182
units of the state reporting entity as determined by the director 11183
shall furnish the director whatever financial statements and other 11184
information the director requests for the report, in the form, at 11185
the times, covering the periods, and with the attestation the 11186

director prescribes. The information for state institutions of 11187
higher education, as defined in section 3345.011 of the Revised 11188
Code, shall be submitted to the chancellor by the Ohio board of 11189
regents. The board shall establish a due date by which each such 11190
institution shall submit the information to the board, but no such 11191
date shall be later than one hundred twenty days after the end of 11192
the state fiscal year unless a later date is approved by the 11193
director. 11194

(B) In addition to the director's duties under division (A) 11195
of this section, the director may establish and administer one or 11196
more state payment card programs that permit or require state 11197
agencies to use a payment card to purchase equipment, materials, 11198
supplies, or services in accordance with guidelines issued by the 11199
director. The chief administrative officer of a state agency that 11200
uses a payment card for such purposes shall ensure that purchases 11201
made with the card are made in accordance with the guidelines 11202
issued by the director and do not exceed the unexpended, 11203
unencumbered, unobligated balance in the appropriation to be 11204
charged for the purchase. State agencies may participate in only 11205
those state payment card programs that the director establishes 11206
pursuant to this section. 11207

(C) In addition to the director's duties under divisions (A) 11208
and (B) of this section, the director may enter into any contract 11209
or agreement necessary for and incidental to the performance of 11210
the director's duties or the duties of the office of budget and 11211
management. 11212

(D) In consultation with the director of administrative 11213
services, the director may appoint and fix the compensation of 11214
employees of the office of budget and management whose primary 11215
duties include the consolidation of statewide financing functions 11216
and common transactional processes. 11217

(E) The director may transfer cash between funds other than 11218

the general revenue fund in order to correct an erroneous payment 11219
or deposit regardless of the fiscal year during which the 11220
erroneous payment or deposit occurred. 11221

Sec. 126.24. The OAKS support organization fund is hereby 11222
created in the state treasury for the purpose of paying the 11223
operating, development, and upgrade expenses of the state's 11224
enterprise resource planning system. The fund shall consist of 11225
~~cash transfers from the accounting and budgeting fund and the~~ 11226
~~human resources services fund, and other~~ received pursuant to 11227
division (A)(2) of section 126.12 of the Revised Code and agency 11228
payroll charge revenues that are designated to support the 11229
operating, development, and upgrade costs of the Ohio 11230
administrative knowledge system. All investment earnings of the 11231
fund shall be credited to the fund. 11232

Sec. 126.45. (A) As used in sections 126.45 to 126.48 of the 11233
Revised Code, "state agency" means the administrative departments 11234
listed in section 121.02 of the Revised Code, the department of 11235
taxation, ~~and~~ the bureau of workers' compensation, and the Ohio 11236
board of regents. 11237

(B) The office of internal auditing is hereby created in the 11238
office of budget and management to conduct internal audits of 11239
state agencies or divisions of state agencies to improve their 11240
operations in the areas of risk management, internal controls, and 11241
governance. The director of budget and management, with the 11242
approval of the governor, shall appoint for the office of internal 11243
auditing a chief internal auditor who meets the qualifications 11244
specified in division (C) of this section. The chief internal 11245
auditor shall serve at the director's pleasure and be responsible 11246
for the administration of the office of internal auditing 11247
consistent with sections 126.45 to 126.48 of the Revised Code. 11248

The office of internal auditing shall conduct programs for 11249
the internal auditing of state agencies. The programs shall 11250
include an annual internal audit plan, reviewed by the state audit 11251
committee, that utilizes risk assessment techniques and identifies 11252
the specific audits to be conducted during the year. The programs 11253
also shall include periodic audits of each state agency's major 11254
systems and controls, including those systems and controls 11255
pertaining to accounting, administration, and electronic data 11256
processing. Upon the request of the office of internal auditing, 11257
each state agency shall provide office employees access to all 11258
records and documents necessary for the performance of an internal 11259
audit. 11260

The director of budget and management shall assess a charge 11261
against each state agency for which the office of internal 11262
auditing conducts internal auditing programs under sections 126.45 11263
to 126.48 of the Revised Code so that the total amount of these 11264
charges is sufficient to cover the costs of the operation of the 11265
office of internal auditing. 11266

(C) The chief internal auditor of the office of internal 11267
auditing shall hold at least a bachelor's degree and be one of the 11268
following: 11269

(1) A certified internal auditor, a certified government 11270
auditing professional, or a certified public accountant, who also 11271
has held a PA registration or a CPA certificate authorized by 11272
Chapter 4701. of the Revised Code for at least four years and has 11273
at least six years of auditing experience; 11274

(2) An auditor who has held a PA registration or a CPA 11275
certificate authorized by Chapter 4701. of the Revised Code for at 11276
least four years and has at least ten years of auditing 11277
experience. 11278

(D) The chief internal auditor, subject to the direction and 11279

control of the director of budget and management, may appoint and 11280
maintain any staff necessary to carry out the duties assigned by 11281
sections 126.45 to 126.48 of the Revised Code to the office of 11282
internal auditing or to the chief internal auditor. 11283

Sec. 126.46. (A)(1) There is hereby created the state audit 11284
committee, consisting of the following five members: one public 11285
member appointed by the governor; two public members appointed by 11286
the speaker of the house of representatives, one of which may be a 11287
person who is recommended by the minority leader of the house of 11288
representatives; and two public members appointed by the president 11289
of the senate, one of which may be a person who is recommended by 11290
the minority leader of the senate. Not more than two of the four 11291
members appointed by the speaker of the house of representatives 11292
and the president of the senate shall belong to or be affiliated 11293
with the same political party. The member appointed by the 11294
governor shall ~~be a person who is external to the management~~ 11295
~~structure associated with the preparation of financial statements~~ 11296
~~of state government and shall~~ have the program and management 11297
expertise required to perform the duties of the committee's 11298
chairperson. 11299

Each member of the committee shall be external to the 11300
management structure of state government and shall serve a 11301
three-year term, ~~except for the initial members. With respect to~~ 11302
~~the initial appointments of the members, the first member~~ 11303
~~appointed by the speaker of the house of representatives shall~~ 11304
~~serve a one year term, the second member appointed by the speaker~~ 11305
~~of the house of representatives shall serve a three year term, the~~ 11306
~~initial members appointed by the president of the senate shall~~ 11307
~~serve two year terms, and the initial member appointed by the~~ 11308
~~governor shall serve a three year term. Each term shall commence~~ 11309
on the first day of July and end on the thirtieth day of June. A 11310
member shall continue to serve subsequent to the expiration of the 11311

member's term until a successor is appointed. Members may be 11312
reappointed to serve one additional term. 11313

On the effective date of the amendment of this section by 11314
H.B. 153 of the 129th general assembly, the terms of the members 11315
shall be altered as follows: 11316

(a) The terms of the members appointed by the president shall 11317
expire on June 30, 2012. 11318

(b) The term of the member appointed by the speaker scheduled 11319
to expire on November 17, 2012, shall expire on June 30, 2013. 11320

(c) The term of the other member appointed by the speaker 11321
shall expire on June 30, 2014. 11322

(d) The term of the member appointed by the governor shall 11323
expire on June 30, 2014. 11324

The committee shall include one member who is a financial 11325
expert; one member who is an active, inactive, or retired 11326
certified public accountant; one member who is familiar with 11327
governmental financial accounting; and one member who is a 11328
representative of the public. 11329

Any vacancy on the committee shall be filled in the same 11330
manner as provided in this division, and, when applicable, the 11331
person appointed to fill a vacancy shall serve the remainder of 11332
the predecessor's term. 11333

(2) Members of the committee shall receive reimbursement for 11334
actual and necessary expenses incurred in the discharge of their 11335
duties. 11336

(3) The member of the committee appointed by the governor 11337
shall serve as the committee's chairperson. 11338

~~(4) Initial appointments of committee members shall be made 11339
not later than thirty days after the effective date of this 11340
section.~~ 11341

~~(5)~~ Members of the committee shall be subject to the disclosure statement requirements of section 102.02 of the Revised Code. 11342
11343
11344

(B) The state audit committee shall do all of the following: 11345

(1) Ensure that the internal audits conducted by the office of internal auditing in the office of budget and management conform to the institute of internal auditors' international standards for the professional practice of internal auditing and to the institute of internal auditors' code of ethics; 11346
11347
11348
11349
11350

(2) Review and comment on the process used by the office of budget and management to prepare its annual budgetary financial report and the state's comprehensive annual financial report required under division (A)(9) of section 126.21 of the Revised Code; 11351
11352
11353
11354
11355

(3) Review and comment on unaudited financial statements submitted to the auditor of state and communicate with external auditors as required by government auditing standards; 11356
11357
11358

(4) Perform the additional functions imposed upon it by section 126.47 of the Revised Code. 11359
11360

(C) As used in this section, "financial expert" means a person who has all of the following: 11361
11362

(1) An understanding of generally accepted accounting principles and financial statements; 11363
11364

(2) The ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves; 11365
11366
11367

(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or 11368
11369
11370
11371

experience actively supervising one or more persons engaged in 11372
those activities; 11373

(4) An understanding of internal controls and procedures for 11374
financial reporting; and 11375

(5) An understanding of audit committee functions. 11376

Sec. 126.50. As used in sections ~~126.50, 126.501, 126.502,~~ 11377
126.503, 126.504, 126.505, and 126.506, ~~and 126.507~~ of the Revised 11378
Code: 11379

~~(A) "Critical services" means a service provided by the state 11380
the deferral or cancellation of which would cause at least one of 11381
the following: 11382~~

~~(1) An immediate risk to the health, safety, or welfare of 11383
the citizens of the state; 11384~~

~~(2) A undermining of activity aimed at creating or retaining 11385
jobs in the state; 11386~~

~~(3) An interference with the receipt of revenue to the state 11387
or the realization of savings to the state. 11388~~

~~"Critical services" does not mean a deferral or cancellation 11389
of a service provided by the state that would result in 11390
inconvenience, sustainable delay, or other similar compromise to 11391
the normal provision of state provided services. 11392~~

~~(B), "State state agency" has the same meaning as in section 11393
1.60 of the Revised Code, but does not include the elected state 11394
officers, the general assembly or any legislative agency, a court 11395
or any judicial agency, or a state institution of higher 11396
education. 11397~~

Sec. 126.503. All state agencies shall control nonessential 11398
travel expenses by doing all of the following: 11399

(A) Complying with any travel directives issued by the director of budget and management; 11400
11401

(B) Using, when possible, the online travel authorization and expense reimbursement process; 11402
11403

(C) Conducting meetings, whenever possible and in compliance with section 121.22 of the Revised Code, using conference calls, teleconferences, webinars, or other technology tools; 11404
11405
11406

(D) Using fleet vehicles for official state travel whenever possible; ~~and~~ 11407
11408

(E) Following restrictions set by the department of administrative services regarding mileage reimbursement pursuant to section 125.832 of the Revised Code; and 11409
11410
11411

(F) Requiring state agency employees to use the state-contracted, preferred rental vehicle provider for all vehicle rentals over one hundred miles. 11412
11413
11414

The director of budget and management shall not reimburse any state agency employee for unauthorized travel expenses. 11415
11416

Sec. 126.60. As used in sections 126.60 to 126.605 of the Revised Code: 11417
11418

(A) "Contract" means any purchase and sale agreement, lease, service agreement, franchise agreement, concession agreement, or other written agreement entered into under sections 126.60 to 126.605 of the Revised Code with respect to the provision of highway services and any project related thereto. 11419
11420
11421
11422
11423

(B) "Highway services" means the operation or maintenance of any highway in this state, the construction of which was funded by proceeds from state revenue bonds that are to be repaid primarily from revenues derived from the operation of the highway and any related facilities and not primarily from the tax that is subject to the limitations of Article XII, Section 5a of the Ohio 11424
11425
11426
11427
11428
11429

Constitution. 11430

(C) "Improvement" means any construction, reconstruction, 11431
rehabilitation, renovation, installation, improvement, 11432
enlargement, or extension of property or improvements to property. 11433

(D) "Private sector entity" means any corporation, whether 11434
for profit or not for profit, limited liability company, 11435
partnership, limited liability partnership, sole proprietorship, 11436
business trust, joint venture or other entity, but shall not mean 11437
the state, a political subdivision of the state, or a public or 11438
governmental entity, agency, or instrumentality of the state. 11439

(E) "Project" means real or personal property, or both, and 11440
improvements thereto or in support thereof, including undivided 11441
and other interests therein, used for or in the provision of 11442
highway services. 11443

(F) "Proposer" means a private sector entity, local or 11444
regional public entity or agency, or any group or combination 11445
thereof, in collaboration or cooperation with other private sector 11446
entities, local or regional public entities, submitting 11447
qualifications or a proposal for providing highway services. 11448

Sec. 126.601. (A) The director of budget and management and 11449
the director of transportation may make recommendations to the 11450
general assembly concerning whether to take any action under 11451
section 126.602 of the Revised Code for the provision of highway 11452
services in order to more efficiently and effectively provide 11453
those services, including by generating additional resources in 11454
support of those services and related projects. Nothing in 11455
sections 126.60 to 126.605 of Revised Code authorizes or shall be 11456
construed to authorize the sale, lease, operation under a contract 11457
with a private sector entity, other disposition of a turnpike 11458
project, as defined in section 5537.01 of the Revised Code, or 11459
other transfer of authority over a turnpike project until the 11460

general assembly approves the consideration of proposals therefor 11461
by the enactment of legislation that may include specific terms 11462
and conditions of the sale, lease, or operation that proposals for 11463
the turnpike project must contain. 11464

(B) The director of transportation, upon the enactment of 11465
legislation as described in division (A) of this section, may 11466
exercise all powers of the Ohio turnpike commission for purposes 11467
of sections 126.60 to 126.605 of the Revised Code, and may take 11468
any action and, with the director of budget and management, 11469
execute any contract necessary to effect the purposes of sections 11470
126.60 to 126.605 of the Revised Code. 11471

Sec. 126.602. (A) Pursuant to legislation enacted under 11472
section 126.601 of the Revised Code and before entering into a 11473
contract for the provision of highway services, the director of 11474
budget and management shall publish notice of its intent to enter 11475
into a contract for the highway services and any related project. 11476
The notice shall notify interested parties of the opportunity to 11477
submit their qualifications or proposals, or both, for 11478
consideration and shall be published at least thirty days prior to 11479
the deadline for submitting those qualifications or proposals. The 11480
director also may advertise the information contained in the 11481
notice in appropriate trade journals and otherwise notify parties 11482
believed to be interested in providing the highway services and in 11483
any related project. The notice shall include a general 11484
description of the highway services to be provided and any related 11485
project and of the qualifications or proposals being sought and 11486
instructions for obtaining the invitation. 11487

(B) After inviting qualifications, the director of budget and 11488
management, in consultation with the department of transportation, 11489
shall evaluate the qualifications submitted and may hold 11490
discussions with proposers to further explore their 11491

qualifications. Following this evaluation, the director, in 11492
consultation with the department, may determine a list of 11493
qualified proposers based on criteria in the invitation and invite 11494
only those proposers to submit a proposal for the provision of the 11495
highway services and any related project. 11496

(C) After inviting proposals, the director of budget and 11497
management, in consultation with the department of transportation, 11498
shall evaluate the proposals submitted and may hold discussions 11499
with proposers to further explore their proposals, the scope and 11500
nature of the highway services they would provide, and the various 11501
technical approaches they may take regarding the highway services 11502
and any related project. Following this evaluation, the director, 11503
in consultation with the department, shall: 11504

(1) Select and rank no fewer than three proposers that the 11505
director considers to be the most qualified to enter into the 11506
contract, except when the director determines that fewer than 11507
three qualified proposers are available, in which case the 11508
director shall select and rank them; 11509

(2) Negotiate a contract with the proposer ranked most 11510
qualified to provide the highway services at a compensation 11511
determined in writing to be fair and reasonable, and to purchase, 11512
lease or otherwise take a legal interest in the project. 11513

(D)(1) Upon failure to negotiate a contract with the proposer 11514
ranked most qualified, the director shall inform the proposer in 11515
writing of the termination of negotiations and may enter into 11516
negotiations with the proposer ranked next most qualified. If 11517
negotiations again fail, the same procedure may be followed with 11518
each next most qualified proposer selected and ranked, in order of 11519
ranking, until a contract is negotiated. 11520

(2) If the director, in consultation with the department, 11521
fails to negotiate a contract with any of the ranked proposers, 11522

the director, in consultation with the department, may terminate 11523
the process or select and rank additional proposers, based on 11524
their qualifications or proposals, and negotiations shall continue 11525
as with the proposers selected and ranked initially until a 11526
contract is negotiated. 11527

(E) Any contract entered into under this section may contain 11528
terms, as deemed appropriate by the director, in consultation with 11529
the department, including the duration of the contract, which 11530
shall not exceed seventy-five years, rates or fees for the highway 11531
services to be provided or methods or procedures for the 11532
determination of such rates or fees, standards for the highway 11533
services to be provided, responsibilities and standards for 11534
operation and maintenance of any related project, required 11535
financial assurances, financial and other data reporting 11536
requirements, bases and procedures for termination of the contract 11537
and retaking of possession or title to the project, and events of 11538
default and remedies upon default, including mandamus, a suit in 11539
equity, an action at law, or any combination of those remedial 11540
actions. 11541

(F) Chapter 4117. of the Revised Code shall not apply to any 11542
employees working at or on a project to provide highway services. 11543

(G) The director of budget and management may reject any and 11544
all submissions of qualifications or proposals. 11545

(H) The director may provide compensation for the preparation 11546
of a responsive proposal from unsuccessful bidders for a proposal 11547
to lease the turnpike under sections 126.60 to 126.605 of the 11548
Revised Code. The director may establish policies or procedures 11549
necessary to determine the amount of compensation to be provided 11550
for each project and the method of evaluating the value of the 11551
preliminary proposal submitted, but in no instance may the 11552
compensation exceed the value of such proposal. 11553

Sec. 126.603. (A) The director of budget and management, with 11554
the prior approval of the controlling board, may enter into a 11555
contract negotiated under sections 126.60 to 126.605 of the 11556
Revised Code. The controlling board may approve any transfer of 11557
moneys and funds necessary to support the highway services. 11558

(B) All money received by the director of budget and 11559
management under a contract executed pursuant to sections 126.60 11560
to 126.605 of the Revised Code shall be deposited into the state 11561
treasury to the credit of the highway services fund, which is 11562
hereby created. Any interest earned on money in the fund shall be 11563
credited to the fund. 11564

Sec. 126.604. The exercise of the powers granted by sections 11565
126.60 to 126.605 of the Revised Code will be for the benefit of 11566
the people of the state and shall be liberally construed to effect 11567
the purposes thereof. Any project or part thereof owned by the 11568
state and used for performing any highway services pursuant to a 11569
contract entered into under sections 126.60 to 126.605 of the 11570
Revised Code that would be exempt from real property taxes or 11571
assessments in the absence of such contract shall remain exempt 11572
from real property taxes and assessments levied by the state and 11573
its subdivisions to the same extent as if not subject to that 11574
contract. The gross receipts and income of a successful proposer 11575
derived from providing highway services under a contract through a 11576
project owned by the state shall be exempt from gross receipts and 11577
income taxes levied by the state and its subdivisions, including 11578
the tax levied pursuant to Chapter 5751. of the Revised Code. Any 11579
transfer or lease between a successful proposer and the state of a 11580
project or part thereof, or item included or to be included in the 11581
project, shall be exempt from the taxes levied pursuant to 11582
Chapters 5739. and 5741. of the Revised Code if the state is 11583
retaining ownership of the project or part thereof that is being 11584

transferred or leased. 11585

Sec. 126.605. The director of budget and management, in 11586
consultation with the department of transportation, may retain or 11587
contract for the services of commercial appraisers, engineers, 11588
investment bankers, financial advisers, accounting experts, and 11589
other consultants, independent contractors or providers of 11590
professional services as are necessary in the judgment of the 11591
director to carry out the director's powers and duties under 11592
sections 126.60 to 126.605 of the Revised Code, including the 11593
identification of highway services and any related projects to be 11594
subject to invitations for qualifications or proposals under 11595
sections 126.60 to 126.605 of the Revised Code, the development of 11596
those invitations and related evaluation criteria, the evaluation 11597
of those invitations, and negotiation of any contract under 11598
sections 126.60 to 126.605 of the Revised Code. 11599

Sec. 127.14. The controlling board may, at the request of any 11600
state agency or the director of budget and management, authorize, 11601
with respect to the provisions of any appropriation act: 11602
11603

(A) Transfers of all or part of an appropriation within but 11604
not between state agencies, except such transfers as the director 11605
of budget and management is authorized by law to make, provided 11606
that no transfer shall be made by the director for the purpose of 11607
effecting new or changed levels of program service not authorized 11608
by the general assembly; 11609

(B) Transfers of all or part of an appropriation from one 11610
fiscal year to another; 11611

(C) Transfers of all or part of an appropriation within or 11612
between state agencies made necessary by administrative 11613
reorganization or by the abolition of an agency or part of an 11614

agency; 11615

(D) Transfers of all or part of cash balances in excess of 11616
needs from any fund of the state to the general revenue fund or to 11617
such other fund of the state to which the money would have been 11618
credited in the absence of the fund from which the transfers are 11619
authorized to be made, except that the controlling board may not 11620
authorize such transfers from the accrued leave liability fund, 11621
auto registration distribution fund, budget stabilization fund, 11622
development bond retirement fund, facilities establishment fund, 11623
gasoline excise tax fund, general revenue fund, higher education 11624
improvement fund, highway improvement bond retirement fund, 11625
highway obligations bond retirement fund, highway capital 11626
improvement fund, highway operating fund, horse racing tax fund, 11627
improvements bond retirement fund, public library fund, liquor 11628
control fund, local government fund, local transportation 11629
improvement program fund, mental health facilities improvement 11630
fund, Ohio fairs fund, parks and recreation improvement fund, 11631
public improvements bond retirement fund, school district income 11632
tax fund, state agency facilities improvement fund, state and 11633
local government highway distribution fund, state highway safety 11634
fund, state lottery fund, undivided liquor permit fund, Vietnam 11635
conflict compensation bond retirement fund, volunteer fire 11636
fighters' dependents fund, waterways safety fund, wildlife fund, 11637
workers' compensation fund, ~~workers' compensation council~~ 11638
~~remuneration fund,~~ or any fund not specified in this division that 11639
the director of budget and management determines to be a bond fund 11640
or bond retirement fund; 11641

(E) Transfers of all or part of those appropriations included 11642
in the emergency purposes account of the controlling board; 11643

(F) Temporary transfers of all or part of an appropriation or 11644
other moneys into and between existing funds, or new funds, as may 11645
be established by law when needed for capital outlays for which 11646

notes or bonds will be issued; 11647

(G) Transfer or release of all or part of an appropriation to 11648
a state agency requiring controlling board approval of such 11649
transfer or release as provided by law; 11650

(H) Temporary transfer of funds included in the emergency 11651
purposes appropriation of the controlling board. Such temporary 11652
transfers may be made subject to conditions specified by the 11653
controlling board at the time temporary transfers are authorized. 11654
No transfers shall be made under this division for the purpose of 11655
effecting new or changed levels of program service not authorized 11656
by the general assembly. 11657

As used in this section, "request" means an application by a 11658
state agency or the director of budget and management seeking some 11659
action by the controlling board. 11660

When authorizing the transfer of all or part of an 11661
appropriation under this section, the controlling board may 11662
authorize the transfer to an existing appropriation item and the 11663
creation of and transfer to a new appropriation item. 11664

Whenever there is a transfer of all or part of funds included 11665
in the emergency purposes appropriation by the controlling board, 11666
pursuant to division (E) of this section, the state agency or the 11667
director of budget and management receiving such transfer shall 11668
keep a detailed record of the use of the transferred funds. At the 11669
earliest scheduled meeting of the controlling board following the 11670
accomplishment of the purposes specified in the request originally 11671
seeking the transfer, or following the total expenditure of the 11672
transferred funds for the specified purposes, the state agency or 11673
the director of budget and management shall submit a report on the 11674
expenditure of such funds to the board. The portion of any 11675
appropriation so transferred which is not required to accomplish 11676
the purposes designated in the original request to the controlling 11677

board shall be returned to the proper appropriation of the 11678
controlling board at this time. 11679

Notwithstanding any provisions of law providing for the 11680
deposit of revenues received by a state agency to the credit of a 11681
particular fund in the state treasury, whenever there is a 11682
temporary transfer of funds included in the emergency purposes 11683
appropriation of the controlling board pursuant to division (H) of 11684
this section, revenues received by any state agency receiving such 11685
a temporary transfer of funds shall, as directed by the 11686
controlling board, be transferred back to the emergency purposes 11687
appropriation. 11688

The board may delegate to the director of budget and 11689
management authority to approve transfers among items of 11690
appropriation under division (A) of this section. 11691

Sec. 127.16. (A) Upon the request of either a state agency or 11692
the director of budget and management and after the controlling 11693
board determines that an emergency or a sufficient economic reason 11694
exists, the controlling board may approve the making of a purchase 11695
without competitive selection as provided in division (B) of this 11696
section. 11697

(B) Except as otherwise provided in this section, no state 11698
agency, using money that has been appropriated to it directly, 11699
shall: 11700

(1) Make any purchase from a particular supplier, that would 11701
amount to fifty thousand dollars or more when combined with both 11702
the amount of all disbursements to the supplier during the fiscal 11703
year for purchases made by the agency and the amount of all 11704
outstanding encumbrances for purchases made by the agency from the 11705
supplier, unless the purchase is made by competitive selection or 11706
with the approval of the controlling board; 11707

(2) Lease real estate from a particular supplier, if the 11708
lease would amount to seventy-five thousand dollars or more when 11709
combined with both the amount of all disbursements to the supplier 11710
during the fiscal year for real estate leases made by the agency 11711
and the amount of all outstanding encumbrances for real estate 11712
leases made by the agency from the supplier, unless the lease is 11713
made by competitive selection or with the approval of the 11714
controlling board. 11715

(C) Any person who authorizes a purchase in violation of 11716
division (B) of this section shall be liable to the state for any 11717
state funds spent on the purchase, and the attorney general shall 11718
collect the amount from the person. 11719

(D) Nothing in division (B) of this section shall be 11720
construed as: 11721

(1) A limitation upon the authority of the director of 11722
transportation as granted in sections 5501.17, 5517.02, and 11723
5525.14 of the Revised Code; 11724

(2) Applying to medicaid provider agreements under Chapter 11725
5111. of the Revised Code; 11726

(3) Applying to the purchase of examinations from a sole 11727
supplier by a state licensing board under Title XLVII of the 11728
Revised Code; 11729

(4) Applying to entertainment contracts for the Ohio state 11730
fair entered into by the Ohio expositions commission, provided 11731
that the controlling board has given its approval to the 11732
commission to enter into such contracts and has approved a total 11733
budget amount for such contracts as agreed upon by commission 11734
action, and that the commission causes to be kept itemized records 11735
of the amounts of money spent under each contract and annually 11736
files those records with the clerk of the house of representatives 11737
and the clerk of the senate following the close of the fair; 11738

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole

authority under section 2967.14 of the Revised Code or by the	11770
department of youth services under section 5139.08 of the Revised	11771
Code;	11772
(13) Applying to dues or fees paid for membership in an	11773
organization or association;	11774
(14) Applying to purchases of utility services pursuant to	11775
section 9.30 of the Revised Code;	11776
(15) Applying to purchases made in accordance with rules	11777
adopted by the department of administrative services of motor	11778
vehicle, aviation, or watercraft fuel, or emergency repairs of	11779
such vehicles;	11780
(16) Applying to purchases of tickets for passenger air	11781
transportation;	11782
(17) Applying to purchases necessary to provide public	11783
notifications required by law or to provide notifications of job	11784
openings;	11785
(18) Applying to the judicial branch of state government;	11786
(19) Applying to purchases of liquor for resale by the	11787
division of liquor control;	11788
(20) Applying to purchases of motor courier and freight	11789
services made in accordance with department of administrative	11790
services rules;	11791
(21) Applying to purchases from the United States postal	11792
service and purchases of stamps and postal meter replenishment	11793
from vendors at rates established by the United States postal	11794
service;	11795
(22) Applying to purchases of books, periodicals, pamphlets,	11796
newspapers, maintenance subscriptions, and other published	11797
materials;	11798
(23) Applying to purchases from other state agencies,	11799

including state-assisted institutions of higher education;	11800
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	11801 11802 11803 11804
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;	11805 11806 11807
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	11808 11809 11810 11811 11812
(27) Applying to contracts entered into by the department of developmental disabilities under section 5123.18 of the Revised Code;	11813 11814 11815
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;	11816 11817 11818
(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.	11819 11820 11821 11822 11823 11824
(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;	11825 11826 11827 11828 11829

(31) Applying to the department of job and family services' 11830
purchases of health assistance services under the children's 11831
health insurance program part I provided for under section 5101.50 11832
of the Revised Code, the children's health insurance program part 11833
II provided for under section 5101.51 of the Revised Code, or the 11834
children's health insurance program part III provided for under 11835
section 5101.52 of the Revised Code, ~~or the children's buy-in~~ 11836
~~program provided for under sections 5101.5211 to 5101.5216 of the~~ 11837
~~Revised Code;~~ 11838

(32) Applying to payments by the attorney general from the 11839
reparations fund to hospitals and other emergency medical 11840
facilities for performing medical examinations to collect physical 11841
evidence pursuant to section 2907.28 of the Revised Code; 11842

(33) Applying to contracts with a contracting authority or 11843
administrative receiver under division (B) of section 5126.056 of 11844
the Revised Code; 11845

(34) Applying to purchases of goods and services by the 11846
department of veterans services in accordance with the terms of 11847
contracts entered into by the United States department of veterans 11848
affairs; 11849

(35) Applying to payments by the superintendent of the bureau 11850
of criminal identification and investigation to the federal bureau 11851
of investigation for criminal records checks pursuant to section 11852
109.572 of the Revised Code; 11853

(36) Applying to contracts entered into by the department of 11854
job and family services under section 5111.054 of the Revised 11855
Code. 11856

(E) When determining whether a state agency has reached the 11857
cumulative purchase thresholds established in divisions (B)(1) and 11858
(2) of this section, all of the following purchases by such agency 11859
shall not be considered: 11860

(1) Purchases made through competitive selection or with controlling board approval;	11861 11862
(2) Purchases listed in division (D) of this section;	11863
(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate.	11864 11865
(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.	11866 11867 11868
<u>Sec. 127.162. (A) Upon the request of a state agency or the director of budget and management, the controlling board may approve the making of a purchase as being in full compliance with competitive selection if the agency seeking to make the purchase has met both of the following requirements:</u>	11869 11870 11871 11872 11873
<u>(1) The agency has substantially complied with one of the following competitive selection or evaluation and selection processes:</u>	11874 11875 11876
<u>(a) The requirements for competitive sealed bidding under section 125.07 of the Revised Code;</u>	11877 11878
<u>(b) The requirements for competitive sealed proposals under section 125.071 of the Revised Code;</u>	11879 11880
<u>(c) The requirements for reverse auctions under section 125.072 of the Revised Code;</u>	11881 11882
<u>(d) The evaluation and selection requirements for professional design services under section 153.69 of the Revised Code.</u>	11883 11884 11885
<u>(2) The agency has provided in its request to the board a detailed explanation of the type of competitive selection or evaluation and selection process with which it was seeking to comply and the specific requirements of that type of competitive</u>	11886 11887 11888 11889

selection or evaluation and selection with which the agency has 11890
failed to comply. 11891

(B) The controlling board, by a majority vote, may disapprove 11892
or defer a request submitted under this section or request that 11893
the agency resubmit the request pursuant to section 127.16 of the 11894
Revised Code if the agency fails to demonstrate substantial 11895
compliance with the relevant competitive selection or evaluation 11896
and selection requirements. 11897

(C) Nothing in this section shall be construed to modify the 11898
cumulative purchasing thresholds established in divisions (B) and 11899
(E) of section 127.16 of the Revised Code. 11900

Sec. 127.19. There is hereby created in the state treasury 11901
the controlling board emergency purposes fund, consisting of 11902
transfers from the general revenue fund and any other funds 11903
appropriated by the general assembly. Moneys in the fund may be 11904
used by the controlling board at the request of a state agency or 11905
the director of budget and management for the purpose of providing 11906
disaster and emergency aid to state agencies and political 11907
subdivisions or for other purposes approved by the controlling 11908
board. 11909

Sec. 131.02. (A) Except as otherwise provided in section 11910
4123.37 and division (K) of section 4123.511 of the Revised Code, 11911
whenever any amount is payable to the state, the officer, 11912
employee, or agent responsible for administering the law under 11913
which the amount is payable shall immediately proceed to collect 11914
the amount or cause the amount to be collected and shall pay the 11915
amount into the state treasury or into the appropriate custodial 11916
fund in the manner set forth pursuant to section 113.08 of the 11917
Revised Code. Except as otherwise provided in this division, if 11918
the amount is not paid within forty-five days after payment is 11919

due, the officer, employee, or agent shall certify the amount due 11920
to the attorney general, in the form and manner prescribed by the 11921
attorney general, and notify the director of budget and management 11922
thereof. In the case of an amount payable by a student enrolled in 11923
a state institution of higher education, the amount shall be 11924
certified within the later of forty-five days after the amount is 11925
due or the tenth day after the beginning of the next academic 11926
semester, quarter, or other session following the session for 11927
which the payment is payable. The attorney general may assess the 11928
collection cost to the amount certified in such manner and amount 11929
as prescribed by the attorney general. If an amount payable to a 11930
political subdivision is past due, the political subdivision may, 11931
with the approval of the attorney general, certify the amount to 11932
the attorney general pursuant to this section. 11933

For the purposes of this section, the attorney general and 11934
the officer, employee, or agent responsible for administering the 11935
law under which the amount is payable shall agree on the time a 11936
payment is due, and that agreed upon time shall be one of the 11937
following times: 11938

(1) If a law, including an administrative rule, of this state 11939
prescribes the time a payment is required to be made or reported, 11940
when the payment is required by that law to be paid or reported. 11941

(2) If the payment is for services rendered, when the 11942
rendering of the services is completed. 11943

(3) If the payment is reimbursement for a loss, when the loss 11944
is incurred. 11945

(4) In the case of a fine or penalty for which a law or 11946
administrative rule does not prescribe a time for payment, when 11947
the fine or penalty is first assessed. 11948

(5) If the payment arises from a legal finding, judgment, or 11949
adjudication order, when the finding, judgment, or order is 11950

rendered or issued.	11951
(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.	11952 11953
(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.	11954 11955 11956
(8) Upon proof of claim being filed in a bankruptcy case.	11957
(9) Any other appropriate time determined by the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.	11958 11959 11960 11961 11962
(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness.	11963 11964 11965
(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., 5747., or 5751. of the Revised Code, the notice also shall specify all of the following:	11966 11967 11968
(a) The assessment or case number;	11969
(b) The tax pursuant to which the assessment is made;	11970
(c) The reason for the liability, including, if applicable, that a penalty or interest is due;	11971 11972
(d) An explanation of how and when interest will be added to the amount assessed;	11973 11974
(e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.	11975 11976 11977 11978
(C) The attorney general shall collect the claim or secure a	11979

judgment and issue an execution for its collection. 11980

(D) Each claim shall bear interest, from the day on which the 11981
claim became due, at the rate per annum required by section 11982
5703.47 of the Revised Code. 11983

(E) The attorney general and the chief officer of the agency 11984
reporting a claim, acting together, may do any of the following if 11985
such action is in the best interests of the state: 11986

(1) Compromise the claim; 11987

(2) Extend for a reasonable period the time for payment of 11988
the claim by agreeing to accept monthly or other periodic 11989
payments. The agreement may require security for payment of the 11990
claim. 11991

(3) Add fees to recover the cost of processing checks or 11992
other draft instruments returned for insufficient funds and the 11993
cost of providing electronic payment options. 11994

(F)(1) Except as provided in division (F)(2) of this section, 11995
if the attorney general finds, after investigation, that any claim 11996
due and owing to the state is uncollectible, the attorney general, 11997
with the consent of the chief officer of the agency reporting the 11998
claim, may do the following: 11999

(a) Sell, convey, or otherwise transfer the claim to one or 12000
more private entities for collection; 12001

(b) Cancel the claim or cause it to be canceled. 12002

(2) The attorney general shall cancel or cause to be canceled 12003
an unsatisfied claim on the date that is forty years after the 12004
date the claim is certified. 12005

(3) No initial action shall be commenced to collect any tax 12006
payable to the state that is administered by the tax commissioner, 12007
whether or not such tax is subject to division (B) of this 12008
section, or any penalty, interest, or additional charge on such 12009

tax, after the expiration of the period ending on the later of the 12010
dates specified in divisions (F)(3)(a) and (b) of this section, 12011
provided that such period shall be extended by the period of any 12012
stay to such collection or by any other period to which the 12013
parties mutually agree. If the initial action in aid of execution 12014
is commenced before the later of the dates specified in divisions 12015
(F)(3)(a) and (b) of this section, any and all subsequent actions 12016
may be pursued in aid of execution of judgment for as long as the 12017
debt exists. 12018

(a) Seven years after the assessment of the tax, penalty, 12019
interest, or additional charge is issued. 12020

(b) Four years after the assessment of the tax, penalty, 12021
interest, or additional charge becomes final. For the purposes of 12022
division (F)(3)(b) of this section, the assessment becomes final 12023
at the latest of the following: upon expiration of the period to 12024
petition for reassessment, or if applicable, to appeal a final 12025
determination of the commissioner or decision of the board of tax 12026
appeals or a court, or, if applicable, upon decision of the United 12027
States supreme court. 12028

For the purposes of division (F)(3) of this section, an 12029
initial action to collect a tax debt is commenced at the time when 12030
any action, including any action in aid of execution on a 12031
judgment, commences after a certified copy of the tax 12032
commissioner's entry making an assessment final has been filed in 12033
the office of the clerk of court of common pleas in the county in 12034
which the taxpayer resides or has its principal place of business 12035
in this state, or in the office of the clerk of court of common 12036
pleas of Franklin county, as provided in section 5739.13, 5741.14, 12037
5747.13, or 5751.09 of the Revised Code or in any other applicable 12038
law requiring such a filing. If an assessment has not been issued 12039
and there is no time limitation on the issuance of an assessment 12040
under applicable law, an action to collect a tax debt commences 12041

when the action is filed in the courts of this state to collect 12042
the liability. 12043

(4) If information contained in a claim that is sold, 12044
conveyed, or transferred to a private entity pursuant to this 12045
section is confidential pursuant to federal law or a section of 12046
the Revised Code that implements a federal law governing 12047
confidentiality, such information remains subject to that law 12048
during and following the sale, conveyance, or transfer. 12049

Sec. 131.024. (A) The attorney general may, not later than 12050
the first day of February of each year, send to the director of 12051
commerce a request containing the name, address, and social 12052
security number of any person who owes a claim that has been 12053
certified to the attorney general under section 131.02 of the 12054
Revised Code and request that the director provide information to 12055
the attorney general as required in division (B) of this section. 12056
If the information the director provides identifies or results in 12057
identifying unclaimed funds held by the state for an obligor in 12058
default, the attorney general may file a claim under section 12059
169.08 of the Revised Code to recover the unclaimed funds. If the 12060
director allows the claim, the director shall pay the claim 12061
directly to the attorney general. The director shall not disallow 12062
a claim made by the attorney general because the attorney general 12063
is not the owner of the unclaimed funds according to the report 12064
made under section 169.03 of the Revised Code. 12065

(B) The director of commerce shall provide the attorney 12066
general, not later than the first day of March of each year, the 12067
name, address, social security number, if the social security 12068
number is available, and any other identifying information for any 12069
individual included in a request sent by the attorney general 12070
pursuant to division (A) of this section who has unclaimed funds 12071
delivered or reported to the state under Chapter 169. of the 12072

<u>Revised Code.</u>	12073
<u>(C) The attorney general, in consultation with the department</u>	12074
<u>of commerce, may adopt rules under Chapter 119. of the Revised</u>	12075
<u>Code to aid in the implementation of this section.</u>	12076
Sec. 131.23. The various political subdivisions of this state	12077
may issue bonds, and any indebtedness created by that issuance	12078
shall not be subject to the limitations or included in the	12079
calculation of indebtedness prescribed by sections 133.05, 133.06,	12080
133.07, and 133.09 of the Revised Code, but the bonds may be	12081
issued only under the following conditions:	12082
(A) The subdivision desiring to issue the bonds shall obtain	12083
from the county auditor a certificate showing the total amount of	12084
delinquent taxes due and unpayable to the subdivision at the last	12085
semiannual tax settlement.	12086
(B) The fiscal officer of that subdivision shall prepare a	12087
statement, from the books of the subdivision, verified by the	12088
fiscal officer under oath, which shall contain the following facts	12089
of the subdivision:	12090
(1) The total bonded indebtedness;	12091
(2) The aggregate amount of notes payable or outstanding	12092
accounts of the subdivision, incurred prior to the commencement of	12093
the current fiscal year, which shall include all evidences of	12094
indebtedness issued by the subdivision except notes issued in	12095
anticipation of bond issues and the indebtedness of any	12096
nontax-supported public utility;	12097
(3) Except in the case of school districts, the aggregate	12098
current year's requirement for disability financial assistance	12099
provided under Chapter 5115. of the Revised Code that the	12100
subdivision is unable to finance except by the issue of bonds;	12101
(4) The indebtedness outstanding through the issuance of any	12102

bonds or notes pledged or obligated to be paid by any delinquent taxes;	12103 12104
(5) The total of any other indebtedness;	12105
(6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;	12106 12107 12108
(7) The budget requirements for the fiscal year for bond and note retirement;	12109 12110
(8) The estimated revenue for the fiscal year.	12111
(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of the subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to the subdivision, as set forth in division (B)(6) of this section.	12112 12113 12114 12115 12116 12117 12118
(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance as shown by division (B)(3) of this section.	12119 12120 12121 12122 12123 12124
(E) The tax commissioner shall grant to the subdivision authority requested by the subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely to such recording and which shall be open to inspection by the public.	12125 12126 12127 12128 12129 12130
(F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the	12131 12132

proper authority having charge of the retirement of bonds of the 12133
subdivision by forwarding a copy of the grant of authority and of 12134
the statement provided for in division (B) of this section. 12135

(G) Upon receipt of authority, the subdivision shall proceed 12136
according to law to issue the amount of bonds authorized by the 12137
commissioner, and authorized by the taxing authority, provided the 12138
taxing authority of that subdivision may submit, by resolution, to 12139
the electors of that subdivision the question of issuing the 12140
bonds. The resolution shall make the declarations and statements 12141
required by section 133.18 of the Revised Code. The county auditor 12142
and taxing authority shall thereupon proceed as set forth in 12143
divisions (C) and (D) of that section. The election on the 12144
question of issuing the bonds shall be held under divisions (E), 12145
(F), and (G) of that section, except that publication of the 12146
notice of the election shall be made on two separate days prior to 12147
the election in ~~one or more newspapers~~ a newspaper of general 12148
circulation in the subdivision, ~~and, if~~ or as provided in section 12149
7.16 of the Revised Code. If the board of elections operates and 12150
maintains a web site, notice of the election also shall be posted 12151
on that web site for thirty days prior to the election. The bonds 12152
may be exchanged at their face value with creditors of the 12153
subdivision in liquidating the indebtedness described and 12154
enumerated in division (B)(2) of this section or may be sold as 12155
provided in Chapter 133. of the Revised Code, and in either event 12156
shall be uncontestable. 12157

(H) The per cent of delinquent taxes and assessments 12158
collected for and to the credit of the subdivision after the 12159
exchange or sale of bonds as certified by the commissioner shall 12160
be paid to the authority having charge of the sinking fund of the 12161
subdivision, which money shall be placed in a separate fund for 12162
the purpose of retiring the bonds so issued. The proper authority 12163
of the subdivisions shall provide for the levying of a tax 12164

sufficient in amount to pay the debt charges on all such bonds 12165
issued under this section. 12166

(I) This section is for the sole purpose of assisting the 12167
various subdivisions in paying their unsecured indebtedness, and 12168
providing funds for disability financial assistance. The bonds 12169
issued under authority of this section shall not be used for any 12170
other purpose, and any exchange for other purposes, or the use of 12171
the money derived from the sale of the bonds by the subdivision 12172
for any other purpose, is misapplication of funds. 12173

(J) The bonds authorized by this section shall be redeemable 12174
or payable in not to exceed ten years from date of issue and shall 12175
not be subject to or considered in calculating the net 12176
indebtedness of the subdivision. The budget commission of the 12177
county in which the subdivision is located shall annually allocate 12178
such portion of the then delinquent levy due the subdivision which 12179
is unpledged for other purposes to the payment of debt charges on 12180
the bonds issued under authority of this section. 12181

(K) The issue of bonds under this section shall be governed 12182
by Chapter 133. of the Revised Code, respecting the terms used, 12183
forms, manner of sale, and redemption except as otherwise provided 12184
in this section. 12185

The board of county commissioners of any county may issue 12186
bonds authorized by this section and distribute the proceeds of 12187
the bond issues to any or all of the cities and townships of the 12188
county, according to their relative needs for disability financial 12189
assistance as determined by the county. 12190

All sections of the Revised Code inconsistent with or 12191
prohibiting the exercise of the authority conferred by this 12192
section are inoperative respecting bonds issued under this 12193
section. 12194

Sec. 131.44. (A) As used in this section:	12195
(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.	12196 12197
(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund.	12198 12199 12200 12201
(3) "Required year-end balance" means the sum of the following:	12202 12203
(a) Five per cent of the general revenue fund revenues for the preceding fiscal year;	12204 12205
(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;	12206 12207 12208
(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;	12209 12210 12211 12212 12213
(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed;	12214 12215 12216 12217
(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code.	12218 12219 12220 12221 12222 12223
(4) "Estimated general revenue fund appropriation and	12224

transfer requirement" means the most recent adjusted 12225
appropriations made by the general assembly from the general 12226
revenue fund and includes both of the following: 12227

(a) Appropriations made and transfers of appropriations from 12228
the first fiscal year to the second fiscal year of the biennium in 12229
provisions of acts of the general assembly signed by the governor 12230
but not yet effective; 12231

(b) Transfers of ~~appropriation~~ appropriations from the first 12232
fiscal year to the second fiscal year of the biennium approved by 12233
the controlling board. 12234

(5) "Estimated general revenue fund revenue" means the most 12235
recent such estimate available to the director of budget and 12236
management. 12237

(B)(1) Not later than the thirty-first day of July each year, 12238
the director of budget and management shall determine the surplus 12239
revenue that existed on the preceding thirtieth day of June and 12240
transfer from the general revenue fund, to the extent of the 12241
unobligated, unencumbered balance on the preceding thirtieth day 12242
of June in excess of one-half of one per cent of the general 12243
revenue fund revenues in the preceding fiscal year, the following: 12244

(a) First, to the budget stabilization fund, any amount 12245
necessary for the balance of the budget stabilization fund to 12246
equal five per cent of the general revenue fund revenues of the 12247
preceding fiscal year; 12248

(b) Then, to the income tax reduction fund, which is hereby 12249
created in the state treasury, an amount equal to the surplus 12250
revenue. 12251

(2) Not later than the thirty-first day of July each year, 12252
the director shall determine the percentage that the balance in 12253
the income tax reduction fund is of the amount of revenue that the 12254
director estimates will be received from the tax levied under 12255

section 5747.02 of the Revised Code in the current fiscal year 12256
without regard to any reduction under division (B) of that 12257
section. If that percentage exceeds thirty-five one hundredths of 12258
one per cent, the director shall certify the percentage to the tax 12259
commissioner not later than the thirty-first day of July. 12260

(C) The director of budget and management shall transfer 12261
money in the income tax reduction fund to the general revenue 12262
fund, the local government fund, and the public library fund as 12263
necessary to offset revenue reductions resulting from the 12264
reductions in taxes required under division (B) of section 5747.02 12265
of the Revised Code in the respective amounts and percentages 12266
prescribed by division (A) of section 5747.03 and divisions ~~(A)~~(B) 12267
and ~~(B)~~(C) of section 131.51 of the Revised Code as if the amount 12268
transferred had been collected as taxes under Chapter 5747. of the 12269
Revised Code. If no reductions in taxes are made under that 12270
division that affect revenue received in the current fiscal year, 12271
the director shall not transfer money from the income tax 12272
reduction fund to the general revenue fund, the local government 12273
fund, and the public library fund. 12274

Sec. 131.51. (A) ~~Beginning January 2008, on~~ On or before July 12275
5, 2013, the tax commissioner shall compute the following amounts 12276
and certify those amounts to the director of budget and 12277
management: 12278

(1) A percentage calculated by multiplying one hundred by the 12279
quotient obtained by dividing the total amount credited to the 12280
local government fund in fiscal year 2013 by the total amount of 12281
tax revenue credited to the general revenue fund in fiscal year 12282
2013. The percentage shall be rounded to the nearest one-hundredth 12283
of one per cent. 12284

(2) A percentage calculated by multiplying one hundred by the 12285
quotient obtained by dividing the total amount credited to the 12286

public library fund in fiscal year 2013 by the total amount of tax 12287
revenue credited to the general revenue fund in fiscal year 2013. 12288
The percentage shall be rounded to the nearest one-hundredth of 12289
one per cent. 12290

(B) On or before the fifth seventh day of each month, the 12291
director of budget and management shall credit to the local 12292
government fund ~~three and sixty eight one hundredths per cent of~~ 12293
an amount equal to the product obtained by multiplying the 12294
percentage calculated under division (A)(1) of this section by the 12295
total tax revenue credited to the general revenue fund during the 12296
preceding month. ~~In determining the total tax revenue credited to~~ 12297
~~the general revenue fund during the preceding month, the director~~ 12298
~~shall include amounts transferred from that fund during the~~ 12299
~~preceding month pursuant to divisions (A) and (B) of this section.~~ 12300
Money shall be distributed from the local government fund as 12301
required under section 5747.50 of the Revised Code during the same 12302
month in which it is credited to the fund. 12303

~~(B) Beginning January 2008, on~~ (C) On or before the fifth 12304
seventh day of each month, the director of budget and management 12305
shall credit to the public library fund, ~~two and twenty two one~~ 12306
~~hundredths per cent of~~ an amount equal to the product obtained by 12307
multiplying the percentage calculated under division (A)(2) of 12308
this section by the total tax revenue credited to the general 12309
revenue fund during the preceding month. ~~In determining the total~~ 12310
~~tax revenue credited to the general revenue fund during the~~ 12311
~~preceding month, the director shall include amounts transferred~~ 12312
~~from that fund during the preceding month pursuant to divisions~~ 12313
~~(A) and (B) of this section.~~ Money shall be distributed from the 12314
public library fund as required under section 5747.47 of the 12315
Revised Code during the same month in which it is credited to the 12316
fund. 12317

~~(C)~~(D) The director of budget and management shall develop a 12318

schedule identifying the specific tax revenue sources to be used 12319
to make the monthly transfers required under divisions ~~(A)~~(B) and 12320
~~(B)~~(C) of this section. The director may, from time to time, 12321
revise the schedule as the director considers necessary. 12322

Sec. 133.01. As used in this chapter, in sections 9.95, 9.96, 12323
and 2151.655 of the Revised Code, in other sections of the Revised 12324
Code that make reference to this chapter unless the context does 12325
not permit, and in related proceedings, unless otherwise expressly 12326
provided: 12327

(A) "Acquisition" as applied to real or personal property 12328
includes, among other forms of acquisition, acquisition by 12329
exercise of a purchase option, and acquisition of interests in 12330
property, including, without limitation, easements and 12331
rights-of-way, and leasehold and other lease interests initially 12332
extending or extendable for a period of at least sixty months. 12333

(B) "Anticipatory securities" means securities, including 12334
notes, issued in anticipation of the issuance of other securities. 12335

(C) "Board of elections" means the county board of elections 12336
of the county in which the subdivision is located. If the 12337
subdivision is located in more than one county, "board of 12338
elections" means the county board of elections of the county that 12339
contains the largest portion of the population of the subdivision 12340
or that otherwise has jurisdiction in practice over and 12341
customarily handles election matters relating to the subdivision. 12342

(D) "Bond retirement fund" means the bond retirement fund 12343
provided for in section 5705.09 of the Revised Code, and also 12344
means a sinking fund or any other special fund, regardless of the 12345
name applied to it, established by or pursuant to law or the 12346
proceedings for the payment of debt charges. Provision may be made 12347
in the applicable proceedings for the establishment in a bond 12348
retirement fund of separate accounts relating to debt charges on 12349

particular securities, or on securities payable from the same or 12350
common sources, and for the application of moneys in those 12351
accounts only to specified debt charges on specified securities or 12352
categories of securities. Subject to law and any provisions in the 12353
applicable proceedings, moneys in a bond retirement fund or 12354
separate account in a bond retirement fund may be transferred to 12355
other funds and accounts. 12356

(E) "Capitalized interest" means all or a portion of the 12357
interest payable on securities from their date to a date stated or 12358
provided for in the applicable legislation, which interest is to 12359
be paid from the proceeds of the securities. 12360

(F) "Chapter 133. securities" means securities authorized by 12361
or issued pursuant to or in accordance with this chapter. 12362

(G) "County auditor" means the county auditor of the county 12363
in which the subdivision is located. If the subdivision is located 12364
in more than one county, "county auditor" means the county auditor 12365
of the county that contains the highest amount of the tax 12366
valuation of the subdivision or that otherwise has jurisdiction in 12367
practice over and customarily handles property tax matters 12368
relating to the subdivision. In the case of a county that has 12369
adopted a charter, "county auditor" means the officer who 12370
generally has the duties and functions provided in the Revised 12371
Code for a county auditor. 12372

(H) "Credit enhancement facilities" means letters of credit, 12373
lines of credit, stand-by, contingent, or firm securities purchase 12374
agreements, insurance, or surety arrangements, guarantees, and 12375
other arrangements that provide for direct or contingent payment 12376
of debt charges, for security or additional security in the event 12377
of nonpayment or default in respect of securities, or for making 12378
payment of debt charges to and at the option and on demand of 12379
securities holders or at the option of the issuer or upon certain 12380
conditions occurring under put or similar arrangements, or for 12381

otherwise supporting the credit or liquidity of the securities, 12382
and includes credit, reimbursement, marketing, remarketing, 12383
indexing, carrying, interest rate hedge, and subrogation 12384
agreements, and other agreements and arrangements for payment and 12385
reimbursement of the person providing the credit enhancement 12386
facility and the security for that payment and reimbursement. 12387

(I) "Current operating expenses" or "current expenses" means 12388
the lawful expenditures of a subdivision, except those for 12389
permanent improvements and for payments of debt charges of the 12390
subdivision. 12391

(J) "Debt charges" means the principal, including any 12392
mandatory sinking fund deposits and mandatory redemption payments, 12393
interest, and any redemption premium, payable on securities as 12394
those payments come due and are payable. The use of "debt charges" 12395
for this purpose does not imply that any particular securities 12396
constitute debt within the meaning of the Ohio Constitution or 12397
other laws. 12398

(K) "Financing costs" means all costs and expenses relating 12399
to the authorization, including any required election, issuance, 12400
sale, delivery, authentication, deposit, custody, clearing, 12401
registration, transfer, exchange, fractionalization, replacement, 12402
payment, and servicing of securities, including, without 12403
limitation, costs and expenses for or relating to publication and 12404
printing, postage, delivery, preliminary and final official 12405
statements, offering circulars, and informational statements, 12406
travel and transportation, underwriters, placement agents, 12407
investment bankers, paying agents, registrars, authenticating 12408
agents, remarketing agents, custodians, clearing agencies or 12409
corporations, securities depositories, financial advisory 12410
services, certifications, audits, federal or state regulatory 12411
agencies, accounting and computation services, legal services and 12412
obtaining approving legal opinions and other legal opinions, 12413

credit ratings, redemption premiums, and credit enhancement 12414
facilities. Financing costs may be paid from any moneys available 12415
for the purpose, including, unless otherwise provided in the 12416
proceedings, from the proceeds of the securities to which they 12417
relate and, as to future financing costs, from the same sources 12418
from which debt charges on the securities are paid and as though 12419
debt charges. 12420

(L) "Fiscal officer" means the following, or, in the case of 12421
absence or vacancy in the office, a deputy or assistant authorized 12422
by law or charter to act in the place of the named officer, or if 12423
there is no such authorization then the deputy or assistant 12424
authorized by legislation to act in the place of the named officer 12425
for purposes of this chapter, in the case of the following 12426
subdivisions: 12427

(1) A county, the county auditor; 12428

(2) A municipal corporation, the city auditor or village 12429
clerk or clerk-treasurer, or the officer who, by virtue of a 12430
charter, has the duties and functions provided in the Revised Code 12431
for the city auditor or village clerk or clerk-treasurer; 12432

(3) A school district, the treasurer of the board of 12433
education; 12434

(4) A regional water and sewer district, the secretary of the 12435
board of trustees; 12436

(5) A joint township hospital district, the treasurer of the 12437
district; 12438

(6) A joint ambulance district, the clerk of the board of 12439
trustees; 12440

(7) A joint recreation district, the person designated 12441
pursuant to section 755.15 of the Revised Code; 12442

(8) A detention facility district or a district organized 12443

under section 2151.65 of the Revised Code or a combined district 12444
organized under sections 2152.41 and 2151.65 of the Revised Code, 12445
the county auditor of the county designated by law to act as the 12446
auditor of the district; 12447

(9) A township, a fire district organized under division (C) 12448
of section 505.37 of the Revised Code, or a township police 12449
district, the fiscal officer of the township; 12450

(10) A joint fire district, the clerk of the board of 12451
trustees of that district; 12452

(11) A regional or county library district, the person 12453
responsible for the financial affairs of that district; 12454

(12) A joint solid waste management district, the fiscal 12455
officer appointed by the board of directors of the district under 12456
section 343.01 of the Revised Code; 12457

(13) A joint emergency medical services district, the person 12458
appointed as fiscal officer pursuant to division (D) of section 12459
307.053 of the Revised Code; 12460

(14) A fire and ambulance district, the person appointed as 12461
fiscal officer under division (B) of section 505.375 of the 12462
Revised Code; 12463

(15) A subdivision described in division (MM)~~(17)~~(19) of this 12464
section, the officer who is designated by law as or performs the 12465
functions of its chief fiscal officer; 12466

(16) A joint police district, the treasurer of the district; 12467

(17) A lake facilities authority, the fiscal officer 12468
designated under section 353.02 of the Revised Code. 12469

(M) "Fiscal year" has the same meaning as in section 9.34 of 12470
the Revised Code. 12471

(N) "Fractionalized interests in public obligations" means 12472
participations, certificates of participation, shares, or other 12473

instruments or agreements, separate from the public obligations 12474
themselves, evidencing ownership of interests in public 12475
obligations or of rights to receive payments of, or on account of, 12476
principal or interest or their equivalents payable by or on behalf 12477
of an obligor pursuant to public obligations. 12478

(O) "Fully registered securities" means securities in 12479
certificated or uncertificated form, registered as to both 12480
principal and interest in the name of the owner. 12481

(P) "Fund" means to provide for the payment of debt charges 12482
and expenses related to that payment at or prior to retirement by 12483
purchase, call for redemption, payment at maturity, or otherwise. 12484

(Q) "General obligation" means securities to the payment of 12485
debt charges on which the full faith and credit and the general 12486
property taxing power, including taxes within the tax limitation 12487
if available to the subdivision, of the subdivision are pledged. 12488

(R) "Interest" or "interest equivalent" means those payments 12489
or portions of payments, however denominated, that constitute or 12490
represent consideration for forbearing the collection of money, or 12491
for deferring the receipt of payment of money to a future time. 12492

(S) "Internal Revenue Code" means the "Internal Revenue Code 12493
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and 12494
includes any laws of the United States providing for application 12495
of that code. 12496

(T) "Issuer" means any public issuer and any nonprofit 12497
corporation authorized to issue securities for or on behalf of any 12498
public issuer. 12499

(U) "Legislation" means an ordinance or resolution passed by 12500
a majority affirmative vote of the then members of the taxing 12501
authority unless a different vote is required by charter 12502
provisions governing the passage of the particular legislation by 12503
the taxing authority. 12504

(V) "Mandatory sinking fund redemption requirements" means 12505
amounts required by proceedings to be deposited in a bond 12506
retirement fund for the purpose of paying in any year or fiscal 12507
year by mandatory redemption prior to stated maturity the 12508
principal of securities that is due and payable, except for 12509
mandatory prior redemption requirements as provided in those 12510
proceedings, in a subsequent year or fiscal year. 12511

(W) "Mandatory sinking fund requirements" means amounts 12512
required by proceedings to be deposited in a year or fiscal year 12513
in a bond retirement fund for the purpose of paying the principal 12514
of securities that is due and payable in a subsequent year or 12515
fiscal year. 12516

(X) "Net indebtedness" has the same meaning as in division 12517
(A) of section 133.04 of the Revised Code. 12518

(Y) "Obligor," in the case of securities or fractionalized 12519
interests in public obligations issued by another person the debt 12520
charges or their equivalents on which are payable from payments 12521
made by a public issuer, means that public issuer. 12522

(Z) "One purpose" relating to permanent improvements means 12523
any one permanent improvement or group or category of permanent 12524
improvements for the same utility, enterprise, system, or project, 12525
development or redevelopment project, or for or devoted to the 12526
same general purpose, function, or use or for which 12527
self-supporting securities, based on the same or different sources 12528
of revenues, may be issued or for which special assessments may be 12529
levied by a single ordinance or resolution. "One purpose" 12530
includes, but is not limited to, in any case any off-street 12531
parking facilities relating to another permanent improvement, and: 12532

(1) Any number of roads, highways, streets, bridges, 12533
sidewalks, and viaducts; 12534

(2) Any number of off-street parking facilities; 12535

(3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;	12536 12537 12538
(4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.	12539 12540 12541
(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:	12542 12543 12544
(1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;	12545 12546
(2) Securities in replacement of which or in exchange for which other securities have been issued;	12547 12548
(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund requirements, or otherwise, have been deposited, and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.	12549 12550 12551 12552 12553 12554 12555 12556 12557 12558 12559 12560 12561
(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons, including an appropriate office or officer of the subdivision, designated as a paying agent or place of payment of debt charges on the particular securities.	12562 12563 12564 12565 12566

(CC) "Permanent improvement" or "improvement" means any 12567
property, asset, or improvement certified by the fiscal officer, 12568
which certification is conclusive, as having an estimated life or 12569
period of usefulness of five years or more, and includes, but is 12570
not limited to, real estate, buildings, and personal property and 12571
interests in real estate, buildings, and personal property, 12572
equipment, furnishings, and site improvements, and reconstruction, 12573
rehabilitation, renovation, installation, improvement, 12574
enlargement, and extension of property, assets, or improvements so 12575
certified as having an estimated life or period of usefulness of 12576
five years or more. The acquisition of all the stock ownership of 12577
a corporation is the acquisition of a permanent improvement to the 12578
extent that the value of that stock is represented by permanent 12579
improvements. A permanent improvement for parking, highway, road, 12580
and street purposes includes resurfacing, but does not include 12581
ordinary repair. 12582

(DD) "Person" has the same meaning as in section 1.59 of the 12583
Revised Code and also includes any federal, state, interstate, 12584
regional, or local governmental agency, any subdivision, and any 12585
combination of those persons. 12586

(EE) "Proceedings" means the legislation, certifications, 12587
notices, orders, sale proceedings, trust agreement or indenture, 12588
mortgage, lease, lease-purchase agreement, assignment, credit 12589
enhancement facility agreements, and other agreements, 12590
instruments, and documents, as amended and supplemented, and any 12591
election proceedings, authorizing, or providing for the terms and 12592
conditions applicable to, or providing for the security or sale or 12593
award of, public obligations, and includes the provisions set 12594
forth or incorporated in those public obligations and proceedings. 12595

(FF) "Public issuer" means any of the following that is 12596
authorized by law to issue securities or enter into public 12597
obligations: 12598

(1) The state, including an agency, commission, officer,	12599
institution, board, authority, or other instrumentality of the	12600
state;	12601
(2) A taxing authority, subdivision, district, or other local	12602
public or governmental entity, and any combination or consortium,	12603
or public division, district, commission, authority, department,	12604
board, officer, or institution, thereof;	12605
(3) Any other body corporate and politic, or other public	12606
entity.	12607
(GG) "Public obligations" means both of the following:	12608
(1) Securities;	12609
(2) Obligations of a public issuer to make payments under	12610
installment sale, lease, lease purchase, or similar agreements,	12611
which obligations may bear interest or interest equivalent.	12612
(HH) "Refund" means to fund and retire outstanding	12613
securities, including advance refunding with or without payment or	12614
redemption prior to maturity.	12615
(II) "Register" means the books kept and maintained by the	12616
registrar for registration, exchange, and transfer of registered	12617
securities.	12618
(JJ) "Registrar" means the person responsible for keeping the	12619
register for the particular registered securities, designated by	12620
or pursuant to the proceedings.	12621
(KK) "Securities" means bonds, notes, certificates of	12622
indebtedness, commercial paper, and other instruments in writing,	12623
including, unless the context does not admit, anticipatory	12624
securities, issued by an issuer to evidence its obligation to	12625
repay money borrowed, or to pay interest, by, or to pay at any	12626
future time other money obligations of, the issuer of the	12627
securities, but not including public obligations described in	12628

division (GG)(2) of this section. 12629

(LL) "Self-supporting securities" means securities or 12630
portions of securities issued for the purpose of paying costs of 12631
permanent improvements to the extent that receipts of the 12632
subdivision, other than the proceeds of taxes levied by that 12633
subdivision, derived from or with respect to the improvements or 12634
the operation of the improvements being financed, or the 12635
enterprise, system, project, or category of improvements of which 12636
the improvements being financed are part, are estimated by the 12637
fiscal officer to be sufficient to pay the current expenses of 12638
that operation or of those improvements or enterprise, system, 12639
project, or categories of improvements and the debt charges 12640
payable from those receipts on securities issued for the purpose. 12641
Until such time as the improvements or increases in rates and 12642
charges have been in operation or effect for a period of at least 12643
six months, the receipts therefrom, for purposes of this 12644
definition, shall be those estimated by the fiscal officer, except 12645
that those receipts may include, without limitation, payments made 12646
and to be made to the subdivision under leases or agreements in 12647
effect at the time the estimate is made. In the case of an 12648
operation, improvements, or enterprise, system, project, or 12649
category of improvements without at least a six-month history of 12650
receipts, the estimate of receipts by the fiscal officer, other 12651
than those to be derived under leases and agreements then in 12652
effect, shall be confirmed by the taxing authority. 12653

(MM) "Subdivision" means any of the following: 12654

(1) A county, including a county that has adopted a charter 12655
under Article X, Ohio Constitution; 12656

(2) A municipal corporation, including a municipal 12657
corporation that has adopted a charter under Article XVIII, Ohio 12658
Constitution; 12659

(3) A school district;	12660
(4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;	12661 12662
(5) A joint township hospital district organized under section 513.07 of the Revised Code;	12663 12664
(6) A joint ambulance district organized under section 505.71 of the Revised Code;	12665 12666
(7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;	12667 12668
(8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;	12669 12670 12671 12672
(9) A township police district organized under section 505.48 of the Revised Code;	12673 12674
(10) A township;	12675
(11) A joint fire district organized under section 505.371 of the Revised Code;	12676 12677
(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;	12678 12679 12680
(13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;	12681 12682
(14) A joint emergency medical services district organized under section 307.052 of the Revised Code;	12683 12684
(15) A fire and ambulance district organized under section 505.375 of the Revised Code;	12685 12686
(16) A fire district organized under division (C) of section 505.37 of the Revised Code;	12687 12688

(17) <u>A joint police district organized under section 505.482</u>	12689
<u>of the Revised Code;</u>	12690
(18) <u>A lake facilities authority created under Chapter 353.</u>	12691
<u>of the Revised Code;</u>	12692
(19) Any other political subdivision or taxing district or	12693
other local public body or agency authorized by this chapter or	12694
other laws to issue Chapter 133. securities.	12695
(NN) "Taxing authority" means in the case of the following	12696
subdivisions:	12697
(1) A county, a county library district, or a regional	12698
library district, the board or boards of county commissioners, or	12699
other legislative authority of a county that has adopted a charter	12700
under Article X, Ohio Constitution, but with respect to such a	12701
library district acting solely as agent for the board of trustees	12702
of that district;	12703
(2) A municipal corporation, the legislative authority;	12704
(3) A school district, the board of education;	12705
(4) A regional water and sewer district, a joint ambulance	12706
district, a joint recreation district, a fire and ambulance	12707
district, or a joint fire district, the board of trustees of the	12708
district;	12709
(5) A joint township hospital district, the joint township	12710
hospital board;	12711
(6) A detention facility district or a district organized	12712
under section 2151.65 of the Revised Code, a combined district	12713
organized under sections 2152.41 and 2151.65 of the Revised Code,	12714
or a joint emergency medical services district, the joint board of	12715
county commissioners;	12716
(7) A township, a fire district organized under division (C)	12717
of section 505.37 of the Revised Code, or a township police	12718

district, the board of township trustees; 12719

(8) A joint solid waste management district organized under 12720
section 343.01 or 343.012 of the Revised Code, the board of 12721
directors of the district; 12722

(9) A subdivision described in division (MM)~~(17)~~(19) of this 12723
section, the legislative or governing body or official; 12724

(10) A joint police district, the joint police district 12725
board; 12726

(11) A lake facilities authority, the board of directors. 12727

(OO) "Tax limitation" means the "ten-mill limitation" as 12728
defined in section 5705.02 of the Revised Code without diminution 12729
by reason of section 5705.313 of the Revised Code or otherwise, 12730
or, in the case of a municipal corporation or county with a 12731
different charter limitation on property taxes levied to pay debt 12732
charges on unvoted securities, that charter limitation. Those 12733
limitations shall be respectively referred to as the "ten-mill 12734
limitation" and the "charter tax limitation." 12735

(PP) "Tax valuation" means the aggregate of the valuations of 12736
property subject to ad valorem property taxation by the 12737
subdivision on the real property, personal property, and public 12738
utility property tax lists and duplicates most recently certified 12739
for collection, and shall be calculated without deductions of the 12740
valuations of otherwise taxable property exempt in whole or in 12741
part from taxation by reason of exemptions of certain amounts of 12742
taxable value under division (C) of section 5709.01, tax 12743
reductions under section 323.152 of the Revised Code, or similar 12744
laws now or in the future in effect. 12745

For purposes of section 133.06 of the Revised Code, "tax 12746
valuation" shall not include the valuation of tangible personal 12747
property used in business, telephone or telegraph property, 12748
interexchange telecommunications company property, or personal 12749

property owned or leased by a railroad company and used in 12750
railroad operations listed under or described in section 5711.22, 12751
division (B) or (F) of section 5727.111, or section 5727.12 of the 12752
Revised Code. 12753

(QQ) "Year" means the calendar year. 12754

(RR) "Administrative agent," "agent," "commercial paper," 12755
"floating rate interest structure," "indexing agent," "interest 12756
rate hedge," "interest rate period," "put arrangement," and 12757
"remarketing agent" have the same meanings as in section 9.98 of 12758
the Revised Code. 12759

(SS) "Sales tax supported" means obligations to the payment 12760
of debt charges on which an additional sales tax or additional 12761
sales taxes have been pledged by the taxing authority of a county 12762
pursuant to section 133.081 of the Revised Code. 12763

Sec. 133.06. (A) A school district shall not incur, without a 12764
vote of the electors, net indebtedness that exceeds an amount 12765
equal to one-tenth of one per cent of its tax valuation, except as 12766
provided in divisions (G) and (H) of this section and in division 12767
(C) of section 3313.372 of the Revised Code, or as prescribed in 12768
section 3318.052 or 3318.44 of the Revised Code, or as provided in 12769
division (J) of this section. 12770

(B) Except as provided in divisions (E), (F), and (I) of this 12771
section, a school district shall not incur net indebtedness that 12772
exceeds an amount equal to nine per cent of its tax valuation. 12773

(C) A school district shall not submit to a vote of the 12774
electors the question of the issuance of securities in an amount 12775
that will make the district's net indebtedness after the issuance 12776
of the securities exceed an amount equal to four per cent of its 12777
tax valuation, unless the superintendent of public instruction, 12778
acting under policies adopted by the state board of education, and 12779

the tax commissioner, acting under written policies of the 12780
commissioner, consent to the submission. A request for the 12781
consents shall be made at least one hundred twenty days prior to 12782
the election at which the question is to be submitted. 12783

The superintendent of public instruction shall certify to the 12784
district the superintendent's and the tax commissioner's decisions 12785
within thirty days after receipt of the request for consents. 12786

If the electors do not approve the issuance of securities at 12787
the election for which the superintendent of public instruction 12788
and tax commissioner consented to the submission of the question, 12789
the school district may submit the same question to the electors 12790
on the date that the next special election may be held under 12791
section 3501.01 of the Revised Code without submitting a new 12792
request for consent. If the school district seeks to submit the 12793
same question at any other subsequent election, the district shall 12794
first submit a new request for consent in accordance with this 12795
division. 12796

(D) In calculating the net indebtedness of a school district, 12797
none of the following shall be considered: 12798

(1) Securities issued to acquire school buses and other 12799
equipment used in transporting pupils or issued pursuant to 12800
division (D) of section 133.10 of the Revised Code; 12801

(2) Securities issued under division (F) of this section, 12802
under section 133.301 of the Revised Code, and, to the extent in 12803
excess of the limitation stated in division (B) of this section, 12804
under division (E) of this section; 12805

(3) Indebtedness resulting from the dissolution of a joint 12806
vocational school district under section 3311.217 of the Revised 12807
Code, evidenced by outstanding securities of that joint vocational 12808
school district; 12809

(4) Loans, evidenced by any securities, received under 12810

sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the Revised Code;	12811 12812
(5) Debt incurred under section 3313.374 of the Revised Code;	12813
(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;	12814 12815 12816
(7) Debt incurred under section 3318.042 of the Revised Code.	12817
(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.	12818 12819
(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:	12820 12821 12822
(a) The student population is not being adequately serviced by the existing permanent improvements of the district.	12823 12824
(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.	12825 12826 12827 12828
(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:	12829 12830 12831
(a) A history of and a projection of the growth of the student population;	12832 12833
(b) The history of and a projection of the growth of the tax valuation;	12834 12835
(e) <u>(b)</u> The projected needs;	12836
(d) <u>(c)</u> The estimated cost of permanent improvements proposed to meet such projected needs.	12837 12838
(3) The superintendent of public instruction shall certify	12839

the district as an approved special needs district if the 12840
superintendent finds both of the following: 12841

(a) The district does not have available sufficient 12842
additional funds from state or federal sources to meet the 12843
projected needs. 12844

(b) The projection of the potential average growth of tax 12845
valuation during the next five years, according to the information 12846
certified to the superintendent and any other information the 12847
superintendent obtains, indicates a likelihood of potential 12848
average growth of tax valuation of the district during the next 12849
five years of an average of not less than ~~three~~ one and one-half 12850
per cent per year. The findings and certification of the 12851
superintendent shall be conclusive. 12852

(4) An approved special needs district may incur net 12853
indebtedness by the issuance of securities in accordance with the 12854
provisions of this chapter in an amount that does not exceed an 12855
amount equal to the greater of the following: 12856

(a) ~~Nine~~ Twelve per cent of the sum of its tax valuation plus 12857
an amount that is the product of multiplying that tax valuation by 12858
the percentage by which the tax valuation has increased over the 12859
tax valuation on the first day of the sixtieth month preceding the 12860
month in which its board determines to submit to the electors the 12861
question of issuing the proposed securities; 12862

(b) ~~Nine~~ Twelve per cent of the sum of its tax valuation plus 12863
an amount that is the product of multiplying that tax valuation by 12864
the percentage, determined by the superintendent of public 12865
instruction, by which that tax valuation is projected to increase 12866
during the next ten years. 12867

(F) A school district may issue securities for emergency 12868
purposes, in a principal amount that does not exceed an amount 12869
equal to three per cent of its tax valuation, as provided in this 12870

division. 12871

(1) A board of education, by resolution, may declare an 12872
emergency if it determines both of the following: 12873

(a) School buildings or other necessary school facilities in 12874
the district have been wholly or partially destroyed, or condemned 12875
by a constituted public authority, or that such buildings or 12876
facilities are partially constructed, or so constructed or planned 12877
as to require additions and improvements to them before the 12878
buildings or facilities are usable for their intended purpose, or 12879
that corrections to permanent improvements are necessary to remove 12880
or prevent health or safety hazards. 12881

(b) Existing fiscal and net indebtedness limitations make 12882
adequate replacement, additions, or improvements impossible. 12883

(2) Upon the declaration of an emergency, the board of 12884
education may, by resolution, submit to the electors of the 12885
district pursuant to section 133.18 of the Revised Code the 12886
question of issuing securities for the purpose of paying the cost, 12887
in excess of any insurance or condemnation proceeds received by 12888
the district, of permanent improvements to respond to the 12889
emergency need. 12890

(3) The procedures for the election shall be as provided in 12891
section 133.18 of the Revised Code, except that: 12892

(a) The form of the ballot shall describe the emergency 12893
existing, refer to this division as the authority under which the 12894
emergency is declared, and state that the amount of the proposed 12895
securities exceeds the limitations prescribed by division (B) of 12896
this section; 12897

(b) The resolution required by division (B) of section 133.18 12898
of the Revised Code shall be certified to the county auditor and 12899
the board of elections at least one hundred days prior to the 12900
election; 12901

(c) The county auditor shall advise and, not later than 12902
ninety-five days before the election, confirm that advice by 12903
certification to, the board of education of the information 12904
required by division (C) of section 133.18 of the Revised Code; 12905

(d) The board of education shall then certify its resolution 12906
and the information required by division (D) of section 133.18 of 12907
the Revised Code to the board of elections not less than ninety 12908
days prior to the election. 12909

(4) Notwithstanding division (B) of section 133.21 of the 12910
Revised Code, the first principal payment of securities issued 12911
under this division may be set at any date not later than sixty 12912
months after the earliest possible principal payment otherwise 12913
provided for in that division. 12914

(G) The board of education may contract with an architect, 12915
professional engineer, or other person experienced in the design 12916
and implementation of energy conservation measures for an analysis 12917
and recommendations pertaining to installations, modifications of 12918
installations, or remodeling that would significantly reduce 12919
energy consumption in buildings owned by the district. The report 12920
shall include estimates of all costs of such installations, 12921
modifications, or remodeling, including costs of design, 12922
engineering, installation, maintenance, repairs, and debt service, 12923
forgone residual value of materials or equipment replaced by the 12924
energy conservation measure, as defined by the Ohio school 12925
facilities commission, a baseline analysis of actual energy 12926
consumption data for the preceding five years, and estimates of 12927
the amounts by which energy consumption and resultant operational 12928
and maintenance costs, as defined by the ~~Ohio school facilities~~ 12929
commission, would be reduced. 12930

If the board finds after receiving the report that the amount 12931
of money the district would spend on such installations, 12932
modifications, or remodeling is not likely to exceed the amount of 12933

money it would save in energy and resultant operational and 12934
maintenance costs over the ensuing fifteen years, the board may 12935
submit to the commission a copy of its findings and a request for 12936
approval to incur indebtedness to finance the making or 12937
modification of installations or the remodeling of buildings for 12938
the purpose of significantly reducing energy consumption. 12939

If the commission determines that the board's findings are 12940
reasonable, it shall approve the board's request. Upon receipt of 12941
the commission's approval, the district may issue securities 12942
without a vote of the electors in a principal amount not to exceed 12943
nine-tenths of one per cent of its tax valuation for the purpose 12944
of making such installations, modifications, or remodeling, but 12945
the total net indebtedness of the district without a vote of the 12946
electors incurred under this and all other sections of the Revised 12947
Code, except section 3318.052 of the Revised Code, shall not 12948
exceed one per cent of the district's tax valuation. 12949

So long as any securities issued under division (G) of this 12950
section remain outstanding, the board of education shall monitor 12951
the energy consumption and resultant operational and maintenance 12952
costs of buildings in which installations or modifications have 12953
been made or remodeling has been done pursuant to division (G) of 12954
this section and shall maintain and annually update a report 12955
documenting the reductions in energy consumption and resultant 12956
operational and maintenance cost savings attributable to such 12957
installations, modifications, or remodeling. The report shall be 12958
certified by an architect or engineer independent of any person 12959
that provided goods or services to the board in connection with 12960
the energy conservation measures that are the subject of the 12961
report. The resultant operational and maintenance cost savings 12962
shall be certified by the school district treasurer. The report 12963
shall be ~~made available~~ submitted annually to the commission ~~upon~~ 12964
~~request~~. 12965

(H) With the consent of the superintendent of public instruction, a school district may incur without a vote of the electors net indebtedness that exceeds the amounts stated in divisions (A) and (G) of this section for the purpose of paying costs of permanent improvements, if and to the extent that both of the following conditions are satisfied:

(1) The fiscal officer of the school district estimates that receipts of the school district from payments made under or pursuant to agreements entered into pursuant to section 725.02, 1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised Code, or distributions under division (C) of section 5709.43 of the Revised Code, or any combination thereof, are, after accounting for any appropriate coverage requirements, sufficient in time and amount, and are committed by the proceedings, to pay the debt charges on the securities issued to evidence that indebtedness and payable from those receipts, and the taxing authority of the district confirms the fiscal officer's estimate, which confirmation is approved by the superintendent of public instruction;

(2) The fiscal officer of the school district certifies, and the taxing authority of the district confirms, that the district, at the time of the certification and confirmation, reasonably expects to have sufficient revenue available for the purpose of operating such permanent improvements for their intended purpose upon acquisition or completion thereof, and the superintendent of public instruction approves the taxing authority's confirmation.

The maximum maturity of securities issued under division (H) of this section shall be the lesser of twenty years or the maximum maturity calculated under section 133.20 of the Revised Code.

(I) A school district may incur net indebtedness by the issuance of securities in accordance with the provisions of this

chapter in excess of the limit specified in division (B) or (C) of 12998
this section when necessary to raise the school district portion 12999
of the basic project cost and any additional funds necessary to 13000
participate in a project under Chapter 3318. of the Revised Code, 13001
including the cost of items designated by the Ohio school 13002
facilities commission as required locally funded initiatives, the 13003
cost of other locally funded initiatives in an amount that does 13004
not exceed fifty per cent of the district's portion of the basic 13005
project cost, and the cost for site acquisition. The school 13006
facilities commission shall notify the superintendent of public 13007
instruction whenever a school district will exceed either limit 13008
pursuant to this division. 13009

(J) A school district whose portion of the basic project cost 13010
of its classroom facilities project under sections 3318.01 to 13011
3318.20 of the Revised Code is greater than or equal to one 13012
hundred million dollars may incur without a vote of the electors 13013
net indebtedness in an amount up to two per cent of its tax 13014
valuation through the issuance of general obligation securities in 13015
order to generate all or part of the amount of its portion of the 13016
basic project cost if the controlling board has approved the 13017
school facilities commission's conditional approval of the project 13018
under section 3318.04 of the Revised Code. The school district 13019
board and the Ohio school facilities commission shall include the 13020
dedication of the proceeds of such securities in the agreement 13021
entered into under section 3318.08 of the Revised Code. No state 13022
moneys shall be released for a project to which this section 13023
applies until the proceeds of any bonds issued under this section 13024
that are dedicated for the payment of the school district portion 13025
of the project are first deposited into the school district's 13026
project construction fund. 13027

Sec. 133.18. (A) The taxing authority of a subdivision may by 13028
legislation submit to the electors of the subdivision the question 13029

of issuing any general obligation bonds, for one purpose, that the 13030
subdivision has power or authority to issue. 13031

(B) When the taxing authority of a subdivision desires or is 13032
required by law to submit the question of a bond issue to the 13033
electors, it shall pass legislation that does all of the 13034
following: 13035

(1) Declares the necessity and purpose of the bond issue; 13036

(2) States the date of the authorized election at which the 13037
question shall be submitted to the electors; 13038

(3) States the amount, approximate date, estimated net 13039
average rate of interest, and maximum number of years over which 13040
the principal of the bonds may be paid; 13041

(4) Declares the necessity of levying a tax outside the tax 13042
limitation to pay the debt charges on the bonds and any 13043
anticipatory securities. 13044

The estimated net average interest rate shall be determined 13045
by the taxing authority based on, among other factors, then 13046
existing market conditions, and may reflect adjustments for any 13047
anticipated direct payments expected to be received by the taxing 13048
authority from the government of the United States relating to the 13049
bonds and the effect of any federal tax credits anticipated to be 13050
available to owners of all or a portion of the bonds. The 13051
estimated net average rate of interest, and any statutory or 13052
charter limit on interest rates that may then be in effect and 13053
that is subsequently amended, shall not be a limitation on the 13054
actual interest rate or rates on the securities when issued. 13055

(C)(1) The taxing authority shall certify a copy of the 13056
legislation passed under division (B) of this section to the 13057
county auditor. The county auditor shall promptly calculate and 13058
advise and, not later than seventy-five days before the election, 13059
confirm that advice by certification to, the taxing authority the 13060

estimated average annual property tax levy, expressed in cents or 13061
dollars and cents for each one hundred dollars of tax valuation 13062
and in mills for each one dollar of tax valuation, that the county 13063
auditor estimates to be required throughout the stated maturity of 13064
the bonds to pay the debt charges on the bonds. In calculating the 13065
estimated average annual property tax levy for this purpose, the 13066
county auditor shall assume that the bonds are issued in one 13067
series bearing interest and maturing in substantially equal 13068
principal amounts in each year over the maximum number of years 13069
over which the principal of the bonds may be paid as stated in 13070
that legislation, and that the amount of the tax valuation of the 13071
subdivision for the current year remains the same throughout the 13072
maturity of the bonds, except as otherwise provided in division 13073
(C)(2) of this section. If the tax valuation for the current year 13074
is not determined, the county auditor shall base the calculation 13075
on the estimated amount of the tax valuation submitted by the 13076
county auditor to the county budget commission. If the subdivision 13077
is located in more than one county, the county auditor shall 13078
obtain the assistance of the county auditors of the other 13079
counties, and those county auditors shall provide assistance, in 13080
establishing the tax valuation of the subdivision for purposes of 13081
certifying the estimated average annual property tax levy. 13082

(2) When considering the tangible personal property component 13083
of the tax valuation of the subdivision, the county auditor shall 13084
take into account the assessment percentages prescribed in section 13085
5711.22 of the Revised Code. The tax commissioner may issue rules, 13086
orders, or instructions directing how the assessment percentages 13087
must be utilized. 13088

(D) After receiving the county auditor's advice under 13089
division (C) of this section, the taxing authority by legislation 13090
may determine to proceed with submitting the question of the issue 13091
of securities, and shall, not later than the seventy-fifth day 13092

before the day of the election, file the following with the board 13093
of elections: 13094

(1) Copies of the legislation provided for in divisions (B) 13095
and (D) of this section; 13096

(2) The amount of the estimated average annual property tax 13097
levy, expressed in cents or dollars and cents for each one hundred 13098
dollars of tax valuation and in mills for each one dollar of tax 13099
valuation, as estimated and certified to the taxing authority by 13100
the county auditor. 13101

(E)(1) The board of elections shall prepare the ballots and 13102
make other necessary arrangements for the submission of the 13103
question to the electors of the subdivision. If the subdivision is 13104
located in more than one county, the board shall inform the boards 13105
of elections of the other counties of the filings with it, and 13106
those other boards shall if appropriate make the other necessary 13107
arrangements for the election in their counties. The election 13108
shall be conducted, canvassed, and certified in the manner 13109
provided in Title XXXV of the Revised Code. 13110

(2) The election shall be held at the regular places for 13111
voting in the subdivision. If the electors of only a part of a 13112
precinct are qualified to vote at the election the board of 13113
elections may assign the electors in that part to an adjoining 13114
precinct, including an adjoining precinct in another county if the 13115
board of elections of the other county consents to and approves 13116
the assignment. Each elector so assigned shall be notified of that 13117
fact prior to the election by notice mailed by the board of 13118
elections, in such manner as it determines, prior to the election. 13119

(3) The board of elections shall publish a notice of the 13120
election, once in ~~one or more newspapers~~ a newspaper of general 13121
circulation in the subdivision, ~~at least once~~ no later than ten 13122
days prior to the election. The notice shall state all of the 13123

following:	13124
(a) The principal amount of the proposed bond issue;	13125
(b) The stated purpose for which the bonds are to be issued;	13126
(c) The maximum number of years over which the principal of the bonds may be paid;	13127 13128
(d) The estimated additional average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, to be levied outside the tax limitation, as estimated and certified to the taxing authority by the county auditor;	13129 13130 13131 13132 13133
(e) The first calendar year in which the tax is expected to be due.	13134 13135
(F)(1) The form of the ballot to be used at the election shall be substantially either of the following, as applicable:	13136 13137
(a) "Shall bonds be issued by the (name of subdivision) for the purpose of (purpose of the bond issue) in the principal amount of (principal amount of the bond issue), to be repaid annually over a maximum period of (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the (as applicable, "ten-mill" or "...charter tax") limitation, estimated by the county auditor to average over the repayment period of the bond issue (number of mills) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars of tax valuation, commencing in (first year the tax will be levied), first due in calendar year (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"	13138 13139 13140 13141 13142 13143 13144 13145 13146 13147 13148 13149 13150 13151 13152 13153 13154

	For the bond issue
	Against the bond issue

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(b) In the case of an election held pursuant to legislation adopted under section 3375.43 or 3375.431 of the Revised Code:

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"Shall bonds be issued for (name of library) for the purpose of (purpose of the bond issue), in the principal amount of (amount of the bond issue) by (the name of the subdivision that is to issue the bonds and levy the tax) as the issuer of the bonds, to be repaid annually over a maximum period of (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue (number of mills) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars of tax valuation, commencing in (first year the tax will be levied), first due in calendar year (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

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	For the bond issue
	Against the bond issue

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(2) The purpose for which the bonds are to be issued shall be printed in the space indicated, in boldface type.

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(G) The board of elections shall promptly certify the results

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of the election to the tax commissioner, the county auditor of 13186
each county in which any part of the subdivision is located, and 13187
the fiscal officer of the subdivision. The election, including the 13188
proceedings for and result of the election, is incontestable other 13189
than in a contest filed under section 3515.09 of the Revised Code 13190
in which the plaintiff prevails. 13191

(H) If a majority of the electors voting upon the question 13192
vote for it, the taxing authority of the subdivision may proceed 13193
under sections 133.21 to 133.33 of the Revised Code with the 13194
issuance of the securities and with the levy and collection of a 13195
property tax outside the tax limitation during the period the 13196
securities are outstanding sufficient in amount to pay the debt 13197
charges on the securities, including debt charges on any 13198
anticipatory securities required to be paid from that tax. If 13199
legislation passed under section 133.22 or 133.23 of the Revised 13200
Code authorizing those securities is filed with the county auditor 13201
on or before the last day of November, the amount of the voted 13202
property tax levy required to pay debt charges or estimated debt 13203
charges on the securities payable in the following year shall if 13204
requested by the taxing authority be included in the taxes levied 13205
for collection in the following year under section 319.30 of the 13206
Revised Code. 13207

(I)(1) If, before any securities authorized at an election 13208
under this section are issued, the net indebtedness of the 13209
subdivision exceeds that applicable to that subdivision or those 13210
securities, then and so long as that is the case none of the 13211
securities may be issued. 13212

(2) No securities authorized at an election under this 13213
section may be initially issued after the first day of the sixth 13214
January following the election, but this period of limitation 13215
shall not run for any time during which any part of the permanent 13216
improvement for which the securities have been authorized, or the 13217

issuing or validity of any part of the securities issued or to be 13218
issued, or the related proceedings, is involved or questioned 13219
before a court or a commission or other tribunal, administrative 13220
agency, or board. 13221

(3) Securities representing a portion of the amount 13222
authorized at an election that are issued within the applicable 13223
limitation on net indebtedness are valid and in no manner affected 13224
by the fact that the balance of the securities authorized cannot 13225
be issued by reason of the net indebtedness limitation or lapse of 13226
time. 13227

(4) Nothing in this division (I) shall be interpreted or 13228
applied to prevent the issuance of securities in an amount to fund 13229
or refund anticipatory securities lawfully issued. 13230

(5) The limitations of divisions (I)(1) and (2) of this 13231
section do not apply to any securities authorized at an election 13232
under this section if at least ten per cent of the principal 13233
amount of the securities, including anticipatory securities, 13234
authorized has theretofore been issued, or if the securities are 13235
to be issued for the purpose of participating in any federally or 13236
state-assisted program. 13237

(6) The certificate of the fiscal officer of the subdivision 13238
is conclusive proof of the facts referred to in this division. 13239

Sec. 133.20. (A) This section applies to bonds that are 13240
general obligation Chapter 133. securities. If the bonds are 13241
payable as to principal by provision for annual installments, the 13242
period of limitations on their last maturity, referred to as their 13243
maximum maturity, shall be measured from a date twelve months 13244
prior to the first date on which provision for payment of 13245
principal is made. If the bonds are payable as to principal by 13246
provision for semiannual installments, the period of limitations 13247
on their last maturity shall be measured from a date six months 13248

prior to the first date on which provision for payment of 13249
principal is made. 13250

(B) Bonds issued for the following permanent improvements or 13251
for permanent improvements for the following purposes shall have 13252
maximum maturities not exceeding the number of years stated: 13253

(1) Fifty years: 13254

(a) The clearance and preparation of real property for 13255
redevelopment as an urban redevelopment project; 13256

(b) Acquiring, constructing, widening, relocating, enlarging, 13257
extending, and improving a publicly owned railroad or line of 13258
railway or a light or heavy rail rapid transit system, including 13259
related bridges, overpasses, underpasses, and tunnels, but not 13260
including rolling stock or equipment; 13261

(c) Pursuant to section 307.675 of the Revised Code, 13262
constructing or repairing a bridge using long life expectancy 13263
material for the bridge deck, and purchasing, installing, and 13264
maintaining any performance equipment to monitor the physical 13265
condition of a bridge so constructed or repaired. Additionally, 13266
the average maturity of the bonds shall not exceed the expected 13267
useful life of the bridge deck as determined by the county 13268
engineer under that section. 13269

(2) Forty years: 13270

(a) General waterworks or water system permanent 13271
improvements, including buildings, water mains, or other 13272
structures and facilities in connection therewith; 13273

(b) Sewers or sewage treatment or disposal works or 13274
facilities, including fireproof buildings or other structures in 13275
connection therewith; 13276

(c) Storm water drainage, surface water, and flood prevention 13277
facilities. 13278

(3) Thirty-five years:	13279
(a) An arena, a convention center, or a combination of an arena and convention center under section 307.695 of the Revised Code;	13280 13281 13282
(b) Sports facilities.	13283
(4) Thirty years:	13284
(a) Municipal recreation, excluding recreational equipment;	13285
(b) Urban redevelopment projects;	13286
(c) Acquisition of real property, except as provided in division (F) of this section;	13287 13288
(d) Street or alley lighting purposes or relocating overhead wires, cables, and appurtenant equipment underground.	13289 13290
(5) Twenty years: constructing, reconstructing, widening, opening, improving, grading, draining, paving, extending, or changing the line of roads, highways, expressways, freeways, streets, sidewalks, alleys, or curbs and gutters, and related bridges, viaducts, overpasses, underpasses, grade crossing eliminations, service and access highways, and tunnels.	13291 13292 13293 13294 13295 13296
(6) Fifteen years:	13297
(a) Resurfacing roads, highways, streets, or alleys;	13298
(b) Alarm, telegraph, or other communications systems for police or fire departments or other emergency services;	13299 13300
(c) Passenger buses used for mass transportation;	13301
(d) Energy conservation measures as authorized by section 133.06 of the Revised Code.	13302 13303
(7) Ten years:	13304
(a) Water meters;	13305
(b) Fire department apparatus and equipment;	13306

(c) Road rollers and other road construction and servicing vehicles;	13307 13308
(d) Furniture, equipment, and furnishings;	13309
(e) Landscape planting and other site improvements;	13310
(f) Playground, athletic, and recreational equipment and apparatus;	13311 13312
(g) Energy conservation measures as authorized by section 505.264 of the Revised Code.	13313 13314
(8) Five years: New motor vehicles other than those described in any other division of this section and those for which provision is made in other provisions of the Revised Code.	13315 13316 13317
(C) Bonds issued for any permanent improvements not within the categories set forth in division (B) of this section shall have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify. Bonds issued for energy conservation measures under section 307.041 of the Revised Code shall have maximum maturities not exceeding the lesser of the average life of the energy conservation measures as detailed in the energy conservation report prepared under that section or thirty years.	13318 13319 13320 13321 13322 13323 13324 13325 13326 13327 13328 13329 13330
(D) Securities issued under section 505.265 of the Revised Code shall mature not later than December 31, 2035.	13331 13332
(E) A securities issue for one purpose may include permanent improvements within two or more categories under divisions (B) and (C) of this section. The maximum maturity of such a bond issue shall not exceed the average number of years of life or period of	13333 13334 13335 13336

usefulness of the permanent improvements as measured by the 13337
weighted average of the amounts expended or proposed to be 13338
expended for the categories of permanent improvements. 13339

(F) Securities issued by a school district or county to 13340
acquire or construct real property shall have a maximum maturity 13341
longer than thirty years, but not longer than forty years, if the 13342
~~school district's~~ fiscal officer of the school district or county 13343
estimates the real property's useful life to be longer than thirty 13344
years, and certifies that estimate to the board of education or 13345
board of county commissioners, respectively. 13346

Sec. 133.55. Before adopting any reassessment provided for in 13347
section 133.54 of the Revised Code, the fiscal officer shall 13348
prepare and file for public inspection a list containing the names 13349
of the owners, a tax duplicate description of each parcel of land 13350
on which the reassessment will be levied, and the total amount to 13351
be reassessed, separately stated as to each parcel, and the taxing 13352
authority shall publish notice for two consecutive weeks in a 13353
newspaper of general circulation in the political subdivision, or 13354
as provided in section 7.16 of the Revised Code, that such 13355
reassessment has been prepared by the fiscal officer and that it 13356
is on file in ~~his~~ the fiscal officer's office for the inspection 13357
and examination of the persons interested therein. Sections 13358
727.13, 727.15, and 727.16 of the Revised Code do not apply to any 13359
such assessments, but any person may file objections in writing 13360
with the fiscal officer within one week after the expiration of 13361
such notice and the taxing authority shall hear and determine any 13362
such objections at its next meeting. Such objections shall be 13363
limited solely to matters of description of parcels and owners and 13364
of computations of amounts, and no matters concluded by any 13365
proceedings on the original assessments shall form the basis for 13366
any such objections. When the reassessment list is confirmed by 13367
the taxing authority, it shall be complete and final and shall be 13368

recorded in the office of the fiscal officer. 13369

Sec. 135.05. Each governing board shall, at least three weeks 13370
prior to the date when it is required by section 135.12 of the 13371
Revised Code to designate public depositories, by resolution, 13372
estimate the aggregate maximum amount of public moneys subject to 13373
its control to be awarded and be on deposit as inactive deposits. 13374
The state board of deposit shall cause a copy of such resolution, 13375
together with a notice of the date on which the meeting of the 13376
board for the designation of such depositories will be held and 13377
the period for which such inactive deposits will be awarded, to be 13378
published once a week for two consecutive weeks in two newspapers 13379
of general circulation in each of the three most populous 13380
counties. The governing board of each subdivision shall cause a 13381
copy of such resolution, together with a notice of the date on 13382
which the meeting of the board for the designation of such 13383
depositories will be held and the period for which such inactive 13384
deposits will be awarded, to be published once a week for two 13385
consecutive weeks in ~~two newspapers~~ a newspaper of ~~opposite~~ 13386
~~politics and~~ of general circulation in the county or as provided 13387
in section 7.16 of the Revised Code. If a subdivision is located 13388
in more than one county, such publication shall be made in 13389
~~newspapers published~~ a newspaper of general circulation in the 13390
county in which the major part of such subdivision is located, and 13391
of general circulation in the subdivision. A written notice 13392
stating the aggregate maximum amount to be awarded as inactive 13393
deposits of the subdivision shall be given to each eligible 13394
depository by the governing board at the time the first 13395
publication is made in the ~~newspapers~~ newspaper. 13396

All deposits of the public moneys of the state or any 13397
subdivision made during the period covered by the designation in 13398
excess of the aggregate amount so estimated shall be active 13399
deposits or interim deposits. Inactive, interim, and active 13400

deposits shall be separately awarded, made, and administered as 13401
provided by sections 135.01 to 135.21, ~~inclusive~~, of the Revised 13402
Code. 13403

Sec. 135.61. As used in sections 135.61 to 135.67 of the 13404
Revised Code: 13405

(A) "Eligible small business" means any person, including, 13406
but not limited to a person engaged in agriculture, that has all 13407
of the following characteristics: 13408

(1) Is headquartered in this state; 13409

(2) Maintains offices and operating facilities exclusively in 13410
this state and transacts business in this state; 13411

(3) Employs fewer than one hundred fifty employees, the 13412
majority of whom are residents of this state; 13413

(4) Is organized for profit. 13414

(B) "Eligible lending institution" means a financial 13415
institution that is eligible to make commercial loans, is a public 13416
depository of state funds under section 135.03 of the Revised 13417
Code, and agrees to participate in the linked deposit program. 13418

(C) "Linked deposit" means a certificate of deposit or other 13419
financial institution instrument placed by the treasurer of state 13420
with an eligible lending institution at a rate below current 13421
market rates, as determined and calculated by the treasurer of 13422
state, provided the institution agrees to lend the value of such 13423
deposit, according to the deposit agreement provided in division 13424
(C) of section 135.65 of the Revised Code, to eligible small 13425
businesses at a rate that reflects an equal percentage rate 13426
reduction below the present borrowing rate applicable to each 13427
specific business at the time of the deposit of state funds in the 13428
institution. 13429

(D) "Other financial institution instrument" has the same 13430

meaning as in section 135.81 of the Revised Code. 13431

Sec. 135.65. (A) The treasurer of state may accept or reject 13432
a linked deposit loan package or any portion thereof, based on the 13433
treasurer's evaluation of the eligible small businesses included 13434
in the package and the amount of state funds to be deposited. When 13435
evaluating the eligible small businesses, the treasurer shall give 13436
priority to the economic needs of the area where the business is 13437
located and the ratio of state funds to be deposited to jobs 13438
sustained or created and shall also consider any reports, 13439
statements, or plans applicable to the business, the overall 13440
financial need of the business, and such other factors as the 13441
treasurer considers appropriate. 13442

(B) Upon acceptance of the linked deposit loan package or any 13443
portion thereof, the treasurer of state may place certificates of 13444
deposit or other financial institution instruments with the 13445
eligible lending institution at a rate below current market rates, 13446
as determined and calculated by the treasurer of state. When 13447
necessary, the treasurer may place certificates of deposit or 13448
other financial institution instruments prior to acceptance of a 13449
linked deposit loan package. 13450

(C) The eligible lending institution shall enter into a 13451
deposit agreement with the treasurer of state, which shall include 13452
requirements necessary to carry out the purposes of sections 13453
135.61 to 135.67 of the Revised Code. Such requirements shall 13454
reflect the market conditions prevailing in the eligible lending 13455
institution's lending area. The agreement may include a 13456
specification of the period of time in which the lending 13457
institution is to lend funds upon the placement of a linked 13458
deposit, and shall include provisions for the certificates of 13459
deposit or other financial institution instruments to be placed 13460
for any maturity considered appropriate by the treasurer of state 13461

not to exceed two years, and may be renewed for up to an 13462
additional two years at the option of the treasurer. Interest 13463
shall be paid at the times determined by the treasurer of state. 13464

(D) Eligible lending institutions shall comply fully with 13465
Chapter 135. of the Revised Code. 13466

Sec. 135.66. (A) Upon the placement of a linked deposit with 13467
an eligible lending institution, such institution is required to 13468
lend such funds to each approved eligible small business listed in 13469
the linked deposit loan package required by division (D) of 13470
section 135.64 of the Revised Code and in accordance with the 13471
deposit agreement required by division (C) of section 135.65 of 13472
the Revised Code. The loan shall be at a rate that reflects a 13473
percentage rate reduction below the present borrowing rate 13474
applicable to each business that is equal to the percentage rate 13475
reduction below market rates at which the ~~certificate~~ certificates 13476
of ~~deposits~~ deposit or other financial institution instruments 13477
that constitute the linked deposit were placed. A certification of 13478
compliance with this section in the form and manner as prescribed 13479
by the treasurer of state shall be required of the eligible 13480
lending institution. 13481

(B) The treasurer of state shall take any and all steps 13482
necessary to implement the linked deposit program and monitor 13483
compliance of eligible lending institutions and eligible small 13484
businesses, including the development of guidelines as necessary. 13485
The treasurer of state and the department of development shall 13486
notify each other at least quarterly of the names of the 13487
businesses receiving financial assistance from their respective 13488
programs. 13489

Annually, by the first day of February, the treasurer of 13490
state shall report on the linked deposits program for the 13491
preceding calendar year to the governor, the speaker of the house 13492

of representatives, and the president of the senate. The speaker 13493
of the house shall transmit copies of this report to the 13494
chairpersons of the standing committees in the house which 13495
customarily consider legislation regarding agriculture and small 13496
business, and the president of the senate shall transmit copies of 13497
this report to the chairpersons of the standing committees in the 13498
senate which customarily consider legislation regarding 13499
agriculture and small business. The report shall set forth the 13500
linked deposits made by the treasurer of state under the program 13501
during the year and shall include information regarding the 13502
nature, terms, and amounts of the loans upon which the linked 13503
deposits were based and the eligible small businesses to which the 13504
loans were made. 13505

Sec. 135.80. (A) The legislative authority of a municipal 13506
corporation, by ordinance; the board of directors of a port 13507
authority or a lake facilities authority, by resolution; or the 13508
board of county commissioners, by resolution, may establish a 13509
linked deposit program authorizing the treasurer or governing 13510
board of the municipal corporation, the board of directors of the 13511
port authority or lake facilities authority, or the investing 13512
authority of the county, as created or designated by the ordinance 13513
or resolution, to place certificates of deposit at up to three per 13514
cent below market rates with an eligible lending institution 13515
applying for interim moneys as provided in section 135.08 of the 13516
Revised Code, selected to invest port authority or lake facilities 13517
authority moneys in linked deposit programs pursuant to section 13518
4582.54 or 353.16 of the Revised Code, or applying for inactive 13519
moneys as provided in section 135.32 of the Revised Code, provided 13520
the institution agrees to lend the value of such deposit to 13521
eligible borrowers at up to three per cent below the present 13522
borrowing rate applicable to each borrower. The ordinance or 13523
resolution shall include requirements and provisions that are 13524

necessary to establish the program, including, but not limited to:	13525
(1) Eligibility requirements for borrowers who may receive reduced rate loans under the program;	13526
(2) Application procedures for borrowers and institutions wishing to participate in the program;	13527
(3) Review procedures for applications and criteria for acceptance or rejection of applications for reduced rate loans;	13528
(4) Necessary agreements between the eligible lending institution and the treasurer or governing board of the municipal corporation, the board of directors of the port authority <u>or lake facilities authority</u> , or the investing authority of the county to carry out the purposes of the linked deposit program;	13529
(5) Annual reports regarding the operation of the program to be made by the treasurer or governing board to the legislative authority, the eligible lending institution to the board of directors of the port authority <u>or lake facilities authority</u> , or the investing authority to the board of county commissioners.	13530
(B) The municipal corporation and the treasurer or governing board, the port authority <u>or lake facilities authority</u> and the board of directors, and the county and the investing authority or the board of county commissioners, are not liable to any eligible lending institution in any manner for the payment of the principal or interest on any reduced rate loan made under the program, and any delay in payment or default on the part of any borrower does not in any manner affect the deposit agreement between the eligible lending institution and the treasurer or governing board, the board of directors, or the investing authority or board of county commissioners.	13531
(C) For purposes of this section, both of the following apply:	13532
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(1) "Investing authority" has the same meaning as in section 13555
135.31 of the Revised Code. 13556

(2) "Port authority" means a port authority created in 13557
accordance with section 4582.22 of the Revised Code. 13558

(3) "Lake facilities authority" means a lake facilities 13559
authority created in accordance with section 353.02 of the Revised 13560
Code. 13561

Sec. 145.27. (A)(1) As used in this division, "personal 13562
history record" means information maintained by the public 13563
employees retirement board on an individual who is a member, 13564
former member, contributor, former contributor, retirant, or 13565
beneficiary that includes the address, telephone number, social 13566
security number, record of contributions, correspondence with the 13567
public employees retirement system, or other information the board 13568
determines to be confidential. 13569

(2) The records of the board shall be open to public 13570
inspection, except that the following shall be excluded, except 13571
with the written authorization of the individual concerned: 13572

(a) The individual's statement of previous service and other 13573
information as provided for in section 145.16 of the Revised Code; 13574

(b) The amount of a monthly allowance or benefit paid to the 13575
individual; 13576

(c) The individual's personal history record. 13577

(B) All medical reports and recommendations required by this 13578
chapter are privileged, except as follows: 13579

(1) Copies of medical reports or recommendations shall be 13580
made available to the personal physician, attorney, or authorized 13581
agent of the individual concerned upon written release from the 13582
individual or the individual's agent, or when necessary for the 13583
proper administration of the fund, to the board assigned 13584

physician. 13585

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section. 13586
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(C) Any person who is a member or contributor of the system shall be furnished with a statement of the amount to the credit of the individual's account upon written request. The board is not required to answer more than one such request of a person in any one year. The board may issue annual statements of accounts to members and contributors. 13589
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(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information: 13595
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(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record. 13598
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(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section. 13607
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(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, contributors, former contributors, retirants, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person. 13611
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(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in division (D)(6) of this section is a public record.

(7) The system shall provide the notice required by section 145.573 of the Revised Code to the prosecutor assigned to the case.

(E) A statement that contains information obtained from the

system's records that is signed by the executive director or an 13647
officer of the system and to which the system's official seal is 13648
affixed, or copies of the system's records to which the signature 13649
and seal are attached, shall be received as true copies of the 13650
system's records in any court or before any officer of this state. 13651

Sec. 145.56. The right of an individual to a pension, an 13652
annuity, or a retirement allowance itself, the right of an 13653
individual to any optional benefit, any other right accrued or 13654
accruing to any individual, under this chapter, or under any 13655
municipal retirement system established subject to this chapter 13656
under the laws of this state or any charter, the various funds 13657
created by this chapter, or under such municipal retirement 13658
system, and all moneys, investments, and income from moneys or 13659
investments are exempt from any state tax, except the tax imposed 13660
by section 5747.02 of the Revised Code, and are exempt from any 13661
county, municipal, or other local tax, except income taxes imposed 13662
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 13663
Code, and, except as provided in sections 145.57, 145.572, 13664
145.573, 3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 13665
3123., and 3125. of the Revised Code, shall not be subject to 13666
execution, garnishment, attachment, the operation of bankruptcy or 13667
insolvency laws, or other process of law whatsoever, and shall be 13668
unassignable except as specifically provided in this chapter and 13669
sections 3105.171, 3105.65, and 3115.32 and Chapters 3119., 3121., 13670
3123., and 3125. of the Revised Code. 13671

Sec. 149.01. Each elective state officer, the adjutant 13672
general, the adult parole authority, the department of 13673
agriculture, the director of administrative services, the public 13674
utilities commission, the superintendent of insurance, the 13675
superintendent of financial institutions, the superintendent of 13676
purchases and printing, the state commissioner of soldiers' 13677

claims, the fire marshal, the industrial commission, the 13678
administrator of workers' compensation, the state department of 13679
transportation, the department of health, the state medical board, 13680
the state dental board, the board of embalmers and funeral 13681
directors, the Ohio commission for the blind, the accountancy 13682
board of Ohio, the state council of uniform state laws, the board 13683
of commissioners of the sinking fund, the department of taxation, 13684
the board of tax appeals, ~~the clerk of the supreme court,~~ the 13685
division of liquor control, the director of state armories, the 13686
trustees of the Ohio state university, and every private or 13687
quasi-public institution, association, board, or corporation 13688
receiving state money for its use and purpose shall make annually, 13689
at the end of each fiscal year, in quadruplicate, a report of the 13690
transactions and proceedings of that office or department for that 13691
fiscal year, excepting receipts and disbursements unless otherwise 13692
specifically required by law. The report shall contain a summary 13693
of the official acts of the officer, board, council, commission, 13694
institution, association, or corporation and any suggestions and 13695
recommendations that are proper. On the first day of August of 13696
each year, one of the reports shall be filed with the governor, 13697
one with the secretary of state, and one with the state library, 13698
and one shall be kept on file in the office of the officer, board, 13699
council, commission, institution, association, or corporation. 13700

Sec. 149.091. (A) ~~Except as otherwise provided in division~~ 13701
~~(C) of this section, the~~ The secretary of state shall compile, 13702
publish, and distribute the session laws either annually or 13703
biennially in a paper or electronic format ~~a maximum of nine~~ 13704
~~hundred copies of the session laws.~~ The annual or biennial 13705
publication shall contain all enrolled acts and joint resolutions. 13706
~~The secretary of state shall cause to be printed with each~~ 13707
~~compilation of enrolled acts and joint resolutions distributed,~~ a 13708
subject index, a table indicating Revised Code sections affected, 13709

and the secretary of state's certificate that the laws, as 13710
compiled and distributed, are true copies of the original enrolled 13711
acts or joint resolutions in the secretary of state's office. 13712

(B)(1) The secretary of state ~~shall~~ may distribute the 13713
~~compilations~~ paper or electronic format of the session laws ~~in~~ 13714
free of charge to the following manner persons or entities: 13715

~~(1) One shall be forwarded to each~~ (a) Each county auditor. 13716

~~(2) One shall be forwarded to each~~ (b) Each county law 13717
library. 13718

~~(3) Two hundred may be distributed, free of charge, to~~ (c) 13719
Other public officials upon request of the public official. 13720

~~(4) Remaining compilations may be sold by the secretary of~~ 13721
~~state at a price that shall not exceed the actual cost of~~ 13722
~~publication and distribution.~~ 13723

~~(B) Notwithstanding division (C) of this section, the~~ 13724
~~secretary of state shall compile, publish, and distribute, either~~ 13725
~~annually or biennially, in permanently bound volumes, a minimum of~~ 13726
~~twenty five copies of the session laws. The annual or biennial~~ 13727
~~volumes shall contain copies of all enrolled acts and joint~~ 13728
~~resolutions. The secretary of state shall cause to be printed with~~ 13729
~~each volume of enrolled acts and joint resolutions distributed a~~ 13730
~~subject index, a table indicating Revised Code sections affected,~~ 13731
~~and the secretary of state's certificate that the laws so~~ 13732
~~assembled are true copies of the original enrolled acts or joint~~ 13733
~~resolutions in the secretary of state's office.~~ 13734

(2) The secretary of state shall distribute the ~~permanently~~ 13735
~~bound volumes~~ paper or electronic format of the session laws ~~in~~ 13736
free of charge to the following manner persons or entities: 13737

~~(1) Five copies shall be forwarded to the~~ (a) The clerk of 13738
the house of representatives. 13739

(2) Five copies shall be forwarded to the <u>(b) The</u> clerk of the senate.	13740 13741
(3) Five copies shall be forwarded to the <u>(c) The</u> legislative service commission.	13742 13743
(4) Two copies shall be forwarded to the <u>(d) The</u> Ohio supreme court.	13744 13745
(5) Two copies shall be forwarded to the <u>(e) The document</u> division of the library of congress.	13746 13747
(6) Two copies shall be forwarded to the <u>(f) The</u> state library.	13748 13749
(7) Two copies shall be forwarded to the <u>(g) The</u> Ohio historical society.	13750 13751
(8) Two copies shall be retained by the <u>The</u> secretary of state <u>shall retain a paper or electronic format of the session</u> <u>laws.</u>	13752 13753 13754
(C) The secretary of state annually or biennially may compile, publish, and distribute the session laws in an electronic format instead of compiling and publishing the session laws as provided in division (A) of this section. If the secretary of state compiles and publishes the session laws in an electronic format, the following apply:	13755 13756 13757 13758 13759 13760
(1) The session laws in electronic format shall include copies of all enrolled acts and joint resolutions and shall contain a subject index and a table indicating Revised Code sections affected.	13761 13762 13763 13764
(2) Each compilation of the session laws in electronic format shall include the secretary of state's certificate that the laws so compiled and published are true copies of the original enrolled acts and joint resolutions in the secretary of state's office.	13765 13766 13767 13768
(3) The session laws may be distributed in an electronic	13769

~~format to public officials free of charge.~~ 13770

(4) The session laws may be sold in ~~an~~ a paper or electronic 13771
format to individuals or entities not specified in division ~~(A) or~~ 13772
(B) of this section. The price shall not exceed the actual cost of 13773
producing and distributing the session laws in ~~an~~ a paper or 13774
electronic format. 13775

Sec. 149.11. Any department, division, bureau, board, or 13776
commission of the state government issuing a report, pamphlet, 13777
document, or other publication intended for general public use and 13778
distribution, which publication is reproduced by duplicating 13779
processes such as mimeograph, multigraph, planograph, rotaprint, 13780
or multilith, or printed internally or through a contract awarded 13781
to any person, company, or the state printing division of the 13782
department of administrative services, shall cause to be delivered 13783
to the state library one hundred copies of the publication, 13784
subject to the provisions of section 125.42 of the Revised Code. 13785

The state library board shall distribute the publications so 13786
received as follows: 13787

(A) Retain two copies in the state library; 13788

(B) Send two copies to the document division of the library 13789
of congress; 13790

(C) Send one copy to the Ohio historical society and to each 13791
public or college library in the state designated by the state 13792
library board to be a depository for state publications. In 13793
designating which libraries shall be depositories, the board shall 13794
select those libraries that can best preserve those publications 13795
and that are so located geographically as will make the 13796
publications conveniently accessible to residents in all areas of 13797
the state. 13798

(D) Send one copy to each state in exchange for like 13799

publications of that state. 13800

The provisions of this section ~~shall~~ do not apply to any 13801
publication of the general assembly or to the publications 13802
described in sections 149.07, 149.08, 149.091, and 149.17 of the 13803
Revised Code, except that the secretary of state shall forward to 13804
the document division of the library of congress two copies of all 13805
journals, two copies of the session laws ~~in bound form~~ as provided 13806
for in section 149.091 of the Revised Code, and two copies of all 13807
appropriation laws in separate form. 13808

Sec. 149.308. There is hereby created in the state treasury 13809
the Ohio historical society income tax contribution fund, which 13810
shall consist of money contributed to it under section 5747.113 of 13811
the Revised Code for taxable years beginning on or after January 13812
1, 2011, and of contributions made directly to it. Any person may 13813
contribute directly to the fund in addition to or independently of 13814
the income tax refund contribution system established in section 13815
5747.113 of the Revised Code. 13816

The Ohio historical society shall use money credited to the 13817
fund in furtherance of the public functions with which the society 13818
is charged under section 149.30 of the Revised Code. 13819

Sec. 149.311. (A) As used in this section: 13820

(1) "Historic building" means a building, including its 13821
structural components, that is located in this state and that is 13822
either individually listed on the national register of historic 13823
places under 16 U.S.C. 470a, located in a registered historic 13824
district, and certified by the state historic preservation officer 13825
as being of historic significance to the district, or is 13826
individually listed as a historic landmark designated by a local 13827
government certified under 16 U.S.C. 470a(c). 13828

(2) "Qualified rehabilitation expenditures" means 13829

expenditures paid or incurred during the rehabilitation period, 13830
and before and after that period as determined under 26 U.S.C. 47, 13831
by an owner of a historic building to rehabilitate the building. 13832
"Qualified rehabilitation expenditures" includes architectural or 13833
engineering fees paid or incurred in connection with the 13834
rehabilitation, and expenses incurred in the preparation of 13835
nomination forms for listing on the national register of historic 13836
places. "Qualified rehabilitation expenditures" does not include 13837
any of the following: 13838

(a) The cost of acquiring, expanding, or enlarging a historic 13839
building; 13840

(b) Expenditures attributable to work done to facilities 13841
related to the building, such as parking lots, sidewalks, and 13842
landscaping; 13843

(c) New building construction costs. 13844

(3) "Owner" of a historic building means a person holding the 13845
fee simple interest in the building. "Owner" does not include the 13846
state or a state agency, or any political subdivision as defined 13847
in section 9.23 of the Revised Code. 13848

(4) "Certificate owner" means the owner of a historic 13849
building to which a rehabilitation tax credit certificate was 13850
issued under this section. 13851

(5) "Registered historic district" means a historic district 13852
listed in the national register of historic places under 16 U.S.C. 13853
470a, a historic district designated by a local government 13854
certified under 16 U.S.C. 470a(c), or a local historic district 13855
certified under 36 C.F.R. 67.8 and 67.9. 13856

(6) "Rehabilitation" means the process of repairing or 13857
altering a historic building or buildings, making possible an 13858
efficient use while preserving those portions and features of the 13859
building and its site and environment that are significant to its 13860

historic, architectural, and cultural values. 13861

(7) "Rehabilitation period" means one of the following: 13862

(a) If the rehabilitation initially was not planned to be 13863
completed in stages, a period chosen by the owner not to exceed 13864
twenty-four months during which rehabilitation occurs; 13865

(b) If the rehabilitation initially was planned to be 13866
completed in stages, a period chosen by the owner not to exceed 13867
sixty months during which rehabilitation occurs. Each stage shall 13868
be reviewed as a phase of a rehabilitation as determined under 36 13869
C.F.R. 67.7(b)(8) or a successor to that section. 13870

(8) "State historic preservation officer" or "officer" means 13871
the state historic preservation officer appointed by the governor 13872
under 16 U.S.C. 470a. 13873

~~(9) "Application period" means any of the following time 13874
periods for which an application for a rehabilitation tax credit 13875
certificate may be filed under this section: 13876~~

~~(a) July 1, 2007, through June 30, 2008; 13877~~

~~(b) July 1, 2009, through June 30, 2010; 13878~~

~~(c) July 1, 2010, through June 30, 2011. 13879~~

(B) ~~For any application period, the~~ The owner of a historic 13880
building may apply to the ~~state historic preservation officer~~ 13881
director of development for a rehabilitation tax credit 13882
certificate for qualified rehabilitation expenditures paid or 13883
incurred after April 4, 2007, for rehabilitation of a historic 13884
building. The form and manner of filing such applications shall be 13885
prescribed by rule of the director of development, ~~and, except as~~ 13886
~~otherwise provided in division (D) of this section, applications~~ 13887
~~expire at the end of each application period.~~ Each application 13888
shall state the amount of qualified rehabilitation expenditures 13889
the applicant estimates will be paid or incurred. The director may 13890

require applicants to furnish documentation of such estimates. 13891

The director, after consultation with the tax commissioner 13892
and in accordance with Chapter 119. of the Revised Code, shall 13893
adopt rules that establish all of the following: 13894

(1) Forms and procedures by which applicants may apply for 13895
rehabilitation tax credit certificates; 13896

(2) Criteria for reviewing, evaluating, and approving 13897
applications for certificates within the limitations under 13898
division (D) of this section, criteria for assuring that the 13899
certificates issued encompass a mixture of high and low qualified 13900
rehabilitation expenditures, and criteria for issuing certificates 13901
under division (C)(3)(b) of this section; 13902

(3) Eligibility requirements for obtaining a certificate 13903
under this section; 13904

(4) The form of rehabilitation tax credit certificates; 13905

(5) Reporting requirements and monitoring procedures; 13906

(6) Any other rules necessary to implement and administer 13907
this section. 13908

(C) ~~The state historic preservation officer shall accept~~ 13909
~~applications and forward them to the director of development, who~~ 13910
shall review the applications with the assistance of the state 13911
historic preservation officer and determine whether all of the 13912
following criteria are met: 13913

(1) That the building that is the subject of the application 13914
is a historic building and the applicant is the owner of the 13915
building; 13916

(2) That the rehabilitation will satisfy standards prescribed 13917
by the United States secretary of the interior under 16 U.S.C. 13918
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 13919
that section; 13920

(3) That receiving a rehabilitation tax credit certificate 13921
under this section is a major factor in: 13922

(a) The applicant's decision to rehabilitate the historic 13923
building; or 13924

(b) To increase the level of investment in such 13925
rehabilitation. 13926

An applicant shall demonstrate to the satisfaction of the 13927
state historic preservation officer and director of development 13928
that the rehabilitation will satisfy the standards described in 13929
division (C)(2) of this section before the applicant begins the 13930
physical rehabilitation of the historic building. 13931

(D)(1) The director of development may approve an application 13932
and issue a rehabilitation tax credit certificate to an applicant 13933
only if the director determines that the criteria in divisions 13934
(C)(1), (2), and (3) of this section are met. The director shall 13935
consider the potential economic impact and the regional 13936
distributive balance of the credits throughout the state. 13937

(2) A rehabilitation tax credit certificate shall not be 13938
issued before rehabilitation of a historic building is completed 13939
~~or. A rehabilitation tax credit certificate shall not be issued~~ 13940
for an amount greater than the estimated amount furnished by the 13941
applicant on the application for such certificate and approved by 13942
the director. The director shall not approve more than a total of 13943
~~sixty~~ twenty-five million dollars of rehabilitation tax credits 13944
~~for an application period per fiscal year but the director may~~ 13945
reallocate unused tax credits from a prior fiscal year for new 13946
applicants and such reallocated credits shall not apply toward the 13947
dollar limit of this division. 13948

(3) ~~Of the sixty million dollars approved for application~~ 13949
~~periods July 1, 2009, through June 30, 2010, and July 1, 2010,~~ 13950
~~through June 30, 2011, forty five million dollars shall be~~ 13951

~~reserved in each application period for the award of 13952
rehabilitation tax credit certificates to applicants who, as of 13953
March 1, 2008, had filed completed applications that met the 13954
criteria described in divisions (C)(1), (2), and (3) of this 13955
section, who have not withdrawn the application, and who have not 13956
yet been approved to receive a certificate. If the total amount of 13957
credits awarded for such applications is less than forty five 13958
million dollars in an application period, the remainder shall be 13959
made available for other qualifying applications for that 13960
application period. 13961~~

For rehabilitations with a rehabilitation period not 13962
exceeding twenty-four months as provided in division (A)(7)(a) of 13963
this section, a rehabilitation tax credit certificate shall not be 13964
issued before the rehabilitation of the historic building is 13965
completed. 13966

(4) ~~¶~~ For rehabilitations with a rehabilitation period not 13967
exceeding sixty months as provided in division (A)(7)(b) of this 13968
section, a rehabilitation tax credit certificate shall not be 13969
issued before a stage of rehabilitation is completed. After all 13970
stages of rehabilitation are completed, if the director cannot 13971
determine that the criteria in division (C) of this section are 13972
satisfied for all stages of rehabilitations, the director shall 13973
certify this finding to the tax commissioner, and any 13974
rehabilitation tax credits received by the applicant shall be 13975
repaid by the applicant and may be collected by assessment as 13976
unpaid tax by the commissioner. 13977

(5) The director of development shall require the applicant 13978
to provide a third-party cost certification by a certified public 13979
accountant of the actual costs attributed to the rehabilitation of 13980
the historic building when qualified rehabilitation expenditures 13981
exceed two hundred thousand dollars. 13982

If an applicant whose application is approved for receipt of 13983

a rehabilitation tax credit certificate fails to provide to the 13984
director of development sufficient evidence of reviewable 13985
progress, including a viable financial plan, copies of final 13986
construction drawings, and evidence that the applicant has 13987
obtained all historic approvals within twelve months after the 13988
date the applicant received notification of approval, ~~or~~ and if 13989
the applicant fails to provide evidence to the director of 13990
development that the applicant has secured and closed on financing 13991
for the rehabilitation within eighteen months after receiving 13992
notification of approval, the director may rescind the approval of 13993
the application. The director shall notify the applicant ~~that~~ if 13994
the approval has been rescinded. Credits that would have been 13995
available to an applicant whose approval was rescinded shall be 13996
available for other qualified applicants. Nothing in this division 13997
prohibits an applicant whose approval has been rescinded from 13998
submitting a new application for a rehabilitation tax credit 13999
certificate. 14000

(E) Issuance of a certificate represents a finding by the 14001
director of development of the matters described in divisions 14002
(C)(1), (2), and (3) of this section only; issuance of a 14003
certificate does not represent a verification or certification by 14004
the director of the amount of qualified rehabilitation 14005
expenditures for which a tax credit may be claimed under section 14006
5725.151, 5725.34, 5729.17, 5733.47, or 5747.76 of the Revised 14007
Code. The amount of qualified rehabilitation expenditures for 14008
which a tax credit may be claimed is subject to inspection and 14009
examination by the tax commissioner or employees of the 14010
commissioner under section 5703.19 of the Revised Code and any 14011
other applicable law. Upon the issuance of a certificate, the 14012
director shall certify to the tax commissioner, in the form and 14013
manner requested by the tax commissioner, the name of the 14014
applicant, the amount of qualified rehabilitation expenditures 14015
shown on the certificate, and any other information required by 14016

the rules adopted under this section. 14017

(F)(1) On or before the first day of ~~December in 2007, 2008,~~ 14018
~~2009, 2010, and 2011~~ April each year, the director of development 14019
and tax commissioner jointly shall submit to the president of the 14020
senate and the speaker of the house of representatives a report on 14021
the tax credit program established under this section and sections 14022
5725.151, 5725.34, 5729.17, 5733.47, and 5747.76 of the Revised 14023
Code. The report shall present an overview of the program and 14024
shall include information on the number of rehabilitation tax 14025
credit certificates issued under this section during ~~an~~ 14026
~~application period~~ the preceding fiscal year, an update on the 14027
status of each historic building for which an application was 14028
approved under this section, the dollar amount of the tax credits 14029
granted under sections 5725.151, 5725.34, 5729.17, 5733.47, and 14030
5747.76 of the Revised Code, and any other information the 14031
director and commissioner consider relevant to the topics 14032
addressed in the report. 14033

(2) On or before December 1, ~~2012~~ 2015, the director of 14034
development and tax commissioner jointly shall submit to the 14035
president of the senate and the speaker of the house of 14036
representatives a comprehensive report that includes the 14037
information required by division (F)(1) of this section and a 14038
detailed analysis of the effectiveness of issuing tax credits for 14039
rehabilitating historic buildings. The report shall be prepared 14040
with the assistance of an economic research organization jointly 14041
chosen by the director and commissioner. 14042

(G) There is hereby created in the state treasury the 14043
historic rehabilitation tax credit operating fund. The director of 14044
development is authorized to charge reasonable application and 14045
other fees in connection with the administration of tax credits 14046
authorized by this section and sections 5725.151, 5725.34, 14047
5729.17, 5733.44, and 5747.76 of the Revised Code. Any such fees 14048

collected shall be credited to the fund and used to pay reasonable 14049
costs incurred by the department of development in administering 14050
this section and sections 5725.151, 5725.34, 5729.17, 5733.44, and 14051
5747.76 of the Revised Code. 14052

The Ohio historic preservation office is authorized to charge 14053
reasonable fees in connection with its review and approval of 14054
applications under this section. Any such fees collected shall be 14055
credited to the fund and used to pay administrative costs incurred 14056
by the Ohio historic preservation office pursuant to this section. 14057

Sec. 149.351. (A) All records are the property of the public 14058
office concerned and shall not be removed, destroyed, mutilated, 14059
transferred, or otherwise damaged or disposed of, in whole or in 14060
part, except as provided by law or under the rules adopted by the 14061
records commissions provided for under sections 149.38 to 149.42 14062
of the Revised Code or under the records programs established by 14063
the boards of trustees of state-supported institutions of higher 14064
education under section 149.33 of the Revised Code. ~~Such~~ Those 14065
records shall be delivered by outgoing officials and employees to 14066
their successors and shall not be otherwise removed, destroyed, 14067
mutilated, or transferred,~~or destroyed~~ unlawfully. 14068

(B) Any person who is aggrieved by the removal, destruction, 14069
mutilation, or transfer of, or by other damage to or disposition 14070
of a record in violation of division (A) of this section, or by 14071
threat of such removal, destruction, mutilation, transfer, or 14072
other damage to or disposition of such a record, may commence 14073
either or both of the following in the court of common pleas of 14074
the county in which division (A) of this section allegedly was 14075
violated or is threatened to be violated: 14076

(1) A civil action for injunctive relief to compel compliance 14077
with division (A) of this section, and to obtain an award of the 14078
reasonable attorney's fees incurred by the person in the civil 14079

action; 14080

(2) A civil action to recover a forfeiture in the amount of 14081
one thousand dollars for each violation, but not to exceed a 14082
cumulative total of ten thousand dollars, regardless of the number 14083
of violations, and to obtain an award of the reasonable attorney's 14084
fees incurred by the person in the civil action not to exceed the 14085
forfeiture amount recovered. 14086

(C)(1) A person is not aggrieved by a violation of division 14087
(A) of this section if clear and convincing evidence shows that 14088
the request for a record was contrived as a pretext to create 14089
potential liability under this section. The commencement of a 14090
civil action under division (B) of this section waives any right 14091
under this chapter to decline to divulge the purpose for 14092
requesting the record, but only to the extent needed to evaluate 14093
whether the request was contrived as a pretext to create potential 14094
liability under this section. 14095

(2) In a civil action under division (B) of this section, if 14096
clear and convincing evidence shows that the request for a record 14097
was a pretext to create potential liability under this section, 14098
the court may award reasonable attorney's fees to any defendant or 14099
defendants in the action. 14100

(D) Once a person recovers a forfeiture in a civil action 14101
commenced under division (B)(2) of this section, no other person 14102
may recover a forfeiture under that division for a violation of 14103
division (A) of this section involving the same record, regardless 14104
of the number of persons aggrieved by a violation of division (A) 14105
of this section or the number of civil actions commenced under 14106
this section. 14107

(E) A civil action for injunctive relief under division 14108
(B)(1) of this section or a civil action to recover a forfeiture 14109
under division (B)(2) of this section shall be commenced within 14110

five years after the day in which division (A) of this section was 14111
allegedly violated or was threatened to be violated. 14112

Sec. 149.38. (A) ~~There~~ Except as otherwise provided in 14113
section 307.847 of the Revised Code, there is hereby created in 14114
each county a county records commission, composed of a member of 14115
the board of county commissioners as chairperson, the prosecuting 14116
attorney, the auditor, the recorder, and the clerk of the court of 14117
common pleas. The commission shall appoint a secretary, who may or 14118
may not be a member of the commission and who shall serve at the 14119
pleasure of the commission. The commission may employ an archivist 14120
or records manager to serve under its direction. The commission 14121
shall meet at least once every six months and upon the call of the 14122
chairperson. 14123

(B) The functions of the county records commission shall be 14124
to provide rules for retention and disposal of records of the 14125
county, and to review applications for one-time disposal of 14126
obsolete records and schedules of records retention and 14127
disposition submitted by county offices. The commission may 14128
dispose of records pursuant to the procedure outlined in this 14129
section. The commission, at any time, may review any schedule it 14130
has previously approved and, for good cause shown, may revise that 14131
schedule, subject to division (D) of this section. 14132

(C)(1) When the county records commission has approved any 14133
county application for one-time disposal of obsolete records or 14134
any schedule of records retention and disposition, the commission 14135
shall send that application or schedule to the Ohio historical 14136
society for its review. The Ohio historical society shall review 14137
the application or schedule within a period of not more than sixty 14138
days after its receipt of it. ~~Upon~~ During the sixty-day review 14139
period, the Ohio historical society may select for its custody 14140
from the application for one-time disposal of obsolete records any 14141

records it considers to be of continuing historical value, and 14142
shall denote upon any schedule of records retention and 14143
disposition any records for which the Ohio historical society will 14144
require a certificate of records disposal prior to their disposal. 14145

(2) Upon completion of its review, the Ohio historical 14146
society shall forward the application for one-time disposal of 14147
obsolete records or the schedule of records retention and 14148
disposition to the auditor of state for the auditor's approval or 14149
disapproval. The auditor of state shall approve or disapprove the 14150
application or schedule within a period of not more than sixty 14151
days after receipt of it. ~~Before~~ 14152

(3) Before public records are to be disposed of pursuant to 14153
an approved schedule of records retention and disposition, the 14154
county records commission shall inform the Ohio historical society 14155
of the disposal through the submission of a certificate of records 14156
disposal for only the records required by the schedule to be 14157
disposed of and shall give the society the opportunity for a 14158
period of fifteen business days to select for its custody those 14159
records, from the certificate submitted, that it considers to be 14160
of continuing historical value. Upon the expiration of the 14161
fifteen-business-day period, the county records commission also 14162
shall notify the public libraries, county historical society, 14163
state universities, and other public or quasi-public institutions, 14164
agencies, or corporations in the county that have provided the 14165
commission with their name and address for these notification 14166
purposes, that the commission has informed the Ohio historical 14167
society of the records disposal and that the notified entities, 14168
upon written agreement with the Ohio historical society pursuant 14169
to section 149.31 of the Revised Code, may select records of 14170
continuing historical value, including records that may be 14171
distributed to any of the notified entities under section 149.31 14172
of the Revised Code. Any notified entity that notifies the county 14173

records commission of its intent to review and select records of 14174
continuing historical value from certificates of records disposal 14175
is responsible for the cost of any notice given and for the 14176
transportation of those records. 14177

(D) The rules of the county records commission shall include 14178
a rule that requires any receipts, checks, vouchers, or other 14179
similar records pertaining to expenditures from the delinquent tax 14180
and assessment collection fund created in section 321.261 of the 14181
Revised Code, from the real estate assessment fund created in 14182
section 325.31 of the Revised Code, or from amounts allocated for 14183
the furtherance of justice to the county sheriff under section 14184
325.071 of the Revised Code or to the prosecuting attorney under 14185
section 325.12 of the Revised Code to be retained for at least 14186
four years. 14187

(E) No person shall knowingly violate the rule adopted under 14188
division (D) of this section. Whoever violates that rule is guilty 14189
of a misdemeanor of the first degree. 14190

Sec. 149.381. (A) As used in this section, "records 14191
commission" means a records commission created under section 14192
149.39 of the Revised Code, a school district records commission 14193
and an educational service center records commission created under 14194
section 149.41 of the Revised Code, a library records commission 14195
created under section 149.411 of the Revised Code, a special 14196
taxing district records commission created under section 149.412 14197
of the Revised Code, and a township records commission created 14198
under section 149.42 of the Revised Code. 14199

(B) When a records commission has approved an application for 14200
one-time disposal of obsolete records or any schedule of records 14201
retention and disposition, the records commission shall send that 14202
application or schedule to the Ohio historical society for its 14203
review. The Ohio historical society shall review the application 14204

or schedule within a period of not more than sixty days after its receipt of it. During the sixty-day review period, the Ohio historical society may select for its custody from the application for one-time disposal of obsolete records any records it considers to be of continuing historical value, and shall denote upon any schedule of records retention and disposition the records for which the Ohio historical society will require a certificate of records disposal prior to their disposal.

(C) Upon completion of its review, the Ohio historical society shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor of state's approval or disapproval. The auditor of state shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it.

(D) Before public records are to be disposed of pursuant to an approved schedule of records retention and disposition, the records commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal for only the records required by the schedule to be disposed of, and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records, from the certificate submitted, that it considers to be of continuing historical value.

(E) The Ohio historical society may not review or select for its custody any of the following:

(1) Records the release of which is prohibited by section 149.432 of the Revised Code.

(2) Records containing personally identifiable information concerning any pupil attending a public school other than directory information, as defined in section 3319.321 of the

Revised Code, without the written consent of the parent, guardian, or custodian of each such pupil who is less than eighteen years of age, or without the written consent of each pupil who is eighteen years of age or older. 14236
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(3) Records the release of which would, according to the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, disqualify a school or other educational institution from receiving federal funds. 14240
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Sec. 149.39. There is hereby created in each municipal corporation a records commission composed of the chief executive or the chief executive's appointed representative, as chairperson, and the chief fiscal officer, the chief legal officer, and a citizen appointed by the chief executive. The commission shall appoint a secretary, who may or may not be a member of the commission and who shall serve at the pleasure of the commission. The commission may employ an archivist or records manager to serve under its direction. The commission shall meet at least once every six months and upon the call of the chairperson. 14244
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The functions of the commission shall be to provide rules for retention and disposal of records of the municipal corporation, and to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by municipal offices. The commission may dispose of records pursuant to the procedure outlined in ~~this~~ section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section. 14254
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~~When the municipal records commission has approved any application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio historical~~ 14263
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~~society for its review. The Ohio historical society shall review 14267
the application or schedule within a period of not more than sixty 14268
days after its receipt of it. Upon completion of its review, the 14269
Ohio historical society shall forward the application for one-time 14270
disposal of obsolete records or the schedule of records retention 14271
and disposition to the auditor of state for the auditor's approval 14272
or disapproval. The auditor shall approve or disapprove the 14273
application or schedule within a period of not more than sixty 14274
days after receipt of it. Before public records are to be disposed 14275
of, the commission shall inform the Ohio historical society of the 14276
disposal through the submission of a certificate of records 14277
disposal and shall give the society the opportunity for a period 14278
of fifteen business days to select for its custody those public 14279
records that it considers to be of continuing historical value. 14280~~

Sec. 149.41. There is hereby created in each city, local, 14281
joint vocational, and exempted village school district a school 14282
district records commission, and in each educational service 14283
center an educational service center records commission. Each 14284
records commission shall be composed of the president, the 14285
treasurer of the board of education or governing board of the 14286
educational service center, and the superintendent of schools in 14287
each such district or educational service center. The commission 14288
shall meet at least once every twelve months. 14289

The function of the commission shall be to review 14290
applications for one-time disposal of obsolete records and 14291
schedules of records retention and disposition submitted by any 14292
employee of the school district or educational service center. The 14293
commission may dispose of records pursuant to the procedure 14294
outlined in ~~this~~ section 149.381 of the Revised Code. The 14295
commission, at any time, may review any schedule it has previously 14296
approved and, for good cause shown, may revise that schedule under 14297
the procedure outlined in that section. 14298

~~When the school district records commission or the educational service center records commission has approved any application for one time disposal of obsolete records or any schedule of records retention and disposition, the appropriate commission shall send that application or schedule to the Ohio historical society for its review. The Ohio historical society shall review the application or schedule within a period of not more than sixty days after its receipt of it. Upon completion of its review, the Ohio historical society shall forward the application for one time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it. Before public records are to be disposed of, the appropriate commission shall inform the Ohio historical society of the disposal through the submission of a certificate of records disposal and shall give the society the opportunity for a period of fifteen business days to select for its custody those public records that it considers to be of continuing historical value. The society may not review or select for its custody either of the following:~~

~~(A) Records containing personally identifiable information concerning any pupil attending a public school other than directory information, as defined in section 3319.321 of the Revised Code, without the written consent of the parent, guardian, or custodian of each such pupil who is less than eighteen years of age, or without the written consent of each such pupil who is eighteen years of age or older;~~

~~(B) Records the release of which would, according to the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C.A. 1232g, disqualify a school or other educational institution from receiving federal funds.~~

Sec. 149.411. There is hereby created in each county free 14331
public library, municipal free public library, township free 14332
public library, school district free public library as described 14333
in section 3375.15 of the Revised Code, county library district, 14334
and regional library district a library records commission 14335
composed of the members and the fiscal officer of the board of 14336
library trustees of the appropriate public library or library 14337
district. The commission shall meet at least once every twelve 14338
months. 14339

The functions of the commission shall be to review 14340
applications for one-time disposal of obsolete records and 14341
schedules of records retention and disposition submitted by any 14342
employee of the library. The commission may dispose of records 14343
pursuant to the procedure outlined in ~~this~~ section 149.381 of the 14344
Revised Code. The commission, at any time, may review any schedule 14345
it has previously approved and, for good cause shown, may revise 14346
that schedule under the procedure outlined in that section. 14347

~~When the appropriate library records commission has approved 14348
any library application for one time disposal of obsolete records 14349
or any schedule of records retention and disposition, the 14350
commission shall send that application or schedule to the Ohio 14351
historical society for its review. The Ohio historical society 14352
shall review the application or schedule within a period of not 14353
more than sixty days after its receipt of it. Upon completion of 14354
its review, the Ohio historical society shall forward the 14355
application for one time disposal of obsolete records or the 14356
schedule of records retention and disposition to the auditor of 14357
state for the auditor's approval or disapproval. The auditor shall 14358
approve or disapprove the application or schedule within a period 14359
of not more than sixty days after receipt of it. Before public 14360
records are to be disposed of, the commission shall inform the 14361
Ohio historical society of the disposal through the submission of 14362~~

~~a certificate of records disposal and shall give the society the 14363
opportunity for a period of fifteen business days to select for 14364
its custody those public records that it considers to be of 14365
continuing historical value. The Ohio historical society may not 14366
review or select for its custody any records pursuant to section 14367
149.432 of the Revised Code. 14368~~

Sec. 149.412. There is hereby created in each special taxing 14369
district that is a public office as defined in section 149.011 of 14370
the Revised Code and that is not specifically designated in 14371
section 149.38, 149.39, 149.41, 149.411, or 149.42 of the Revised 14372
Code a special taxing district records commission composed of, at 14373
a minimum, the chairperson, a fiscal representative, and a legal 14374
representative of the governing board of the special taxing 14375
district. The commission shall meet at least once every twelve 14376
months and upon the call of the chairperson. 14377

The functions of the commission shall be to review 14378
applications for one-time disposal of obsolete records and 14379
schedules of records retention and disposition submitted by any 14380
employee of the special taxing district. The commission may 14381
dispose of records pursuant to the procedure outlined in ~~this~~ 14382
section 149.381 of the Revised Code. The commission, at any time, 14383
may review any schedule it has previously approved and, for good 14384
cause shown, may revise that schedule under the procedure outlined 14385
in that section. 14386

~~When the special taxing district records commission has 14387
approved any special taxing district application for one time 14388
disposal of obsolete records or any schedule of records retention 14389
and disposition, the commission shall send that application or 14390
schedule to the Ohio historical society for its review. The Ohio 14391
historical society shall review the application or schedule within 14392
a period of not more than sixty days after its receipt of it. Upon 14393~~

~~completion of its review, the Ohio historical society shall 14394
forward the application for one time disposal of obsolete records 14395
or the schedule of records retention and disposition to the 14396
auditor of state for the auditor's approval or disapproval. The 14397
auditor shall approve or disapprove the application or schedule 14398
within a period of not more than sixty days after receipt of it. 14399
Before public records are to be disposed of, the commission shall 14400
inform the Ohio historical society of the disposal through the 14401
submission of a certificate of records disposal and shall give the 14402
society the opportunity for a period of fifteen business days to 14403
select for its custody those public records that it considers to 14404
be of continuing historical value. 14405~~

Sec. 149.42. There is hereby created in each township a 14406
township records commission, composed of the chairperson of the 14407
board of township trustees and the fiscal officer of the township. 14408
The commission shall meet at least once every twelve months and 14409
upon the call of the chairperson. 14410

The function of the commission shall be to review 14411
applications for one-time disposal of obsolete records and 14412
schedules of records retention and disposition submitted by 14413
township offices. The commission may dispose of records pursuant 14414
to the procedure outlined in ~~this~~ section 149.381 of the Revised 14415
Code. The commission, at any time, may review any schedule it has 14416
previously approved and, for good cause shown, may revise that 14417
schedule under the procedure outlined in that section. 14418

~~When the township records commission has approved any 14419
township application for one time disposal of obsolete records or 14420
any schedule of records retention and disposition, the commission 14421
shall send that application or schedule to the Ohio historical 14422
society for its review. The Ohio historical society shall review 14423
the application or schedule within a period of not more than sixty 14424~~

~~days after its receipt of it. Upon completion of its review, the 14425
Ohio historical society shall forward the application for one time 14426
disposal of obsolete records or the schedule of records retention 14427
and disposition to the auditor of state for the auditor's approval 14428
or disapproval. The auditor shall approve or disapprove the 14429
application or schedule within a period of not more than sixty 14430
days after receipt of it. Before public records are to be disposed 14431
of, the commission shall inform the Ohio historical society of the 14432
disposal through the submission of a certificate of records 14433
disposal and shall give the society the opportunity for a period 14434
of fifteen business days to select for its custody those public 14435
records that it considers to be of continuing historical value. 14436~~

Sec. 149.43. (A) As used in this section: 14437

(1) "Public record" means records kept by any public office, 14438
including, but not limited to, state, county, city, village, 14439
township, and school district units, and records pertaining to the 14440
delivery of educational services by an alternative school in this 14441
state kept by the nonprofit or for-profit entity operating the 14442
alternative school pursuant to section 3313.533 of the Revised 14443
Code. "Public record" does not mean any of the following: 14444

(a) Medical records; 14445

(b) Records pertaining to probation and parole proceedings or 14446
to proceedings related to the imposition of community control 14447
sanctions and post-release control sanctions; 14448

(c) Records pertaining to actions under section 2151.85 and 14449
division (C) of section 2919.121 of the Revised Code and to 14450
appeals of actions arising under those sections; 14451

(d) Records pertaining to adoption proceedings, including the 14452
contents of an adoption file maintained by the department of 14453
health under section 3705.12 of the Revised Code; 14454

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	14455 14456 14457 14458 14459 14460
(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	14461 14462 14463
(g) Trial preparation records;	14464
(h) Confidential law enforcement investigatory records;	14465
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	14466 14467
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	14468 14469
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	14470 14471 14472 14473
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	14474 14475 14476 14477
(m) Intellectual property records;	14478
(n) Donor profile records;	14479
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	14480 14481
(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau	14482 14483 14484

of criminal identification and investigation residential and	14485
familial information;	14486
(q) In the case of a county hospital operated pursuant to	14487
Chapter 339. of the Revised Code or a municipal hospital operated	14488
pursuant to Chapter 749. of the Revised Code, information that	14489
constitutes a trade secret, as defined in section 1333.61 of the	14490
Revised Code;	14491
(r) Information pertaining to the recreational activities of	14492
a person under the age of eighteen;	14493
(s) Records provided to, statements made by review board	14494
members during meetings of, and all work products of a child	14495
fatality review board acting under sections 307.621 to 307.629 of	14496
the Revised Code, and child fatality review data submitted by the	14497
child fatality review board to the department of health or a	14498
national child death review database, other than the report	14499
prepared pursuant to division (A) of section 307.626 of the	14500
Revised Code;	14501
(t) Records provided to and statements made by the executive	14502
director of a public children services agency or a prosecuting	14503
attorney acting pursuant to section 5153.171 of the Revised Code	14504
other than the information released under that section;	14505
(u) Test materials, examinations, or evaluation tools used in	14506
an examination for licensure as a nursing home administrator that	14507
the board of examiners of nursing home administrators administers	14508
under section 4751.04 of the Revised Code or contracts under that	14509
section with a private or government entity to administer;	14510
(v) Records the release of which is prohibited by state or	14511
federal law;	14512
(w) Proprietary information of or relating to any person that	14513
is submitted to or compiled by the Ohio venture capital authority	14514
created under section 150.01 of the Revised Code;	14515

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;	14516 14517
(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;	14518 14519 14520 14521 14522 14523
(z) Records listed in section 5101.29 of the Revised Code;	14524
(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;	14525 14526 14527
<u>(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility.</u>	14528 14529 14530
(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:	14531 14532 14533 14534 14535
(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;	14536 14537 14538 14539
(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;	14540 14541 14542 14543
(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;	14544 14545

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of

the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of

criminal identification and investigation's employer; 14609

(e) The identity and amount of any charitable or employment 14610
benefit deduction made by the peace officer's, parole officer's, 14611
prosecuting attorney's, assistant prosecuting attorney's, 14612
correctional employee's, youth services employee's, firefighter's, 14613
EMT's, or investigator of the bureau of criminal identification 14614
and investigation's employer from the peace officer's, parole 14615
officer's, prosecuting attorney's, assistant prosecuting 14616
attorney's, correctional employee's, youth services employee's, 14617
firefighter's, EMT's, or investigator of the bureau of criminal 14618
identification and investigation's compensation unless the amount 14619
of the deduction is required by state or federal law; 14620

(f) The name, the residential address, the name of the 14621
employer, the address of the employer, the social security number, 14622
the residential telephone number, any bank account, debit card, 14623
charge card, or credit card number, or the emergency telephone 14624
number of the spouse, a former spouse, or any child of a peace 14625
officer, parole officer, prosecuting attorney, assistant 14626
prosecuting attorney, correctional employee, youth services 14627
employee, firefighter, EMT, or investigator of the bureau of 14628
criminal identification and investigation; 14629

(g) A photograph of a peace officer who holds a position or 14630
has an assignment that may include undercover or plain clothes 14631
positions or assignments as determined by the peace officer's 14632
appointing authority. 14633

As used in divisions (A)(7) and (B)(9) of this section, 14634
"peace officer" has the same meaning as in section 109.71 of the 14635
Revised Code and also includes the superintendent and troopers of 14636
the state highway patrol; it does not include the sheriff of a 14637
county or a supervisory employee who, in the absence of the 14638
sheriff, is authorized to stand in for, exercise the authority of, 14639
and perform the duties of the sheriff. 14640

As used in divisions (A)(7) and (B)(5) of this section, 14641
"correctional employee" means any employee of the department of 14642
rehabilitation and correction who in the course of performing the 14643
employee's job duties has or has had contact with inmates and 14644
persons under supervision. 14645

As used in divisions (A)(7) and (B)(5) of this section, 14646
"youth services employee" means any employee of the department of 14647
youth services who in the course of performing the employee's job 14648
duties has or has had contact with children committed to the 14649
custody of the department of youth services. 14650

As used in divisions (A)(7) and (B)(9) of this section, 14651
"firefighter" means any regular, paid or volunteer, member of a 14652
lawfully constituted fire department of a municipal corporation, 14653
township, fire district, or village. 14654

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 14655
means EMTs-basic, EMTs-I, and paramedics that provide emergency 14656
medical services for a public emergency medical service 14657
organization. "Emergency medical service organization," 14658
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 14659
section 4765.01 of the Revised Code. 14660

As used in divisions (A)(7) and (B)(9) of this section, 14661
"investigator of the bureau of criminal identification and 14662
investigation" has the meaning defined in section 2903.11 of the 14663
Revised Code. 14664

(8) "Information pertaining to the recreational activities of 14665
a person under the age of eighteen" means information that is kept 14666
in the ordinary course of business by a public office, that 14667
pertains to the recreational activities of a person under the age 14668
of eighteen years, and that discloses any of the following: 14669

(a) The address or telephone number of a person under the age 14670
of eighteen or the address or telephone number of that person's 14671

parent, guardian, custodian, or emergency contact person; 14672

(b) The social security number, birth date, or photographic 14673
image of a person under the age of eighteen; 14674

(c) Any medical record, history, or information pertaining to 14675
a person under the age of eighteen; 14676

(d) Any additional information sought or required about a 14677
person under the age of eighteen for the purpose of allowing that 14678
person to participate in any recreational activity conducted or 14679
sponsored by a public office or to use or obtain admission 14680
privileges to any recreational facility owned or operated by a 14681
public office. 14682

(9) "Community control sanction" has the same meaning as in 14683
section 2929.01 of the Revised Code. 14684

(10) "Post-release control sanction" has the same meaning as 14685
in section 2967.01 of the Revised Code. 14686

(11) "Redaction" means obscuring or deleting any information 14687
that is exempt from the duty to permit public inspection or 14688
copying from an item that otherwise meets the definition of a 14689
"record" in section 149.011 of the Revised Code. 14690

(12) "Designee" and "elected official" have the same meanings 14691
as in section 109.43 of the Revised Code. 14692

(B)(1) Upon request and subject to division (B)(8) of this 14693
section, all public records responsive to the request shall be 14694
promptly prepared and made available for inspection to any person 14695
at all reasonable times during regular business hours. Subject to 14696
division (B)(8) of this section, upon request, a public office or 14697
person responsible for public records shall make copies of the 14698
requested public record available at cost and within a reasonable 14699
period of time. If a public record contains information that is 14700
exempt from the duty to permit public inspection or to copy the 14701

public record, the public office or the person responsible for the 14702
public record shall make available all of the information within 14703
the public record that is not exempt. When making that public 14704
record available for public inspection or copying that public 14705
record, the public office or the person responsible for the public 14706
record shall notify the requester of any redaction or make the 14707
redaction plainly visible. A redaction shall be deemed a denial of 14708
a request to inspect or copy the redacted information, except if 14709
federal or state law authorizes or requires a public office to 14710
make the redaction. 14711

(2) To facilitate broader access to public records, a public 14712
office or the person responsible for public records shall organize 14713
and maintain public records in a manner that they can be made 14714
available for inspection or copying in accordance with division 14715
(B) of this section. A public office also shall have available a 14716
copy of its current records retention schedule at a location 14717
readily available to the public. If a requester makes an ambiguous 14718
or overly broad request or has difficulty in making a request for 14719
copies or inspection of public records under this section such 14720
that the public office or the person responsible for the requested 14721
public record cannot reasonably identify what public records are 14722
being requested, the public office or the person responsible for 14723
the requested public record may deny the request but shall provide 14724
the requester with an opportunity to revise the request by 14725
informing the requester of the manner in which records are 14726
maintained by the public office and accessed in the ordinary 14727
course of the public office's or person's duties. 14728

(3) If a request is ultimately denied, in part or in whole, 14729
the public office or the person responsible for the requested 14730
public record shall provide the requester with an explanation, 14731
including legal authority, setting forth why the request was 14732
denied. If the initial request was provided in writing, the 14733

explanation also shall be provided to the requester in writing. 14734
The explanation shall not preclude the public office or the person 14735
responsible for the requested public record from relying upon 14736
additional reasons or legal authority in defending an action 14737
commenced under division (C) of this section. 14738

(4) Unless specifically required or authorized by state or 14739
federal law or in accordance with division (B) of this section, no 14740
public office or person responsible for public records may limit 14741
or condition the availability of public records by requiring 14742
disclosure of the requester's identity or the intended use of the 14743
requested public record. Any requirement that the requester 14744
disclose the requestor's identity or the intended use of the 14745
requested public record constitutes a denial of the request. 14746

(5) A public office or person responsible for public records 14747
may ask a requester to make the request in writing, may ask for 14748
the requester's identity, and may inquire about the intended use 14749
of the information requested, but may do so only after disclosing 14750
to the requester that a written request is not mandatory and that 14751
the requester may decline to reveal the requester's identity or 14752
the intended use and when a written request or disclosure of the 14753
identity or intended use would benefit the requester by enhancing 14754
the ability of the public office or person responsible for public 14755
records to identify, locate, or deliver the public records sought 14756
by the requester. 14757

(6) If any person chooses to obtain a copy of a public record 14758
in accordance with division (B) of this section, the public office 14759
or person responsible for the public record may require that 14760
person to pay in advance the cost involved in providing the copy 14761
of the public record in accordance with the choice made by the 14762
person seeking the copy under this division. The public office or 14763
the person responsible for the public record shall permit that 14764
person to choose to have the public record duplicated upon paper, 14765

upon the same medium upon which the public office or person 14766
responsible for the public record keeps it, or upon any other 14767
medium upon which the public office or person responsible for the 14768
public record determines that it reasonably can be duplicated as 14769
an integral part of the normal operations of the public office or 14770
person responsible for the public record. When the person seeking 14771
the copy makes a choice under this division, the public office or 14772
person responsible for the public record shall provide a copy of 14773
it in accordance with the choice made by the person seeking the 14774
copy. Nothing in this section requires a public office or person 14775
responsible for the public record to allow the person seeking a 14776
copy of the public record to make the copies of the public record. 14777

(7) Upon a request made in accordance with division (B) of 14778
this section and subject to division (B)(6) of this section, a 14779
public office or person responsible for public records shall 14780
transmit a copy of a public record to any person by United States 14781
mail or by any other means of delivery or transmission within a 14782
reasonable period of time after receiving the request for the 14783
copy. The public office or person responsible for the public 14784
record may require the person making the request to pay in advance 14785
the cost of postage if the copy is transmitted by United States 14786
mail or the cost of delivery if the copy is transmitted other than 14787
by United States mail, and to pay in advance the costs incurred 14788
for other supplies used in the mailing, delivery, or transmission. 14789

Any public office may adopt a policy and procedures that it 14790
will follow in transmitting, within a reasonable period of time 14791
after receiving a request, copies of public records by United 14792
States mail or by any other means of delivery or transmission 14793
pursuant to this division. A public office that adopts a policy 14794
and procedures under this division shall comply with them in 14795
performing its duties under this division. 14796

In any policy and procedures adopted under this division, a 14797

public office may limit the number of records requested by a 14798
person that the office will transmit by United States mail to ten 14799
per month, unless the person certifies to the office in writing 14800
that the person does not intend to use or forward the requested 14801
records, or the information contained in them, for commercial 14802
purposes. For purposes of this division, "commercial" shall be 14803
narrowly construed and does not include reporting or gathering 14804
news, reporting or gathering information to assist citizen 14805
oversight or understanding of the operation or activities of 14806
government, or nonprofit educational research. 14807

(8) A public office or person responsible for public records 14808
is not required to permit a person who is incarcerated pursuant to 14809
a criminal conviction or a juvenile adjudication to inspect or to 14810
obtain a copy of any public record concerning a criminal 14811
investigation or prosecution or concerning what would be a 14812
criminal investigation or prosecution if the subject of the 14813
investigation or prosecution were an adult, unless the request to 14814
inspect or to obtain a copy of the record is for the purpose of 14815
acquiring information that is subject to release as a public 14816
record under this section and the judge who imposed the sentence 14817
or made the adjudication with respect to the person, or the 14818
judge's successor in office, finds that the information sought in 14819
the public record is necessary to support what appears to be a 14820
justiciable claim of the person. 14821

(9)(a) Upon written request made and signed by a journalist 14822
on or after December 16, 1999, a public office, or person 14823
responsible for public records, having custody of the records of 14824
the agency employing a specified peace officer, parole officer, 14825
prosecuting attorney, assistant prosecuting attorney, correctional 14826
employee, youth services employee, firefighter, EMT, or 14827
investigator of the bureau of criminal identification and 14828
investigation shall disclose to the journalist the address of the 14829

actual personal residence of the peace officer, parole officer, 14830
prosecuting attorney, assistant prosecuting attorney, correctional 14831
employee, youth services employee, firefighter, EMT, or 14832
investigator of the bureau of criminal identification and 14833
investigation and, if the peace officer's, parole officer's, 14834
prosecuting attorney's, assistant prosecuting attorney's, 14835
correctional employee's, youth services employee's, firefighter's, 14836
EMT's, or investigator of the bureau of criminal identification 14837
and investigation's spouse, former spouse, or child is employed by 14838
a public office, the name and address of the employer of the peace 14839
officer's, parole officer's, prosecuting attorney's, assistant 14840
prosecuting attorney's, correctional employee's, youth services 14841
employee's, firefighter's, EMT's, or investigator of the bureau of 14842
criminal identification and investigation's spouse, former spouse, 14843
or child. The request shall include the journalist's name and 14844
title and the name and address of the journalist's employer and 14845
shall state that disclosure of the information sought would be in 14846
the public interest. 14847

(b) Division (B)(9)(a) of this section also applies to 14848
journalist requests for customer information maintained by a 14849
municipally owned or operated public utility, other than social 14850
security numbers and any private financial information such as 14851
credit reports, payment methods, credit card numbers, and bank 14852
account information. 14853

(c) As used in ~~this~~ division (B)(9) of this section, 14854
"journalist" means a person engaged in, connected with, or 14855
employed by any news medium, including a newspaper, magazine, 14856
press association, news agency, or wire service, a radio or 14857
television station, or a similar medium, for the purpose of 14858
gathering, processing, transmitting, compiling, editing, or 14859
disseminating information for the general public. 14860

(C)(1) If a person allegedly is aggrieved by the failure of a 14861

public office or the person responsible for public records to 14862
promptly prepare a public record and to make it available to the 14863
person for inspection in accordance with division (B) of this 14864
section or by any other failure of a public office or the person 14865
responsible for public records to comply with an obligation in 14866
accordance with division (B) of this section, the person allegedly 14867
aggrieved may commence a mandamus action to obtain a judgment that 14868
orders the public office or the person responsible for the public 14869
record to comply with division (B) of this section, that awards 14870
court costs and reasonable attorney's fees to the person that 14871
instituted the mandamus action, and, if applicable, that includes 14872
an order fixing statutory damages under division (C)(1) of this 14873
section. The mandamus action may be commenced in the court of 14874
common pleas of the county in which division (B) of this section 14875
allegedly was not complied with, in the supreme court pursuant to 14876
its original jurisdiction under Section 2 of Article IV, Ohio 14877
Constitution, or in the court of appeals for the appellate 14878
district in which division (B) of this section allegedly was not 14879
complied with pursuant to its original jurisdiction under Section 14880
3 of Article IV, Ohio Constitution. 14881

If a requestor transmits a written request by hand delivery 14882
or certified mail to inspect or receive copies of any public 14883
record in a manner that fairly describes the public record or 14884
class of public records to the public office or person responsible 14885
for the requested public records, except as otherwise provided in 14886
this section, the requestor shall be entitled to recover the 14887
amount of statutory damages set forth in this division if a court 14888
determines that the public office or the person responsible for 14889
public records failed to comply with an obligation in accordance 14890
with division (B) of this section. 14891

The amount of statutory damages shall be fixed at one hundred 14892
dollars for each business day during which the public office or 14893

person responsible for the requested public records failed to 14894
comply with an obligation in accordance with division (B) of this 14895
section, beginning with the day on which the requester files a 14896
mandamus action to recover statutory damages, up to a maximum of 14897
one thousand dollars. The award of statutory damages shall not be 14898
construed as a penalty, but as compensation for injury arising 14899
from lost use of the requested information. The existence of this 14900
injury shall be conclusively presumed. The award of statutory 14901
damages shall be in addition to all other remedies authorized by 14902
this section. 14903

The court may reduce an award of statutory damages or not 14904
award statutory damages if the court determines both of the 14905
following: 14906

(a) That, based on the ordinary application of statutory law 14907
and case law as it existed at the time of the conduct or 14908
threatened conduct of the public office or person responsible for 14909
the requested public records that allegedly constitutes a failure 14910
to comply with an obligation in accordance with division (B) of 14911
this section and that was the basis of the mandamus action, a 14912
well-informed public office or person responsible for the 14913
requested public records reasonably would believe that the conduct 14914
or threatened conduct of the public office or person responsible 14915
for the requested public records did not constitute a failure to 14916
comply with an obligation in accordance with division (B) of this 14917
section; 14918

(b) That a well-informed public office or person responsible 14919
for the requested public records reasonably would believe that the 14920
conduct or threatened conduct of the public office or person 14921
responsible for the requested public records would serve the 14922
public policy that underlies the authority that is asserted as 14923
permitting that conduct or threatened conduct. 14924

(2)(a) If the court issues a writ of mandamus that orders the 14925

public office or the person responsible for the public record to 14926
comply with division (B) of this section and determines that the 14927
circumstances described in division (C)(1) of this section exist, 14928
the court shall determine and award to the relator all court 14929
costs. 14930

(b) If the court renders a judgment that orders the public 14931
office or the person responsible for the public record to comply 14932
with division (B) of this section, the court may award reasonable 14933
attorney's fees subject to reduction as described in division 14934
(C)(2)(c) of this section. The court shall award reasonable 14935
attorney's fees, subject to reduction as described in division 14936
(C)(2)(c) of this section when either of the following applies: 14937

(i) The public office or the person responsible for the 14938
public records failed to respond affirmatively or negatively to 14939
the public records request in accordance with the time allowed 14940
under division (B) of this section. 14941

(ii) The public office or the person responsible for the 14942
public records promised to permit the relator to inspect or 14943
receive copies of the public records requested within a specified 14944
period of time but failed to fulfill that promise within that 14945
specified period of time. 14946

(c) Court costs and reasonable attorney's fees awarded under 14947
this section shall be construed as remedial and not punitive. 14948
Reasonable attorney's fees shall include reasonable fees incurred 14949
to produce proof of the reasonableness and amount of the fees and 14950
to otherwise litigate entitlement to the fees. The court may 14951
reduce an award of attorney's fees to the relator or not award 14952
attorney's fees to the relator if the court determines both of the 14953
following: 14954

(i) That, based on the ordinary application of statutory law 14955
and case law as it existed at the time of the conduct or 14956

threatened conduct of the public office or person responsible for 14957
the requested public records that allegedly constitutes a failure 14958
to comply with an obligation in accordance with division (B) of 14959
this section and that was the basis of the mandamus action, a 14960
well-informed public office or person responsible for the 14961
requested public records reasonably would believe that the conduct 14962
or threatened conduct of the public office or person responsible 14963
for the requested public records did not constitute a failure to 14964
comply with an obligation in accordance with division (B) of this 14965
section; 14966

(ii) That a well-informed public office or person responsible 14967
for the requested public records reasonably would believe that the 14968
conduct or threatened conduct of the public office or person 14969
responsible for the requested public records as described in 14970
division (C)(2)(c)(i) of this section would serve the public 14971
policy that underlies the authority that is asserted as permitting 14972
that conduct or threatened conduct. 14973

(D) Chapter 1347. of the Revised Code does not limit the 14974
provisions of this section. 14975

(E)(1) To ensure that all employees of public offices are 14976
appropriately educated about a public office's obligations under 14977
division (B) of this section, all elected officials or their 14978
appropriate designees shall attend training approved by the 14979
attorney general as provided in section 109.43 of the Revised 14980
Code. In addition, all public offices shall adopt a public records 14981
policy in compliance with this section for responding to public 14982
records requests. In adopting a public records policy under this 14983
division, a public office may obtain guidance from the model 14984
public records policy developed and provided to the public office 14985
by the attorney general under section 109.43 of the Revised Code. 14986
Except as otherwise provided in this section, the policy may not 14987
limit the number of public records that the public office will 14988

make available to a single person, may not limit the number of 14989
public records that it will make available during a fixed period 14990
of time, and may not establish a fixed period of time before it 14991
will respond to a request for inspection or copying of public 14992
records, unless that period is less than eight hours. 14993

(2) The public office shall distribute the public records 14994
policy adopted by the public office under division (E)(1) of this 14995
section to the employee of the public office who is the records 14996
custodian or records manager or otherwise has custody of the 14997
records of that office. The public office shall require that 14998
employee to acknowledge receipt of the copy of the public records 14999
policy. The public office shall create a poster that describes its 15000
public records policy and shall post the poster in a conspicuous 15001
place in the public office and in all locations where the public 15002
office has branch offices. The public office may post its public 15003
records policy on the internet web site of the public office if 15004
the public office maintains an internet web site. A public office 15005
that has established a manual or handbook of its general policies 15006
and procedures for all employees of the public office shall 15007
include the public records policy of the public office in the 15008
manual or handbook. 15009

(F)(1) The bureau of motor vehicles may adopt rules pursuant 15010
to Chapter 119. of the Revised Code to reasonably limit the number 15011
of bulk commercial special extraction requests made by a person 15012
for the same records or for updated records during a calendar 15013
year. The rules may include provisions for charges to be made for 15014
bulk commercial special extraction requests for the actual cost of 15015
the bureau, plus special extraction costs, plus ten per cent. The 15016
bureau may charge for expenses for redacting information, the 15017
release of which is prohibited by law. 15018

(2) As used in division (F)(1) of this section: 15019

(a) "Actual cost" means the cost of depleted supplies, 15020

records storage media costs, actual mailing and alternative 15021
delivery costs, or other transmitting costs, and any direct 15022
equipment operating and maintenance costs, including actual costs 15023
paid to private contractors for copying services. 15024

(b) "Bulk commercial special extraction request" means a 15025
request for copies of a record for information in a format other 15026
than the format already available, or information that cannot be 15027
extracted without examination of all items in a records series, 15028
class of records, or data base by a person who intends to use or 15029
forward the copies for surveys, marketing, solicitation, or resale 15030
for commercial purposes. "Bulk commercial special extraction 15031
request" does not include a request by a person who gives 15032
assurance to the bureau that the person making the request does 15033
not intend to use or forward the requested copies for surveys, 15034
marketing, solicitation, or resale for commercial purposes. 15035

(c) "Commercial" means profit-seeking production, buying, or 15036
selling of any good, service, or other product. 15037

(d) "Special extraction costs" means the cost of the time 15038
spent by the lowest paid employee competent to perform the task, 15039
the actual amount paid to outside private contractors employed by 15040
the bureau, or the actual cost incurred to create computer 15041
programs to make the special extraction. "Special extraction 15042
costs" include any charges paid to a public agency for computer or 15043
records services. 15044

(3) For purposes of divisions (F)(1) and (2) of this section, 15045
"surveys, marketing, solicitation, or resale for commercial 15046
purposes" shall be narrowly construed and does not include 15047
reporting or gathering news, reporting or gathering information to 15048
assist citizen oversight or understanding of the operation or 15049
activities of government, or nonprofit educational research. 15050

Sec. 153.01. ~~Whenever~~ (A) Subject to division (B) of this 15051

section, whenever any building or structure for the use of the 15052
state or any institution supported in whole or in part by the 15053
state or in or upon the public works of the state that is 15054
administered by the director of administrative services or by any 15055
other state officer or state agency authorized by law to 15056
administer a project, including an educational institution listed 15057
in section 3345.50 of the Revised Code, is to be erected or 15058
constructed, whenever additions, alterations, or structural or 15059
other improvements are to be made, or whenever heating, cooling, 15060
or ventilating plants or other equipment is to be installed or 15061
material supplied therefor, the ~~aggregate~~ estimated cost of which 15062
amounts to fifty thousand dollars or more, each officer, board, or 15063
other authority upon which devolves the duty of constructing, 15064
erecting, altering, or installing the same, referred to in 15065
sections 153.01 to 153.60 of the Revised Code as the owner, shall 15066
cause to be made, by an architect or engineer whose contract of 15067
employment shall be prepared and approved by the attorney general, 15068
the following: 15069

~~(A)~~(1) Full and accurate plans, suitable for the use of 15070
mechanics and other builders in the construction, improvement, 15071
addition, alteration, or installation; 15072

~~(B)~~(2) Details to scale and full-sized, so drawn and 15073
represented as to be easily understood; 15074

~~(C)~~(3) Accurate bills showing the exact quantity of different 15075
kinds of material necessary to the construction; 15076

~~(D)~~(4) Definite and complete specifications of the work to be 15077
performed, together with directions that will enable a competent 15078
mechanic or other builder to carry them out and afford bidders all 15079
needful information; 15080

~~(E)~~(5) A full and accurate estimate of each item of expense 15081
and the aggregate cost of those items of expense; 15082

~~(F)~~(6) A life-cycle cost analysis; 15083

~~(G)~~(7) Further data as may be required by the department of 15084
administrative services. 15085

(B) For a state agency, as defined in section 9.33 of the 15086
Revised Code, or a state institution of higher education, as 15087
defined in section 3345.011 of the Revised Code, the estimated 15088
project cost described in division (A) of this section shall be 15089
two hundred thousand dollars or more or the amount determined 15090
pursuant to section 153.53 of the Revised Code or more. 15091

(C) The data described in divisions (A)(1) to (7) of this 15092
section shall not be required with respect to any work to be 15093
performed pursuant to a construction management contract entered 15094
into with a construction manager at risk as described in section 15095
9.334 of the Revised Code or pursuant to a contract for 15096
design-build services entered into with a design-build firm as 15097
described in section 153.693 of the Revised Code. 15098

Sec. 153.012. With respect to the award of any contract for 15099
the construction, reconstruction, improvement, enlargement, 15100
alteration, repair, painting, or decoration of a public 15101
improvement, including any highway improvement, made by the state 15102
or in whole or in part supported by the state and including any 15103
subcontract awarded by a construction manager at risk as defined 15104
in section 9.33 of the Revised Code or by a design-build firm as 15105
defined in section 153.65 of the Revised Code, ~~except for~~ but 15106
excluding a contract for products produced or mined in Ohio or for 15107
a contract financed in whole or in part by contributions or loans 15108
from any agency of the United States government, preference shall 15109
be given to contractors or subcontractors having their ~~principle~~ 15110
principal place of business in Ohio over ~~contractors~~ contractors or 15111
subcontractors having their ~~principle~~ principal place of business 15112
in a state which provides a preference in that state in favor of 15113

contractors or subcontractors of that state for the same type of 15114
work. Where a preference is provided by another state for 15115
contractors or subcontractors of that state, contractors or 15116
subcontractors having their ~~principle~~ principal place of business 15117
in Ohio are to be granted in Ohio the same preference over them in 15118
the same manner and on the same basis and to the same extent as 15119
the preference is granted in letting contracts or subcontracts for 15120
the same type of work by the other state. If one party to a joint 15121
venture is a contractor or subcontractors having its ~~principle~~ 15122
principal place of business in Ohio, the joint venture shall be 15123
considered as having its ~~principle~~ principal place of business in 15124
Ohio. 15125

Sec. 153.02. (A) The director of administrative services, on 15126
the director's own initiative or upon request of the Ohio school 15127
facilities commission, may debar a contractor from contract awards 15128
for public improvements as referred to in section 153.01 of the 15129
Revised Code or for projects as defined in section 3318.01 of the 15130
Revised Code, upon proof that the contractor has done any of the 15131
following: 15132

(1) Defaulted on a contract requiring the execution of a 15133
takeover agreement as set forth in division (B) of section 153.17 15134
of the Revised Code; 15135

(2) Knowingly failed during the course of a contract to 15136
maintain the coverage required by the bureau of workers' 15137
compensation; 15138

(3) Knowingly failed during the course of a contract to 15139
maintain the contractor's drug-free workplace program as required 15140
by the contract; 15141

(4) Knowingly failed during the course of a contract to 15142
maintain insurance required by the contract or otherwise by law, 15143
resulting in a substantial loss to the owner, as owner is referred 15144

to in section 153.01 of the Revised Code, or to the commission and 15145
school district board, as provided in division (F) of section 15146
3318.08 of the Revised Code; 15147

(5) Misrepresented the firm's qualifications in the selection 15148
process set forth in sections 153.65 to 153.71 or section 3318.10 15149
of the Revised Code; 15150

(6) Been convicted of a criminal offense related to the 15151
application for or performance of any public or private contract, 15152
including, but not limited to, embezzlement, theft, forgery, 15153
bribery, falsification or destruction of records, receiving stolen 15154
property, and any other offense that directly reflects on the 15155
contractor's business integrity; 15156

(7) Been convicted of a criminal offense under state or 15157
federal antitrust laws; 15158

(8) Deliberately or willfully submitted false or misleading 15159
information in connection with the application for or performance 15160
of a public contract; 15161

(9) Been debarred from bidding on or participating in a 15162
contract with any state or federal agency. 15163

(B) When the director reasonably believes that grounds for 15164
debarment exist, the director shall send the contractor a notice 15165
of proposed debarment indicating the grounds for the proposed 15166
debarment and the procedure for requesting a hearing on the 15167
proposed debarment. The hearing shall be conducted in accordance 15168
with Chapter 119. of the Revised Code. If the contractor does not 15169
respond with a request for a hearing in the manner specified in 15170
Chapter 119. of the Revised Code, the director shall issue the 15171
debarment decision without a hearing and shall notify the 15172
contractor of the decision by certified mail, return receipt 15173
requested. 15174

(C) The director shall determine the length of the debarment 15175

period and may rescind the debarment at any time upon notification 15176
to the contractor. During the period of debarment, the contractor 15177
is not eligible to bid for or participate in any contract for a 15178
public improvement as referred to in section 153.01 of the Revised 15179
Code or for a project as defined in section 3318.01 of the Revised 15180
Code. After the debarment period expires, the contractor shall be 15181
eligible to bid for and participate in such contracts ~~for a public~~ 15182
~~improvement as referred to in section 153.01 of the Revised Code.~~ 15183

(D) The director, through the office of the state architect, 15184
shall maintain a list of all contractors currently debarred under 15185
this section. Any governmental entity awarding a contract for 15186
construction of a public improvement or project may use a 15187
contractor's presence on the debarment list to determine whether a 15188
contractor is responsible or best under section 9.312 or any other 15189
section of the Revised Code in the award of a contract. 15190

Sec. 153.03. (A) As used in this section: 15191

(1) "Contracting authority" means any state agency or other 15192
state instrumentality that is authorized to award a public 15193
improvement contract. 15194

(2) "Bidder" means a person who submits a bid to a 15195
contracting authority to perform work under a public improvement 15196
contract. 15197

(3) "Contractor" means any person with whom a contracting 15198
authority has entered into a public improvement contract to 15199
provide labor for a public improvement and includes a construction 15200
manager at risk and a design-build firm. 15201

(4) "Subcontractor" means any person who undertakes to 15202
provide any part of the labor on the site of a public improvement 15203
under a contract with any person other than the contracting 15204
authority, including all such persons in any tier. 15205

(5) ~~"Construction manager" means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement~~ has the same meaning as in section 9.33 of the Revised Code.

(6) "Construction manager at risk" has the same meaning as in section 9.33 of the Revised Code.

(7) "Design-build firm" has the same meaning as in section 153.65 of the Revised Code.

(8) "Labor" means any activity performed by a person that contributes to the direct installation of a product, component, or system, or that contributes to the direct removal of a product, component, or system.

~~(7)~~(9) "Public improvement contract" means any contract that is financed in whole or in part with money appropriated by the general assembly, or that is financed in any manner by a contracting authority, and that is awarded by a contracting authority for the construction, alteration, or repair of any public building, public highway, or other public improvement.

~~(8)~~(10) "State agency" means every organized body, office, or agency established by the laws of this state for the exercise of any function of state government.

(B) A contracting authority shall not award a public improvement contract to a bidder, and a construction manager at risk or design-build firm shall not award a subcontract, unless the contract or subcontract contains both of the following:

(1) The statements described in division (E) of this section;

(2) Terms that require the contractor or subcontractor to be enrolled in and be in good standing in the drug-free workplace

program of the bureau of workers' compensation or a comparable 15236
program approved by the bureau that requires an employer to do all 15237
of the following: 15238

(a) Develop, implement, and provide to all employees a 15239
written substance use policy that conveys full and fair disclosure 15240
of the employer's expectations that no employee be at work with 15241
alcohol or drugs in the employee's system, and specifies the 15242
consequences for violating the policy. 15243

(b) Conduct drug and alcohol tests on employees in accordance 15244
with division (B)(2)(c) of this section and under the following 15245
conditions: 15246

(i) Prior to an individual's employment or during an 15247
employee's probationary period for employment, which shall not 15248
exceed one hundred twenty days after the probationary period 15249
begins; 15250

(ii) At random intervals while an employee provides labor or 15251
~~onsite~~ on-site supervision of labor for a public improvement 15252
contract. The employer shall use the neutral selection procedures 15253
required by the United States department of transportation to 15254
determine which employees to test and when to test those 15255
employees. 15256

(iii) After an accident at the site where labor is being 15257
performed pursuant to a public improvement contract. For purposes 15258
of this division, "accident" has the meaning established in rules 15259
the administrator of workers' compensation adopts pursuant to 15260
Chapters 4121. and 4123. of the Revised Code for the bureau's 15261
drug-free workplace program, as those rules exist on ~~the effective~~ 15262
~~date of this section~~ March 30, 2007. 15263

(iv) When the employer ~~or a~~ construction manager, 15264
construction manager at risk, or design-build firm has reasonable 15265
suspicion that prior to an accident an employee may be in 15266

violation of the employer's written substance use policy. For 15267
purposes of this division, "reasonable suspicion" has the meaning 15268
established in rules the administrator adopts pursuant to Chapters 15269
4121. and 4123. of the Revised Code for the bureau's drug-free 15270
workplace program, as those rules exist on ~~the effective date of~~ 15271
~~this section~~ March 30, 2007. 15272

(v) Prior to an employee returning to a work site to provide 15273
labor for a public improvement contract after the employee tested 15274
positive for drugs or alcohol, and again after the employee 15275
returns to that site to provide labor under that contract, as 15276
required by either the employer, ~~the~~ construction manager, 15277
construction manager at risk, design-build firm, or conditions in 15278
the contract. 15279

(c) Use the following types of tests when conducting a test 15280
on an employee under the conditions described in division 15281
(B)(2)(b) of this section: 15282

(i) Drug and alcohol testing that uses the federal testing 15283
model that the administrator has incorporated into the bureau's 15284
drug-free workplace program; 15285

(ii) Testing to determine whether the concentration of 15286
alcohol on an employee's breath is equal to or in excess of the 15287
level specified in division (A)(1)(d) or (h) of section 4511.19 of 15288
the Revised Code, which is obtained through an evidentiary breath 15289
test conducted by a breath alcohol technician using breath testing 15290
equipment that meets standards established by the United States 15291
department of transportation, or, if such technician and equipment 15292
are unavailable, a blood test may be used to determine whether the 15293
concentration of alcohol in an employee's blood is equal to or in 15294
excess of the level specified in division (A)(1)(b) or (f) of 15295
section 4511.19 of the Revised Code. 15296

(d) Require all employees to receive at least one hour of 15297

training that increases awareness of and attempts to deter 15298
substance abuse and supplies information about employee assistance 15299
to deal with substance abuse problems, and require all supervisors 15300
to receive one additional hour of training in skill building to 15301
teach a supervisor how to observe and document employee behavior 15302
and intervene when reasonable suspicion exists of substance use; 15303

(e) Require all supervisors and employees to receive the 15304
training described in division (B)(2)(d) of this section before 15305
work for a public improvement contract commences or during the 15306
term of a public improvement contract; 15307

(f) Require that the training described in division (B)(2)(d) 15308
of this section be provided using material prepared by an 15309
individual who has credentials or experience in substance abuse 15310
training; 15311

(g) Assist employees by providing, at a minimum, a list of 15312
community resources from which an employee may obtain help with 15313
substance abuse problems, except that this requirement does not 15314
preclude an employer from having a policy that allows an employer 15315
to terminate an employee's employment the first time the employee 15316
tests positive for drugs or alcohol or if an employee refuses to 15317
be tested for drugs, alcohol, or both. 15318

(C) Any time the United States department of health and human 15319
services changes the federal testing model that the administrator 15320
has incorporated into the bureau's drug-free workplace program in 15321
a manner that allows additional or new products, protocols, 15322
procedures, and standards in the model, the administrator may 15323
adopt rules establishing standards to allow employers to use those 15324
additional or new products, protocols, procedures, or standards to 15325
satisfy the requirements of division (B)(2)(c) of this section, 15326
and the bureau may approve an employer's drug-free workplace 15327
program that meets the administrator's standards and the other 15328
requirements specified in division (B)(2) of this section. 15329

(D) A contracting authority shall ensure that money 15330
appropriated by the general assembly for the contracting 15331
authority's public improvement contract or, in the case of a state 15332
institution of higher education, the institution's financing for 15333
the public improvement contract, is not expended unless the 15334
contractor for that contract is enrolled in and in good standing 15335
in a drug-free workplace program described in division (B) of this 15336
section. Prior to awarding a contract to a bidder, a contracting 15337
authority shall verify that the bidder is enrolled in and in good 15338
standing in such a program. 15339

(E) A contracting authority shall include all of the 15340
following statements in the public improvement contract entered 15341
into between the contracting authority and a contractor for the 15342
public improvement: 15343

(1) "Each contractor shall require all subcontractors with 15344
whom the contractor is in contract for the public improvement to 15345
be enrolled in and be in good standing in the Bureau of Workers' 15346
Compensation's Drug-Free Workplace Program or a comparable program 15347
approved by the Bureau that meets the requirements specified in 15348
section 153.03 of the Revised Code prior to a subcontractor 15349
providing labor at the project site of the public improvement." 15350

(2) "Each subcontractor shall require all lower-tier 15351
subcontractors with whom the subcontractor is in contract for the 15352
public improvement to be enrolled in and be in good standing in 15353
the Bureau of Workers' Compensation's Drug-Free Workplace Program 15354
or a comparable program approved by the Bureau that meets the 15355
requirements specified in section 153.03 of the Revised Code prior 15356
to a lower-tier subcontractor providing labor at the project site 15357
of the public improvement." 15358

(3) "Failure of a contractor to require a subcontractor to be 15359
enrolled in and be in good standing in the Bureau of Workers' 15360
Compensation's Drug-Free Workplace Program or a comparable program 15361

approved by the Bureau that meets the requirements specified in 15362
section 153.03 of the Revised Code prior to the time that the 15363
subcontractor provides labor at the project site will result in 15364
the contractor being found in breach of the contract and that 15365
breach shall be used in the responsibility analysis of that 15366
contractor or the subcontractor who was not enrolled in a program 15367
for future contracts with the state for five years after the date 15368
of the breach." 15369

(4) "Failure of a subcontractor to require a lower-tier 15370
subcontractor to be enrolled in and be in good standing in the 15371
Bureau of Workers' Compensation's Drug-Free Workplace Program or a 15372
comparable program approved by the Bureau that meets the 15373
requirements specified in section 153.03 of the Revised Code prior 15374
to the time that the lower-tier subcontractor provides labor at 15375
the project site will result in the subcontractor being found in 15376
breach of the contract and that breach shall be used in the 15377
responsibility analysis of that subcontractor or the lower-tier 15378
subcontractor who was not enrolled in a program for future 15379
contracts with the state for five years after the date of the 15380
breach." 15381

(F) In the event a construction manager, construction manager 15382
at risk, or design-build firm intends and is authorized to provide 15383
labor for a public improvement contract, a contracting authority 15384
shall verify, prior to awarding a contract for construction 15385
management services or design-build services, that the 15386
construction manager, construction manager at risk, or 15387
design-build firm was enrolled in and in good standing in a 15388
drug-free workplace program described in division (B) of this 15389
section prior to entering into the public improvement contract. 15390
The contracting authority shall not award a contract for 15391
construction manager services ~~to a construction manager or~~ 15392
design-build services if the construction manager, construction 15393

manager at risk, or design-build firm is not enrolled in or in 15394
good standing in such a program. 15395

Sec. 153.07. The notice provided for in section 153.06 of the 15396
Revised Code shall be published once each week for three 15397
consecutive weeks in a newspaper of general circulation, or as 15398
provided in section 7.16 of the Revised Code, in the county where 15399
the activity for which bids are submitted is to occur and in such 15400
other newspapers as ordered by the department of administrative 15401
services, the last publication to be at least eight days preceding 15402
the day for opening the bids, and in such form and with such 15403
phraseology as the department orders. Copies of the plans, 15404
details, bills of material, estimates of cost, and specifications 15405
shall be open to public inspection at all business hours between 15406
the day of the first publication and the day for opening the bids, 15407
at the office of the department where the bids are received, and 15408
such other place as may be designated in such notice. 15409

Sec. 153.08. On the day and at the place named in the notice 15410
provided for in section 153.06 of the Revised Code, the owner 15411
referred to in section 153.01 of the Revised Code shall open the 15412
bids and shall publicly, with the assistance of the architect or 15413
engineer, immediately proceed to tabulate the bids upon duplicate 15414
sheets. The public bid opening may be broadcast by electronic 15415
means pursuant to rules established by the director of 15416
administrative services. A bid shall be invalid and not considered 15417
unless a bid guaranty meeting the requirements of section 153.54 15418
of the Revised Code and in the form approved by the department of 15419
administrative services is filed with such bid ~~and unless such.~~ 15420
For a bid that is not filed electronically, the bid and bid 15421
guaranty are shall be filed in one sealed envelope. If the bid and 15422
bid guaranty are filed electronically, they must be received 15423
electronically before the deadline published pursuant to section 15424

153.06 of the Revised Code. For all bids filed electronically, the 15425
original, unaltered bid guaranty shall be made available to the 15426
public owner after the public bid opening. After investigation, 15427
which shall be completed within thirty days, the contract shall be 15428
awarded by such owner to the lowest responsive and responsible 15429
bidder in accordance with section 9.312 of the Revised Code. 15430

No contract shall be entered into until the industrial 15431
commission has certified that the person so awarded the contract 15432
has complied with sections 4123.01 to 4123.94 of the Revised Code, 15433
until, if the bidder so awarded the contract is a foreign 15434
corporation, the secretary of state has certified that such 15435
corporation is authorized to do business in this state, until, if 15436
the bidder so awarded the contract is a person nonresident of this 15437
state, such person has filed with the secretary of state a power 15438
of attorney designating the secretary of state as its agent for 15439
the purpose of accepting service of summons in any action brought 15440
under section 153.05 of the Revised Code or under sections 4123.01 15441
to 4123.94 of the Revised Code, and until the contract and bond, 15442
if any, are submitted to the attorney general and the attorney 15443
general's approval certified thereon. 15444

No contract shall be entered into unless the bidder possesses 15445
a valid certificate of compliance with affirmative action programs 15446
issued pursuant to section 9.47 of the Revised Code and dated no 15447
earlier than one hundred eighty days prior to the date fixed for 15448
the opening of bids for a particular project. 15449

Sec. 153.50. (A) ~~An~~ As used in sections 153.50 to 153.52 of 15450
the Revised Code: 15451

(1) "Construction manager at risk" and "state agency" have 15452
the same meanings as in section 9.33 of the Revised Code. 15453

(2) "Design-build firm" has the same meaning as in section 15454
153.65 of the Revised Code. 15455

(3) "State institution of higher education" has the same 15456
meaning as in section 3345.011 of the Revised Code. 15457

(B) Except for contracts made with a construction manager at 15458
risk or with a design-build firm, an officer, board, or other 15459
authority of the state, a county, township, municipal corporation, 15460
or school district, or of any public institution belonging 15461
thereto, authorized to contract for the erection, repair, 15462
alteration, or rebuilding of a public building, institution, 15463
bridge, culvert, or improvement and required by law to advertise 15464
and receive bids for furnishing of materials and doing the work 15465
necessary for the erection thereof, shall require separate and 15466
distinct bids to be made for furnishing such materials or doing 15467
such work, or both, in their discretion, for each of the following 15468
branches or classes of work to be performed, and all work kindred 15469
thereto, entering into the improvement: 15470

(1) Plumbing and gas fitting; 15471

(2) Steam and hot-water heating, ventilating apparatus, and 15472
steam-power plant; 15473

(3) Electrical equipment. 15474

~~(B)~~ A (C)(1) Subject to division (C)(2) of this section, a 15475
public authority is not required to solicit separate bids for a 15476
branch or class of work specified in division ~~(A)~~(B) of this 15477
section for an improvement if the estimated cost for that branch 15478
or class of work is less than five thousand dollars. 15479

(2) A public authority that is a state agency, state 15480
institution of higher education, or county, or that is a school 15481
district using assistance provided under Chapter 3318. of the 15482
Revised Code, is not required to solicit separate bids for a 15483
branch or class of work specified in division (B) of this section 15484
for an improvement if the estimated cost for that branch or class 15485
of work is less than twenty thousand dollars or the amount 15486

determined pursuant to section 153.53 of the Revised Code. 15487

Sec. 153.501. (A) When awarding subcontracts for the 15488
following services, a construction manager at risk and a 15489
design-build firm shall receive separate and distinct bids from 15490
approved bidders and award separate subcontracts, consistent with 15491
section 153.502 of the Revised Code, for each of the following 15492
branches or classes of work to be performed: 15493

(1) Plumbing and gas fitting; 15494

(2) Steam and hot-water heating, ventilating apparatus, and 15495
steam-power plant; 15496

(3) Electrical equipment. 15497

(B) A subcontract pursuant to this section shall be bid based 15498
on complete plans and specifications of the work to be performed, 15499
together with directions to enable a competent mechanic or other 15500
builder to carry out those directions and any other necessary 15501
information. 15502

(C) All subcontracts awarded pursuant to this section shall 15503
be awarded to the lowest responsive approved bidder after a public 15504
bid opening, unless no bid is lower than the estimate in the 15505
guaranteed maximum price for a branch or class of work to be 15506
performed provided by the construction manager at risk or 15507
design-build firm. If no bid is lower than the estimate in the 15508
guaranteed maximum price for a branch or class of work, then the 15509
construction manager at risk or design-build firm may either 15510
revise the scope of work for such branch or class of work and 15511
rebid, or, subject to the terms of the contract for the services 15512
of a construction manager at risk or design-build firm, utilize a 15513
contingency to pay the excess costs without any increase in the 15514
guaranteed maximum price. 15515

(D)(1) A person entering into a subcontract under this 15516

section shall have no contractual remedies against a public authority that enters into the underlying design-build contract with the design-build firm pursuant to section 153.693 of the Revised Code or a public owner that enters into the underlying construction management contract with the construction manager at risk pursuant to section 9.334 of the Revised Code. 15517
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(2) Nothing in division (D)(1) of this section shall be construed as limiting any remedies otherwise available under section 153.56 or 1311.28 of the Revised Code or under the escrow requirements set forth in the subcontract. 15523
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(E) If the construction manager at risk or design-build firm intends and is permitted by the public authority to self-perform a portion of the work described in division (A) of this section, or any other branch or class of work to be performed, then the construction manager at risk or design-build firm shall submit a sealed bid for the portion of the work prior to accepting and opening any bids for the same branch of work. 15527
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(F) If, after a guaranteed maximum price was agreed upon, the construction manager at risk or design-build firm submits a sealed bid pursuant to this section that is no greater than the estimate for that scope of work, and a public bid opening was held pursuant to this section, then, upon verification by the public authority that no bid is lower than the estimate for that scope of work in the guaranteed maximum price, the contract shall be awarded to the construction manager at risk or design-build firm for that portion of the work. The construction manager at risk or design-build firm shall not use contingency funds negotiated in their contracts with the public authority to pay for any work that is actually performed by the construction manager at risk or design-build firm. 15534
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Sec. 153.502. (A) As used in this section and sections 15547

153.503 and 153.505 of the Revised Code, "subcontract" means a 15548
contract for the branches or classes of work described in division 15549
(A) of section 153.501 of the Revised Code that is awarded by any 15550
of the following: 15551

(1) A construction manager at risk pursuant to a contract 15552
under section 9.334 of the Revised Code; 15553

(2) A design-build firm pursuant to a contract under section 15554
153.693 of the Revised Code; 15555

(3) A contractor pursuant to a contract under division (B)(2) 15556
of section 153.52 of the Revised Code. 15557

(B) A subcontract may be awarded only to a bidder on the 15558
subcontract who meets the following requirements: 15559

(1) The bidder has been certified to bid on subcontracts by 15560
the department of administrative services under rules adopted 15561
pursuant to section 153.503 of the Revised Code. 15562

(2) With respect to a subcontract to be awarded by a 15563
construction manager at risk or design-build firm, the bidder has 15564
been approved by a public owner or a public authority under rules 15565
adopted pursuant to section 153.503 of the Revised Code to bid on 15566
the specific subcontract. 15567

(C) A contract for the work described in division (B)(2) of 15568
section 153.52 of the Revised Code may be awarded only to a bidder 15569
on the contract who meets the following requirements: 15570

(1) The bidder has been certified to bid on contracts by the 15571
department of administrative services under rules adopted pursuant 15572
to section 153.503 of the Revised Code. 15573

(2) The bidder has been approved by a public owner or a 15574
public authority under rules adopted pursuant to section 153.503 15575
of the Revised Code to bid on the specific contract. 15576

Sec. 153.503. The department of administrative services, 15577
pursuant to Chapter 119. of the Revised Code and not later than 15578
June 30, 2011, shall adopt rules that do the following: 15579

(A)(1) Establish the following: 15580

(a) A program to certify bidders on contracts for the work 15581
described in division (B)(2) of section 153.52 of the Revised Code 15582
and on subcontracts. The rules shall include criteria and 15583
procedures governing the process of application and certification 15584
under the program. 15585

(b) Criteria and procedures for public owners and public 15586
authorities to follow in approving bidders on contracts for the 15587
work described in division (B)(2) of section 153.52 of the Revised 15588
Code and on subcontracts. The rules shall be consistent with the 15589
factors provided in division (A) of section 9.312 of the Revised 15590
Code and any other applicable laws for determining whether a 15591
bidder is the lowest responsible and responsive bidder. 15592

(2) The rules adopted under division (A)(1) of this section 15593
shall prohibit the certification or approval, and provide for the 15594
decertification and withdrawal of approval, of any bidder against 15595
whom there exists a tax lien or workers' compensation delinquency 15596
and the lien or delinquency is unresolved. 15597

(3) The rules adopted under division (A)(1)(a) of this 15598
section shall require, as a condition to certification of a bidder 15599
on a subcontract the price of which is two million dollars or 15600
more, that the bidder certify both of the following in writing to 15601
the department: 15602

(a) The bidder has made and will continue to make irrevocable 15603
contributions toward health care insurance and pension or 15604
retirement funds, plans, or programs for all skilled trade 15605
personnel to be used on the project pertaining to the subcontract 15606

in the branches or classes of work described in division (A) of 15607
section 153.501 of the Revised Code. 15608

(b) All skilled trade personnel to be used on the project 15609
pertaining to the subcontract in the branches or classes of work 15610
described in division (A) of section 153.501 of the Revised Code 15611
meet at least one of the following requirements: 15612

(i) They have been trained in a state or federally approved 15613
training program. 15614

(ii) They have successfully completed a comparable training 15615
program. 15616

(iii) They have a minimum of three years experience. 15617

(4) Division (A)(3) of this section shall not apply in those 15618
instances where the public owner or public authority determines 15619
that at least two bidders meeting that requirement are not readily 15620
available. 15621

(B) Establish procedures for the review, in an expedited 15622
manner, of any denial of certification or approval to bid on a 15623
contract for the work described in division (B)(2) of section 15624
153.52 of the Revised Code or a subcontract. In adopting rules 15625
governing review of the denial of approval to bid, the department 15626
shall consult with public owners and public authorities. Any 15627
review procedures established pursuant to this section shall 15628
supersede sections 119.06 to 119.13 of the Revised Code. The 15629
review procedures are not required to be consistent with, but 15630
shall be considered equivalent to, adjudicatory proceedings under 15631
those sections. The conclusions of a review shall not be 15632
overturned or altered in any manner by a court order, except on a 15633
finding of fraud or collusion. 15634

(C) Prescribe the form for contracts for the work described 15635
in division (B)(2) of section 153.52 of the Revised Code and 15636
subcontracts. Each form contract and subcontract prescribed by 15637

rule shall provide for the creation and other requirements of an 15638
escrow account for the payment of amounts required to be paid to 15639
subcontractors and sub-subcontractors. 15640

Sec. 153.504. On July 1, 2013, or as soon as possible 15641
thereafter, the director of administrative services shall choose a 15642
person that in the director's judgment would best be able to 15643
perform an independent study of the department's certification 15644
program established pursuant to rules adopted under section 15645
153.503 of the Revised Code and commission that person to perform 15646
the study. On completion of the study, the person shall provide it 15647
to the director, and the director shall promptly submit it to the 15648
governor, the speaker of the house of representatives, and the 15649
president of the senate. 15650

Sec. 153.505. A county may approve a bidder on a contract for 15651
the work described in division (B)(2) of section 153.52 of the 15652
Revised Code or a subcontract who has not been certified to bid on 15653
such a contract or subcontract by the department of administrative 15654
services under rules adopted pursuant to section 153.503 of the 15655
Revised Code, unless the reason the bidder was not certified is 15656
that there exists a tax lien or workers' compensation delinquency 15657
and the lien or delinquency is unresolved or the bidder is not in 15658
compliance with any other law applicable to the award of a public 15659
improvement contract. 15660

Sec. 153.51. (A) When more than one branch or class of work 15661
specified in division ~~(A)~~(B) of section 153.50 of the Revised Code 15662
is required, no contract for the entire job, or for a greater 15663
portion thereof than is embraced in one such branch or class of 15664
work shall be awarded, unless the separate bids do not cover all 15665
the work and materials required or the bids for the whole or for 15666
two or more kinds of work or materials are lower than the separate 15667

bids in the aggregate. 15668

(B)(1) The public authority referred to in section 153.50 of 15669
the Revised Code also may award a single, aggregate contract for 15670
the entire project pursuant to division (A) of this section. This 15671
award shall be made to the bidder who is the lowest responsive and 15672
responsible bidder or the lowest and best bidder, as applicable, 15673
as specified in section 153.52 of the Revised Code. 15674

(2) The public authority referred to in section 153.50 of the 15675
Revised Code may assign all or any portion of its interest in the 15676
contract of the lowest responsive and responsible bidder or the 15677
lowest and best bidder, as applicable, to another successful 15678
bidder as an agreed condition for an award of the contract for the 15679
amount of its respective bid. Such assignment may include, but is 15680
not limited to, the duty to schedule, coordinate, and administer 15681
the contracts. 15682

(C) ~~A~~ (1) Subject to division (C)(2) of this section, a 15683
public authority referred to in ~~division (A) of~~ section 153.50 of 15684
the Revised Code is not required to award separate contracts for a 15685
branch or class of work specified in division ~~(A)~~(B) of section 15686
153.50 of the Revised Code entering into an improvement if the 15687
estimated cost for that branch or class of work is less than five 15688
thousand dollars. 15689

(2) A public authority referred to in section 153.50 of the 15690
Revised Code that is a state agency, state institution of higher 15691
education, or county, or that is a school district using 15692
assistance provided under Chapter 3318. of the Revised Code, is 15693
not required to award separate contracts for a branch or class of 15694
work specified in division (B) of section 153.50 of the Revised 15695
Code entering into an improvement if the estimated cost for that 15696
branch or class of work is less than twenty thousand dollars or 15697
the amount determined pursuant to section 153.53 of the Revised 15698
Code. 15699

Sec. 153.52. (A) The contract for doing the work belonging to 15700
each separate branch or class of work specified in division ~~(A)~~(B) 15701
of section 153.50 of the Revised Code, or for the furnishing of 15702
materials therefor, or both, shall be awarded by the public 15703
authority referred to in section 153.50 of the Revised Code, in 15704
its discretion, to the lowest responsive and responsible separate 15705
bidder therefor, in accordance with section 9.312 of the Revised 15706
Code in the case of any public authority of the state or any 15707
public institution belonging thereto, and to the lowest and best 15708
separate bidder in the case of a county, township, or municipal 15709
corporation, ~~or school district~~, or any public institution 15710
belonging thereto, and to the lowest responsible bidder in the 15711
case of a school district, and shall be made directly with the 15712
bidder in the manner and upon the terms, conditions, and 15713
limitations as to giving bond or bid guaranties as prescribed by 15714
law, unless it is let as a whole, or to bidders for more than one 15715
kind of work or materials. ~~Sections~~ 15716

(B)(1) Except as otherwise provided in division (B)(2) of 15717
this section, sections 153.50 to 153.51 and division (A) of 15718
section 153.52 of the Revised Code ~~do~~ shall not apply to the 15719
erection of buildings and other structures the estimated cost of 15720
which ~~cost~~ amounts to less than fifty thousand dollars. 15721

(2) If the public authority is a state agency, state 15722
institution of higher education, or county, or if it is a school 15723
district using assistance provided under Chapter 3318. of the 15724
Revised Code, sections 153.50 and 153.51 and division (A) of 15725
section 153.52 of the Revised Code shall not apply to the 15726
erection, repair, alteration, or rebuilding of buildings or other 15727
structures the estimated cost of which amounts to six hundred 15728
thousand dollars or less or the amount determined pursuant to 15729
section 153.53 of the Revised Code or less. 15730

Sec. 153.53. (A) As used in this section "rate of inflation" 15731
has the same meaning as in section 107.032 of the Revised Code. 15732

(B) Five years after the effective date of this section and 15733
every five years thereafter, the director of administrative 15734
services shall evaluate the monetary thresholds specified in 15735
division (B) of section 153.01, division (C)(2) of section 153.50, 15736
division (C)(2) of section 153.51, and division (B)(2) of section 15737
153.52 of the Revised Code and adopt rules adjusting the amounts 15738
specified in those sections based on the average rate of inflation 15739
for each amount during each of the previous five years immediately 15740
preceding such adjustment. 15741

Sec. 153.54. (A) ~~Each~~ Except with respect to a contract 15742
described in section 9.334 or 153.693 of the Revised Code, each 15743
person bidding for a contract with the state or any political 15744
subdivision, district, institution, or other agency thereof, 15745
excluding therefrom the department of transportation, for any 15746
public improvement shall file with the bid, a bid guaranty in the 15747
form of either: 15748

(1) A bond in accordance with division (B) of this section 15749
for the full amount of the bid; 15750

(2) A certified check, cashier's check, or letter of credit 15751
pursuant to Chapter 1305. of the Revised Code, in accordance with 15752
division (C) of this section. Any such letter of credit is 15753
revocable only at the option of the beneficiary state, political 15754
subdivision, district, institution, or agency. The amount of the 15755
certified check, cashier's check, or letter of credit shall be 15756
equal to ten per cent of the bid. 15757

(B) A bid guaranty filed pursuant to division (A)(1) of this 15758
section shall be conditioned to: 15759

(1) Provide that, if the bid is accepted, the bidder, after 15760

the awarding or the recommendation for the award of the contract, 15761
whichever the contracting authority designates, will enter into a 15762
proper contract in accordance with the bid, plans, details, 15763
specifications, and bills of material. If for any reason, other 15764
than as authorized by section 9.31 of the Revised Code or division 15765
(G) of this section, the bidder fails to enter into the contract, 15766
and the contracting authority awards the contract to the next 15767
lowest bidder, the bidder and the surety on the bidder's bond are 15768
liable to the state, political subdivision, district, institution, 15769
or agency for the difference between the bid and that of the next 15770
lowest bidder, or for a penal sum not to exceed ten per cent of 15771
the amount of the bond, whichever is less. If the state, political 15772
subdivision, district, institution, or agency does not award the 15773
contract to the next lowest bidder but resubmits the project for 15774
bidding, the bidder failing to enter into the contract and the 15775
surety on the bidder's bond, except as provided in division (G) of 15776
this section, are liable to the state, political subdivision, 15777
district, institution, or agency for a penal sum not to exceed ten 15778
per cent of the amount of the bid or the costs in connection with 15779
the resubmission of printing new contract documents, required 15780
advertising, and printing and mailing notices to prospective 15781
bidders, whichever is less. 15782

(2) Indemnify the state, political subdivision, district, 15783
institution, or agency against all damage suffered by failure to 15784
perform the contract according to its provisions and in accordance 15785
with the plans, details, specifications, and bills of material 15786
therefor and to pay all lawful claims of subcontractors, material 15787
suppliers, and laborers for labor performed or material furnished 15788
in carrying forward, performing, or completing the contract; and 15789
agree and assent that this undertaking is for the benefit of any 15790
subcontractor, material supplier, or laborer having a just claim, 15791
as well as for the state, political subdivision, district, 15792
institution, or agency. 15793

(C)(1) A bid guaranty filed pursuant to division (A)(2) of 15794
this section shall be conditioned to provide that if the bid is 15795
accepted, the bidder, after the awarding or the recommendation for 15796
the award of the contract, whichever the contracting authority 15797
designates, will enter into a proper contract in accordance with 15798
the bid, plans, details, specifications, and bills of material. If 15799
for any reason, other than as authorized by section 9.31 of the 15800
Revised Code or division (G) of this section, the bidder fails to 15801
enter into the contract, and the contracting authority awards the 15802
contract to the next lowest bidder, the bidder is liable to the 15803
state, political subdivision, district, institution, or agency for 15804
the difference between the bidder's bid and that of the next 15805
lowest bidder, or for a penal sum not to exceed ten per cent of 15806
the amount of the bid, whichever is less. If the state, political 15807
subdivision, district, institution, or agency does not award the 15808
contract to the next lowest bidder but resubmits the project for 15809
bidding, the bidder failing to enter into the contract, except as 15810
provided in division (G) of this section, is liable to the state, 15811
political subdivision, district, institution, or agency for a 15812
penal sum not to exceed ten per cent of the amount of the bid or 15813
the costs in connection with the resubmission, of printing new 15814
contract documents, required advertising, and printing and mailing 15815
notices to prospective bidders, whichever is less. 15816

If the bidder enters into the contract, the bidder, at the 15817
time the contract is entered to, shall file a bond for the amount 15818
of the contract to indemnify the state, political subdivision, 15819
district, institution, or agency against all damage suffered by 15820
failure to perform the contract according to its provisions and in 15821
accordance with the plans, details, specifications, and bills of 15822
material therefor and to pay all lawful claims of subcontractors, 15823
material suppliers, and laborers for labor performed or material 15824
furnished in carrying forward, performing, or completing the 15825
contract; and agree and assent that this undertaking is for the 15826

benefit of any subcontractor, material supplier, or laborer having 15827
a just claim, as well as for the state, political subdivision, 15828
district, institution, or agency. 15829

(2) A construction manager who enters into a contract 15830
pursuant to sections 9.33 to 9.333 of the Revised Code, if 15831
required by the public owner at the time the construction manager 15832
enters into the contract, shall file a letter of credit pursuant 15833
to Chapter 1305. of the Revised Code, bond, certified check, or 15834
cashier's check, for the value of the construction management 15835
contract to indemnify the state, political subdivision, district, 15836
institution, or agency against all damage suffered by the 15837
construction manager's failure to perform the contract according 15838
to its provisions, and shall agree and assent that this 15839
undertaking is for the benefit of the state, political 15840
subdivision, district, institution, or agency. A letter of credit 15841
provided by the construction manager is revocable only at the 15842
option of the beneficiary state, political subdivision, district, 15843
institution, or agency. 15844

(D) Where the state, political subdivision, district, 15845
institution, or agency accepts a bid but the bidder fails or 15846
refuses to enter into a proper contract in accordance with the 15847
bid, plans, details, specifications, and bills of material within 15848
ten days after the awarding of the contract, the bidder and the 15849
surety on any bond, except as provided in division (G) of this 15850
section, are liable for the amount of the difference between the 15851
bidder's bid and that of the next lowest bidder, but not in excess 15852
of the liability specified in division (B)(1) or (C) of this 15853
section. Where the state, political subdivision, district, 15854
institution, or agency then awards the bid to such next lowest 15855
bidder and such next lowest bidder also fails or refuses to enter 15856
into a proper contract in accordance with the bid, plans, details, 15857
specifications, and bills of material within ten days after the 15858

awarding of the contract, the liability of such next lowest bidder, except as provided in division (G) of this section, is the amount of the difference between the bids of such next lowest bidder and the third lowest bidder, but not in excess of the liability specified in division (B)(1) or (C) of this section. Liability on account of an award to any lowest bidder beyond the third lowest bidder shall be determined in like manner.

(E) Notwithstanding division (C) of this section, where the state, political subdivision, district, institution, or agency resubmits the project for bidding, each bidder whose bid was accepted but who failed or refused to enter into a proper contract, except as provided in division (G) of this section, is liable for an equal share of a penal sum in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, but no bidder's liability shall exceed the amount of the bidder's bid guaranty.

(F) All bid guaranties filed pursuant to this section shall be payable to the state, political subdivision, district, institution, or agency, be for the benefit of the state, political subdivision, district, institution, or agency or any person having a right of action thereon, and be deposited with, and held by, the board, officer, or agent contracting on behalf of the state, political subdivision, district, institution, or agency. All bonds filed pursuant to this section shall be issued by a surety company authorized to do business in this state as surety approved by the board, officer, or agent awarding the contract on behalf of the state, political subdivision, district, institution, or agency.

(G) A bidder for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the Ohio department of transportation, for a public improvement costing less than one-half million dollars may

withdraw the bid from consideration if the bidder's bid for some 15891
other contract with the state or any political subdivision, 15892
district, institution, or other agency thereof, excluding 15893
therefrom the department of transportation, for the public 15894
improvement costing less than one-half million dollars has already 15895
been accepted, if the bidder certifies in good faith that the 15896
total amount of all the bidder's current contracts is less than 15897
one-half million dollars, and if the surety certifies in good 15898
faith that the bidder is unable to perform the subsequent contract 15899
because to do so would exceed the bidder's bonding capacity. If a 15900
bid is withdrawn under authority of this division, the contracting 15901
authority may award the contract to the next lowest bidder or 15902
reject all bids and resubmit the project for bidding, and neither 15903
the bidder nor the surety on the bidder's bond are liable for the 15904
difference between the bidder's bid and that of the next lowest 15905
bidder, for a penal sum, or for the costs of printing new contract 15906
documents, required advertising, and printing and mailing notices 15907
to prospective bidders. 15908

(H) Bid guaranties filed pursuant to division (A) of this 15909
section shall be returned to all unsuccessful bidders immediately 15910
after the contract is executed. The bid guaranty filed pursuant to 15911
division (A)(2) of this section shall be returned to the 15912
successful bidder upon filing of the bond required in division (C) 15913
of this section. 15914

(I) For the purposes of this section, "next lowest bidder" 15915
means, in the case of a political subdivision that has adopted the 15916
model Ohio and United States preference requirements promulgated 15917
pursuant to division (E) of section 125.11 of the Revised Code, 15918
the next lowest bidder that qualifies under those preference 15919
requirements. 15920

(J) For the purposes of this section and sections 153.56, 15921
153.57, and 153.571 of the Revised Code, "public improvement," 15922

"subcontractor," "material supplier," "laborer," and "materials" 15923
have the same meanings as in section 1311.25 of the Revised Code. 15924

Sec. 153.55. (A) As used in this section, "public improvement 15925
project" means any construction, reconstruction, improvement, 15926
enlargement, alteration, demolition, engineering, or repair of a 15927
building, highway, drainage system, water system, road, street, 15928
alley, sewer, ditch, sewage disposal plant, water works, bridge, 15929
culvert, or any other structure or work of any nature by a public 15930
authority or public owner. 15931

(B) For purposes of calculating the amount of a project to 15932
determine whether it is subject to sections 153.01, 153.50, 15933
153.51, and 153.52 of the Revised Code, no officer, board, or 15934
other authority of the state, a county, township, municipal 15935
corporation, school district, or other political subdivision, or 15936
any public institution belonging thereto, shall subdivide a public 15937
improvement project into component parts or separate projects in 15938
order to avoid the thresholds of those sections, unless the 15939
component parts or separate projects thus created are conceptually 15940
separate and unrelated to each other, or encompass independent or 15941
unrelated needs. 15942

(C) In calculating the project amounts for purposes of the 15943
thresholds in sections 153.01, 153.50, 153.51, and 153.52 of the 15944
Revised Code, the following expenses shall be included as costs of 15945
the project: 15946

(1) Professional fees and expenses for services associated 15947
with the preparation of plans; 15948

(2) Permit costs, testing costs, and other fees associated 15949
with the work; 15950

(3) Project construction costs; 15951

(4) A contingency reserve fund. 15952

Sec. 153.56. (A) Any person to whom any money is due for 15953
labor or work performed or materials furnished in a public 15954
improvement as provided in section 153.54 of the Revised Code, at 15955
any time after performing the labor or work or furnishing the 15956
materials, but not later than ninety days after the completion of 15957
the contract by the principal contractor or design-build firm and 15958
the acceptance of the public improvement for which the bond was 15959
provided by the duly authorized board or officer, shall furnish 15960
the sureties on the bond, a statement of the amount due to the 15961
person. 15962

(B) A suit shall not be brought against sureties on the bond 15963
until after sixty days after the furnishing of the statement 15964
described in division (A) of this section. If the indebtedness is 15965
not paid in full at the expiration of that sixty days, and if the 15966
person complies with division (C) of this section, the person may 15967
bring an action in the person's own name upon the bond, as 15968
provided in sections 2307.06 and 2307.07 of the Revised Code, that 15969
action to be commenced, notwithstanding section 2305.12 of the 15970
Revised Code, not later than one year from the date of acceptance 15971
of the public improvement for which the bond was provided. 15972

(C) To exercise rights under this section, a subcontractor or 15973
materials supplier supplying labor or materials that cost more 15974
than thirty thousand dollars, who is not in direct privity of 15975
contract with the principal contractor or design-build firm for 15976
the public improvement, shall serve a notice of furnishing upon 15977
the principal contractor or design-build firm in the form provided 15978
in section 1311.261 of the Revised Code. 15979

(D) A subcontractor or materials supplier who serves a notice 15980
of furnishing under division (C) of this section as required to 15981
exercise rights under this section has the right of recovery only 15982
as to amounts owed for labor and work performed and materials 15983

furnished during and after the twenty-one days immediately 15984
preceding service of the notice of furnishing. 15985

(E) For purposes of this section, ~~"principal:~~ 15986

(1) "Design-build firm" has the same meaning as in section 15987
153.65 of the Revised Code. 15988

(2) "Principal contractor" has the same meaning as in section 15989
1311.25 of the Revised Code, and may include a "construction 15990
manager" and a "construction manager at risk" as defined in 15991
section 9.33 of the Revised Code. 15992

Sec. 153.581. As used in sections 153.581 and 153.591 of the 15993
Revised Code: 15994

(A) "Public works contract" means any contract awarded by a 15995
contracting authority for the construction, engineering, 15996
alteration, or repair of any public building, public highway, or 15997
other public work. 15998

(B) "Contracting authority" means the state, any township, 15999
county, municipal corporation, school board, or other governmental 16000
entity empowered to award a public works contract, and any 16001
construction manager at risk as defined in section 9.33 of the 16002
Revised Code or design-build firm as defined in section 153.65 of 16003
the Revised Code awarding a subcontract. 16004

(C) "Contractor" means any person, partnership, corporation, 16005
or association that has been awarded a public works contract. 16006

Sec. 153.65. As used in sections 153.65 to ~~153.71~~ 153.73 of 16007
the Revised Code: 16008

(A) ~~"Public~~ (1) Except as otherwise provided in division 16009
(A)(2) of this section, "public authority" means the state, a 16010
county, township, municipal corporation, school district, or other 16011
political subdivision, or any public agency, authority, board, 16012

commission, instrumentality, or special district of the state or a 16013
county, township, municipal corporation, school district, or other 16014
political subdivision. 16015

(2) In the context of a contract for design-build services, 16016
"public authority" means a state agency, state institution of 16017
higher education, or county. 16018

(B) "Professional design firm" means any person legally 16019
engaged in rendering professional design services. 16020

(C) "Professional design services" means services within the 16021
scope of practice of an architect or landscape architect 16022
registered under Chapter 4703. of the Revised Code or a 16023
professional engineer or surveyor registered under Chapter 4733. 16024
of the Revised Code. 16025

(D) "Qualifications" means all of the following: 16026

(1) ~~Competence of the~~ (a) For a professional design firm, 16027
competence to perform the required professional design services as 16028
indicated by the technical training, education, and experience of 16029
the firm's personnel, especially the technical training, 16030
education, and experience of the employees within the firm who 16031
would be assigned to perform the services; 16032

(b) For a design-build firm, competence to perform the 16033
required design-build services as indicated by the technical 16034
training, education, and experience of the design-build firm's 16035
personnel and key consultants, especially the technical training, 16036
education, and experience of the employees and consultants of the 16037
design-build firm who would be assigned to perform the services, 16038
including the proposed architect of record. 16039

(2) Ability of the firm in terms of its workload and the 16040
availability of qualified personnel, equipment, and facilities to 16041
perform the required professional design services or design-build 16042
services competently and expeditiously; 16043

(3) Past performance of the firm as reflected by the 16044
evaluations of previous clients with respect to such factors as 16045
control of costs, quality of work, and meeting of deadlines; 16046

(4) Any other relevant factors as determined by the public 16047
authority; 16048

(5) With respect to a design-build firm, compliance with 16049
sections 4703.182, 4703.332, and 4733.16 of the Revised Code, 16050
including the use of a licensed professional for all design 16051
services. 16052

(E) "Design-build firm" means a person capable of providing 16053
design-build services. 16054

(F) "Design-build services" means services that form an 16055
integrated delivery system for which a person is responsible to a 16056
public authority for both the design and construction, demolition, 16057
alteration, repair, or reconstruction of a public improvement. 16058

(G) "Architect of record" means the architect that serves as 16059
the final signatory on the plans and specifications for the 16060
design-build project. 16061

(H) "Criteria architect or engineer" means the architect or 16062
engineer retained by a public authority to prepare conceptual 16063
plans and specifications, to assist the public authority in 16064
connection with the establishment of the design criteria for a 16065
design-build project, and, if requested by the public authority, 16066
to serve as the representative of the public authority and 16067
provide, during the design-build project, other design and 16068
construction administration services on behalf of the public 16069
authority, including but not limited to, confirming that the 16070
design prepared by the design-build firm reflects the original 16071
design intent established in the design criteria package. 16072

(I) "Open book pricing method" means a method in which a 16073
design-build firm provides the public authority, at the public 16074

authority's request, all books, records, documents, and other data 16075
in its possession pertaining to the bidding, pricing, or 16076
performance of a contract for design-build services awarded to the 16077
design-build firm. 16078

(J) "State agency" means every organized body, office, or 16079
agency established by the laws of the state for the exercise of 16080
any function of state government, except the Ohio turnpike 16081
commission and any special purpose district of the state. 16082

(K) "State institution of higher education" has the same 16083
meaning as in section 3345.011 of the Revised Code. 16084

Sec. 153.66. (A) Each public authority planning to contract 16085
for professional design services or design-build services shall 16086
encourage professional design firms and design-build firms to 16087
submit a statement of qualifications and update the statements at 16088
regular intervals. 16089

(B) Notwithstanding any contrary requirements in sections 16090
153.65 to 153.70 of the Revised Code, for every design-build 16091
contract, each public authority planning to contract for 16092
design-build services shall evaluate the statements of 16093
qualifications submitted by design-build firms for the project, 16094
including the qualifications of the design-build firm's proposed 16095
architect of record, in consultation with the criteria architect 16096
or engineer before selecting a design-build firm pursuant to 16097
section 153.693 of the Revised Code. 16098

Sec. 153.67. Each public authority planning to contract for 16099
professional design services or design-build services shall 16100
publicly announce all contracts available from it for such 16101
services. The announcements shall: 16102

(A) Be made in a uniform and consistent manner and shall be 16103
made sufficiently in advance of the time that responses must be 16104

received from qualified professional design firms or design-build firms for the firms to have an adequate opportunity to submit a statement of interest in the project;

(B) Include a general description of the project, a statement of the specific professional design services or design-build services required, and a description of the qualifications required for the project;

(C) Indicate how qualified professional design firms or design-build firms may submit statements of qualifications in order to be considered for a contract to design or design-build the project;

(D) Be sent to ~~either of~~ the following:

(1) ~~Each professional design firm that has a current statement of qualifications on file with the public authority and is qualified to perform the required professional design services~~ Design-build firms, including contractors or other entities that seek to perform the work as a design-build firm;

(2) Architect, landscape architect, engineer, and surveyor ~~trade~~ associations, the news media, and any publications or other public media that the public authority considers appropriate.

Sec. 153.69. For every professional design services contract, each public authority planning to contract for professional design services shall evaluate the statements of qualifications ~~of professional design firms currently on file, together with those that are~~ submitted by ~~other~~ professional design firms specifically regarding the project, and may hold discussions with individual firms to explore further the firms' statements of qualifications, the scope and nature of the services the firms would provide, and the various technical approaches the firms may take toward the project. Following this evaluation, the public authority shall:

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(A) Select and rank no fewer than three firms which it
considers to be the most qualified to provide the required
professional design services, except when the public authority
determines in writing that fewer than three qualified firms are
available in which case the public authority shall select and rank
those firms;

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(B) Negotiate a contract with the firm ranked most qualified
to perform the required services at a compensation determined in
writing to be fair and reasonable to the public authority.
Contract negotiations shall be directed toward:

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(1) Ensuring that the professional design firm and the agency
have a mutual understanding of the essential requirements involved
in providing the required services;

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(2) Determining that the firm will make available the
necessary personnel, equipment, and facilities to perform the
services within the required time;

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(3) Agreeing upon compensation which is fair and reasonable,
taking into account the estimated value, scope, complexity, and
nature of the services.

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(C) If a contract is negotiated with the firm ranked to
perform the required services most qualified, the public authority
shall, if applicable under section 127.16 of the Revised Code,
request approval of the board to make expenditures under the
contract.

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(D) Upon failure to negotiate a contract with the firm ranked
most qualified, the public authority shall inform the firm in
writing of the termination of negotiations and enter into
negotiations with the firm ranked next most qualified. If
negotiations again fail, the same procedure shall be followed with
each next most qualified firm selected and ranked pursuant to

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division (A) of this section, in order of ranking, until a contract is negotiated.

(E) Should the public authority fail to negotiate a contract with any of the firms selected pursuant to division (A) of this section, the public authority shall select and rank additional firms, based on their qualifications, and negotiations shall continue as with the firms selected and ranked initially until a contract is negotiated.

Sec. 153.692. For every design-build contract, the public authority planning to contract for design-build services shall first obtain the services of a criteria architect or engineer by doing either of the following:

(A) Contracting for the services consistent with sections 153.65 to 153.70 of the Revised Code;

(B) Obtaining the services through an architect or engineer who is an employee of the public authority and notifying the department of administrative services before the services are performed.

Sec. 153.693. (A) For every design-build contract, the public authority planning to contract for design-build services, in consultation with the criteria architect or engineer, shall evaluate the statements of qualifications submitted by design-build firms specifically regarding the project, including the design-build firm's proposed architect of record. Following this evaluation, the public authority shall:

(1) Select and rank not fewer than three firms which it considers to be the most qualified to provide the required design-build services, except that the public authority shall select and rank fewer than three firms when the public authority determines in writing that fewer than three qualified firms are

<u>available;</u>	16196
<u>(2) Provide each selected design-build firm with all of the</u>	16197
<u>following:</u>	16198
<u>(a) A description of the project and project delivery;</u>	16199
<u>(b) The design criteria produced by the criteria architect or</u>	16200
<u>engineer under section 153.692 of the Revised Code;</u>	16201
<u>(c) A preliminary project schedule;</u>	16202
<u>(d) A description of any preconstruction services;</u>	16203
<u>(e) A description of the proposed design services;</u>	16204
<u>(f) A description of a guaranteed maximum price, including</u>	16205
<u>the estimated level of design on which such guaranteed maximum</u>	16206
<u>price is based;</u>	16207
<u>(g) The form of the design-build services contract;</u>	16208
<u>(h) A request for a fee proposal that shall be divided into a</u>	16209
<u>design services fee and a preconstruction and design-build</u>	16210
<u>services fee;</u>	16211
<u>(i) A request for a pricing proposal that shall include at</u>	16212
<u>least all of the following:</u>	16213
<u>(i) A list of key personnel and consultants for the project</u>	16214
<u>and the design-build firm's staffing chart;</u>	16215
<u>(ii) Design concepts adhering to the design criteria produced</u>	16216
<u>by the criteria architect or engineer under section 153.692 of the</u>	16217
<u>Revised Code;</u>	16218
<u>(iii) The design-build firm's statement of general conditions</u>	16219
<u>and estimated contingency requirements;</u>	16220
<u>(iv) A preliminary project schedule;</u>	16221
<u>(v) The design-build firm's fee proposal requested under</u>	16222
<u>division (A)(2)(h) of this section.</u>	16223

(3) Evaluate the pricing proposal submitted by each selected firm and may hold discussions with each firm to further investigate its pricing proposal, including the scope and nature of the firm's proposed services and potential technical approaches; 16224
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(4) Rank the selected firms based on the public authority's evaluation of the value of each firm's pricing proposal, with such evaluation considering each firm's proposed costs and qualifications; 16229
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(5) Enter into contract negotiations for design-build services with the design-build firm whose pricing proposal the public authority determines to be the best value under this section. Contract negotiations shall be directed toward: 16233
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(a) Ensuring that the design-build firm and the public authority mutually understand the essential requirements involved in providing the required design-build services, including the awarding of subcontracts under section 153.501 of the Revised Code, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project; 16237
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(b) Ensuring that the design-build firm shall be able to provide the necessary personnel, equipment, and facilities to perform the design-build services within the time required by the design-build construction contract; 16244
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(c) Agreeing upon a procedure and schedule for determining a guaranteed maximum price using an open book pricing method that shall represent the total maximum amount to be paid by the public authority to the design-build firm for the project and that shall include the costs of all work, the cost of its general conditions, the contingency, and the fee payable to the design-build firm. 16248
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(B) If the public authority fails to negotiate a contract 16254

with the design-build firm whose pricing proposal the public 16255
authority determines to be the best value as determined under this 16256
section, the public authority shall do the following: 16257

(1) Inform the design-build firm in writing of the 16258
termination of negotiations; 16259

(2) Negotiate a contract with a design-build firm ranked next 16260
highest under this section following the negotiation procedure 16261
described in this section; 16262

(3) If negotiations fail with the design-build firm under 16263
division (B)(2) of this section, negotiate a contract with the 16264
design-build firm ranked next highest under this section following 16265
the negotiation procedure described in this section and continue 16266
negotiating with the design-build firms selected under this 16267
section in the order of their ranking until a contract is 16268
negotiated. 16269

(C) If the public authority fails to negotiate a contract 16270
with a design-build firm whose pricing proposal the public 16271
authority determines to be the best value as determined under this 16272
section, it may select additional design-build firms to provide 16273
pricing proposals to the public authority pursuant to this section 16274
or may select an alternative delivery method for the project. 16275

(D) The public authority may provide a stipend for pricing 16276
proposals received from design-build firms. 16277

Sec. 153.694. If a professional design firm selected as the 16278
criteria architect or engineer creates the preliminary criteria 16279
and design criteria for a project and provides professional design 16280
services to a public authority to assist that public authority in 16281
evaluating the design-build requirements provided to the public 16282
authority by a design-build firm pursuant to section 153.692 of 16283
the Revised Code, that professional design firm shall not provide 16284

any design-build services pursuant to a design-build construction 16285
contract under section 153.693 of the Revised Code. 16286

Sec. 153.70. (A) Except for any person providing professional 16287
design services of a research or training nature, any person 16288
rendering professional design services to a public authority or to 16289
a design-build firm, including a criteria architect or engineer 16290
and person performing architect of record services, shall have and 16291
maintain, or be covered by, during the period the services are 16292
rendered, a professional liability insurance policy or policies 16293
with a company or companies that are authorized to do business in 16294
this state and that afford professional liability coverage for the 16295
professional design services rendered. The insurance shall be in 16296
amount considered sufficient by the public authority. At the 16297
public authority's discretion, the design-build firm shall carry 16298
contractor's professional liability insurance and any other 16299
insurance the public authority deems appropriate. 16300
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(B) The requirement for professional liability insurance set 16302
forth in division (A) of this section may be waived by the public 16303
authority for good cause, or the public authority may allow the 16304
person providing the professional design services to provide other 16305
assurances of financial responsibility. 16306

(C) Before construction begins pursuant to a contract for 16307
design-build services with a design-build firm, the design-build 16308
firm shall provide a surety bond to the public authority in 16309
accordance with rules adopted by the director of administrative 16310
services under Chapter 119. of the Revised Code. 16311

Sec. 153.71. Any public authority planning to contract for 16312
professional design services or design-build services may adopt, 16313
amend, or rescind rules, in accordance with Chapter 119. of the 16314

Revised Code, to implement sections 153.66 to 153.70 of the Revised Code. Sections 153.66 to 153.70 do not apply to any of the following:

(A) Any project with an estimated professional design fee of less than twenty-five thousand dollars;

(B) Any project determined in writing by the public authority head to be an emergency requiring immediate action including, but not limited to, any projects requiring multiple contracts let as part of a program requiring a large number of professional design firms of the same type;

(C) Any public authority that is not empowered by law to contract for professional design services.

Sec. 153.72. A design-build firm contracted for design-build services by a public authority may do any of the following:

(A) Perform design, construction, demolition, alteration, repair, or reconstruction work pursuant to such contract;

(B) Approve bidders and award subcontracts pursuant to section 153.501 of the Revised Code;

(C) Perform professional design services when contracted by a public authority for design-build services even if the design-build firm is not a professional design firm.

Sec. 153.73. The requirements set forth in sections 153.65 to 153.72 of the Revised Code for the bidding, selection, and award of a contract for professional design services or design-build services by a public authority prevail in the event of any conflict with any other provision of this chapter.

Sec. 153.80. (A) A contract for the construction, demolition, alteration, repair, or reconstruction of a public improvement

entered into on or after ~~the effective date of this section~~ April 16343
16, 1993, shall be deemed to include the provisions contained in 16344
division (B) of this section. 16345

(B)(1) In regard to any bond filed by the contractor for the 16346
work contracted, the contracting authority, in its sole 16347
discretion, may reduce the bond required by twenty-five per cent 16348
of the total amount of the bond after at least fifty per cent of 16349
the work contracted for has been completed and by fifty per cent 16350
after at least seventy-five per cent of the work contracted for 16351
has been completed provided that all of the following conditions 16352
are met: 16353

(a) The contracting authority determines that the percentage 16354
of the work that has been completed at the time of determination 16355
has been satisfactorily performed and meets the terms of the 16356
contract, including a provision in regard to the time when the 16357
whole or any specified portion of work contemplated in the 16358
contract must be completed; 16359

(b) The contracting authority determines that no disputed 16360
claim caused by the contractor exists or remains unresolved; 16361

(c) The successful bid upon which the contract is based was 16362
not more than ten per cent below the next lowest bid or not more 16363
than ten per cent below a cost estimate for the work as published 16364
by the contracting authority. 16365

(2) In regard to the amount of any funds retained, the 16366
contracting authority, in its sole discretion, may reduce the 16367
amount of funds retained pursuant to ~~section~~ sections 153.12 and 16368
153.14 of the Revised Code for the faithful performance of work by 16369
fifty per cent of the amount of funds required to be retained 16370
pursuant to those sections, provided that the surety on the bond 16371
remains liable for all of the following that are caused due to 16372
default by the contractor: 16373

(a) Completion of the job;	16374
(b) All delay claims;	16375
(c) All liquidated damages;	16376
(d) All additional expenses incurred by the contracting authority.	16377 16378
(C) As used in this section:	16379
(1) "Contracting authority" means an officer, board, or other authority of the state, a county, township, municipal corporation, or school district, or of any other political subdivision of the state, authorized to contract for the construction, demolition, alteration, repair, or reconstruction of a public improvement, <u>and</u> <u>any construction manager at risk as defined in section 9.33 of the</u> <u>Revised Code or design-build firm as defined in section 153.65 of</u> <u>the Revised Code awarding a subcontract</u> , but does not include an officer, board, or other authority of the department of transportation.	16380 16381 16382 16383 16384 16385 16386 16387 16388 16389
(2) "Delay claim" means a claim that arises due to default on provisions in a contract in regard to the time when the whole or any specified portion of work contemplated in the contract must be completed.	16390 16391 16392 16393
Sec. 154.02. (A) Pursuant to the provisions of Chapter 154. of the Revised Code, the issuing authority may issue obligations as from time to time authorized by or pursuant to act or resolution of the general assembly, consistent with such limitations thereon, subject to section 154.12 of the Revised Code, as the general assembly may thereby prescribe as to principal amount, bond service charges, or otherwise, and shall cause the proceeds thereof to be applied to those capital facilities designated by or pursuant to act of the general assembly for any of the following:	16394 16395 16396 16397 16398 16399 16400 16401 16402 16403

(1) Mental hygiene and retardation, including housing for	16404
mental hygiene and retardation patients under Section 16 of	16405
Article VIII, Ohio Constitution;	16406
(2) State supported and assisted institutions of higher	16407
education, including <u>community or technical education colleges</u> ;	16408
(3) Parks and recreation;	16409
(4) Ohio cultural facilities;	16410
(5) Ohio sports facilities;	16411
<u>(6) Housing of branches and agencies of state government.</u>	16412
(B) The authority provided by Chapter 154. of the Revised	16413
Code is in addition to any other authority provided by law for the	16414
same or similar purposes, except as may otherwise specifically be	16415
provided in Chapter 154. of the Revised Code. In case any section	16416
or provision of Chapter 154. of the Revised Code or in case any	16417
covenant, stipulation, obligation, resolution, trust agreement,	16418
indenture, lease agreement, act, or action, or part thereof, made,	16419
assumed, entered into, or taken under Chapter 154. of the Revised	16420
Code, or any application thereof, is for any reason held to be	16421
illegal or invalid, such illegality or invalidity shall not affect	16422
the remainder thereof or any other section or provision of Chapter	16423
154. of the Revised Code or any other covenant, stipulation,	16424
obligation, resolution, trust agreement, indenture, lease,	16425
agreement, act, or action, or part thereof, made, assumed, entered	16426
into, or taken under such chapter, which shall be construed and	16427
enforced as if such illegal or invalid portion were not contained	16428
therein, nor shall such illegality or invalidity or any	16429
application thereof affect any legal and valid application	16430
thereof, and each such section, provision, covenant, stipulation,	16431
obligation, resolution, trust agreement, indenture, lease,	16432
agreement, act, or action, or part thereof, shall be deemed to be	16433
effective, operative, made, entered into or taken in the manner	16434

and to the full extent permitted by law. 16435

Sec. 154.07. For the respective purposes provided in sections 16436
154.20, 154.21, 154.22, ~~and~~ 154.23, 154.24, and 154.25 of the 16437
Revised Code, the issuing authority may issue obligations of the 16438
state of Ohio as provided in Chapter 154. of the Revised Code, 16439
provided that the holders or owners of obligations shall have no 16440
right to have excises or taxes levied by the general assembly for 16441
the payment of the bond service charges. The right of holders and 16442
owners to payment of bond service charges shall be limited to the 16443
revenues or receipts and funds pledged thereto in accordance with 16444
Chapter 154. of the Revised Code, and each obligation shall bear 16445
on its face a statement to that effect. Chapter 154. of the 16446
Revised Code does not permit, and no provision of that chapter 16447
shall be applied to authorize or grant, a pledge of charges for 16448
the treatment or care of mental hygiene and retardation patients 16449
to bond service charges on obligations other than those issued for 16450
capital facilities for mental hygiene and retardation, or a pledge 16451
of any receipts of or on behalf of state supported or state 16452
assisted institutions of higher education to bond service charges 16453
on obligations other than those issued for capital facilities for 16454
state supported or state assisted institutions of higher 16455
education, or a pledge of receipts with respect to parks and 16456
recreation to bond service charges on obligations other than those 16457
issued for capital facilities for parks and recreation, or a 16458
pledge of revenues or receipts received by or on behalf of any 16459
state agency to bond service charges on obligations other than 16460
those issued for capital facilities which are in whole or in part 16461
useful to, constructed by, or financed by the state agency that 16462
receives the revenues or receipts so pledged. 16463

Sec. 154.11. The issuing authority may authorize and issue 16464
obligations for the refunding, including funding and retirement, 16465

of any obligations previously issued under this chapter and any 16466
bonds or notes previously issued under Chapter 152. of the Revised 16467
Code ~~to pay costs of capital facilities leased to the Ohio~~ 16468
~~cultural facilities commission, formerly known as the Ohio arts~~ 16469
~~and sports facilities commission.~~ Such obligations may be issued 16470
in amounts sufficient for payment of the principal amount of the 16471
prior obligations, any redemption premiums thereon, principal 16472
maturities of any such obligations maturing prior to the 16473
redemption of the remaining obligations on a parity therewith, 16474
interest accrued or to accrue to the maturity dates or dates of 16475
redemption of such obligations, and any expenses incurred or to be 16476
incurred in connection with such issuance and such refunding, 16477
funding, and retirement. Subject to the bond proceedings therefor, 16478
the portion of proceeds of the sale of obligations issued under 16479
this section to be applied to bond service charges on the prior 16480
obligations shall be credited to the bond service fund for those 16481
prior obligations. Obligations authorized under this section shall 16482
be deemed to be issued for those purposes for which those prior 16483
obligations were issued and are subject to the provisions of 16484
Chapter 154. of the Revised Code pertaining to other obligations, 16485
except as otherwise indicated by this section and except for 16486
division (A) of section 154.02 of the Revised Code, provided that, 16487
unless otherwise authorized by the general assembly, any 16488
limitations imposed by the general assembly pursuant to that 16489
division with respect to bond service charges applicable to the 16490
prior obligations shall be applicable to the obligations issued 16491
under this section to refund, fund, or retire those prior 16492
obligations. 16493

Sec. 154.24. (A) In addition to the definitions provided in 16494
section 154.01 of the Revised Code: 16495

(1) "Capital facilities" includes, for purposes of this 16496
section, storage and parking facilities related to such capital 16497

facilities. 16498

(2) "Costs of capital facilities" includes, for purposes of 16499
this section, the costs of assessing, planning, and altering 16500
capital facilities, and the financing thereof, all related direct 16501
administrative expenses and allocable portions of direct costs of 16502
lessee state agencies, and all other expenses necessary or 16503
incident to the assessment, planning, alteration, maintenance, 16504
equipment, or furnishing of capital facilities and the placing of 16505
the same in use and operation, including any one, part of, or 16506
combination of such classes of costs and expenses. 16507

(3) "Governmental agency" includes, for purposes of this 16508
section, any state of the United States or any department, 16509
division, or agency of any state. 16510

(4) "State agency" includes, for purposes of this section, 16511
branches, authorities, courts, the general assembly, counties, 16512
municipal corporations, and any other governmental entities of 16513
this state that enter into leases with the commission pursuant to 16514
this section or that are designated by law as state agencies for 16515
the purpose of performing a state function that is to be housed by 16516
a capital facility for which the issuing authority is authorized 16517
to issue revenue obligations pursuant to this section. 16518

(B) Subject to authorization by the general assembly under 16519
section 154.02 of the Revised Code, the issuing authority may 16520
issue obligations pursuant to this chapter to pay costs of capital 16521
facilities for housing branches and agencies of state government, 16522
including capital facilities for the purpose of housing personnel, 16523
equipment, or functions, or any combination thereof that a state 16524
agency is responsible for housing, including obligations to pay 16525
the costs of capital facilities described in section 307.021 of 16526
the Revised Code, and the costs of capital facilities in which one 16527
or more state agencies are participating with the federal 16528
government, municipal corporations, counties, or other 16529

governmental entities, or any one or more of them, and in which 16530
that portion of the facility allocated to the participating state 16531
agencies is to be used for the purpose of housing branches and 16532
agencies of state government including housing personnel, 16533
equipment, or functions, or any combination thereof. Such 16534
participation may be by grants, loans, or contributions to other 16535
participating governmental agencies for any of those capital 16536
facilities. 16537

(C) The commission may lease any capital facilities for 16538
housing branches and agencies of state government to, and make or 16539
provide for other agreements with respect to the use or purchase 16540
of such capital facilities with, any state agency or governmental 16541
agency having authority under law to operate such capital 16542
facilities. 16543

(D)(1) For purposes of this division, "available receipts" 16544
means fees, charges, revenues, grants, subsidies, income from the 16545
investment of moneys, proceeds from the sale of goods or services, 16546
and all other revenues or receipts derived from the operation, 16547
leasing, or other disposition of capital facilities financed with 16548
obligations issued under this section or received by or on behalf 16549
of any state agency for which capital facilities are financed with 16550
obligations issued under this section or any state agency 16551
participating in or by which the capital facilities are 16552
constructed or financed; the proceeds of obligations issued under 16553
this section and sections 154.11 or 154.12 of the Revised Code; 16554
and any moneys appropriated by a governmental agency, and gifts, 16555
grants, donations, and pledges, and receipts therefrom, available 16556
for the payment of bond service charges on such obligations. 16557

(2) The issuing authority may pledge all, or such portion as 16558
it determines, of the available receipts to the payment of bond 16559
service charges on obligations issued under this section and 16560
section 154.11 or 154.12 of the Revised Code and for the 16561

establishment and maintenance of any reserves, as provided in the 16562
bond proceedings, and make other provisions therein with respect 16563
to such available receipts as authorized by this chapter, which 16564
provisions shall be controlling notwithstanding any other 16565
provision of law pertaining thereto. 16566

(E) There are hereby created in the custody of the treasurer 16567
of state, but separate and apart from and not a part of the state 16568
treasury, the administrative facilities bond service trust fund, 16569
the adult correctional facilities bond service trust fund, the 16570
juvenile correctional facilities bond service trust fund, and the 16571
public safety bond service trust fund. All money received by or on 16572
account of the issuing authority or the commission and required by 16573
the applicable bond proceedings to be deposited, transferred, or 16574
credited to any of these funds, and all other money transferred or 16575
allocated to or received for the purposes of any of these funds, 16576
shall be deposited with the treasurer of state and credited to 16577
such fund, subject to applicable provisions of the bond 16578
proceedings, but without necessity for any act or appropriation. 16579
These bond service funds are trust funds and are hereby pledged to 16580
the payment of bond service charges on the applicable obligations 16581
issued pursuant to this section and section 154.11 or 154.12 of 16582
the Revised Code to the extent provided in the applicable bond 16583
proceedings, and payment thereof from such funds shall be made or 16584
provided for by the treasurer of state in accordance with such 16585
bond proceedings without necessity for any act or appropriation. 16586

(F) There are hereby created in the state treasury the 16587
administrative building fund, the adult correctional building 16588
fund, the juvenile correctional building fund, and the public 16589
safety building fund. Subject to the bond proceedings therefor, 16590
the proceeds of the sale of obligations pursuant to this section 16591
shall be credited to the appropriate fund, except that any accrued 16592
interest shall be credited to the appropriate bond service trust 16593

fund created pursuant to this section. These funds may also 16594
consist of gifts, grants, appropriated money, and other sums and 16595
securities received to the credit of such fund. All investment 16596
earnings of each fund shall be credited to the fund. The funds 16597
shall be applied to pay the costs of capital facilities as defined 16598
in this section and set forth in the bond proceedings. 16599

(G) This section is to be applied with other applicable 16600
provisions of this chapter. 16601

Sec. 154.25. (A) As used in this section: 16602

(1) "Available community or technical college receipts" means 16603
all money received by a community or technical college or 16604
community or technical college district, including income, 16605
revenues, and receipts from the operation, ownership, or control 16606
of facilities, grants, gifts, donations, and pledges and receipts 16607
therefrom, receipts from fees and charges, the allocated state 16608
share of instruction as defined in section 3333.90 of the Revised 16609
Code, and the proceeds of the sale of obligations, including 16610
proceeds of obligations issued to refund obligations previously 16611
issued, but excluding any special fee, and receipts therefrom, 16612
charged pursuant to division (D) of section 154.21 of the Revised 16613
Code. 16614

(2) "Community or technical college," "college," "community 16615
or technical college district," and "district" have the same 16616
meanings as in section 3333.90 of the Revised Code. 16617

(3) "Community or technical college capital facilities" means 16618
auxiliary facilities, education facilities, and housing and dining 16619
facilities, as those terms are defined in section 3345.12 of the 16620
Revised Code, to the extent permitted to be financed by the 16621
issuance of obligations under division (A)(2) of section 3357.112 16622
of the Revised Code, that are authorized by sections 3354.121, 16623
3357.112, and 3358.10 of the Revised Code to be financed by 16624

obligations issued by a community or technical college district, 16625
and for which the issuing authority is authorized to issue 16626
obligations pursuant to this section, and includes any one, part 16627
of, or any combination of the foregoing, and further includes site 16628
improvements, utilities, machinery, furnishings, and any separate 16629
or connected buildings, structures, improvements, sites, open 16630
space and green space areas, utilities, or equipment to be used 16631
in, or in connection with the operation or maintenance of, or 16632
supplementing or otherwise related to the services or facilities 16633
to be provided by, such facilities. 16634

(4) "Cost of community or technical college capital 16635
facilities" means the costs of acquiring, constructing, 16636
reconstructing, rehabilitating, remodeling, renovating, enlarging, 16637
improving, equipping, or furnishing community or technical college 16638
capital facilities, and the financing thereof, including the cost 16639
of clearance and preparation of the site and of any land to be 16640
used in connection with community or technical college capital 16641
facilities, the cost of any indemnity and surety bonds and 16642
premiums on insurance, all related direct administrative expenses 16643
and allocable portions of direct costs of the commission and the 16644
issuing authority, community or technical college or community or 16645
technical college district, cost of engineering, architectural 16646
services, design, plans, specifications and surveys, estimates of 16647
cost, legal fees, fees and expenses of trustees, depositories, 16648
bond registrars, and paying agents for obligations, cost of 16649
issuance of obligations and financing costs and fees and expenses 16650
of financial advisers and consultants in connection therewith, 16651
interest on obligations from the date thereof to the time when 16652
interest is to be covered by available receipts or other sources 16653
other than proceeds of those obligations, amounts necessary to 16654
establish reserves as required by the bond proceedings, costs of 16655
audits, the reimbursements of all moneys advanced or applied by or 16656
borrowed from the community or technical college, community or 16657

technical college district, or others, from whatever source 16658
provided, including any temporary advances from state 16659
appropriations, for the payment of any item or items of cost of 16660
community or technical college facilities, and all other expenses 16661
necessary or incident to planning or determining feasibility or 16662
practicability with respect to such facilities, and such other 16663
expenses as may be necessary or incident to the acquisition, 16664
construction, reconstruction, rehabilitation, remodeling, 16665
renovation, enlargement, improvement, equipment, and furnishing of 16666
community or technical college capital facilities, the financing 16667
thereof and the placing of them in use and operation, including 16668
any one, part of, or combination of such classes of costs and 16669
expenses. 16670

(5) "Capital facilities" includes community or technical 16671
college capital facilities. 16672

(6) "Obligations" has the same meaning as in section 154.01 16673
or 3345.12 of the Revised Code, as the context requires. 16674

(B) The issuing authority is authorized to issue revenue 16675
obligations under Section 2i of Article VIII, Ohio Constitution, 16676
on behalf of a community or technical college district and shall 16677
cause the net proceeds thereof, after any deposits of accrued 16678
interest for the payment of bond service charges and after any 16679
deposit of all or such lesser portion as the issuing authority may 16680
direct of the premium received upon the sale of those obligations 16681
for the payment of the bond service charges, to be applied to the 16682
cost of community or technical college capital facilities, 16683
provided that the issuance of such obligations is subject to the 16684
execution of a written agreement in accordance with division (C) 16685
of section 3333.90 of the Revised Code for the withholding and 16686
depositing of funds otherwise due the district, or the college it 16687
operates, in respect of its allocated state share of instruction. 16688

(C) The bond service charges and all other payments required 16689

to be made by the trust agreement or indenture securing the 16690
obligations shall be payable solely from available community or 16691
technical college receipts pledged thereto as provided in the 16692
resolution. The available community or technical college receipts 16693
pledged and thereafter received by the commission are immediately 16694
subject to the lien of such pledge without any physical delivery 16695
thereof or further act, and the lien of any such pledge is valid 16696
and binding against all parties having claims of any kind against 16697
the authority, irrespective of whether those parties have notice 16698
thereof, and creates a perfected security interest for all 16699
purposes of Chapter 1309. of the Revised Code and a perfected lien 16700
for purposes of any real property interest, all without the 16701
necessity for separation or delivery of funds or for the filing or 16702
recording of the resolution, trust agreement, indenture, or other 16703
agreement by which such pledge is created or any certificate, 16704
statement, or other document with respect thereto; and the pledge 16705
of such available community or technical college receipts is 16706
effective and the money therefrom and thereof may be applied to 16707
the purposes for which pledged. Every pledge, and every covenant 16708
and agreement made with respect to the pledge, made in the 16709
resolution may therein be extended to the benefit of the owners 16710
and holders of obligations authorized by this section, and to any 16711
trustee therefor, for the further securing of the payment of the 16712
bond service charges, and all or any rights under any agreement or 16713
lease made under this section may be assigned for such purpose. 16714

(D) This section is to be applied with other applicable 16715
provisions of this chapter. 16716

Sec. 166.02. (A) The general assembly finds that many local 16717
areas throughout the state are experiencing economic stagnation or 16718
decline, and that the economic development programs provided for 16719
in this chapter will constitute deserved, necessary reinvestment 16720
by the state in those areas, materially contribute to their 16721

economic revitalization, and result in improving the economic 16722
welfare of all the people of the state. Accordingly, it is 16723
declared to be the public policy of the state, through the 16724
operations of this chapter and other applicable laws adopted 16725
pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, 16726
and other authority vested in the general assembly, to assist in 16727
and facilitate the establishment or development of eligible 16728
projects or assist and cooperate with any governmental agency in 16729
achieving such purpose. 16730

(B) In furtherance of such public policy and to implement 16731
such purpose, the director of development may: 16732

(1) After consultation with appropriate governmental 16733
agencies, enter into agreements with persons engaged in industry, 16734
commerce, distribution, or research and with governmental agencies 16735
to induce such persons to acquire, construct, reconstruct, 16736
rehabilitate, renovate, enlarge, improve, equip, or furnish, or 16737
otherwise develop, eligible projects and make provision therein 16738
for project facilities and governmental actions, as authorized by 16739
this chapter and other applicable laws, subject to any required 16740
actions by the general assembly or the controlling board and 16741
subject to applicable local government laws and regulations; 16742

(2) Provide for the guarantees and loans as provided for in 16743
sections 166.06 and 166.07 of the Revised Code; 16744

(3) Subject to release of such moneys by the controlling 16745
board, contract for labor and materials needed for, or contract 16746
with others, including governmental agencies, to provide, project 16747
facilities the allowable costs of which are to be paid for or 16748
reimbursed from moneys in the facilities establishment fund, and 16749
contract for the operation of such project facilities; 16750

(4) Subject to release thereof by the controlling board, from 16751
moneys in the facilities establishment fund acquire or contract to 16752

acquire by gift, exchange, or purchase, including the obtaining 16753
and exercise of purchase options, property, and convey or 16754
otherwise dispose of, or provide for the conveyance or disposition 16755
of, property so acquired or contracted to be acquired by sale, 16756
exchange, lease, lease purchase, conditional or installment sale, 16757
transfer, or other disposition, including the grant of an option 16758
to purchase, to any governmental agency or to any other person 16759
without necessity for competitive bidding and upon such terms and 16760
conditions and manner of consideration pursuant to and as the 16761
director determines to be appropriate to satisfy the objectives of 16762
sections 166.01 to 166.11 of the Revised Code; 16763

(5) Retain the services of or employ financial consultants, 16764
appraisers, consulting engineers, superintendents, managers, 16765
construction and accounting experts, attorneys, and employees, 16766
agents, and independent contractors as are necessary in the 16767
director's judgment and fix the compensation for their services; 16768

(6) Receive and accept from any person grants, gifts, and 16769
contributions of money, property, labor, and other things of 16770
value, to be held, used and applied only for the purpose for which 16771
such grants, gifts, and contributions are made; 16772

(7) Enter into appropriate arrangements and agreements with 16773
any governmental agency for the taking or provision by that 16774
governmental agency of any governmental action; 16775

(8) Do all other acts and enter into contracts and execute 16776
all instruments necessary or appropriate to carry out the 16777
provisions of this chapter; 16778

(9) Adopt rules to implement any of the provisions of this 16779
chapter applicable to the director. 16780

(C) The determinations by the director that facilities 16781
constitute eligible projects, that facilities are project 16782
facilities, that costs of such facilities are allowable costs, and 16783

all other determinations relevant thereto or to an action taken or 16784
agreement entered into shall be conclusive for purposes of the 16785
validity and enforceability of rights of parties arising from 16786
actions taken and agreements entered into under this chapter. 16787

(D) Except as otherwise prescribed in this chapter, all 16788
expenses and obligations incurred by the director in carrying out 16789
the director's powers and in exercising the director's duties 16790
under this chapter, shall be payable solely from, as appropriate, 16791
moneys in the facilities establishment fund, the loan guarantee 16792
fund, the innovation Ohio loan guarantee fund, the innovation Ohio 16793
loan fund, the research and development loan fund, the logistics 16794
and distribution infrastructure fund, the logistics and 16795
distribution infrastructure taxable bond fund, or moneys 16796
appropriated for such purpose by the general assembly. This 16797
chapter does not authorize the director or the issuing authority 16798
under section 166.08 of the Revised Code to incur bonded 16799
indebtedness of the state or any political subdivision thereof, or 16800
to obligate or pledge moneys raised by taxation for the payment of 16801
any bonds or notes issued or guarantees made pursuant to this 16802
chapter. 16803

~~(E) No financial assistance for project facilities shall be 16804
provided under this chapter unless the provisions of the agreement 16805
providing for such assistance specify that all wages paid to 16806
laborers and mechanics employed on such project facilities for 16807
which the assistance is granted shall be paid at the prevailing 16808
rates of wages of laborers and mechanics for the class of work 16809
called for by such project facilities, which wages shall be 16810
determined in accordance with the requirements of Chapter 4115. of 16811
the Revised Code for determination of prevailing wage rates, 16812
provided that the requirements of this division do not apply where 16813
the federal government or any of its agencies provides financing 16814
assistance as to all or any part of the funds used in connection 16815~~

~~with such project facilities and prescribes predetermined minimum 16816
wages to be paid to such laborers and mechanics; and provided 16817
further that should a nonpublic user beneficiary of the eligible 16818
project undertake, as part of the eligible project, construction 16819
to be performed by its regular bargaining unit employees who are 16820
covered under a collective bargaining agreement which was in 16821
existence prior to the date of the document authorizing such 16822
assistance then, in that event, the rate of pay provided under the 16823
collective bargaining agreement may be paid to such employees. 16824~~

(F) Any governmental agency may enter into an agreement with 16825
the director, any other governmental agency, or a person to be 16826
assisted under this chapter, to take or provide for the purposes 16827
of this chapter any governmental action it is authorized to take 16828
or provide, and to undertake on behalf and at the request of the 16829
director any action which the director is authorized to undertake 16830
pursuant to divisions (B)(3), (4), and (5) of this section or 16831
divisions (B)(3), (4), and (5) of section 166.12 of the Revised 16832
Code. Governmental agencies of the state shall cooperate with and 16833
provide assistance to the director of development and the 16834
controlling board in the exercise of their respective functions 16835
under this chapter. 16836

Sec. 167.081. A regional council may enter into a contract 16837
that establishes a unit price for, and provides upon a per unit 16838
basis, materials, labor, services, overhead, profit, and 16839
associated expenses for the repair, enlargement, improvement, or 16840
demolition of a building or structure if the contract is awarded 16841
pursuant to a competitive bidding procedure of a county, municipal 16842
corporation, or township or a special district, school district, 16843
or other political subdivision that is a council member; a 16844
statewide consortium of which the council is a member; or a 16845
multistate consortium of which the council is a member. 16846

A public notice requirement pertaining to the contract shall 16847
be considered as having been met if the public notice is given 16848
once a week for at least two consecutive weeks in a newspaper of 16849
general circulation within a county in this state in which the 16850
council has members and if the notice is posted on the council's 16851
internet web site for at least two consecutive weeks before the 16852
date specified for receiving bids. 16853

A county, municipal corporation, or township and a special 16854
district, school district, or other political subdivision that is 16855
a council member may participate in a contract entered into under 16856
this section. Purchases under a contract entered into under this 16857
section are exempt from any competitive selection or bidding 16858
requirements otherwise required by law. A county, municipal 16859
corporation, or township or a special district, school district, 16860
or other political subdivision that is a member of the council is 16861
not entitled to participate in a contract entered into under this 16862
section if it has received bids for the same work under another 16863
contract, unless participation in a contract under this section 16864
will enable the member to obtain the same work, upon the same 16865
terms, conditions, and specifications, at a lower price. 16866

Sec. 173.14. As used in sections 173.14 to 173.27 of the 16867
Revised Code: 16868

(A)(1) Except as otherwise provided in division (A)(2) of 16869
this section, "long-term care facility" includes any residential 16870
facility that provides personal care services for more than 16871
twenty-four hours for two or more unrelated adults, including all 16872
of the following: 16873

(a) A "nursing home," "residential care facility," or "home 16874
for the aging" as defined in section 3721.01 of the Revised Code; 16875

(b) A facility authorized to provide extended care services 16876
under Title XVIII of the "Social Security Act," 49 Stat. 620 16877

(1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e); 16878
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16880
16881
16882
16883

(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code; 16884
16885

(d) An "adult care facility" as defined in section ~~3722.01~~ 5119.70 of the Revised Code; 16886
16887

(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans; 16888
16889
16890
16891

(f) An adult foster home certified under section ~~173.36~~ 5119.692 of the Revised Code. 16892
16893

(2) "Long-term care facility" does not include a "residential facility" as defined in section 5119.22 of the Revised Code or a "residential facility" as defined in section 5123.19 of the Revised Code. 16894
16895
16896
16897

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility. 16898
16899
16900

(C) "Community-based long-term care services" means health and social services provided to persons in their own homes or in community care settings, and includes any of the following: 16901
16902
16903

(1) Case management; 16904

(2) Home health care; 16905

(3) Homemaker services; 16906

(4) Chore services; 16907

(5) Respite care;	16908
(6) Adult day care;	16909
(7) Home-delivered meals;	16910
(8) Personal care;	16911
(9) Physical, occupational, and speech therapy;	16912
(10) Transportation;	16913
(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.	16914 16915 16916
(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.	16917 16918 16919 16920
(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.	16921 16922 16923
(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.	16924 16925
(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.	16926 16927 16928 16929
(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.	16930 16931 16932 16933 16934
(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219,	16935 16936

42 U.S.C.A. 3001, as amended. 16937

Sec. 173.21. (A) The office of the state long-term care 16938
~~ombudsman~~ ombudsperson program, through the state long-term care 16939
~~ombudsman~~ ombudsperson and the regional long-term care ~~ombudsman~~ 16940
ombudsperson programs, shall require each representative of the 16941
office to complete a training and certification program in 16942
accordance with this section and to meet the continuing education 16943
requirements established under this section. 16944

(B) The department of aging shall adopt rules under Chapter 16945
119. of the Revised Code specifying the content of training 16946
programs for representatives of the office of the state long-term 16947
care ~~ombudsman~~ ombudsperson program. Training for representatives 16948
other than those who are volunteers providing services through 16949
regional long-term care ~~ombudsman~~ ombudsperson programs shall 16950
include instruction regarding federal, state, and local laws, 16951
rules, and policies on long-term care facilities and 16952
community-based long-term care services; investigative techniques; 16953
and other topics considered relevant by the department and shall 16954
consist of the following: 16955

(1) A minimum of forty clock hours of basic instruction, 16956
which shall be completed before the trainee is permitted to handle 16957
complaints without the supervision of a representative of the 16958
office certified under this section; 16959

(2) An additional sixty clock hours of instruction, which 16960
shall be completed within the first fifteen months of employment; 16961

(3) An internship of twenty clock hours, which shall be 16962
completed within the first twenty-four months of employment, 16963
including instruction in, and observation of, basic nursing care 16964
and long-term care provider operations and procedures. The 16965
internship shall be performed at a site that has been approved as 16966
an internship site by the state long-term care ~~ombudsman~~ 16967

ombudsperson. 16968

(4) One of the following, which shall be completed within the 16969
first twenty-four months of employment: 16970

(a) Observation of a survey conducted by the director of 16971
health to certify a facility to receive funds under sections 16972
5111.20 to 5111.32 of the Revised Code; 16973

(b) Observation of an inspection conducted by the director of 16974
mental health to license an adult care facility under section 16975
~~3722.04~~ 5119.73 of the Revised Code. 16976

(5) Any other training considered appropriate by the 16977
department. 16978

(C) Persons who for a period of at least six months prior to 16979
June 11, 1990, served as ombudsmen through the long-term care 16980
~~ombudsman~~ ombudsperson program established by the department of 16981
aging under division (M) of section 173.01 of the Revised Code 16982
shall not be required to complete a training program. These 16983
persons and persons who complete a training program shall take an 16984
examination administered by the department of aging. On attainment 16985
of a passing score, the person shall be certified by the 16986
department as a representative of the office. The department shall 16987
issue the person an identification card, which the representative 16988
shall show at the request of any person with whom ~~he~~ the 16989
representative deals while performing ~~his~~ the representative's 16990
duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ 16991
the representative separates from the office. 16992

(D) The state ~~ombudsman~~ ombudsperson and each regional 16993
program shall conduct training programs for volunteers on their 16994
respective staffs in accordance with the rules of the department 16995
of aging adopted under division (B) of this section. Training 16996
programs may be conducted that train volunteers to complete some, 16997
but not all, of the duties of a representative of the office. Each 16998

regional office shall bear the cost of training its 16999
representatives who are volunteers. On completion of a training 17000
program, the representative shall take an examination administered 17001
by the department of aging. On attainment of a passing score, ~~he a~~ 17002
volunteer shall be certified by the department as a representative 17003
authorized to perform services specified in the certification. The 17004
department shall issue an identification card, which the 17005
representative shall show at the request of any person with whom 17006
~~he the representative~~ deals while performing ~~his the~~ 17007
representative's duties and which ~~he shall surrender be~~ 17008
surrendered at the time ~~he the representative~~ separates from the 17009
office. Except as a supervised part of a training program, no 17010
volunteer shall perform any duty unless he is certified as a 17011
representative having received appropriate training for that duty. 17012

(E) The state ~~ombudsman~~ ombudsperson shall provide technical 17013
assistance to regional programs conducting training programs for 17014
volunteers and shall monitor the training programs. 17015

(F) Prior to scheduling an observation of a certification 17016
survey or licensing inspection for purposes of division (B)(4) of 17017
this section, the state ~~ombudsman~~ ombudsperson shall obtain 17018
permission to have the survey or inspection observed from both the 17019
director of health and the long-term care facility at which the 17020
survey or inspection is to take place. 17021

(G) The department of aging shall establish continuing 17022
education requirements for representatives of the office. 17023

Sec. 173.26. (A) Each of the following facilities shall 17024
annually pay to the department of aging six dollars for each bed 17025
maintained by the facility for use by a resident during any part 17026
of the previous year: 17027

(1) Nursing homes, residential care facilities, and homes for 17028
the aging as defined in section 3721.01 of the Revised Code; 17029

(2) Facilities authorized to provide extended care services 17030
under Title XVIII of the "Social Security Act," 49 Stat. 620 17031
(1935), 42 U.S.C. 301, as amended, including a long-term acute 17032
care hospital that provides medical and rehabilitative care to 17033
patients who require an average length of stay greater than 17034
twenty-five days and is classified by the centers for medicare and 17035
medicaid services as a long-term care hospital pursuant to 42 17036
C.F.R. 412.23(e); 17037

(3) County homes and district homes operated pursuant to 17038
Chapter 5155. of the Revised Code; 17039

(4) Adult care facilities as defined in section ~~3722.01~~ 17040
5119.70 of the Revised Code; 17041

(5) Facilities approved by the Veterans Administration under 17042
Section 104(a) of the "Veterans Health Care Amendments of 1983," 17043
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 17044
the placement and care of veterans. 17045

The department shall, by rule adopted in accordance with 17046
Chapter 119. of the Revised Code, establish deadlines for payments 17047
required by this section. A facility that fails, within ninety 17048
days after the established deadline, to pay a payment required by 17049
this section shall be assessed at two times the original invoiced 17050
payment. 17051

(B) All money collected under this section shall be deposited 17052
in the state treasury to the credit of the office of the state 17053
long-term care ombudsperson program fund, which is hereby created. 17054
Money credited to the fund shall be used solely to pay the costs 17055
of operating the regional long-term care ombudsperson programs. 17056

(C) The state long-term care ombudsperson and the regional 17057
programs may solicit and receive contributions to support the 17058
operation of the office or a regional program, except that no 17059
contribution shall be solicited or accepted that would interfere 17060

with the independence or objectivity of the office or program. 17061

Sec. 173.391. (A) The department of aging or its designee 17062
shall do all of the following in accordance with Chapter 119. of 17063
the Revised Code: 17064

(1) Certify a person or government entity to provide 17065
community-based long-term care services under a program the 17066
department administers if the person or government entity 17067
satisfies the requirements for certification established by rules 17068
adopted under division (B) of this section and pays the fee, if 17069
any, established by rules adopted under division (G) of this 17070
section; 17071

(2) When required to do so by rules adopted under division 17072
(B) of this section, take one or more of the following 17073
disciplinary actions against a person or government entity ~~issued~~ 17074
~~a certificate~~ certified under division (A)(1) of this section: 17075

(a) Issue a written warning; 17076

(b) Require the submission of a plan of correction or 17077
evidence of compliance with requirements identified by the 17078
department; 17079

(c) Suspend referrals; 17080

(d) Remove clients; 17081

(e) Impose a fiscal sanction such as a civil monetary penalty 17082
or an order that unearned funds be repaid; 17083

(f) Suspend the certification; 17084

(g) Revoke the ~~certificate~~ certification; 17085

~~(g)~~(h) Impose another sanction. 17086

(3) ~~Hold~~ Except as provided in division (E) of this section, 17087
hold hearings when there is a dispute between the department or 17088
its designee and a person or government entity concerning actions 17089

the department or its designee takes ~~or does not take~~ regarding a 17090
decision not to certify the person or government entity under 17091
division (A)(1) of this section or a disciplinary action under 17092
division (A)~~(1)~~ ~~or~~ (2)~~(e)~~(e) to ~~(g)~~(h) of this section. 17093

(B) The director of aging shall adopt rules in accordance 17094
with Chapter 119. of the Revised Code establishing certification 17095
requirements and standards for determining which type of 17096
disciplinary action to take under division (A)(2) of this section 17097
in individual situations. The rules shall establish procedures for 17098
all of the following: 17099

(1) Ensuring that community-based long-term care agencies 17100
comply with section 173.394 of the Revised Code; 17101

(2) Evaluating the services provided by the agencies to 17102
ensure that ~~they~~ the services are provided in a quality manner 17103
advantageous to the individual receiving the services; 17104

(3) Determining when to take disciplinary action under 17105
division (A)(2) of this section and which disciplinary action to 17106
take; 17107

(4) Determining what constitutes another sanction for 17108
purposes of division (A)(2)(h) of this section. 17109

(C) The procedures established in rules adopted under 17110
division (B)(2) of this section shall require that all of the 17111
following be considered as part of an evaluation described in 17112
division (B)(2) of this section: 17113

(1) The ~~service provider's~~ community-based long-term care 17114
agency's experience and financial responsibility; 17115

(2) The ~~service provider's~~ agency's ability to comply with 17116
standards for the community-based long-term care services that the 17117
~~provider~~ agency provides under a program the department 17118
administers; 17119

(3) The service provider's <u>agency's</u> ability to meet the needs	17120
of the individuals served;	17121
(4) Any other factor the director considers relevant.	17122
(D) The rules adopted under division (B)(3) of this section	17123
shall specify that the reasons disciplinary action may be taken	17124
under division (A)(2) of this section include good cause,	17125
including misfeasance, malfeasance, nonfeasance, confirmed abuse	17126
or neglect, financial irresponsibility, or other conduct the	17127
director determines is injurious, <u>or poses a threat,</u> to the health	17128
or safety of individuals being served.	17129
<u>(E) Subject to division (F) of this section, the department</u>	17130
<u>is not required to hold hearings under division (A)(3) of this</u>	17131
<u>section if any of the following conditions apply:</u>	17132
<u>(1) Rules adopted by the director of aging pursuant to this</u>	17133
<u>chapter require the community-based long-term care agency to be a</u>	17134
<u>party to a provider agreement; hold a license, certificate, or</u>	17135
<u>permit; or maintain a certification, any of which is required or</u>	17136
<u>issued by a state or federal government entity other than the</u>	17137
<u>department of aging, and either of the following is the case:</u>	17138
<u>(a) The provider agreement has not been entered into or the</u>	17139
<u>license, certificate, permit, or certification has not been</u>	17140
<u>obtained or maintained.</u>	17141
<u>(b) The provider agreement, license, certificate, permit, or</u>	17142
<u>certification has been denied, revoked, not renewed, or suspended</u>	17143
<u>or has been otherwise restricted.</u>	17144
<u>(2) The agency's certification under this section has been</u>	17145
<u>denied, suspended, or revoked for any of the following reasons:</u>	17146
<u>(a) A government entity of this state, other than the</u>	17147
<u>department of aging, has terminated or refused to renew any of the</u>	17148
<u>following held by, or has denied any of the following sought by, a</u>	17149

community-based long-term care agency: a provider agreement, 17150
license, certificate, permit, or certification. Division (E)(2)(a) 17151
of this section applies regardless of whether the agency has 17152
entered into a provider agreement in, or holds a license, 17153
certificate, permit, or certification issued by, another state. 17154

(b) The agency or a principal owner or manager of the agency 17155
who provides direct care has entered a guilty plea for, or has 17156
been convicted of, an offense materially related to the medicaid 17157
program. 17158

(c) The agency or a principal owner or manager of the agency 17159
who provides direct care has entered a guilty plea for, or been 17160
convicted of, an offense listed in division (C)(1)(a) of section 17161
173.394 of the Revised Code, but only if none of the personal 17162
character standards established by the department in rules adopted 17163
under division (F) of section 173.394 of the Revised Code apply. 17164

(d) The United States department of health and human services 17165
has taken adverse action against the agency and that action 17166
impacts the agency's participation in the medicaid program. 17167

(e) The agency has failed to enter into or renew a provider 17168
agreement with the PASSPORT administrative agency, as that term is 17169
defined in section 173.42 of the Revised Code, that administers 17170
programs on behalf of the department of aging in the region of the 17171
state in which the agency is certified to provide services. 17172

(f) The agency has not billed or otherwise submitted a claim 17173
to the department for payment under the medicaid program in at 17174
least two years. 17175

(g) The agency denied or failed to provide the department or 17176
its designee access to the agency's facilities during the agency's 17177
normal business hours for purposes of conducting an audit or 17178
structural compliance review. 17179

(h) The agency has ceased doing business. 17180

(i) The agency has voluntarily relinquished its certification 17181
for any reason. 17182

(3) The agency's provider agreement with the department of 17183
job and family services has been suspended under division (C) of 17184
section 5111.031 of the Revised Code. 17185

(4) The agency's provider agreement with the department of 17186
job and family services is denied or revoked because the agency or 17187
its owner, officer, authorized agent, associate, manager, or 17188
employee has been convicted of an offense that caused the provider 17189
agreement to be suspended under section 5111.031 of the Revised 17190
Code. 17191

(F) If the department does not hold hearings when any 17192
condition described in division (E) of this section applies, the 17193
department may send a notice to the agency describing a decision 17194
not to certify the agency under division (A)(1) of this section or 17195
the disciplinary action the department proposes to take under 17196
division (A)(2)(e) to (h) of this section. The notice shall be 17197
sent to the agency's address that is on record with the department 17198
and may be sent by regular mail. 17199

(G) The director of aging may adopt rules in accordance with 17200
Chapter 119. of the Revised Code establishing a fee to be charged 17201
by the department of aging or its designee for certification 17202
issued under this section. 17203

All fees collected by the department or its designee under 17204
this section shall be deposited in the state treasury to the 17205
credit of the provider certification fund, which is hereby 17206
created. Money credited to the fund shall be used to pay for 17207
community-based long-term care services, administrative costs 17208
associated with community-based long-term care agency 17209
certification under this section, and administrative costs related 17210
to the publication of the Ohio long-term care consumer guide. 17211

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the Revised Code, ~~"PASSPORT:~~ 17212
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"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 17214
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"PASSPORT program" means the program created under this section. 17216
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"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program. 17218
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"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 17221
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(B) There is hereby created the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled medicaid recipients and meet the program's applicable eligibility requirements. ~~The Subject to~~ division (C) of this section, the program shall have a medicaid-funded component and a state-funded component. 17224
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(C)(1) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply: 17232
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(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. 17235
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(b) The medicaid-funded component shall be operated as a separate medicaid waiver component, as defined in section 5111.85 of the Revised Code, until the United States secretary of health 17239
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~~and human services approves the consolidated federal medicaid
waiver sought under section 5111.861 of the Revised Code. The
program shall be part of the consolidated federal medicaid waiver
sought under that section if the United States secretary approves
the waiver. The department of aging shall administer the program
through a contract entered into with the department of job and
family services under section 5111.91 of the Revised Code. The~~

(c) For an individual to be eligible for the medicaid-funded
component, the individual must be a medicaid recipient and meet
the additional eligibility requirements applicable to the
individual established in rules adopted under division (C)(1)(d)
of this section.

(d) The director of job and family services shall adopt rules
under section 5111.85 of the Revised Code and the director of
aging shall adopt rules in accordance with Chapter 119. of the
Revised Code to implement the ~~program~~ medicaid-funded component.

(2) If the unified long-term services and support medicaid
waiver component is created, the departments of aging and job and
family services shall work together to determine whether the
medicaid-funded component of the PASSPORT program should continue
to operate as a separate medicaid waiver component or be
terminated. If the departments determine that the medicaid-funded
component of the PASSPORT program should be terminated, the
medicaid-funded component shall cease to exist on a date the
departments shall specify.

(D)(1) The department of aging shall administer the
state-funded component of the PASSPORT program. The state-funded
component shall not be administered as part of the medicaid
program.

(2) For an individual to be eligible for the state-funded
component, the individual must meet one of the following

requirements and meet the additional eligibility requirements 17273
applicable to the individual established in rules adopted under 17274
division (D)(4) of this section: 17275

(a) The individual must have been enrolled in the 17276
state-funded component on September 1, 1991, (as the state-funded 17277
component was authorized by uncodified law in effect at that time) 17278
and have had one or more applications for enrollment in the 17279
medicaid-funded component (or, if the medicaid-funded component is 17280
terminated under division (C)(2) of this section, the unified 17281
long-term services and support medicaid waiver component) denied. 17282

(b) The individual must have had the individual's enrollment 17283
in the medicaid-funded component (or, if the medicaid-funded 17284
component is terminated under division (C)(2) of this section, the 17285
unified long-term services and support medicaid waiver component) 17286
terminated and the individual must still need the home and 17287
community-based services provided under the PASSPORT program to 17288
protect the individual's health and safety. 17289

(c) The individual must have an application for the 17290
medicaid-funded component (or, if the medicaid-funded component is 17291
terminated under division (C)(2) of this section, the unified 17292
long-term services and support medicaid waiver component) pending 17293
and the department or the department's designee must have 17294
determined that the individual meets the nonfinancial eligibility 17295
requirements of the medicaid-funded component (or, if the 17296
medicaid-funded component is terminated under division (C)(2) of 17297
this section, the unified long-term services and support medicaid 17298
waiver component) and not have reason to doubt that the individual 17299
meets the financial eligibility requirements of the 17300
medicaid-funded component (or, if the medicaid-funded component is 17301
terminated under division (C)(2) of this section, the unified 17302
long-term services and support medicaid waiver component). 17303

(3) An individual who is eligible for the state-funded 17304

component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component for not more than three months. 17305
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(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section. 17308
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Sec. 173.401. (A) As used in this section: 17314

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code. 17315
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"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code. 17317
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"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity. 17320
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"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 17325
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~~"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the PASSPORT program.~~ 17327
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(B) The Subject to division (C)(2) of section 173.40 of the Revised Code, the department shall establish a home first component of the PASSPORT program under which eligible individuals may be enrolled in the medicaid-funded component of the PASSPORT program in accordance with this section. An individual is eligible 17330
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for the PASSPORT program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the medicaid-funded component of the PASSPORT program.

~~(2) The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

~~(3)~~ At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be

admitted to a nursing facility. 17365

(C) Each month, each area agency on aging shall identify 17366
individuals residing in the area that the agency serves who are 17367
eligible for the home first component of the PASSPORT program. 17368
When an area agency on aging identifies such an individual, the 17369
agency shall notify the long-term care consultation program 17370
administrator serving the area in which the individual resides. 17371
The administrator shall determine whether the PASSPORT program is 17372
appropriate for the individual and whether the individual would 17373
rather participate in the PASSPORT program than continue or begin 17374
to reside in a nursing facility. If the administrator determines 17375
that the PASSPORT program is appropriate for the individual and 17376
the individual would rather participate in the PASSPORT program 17377
than continue or begin to reside in a nursing facility, the 17378
administrator shall so notify the department of aging. On receipt 17379
of the notice from the administrator, the department shall approve 17380
the individual's enrollment in the medicaid-funded component of 17381
the PASSPORT program regardless of the unified waiting list 17382
established under section 173.404 of the Revised Code, unless the 17383
enrollment would cause the ~~PASSPORT program~~ component to exceed 17384
any limit on the number of individuals who may be enrolled in the 17385
~~program~~ component as set by the United States secretary of health 17386
and human services in the PASSPORT waiver. 17387

~~(D) Each quarter, the department of aging shall certify to 17388
the director of budget and management the estimated increase in 17389
costs of the PASSPORT program resulting from enrollment of 17390
individuals in the PASSPORT program pursuant to this section. 17391~~

Sec. 173.403. "Choices (A) As used in this section: 17392

"Choices program" means the program created under this 17393
section. 17394

There "Medicaid waiver component" has the same meaning as in 17395

section 5111.85 of the Revised Code. 17396

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 17397
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(B) Subject to division (C) of this section, there is hereby 17400
created the choices program. The program shall provide home and 17401
community-based services. ~~The choices program shall be operated as~~ 17402
~~a separate medicaid waiver component, as defined in section~~ 17403
~~5111.85 of the Revised Code, until the United States secretary of~~ 17404
~~health and human services approves the consolidated federal~~ 17405
~~medicaid waiver sought under section 5111.861 of the Revised Code.~~ 17406
The program shall be part of the consolidated federal medicaid 17407
waiver sought under that section if the United States secretary 17408
~~approves the waiver.~~ The department of aging shall administer the 17409
program through a contract entered into with the department of job 17410
and family services under section 5111.91 of the Revised Code. 17411
Subject to federal approval, the program shall be available 17412
statewide. 17413

(C) If the unified long-term services and support medicaid 17414
waiver component is created, the departments of aging and job and 17415
family services shall work together to determine whether the 17416
choices program should continue to operate as a separate medicaid 17417
waiver component or be terminated. If the departments determine 17418
that the choices program should be terminated, the program shall 17419
cease to exist on a date the departments shall specify. 17420

Sec. 173.404. (A) As used in this section: 17421

(1) "Department of aging-administered medicaid waiver 17422
component" means each of the following: 17423

(a) The medicaid-funded component of the PASSPORT program 17424
created under section 173.40 of the Revised Code; 17425

(b) The choices program created under section 173.403 of the Revised Code; 17426
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(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code. 17428
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(2) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code. 17430
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(B) ~~The~~ If the department of aging determines that there are insufficient funds to enroll all individuals who have applied and been determined eligible for department of aging-administered medicaid waiver components and the PACE program, the department of aging shall establish a unified waiting list for department of aging-administered medicaid waiver the components and the PACE program. Only individuals eligible for a department of aging-administered medicaid waiver component or the PACE program may be placed on the unified waiting list. An individual who may be enrolled in a department of aging-administered medicaid waiver component or the PACE program through a home first component established under section 173.401, 173.501, or 5111.894 of the Revised Code may be so enrolled without being placed on the unified waiting list. 17433
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Sec. 173.41. (A) The department of aging shall promote the development of a statewide aging and disabilities resource network through which older adults, adults with disabilities, and their caregivers are provided with both of the following: 17447
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(1) Information on any long-term care service options available to the individuals; 17451
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(2) Streamlined access to long-term care services, both publicly funded services and services available through private payment. 17453
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(B) Area agencies on aging shall establish the network 17456
throughout the state. In doing so, the agencies shall collaborate 17457
with centers for independent living and other locally funded 17458
organizations to establish a cost-effective and consumer-friendly 17459
network that builds on existing, local infrastructures of services 17460
that support consumers in their communities. 17461

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the 17462
Revised Code: 17463

(1) "Area agency on aging" means a public or private 17464
nonprofit entity designated under section 173.011 of the Revised 17465
Code to administer programs on behalf of the department of aging. 17466

(2) "Department of aging-administered medicaid waiver 17467
component" means each of the following: 17468

(a) The medicaid-funded component of the PASSPORT program 17469
created under section 173.40 of the Revised Code; 17470

(b) The choices program created under section 173.403 of the 17471
Revised Code; 17472

(c) The medicaid-funded component of the assisted living 17473
program created under section 5111.89 of the Revised Code; 17474

(d) Any other medicaid waiver component, as defined in 17475
section 5111.85 of the Revised Code, that the department of aging 17476
administers pursuant to an interagency agreement with the 17477
department of job and family services under section 5111.91 of the 17478
Revised Code. 17479

(3) "Home and community-based services covered by medicaid 17480
components the department of aging administers" means all of the 17481
following: 17482

(a) Medicaid waiver services available to a participant in a 17483
department of aging-administered medicaid waiver component; 17484

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:	17485 17486 17487 17488
(i) Home health services;	17489
(ii) Private duty nursing services;	17490
(iii) Durable medical equipment;	17491
(iv) Services of a clinical nurse specialist;	17492
(v) Services of a certified nurse practitioner.	17493
(c) Services available to a participant of the PACE program.	17494
(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.	17495 17496 17497 17498
(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.	17499 17500
(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	17501 17502
(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.	17503 17504 17505
(8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.	17506 17507 17508
(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.	17509 17510 17511 17512
(10) "Representative" means a person acting on behalf of an	17513

individual specified in division (G) of this section. A 17514
representative may be a family member, attorney, hospital social 17515
worker, or any other person chosen to act on behalf of the 17516
individual. 17517

(B) The department of aging shall develop a long-term care 17518
consultation program whereby individuals or their representatives 17519
are provided with long-term care consultations and receive through 17520
these professional consultations information about options 17521
available to meet long-term care needs and information about 17522
factors to consider in making long-term care decisions. The 17523
long-term care consultations provided under the program may be 17524
provided at any appropriate time, as permitted or required under 17525
this section and the rules adopted under it, including either 17526
prior to or after the individual who is the subject of a 17527
consultation has been admitted to a nursing facility or granted 17528
assistance in receiving home and community-based services covered 17529
by medicaid components the department of aging administers. 17530

(C) The long-term care consultation program shall be 17531
administered by the department of aging, except that the 17532
department may have the program administered on a regional basis 17533
by one or more program administrators. The department and each 17534
program administrator shall administer the program in such a 17535
manner that all of the following are included: 17536

(1) Coordination and collaboration with respect to all 17537
available funding sources for long-term care services; 17538

(2) Assessments of individuals regarding their long-term care 17539
service needs; 17540

(3) Assessments of individuals regarding their on-going 17541
eligibility for long-term care services; 17542

(4) Procedures for assisting individuals in obtaining access 17543
to, and coordination of, health and supportive services, including 17544

department of aging-administered medicaid waiver components; 17545

(5) Priorities for using available resources efficiently and 17546
effectively. 17547

(D) The program's long-term care consultations shall be 17548
provided by individuals certified by the department under section 17549
173.422 of the Revised Code. 17550

(E) The information provided through a long-term care 17551
consultation shall be appropriate to the individual's needs and 17552
situation and shall address all of the following: 17553

(1) The availability of any long-term care options open to 17554
the individual; 17555

(2) Sources and methods of both public and private payment 17556
for long-term care services; 17557

(3) Factors to consider when choosing among the available 17558
programs, services, and benefits; 17559

(4) Opportunities and methods for maximizing independence and 17560
self-reliance, including support services provided by the 17561
individual's family, friends, and community. 17562

(F) An individual's long-term care consultation may include 17563
an assessment of the individual's functional capabilities. The 17564
consultation may incorporate portions of the determinations 17565
required under sections 5111.202, 5119.061, and 5123.021 of the 17566
Revised Code and may be provided concurrently with the assessment 17567
required under section 5111.204 of the Revised Code. 17568

(G)(1) Unless an exemption specified in division (I) of this 17569
section is applicable, each of the following shall be provided 17570
with a long-term care consultation: 17571

(a) An individual who applies or indicates an intention to 17572
apply for admission to a nursing facility, regardless of the 17573
source of payment to be used for the individual's care in a 17574

nursing facility; 17575

(b) An individual who requests a long-term care consultation; 17576

(c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation. 17577
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(2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source of payment being used for the resident's care in the nursing facility. 17580
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(H)(1) Except as provided in division (H)(2) or (3) of this section, a long-term care consultation provided pursuant to division (G) of this section shall be provided as follows: 17585
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(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment. 17588
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(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or program administrator receives notice of the reason for which the consultation is to be provided pursuant to division (G) of this section. 17595
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(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section. 17600
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(3) If a long-term care consultation cannot be completed 17604

within the number of days required by division (H)(1) or (2) of 17605
this section, the department or program administrator may do any 17606
of the following: 17607

(a) In the case of an individual specified in division (G)(1) 17608
of this section, exempt the individual from the consultation 17609
pursuant to rules that may be adopted under division (L) of this 17610
section; 17611

(b) In the case of an applicant for admission to a nursing 17612
facility, provide the consultation after the individual is 17613
admitted to the nursing facility; 17614

(c) In the case of a resident of a nursing facility, provide 17615
the consultation as soon as practicable. 17616

(I) An individual is not required to be provided a long-term 17617
care consultation under division (G)(1) of this section if any of 17618
the following apply: 17619

(1) The department or program administrator has attempted to 17620
provide the consultation, but the individual or the individual's 17621
representative refuses to cooperate; 17622

(2) The individual is to receive care in a nursing facility 17623
under a contract for continuing care as defined in section 173.13 17624
of the Revised Code; 17625

(3) The individual has a contractual right to admission to a 17626
nursing facility operated as part of a system of continuing care 17627
in conjunction with one or more facilities that provide a less 17628
intensive level of services, including a residential care facility 17629
licensed under Chapter 3721. of the Revised Code, an adult care 17630
facility licensed under ~~Chapter 3722.~~ sections 5119.70 to 5119.88 17631
of the Revised Code, or an independent living arrangement; 17632

(4) The individual is to receive continual care in a home for 17633
the aged exempt from taxation under section 5701.13 of the Revised 17634

Code; 17635

(5) The individual is seeking admission to a facility that is 17636
not a nursing facility with a provider agreement under section 17637
5111.22, 5111.671, or 5111.672 of the Revised Code; 17638

(6) The individual is exempted from the long-term care 17639
consultation requirement by the department or the program 17640
administrator pursuant to rules that may be adopted under division 17641
(L) of this section. 17642

(J) As part of the long-term care consultation program, the 17643
department or program administrator shall assist an individual or 17644
individual's representative in accessing all sources of care and 17645
services that are appropriate for the individual and for which the 17646
individual is eligible, including all available home and 17647
community-based services covered by medicaid components the 17648
department of aging administers. The assistance shall include 17649
providing for the conduct of assessments or other evaluations and 17650
the development of individualized plans of care or services under 17651
section 173.424 of the Revised Code. 17652

(K) No nursing facility for which an operator has a provider 17653
agreement under section 5111.22, 5111.671, or 5111.672 of the 17654
Revised Code shall admit any individual as a resident, unless the 17655
nursing facility has received evidence that a long-term care 17656
consultation has been completed for the individual or division (I) 17657
of this section is applicable to the individual. 17658

(L) The director of aging may adopt any rules the director 17659
considers necessary for the implementation and administration of 17660
this section. The rules shall be adopted in accordance with 17661
Chapter 119. of the Revised Code and may specify any or all of the 17662
following: 17663

(1) Procedures for providing long-term care consultations 17664
pursuant to this section; 17665

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;	17666 17667 17668
(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;	17669 17670 17671
(4) Criteria for exempting individuals from the long-term care consultation requirement;	17672 17673
(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;	17674 17675 17676 17677
(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;	17678 17679
(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;	17680 17681 17682
(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;	17683 17684 17685 17686
(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.	17687 17688
(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code for purposes of the medicaid program.	17689 17690 17691 17692 17693 17694 17695

Except when prohibited by state or federal law, the department of 17696
health, department of job and family services, or nursing facility 17697
holding the data shall grant access to the data on receipt of the 17698
request from the department of aging or program administrator. 17699

(N)(1) The director of aging, after providing notice and an 17700
opportunity for a hearing, may fine a nursing facility an amount 17701
determined by rules the director shall adopt in accordance with 17702
Chapter 119. of the Revised Code for any of the following reasons: 17703

(a) The nursing facility admits an individual, without 17704
evidence that a long-term care consultation has been provided, as 17705
required by this section; 17706

(b) The nursing facility denies a person attempting to 17707
provide a long-term care consultation access to the facility or a 17708
resident of the facility; 17709

(c) The nursing facility denies the department of aging or 17710
program administrator access to the facility or a resident of the 17711
facility, as the department or administrator considers necessary 17712
to administer the program. 17713

(2) In accordance with section 5111.62 of the Revised Code, 17714
all fines collected under division (N)(1) of this section shall be 17715
deposited into the state treasury to the credit of the residents 17716
protection fund. 17717

Sec. 173.45. As used in this section and in sections 173.46 17718
to 173.49 of the Revised Code: 17719

(A) "Adult care facility" has the same meaning as in section 17720
5119.70 of the Revised Code. 17721

(B) "Community-based long-term care services" has the same 17722
meaning as in section 173.14 of the Revised Code. 17723

(C) "Long-term care facility" means a nursing home or 17724
residential care facility. 17725

~~(B)~~(D) "Nursing home" and "residential care facility" have 17726
the same meanings as in section 3721.01 of the Revised Code. 17727

~~(C)~~(E) "Nursing facility" has the same meaning as in section 17728
5111.20 of the Revised Code. 17729

Sec. 173.46. (A) The department of aging shall develop and 17730
publish a guide to long-term care facilities for use by 17731
individuals considering long-term care facility admission and 17732
their families, friends, and advisors. The guide, which shall be 17733
titled the Ohio long-term care consumer guide, may be published in 17734
printed form or in electronic form for distribution over the 17735
internet. The guide may be developed as a continuation or 17736
modification of the guide published by the department prior to ~~the~~ 17737
~~effective date of this section~~ September 29, 2005, under rules 17738
adopted under section 173.02 of the Revised Code. 17739

(B) The Ohio long-term care consumer guide shall include 17740
information on each long-term care facility in this state. For 17741
each facility, the guide shall include the following information, 17742
as applicable to the facility: 17743

(1) Information regarding the facility's compliance with 17744
state statutes and rules and federal statutes and regulations; 17745

(2) Information generated by the centers for medicare and 17746
medicaid services of the United States department of health and 17747
human services from the quality measures developed as part of its 17748
nursing home quality initiative; 17749

(3) Results of the customer satisfaction surveys conducted 17750
under section 173.47 of the Revised Code; 17751

(4) Any other information the department specifies in rules 17752
adopted under section 173.49 of the Revised Code. 17753

(C) The Ohio long-term care consumer guide may include 17754
information on adult care facilities and providers of 17755

community-based long-term care services. The department may adopt 17756
rules under section 173.49 of the Revised Code to specify the 17757
information to be included in the guide pursuant to this division. 17758

Sec. 173.47. (A) For purposes of publishing the Ohio 17759
long-term care consumer guide, the department of aging shall 17760
conduct or provide for the conduct of an annual customer 17761
satisfaction survey of each long-term care facility. The results 17762
of the surveys may include information obtained from long-term 17763
care facility residents, their families, or both. 17764

~~(B)(1) The department may charge fees for the conduct of~~ 17765
~~annual customer satisfaction surveys. The department may contract~~ 17766
~~with any person or government entity to collect the fees on its~~ 17767
~~behalf. All fees collected under this section shall be deposited~~ 17768
~~in accordance with section 173.48 of the Revised Code.~~ 17769

~~(2) The fees charged under this section shall not exceed the~~ 17770
~~following amounts:~~ 17771

~~(a) Four hundred dollars for the customer satisfaction survey~~ 17772
~~of a long term care facility that is a nursing home;~~ 17773

~~(b) Three hundred dollars for the customer satisfaction~~ 17774
~~survey pertaining to a long term care facility that is a~~ 17775
~~residential care facility.~~ 17776

~~(3) Fees paid by a long term care facility that is a nursing~~ 17777
~~facility shall be reimbursed through the medicaid program operated~~ 17778
~~under Chapter 5111. of the Revised Code.~~ 17779

~~(C) Each long-term care facility shall cooperate in the~~ 17780
~~conduct of its annual customer satisfaction survey.~~ 17781

Sec. 173.48. (A)(1) The department of aging may charge annual 17782
fees to long-term care facilities for the publication of the Ohio 17783
long-term care consumer guide. The department may contract with 17784

any person or government entity to collect the fees on its behalf. 17785
All fees collected under this section shall be deposited in 17786
accordance with division (B) of this section. 17787

(2) The annual fees charged under this section shall not 17788
exceed the following amounts: 17789

(a) Four hundred dollars for each long-term care facility 17790
that is a nursing home; 17791

(b) Three hundred dollars for each long-term care facility 17792
that is a residential care facility. 17793

(3) Fees paid by a long-term care facility that is a nursing 17794
facility shall be reimbursed through the medicaid program operated 17795
under Chapter 5111. of the Revised Code. 17796

(B) There is hereby created in the state treasury the 17797
long-term care consumer guide fund. Money collected from the fees 17798
charged for the ~~conduct of customer satisfaction surveys~~ 17799
publication of the Ohio long-term care consumer guide under 17800
division (A) of this section ~~173.47 of the Revised Code~~ shall be 17801
credited to the fund. The department of ~~aging~~ shall use money in 17802
the fund for costs associated with publishing the Ohio long-term 17803
care consumer guide, including, but not limited to, costs incurred 17804
in conducting or providing for the conduct of customer 17805
satisfaction surveys. 17806

Sec. 173.501. (A) As used in this section: 17807

"Nursing facility" has the same meaning as in section 5111.20 17808
of the Revised Code. 17809

"PACE provider" has the same meaning as in 42 U.S.C. 17810
1396u-4(a)(3). 17811

(B) The department of aging shall establish a home first 17812
component of the PACE program under which eligible individuals may 17813

be enrolled in the PACE program in accordance with this section. 17814
An individual is eligible for the PACE program's home first 17815
component if ~~all~~ both of the following apply: 17816

(1) The individual ~~is~~ has been determined to be eligible for 17817
the PACE program. 17818

(2) ~~The individual is on the unified waiting list established~~ 17819
~~under section 173.404 of the Revised Code.~~ 17820

~~(3)~~ At least one of the following applies: 17821

(a) The individual has been admitted to a nursing facility. 17822

(b) A physician has determined and documented in writing that 17823
the individual has a medical condition that, unless the individual 17824
is enrolled in home and community-based services such as the PACE 17825
program, will require the individual to be admitted to a nursing 17826
facility within thirty days of the physician's determination. 17827

(c) The individual has been hospitalized and a physician has 17828
determined and documented in writing that, unless the individual 17829
is enrolled in home and community-based services such as the PACE 17830
program, the individual is to be transported directly from the 17831
hospital to a nursing facility and admitted. 17832

(d) Both of the following apply: 17833

(i) The individual is the subject of a report made under 17834
section 5101.61 of the Revised Code regarding abuse, neglect, or 17835
exploitation or such a report referred to a county department of 17836
job and family services under section 5126.31 of the Revised Code 17837
or has made a request to a county department for protective 17838
services as defined in section 5101.60 of the Revised Code. 17839

(ii) A county department of job and family services and an 17840
area agency on aging have jointly documented in writing that, 17841
unless the individual is enrolled in home and community-based 17842
services such as the PACE program, the individual should be 17843

admitted to a nursing facility. 17844

(C) Each month, the department of aging shall identify 17845
individuals who are eligible for the home first component of the 17846
PACE program. When the department identifies such an individual, 17847
the department shall notify the PACE provider serving the area in 17848
which the individual resides. The PACE provider shall determine 17849
whether the PACE program is appropriate for the individual and 17850
whether the individual would rather participate in the PACE 17851
program than continue or begin to reside in a nursing facility. If 17852
the PACE provider determines that the PACE program is appropriate 17853
for the individual and the individual would rather participate in 17854
the PACE program than continue or begin to reside in a nursing 17855
facility, the PACE provider shall so notify the department of 17856
aging. On receipt of the notice from the PACE provider, the 17857
department of aging shall approve the individual's enrollment in 17858
the PACE program in accordance with priorities established in 17859
rules adopted under section 173.50 of the Revised Code. 17860

~~(D) Each quarter, the department of aging shall certify to 17861
the director of budget and management the estimated increase in 17862
costs of the PACE program resulting from enrollment of individuals 17863
in the PACE program pursuant to this section. 17864~~

Sec. 183.30. ~~(A) Except as provided in division (C) of this 17865
section, no more than five per cent of the total disbursements, 17866
encumbrances, and obligations of the southern Ohio agricultural 17867
and community development foundation in a fiscal year shall be for 17868
administrative expenses of the foundation in the same fiscal year. 17869~~

~~(B) Except as provided in division (C) of this section, no 17870
more than five per cent of the total disbursements, encumbrances, 17871
and obligations of the biomedical research and technology transfer 17872
trust fund in a fiscal year shall be for expenses relating to the 17873
administration of the trust fund by the third frontier commission 17874~~

~~in the same fiscal year.~~ 17875

~~(C) This section's five per cent limitation on administrative 17876
expenses does not apply to any fiscal year for which the 17877
controlling board approves a spending plan that the foundation or 17878
commission submits to the board. 17879~~

Payments may be made from the biomedical research and 17880
technology transfer trust fund for third frontier commission 17881
expenses related to the administration of awards made from the 17882
fund prior to the effective date of this section. No such payments 17883
shall be made after June 30, 2013. 17884

Sec. 183.51. (A) As used in this section and in the 17885
applicable bond proceedings unless otherwise provided: 17886

(1) "Bond proceedings" means the resolutions, orders, 17887
indentures, purchase and sale and trust and other agreements 17888
including any amendments or supplements to them, and credit 17889
enhancement facilities, and amendments and supplements to them, or 17890
any one or more or combination of them, authorizing, awarding, or 17891
providing for the terms and conditions applicable to or providing 17892
for the security or liquidity of, the particular obligations, and 17893
the provisions contained in those obligations. 17894

(2) "Bond service fund" means the bond service fund created 17895
in the bond proceedings for the obligations. 17896

(3) "Capital facilities" means, as applicable, capital 17897
facilities or projects as referred to in section 151.03 or 151.04 17898
of the Revised Code. 17899

(4) "Consent decree" means the consent decree and final 17900
judgment entered November 25, 1998, in the court of common pleas 17901
of Franklin county, Ohio, as the same may be amended or 17902
supplemented from time to time. 17903

(5) "Cost of capital facilities" has the same meaning as in 17904

section 151.01 of the Revised Code, as applicable. 17905

(6) "Credit enhancement facilities," "financing costs," and 17906
"interest" or "interest equivalent" have the same meanings as in 17907
section 133.01 of the Revised Code. 17908

(7) "Debt service" means principal, including any mandatory 17909
sinking fund or redemption requirements for retirement of 17910
obligations, interest and other accreted amounts, interest 17911
equivalent, and any redemption premium, payable on obligations. If 17912
not prohibited by the applicable bond proceedings, "debt service" 17913
may include costs relating to credit enhancement facilities that 17914
are related to and represent, or are intended to provide a source 17915
of payment of or limitation on, other debt service. 17916

(8) "Improvement fund" means, as applicable, the school 17917
building program assistance fund created in section 3318.25 of the 17918
Revised Code and the higher education improvement fund created in 17919
section 154.21 of the Revised Code. 17920

(9) "Issuing authority" means the buckeye tobacco settlement 17921
financing authority created in section 183.52 of the Revised Code. 17922

(10) "Net proceeds" means amounts received from the sale of 17923
obligations, excluding amounts used to refund or retire 17924
outstanding obligations, amounts required to be deposited into 17925
special funds pursuant to the applicable bond proceedings, and 17926
amounts to be used to pay financing costs. 17927

(11) "Obligations" means bonds, notes, or other evidences of 17928
obligation of the issuing authority, including any appertaining 17929
interest coupons, issued by the issuing authority under this 17930
section and Section 2i of Article VIII, Ohio Constitution, for the 17931
purpose of providing funds to the state, in exchange for the 17932
assignment and sale described in division (B) of this section, for 17933
the purpose of paying costs of capital facilities for: (a) housing 17934
branches and agencies of state government limited to facilities 17935

for a system of common schools throughout the state and (b) 17936
state-supported or state-assisted institutions of higher 17937
education. 17938

(12) "Pledged receipts" means, as and to the extent provided 17939
for in the applicable bond proceedings: 17940

(a) Pledged tobacco settlement receipts; 17941

(b) Accrued interest received from the sale of obligations; 17942

(c) Income from the investment of the special funds; 17943

(d) Additional or any other specific revenues or receipts 17944
lawfully available to be pledged, and pledged, pursuant to the 17945
bond proceedings, including but not limited to amounts received 17946
under credit enhancement facilities, to the payment of debt 17947
service. 17948

(13) "Pledged tobacco settlement receipts" means all amounts 17949
received by the issuing authority pursuant to division (B) of this 17950
section. 17951

(14) "Principal amount" means the aggregate of the amount as 17952
stated or provided for in the applicable bond proceedings as the 17953
amount on which interest or interest equivalent on particular 17954
obligations is initially calculated. "Principal amount" does not 17955
include any premium paid to the issuing authority by the initial 17956
purchaser of the obligations. "Principal amount" of a capital 17957
appreciation bond, as defined in division (C) of section 3334.01 17958
of the Revised Code, means its original face amount and not its 17959
accreted value, and "principal amount" of a zero coupon bond, as 17960
defined in division (J) of section 3334.01 of the Revised Code, 17961
means the discounted offering price at which the bond is initially 17962
sold to the public, disregarding any purchase price discount to 17963
the original purchaser, if provided in or for pursuant to the bond 17964
proceedings. 17965

(15) "Special funds" or "funds," unless the context indicates otherwise, means the bond service fund, and any other funds, including any reserve funds, created under the bond proceedings and stated to be special funds in those proceedings, including moneys and investments, and earnings from investments, credited and to be credited to the particular fund. "Special funds" does not include any improvement fund or investment earnings on amounts in any improvement fund, or other funds created by the bond proceedings that are not stated by those proceedings to be special funds.

(B) The state may assign and sell to the issuing authority, and the issuing authority may accept and purchase, all or a portion of the amounts to be received by the state under the tobacco master settlement agreement for a purchase price payable by the issuing authority to the state consisting of the net proceeds of obligations and any residual interest, if any. Any such assignment and sale shall be irrevocable in accordance with its terms during the period any obligations secured by amounts so assigned and sold are outstanding under the applicable bond proceedings, and shall constitute a contractual obligation to the holders or owners of those obligations. Any such assignment and sale shall also be treated as an absolute transfer and true sale for all purposes, and not as a pledge or other security interest. The characterization of any such assignment and sale as a true sale and absolute transfer shall not be negated or adversely affected by only a portion of the amounts to be received under the tobacco master settlement agreement being transferred, the acquisition or retention by the state of a residual interest, the participation of any state officer or employee as a member or officer of, or providing staff support to, the issuing authority, any responsibility of an officer or employee of the state for collecting the amounts to be received under the tobacco master settlement agreement or otherwise enforcing that agreement or

retaining any legal title to or interest in any portion of the 17999
amounts to be received under that agreement for the purpose of 18000
these collection activities, any characterization of the issuing 18001
authority or its obligations for purposes of accounting, taxation, 18002
or securities regulation, or by any other factors whatsoever. A 18003
true sale shall exist under this section regardless of whether the 18004
issuing authority has any recourse against the state or any other 18005
term of the bond proceedings or the treatment or characterization 18006
of the transfer as a financing for any purpose. Upon and following 18007
the assignment and sale, the state shall not have any right, 18008
title, or interest in the portion of the receipts under the 18009
tobacco master settlement agreement so assigned and sold, other 18010
than any residual interest that may be described in the applicable 18011
bond proceedings for those obligations, and that portion, if any, 18012
shall be the property of the issuing authority and not of the 18013
state, and shall be paid directly to the issuing authority, and 18014
shall be owned, received, held, and disbursed by the issuing 18015
authority and not by the state. 18016

The state may covenant, pledge, and agree in the bond 18017
proceedings, with and for the benefit of the issuing authority, 18018
the holders and owners of obligations, and providers of any credit 18019
enhancement facilities, that it shall: (1) maintain statutory 18020
authority for, and cause to be collected and paid directly to the 18021
issuing authority or its assignee, the pledged receipts, (2) 18022
enforce the rights of the issuing authority to receive the 18023
receipts under the tobacco master settlement agreement assigned 18024
and sold to the issuing authority, (3) not materially impair the 18025
rights of the issuing authority to fulfill the terms of its 18026
agreements with the holders or owners of outstanding obligations 18027
under the bond proceedings, (4) not materially impair the rights 18028
and remedies of the holders or owners of outstanding obligations 18029
or materially impair the security for those outstanding 18030
obligations, and (5) enforce Chapter 1346. of the Revised Code, 18031

the tobacco master settlement agreement, and the consent decree to 18032
effectuate the collection of the pledged tobacco settlement 18033
receipts. The bond proceedings may provide or authorize the manner 18034
for determining material impairment of the security for any 18035
outstanding obligations, including by assessing and evaluating the 18036
pledged receipts in the aggregate. 18037

As further provided for in division (H) of this section, the 18038
bond proceedings may also include such other covenants, pledges, 18039
and agreements by the state to protect and safeguard the security 18040
and rights of the holders and owners of the obligations, and of 18041
the providers of any credit enhancement facilities, including, 18042
without limiting the generality of the foregoing, any covenant, 18043
pledge, or agreement customary in transactions involving the 18044
issuance of securities the debt service on which is payable from 18045
or secured by amounts received under the tobacco master settlement 18046
agreement. Notwithstanding any other provision of law, any 18047
covenant, pledge, and agreement of the state, if and when made in 18048
the bond proceedings, shall be controlling and binding upon, and 18049
enforceable against the state in accordance with its terms for so 18050
long as any obligations are outstanding under the applicable bond 18051
proceedings. The bond proceedings may also include limitations on 18052
the remedies available to the issuing authority, the holders and 18053
owners of the obligations, and the providers of any credit 18054
enhancement facilities, including, without limiting the generality 18055
of the foregoing, a provision that those remedies may be limited 18056
to injunctive relief in circumstances where there has been no 18057
prior determination by a court of competent jurisdiction that the 18058
state has not enforced Chapter 1346. of the Revised Code, the 18059
tobacco master settlement agreement, or the consent decree as may 18060
have been covenanted or agreed in the bond proceedings under 18061
division (B)(5) of this section. 18062

Nothing in this section or the bond proceedings shall 18063

preclude or limit, or be construed to preclude or limit, the state 18064
from regulating or authorizing or permitting the regulation of 18065
smoking or from taxing and regulating the sale of cigarettes or 18066
other tobacco products, or from defending or prosecuting cases or 18067
other actions relating to the sale or use of cigarettes or other 18068
tobacco products. Except as otherwise may be agreed in writing by 18069
the attorney general, nothing in this section or the bond 18070
proceedings shall modify or limit, or be construed to modify or 18071
limit, the responsibility, power, judgment, and discretion of the 18072
attorney general to protect and discharge the duties, rights, and 18073
obligations of the state under the tobacco master settlement 18074
agreement, the consent decree, or Chapter 1346. of the Revised 18075
Code. 18076

The governor and the director of budget and management, in 18077
consultation with the attorney general, on behalf of the state, 18078
and any member or officer of the issuing authority as authorized 18079
by that issuing authority, on behalf of the issuing authority, may 18080
take any action and execute any documents, including any purchase 18081
and sale agreements, necessary to effect the assignment and sale 18082
and the acceptance of the assignment and title to the receipts 18083
including, providing irrevocable direction to the escrow agent 18084
acting under the tobacco master settlement agreement to transfer 18085
directly to the issuing authority the amounts to be received under 18086
that agreement that are subject to such assignment and sale. Any 18087
purchase and sale agreement or other bond proceedings may contain 18088
the terms and conditions established by the state and the issuing 18089
authority to carry out and effectuate the purposes of this 18090
section, including, without limitation, covenants binding the 18091
state in favor of the issuing authority and its assignees and the 18092
owners of the obligations. Any such purchase and sale agreement 18093
shall be sufficient to effectuate such purchase and sale without 18094
regard to any other laws governing other property sales or 18095
financial transactions by the state. 18096

Not later than two years following the date on which there 18097
are no longer any obligations outstanding under the bond 18098
proceedings, all assets of the issuing authority shall vest in the 18099
state, the issuing authority shall execute any necessary 18100
assignments or instruments, including any assignment of any right, 18101
title, or ownership to the state for receipt of amounts under the 18102
tobacco master settlement agreement, and the issuing authority 18103
shall be dissolved. 18104

(C) The issuing authority is authorized to issue and to sell 18105
obligations as provided in this section. The aggregate principal 18106
amount of obligations issued under this section shall not exceed 18107
six billion dollars, exclusive of obligations issued under 18108
division (M)(1) of this section to refund, renew, or advance 18109
refund other obligations issued or incurred. At least seventy-five 18110
per cent of the aggregate net proceeds of the obligations issued 18111
under the authority of this section, exclusive of obligations 18112
issued to refund, renew, or advance refund other obligations, 18113
shall be paid to the state for deposit into the school building 18114
program assistance fund created in section 3318.25 of the Revised 18115
Code. 18116

(D) Each issue of obligations shall be authorized by 18117
resolution or order of the issuing authority. The bond proceedings 18118
shall provide for or authorize the manner for determining the 18119
principal amount or maximum principal amount of obligations of an 18120
issue, the principal maturity or maturities, the interest rate or 18121
rates, the date of and the dates of payment of interest on the 18122
obligations, their denominations, and the place or places of 18123
payment of debt service which may be within or outside the state. 18124
Unless otherwise provided by law, the latest principal maturity 18125
may not be later than the earlier of the thirty-first day of 18126
December of the fiftieth calendar year after the year of issuance 18127
of the particular obligations or of the fiftieth calendar year 18128

after the year in which the original obligation to pay was issued 18129
or entered into. Sections 9.96, 9.98, 9.981, 9.982, and 9.983 of 18130
the Revised Code apply to the obligations. 18131

The purpose of the obligations may be stated in the bond 18132
proceedings in general terms, such as, as applicable, "paying 18133
costs of capital facilities for a system of common schools" and 18134
"paying costs of facilities for state-supported and state-assisted 18135
institutions of higher education." Unless otherwise provided in 18136
the bond proceedings or in division (C) of this section, the net 18137
proceeds from the issuance of the obligations shall be paid to the 18138
state for deposit into the applicable improvement fund. In 18139
addition to the investments authorized in Chapter 135. of the 18140
Revised Code, the net proceeds held in an improvement fund may be 18141
invested by the treasurer of state in guaranteed investment 18142
contracts with providers rated at the time of any investment in 18143
the three highest rating categories by two nationally recognized 18144
rating agencies, all subject to the terms and conditions set forth 18145
in those agreements or the bond proceedings. Notwithstanding 18146
~~division (B)(4) of section 3318.38~~ anything to the contrary in 18147
Chapter 3318. of the Revised Code, net proceeds of obligations 18148
deposited into the school building program assistance fund created 18149
in section 3318.25 of the Revised Code may be used to pay basic 18150
project costs under ~~section 3318.38 of the Revised Code~~ that 18151
chapter at the times determined by the Ohio school facilities 18152
commission without regard to whether those expenditures are in 18153
proportion to the state's and the school district's respective 18154
shares of that basic project cost; provided that this shall not 18155
result in any change in the state or school district shares of the 18156
basic project costs ~~provided under Chapter 3318. of the Revised~~ 18157
~~Code~~ as determined under that chapter. As used in the preceding 18158
sentence, "Ohio school facilities commission" and "basic project 18159
costs" have the same meanings as in section 3318.01 of the Revised 18160
Code. 18161

(E) The issuing authority may, without need for any other 18162
approval, appoint or provide for the appointment of paying agents, 18163
bond registrars, securities depositories, credit enhancement 18164
providers or counterparties, clearing corporations, and transfer 18165
agents, and retain or contract for the services of underwriters, 18166
investment bankers, financial advisers, accounting experts, 18167
marketing, remarketing, indexing, and administrative agents, other 18168
consultants, and independent contractors, including printing 18169
services, as are necessary in the judgment of the issuing 18170
authority to carry out the issuing authority's functions under 18171
this section and section 183.52 of the Revised Code. The attorney 18172
general as counsel to the issuing authority shall represent the 18173
authority in the execution of its powers and duties, and shall 18174
institute and prosecute all actions on its behalf. The issuing 18175
authority, in consultation with the attorney general, shall select 18176
counsel, and the attorney general shall appoint the counsel 18177
selected, for the purposes of carrying out the functions under 18178
this section and related sections of the Revised Code. Financing 18179
costs are payable, as may be provided in the bond proceedings, 18180
from the proceeds of the obligations, from special funds, or from 18181
other moneys available for the purpose, including as to future 18182
financing costs, from the pledged receipts. 18183

(F) The issuing authority may irrevocably pledge and assign 18184
all, or such portion as the issuing authority determines, of the 18185
pledged receipts to the payment of the debt service charges on 18186
obligations issued under this section, and for the establishment 18187
and maintenance of any reserves, as provided in the bond 18188
proceedings, and make other provisions in the bond proceedings 18189
with respect to pledged receipts as authorized by this section, 18190
which provisions are controlling notwithstanding any other 18191
provisions of law pertaining to them. Any and all pledged receipts 18192
received by the issuing authority and required by the bond 18193
proceedings, consistent with this section, to be deposited, 18194

transferred, or credited to the bond service fund, and all other 18195
money transferred or allocated to or received for the purposes of 18196
that fund, shall be deposited and credited to the bond service 18197
fund created in the bond proceedings for the obligations, subject 18198
to any applicable provisions of those bond proceedings, but 18199
without necessity for any act of appropriation. Those pledged 18200
receipts shall immediately be subject to the lien of that pledge 18201
without any physical delivery thereof or further act, and shall 18202
not be subject to other court judgments. The lien of the pledge of 18203
those pledged receipts shall be valid and binding against all 18204
parties having claims of any kind against the issuing authority, 18205
irrespective of whether those parties have notice thereof. The 18206
pledge shall create a perfected security interest for all purposes 18207
of Chapter 1309. of the Revised Code and a perfected lien for 18208
purposes of any other interest, all without the necessity for 18209
separation or delivery of funds or for the filing or recording of 18210
the applicable bond proceedings by which that pledge is created or 18211
any certificate, statement, or other document with respect 18212
thereto. The pledge of the pledged receipts shall be effective and 18213
the money therefrom and thereof may be applied to the purposes for 18214
which pledged. 18215

(G) Obligations may be further secured, as determined by the 18216
issuing authority, by an indenture or a trust agreement between 18217
the issuing authority and a corporate trustee, which may be any 18218
trust company or bank having a place of business within the state. 18219
Any indenture or trust agreement may contain the resolution or 18220
order authorizing the issuance of the obligations, any provisions 18221
that may be contained in any bond proceedings, and other 18222
provisions that are customary or appropriate in an agreement of 18223
that type, including, but not limited to: 18224

(1) Maintenance of each pledge, indenture, trust agreement, 18225
or other instrument comprising part of the bond proceedings until 18226

the issuing authority has fully paid or provided for the payment 18227
of debt service on the obligations secured by it; 18228

(2) In the event of default in any payments required to be 18229
made by the bond proceedings, enforcement of those payments or 18230
agreements by mandamus, the appointment of a receiver, suit in 18231
equity, action at law, or any combination of them; 18232

(3) The rights and remedies of the holders or owners of 18233
obligations and of the trustee and provisions for protecting and 18234
enforcing them, including limitations on rights of individual 18235
holders and owners. 18236

(H) The bond proceedings may contain additional provisions 18237
customary or appropriate to the financing or to the obligations or 18238
to particular obligations including, but not limited to, 18239
provisions for: 18240

(1) The redemption of obligations prior to maturity at the 18241
option of the issuing authority or of the holder or upon the 18242
occurrence of certain conditions, and at a particular price or 18243
prices and under particular terms and conditions; 18244

(2) The form of and other terms of the obligations; 18245

(3) The establishment, deposit, investment, and application 18246
of special funds, and the safeguarding of moneys on hand or on 18247
deposit, in lieu of the applicability of provisions of Chapter 18248
131. or 135. of the Revised Code, but subject to any special 18249
provisions of this section with respect to the application of 18250
particular funds or moneys. Any financial institution that acts as 18251
a depository of any moneys in special funds or other funds under 18252
the bond proceedings may furnish indemnifying bonds or pledge 18253
securities as required by the issuing authority. 18254

(4) Any or every provision of the bond proceedings being 18255
binding upon the issuing authority and upon such governmental 18256
agency or entity, officer, board, authority, agency, department, 18257

institution, district, or other person or body as may from time to 18258
time be authorized to take actions as may be necessary to perform 18259
all or any part of the duty required by the provision; 18260

(5) The maintenance of each pledge or instrument comprising 18261
part of the bond proceedings until the issuing authority has fully 18262
paid or provided for the payment of the debt service on the 18263
obligations or met other stated conditions; 18264

(6) In the event of default in any payments required to be 18265
made by the bond proceedings, or by any other agreement of the 18266
issuing authority made as part of a contract under which the 18267
obligations were issued or secured, including a credit enhancement 18268
facility, the enforcement of those payments by mandamus, a suit in 18269
equity, an action at law, or any combination of those remedial 18270
actions; 18271

(7) The rights and remedies of the holders or owners of 18272
obligations or of book-entry interests in them, and of third 18273
parties under any credit enhancement facility, and provisions for 18274
protecting and enforcing those rights and remedies, including 18275
limitations on rights of individual holders or owners; 18276

(8) The replacement of mutilated, destroyed, lost, or stolen 18277
obligations; 18278

(9) The funding, refunding, or advance refunding, or other 18279
provision for payment, of obligations that will then no longer be 18280
outstanding for purposes of this section or of the applicable bond 18281
proceedings; 18282

(10) Amendment of the bond proceedings; 18283

(11) Any other or additional agreements with the owners of 18284
obligations, and such other provisions as the issuing authority 18285
determines, including limitations, conditions, or qualifications, 18286
relating to any of the foregoing or the activities of the issuing 18287
authority in connection therewith. 18288

The bond proceedings shall make provision for the payment of 18289
the expenses of the enforcement activity of the attorney general 18290
referred to in division (B) of this section from the amounts from 18291
the tobacco master settlement agreement assigned and sold to the 18292
issuing authority under that division or from the proceeds of 18293
obligations, or a combination thereof, which may include provision 18294
for both annual payments and a special fund providing reserve 18295
amounts for the payment of those expenses. 18296

The issuing authority shall not, and shall covenant in the 18297
bond proceedings that it shall not, be authorized to and shall not 18298
file a voluntary petition under the United States Bankruptcy Code, 18299
11 U.S.C. 101 et seq., as amended, or voluntarily commence any 18300
similar bankruptcy proceeding under state law including, without 18301
limitation, consenting to the appointment of a receiver or trustee 18302
or making a general or specific assignment for the benefit of 18303
creditors, and neither any public officer or any organization, 18304
entity, or other person shall authorize the issuing authority to 18305
be or become a debtor under the United States Bankruptcy Code or 18306
take any of those actions under the United States Bankruptcy Code 18307
or state law. The state hereby covenants, and the issuing 18308
authority shall covenant, with the holders or owners of the 18309
obligations, that the state shall not permit the issuing authority 18310
to file a voluntary petition under the United States Bankruptcy 18311
Code or take any of those actions under the United States 18312
Bankruptcy Code or state law during the period obligations are 18313
outstanding and for any additional period for which the issuing 18314
authority covenants in the bond proceedings, which additional 18315
period may, but need not, be a period of three hundred sixty-seven 18316
days or more. 18317

(I) The obligations requiring execution by or for the issuing 18318
authority shall be signed as provided in the bond proceedings, and 18319
may bear the official seal of the issuing authority or a facsimile 18320

thereof. Any obligation may be signed by the individual who, on 18321
the date of execution, is the authorized signer even though, on 18322
the date of the obligations, that individual is not an authorized 18323
signer. In case the individual whose signature or facsimile 18324
signature appears on any obligation ceases to be an authorized 18325
signer before delivery of the obligation, that signature or 18326
facsimile is nevertheless valid and sufficient for all purposes as 18327
if that individual had remained the authorized signer until 18328
delivery. 18329

(J) Obligations are investment securities under Chapter 1308. 18330
of the Revised Code. Obligations may be issued in bearer or in 18331
registered form, registrable as to principal alone or as to both 18332
principal and interest, or both, or in certificated or 18333
uncertificated form, as the issuing authority determines. 18334
Provision may be made for the exchange, conversion, or transfer of 18335
obligations and for reasonable charges for registration, exchange, 18336
conversion, and transfer. Pending preparation of final 18337
obligations, the issuing authority may provide for the issuance of 18338
interim instruments to be exchanged for the final obligations. 18339

(K) Obligations may be sold at public sale or at private 18340
sale, in such manner, and at such price at, above, or below par, 18341
all as determined by and provided by the issuing authority in the 18342
bond proceedings. 18343

(L) Except to the extent that rights are restricted by the 18344
bond proceedings, any owner of obligations or provider of or 18345
counterparty to a credit enhancement facility may by any suitable 18346
form of legal proceedings protect and enforce any rights relating 18347
to obligations or that facility under the laws of this state or 18348
granted by the bond proceedings. Those rights include the right to 18349
compel the performance of all applicable duties of the issuing 18350
authority and the state. Each duty of the issuing authority and 18351
that issuing authority's officers, staff, and employees, and of 18352

each state entity or agency, or using district or using 18353
institution, and its officers, members, staff, or employees, 18354
undertaken pursuant to the bond proceedings, is hereby established 18355
as a duty of the entity or individual having authority to perform 18356
that duty, specifically enjoined by law and resulting from an 18357
office, trust, or station within the meaning of section 2731.01 of 18358
the Revised Code. The individuals who are from time to time 18359
members of the issuing authority, or their designees acting 18360
pursuant to section 183.52 of the Revised Code, or the issuing 18361
authority's officers, staff, agents, or employees, when acting 18362
within the scope of their employment or agency, shall not be 18363
liable in their personal capacities on any obligations or 18364
otherwise under the bond proceedings, or for otherwise exercising 18365
or carrying out any purposes or powers of the issuing authority. 18366

(M)(1) Subject to any applicable limitations in division (C) 18367
of this section, the issuing authority may also authorize and 18368
provide for the issuance of: 18369

(a) Obligations in the form of bond anticipation notes, and 18370
may authorize and provide for the renewal of those notes from time 18371
to time by the issuance of new notes. The holders of notes or 18372
appertaining interest coupons have the right to have debt service 18373
on those notes paid solely from the moneys and special funds, and 18374
all or any portion of the pledged receipts, that are or may be 18375
pledged to that payment, including the proceeds of bonds or 18376
renewal notes or both, as the issuing authority provides in the 18377
bond proceedings authorizing the notes. Notes may be additionally 18378
secured by covenants of the issuing authority to the effect that 18379
the issuing authority will do all things necessary for the 18380
issuance of bonds or renewal notes in such principal amount and 18381
upon such terms as may be necessary to provide moneys to pay when 18382
due the debt service on the notes, and apply their proceeds to the 18383
extent necessary, to make full and timely payment of debt service 18384

on the notes as provided in the applicable bond proceedings. In 18385
the bond proceedings authorizing the issuance of bond anticipation 18386
notes the issuing authority shall set forth for the bonds 18387
anticipated an estimated schedule of annual principal payments the 18388
latest of which shall be no later than provided in division (D) of 18389
this section. While the notes are outstanding there shall be 18390
deposited, as shall be provided in the bond proceedings for those 18391
notes, from the sources authorized for payment of debt service on 18392
the bonds, amounts sufficient to pay the principal of the bonds 18393
anticipated as set forth in that estimated schedule during the 18394
time the notes are outstanding, which amounts shall be used solely 18395
to pay the principal of those notes or of the bonds anticipated. 18396

(b) Obligations for the refunding, including funding and 18397
retirement, and advance refunding, with or without payment or 18398
redemption prior to maturity, of any obligations previously issued 18399
under this section and any bonds or notes previously issued for 18400
the purpose of paying costs of capital facilities for: (i) 18401
state-supported or state-assisted institutions of higher education 18402
as authorized by sections 151.01 and 151.04 of the Revised Code, 18403
pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution, 18404
and (ii) housing branches and agencies of state government limited 18405
to facilities for a system of common schools throughout the state 18406
as authorized by sections 151.01 and 151.03 of the Revised Code, 18407
pursuant to Sections 2i and 2n of Article VIII, Ohio Constitution. 18408
Refunding obligations may be issued in amounts sufficient to pay 18409
or to provide for repayment of the principal amount, including 18410
principal amounts maturing prior to the redemption of the 18411
remaining prior obligations or bonds or notes, any redemption 18412
premium, and interest accrued or to accrue to the maturity or 18413
redemption date or dates, payable on the prior obligations or 18414
bonds or notes, and related financing costs and any expenses 18415
incurred or to be incurred in connection with that issuance and 18416
refunding. Subject to the applicable bond proceedings, the portion 18417

of the proceeds of the sale of refunding obligations issued under 18418
division (M)(1)(b) of this section to be applied to debt service 18419
on the prior obligations or bonds or notes shall be credited to an 18420
appropriate separate account in the bond service fund and held in 18421
trust for the purpose by the issuing authority or by a corporate 18422
trustee, and may be invested as provided in the bond proceedings. 18423
Obligations authorized under this division shall be considered to 18424
be issued for those purposes for which the prior obligations or 18425
bonds or notes were issued. 18426

(2) The principal amount of refunding, advance refunding, or 18427
renewal obligations issued pursuant to division (M) of this 18428
section shall be in addition to the amount authorized in division 18429
(C) of this section. 18430

(N) Obligations are lawful investments for banks, savings and 18431
loan associations, credit union share guaranty corporations, trust 18432
companies, trustees, fiduciaries, insurance companies, including 18433
domestic for life and domestic not for life, trustees or other 18434
officers having charge of sinking and bond retirement or other 18435
special funds of the state and political subdivisions and taxing 18436
districts of this state, notwithstanding any other provisions of 18437
the Revised Code or rules adopted pursuant to those provisions by 18438
any state agency with respect to investments by them, and are also 18439
acceptable as security for the repayment of the deposit of public 18440
moneys. The exemptions from taxation in Ohio as provided for in 18441
particular sections of the Ohio Constitution and section 5709.76 18442
of the Revised Code apply to the obligations. 18443

(O)(1) Unless otherwise provided or provided for in any 18444
applicable bond proceedings, moneys to the credit of or in a 18445
special fund shall be disbursed on the order of the issuing 18446
authority. No such order is required for the payment, from the 18447
bond service fund or other special fund, when due of debt service 18448
or required payments under credit enhancement facilities. 18449

(2) Payments received by the issuing authority under interest rate hedges entered into as credit enhancement facilities under this section shall be deposited as provided in the applicable bond proceedings.

(P) The obligations shall not be general obligations of the state and the full faith and credit, revenue, and taxing power of the state shall not be pledged to the payment of debt service on them or to any guarantee of the payment of that debt service. The holders or owners of the obligations shall have no right to have any moneys obligated or pledged for the payment of debt service except as provided in this section and in the applicable bond proceedings. The rights of the holders and owners to payment of debt service are limited to all or that portion of the pledged receipts, and those special funds, pledged to the payment of debt service pursuant to the bond proceedings in accordance with this section, and each obligation shall bear on its face a statement to that effect.

(Q) Each bond service fund is a trust fund and is hereby pledged to the payment of debt service on the applicable obligations. Payment of that debt service shall be made or provided for by the issuing authority in accordance with the bond proceedings without necessity for any act of appropriation. The bond proceedings may provide for the establishment of separate accounts in the bond service fund and for the application of those accounts only to debt service on specific obligations, and for other accounts in the bond service fund within the general purposes of that fund.

(R) Subject to the bond proceedings pertaining to any obligations then outstanding in accordance with their terms, the issuing authority may in the bond proceedings pledge all, or such portion as the issuing authority determines, of the moneys in the bond service fund to the payment of debt service on particular

obligations, and for the establishment and maintenance of any 18482
reserves for payment of particular debt service. 18483

(S)(1) Unless otherwise provided in any applicable bond 18484
proceedings, moneys to the credit of special funds may be invested 18485
by or on behalf of the issuing authority only in one or more of 18486
the following: 18487

(a) Notes, bonds, or other direct obligations of the United 18488
States or of any agency or instrumentality of the United States, 18489
or in no-front-end-load money market mutual funds consisting 18490
exclusively of those obligations, or in repurchase agreements, 18491
including those issued by any fiduciary, secured by those 18492
obligations, or in collective investment funds consisting 18493
exclusively of those obligations; 18494

(b) Obligations of this state or any political subdivision of 18495
this state; 18496

(c) Certificates of deposit of any national bank located in 18497
this state and any bank, as defined in section 1101.01 of the 18498
Revised Code, subject to inspection by the superintendent of 18499
financial institutions; 18500

(d) The treasurer of state's pooled investment program under 18501
section 135.45 of the Revised Code; 18502

(e) Other investment agreements or repurchase agreements that 18503
are consistent with the ratings on the obligations. 18504

(2) The income from investments referred to in division 18505
(S)(1) of this section shall be credited to special funds or 18506
otherwise as the issuing authority determines in the bond 18507
proceedings. Those investments may be sold or exchanged at times 18508
as the issuing authority determines, provides for, or authorizes. 18509

(T) The treasurer of state shall have responsibility for 18510
keeping records, making reports, and making payments, relating to 18511

any arbitrage rebate requirements under the applicable bond 18512
proceedings. 18513

(U) The issuing authority shall make quarterly reports to the 18514
general assembly of the amounts in, and activities of, each 18515
improvement fund, including amounts and activities on the subfund 18516
level. Each report shall include a detailed description and 18517
analysis of the amount of proceeds remaining in each fund from the 18518
sale of obligations pursuant to this section, and any other 18519
deposits, credits, interest earnings, disbursements, expenses, 18520
transfers, or activities of each fund. 18521

(V) The costs of the annual audit of the authority conducted 18522
pursuant to section 117.112 of the Revised Code are payable, as 18523
may be provided in the bond proceedings, from the proceeds of the 18524
obligations, from special funds, or from other moneys available 18525
for the purpose, including as to future financing costs, from the 18526
pledged receipts. 18527

Sec. 185.01. As used in this chapter: 18528

(A) "Advanced practice nurse" has the same meaning as in 18529
section 4723.01 of the Revised Code. 18530

(B) "Collaboration" has the same meaning as in section 18531
4723.01 of the Revised Code. 18532

(C) ~~"Health care coverage and quality council" means the~~ 18533
~~entity established under section 3923.90 of the Revised Code.~~ 18534

~~(D)~~ "Patient centered medical home education advisory group" 18535
means the entity established under section 185.03 of the Revised 18536
Code to implement and administer the patient centered medical home 18537
education pilot project. 18538

~~(E)~~(D) "Patient centered medical home education pilot 18539
project" means the pilot project established under section 185.02 18540
of the Revised Code. 18541

Sec. 185.03. (A) The patient centered medical home education 18542
advisory group is hereby created for the purpose of implementing 18543
and administering the patient centered medical home pilot project. 18544
The advisory group shall develop a set of expected outcomes for 18545
the pilot project. 18546

(B) The advisory group shall consist of the following voting 18547
members: 18548

(1) One individual with expertise in the training and 18549
education of primary care physicians who is appointed by the dean 18550
of the university of Toledo college of medicine; 18551

(2) One individual with expertise in the training and 18552
education of primary care physicians who is appointed by the dean 18553
of the Boonshoft school of medicine at Wright state university; 18554

(3) One individual with expertise in the training and 18555
education of primary care physicians who is appointed by the 18556
president and dean of the northeast Ohio medical university; 18557

(4) One individual with expertise in the training and 18558
education of primary care physicians who is appointed by the dean 18559
of the Ohio university college of osteopathic medicine; 18560

(5) Two individuals appointed by the governing board of the 18561
Ohio academy of family physicians; 18562

(6) One individual appointed by the governing board of the 18563
Ohio chapter of the American college of physicians; 18564

(7) One individual appointed by the governing board of the 18565
American academy of pediatrics; 18566

(8) One individual appointed by the governing board of the 18567
Ohio osteopathic association; 18568

(9) One individual with expertise in the training and 18569
education of advanced practice nurses who is appointed by the 18570

governing board of the Ohio council of deans and directors of 18571
baccalaureate and higher degree programs in nursing; 18572

(10) One individual appointed by the governing board of the 18573
Ohio nurses association; 18574

(11) One individual appointed by the governing board of the 18575
Ohio association of advanced practice nurses; 18576

(12) ~~A member of the health care coverage and quality~~ 18577
~~council, other than the advisory group member specified in~~ 18578
~~division (C)(2) of this section, One individual appointed by the~~ 18579
~~governing board of the Ohio council for home care and hospice;~~ 18580

(13) One individual appointed by the superintendent of 18581
insurance. 18582

(C) The advisory group shall consist of the following 18583
nonvoting, ex officio members: 18584

(1) The executive director of the state medical board, or the 18585
director's designee; 18586

(2) The executive director of the board of nursing or the 18587
director's designee; 18588

(3) The chancellor of the Ohio board of regents, or the 18589
chancellor's designee; 18590

(4) The individual within the department of job and family 18591
services who serves as the director of medicaid, or the director's 18592
designee; 18593

(5) The director of health or the director's designee. 18594

(D) Advisory group members who are appointed shall serve at 18595
the pleasure of their appointing authorities. Terms of office of 18596
appointed members shall be three years, except that a member's 18597
term ends if the pilot project ceases operation during the 18598
member's term. 18599

Vacancies shall be filled in the manner provided for original 18600
appointments. 18601

Members shall serve without compensation, except to the 18602
extent that serving on the advisory group is considered part of 18603
their regular employment duties. 18604

(E) The advisory group shall select from among its members a 18605
chairperson and vice-chairperson. The advisory group may select 18606
any other officers it considers necessary to conduct its business. 18607

A majority of the members of the advisory group constitutes a 18608
quorum for the transaction of official business. A majority of a 18609
quorum is necessary for the advisory group to take any action, 18610
except that when one or more members of a quorum are required to 18611
abstain from voting as provided in division (C)(1)(d) or (C)(2)(c) 18612
of section 185.05 of the Revised Code, the number of members 18613
necessary for a majority of a quorum shall be reduced accordingly. 18614

The advisory group shall meet as necessary to fulfill its 18615
duties. The times and places for the meetings shall be selected by 18616
the chairperson. 18617

(F) Sections 101.82 to 101.87 of the Revised Code do not 18618
apply to the advisory group. 18619

Sec. 185.06. (A) To be eligible for inclusion in the patient 18620
centered medical home education pilot project, a physician 18621
practice shall meet all of the following requirements: 18622

(1) Consist of physicians who are board-certified in family 18623
medicine, general pediatrics, or internal medicine, as those 18624
designations are issued by a medical specialty certifying board 18625
recognized by the American board of medical specialties or 18626
American osteopathic association; 18627

(2) Be capable of adapting the practice during the period in 18628
which the practice receives funding from the patient centered 18629

medical home education advisory group in such a manner that the 18630
practice is fully compliant with the minimum standards for 18631
operation of a patient centered medical home, as those standards 18632
are established by the advisory group; 18633

~~(3) Comply with any reporting requirements recommended by the 18634
health care coverage and quality council under division (A)(12) of 18635
section 3923.91 of the Revised Code; 18636~~

~~(4) Meet any other criteria established by the advisory group 18637
as part of the selection process. 18638~~

(B) To be eligible for inclusion in the pilot project, an 18639
advanced practice nurse primary care practice shall meet all of 18640
the following requirements: 18641

(1) Consist of advanced practice nurses who meet all of the 18642
following requirements: 18643

(a) Hold a certificate to prescribe issued under section 18644
4723.48 of the Revised Code; 18645

(b) Are board-certified as a family nurse practitioner or 18646
adult nurse practitioner by the American academy of nurse 18647
practitioners or American nurses credentialing center, 18648
board-certified as a geriatric nurse practitioner or women's 18649
health nurse practitioner by the American nurses credentialing 18650
center, or is board-certified as a pediatric nurse practitioner by 18651
the American nurses credentialing center or pediatric nursing 18652
certification board; 18653

(c) Has a collaboration agreement with a physician with board 18654
certification as specified in division (A)(1) of this section and 18655
who is an active participant on the health care team. 18656

(2) Be capable of adapting the primary care practice during 18657
the period in which the practice receives funding from the 18658
advisory group in such a manner that the practice is fully 18659

compliant with the minimum standards for operation of a patient 18660
centered medical home, as those standards are established by the 18661
advisory group; 18662

~~(3) Comply with any reporting requirements recommended by the 18663
health care coverage and quality council under division (A)(12) of 18664
section 3923.91 of the Revised Code; 18665~~

~~(4) Meet any other criteria established by the advisory group 18666
as part of the selection process. 18667~~

Sec. 185.10. The patient centered medical home education 18668
advisory group shall seek funding sources for the patient centered 18669
medical home education pilot project. In doing so, the advisory 18670
group may apply for grants, seek federal funds, seek private 18671
donations, or seek any other type of funding that may be available 18672
for the pilot project. ~~To ensure that appropriate sources of and 18673
opportunities for funding are identified and pursued, the advisory 18674
group may ask for assistance from the health care coverage and 18675
quality council. 18676~~

Sec. 187.01. As used in this chapter, "JobsOhio" means the 18677
nonprofit corporation formed under this section, and includes any 18678
subsidiary of that corporation. In any section of law that refers 18679
to the nonprofit corporation formed under this section, reference 18680
to the corporation includes reference to any such subsidiary 18681
unless otherwise specified or clearly appearing from the context. 18682

The governor is hereby authorized to form a nonprofit 18683
corporation, to be named "JobsOhio," with the purposes of 18684
promoting economic development, job creation, job retention, job 18685
training, and the recruitment of business to this state. Except as 18686
otherwise provided in this chapter, the corporation shall be 18687
organized and operated in accordance with Chapter 1702. of the 18688
Revised Code. The governor shall sign and file articles of 18689

incorporation for the corporation with the secretary of state. The 18690
legal existence of the corporation shall begin upon the filing of 18691
the articles. 18692

~~The~~ In addition to meeting the requirements for articles of 18693
incorporation in Chapter 1702. of the Revised Code, the articles 18694
of incorporation for the nonprofit corporation shall set forth the 18695
following: 18696

(A) The designation of the name of the corporation as 18697
JobsOhio; 18698

(B) The creation of a board of directors consisting of ~~the~~ 18699
~~governor and eight~~ nine directors, to be appointed by the 18700
governor, who satisfy the qualifications prescribed by section 18701
187.02 of the Revised Code; 18702

(C) A requirement that the governor make initial appointments 18703
to the board within sixty days after the filing of the articles of 18704
incorporation. Of the initial appointments made to the board, two 18705
shall be for a term ending one year after the date the articles 18706
were filed, two shall be for a term ending two years after the 18707
date the articles were filed, and ~~four~~ five shall be for a term 18708
ending four years after the date the articles were filed. The 18709
articles shall state that, following the initial appointments, the 18710
governor shall appoint directors to terms of office of four years, 18711
with each term of office ending on the same day of the same month 18712
as did the term that it succeeds. If any director dies, resigns, 18713
or the director's status changes such that any of the requirements 18714
of division (C) of section 187.02 of the Revised Code are no 18715
longer met, that director's seat on the board shall become 18716
immediately vacant. The governor shall forthwith fill the vacancy 18717
by appointment for the remainder of the term of office of the 18718
vacated seat. 18719

(D) ~~The designation of~~ A requirement that the governor as ~~the~~ 18720

appoint one director to be chairperson of the board and procedures 18721
for electing directors to serve as officers of the corporation and 18722
members of an executive committee; 18723

(E) A provision for the appointment of a chief investment 18724
officer of the corporation by the recommendation of the board and 18725
approval of the governor. The chief investment officer shall serve 18726
at the pleasure of the ~~governor~~ board and shall have the power to 18727
execute contracts, spend corporation funds, and hire employees on 18728
behalf of the corporation. If the position of chief investment 18729
officer becomes vacant for any reason, the vacancy shall be filled 18730
in the same manner as provided in this division. 18731

(F) Provisions requiring the board to do all of the 18732
following: 18733

(1) Adopt one or more resolutions providing for compensation 18734
of the chief investment officer; 18735

(2) Approve an employee compensation plan recommended by the 18736
chief investment officer; 18737

(3) Approve a contract with the director of development for 18738
the corporation to assist the director and the department of 18739
development with providing services or otherwise carrying out the 18740
functions or duties of the department, including the operation and 18741
management of programs, offices, divisions, or boards, as may be 18742
determined by the director of development in consultation with the 18743
governor; 18744

(4) Approve all major contracts for services recommended by 18745
the chief investment officer; 18746

(5) Establish an annual strategic plan and standards of 18747
measure to be used in evaluating the corporation's success in 18748
executing the plan; 18749

(6) Establish a conflicts of interest policy that, at a 18750

minimum, complies with section 187.06 of the Revised Code; 18751

(7) Hold a minimum of four board of directors meetings per 18752
year at which a quorum of the board is physically present, and 18753
such other meetings, at which directors' physical presence is not 18754
required, as may be necessary. Meetings at which a quorum of the 18755
board is required to be physically present are subject to 18756
divisions (C), (D), and (E) of section 187.03 of the Revised Code. 18757

(8) Establish a records retention policy and present the 18758
policy, and any subsequent changes to the policy, at a meeting of 18759
the board of directors at which a quorum of the board is required 18760
to be physically present pursuant to division (F)(7) of this 18761
section; 18762

(9) Adopt standards of conduct for the directors. 18763

(G) A statement that directors shall not receive any 18764
compensation from the corporation, except that ~~governor appointed~~ 18765
directors may be reimbursed for actual and necessary expenses 18766
incurred in connection with services performed for the 18767
corporation; 18768

(H) A provision authorizing the board to amend provisions of 18769
the corporation's articles of incorporation or regulations, except 18770
provisions required by this chapter; 18771

(I) Procedures by which the corporation would be dissolved 18772
and by which all corporation rights, ~~liabilities~~, and assets would 18773
be distributed to the state or to another corporation organized 18774
under this chapter. These procedures shall incorporate any 18775
separate procedures subsequently set forth in this chapter for the 18776
dissolution of the corporation. The articles shall state that no 18777
dissolution shall take effect until the corporation has made 18778
adequate provision for the payment of any outstanding bonds, 18779
notes, or other obligations. 18780

(J) A provision establishing an audit committee to be 18781

comprised of directors. The articles shall require that the audit 18782
committee hire an independent certified public accountant to 18783
perform a financial audit of the corporation at least once every 18784
year. 18785

(K) A provision authorizing ~~the governor, as chairperson of~~ 18786
~~the board, a majority of the disinterested directors~~ to remove a 18787
director for misconduct, as that term may be defined in the 18788
articles or regulations of the corporation. The removal of a 18789
director under this division creates a vacancy on the board that 18790
the governor shall fill by appointment for the remainder of the 18791
term of office of the vacated seat. 18792

Sec. 187.02. (A) To qualify for appointment to the board of 18793
directors of JobsOhio, an individual must satisfy all of the 18794
following: 18795

(1) Has an understanding of generally accepted accounting 18796
principles and financial statements; 18797

(2) Possesses the ability to assess the general application 18798
of such principles in connection with the accounting for 18799
estimates, accruals, and reserves; 18800

(3) Has experience preparing, auditing, analyzing, or 18801
evaluating financial statements that present a breadth and level 18802
of complexity of accounting issues that are generally comparable 18803
to the breadth and complexity of issues that can reasonably be 18804
expected to be presented by the JobsOhio corporation's financial 18805
statements, or experience actively supervising one or more persons 18806
engaged in such activities; 18807

(4) Has an understanding of internal controls and the 18808
procedures for financial reporting; 18809

(5) Has an understanding of audit committee functions. 18810

(B) Specific experience demonstrating the qualifications 18811

required by division (A) of this section may be evidenced by any 18812
of the following: 18813

(1) Education and experience as a principal financial 18814
officer, principal accounting officer, controller, public 18815
accountant or auditor, or experience in one or more positions that 18816
involve the performance of similar functions; 18817

(2) Experience actively supervising a principal financial 18818
officer, principal accounting officer, controller, public 18819
accountant, auditor, or person performing similar functions; 18820

(3) Experience overseeing or assessing the performance of 18821
companies or public accountants with respect to the preparation, 18822
auditing, or evaluation of financial statements; 18823

~~(4) Other experience considered relevant by the governor 18824
consistent with division (A) of this section. 18825~~

(C) Each individual appointed to the board of directors shall 18826
be a citizen of the United States. At least six of the individuals 18827
appointed to the board shall be residents of or domiciled in this 18828
state. 18829

Sec. 187.03. (A) JobsOhio may perform such functions as 18830
permitted and shall perform such duties as prescribed by law, but 18831
shall not be considered a state or public department, agency, 18832
office, body, institution, or instrumentality for purposes of 18833
section 1.60 or Chapter 102., 121., 125., or 149. of the Revised 18834
Code. JobsOhio and its board of directors are not subject to the 18835
following sections of Chapter 1702. of the Revised Code: sections 18836
1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 1702.26, 1702.27, 18837
1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 1702.37, 1702.38, 18838
1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 1702.58, 1702.59, 18839
1702.60, 1702.80, and 1702.99. Nothing in this division shall be 18840
construed to impair the powers and duties of the Ohio ethics 18841

commission described in section 102.06 of the Revised Code to 18842
investigate and enforce section 102.02 of the Revised Code with 18843
regard to individuals required to file statements under division 18844
(B)(2) of this section. 18845

(B)(1) ~~With the exception of the governor, directors~~ 18846
Directors and employees of JobsOhio are not employees or officials 18847
of the state and, except as provided in division (B)(2) of this 18848
section, are not subject to Chapter 102., 124., 145., or 4117. of 18849
the Revised Code. 18850

(2) The chief investment officer, any other officer or 18851
employee with significant administrative, supervisory, 18852
contracting, or investment authority, and any ~~governor-appointed~~ 18853
director of JobsOhio shall file, with the Ohio ethics commission, 18854
a financial disclosure statement pursuant to section 102.02 of the 18855
Revised Code that includes, in place of the information required 18856
by divisions (A)(2), (7), (8), and (9) of that section, the 18857
information required by divisions (A) and (B) of section 102.022 18858
of the Revised Code. The governor shall comply with all applicable 18859
requirements of section 102.02 of the Revised Code. 18860

(3) Actual or in-kind expenditures for the travel, meals, or 18861
lodging of the governor or of any public official or employee 18862
designated by the governor for the purpose of this division shall 18863
not be considered a violation of section 102.03 of the Revised 18864
Code if the expenditures are made by the corporation, or on behalf 18865
of the corporation by any person, in connection with the 18866
governor's performance of official duties ~~as chairperson of the~~ 18867
~~board of directors of~~ related to JobsOhio. The governor may 18868
designate any person, including a person who is a public official 18869
or employee as defined in section 102.01 of the Revised Code, for 18870
the purpose of this division if such expenditures are made on 18871
behalf of the person in connection with the governor's performance 18872

of official duties as ~~chairperson~~ related to JobsOhio. A public 18873
official or employee so designated by the governor shall comply 18874
with all applicable requirements of section 102.02 of the Revised 18875
Code. 18876

At the times and frequency agreed to under division (B)(2)(b) 18877
of section 187.04 of the Revised Code, beginning in 2012, the 18878
corporation shall file with the department of development a 18879
written report of all such expenditures paid or incurred during 18880
the preceding calendar year. The report shall state the dollar 18881
value and purpose of each expenditure, the date of each 18882
expenditure, the name of the person that paid or incurred each 18883
expenditure, and the location, if any, where services or benefits 18884
of an expenditure were received, provided that any such 18885
information that may disclose proprietary information as defined 18886
in division (C) of this section shall not be included in the 18887
report. 18888

(4) The prohibition applicable to former public officials or 18889
employees in division (A)(1) of section 102.03 of the Revised Code 18890
does not apply to any person appointed to be a director or hired 18891
as an employee of JobsOhio. 18892

(5) Notwithstanding division (A)(2) of section 145.01 of the 18893
Revised Code, any person who is a former state employee shall no 18894
longer be considered a public employee for purposes of Chapter 18895
145. of the Revised Code upon commencement of employment with 18896
JobsOhio. 18897

(6) Any director, officer, or employee of JobsOhio may 18898
request an advisory opinion from the Ohio ethics commission with 18899
regard to questions concerning the provisions of sections 102.02 18900
and 102.022 of the Revised Code to which the person is subject. 18901

(C) Meetings of the board of directors at which a quorum of 18902
the board is required to be physically present pursuant to 18903

division (F) of section 187.01 of the Revised Code shall be open 18904
to the public except, by a majority vote of the directors present 18905
at the meeting, such a meeting may be closed to the public only 18906
for one or more of the following purposes: 18907

(1) To consider business strategy of the corporation; 18908

(2) To consider proprietary information belonging to 18909
potential applicants or potential recipients of business 18910
recruitment, retention, or creation incentives. For the purposes 18911
of this division, "proprietary information" means marketing plans, 18912
specific business strategy, production techniques and trade 18913
secrets, financial projections, or personal financial statements 18914
of applicants or members of the applicants' immediate family, 18915
including, but not limited to, tax records or other similar 18916
information not open to the public inspection. 18917

(3) To consider legal matters, including litigation, in which 18918
the corporation is or may be involved; 18919

(4) To consider personnel matters related to an individual 18920
employee of the corporation. 18921

(D) The board of directors shall establish a reasonable 18922
method whereby any person may obtain the time and place of all 18923
public meetings described in division (C) of this section. The 18924
method shall provide that any person, upon request and payment of 18925
a reasonable fee, may obtain reasonable advance notification of 18926
all such meetings. 18927

(E) The board of directors shall promptly prepare, file, and 18928
maintain minutes of all public meetings described in division (C) 18929
of this section. 18930

(F) Not later than March 1, 2012, and the first day of March 18931
of each year thereafter, the chief investment officer of JobsOhio 18932
shall prepare and submit a report of the corporation's activities 18933
for the preceding year to the governor, the speaker and minority 18934

leader of the house of representatives, and the president and 18935
minority leader of the senate. The annual report shall include the 18936
following: 18937

(1) An analysis of the state's economy; 18938

(2) A description of the structure, operation, and financial 18939
status of the corporation; 18940

(3) A description of the corporation's strategy to improve 18941
the state economy and the standards of measure used to evaluate 18942
its progress; 18943

(4) An evaluation of the performance of current strategies 18944
and major initiatives; 18945

(5) An analysis of any statutory or administrative barriers 18946
to successful economic development, business recruitment, and job 18947
growth in the state identified by JobsOhio during the preceding 18948
year. 18949

Sec. 187.09. (A) Any action brought by or on behalf of 18950
JobsOhio against a director or former director in that 18951
individual's capacity as a director shall be brought in the court 18952
of common pleas of Franklin county. 18953

(B) Except as provided in division (D) of this section, any 18954
claim asserting that any one or more sections of the Revised Code 18955
amended or enacted by H.B. 1 of the 129th general assembly, any 18956
section of Chapter 4313. of the Revised Code enacted by H.B. 153 18957
of the 129th general assembly, or any portion of one or more of 18958
those sections, violates any provision of the Ohio Constitution 18959
shall be brought in the court of common pleas of Franklin county 18960
within ninety days after the effective date of the amendment of 18961
this section by H.B. 153 of the 129th general assembly. 18962

(C) Except as provided in division (D) of this section, any 18963
claim asserting that any action taken by JobsOhio violates any 18964

provision of the Ohio Constitution shall be brought in the court 18965
of common pleas of Franklin county within sixty days after the 18966
action is taken. 18967

(D) Divisions (B) and (C) of this section shall not apply to 18968
any claim within the original jurisdiction of the supreme court or 18969
a court of appeals pursuant to Article IV of the Ohio 18970
Constitution. 18971

(E) The court of common pleas of Franklin county shall give 18972
any claim filed pursuant to division (B) or (C) of this section 18973
priority over all other civil cases before the court, irrespective 18974
of position on the court's calendar, and shall make a 18975
determination on the claim expeditiously. A court of appeals shall 18976
give any appeal from a final order issued in a case brought 18977
pursuant to division (B) or (C) of this section priority over all 18978
other civil cases before the court, irrespective of position on 18979
the court's calendar, and shall make a determination on the appeal 18980
expeditiously. 18981

Sec. 187.13. (A) No person, except the nonprofit corporation 18982
formed under section 187.01 of the Revised Code or its designees, 18983
may use the name "JobsOhio" or "Jobs Ohio," or words of a similar 18984
meaning in another language, as any part of a designation or name 18985
under which the person conducts or may conduct business in this 18986
state, unless the person receives the written consent of JobsOhio. 18987
As used in this section, "person" has the same meaning as in 18988
section 1702.01 of the Revised Code. 18989

(B) The name of any subsidiary of JobsOhio shall include the 18990
name "JobsOhio" and an additional designation that differentiates 18991
the subsidiary from other JobsOhio corporations formed under 18992
section 187.01 of the Revised Code. 18993

Sec. 301.02. Previous to the presentation of a petition to 18994

the general assembly praying that a new county be erected, or for 18995
the location or relocation of a county seat, notice of the 18996
intention to present such petition shall be given, at least thirty 18997
days before the ensuing session of the general assembly, by 18998
advertisement in a newspaper ~~published~~ of general circulation in 18999
each county from which such new county is intended to be taken. If 19000
no ~~paper newspaper~~ is ~~printed~~ of general circulation within the 19001
county, notice shall be given by advertisement affixed to the door 19002
of the house where courts are held for such county, for such 19003
period of thirty days. The notice shall set forth the boundary 19004
lines of the new county, or the place where it is proposed to 19005
locate such county seat. 19006

Sec. 301.15. Within sixty days after their appointment, the 19007
commissioners provided for by section 301.14 of the Revised Code, 19008
or any two of them, shall assemble at some convenient place in the 19009
new county. Twenty days' notice of the time, place, and purpose of 19010
such meeting shall be given by publication in a newspaper 19011
~~published in and circulated~~ of general circulation in ~~such the~~ 19012
county, or by being posted in three of the most public places in 19013
such county. When assembled, after having taken the oath of office 19014
prescribed by sections 3.22 and 3.23 of the Revised Code, such 19015
commissioners shall proceed to examine and select the most proper 19016
place as a seat of justice, as near the center of the county as 19017
possible, having regard to the situation, extent of population, 19018
quality of land, and the convenience and interest of the 19019
inhabitants. 19020

Sec. 301.28. (A) As used in this section: 19021

(1) "Financial transaction device" includes a credit card, 19022
debit card, charge card, or prepaid or stored value card, or 19023
automated clearinghouse network credit, debit, or e-check entry 19024
that includes, but is not limited to, accounts receivable and 19025

internet-initiated, point of purchase, and telephone-initiated 19026
applications or any other device or method for making an 19027
electronic payment or transfer of funds. 19028

(2) "County expenses" includes fees, costs, taxes, 19029
assessments, fines, penalties, payments, or any other expense a 19030
person owes to a county office under the authority of a county 19031
official other than dog registration and kennel fees required to 19032
be paid under Chapter 955. of the Revised Code. 19033

(3) "County official" includes the county auditor, county 19034
treasurer, county engineer, county recorder, county prosecuting 19035
attorney, county sheriff, county coroner, county park district and 19036
board of county commissioners, the clerk of the probate court, the 19037
clerk of the juvenile court, the clerks of court for all divisions 19038
of the courts of common pleas, and the clerk of the court of 19039
common pleas, the clerk of a county-operated municipal court, and 19040
the clerk of a county court. 19041

The term "county expenses" includes county expenses owed to 19042
the board of health of the general health district or a combined 19043
health district in the county. If the board of county 19044
commissioners authorizes county expenses to be paid by financial 19045
transaction devices under this section, then the board of health 19046
and the general health district and the combined health district 19047
may accept payments by financial transaction devices under this 19048
section as if the board were a "county official" and the district 19049
were a county office. However, in the case of a general health 19050
district formed by unification of general health districts under 19051
section 3709.10 of the Revised Code, this entitlement applies only 19052
if all the boards of county commissioners of all counties in the 19053
district have authorized payments to be accepted by financial 19054
transaction devices. 19055

(B) Notwithstanding any other section of the Revised Code and 19056
except as provided in division (D) of this section, a board of 19057

county commissioners may adopt a resolution authorizing the 19058
acceptance of payments by financial transaction devices for county 19059
expenses. The resolution shall include the following: 19060

(1) A specification of those county officials who, and of the 19061
county offices under those county officials that, are authorized 19062
to accept payments by financial transaction devices; 19063

(2) A list of county expenses that may be paid for through 19064
the use of a financial transaction device; 19065

(3) Specific identification of financial transaction devices 19066
that the board authorizes as acceptable means of payment for 19067
county expenses. Uniform acceptance of financial transaction 19068
devices among different types of county expenses is not required. 19069

(4) The amount, if any, authorized as a surcharge or 19070
convenience fee under division (E) of this section for persons 19071
using a financial transaction device. Uniform application of 19072
surcharges or convenience fees among different types of county 19073
expenses is not required. 19074

(5) A specific provision as provided in division (G) of this 19075
section requiring the payment of a penalty if a payment made by 19076
means of a financial transaction device is returned or dishonored 19077
for any reason. 19078

The board's resolution shall also designate the county 19079
treasurer as an administrative agent to solicit proposals, within 19080
guidelines established by the board in the resolution and in 19081
compliance with the procedures provided in division (C) of this 19082
section, from financial institutions, issuers of financial 19083
transaction devices, and processors of financial transaction 19084
devices, to make recommendations about those proposals to the 19085
board, and to assist county offices in implementing the county's 19086
financial transaction devices program. The county treasurer may 19087
decline this responsibility within thirty days after receiving a 19088

copy of the board's resolution by notifying the board in writing 19089
within that period. If the treasurer so notifies the board, the 19090
board shall perform the duties of the administrative agent. 19091

If the county treasurer is the administrative agent and fails 19092
to administer the county financial transaction devices program in 19093
accordance with the guidelines in the board's resolution, the 19094
board shall notify the treasurer in writing of the board's 19095
findings, explain the failures, and give the treasurer six months 19096
to correct the failures. If the treasurer fails to make the 19097
appropriate corrections within that six-month period, the board 19098
may pass a resolution declaring the board to be the administrative 19099
agent. The board may later rescind that resolution at its 19100
discretion. 19101

(C) The county shall follow the procedures provided in this 19102
division whenever it plans to contract with financial 19103
institutions, issuers of financial transaction devices, or 19104
processors of financial transaction devices for the purposes of 19105
this section. The administrative agent shall request proposals 19106
from at least three financial institutions, issuers of financial 19107
transaction devices, or processors of financial transaction 19108
devices, as appropriate in accordance with the resolution adopted 19109
under division (B) of this section. Prior to sending any financial 19110
institution, issuer, or processor a copy of any such request, the 19111
county shall advertise its intent to request proposals in a 19112
newspaper of general circulation in the county once a week for two 19113
consecutive weeks or as provided in section 7.16 of the Revised 19114
Code. The notice shall state that the county intends to request 19115
proposals; specify the purpose of the request; indicate the date, 19116
which shall be at least ten days after the second publication, on 19117
which the request for proposals will be mailed to financial 19118
institutions, issuers, or processors; and require that any 19119
financial institution, issuer, or processor, whichever is 19120

appropriate, interested in receiving the request for proposals 19121
submit written notice of this interest to the county not later 19122
than noon of the day on which the request for proposals will be 19123
mailed. 19124

Upon receiving the proposals, the administrative agent shall 19125
review them and make a recommendation to the board of county 19126
commissioners on which proposals to accept. The board of county 19127
commissioners shall consider the agent's recommendation and review 19128
all proposals submitted, and then may choose to contract with any 19129
or all of the entities submitting proposals, as appropriate. The 19130
board shall provide any financial institution, issuer, or 19131
processor that submitted a proposal, but with which the board does 19132
not enter into a contract, notice that its proposal is rejected. 19133
The notice shall state the reasons for the rejection, indicate 19134
whose proposals were accepted, and provide a copy of the terms and 19135
conditions of the successful bids. 19136

(D) A board of county commissioners adopting a resolution 19137
under this section shall send a copy of the resolution to each 19138
county official in the county who is authorized by the resolution 19139
to accept payments by financial transaction devices. After 19140
receiving the resolution and before accepting payments by 19141
financial transaction devices, a county official shall provide 19142
written notification to the board of county commissioners of the 19143
official's intent to implement the resolution within the 19144
official's office. Each county office subject to the board's 19145
resolution adopted under division (B) of this section may use only 19146
the financial institutions, issuers of financial transaction 19147
devices, and processors of financial transaction devices with 19148
which the board of county commissioners contracts, and each such 19149
office is subject to the terms of those contracts. 19150

If a county office under the authority of a county official 19151
is directly responsible for collecting one or more county expenses 19152

and the county official determines not to accept payments by 19153
financial transaction devices for one or more of those expenses, 19154
the office shall not be required to accept payments by financial 19155
transaction devices, notwithstanding the adoption of a resolution 19156
by the board of county commissioners under this section. 19157

Any office of a clerk of the court of common pleas that 19158
accepts financial transaction devices on or before July 1, 1999, 19159
and any other county office that accepted such devices before 19160
January 1, 1998, may continue to accept such devices without being 19161
subject to any resolution passed by the board of county 19162
commissioners under division (B) of this section, or any other 19163
oversight by the board of the office's financial transaction 19164
devices program. Any such office may use surcharges or convenience 19165
fees in any manner the county official in charge of the office 19166
determines to be appropriate, and, if the county treasurer 19167
consents, may appoint the county treasurer to be the office's 19168
administrative agent for purposes of accepting financial 19169
transaction devices. In order not to be subject to the resolution 19170
of the board of county commissioners adopted under division (B) of 19171
this section, a county office shall notify the board in writing 19172
within thirty days after March 30, 1999, that it accepted 19173
financial transaction devices prior to January 1, 1998, or, in the 19174
case of the office of a clerk of the court of common pleas, the 19175
clerk has accepted or will accept such devices on or before July 19176
1, 1999. Each such notification shall explain how processing costs 19177
associated with financial transaction devices are being paid and 19178
shall indicate whether surcharge or convenience fees are being 19179
passed on to consumers. 19180

(E) A board of county commissioners may establish a surcharge 19181
or convenience fee that may be imposed upon a person making 19182
payment by a financial transaction device. The surcharge or 19183
convenience fee shall not be imposed unless authorized or 19184

otherwise permitted by the rules prescribed by an agreement 19185
governing the use and acceptance of the financial transaction 19186
device. 19187

If a surcharge or convenience fee is imposed, every county 19188
office accepting payment by a financial transaction device, 19189
regardless of whether that office is subject to a resolution 19190
adopted by a board of county commissioners, shall clearly post a 19191
notice in that office and shall notify each person making a 19192
payment by such a device about the surcharge or fee. Notice to 19193
each person making a payment shall be provided regardless of the 19194
medium used to make the payment and in a manner appropriate to 19195
that medium. Each notice shall include all of the following: 19196

(1) A statement that there is a surcharge or convenience fee 19197
for using a financial transaction device; 19198

(2) The total amount of the charge or fee expressed in 19199
dollars and cents for each transaction, or the rate of the charge 19200
or fee expressed as a percentage of the total amount of the 19201
transaction, whichever is applicable; 19202

(3) A clear statement that the surcharge or convenience fee 19203
is nonrefundable. 19204

(F) If a person elects to make a payment to the county by a 19205
financial transaction device and a surcharge or convenience fee is 19206
imposed, the payment of the surcharge or fee shall be considered 19207
voluntary and the surcharge or fee is not refundable. 19208

(G) If a person makes payment by financial transaction device 19209
and the payment is returned or dishonored for any reason, the 19210
person is liable to the county for payment of a penalty over and 19211
above the amount of the expense due. The board of county 19212
commissioners shall determine the amount of the penalty, which may 19213
be either a fee not to exceed twenty dollars or payment of the 19214
amount necessary to reimburse the county for banking charges, 19215

legal fees, or other expenses incurred by the county in collecting 19216
the returned or dishonored payment. The remedies and procedures 19217
provided in this section are in addition to any other available 19218
civil or criminal remedies provided by law. 19219

(H) No person making any payment by financial transaction 19220
device to a county office shall be relieved from liability for the 19221
underlying obligation except to the extent that the county 19222
realizes final payment of the underlying obligation in cash or its 19223
equivalent. If final payment is not made by the financial 19224
transaction device issuer or other guarantor of payment in the 19225
transaction, the underlying obligation shall survive and the 19226
county shall retain all remedies for enforcement that would have 19227
applied if the transaction had not occurred. 19228

(I) A county official or employee who accepts a financial 19229
transaction device payment in accordance with this section and any 19230
applicable state or local policies or rules is immune from 19231
personal liability for the final collection of such payments. 19232

Sec. 305.171. The following applies until the department of 19233
administrative services implements for counties the health care 19234
plans under section 9.901 of the Revised Code. If those plans do 19235
not include or address any benefits listed in division (A) of this 19236
section, the following provisions continue in effect for those 19237
benefits. 19238

(A) The board of county commissioners of any county may 19239
contract for, purchase, or otherwise procure and pay all or any 19240
part of the cost of group insurance policies that may provide 19241
benefits including, but not limited to, hospitalization, surgical 19242
care, major medical care, disability, dental care, eye care, 19243
medical care, hearing aids, or prescription drugs, and that may 19244
provide sickness and accident insurance, group legal services, or 19245
group life insurance, or a combination of any of the foregoing 19246

types of insurance or coverage, for county officers and employees 19247
and their immediate dependents from the funds or budgets from 19248
which the county officers or employees are compensated for 19249
services, issued by an insurance company. 19250

(B) The board of county commissioners also may negotiate and 19251
contract for any plan or plans of health care services with health 19252
insuring corporations holding a certificate of authority under 19253
Chapter 1751. of the Revised Code, provided that each county 19254
officer or employee shall be permitted to do both of the 19255
following: 19256

(1) Exercise an option between a plan offered by an insurance 19257
company and a plan or plans offered by health insuring 19258
corporations under this division, on the condition that the county 19259
officer or employee shall pay any amount by which the cost of the 19260
plan chosen by the county officer or employee pursuant to this 19261
division exceeds the cost of the plan offered under division (A) 19262
of this section; 19263

(2) Change from one of the plans to another at a time each 19264
year as determined by the board. 19265

(C) Section 307.86 of the Revised Code does not apply to the 19266
purchase of benefits for county officers or employees under 19267
divisions (A) and (B) of this section when those benefits are 19268
provided through a jointly administered health and welfare trust 19269
fund in which the county or contracting authority and a collective 19270
bargaining representative of the county employees or contracting 19271
authority agree to participate. 19272

(D) The board of trustees of a jointly administered trust 19273
fund that receives contributions pursuant to collective bargaining 19274
agreements entered into between the board of county commissioners 19275
of any county and a collective bargaining representative of the 19276
employees of the county may provide for self-insurance of all risk 19277

in the provision of fringe benefits, and may provide through the self-insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. The fringe benefits may include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of any of the foregoing types of insurance or coverage, for county employees and their dependents.

(E) The board of county commissioners may provide the benefits described in divisions (A) to (D) of this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

(F) When a board of county commissioners offers health benefits authorized under this section to a county officer or employee, the board may offer the benefits through a cafeteria plan meeting the requirements of section 125 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, and, as part of that plan, may offer the county officer or employee the option of receiving a cash payment in any form permissible under such cafeteria plans. A cash payment made to a county officer or employee under this division shall not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the county officer or employee under a policy or plan.

(G) The board of county commissioners may establish a policy authorizing any county appointing authority to make a cash payment to any county officer or employee in lieu of providing a benefit authorized under this section if the county officer or employee elects to take the cash payment instead of the offered benefit. A cash payment made to a county officer or employee under this

division shall not exceed twenty-five per cent of the cost of 19310
premiums or payments that otherwise would be paid by the board for 19311
benefits for the county officer or employee under an offered 19312
policy or plan. 19313

(H) No cash payment in lieu of a health benefit shall be made 19314
to a county officer or employee under division (F) or (G) of this 19315
section unless the county officer or employee signs a statement 19316
affirming that the county officer or employee is covered under 19317
another health insurance or health care policy, contract, or plan, 19318
and setting forth the name of the employer, if any, that sponsors 19319
the coverage, the name of the carrier that provides the coverage, 19320
and the identifying number of the policy, contract, or plan. 19321

(I) The legislative authority of a county-operated municipal 19322
court, after consultation with the judges, or the clerk and deputy 19323
clerks, of the municipal court, shall negotiate and contract for, 19324
purchase, or otherwise procure, and pay the costs, premiums, or 19325
charges for, group health care coverage for the judges, and group 19326
health care coverage for the clerk and deputy clerks, in 19327
accordance with section 1901.111 or 1901.312 of the Revised Code. 19328

(J) As used in this section: 19329

(1) "County officer or employee" includes, but is not limited 19330
to, a member or employee of the county board of elections. 19331

(2) "County-operated municipal court" and "legislative 19332
authority" have the same meanings as in section 1901.03 of the 19333
Revised Code. 19334

(3) "Health care coverage" has the same meaning as in section 19335
1901.111 of the Revised Code. 19336

Sec. 305.23. (A) As used in this section: 19337

(1) "County office" means the offices of the county 19338
commissioner, county auditor, county treasurer, county engineer, 19339

county recorder, county prosecuting attorney, county sheriff, 19340
county coroner, county park district, veterans service commission, 19341
clerk of the juvenile court, clerks of court for all divisions of 19342
the courts of common pleas, including the clerk of the court of 19343
common pleas, clerk of a county-operated municipal court, and 19344
clerk of a county court, and any agency, department, or division 19345
under the authority of, or receiving funding in whole or in part 19346
from, any of those county offices. 19347

(2) "Human resources" means any and all functions relating to 19348
human resource management, including civil service, employee 19349
benefits administration, collective bargaining, labor relations, 19350
risk management, workers' compensation, unemployment compensation, 19351
and any human resource management function required by state or 19352
federal law, but "human resources" does not authorize a board of 19353
county commissioners to adopt a resolution establishing a 19354
centralized human resource service that requires any county office 19355
to conform to any classification and compensation plan, position 19356
descriptions, or organizational structure; to determine the rate 19357
of compensation of any employee appointed by the appointing 19358
authority of a county office or the salary ranges for positions of 19359
a county office within the aggregate limits set in the 19360
appropriation resolution of the board of county commissioners; to 19361
determine the number of or the terms of employment of any employee 19362
appointed by the appointing authority of a county office within 19363
the aggregate limits set in the board's appropriation resolution; 19364
or to exercise powers relating to the hiring, qualifications, 19365
evaluation, suspension, demotion, disciplinary action, layoff, 19366
furloughing, establishment of a modified work-week schedule, or 19367
the termination of any employee appointed by the appointing 19368
authority of any county office. 19369

(B) Subject to division (C) of this section, a board of 19370
county commissioners may adopt a resolution establishing 19371

centralized purchasing, printing, transportation, vehicle 19372
maintenance, human resources, revenue collection, and mail 19373
operation services for a county office. Before adopting a 19374
resolution under this section, the board of county commissioners, 19375
in a written notice, shall inform any other county office that 19376
will be impacted by the resolution of the board's desire to 19377
establish a centralized service or services. The written notice 19378
shall include a statement that provides the rationale and the 19379
estimated savings anticipated for centralizing a service or 19380
services. In addition, the board may request any other county 19381
office to serve as the agent and responsible party for 19382
administering a centralized service or services. That county 19383
office may enter into an agreement with the board of county 19384
commissioners to administer the centralized service or services 19385
under such terms and conditions as are included in the agreement, 19386
but nothing in this section authorizes the board of county 19387
commissioners to require a county office to serve as the agent and 19388
responsible party for administering a centralized service or 19389
services at the board's request. 19390

A resolution establishing a centralized service or services 19391
shall specify all of the following: 19392

(1) The name of the county office that will be the agent and 19393
responsible party for administering a centralized service or 19394
services, and if the agent and responsible party is not the board 19395
of county commissioners, the designation of the county office that 19396
has entered into an agreement under division (B) of this section 19397
with the board to be the agent and responsible party; 19398

(2) Which county offices are required to use the centralized 19399
services; 19400

(3) If not all of the centralized services, which centralized 19401
service each county office must use; 19402

(4) A list of rates and charges the county office shall pay for the centralized services; 19403
19404

(5) The date upon which each county office specified in the resolution shall begin using the centralized services. 19405
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Not later than ten days after a resolution is adopted under this section, the clerk of the board of county commissioners shall send a copy of the resolution to each county office that is specified in the resolution. 19407
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(C) A board of county commissioners shall not adopt a resolution that establishes a centralized service or services regarding any of the following: 19411
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(1) Purchases made with moneys from the special fund designated as "general fund moneys to supplement the equipment needs of the county recorder" under section 317.321 of the Revised Code, from the real estate assessment fund established under section 325.31 of the Revised Code, or from the funds that are paid out of the general fund of the county under sections 325.071 and 325.12 of the Revised Code; 19414
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(2) Purchases of financial software used by the county auditor; 19421
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(3) The printing of county property tax bills; 19423

(4) The collection of any taxes, assessments, and fees the county treasurer is required by law to collect; 19424
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(5) Purchases of computers, software, and micrographic equipment used by the county recorder. 19426
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(D) Nothing in this section authorizes the board of county commissioners to have control or authority over funds that are received directly by a county office under another section of the Revised Code, or to control, or have authority regarding, the expenditure or use of such funds. 19428
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Sec. 306.322. (A) For any regional transit authority that 19433
levies a property tax and that includes in its membership 19434
political subdivisions that are located in a county having a 19435
population of at least four hundred thousand according to the most 19436
recent federal census, the procedures of this section apply until 19437
November 5, 2013, and are in addition to and an alternative to 19438
those established in sections 306.32 and 306.321 for joining to 19439
the regional transit authority additional counties, municipal 19440
corporations, or townships. 19441

(B) Any municipal corporation or township may adopt a 19442
resolution or ordinance proposing to join a regional transit 19443
authority described in division (A) of this section. In its 19444
resolution or ordinance, the political subdivision may propose 19445
joining the regional transit authority for a limited period of 19446
three years or without a time limit. 19447

(C) The political subdivision proposing to join the regional 19448
transit authority shall submit a copy of its resolution or 19449
ordinance to the legislative authority of each municipal 19450
corporation and the board of trustees of each township comprising 19451
the regional transit authority. Within thirty days of receiving 19452
the resolution or ordinance for inclusion in the regional transit 19453
authority, the legislative authority of each municipal corporation 19454
and the board of trustees of each township shall consider the 19455
question of whether to include the additional subdivision in the 19456
regional transit authority, shall adopt a resolution or ordinance 19457
approving or rejecting the inclusion of the additional 19458
subdivision, and shall present its resolution or ordinance to the 19459
board of trustees of the regional transit authority. 19460

(D) If a majority of the political subdivisions comprising 19461
the regional transit authority approve the inclusion of the 19462
additional political subdivision, the board of trustees of the 19463

regional transit authority, not later than the tenth day following 19464
the day on which the last ordinance or resolution is presented, 19465
shall notify the subdivision proposing to join the regional 19466
transit authority that it may certify the proposal to the board of 19467
elections for the purpose of having the proposal placed on the 19468
ballot at the next general election or at a special election 19469
conducted on the day of the next primary election that occurs not 19470
less than ninety days after the resolution or ordinance is 19471
certified to the board of elections. 19472

(E) Upon certification of a proposal to the board of 19473
elections pursuant to this section, the board of elections shall 19474
make the necessary arrangements for the submission of the question 19475
to the electors of the territory to be included in the regional 19476
transit authority qualified to vote on the question, and the 19477
election shall be held, canvassed, and certified in the same 19478
manner as regular elections for the election of officers of the 19479
subdivision proposing to join the regional transit authority, 19480
except that, if the resolution proposed the inclusion without a 19481
time limitation the question appearing on the ballot shall read: 19482

"Shall the territory within the 19483
(Name or names of political subdivisions to be joined) be added to 19484
..... (Name) regional transit 19485
authority?" and shall a(n) (here insert type of tax or 19486
taxes) at a rate of taxation not to exceed (here insert 19487
maximum tax rate or rates) be levied for all transit purposes?" 19488

If the resolution proposed the inclusion with a three-year 19489
time limitation, the question appearing on the ballot shall read: 19490

"Shall the territory within the 19491
(Name or names of political subdivisions to be joined) be added to 19492
..... (Name) regional transit 19493
authority?" for three years and shall a(n) (here insert 19494
type of tax or taxes) at a rate of taxation not to exceed 19495

(here insert maximum tax rate or rates) be levied for all transit purposes for three years?" 19496
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(F) If the question is approved by at least a majority of the electors voting on the question, the addition of the new territory is effective six months from the date of the certification of its passage, and the regional transit authority may extend the levy of the tax against all the taxable property within the territory that was added. If the question is approved at a general election or at a special election occurring prior to the general election but after the fifteenth day of July, the regional transit authority may amend its budget and resolution adopted pursuant to section 5705.34 of the Revised Code, and the levy shall be placed on the current tax list and duplicate and collected as other taxes are collected from all taxable property within the territorial boundaries of the regional transit authority, including the territory within the political subdivision added as a result of the election. If the budget of the regional transit authority is amended pursuant to this paragraph, the county auditor shall prepare and deliver an amended certificate of estimated resources to reflect the change in anticipated revenues of the regional transit authority. 19498
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(G) If the question is approved by at least a majority of the electors voting on the question, the board of trustees of the regional transit authority immediately shall amend the resolution or ordinance creating the regional transit authority to include the additional political subdivision. 19517
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(H) If the question approved by a majority of the electors voting on the question added the subdivision for three years, the territory of the additional municipal corporation or township in the regional transit authority shall be removed from the territory of the regional transit authority three years after the date the territory was added, as determined in the effective date of the 19522
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election, and shall no longer be a part of that authority without 19528
any further action by either the political subdivisions that were 19529
included in the authority prior to submitting the question to the 19530
electors or of the political subdivision added to the authority as 19531
a result of the election. The regional transit authority reduced 19532
to its territory as it existed prior to the inclusion of the 19533
additional municipal corporation or township shall be entitled to 19534
levy and collect any property taxes that it was authorized to levy 19535
and collect prior to the enlargement of its territory and for 19536
which authorization has not expired, as if the enlargement had not 19537
occurred. 19538

Sec. 306.35. Upon the creation of a regional transit 19539
authority as provided by section 306.32 of the Revised Code, and 19540
upon the qualifying of its board of trustees and the election of a 19541
president and a vice-president, the authority shall exercise in 19542
its own name all the rights, powers, and duties vested in and 19543
conferred upon it by sections 306.30 to 306.53 of the Revised 19544
Code. Subject to any reservations, limitations, and qualifications 19545
that are set forth in those sections, the regional transit 19546
authority: 19547

(A) May sue or be sued in its corporate name; 19548

(B) May make contracts in the exercise of the rights, powers, 19549
and duties conferred upon it; 19550

(C) May adopt and at will alter a seal and use such seal by 19551
causing it to be impressed, affixed, reproduced, or otherwise 19552
used, but failure to affix the seal shall not affect the validity 19553
of any instrument; 19554

(D)(1) May adopt, amend, and repeal bylaws for the 19555
administration of its affairs and rules for the control of the 19556
administration and operation of transit facilities under its 19557
jurisdiction, and for the exercise of all of its rights of 19558

ownership in those transit facilities; 19559

(2) The regional transit authority also may adopt bylaws and 19560
rules for the following purposes: 19561

(a) To prohibit selling, giving away, or using any beer or 19562
intoxicating liquor on transit vehicles or transit property; 19563

(b) For the preservation of good order within or on transit 19564
vehicles or transit property; 19565

(c) To provide for the protection and preservation of all 19566
property and life within or on transit vehicles or transit 19567
property; 19568

(d) To regulate and enforce the collection of fares. 19569

(3) Before a bylaw or rule adopted under division (D)(2) of 19570
this section takes effect, the regional transit authority shall 19571
provide for a notice of its adoption to be published once a week 19572
for two consecutive weeks in a newspaper of general circulation 19573
within the territorial boundaries of the regional transit 19574
authority, or as provided in section 7.16 of the Revised Code. 19575

(4) No person shall violate any bylaw or rule of a regional 19576
transit authority adopted under division (D)(2) of this section. 19577

(E) May fix, alter, and collect fares, rates, and rentals and 19578
other charges for the use of transit facilities under its 19579
jurisdiction to be determined exclusively by it for the purpose of 19580
providing for the payment of the expenses of the regional transit 19581
authority, the acquisition, construction, improvement, extension, 19582
repair, maintenance, and operation of transit facilities under its 19583
jurisdiction, the payment of principal and interest on its 19584
obligations, and to fulfill the terms of any agreements made with 19585
purchasers or holders of any such obligations, or with any person 19586
or political subdivision; 19587

(F) Shall have jurisdiction, control, possession, and 19588

supervision of all property, rights, easements, licenses, moneys, 19589
contracts, accounts, liens, books, records, maps, or other 19590
property rights and interests conveyed, delivered, transferred, or 19591
assigned to it; 19592

(G) May acquire, construct, improve, extend, repair, lease, 19593
operate, maintain, or manage transit facilities within or without 19594
its territorial boundaries, considered necessary to accomplish the 19595
purposes of its organization and make charges for the use of 19596
transit facilities; 19597

(H) May levy and collect taxes as provided in sections 306.40 19598
and 306.49 of the Revised Code; 19599

(I) May issue bonds secured by its general credit as provided 19600
in section 306.40 of the Revised Code; 19601

(J) May hold, encumber, control, acquire by donation, by 19602
purchase for cash or by installment payments, by lease-purchase 19603
agreement, by lease with option to purchase, or by condemnation, 19604
and may construct, own, lease as lessee or lessor, use, and sell, 19605
real and personal property, or any interest or right in real and 19606
personal property, within or without its territorial boundaries, 19607
for the location or protection of transit facilities and 19608
improvements and access to transit facilities and improvements, 19609
the relocation of buildings, structures, and improvements situated 19610
on lands acquired by the regional transit authority, or for any 19611
other necessary purpose, or for obtaining or storing materials to 19612
be used in constructing, maintaining, and improving transit 19613
facilities under its jurisdiction; 19614

(K) May exercise the power of eminent domain to acquire 19615
property or any interest in property, within or without its 19616
territorial boundaries, that is necessary or proper for the 19617
construction or efficient operation of any transit facility or 19618
access to any transit facility under its jurisdiction in 19619

accordance with section 306.36 of the Revised Code; 19620

(L) May provide by agreement with any county, including the 19621
counties within its territorial boundaries, or any municipal 19622
corporation or any combination of counties or municipal 19623
corporations for the making of necessary surveys, appraisals, and 19624
examinations preliminary to the acquisition or construction of any 19625
transit facility and the amount of the expense for the surveys, 19626
appraisals, and examinations to be paid by each such county or 19627
municipal corporation; 19628

(M) May provide by agreement with any county, including the 19629
counties within its territorial boundaries, or any municipal 19630
corporation or any combination of those counties or municipal 19631
corporations for the acquisition, construction, improvement, 19632
extension, maintenance, or operation of any transit facility owned 19633
or to be owned and operated by it or owned or to be owned and 19634
operated by any such county or municipal corporation and the terms 19635
on which it shall be acquired, leased, constructed, maintained, or 19636
operated, and the amount of the cost and expense of the 19637
acquisition, lease, construction, maintenance, or operation to be 19638
paid by each such county or municipal corporation; 19639

(N) May issue revenue bonds for the purpose of acquiring, 19640
replacing, improving, extending, enlarging, or constructing any 19641
facility or permanent improvement that it is authorized to 19642
acquire, replace, improve, extend, enlarge, or construct, 19643
including all costs in connection with and incidental to the 19644
acquisition, replacement, improvement, extension, enlargement, or 19645
construction, and their financing, as provided by section 306.37 19646
of the Revised Code; 19647

(O) May enter into and supervise franchise agreements for the 19648
operation of a transit system; 19649

(P) May accept the assignment of and supervise an existing 19650

franchise agreement for the operation of a transit system; 19651

(Q) May exercise a right to purchase a transit system in 19652
accordance with the acquisition terms of an existing franchise 19653
agreement; and in connection with the purchase the regional 19654
transit authority may issue revenue bonds as provided by section 19655
306.37 of the Revised Code or issue bonds secured by its general 19656
credit as provided in section 306.40 of the Revised Code; 19657

(R) May apply for and accept grants or loans from the United 19658
States, the state, or any other public body for the purpose of 19659
providing for the development or improvement of transit 19660
facilities, mass transportation facilities, equipment, techniques, 19661
methods, or services, and grants or loans needed to exercise a 19662
right to purchase a transit system pursuant to agreement with the 19663
owner of those transit facilities, or for providing lawful 19664
financial assistance to existing transit systems; and may provide 19665
any consideration that may be required in order to obtain those 19666
grants or loans from the United States, the state, or other public 19667
body, either of which grants or loans may be evidenced by the 19668
issuance of revenue bonds as provided by section 306.37 of the 19669
Revised Code or general obligation bonds as provided by section 19670
306.40 of the Revised Code; 19671

(S) May employ and fix the compensation of consulting 19672
engineers, superintendents, managers, and such other engineering, 19673
construction, accounting and financial experts, attorneys, and 19674
other employees and agents necessary for the accomplishment of its 19675
purposes; 19676

(T) May procure insurance against loss to it by reason of 19677
damages to its properties resulting from fire, theft, accident, or 19678
other casualties or by reason of its liability for any damages to 19679
persons or property occurring in the construction or operation of 19680
transit facilities under its jurisdiction or the conduct of its 19681
activities; 19682

(U) May maintain funds that it considers necessary for the efficient performance of its duties;

(V) May direct its agents or employees, when properly identified in writing, after at least five days' written notice, to enter upon lands within or without its territorial boundaries in order to make surveys and examinations preliminary to the location and construction of transit facilities, without liability to it or its agents or employees except for actual damage done;

(W) On its own motion, may request the appropriate zoning board, as defined in section 4563.03 of the Revised Code, to establish and enforce zoning regulations pertaining to any transit facility under its jurisdiction in the manner prescribed by sections 4563.01 to 4563.21 of the Revised Code;

(X) If it acquires any existing transit system, shall assume all the employer's obligations under any existing labor contract between the employees and management of the system. If the board acquires, constructs, controls, or operates any such facilities, it shall negotiate arrangements to protect the interests of employees affected by the acquisition, construction, control, or operation. The arrangements shall include, but are not limited to:

(1) The preservation of rights, privileges, and benefits under existing collective bargaining agreements or otherwise, the preservation of rights and benefits under any existing pension plans covering prior service, and continued participation in social security in addition to participation in the public employees retirement system as required in Chapter 145. of the Revised Code;

(2) The continuation of collective bargaining rights;

(3) The protection of individual employees against a worsening of their positions with respect to their employment;

(4) Assurances of employment to employees of those transit

systems and priority reemployment of employees terminated or laid off; 19714
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(5) Paid training or retraining programs; 19716

(6) Signed written labor agreements. 19717

The arrangements may include provisions for the submission of labor disputes to final and binding arbitration. 19718
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(Y) May provide for and maintain security operations, 19720
including a transit police department, subject to section 306.352 19721
of the Revised Code. Regional transit authority police officers 19722
shall have the power and duty to act as peace officers within 19723
transit facilities owned, operated, or leased by the transit 19724
authority to protect the transit authority's property and the 19725
person and property of passengers, to preserve the peace, and to 19726
enforce all laws of the state and ordinances and regulations of 19727
political subdivisions in which the transit authority operates. 19728
Regional transit authority police officers also shall have the 19729
power and duty to act as peace officers when they render emergency 19730
assistance outside their jurisdiction to any other peace officer 19731
who is not a regional transit authority police officer and who has 19732
arrest authority under section 2935.03 of the Revised Code. 19733
Regional transit authority police officers may render emergency 19734
assistance if there is a threat of imminent physical danger to the 19735
peace officer, a threat of physical harm to another person, or any 19736
other serious emergency situation and if either the peace officer 19737
who is assisted requests emergency assistance or it appears that 19738
the peace officer who is assisted is unable to request emergency 19739
assistance and the circumstances observed by the regional transit 19740
authority police officer reasonably indicate that emergency 19741
assistance is appropriate. 19742

Before exercising powers of arrest and the other powers and duties of a peace officer, each regional transit authority police 19743
19744

officer shall take an oath and give bond to the state in a sum 19745
that the board of trustees prescribes for the proper performance 19746
of the officer's duties. 19747

Persons employed as regional transit authority police 19748
officers shall complete training for the position to which they 19749
have been appointed as required by the Ohio peace officer training 19750
commission as authorized in section 109.77 of the Revised Code, or 19751
be otherwise qualified. The cost of the training shall be provided 19752
by the regional transit authority. 19753

(Z) May procure a policy or policies insuring members of its 19754
board of trustees against liability on account of damages or 19755
injury to persons and property resulting from any act or omission 19756
of a member in the member's official capacity as a member of the 19757
board or resulting solely out of the member's membership on the 19758
board; 19759

(AA) May enter into any agreement for the sale and leaseback 19760
or lease and leaseback of transit facilities, which agreement may 19761
contain all necessary covenants for the security and protection of 19762
any lessor or the regional transit authority including, but not 19763
limited to, indemnification of the lessor against the loss of 19764
anticipated tax benefits arising from acts, omissions, or 19765
misrepresentations of the regional transit authority. In 19766
connection with that transaction, the regional transit authority 19767
may contract for insurance and letters of credit and pay any 19768
premiums or other charges for the insurance and letters of credit. 19769
The fiscal officer shall not be required to furnish any 19770
certificate under section 5705.41 of the Revised Code in 19771
connection with the execution of any such agreement. 19772

(BB) In regard to any contract entered into on or after March 19773
19, 1993, for the rendering of services or the supplying of 19774
materials or for the construction, demolition, alteration, repair, 19775
or reconstruction of transit facilities in which a bond is 19776

required for the faithful performance of the contract, may permit 19777
the person awarded the contract to utilize a letter of credit 19778
issued by a bank or other financial institution in lieu of the 19779
bond; 19780

(CC) May enter into agreements with municipal corporations 19781
located within the territorial jurisdiction of the regional 19782
transit authority permitting regional transit authority police 19783
officers employed under division (Y) of this section to exercise 19784
full arrest powers, as provided in section 2935.03 of the Revised 19785
Code, for the purpose of preserving the peace and enforcing all 19786
laws of the state and ordinances and regulations of the municipal 19787
corporation within the areas that may be agreed to by the regional 19788
transit authority and the municipal corporation. 19789

Sec. 306.43. (A) The board of trustees of a regional transit 19790
authority or any officer or employee designated by such board may 19791
make any contract for the purchase of goods or services, the cost 19792
of which does not exceed one hundred thousand dollars. When an 19793
expenditure, other than for the acquisition of real estate, the 19794
discharge of claims, or the acquisition of goods or services under 19795
the circumstances described in division (H) of this section, is 19796
expected to exceed one hundred thousand dollars, such expenditure 19797
shall be made through full and open competition by the use of 19798
competitive procedures. The regional transit authority shall use 19799
the competitive procedure, as set forth in divisions (B), (C), 19800
(D), and (E) of this section, that is most appropriate under the 19801
circumstances of the procurement. 19802

(B) Competitive sealed bidding is the preferred method of 19803
procurement and a regional transit authority shall use that method 19804
if all of the following conditions exist: 19805

(1) A clear, complete and adequate description of the goods, 19806
services, or work is available; 19807

(2) Time permits the solicitation, submission, and evaluation of sealed bids; 19808
19809

(3) The award will be made on the basis of price and other price-related factors; 19810
19811

(4) It is not necessary to conduct discussions with responding offerors about their bids; 19812
19813

(5) There is a reasonable expectation of receiving more than one sealed bid. 19814
19815

A regional transit authority shall publish a notice calling for bids once a week for no less than two consecutive weeks in ~~at least one~~ a newspaper of general circulation within the territorial boundaries of the regional transit authority, or as provided in section 7.16 of the Revised Code. A regional transit authority may require that a bidder for any contract other than a construction contract provide a bid guaranty in the form, quality, and amount considered appropriate by the regional transit authority. The board may let the contract to the lowest responsive and responsible bidder. Where fewer than two responsive bids are received, a regional transit authority may negotiate price with the sole responsive bidder or may rescind the solicitation and procure under division (H)(2) of this section. 19816
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(C) A regional transit authority may use two-step competitive bidding, consisting of a technical proposal and a separate, subsequent sealed price bid from those submitting acceptable technical proposals, if both of the following conditions exist: 19829
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(1) A clear, complete, and adequate description of the goods, services, or work is not available, but definite criteria exist for the evaluation of technical proposals; 19833
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(2) It is necessary to conduct discussions with responding offerors. 19836
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A regional transit authority shall publish a notice calling 19838
for technical proposals once a week for no less than two 19839
consecutive weeks in ~~at least one~~ a newspaper of general 19840
circulation within the territorial boundaries of the regional 19841
transit authority, or as provided in section 7.16 of the Revised 19842
Code. A regional transit authority may require a bid guaranty in 19843
the form, quality, and amount the regional transit authority 19844
considers appropriate. The board may let the contract to the 19845
lowest responsive and responsible bidder. Where fewer than two 19846
responsive and responsible bids are received, a regional transit 19847
authority may negotiate price with the sole responsive and 19848
responsible bidder or may rescind the solicitation and procure 19849
under division (H)(2) of this section. 19850

(D) A regional transit authority shall make a procurement by 19851
competitive proposals if competitive sealed bidding or two-step 19852
competitive bidding is not appropriate. 19853

A regional transit authority shall publish a notice calling 19854
for proposals once a week for no less than two consecutive weeks 19855
in ~~at least one~~ a newspaper of general circulation within the 19856
territorial boundaries of the regional transit authority, or as 19857
provided in section 7.16 of the Revised Code. A regional transit 19858
authority may require a proposal guaranty in the form, quality, 19859
and amount considered appropriate by the regional transit 19860
authority. The board may let the contract to the proposer making 19861
the offer considered most advantageous to the authority. Where 19862
fewer than two competent proposals are received, a regional 19863
transit authority may negotiate price and terms with the sole 19864
proposer or may rescind the solicitation and procure under 19865
division (H)(2) of this section. 19866

(E)(1) A regional transit authority shall procure the 19867
services of an architect or engineer in the manner prescribed by 19868
the "Federal Mass Transportation Act of 1987," Public Law No. 19869

100-17, section 316, 101 Stat. 227, 232-234, 49 U.S.C.A. app. 1608 19870
and the services of a construction manager in the manner 19871
prescribed by sections 9.33 to 9.332 of the Revised Code. 19872

(2) A regional transit authority may procure revenue rolling 19873
stock in the manner prescribed by division (B), (C), or (D) of 19874
this section. 19875

(3) All contracts for construction in excess of one hundred 19876
thousand dollars shall be made only after the regional transit 19877
authority has published a notice calling for bids once a week for 19878
two consecutive weeks in ~~at least one~~ a newspaper of general 19879
circulation within the territorial boundaries of the regional 19880
transit authority, or as provided in section 7.16 of the Revised 19881
Code. The board may award a contract to the lowest responsive and 19882
responsible bidder. Where only one responsive and responsible bid 19883
is received, the regional transit authority may negotiate price 19884
with the sole responsive bidder or may rescind the solicitation. 19885
The regional transit authority shall award construction contracts 19886
in accordance with sections 153.12 to 153.14 and 153.54 of the 19887
Revised Code. Divisions (B) and (C) of this section shall not 19888
apply to the award of contracts for construction. 19889

(F) All contracts involving expenditures in excess of one 19890
hundred thousand dollars shall be in writing and shall be 19891
accompanied by or shall refer to plans and specifications for the 19892
work to be done. The plans and specifications shall at all times 19893
be made and considered part of the contract. For all contracts 19894
other than construction contracts, a regional transit authority 19895
may require performance, payment, or maintenance guaranties or any 19896
combination of such guaranties in the form, quality, and amount it 19897
considers appropriate. The contract shall be approved by the board 19898
and signed on behalf of the regional transit authority and by the 19899
contractor. 19900

(G) In making a contract, a regional transit authority may 19901

give preference to goods produced in the United States in 19902
accordance with the Buy America requirements in the "Surface 19903
Transportation Assistance Act of 1982," Public Law No. 97-424, 19904
section 165, 96 Stat. 2097, 23 U.S.C.A. 101 note, as amended, and 19905
the rules adopted thereunder. The regional transit authority also 19906
may give preference to providers of goods produced in and services 19907
provided in labor surplus areas as defined by the United States 19908
department of labor in 41 U.S.C.A. 401 note, Executive Order No. 19909
12073, August 16, 1978, 43 Fed. Reg. 36873, as amended. 19910

(H) Competitive procedures under this section are not 19911
required in any of the following circumstances: 19912

(1) The board of trustees of a regional transit authority, by 19913
a two-thirds affirmative vote of its members, determines that a 19914
real and present emergency exists under any of the following 19915
conditions, and the board enters its determination and the reasons 19916
for it in its proceedings: 19917

(a) Affecting safety, welfare, or the ability to deliver 19918
transportation services; 19919

(b) Arising out of an interruption of contracts essential to 19920
the provision of daily transit services; 19921

(c) Involving actual physical damage to structures, supplies, 19922
equipment, or property. 19923

(2) The purchase consists of goods or services, or any 19924
combination thereof, and after reasonable inquiry the board or any 19925
officer or employee the board designates finds that only one 19926
source of supply is reasonably available. 19927

(3) The expenditure is for a renewal or renegotiation of a 19928
lease or license for telecommunications or electronic data 19929
processing equipment, services, or systems, or for the upgrade of 19930
such equipment, services, or systems, or for the maintenance 19931
thereof as supplied by the original source or its successors or 19932

assigns.	19933
(4) The purchase of goods or services is made from another	19934
political subdivision, public agency, public transit system,	19935
regional transit authority, the state, or the federal government,	19936
or as a third-party beneficiary under a state or federal	19937
procurement contract, or as a participant in a department of	19938
administrative services contract under division (B) of section	19939
125.04 of the Revised Code.	19940
(5) The sale and leaseback or lease and leaseback of transit	19941
facilities is made as provided in division (AA) of section 306.35	19942
of the Revised Code.	19943
(6) The purchase substantially involves services of a	19944
personal, professional, highly technical, or scientific nature,	19945
including but not limited to the services of an attorney,	19946
physician, surveyor, appraiser, investigator, court reporter,	19947
adjuster, advertising consultant, or licensed broker, or involves	19948
the special skills or proprietary knowledge required for the	19949
servicing of specialized equipment owned by the regional transit	19950
authority.	19951
(7) Services or supplies are available from a qualified	19952
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the	19953
Revised Code.	19954
(8) The purchase consists of the product or services of a	19955
public utility.	19956
(9) The purchase is for the services of individuals with	19957
disabilities to work in the authority's commissaries or	19958
cafeterias, and those individuals are supplied by a nonprofit	19959
corporation or association whose purpose is to assist individuals	19960
with disabilities, whether or not that corporation or association	19961
is funded entirely or in part by the federal government, or the	19962
purchase is for services provided by a nonprofit corporation or	19963

association whose purpose is to assist individuals with 19964
disabilities, whether or not that corporation or association is 19965
funded entirely or in part by the federal government. For purposes 19966
of division (H)(9) of this section, "disability" has the same 19967
meaning as in section 4112.01 of the Revised Code. 19968

(I) A regional transit authority may enter into blanket 19969
purchase agreements for purchases of maintenance, operating, or 19970
repair goods or services where the item cost does not exceed five 19971
hundred dollars and the annual expenditure does not exceed one 19972
hundred thousand dollars. 19973

(J) Nothing contained in this section prohibits a regional 19974
transit authority from participating in intergovernmental 19975
cooperative purchasing arrangements. 19976

(K) Except as otherwise provided in this chapter, a regional 19977
transit authority shall make a sale or other disposition of 19978
property through full and open competition. Except as provided in 19979
division (L) of this section, all dispositions of personal 19980
property and all grants of real property for terms exceeding five 19981
years shall be made by public auction or competitive procedure. 19982

(L) The competitive procedures required by division (K) of 19983
this section are not required in any of the following 19984
circumstances: 19985

(1) The grant is a component of a joint development between 19986
public and private entities and is intended to enhance or benefit 19987
public transit. 19988

(2) The grant of a limited use or of a license affecting land 19989
is made to an owner of abutting real property. 19990

(3) The grant of a limited use is made to a public utility. 19991

(4) The grant or disposition is to a department of the 19992
federal or state government, to a political subdivision of the 19993

state, or to any other governmental entity. 19994

(5) Used equipment is traded on the purchase of equipment and 19995
the value of the used equipment is a price-related factor in the 19996
basis for award for the purchase. 19997

(6) The value of the personal property is such that 19998
competitive procedures are not appropriate and the property either 19999
is sold at its fair market value or is disposed of by gift to a 20000
nonprofit entity having the general welfare or education of the 20001
public as one of its principal objects. 20002

(M) The board of trustees of a regional transit authority, 20003
when making a contract funded exclusively by state or local moneys 20004
or any combination thereof, shall make a good faith effort to use 20005
disadvantaged business enterprise participation to the same extent 20006
required under Section 105(f) of the "Surface Transportation 20007
Assistance Act of 1982," Public Law No. 97-424, 96 Stat. 2100, and 20008
Section 106(c) of the "Surface Transportation and Uniform 20009
Relocation Assistance Act of 1987," Public Law No. 100-17, 101 20010
Stat. 145, and the rules adopted thereunder. 20011

(N) As used in this section: 20012

(1) "Goods" means all things, including specially 20013
manufactured goods, that are movable at the time of identification 20014
to the contract for sale other than the money in which the price 20015
is to be paid, investment securities, and things in action. 20016
"Goods" also includes other identified things attached to realty 20017
as described in section 1302.03 of the Revised Code. 20018

(2) "Services" means the furnishing of labor, time, or effort 20019
by a contractor, not involving the delivery of goods or reports 20020
other than goods or reports that are merely incidental to the 20021
required performance, including but not limited to insurance, 20022
bonding, or routine operation, routine repair, or routine 20023
maintenance of existing structures, buildings, real property, or 20024

equipment, but does not include employment agreements, collective bargaining agreements, or personal services. 20025
20026

(3) "Construction" means the process of building, altering, repairing, improving, painting, decorating, or demolishing any structure or building, or other improvements of any kind to any real property owned or leased by a regional transit authority. 20027
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(4) "Full and open competition" has the same meaning as in the "Office of Federal Procurement Policy Act," Public Law No. 98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403. 20031
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(5) A bidder is "responsive" if, applying the criteria of division (A) of section 9.312 of the Revised Code, the bidder is "responsive" as described in that section. 20034
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(6) A bidder is "responsible" if, applying the criteria of division ~~(A)~~(B) of section 9.312 of the Revised Code and of the "Office of Federal Procurement Policy Act," Public Law No. 98-369, section 2731, 98 Stat. 1195 (1984), 41 U.S.C.A. 403, the bidder is "responsible" as described in those sections. 20037
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Sec. 306.55. Beginning July 1, 2011 and until November 5, 2013, any municipal corporation or township that has created or joined a regional transit authority that levies a property tax and that includes in its membership political subdivisions that are located in a county having a population of at least four hundred thousand according to the most recent federal census, may withdraw from the regional transit authority in the manner provided in this section. The legislative authority of the municipal corporation or board of township trustees of the township proposing to withdraw shall adopt a resolution to submit the question of withdrawing from the regional transit authority to the electors of the territory to be withdrawn and shall certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general election or at a special 20042
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election conducted on the day of the next primary election that 20056
occurs not less than ninety days after the resolution is certified 20057
to the board of elections. 20058

Upon certification of a proposal to the board of elections 20059
pursuant to this section, the board of elections shall make the 20060
necessary arrangements for the submission of the question to the 20061
electors of the territory to be withdrawn from the regional 20062
transit authority qualified to vote on the question, and the 20063
election shall be held, canvassed, and certified in the same 20064
manner as regular elections for the election of officers of the 20065
subdivision proposing to withdraw from the regional transit 20066
authority, except that the question appearing on the ballot shall 20067
read: 20068

"Shall the territory within the 20069
(Name of political subdivision to be withdrawn) be withdrawn from 20070
..... (Name) regional transit 20071
authority?" 20072

If the question is approved by at least a majority of the 20073
electors voting on the question, the withdrawal is effective six 20074
months from the date of the certification of its passage. 20075

The board of elections to which the resolution was certified 20076
shall certify the results of the election to the board or 20077
legislative authority of the subdivision that submitted the 20078
resolution to withdraw and to the board of trustees of the 20079
regional transit authority from which the subdivision proposed to 20080
withdraw. 20081

If the question of withdrawing from the regional transit 20082
authority is approved, the power of the regional transit authority 20083
to levy a tax on taxable property in the withdrawing subdivision 20084
terminates. 20085

Sec. 306.551. Any municipal corporation or township that 20086
withdraws from a regional transit authority under section 306.55 20087
of the Revised Code may enter into a contract with a regional 20088
transit authority or other provider of transit services to provide 20089
transportation service for handicapped, disabled, or elderly 20090
persons and for any other service the legislative authority of the 20091
municipal corporation or township may determine to be appropriate. 20092

Sec. 306.70. A tax proposed to be levied by a board of county 20093
commissioners or by the board of trustees of a regional transit 20094
authority pursuant to sections 5739.023 and 5741.022 of the 20095
Revised Code shall not become effective until it is submitted to 20096
the electors residing within the county or within the territorial 20097
boundaries of the regional transit authority and approved by a 20098
majority of the electors voting on it. Such question shall be 20099
submitted at a general election or at a special election on a day 20100
specified in the resolution levying the tax and occurring not less 20101
than ninety days after such resolution is certified to the board 20102
of elections, in accordance with section 3505.071 of the Revised 20103
Code. 20104

The board of elections of the county or of each county in 20105
which any territory of the regional transit authority is located 20106
shall make the necessary arrangements for the submission of such 20107
question to the electors of the county or regional transit 20108
authority, and the election shall be held, canvassed, and 20109
certified in the same manner as regular elections for the election 20110
of county officers. Notice of the election shall be published in 20111
~~one or more newspapers which in the aggregate are a newspaper~~ of 20112
general circulation in the territory of the county or of the 20113
regional transit authority once a week for two consecutive weeks 20114
prior to the election ~~and, if~~ or as provided in section 7.16 of 20115
the Revised Code. If the board of elections operates and maintains 20116

a web site, notice of the election also shall be posted on that 20117
web site for thirty days prior to the election. The notice shall 20118
state the type, rate, and purpose of the tax to be levied, the 20119
length of time during which the tax will be in effect, and the 20120
time and place of the election. 20121

More than one such question may be submitted at the same 20122
election. The form of the ballots cast at such election shall be: 20123

"Shall a(n) (sales and use) 20124
tax be levied for all transit purposes of the 20125
(here insert name of the county or regional transit authority) at 20126
a rate not exceeding (here insert percentage) 20127
per cent for (here insert number of years the tax 20128
is to be in effect, or that it is to be in effect for a continuing 20129
period of time)?" 20130

If the tax proposed to be levied is a continuation of an 20131
existing tax, whether at the same rate or at an increased or 20132
reduced rate, or an increase in the rate of an existing tax, the 20133
notice and ballot form shall so state. 20134

The board of elections to which the resolution was certified 20135
shall certify the results of the election to the county auditor of 20136
the county or secretary-treasurer of the regional transit 20137
authority levying the tax and to the tax commissioner of the 20138
state. 20139

Sec. 307.022. (A) The board of county commissioners of any 20140
county may do both of the following without following the 20141
competitive bidding requirements of section 307.86 of the Revised 20142
Code: 20143

(1) Enter into a lease, including a lease with an option to 20144
purchase, of correctional facilities for a term not in excess of 20145
forty years. Before entering into the lease, the board shall 20146

publish, once a week for three consecutive weeks in a newspaper of 20147
general circulation in the county or as provided in section 7.16 20148
of the Revised Code, a notice that the board is accepting 20149
proposals for a lease pursuant to this division. The notice shall 20150
state the date before which the proposals are required to be 20151
submitted in order to be considered by the board. 20152

(2) Subject to compliance with this section, grant leases, 20153
easements, and licenses with respect to, or sell, real property 20154
owned by the county if the real property is to be leased back by 20155
the county for use as correctional facilities. 20156

The lease under division (A)(1) of this section shall require 20157
the county to contract, in accordance with Chapter 153., sections 20158
307.86 to 307.92, and Chapter 4115. of the Revised Code, for the 20159
construction, improvement, furnishing, and equipping of 20160
correctional facilities to be leased pursuant to this section. 20161
Prior to the board's execution of the lease, it may require the 20162
lessor under the lease to cause sufficient money to be made 20163
available to the county to enable the county to comply with the 20164
certification requirements of division (D) of section 5705.41 of 20165
the Revised Code. 20166

A lease entered into pursuant to division (A)(1) of this 20167
section by a board may provide for the county to maintain and 20168
repair the correctional facility during the term of the leasehold, 20169
may provide for the county to make rental payments prior to or 20170
after occupation of the correctional facilities by the county, and 20171
may provide for the board to obtain and maintain any insurance 20172
that the lessor may require, including, but not limited to, public 20173
liability, casualty, builder's risk, and business interruption 20174
insurance. The obligations incurred under a lease entered into 20175
pursuant to division (A)(1) of this section shall not be 20176
considered to be within the debt limitations of section 133.07 of 20177
the Revised Code. 20178

(B) The correctional facilities leased under division (A)(1)	20179
of this section may include any or all of the following:	20180
(1) Facilities in which one or more other governmental	20181
entities are participating or in which other facilities of the	20182
county are included;	20183
(2) Facilities acquired, constructed, renovated, or financed	20184
by the Ohio building authority and leased to the county pursuant	20185
to section 307.021 of the Revised Code;	20186
(3) Correctional facilities that are under construction or	20187
have been completed and for which no permanent financing has been	20188
arranged.	20189
(C) As used in this section:	20190
(1) "Correctional facilities" includes, but is not limited	20191
to, jails, detention facilities, workhouses, community-based	20192
correctional facilities, and family court centers.	20193
(2) "Construction" has the same meaning as in division (B) of	20194
section 4115.03 of the Revised Code.	20195
Sec. 307.041. (A) As used in this section, "energy	20196
conservation measure" means an installation or modification of an	20197
installation in, or remodeling of, an existing building, to reduce	20198
energy consumption. "Energy conservation measure" includes the	20199
following:	20200
(1) Insulation of the building structure and of systems	20201
within the building;	20202
(2) Storm windows and doors, multiglazed windows and doors,	20203
heat-absorbing or heat-reflective glazed and coated window and	20204
door systems, additional glazing, reductions in glass area, and	20205
other window and door system modifications that reduce energy	20206
consumption;	20207

(3) Automatic energy control systems;	20208
(4) Heating, ventilating, or air conditioning system modifications or replacements;	20209 20210
(5) Caulking and weatherstripping;	20211
(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such an increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;	20212 20213 20214 20215 20216
(7) Energy recovery systems;	20217
(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;	20218 20219 20220
(9) Acquiring, constructing, furnishing, equipping, improving the site of, and otherwise improving a central utility plant to provide heating and cooling services to a building or buildings together with distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building or buildings;	20221 20222 20223 20224 20225 20226
(10) Any other modification, installation, or remodeling approved by the board of county commissioners as an energy conservation measure.	20227 20228 20229
(B) For the purpose of evaluating county buildings for energy conservation measures, a county may contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for an energy conservation report. The report shall include all of the following:	20230 20231 20232 20233 20234 20235
(1) Analyses of the buildings' energy needs and recommendations for building installations, modifications of	20236 20237

existing installations, or building remodeling that would	20238
significantly reduce energy consumption in the buildings owned by	20239
that county;	20240
(2) Estimates of all costs of those installations, those	20241
modifications, or that remodeling, including costs of design,	20242
engineering, installation, maintenance, and repairs;	20243
(3) Estimates of the amounts by which energy consumption	20244
could be reduced;	20245
(4) The interest rate used to estimate the costs of any	20246
energy conservation measures that are to be financed;	20247
(5) The average system life of the energy conservation	20248
measures;	20249
(6) Estimates of the likely savings that will result from the	20250
reduction in energy consumption over the average system life of	20251
the energy conservation measure, including the methods used to	20252
estimate the savings;	20253
(7) A certification under the seal of a registered	20254
professional engineer that the energy conservation report uses	20255
reasonable methods of analysis and estimation.	20256
(C)(1) A county desiring to implement energy conservation	20257
measures may proceed under either of the following methods:	20258
(a) Using a report or any part of an energy conservation	20259
report prepared under division (B) of this section, advertise for	20260
bids and, except as otherwise provided in this section, comply	20261
with sections 307.86 to 307.92 of the Revised Code;	20262
(b) Notwithstanding sections 307.86 to 307.92 of the Revised	20263
Code, request proposals from at least three vendors for the	20264
implementation of energy conservation measures. A request for	20265
proposals shall require the installer that is awarded a contract	20266
under division (C)(2)(b) of this section to prepare an energy	20267

conservation report in accordance with division (B) of this 20268
section. Prior to sending any installer of energy conservation 20269
measures a copy of any request for proposals, the county shall 20270
advertise its intent to request proposals for the installation of 20271
energy conservation measures in a newspaper of general circulation 20272
in the county once a week for two consecutive weeks or as provided 20273
in section 7.16 of the Revised Code. The notice shall state that 20274
the county intends to request proposals for the installation of 20275
energy conservation measures; indicate the date, which shall be at 20276
least ten days after the second publication, on which the request 20277
for proposals will be mailed to installers of energy conservation 20278
measures; and state that any installer of energy conservation 20279
measures interested in receiving the request for proposals shall 20280
submit written notice to the county not later than noon of the day 20281
on which the request for proposals will be mailed. 20282

20283

(2)(a) Upon receiving bids under division (C)(1)(a) of this 20284
section, the county shall analyze them and select the lowest and 20285
best bid or bids most likely to result in the greatest energy 20286
savings considering the cost of the project and the county's 20287
ability to pay for the improvements with current revenues or by 20288
financing the improvements. 20289

(b) Upon receiving proposals under division (C)(1)(b) of this 20290
section, the county shall analyze the proposals and the 20291
installers' qualifications and select the most qualified installer 20292
to prepare an energy conservation report in accordance with 20293
division (B) of this section. After receipt and review of the 20294
energy conservation report, the county may award a contract to the 20295
selected installer to install the energy conservation measures 20296
that are most likely to result in the greatest energy savings 20297
considering the cost of the project and the county's ability to 20298
pay for the improvements with current revenues or by financing the 20299

improvements. 20300

(c) The awarding of a contract to install energy conservation 20301
measures under division (C)(2)(a) or (b) of this section shall be 20302
conditioned upon a finding by the contracting authority that the 20303
amount of money spent on the energy conservation measures is not 20304
likely to exceed the amount of money the county would save in 20305
energy, operating, maintenance, and avoided capital costs over the 20306
average system life of the energy conservation measures as 20307
specified in the energy conservation report. In making such a 20308
finding, the contracting authority may take into account increased 20309
costs due to inflation as shown in the energy conservation report. 20310
Nothing in this division prohibits a county from rejecting all 20311
bids or proposals under division (C)(1)(a) or (b) of this section 20312
or from selecting more than one bid or proposal. 20313

(D) A board of county commissioners may enter into an 20314
installment payment contract for the purchase and installation of 20315
energy conservation measures. Provisions of installment payment 20316
contracts that deal with interest charges and financing terms 20317
shall not be subject to the competitive bidding requirements of 20318
section 307.86 of the Revised Code, and shall be on the following 20319
terms: 20320

(1) Not less than a specified percentage, as determined and 20321
approved by the board of county commissioners, of the costs of the 20322
contract shall be paid within two years from the date of purchase. 20323

(2) The remaining balance of the costs of the contract shall 20324
be paid within the lesser of the average system life of the energy 20325
conservation measures as specified in the energy conservation 20326
report or thirty years. 20327

(E) The board of county commissioners may issue the notes of 20328
the county specifying the terms of a purchase of energy 20329
conservation measures under this section and securing any deferred 20330

payments provided for in division (D) of this section. The notes 20331
shall be payable at the times provided and bear interest at a rate 20332
not exceeding the rate determined as provided in section 9.95 of 20333
the Revised Code. The notes may contain an option for prepayment 20334
and shall not be subject to Chapter 133. of the Revised Code. 20335
Revenues derived from local taxes or otherwise for the purpose of 20336
conserving energy or for defraying the current operating expenses 20337
of the county may be pledged and applied to the payment of 20338
interest and the retirement of the notes. The notes may be sold at 20339
private sale or given to the contractor under an installment 20340
payment contract authorized by division (D) of this section. 20341

(F) Debt incurred under this section shall not be included in 20342
the calculation of the net indebtedness of a county under section 20343
133.07 of the Revised Code. 20344

Sec. 307.093. A board of county commissioners may enter into 20345
a sale and leaseback agreement under which the board agrees to 20346
convey a county-owned building to a purchaser who is obligated, 20347
immediately upon closing, to lease the building back to the board. 20348
The sale and leaseback agreement shall obligate the lessor to make 20349
improvements to the building, including renovations, energy 20350
conservation measures, and other measures that are necessary to 20351
improve the functionality and reduce the operating costs of the 20352
building. 20353

The authority granted by this section is not subject to the 20354
limitations imposed by sections 307.02 and 307.09 of the Revised 20355
Code. 20356

Sec. 307.10. (A) No sale of real property, or lease of real 20357
property used or to be used for the purpose of airports, landing 20358
fields, or air navigational facilities, or parts thereof, as 20359
provided by section 307.09 of the Revised Code shall be made 20360

unless it is authorized by a resolution adopted by a majority of 20361
the board of county commissioners. When a sale of real property as 20362
provided by section 307.09 of the Revised Code is authorized, the 20363
board may either deed the property to the highest responsible 20364
bidder, after advertisement once a week for four consecutive weeks 20365
in a newspaper of general circulation in the county or as provided 20366
in section 7.16 of the Revised Code, or offer the real property 20367
for sale at a public auction, after giving at least thirty days' 20368
notice of the auction by publication in a newspaper of general 20369
circulation in the county. The board may reject any and all bids. 20370
The board may, as it considers best, sell real property pursuant 20371
to this section as an entire tract or in parcels. The board, by 20372
resolution adopted by a majority of the board, may lease real 20373
property, in accordance with division (A) of section 307.09 of the 20374
Revised Code, without advertising for bids. 20375

(B) The board, by resolution, may transfer real property in 20376
fee simple belonging to the county and not needed for public use 20377
to the United States government, to the state or any department or 20378
agency thereof, to municipal corporations or other political 20379
subdivisions of the state, to the county board of developmental 20380
disabilities, or to a county land reutilization corporation 20381
organized under Chapter 1724. of the Revised Code for public 20382
purposes upon the terms and in the manner that it may determine to 20383
be in the best interests of the county, without advertising for 20384
bids. The board shall execute a deed or other proper instrument 20385
when such a transfer is approved. 20386

(C) The board, by resolution adopted by a majority of the 20387
board, may grant leases, rights, or easements to the United States 20388
government, to the state or any department or agency thereof, or 20389
to municipal corporations and other political subdivisions of the 20390
state, or to privately owned electric light and power companies, 20391
natural gas companies, or telephone or telegraph companies for 20392

purposes of rendering their several public utilities services, in 20393
accordance with division (B) of section 307.09 of the Revised 20394
Code, without advertising for bids. When such grant of lease, 20395
right, or easement is authorized, a deed or other proper 20396
instrument therefor shall be executed by the board. 20397

Sec. 307.12. (A) Except as otherwise provided in divisions 20398
(D), (E), and (G) of this section, when the board of county 20399
commissioners finds, by resolution, that the county has personal 20400
property, including motor vehicles acquired for the use of county 20401
officers and departments, and road machinery, equipment, tools, or 20402
supplies, that is not needed for public use, is obsolete, or is 20403
unfit for the use for which it was acquired, and when the fair 20404
market value of the property to be sold or donated under this 20405
division is, in the opinion of the board, in excess of two 20406
thousand five hundred dollars, the board may do either of the 20407
following: 20408

(1) Sell the property at public auction or by sealed bid to 20409
the highest bidder. Notice of the time, place, and manner of the 20410
sale shall be published in a newspaper of general circulation in 20411
the county at least ten days prior to the sale, and a typewritten 20412
or printed notice of the time, place, and manner of the sale shall 20413
be posted at least ten days before the sale in the offices of the 20414
county auditor and the board of county commissioners. 20415

If a board conducts a sale of property by sealed bid, the 20416
form of the bid shall be as prescribed by the board, and each bid 20417
shall contain the name of the person submitting it. Bids received 20418
shall be opened and tabulated at the time stated in the notice. 20419
The property shall be sold to the highest bidder, except that the 20420
board may reject all bids and hold another sale, by public auction 20421
or sealed bid, in the manner prescribed by this section. 20422

(2) Donate any motor vehicle that does not exceed four 20423

thousand five hundred dollars in value to a nonprofit organization 20424
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 20425
and (c)(3) for the purpose of meeting the transportation needs of 20426
participants in the Ohio works first program established under 20427
Chapter 5107. of the Revised Code and participants in the 20428
prevention, retention, and contingency program established under 20429
Chapter 5108. of the Revised Code. 20430

(B) When the board of county commissioners finds, by 20431
resolution, that the county has personal property, including motor 20432
vehicles acquired for the use of county officers and departments, 20433
and road machinery, equipment, tools, or supplies, that is not 20434
needed for public use, is obsolete, or is unfit for the use for 20435
which it was acquired, and when the fair market value of the 20436
property to be sold or donated under this division is, in the 20437
opinion of the board, two thousand five hundred dollars or less, 20438
the board may do either of the following: 20439

(1) Sell the property by private sale, without advertisement 20440
or public notification; 20441

(2) Donate the property to an eligible nonprofit organization 20442
that is located in this state and is exempt from federal income 20443
taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating 20444
any property under this division, the board shall adopt a 20445
resolution expressing its intent to make unneeded, obsolete, or 20446
unfit-for-use county personal property available to these 20447
organizations. The resolution shall include guidelines and 20448
procedures the board considers necessary to implement a donation 20449
program under this division and shall indicate whether the county 20450
will conduct the donation program or the board will contract with 20451
a representative to conduct it. If a representative is known when 20452
the resolution is adopted, the resolution shall provide contact 20453
information such as the representative's name, address, and 20454
telephone number. 20455

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the county, notice of its intent to donate unneeded, obsolete, or unfit-for-use county personal property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published ~~at least~~ twice or as provided in section 7.16 of the Revised Code. The second and any subsequent notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually in a conspicuous place in the offices of the county auditor and the board of county commissioners, ~~and, if.~~ If the county maintains a web site on the internet, the notice shall be posted continually at that web site.

The board or its representative shall maintain a list of all nonprofit organizations that notify the board or its representative of their desire to obtain donated property under this division and that the board or its representative determines to be eligible, in accordance with the requirements set forth in this section and in the donation program's guidelines and procedures, to receive donated property.

The board or its representatives also shall maintain a list 20488
of all county personal property the board finds to be unneeded, 20489
obsolete, or unfit for use and to be available for donation under 20490
this division. The list shall be posted continually in a 20491
conspicuous location in the offices of the county auditor and the 20492
board of county commissioners, and, if the county maintains a web 20493
site on the internet, the list shall be posted continually at that 20494
web site. An item of property on the list shall be donated to the 20495
eligible nonprofit organization that first declares to the board 20496
or its representative its desire to obtain the item unless the 20497
board previously has established, by resolution, a list of 20498
eligible nonprofit organizations that shall be given priority with 20499
respect to the item's donation. Priority may be given on the basis 20500
that the purposes of a nonprofit organization have a direct 20501
relationship to specific public purposes of programs provided or 20502
administered by the board. A resolution giving priority to certain 20503
nonprofit organizations with respect to the donation of an item of 20504
property shall specify the reasons why the organizations are given 20505
that priority. 20506

(C) Members of the board of county commissioners shall 20507
consult with the Ohio ethics commission, and comply with the 20508
provisions of Chapters 102. and 2921. of the Revised Code, with 20509
respect to any sale or donation under division (A) or (B) of this 20510
section to a nonprofit organization of which a county 20511
commissioner, any member of the county commissioner's family, or 20512
any business associate of the county commissioner is a trustee, 20513
officer, board member, or employee. 20514

(D) Notwithstanding anything to the contrary in division (A), 20515
(B), or (E) of this section and regardless of the property's 20516
value, the board of county commissioners may sell or donate county 20517
personal property, including motor vehicles, to the federal 20518
government, the state, any political subdivision of the state, or 20519

a county land reutilization corporation without advertisement or 20520
public notification. 20521

(E) Notwithstanding anything to the contrary in division (A), 20522
(B), or (G) of this section and regardless of the property's 20523
value, the board of county commissioners may sell personal 20524
property, including motor vehicles acquired for the use of county 20525
officers and departments, and road machinery, equipment, tools, or 20526
supplies, that is not needed for public use, is obsolete, or is 20527
unfit for the use for which it was acquired, by internet auction. 20528
The board shall adopt, during each calendar year, a resolution 20529
expressing its intent to sell that property by internet auction. 20530
The resolution shall include a description of how the auctions 20531
will be conducted and shall specify the number of days for bidding 20532
on the property, which shall be no less than ten days, including 20533
Saturdays, Sundays, and legal holidays. The resolution shall 20534
indicate whether the county will conduct the auction or the board 20535
will contract with a representative to conduct the auction and 20536
shall establish the general terms and conditions of sale. If a 20537
representative is known when the resolution is adopted, the 20538
resolution shall provide contact information such as the 20539
representative's name, address, and telephone number. 20540

After adoption of the resolution, the board shall publish, in 20541
a newspaper of general circulation in the county, notice of its 20542
intent to sell unneeded, obsolete, or unfit-for-use county 20543
personal property by internet auction. The notice shall include a 20544
summary of the information provided in the resolution and shall be 20545
published ~~at least~~ twice or as provided in section 7.16 of the 20546
Revised Code. The second and any subsequent notice shall be 20547
published not less than ten nor more than twenty days after the 20548
previous notice. A similar notice also shall be posted continually 20549
throughout the calendar year in a conspicuous place in the offices 20550
of the county auditor and the board of county commissioners, ~~and,~~ 20551

~~if.~~ If the county maintains a web site on the internet, the notice 20552
shall be posted continually throughout the calendar year at that 20553
web site. 20554

When property is to be sold by internet auction, the board or 20555
its representative may establish a minimum price that will be 20556
accepted for specific items and may establish any other terms and 20557
conditions for the particular sale, including requirements for 20558
pick-up or delivery, method of payment, and sales tax. This type 20559
of information shall be provided on the internet at the time of 20560
the auction and may be provided before that time upon request 20561
after the terms and conditions have been determined by the board 20562
or its representative. 20563

(F) When a county officer or department head determines that 20564
county-owned personal property under the jurisdiction of the 20565
officer or department head, including motor vehicles, road 20566
machinery, equipment, tools, or supplies, is not of immediate 20567
need, the county officer or department head may notify the board 20568
of county commissioners, and the board may lease that personal 20569
property to any municipal corporation, township, other political 20570
subdivision of the state, or to a county land reutilization 20571
corporation. The lease shall require the county to be reimbursed 20572
under terms, conditions, and fees established by the board, or 20573
under contracts executed by the board. 20574

(G) If the board of county commissioners finds, by 20575
resolution, that the county has vehicles, equipment, or machinery 20576
that is not needed, or is unfit for public use, and the board 20577
desires to sell the vehicles, equipment, or machinery to the 20578
person or firm from which it proposes to purchase other vehicles, 20579
equipment, or machinery, the board may offer to sell the vehicles, 20580
equipment, or machinery to that person or firm, and to have the 20581
selling price credited to the person or firm against the purchase 20582
price of other vehicles, equipment, or machinery. 20583

(H) If the board of county commissioners advertises for bids for the sale of new vehicles, equipment, or machinery to the county, it may include in the same advertisement a notice of the willingness of the board to accept bids for the purchase of county-owned vehicles, equipment, or machinery that is obsolete or not needed for public use, and to have the amount of those bids subtracted from the selling price of the other vehicles, equipment, or machinery as a means of determining the lowest responsible bidder.

(I) If a board of county commissioners determines that county personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the board may discard or salvage that property.

(J) A county engineer, in the engineer's discretion, may dispose of scrap construction materials on such terms as the engineer determines reasonable, including disposal without recovery of costs, if the total value of the materials does not exceed twenty-five thousand dollars. The engineer shall maintain records of all dispositions made under this division, including identification of the origin of the materials, the final disposition, and copies of all receipts resulting from the dispositions.

As used in division (I) of this section, "scrap construction materials" means construction materials that result from a road or bridge improvement, remain after the improvement is completed, and are not reusable. Construction material that is metal and that results from a road or bridge improvement and remains after the improvement is completed is scrap construction material only if it cannot be used in any other road or bridge improvement or other project in its current state.

Sec. 307.676. (A) As used in this section:

(1) "Food and beverages" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption, including ice, water, spirituous liquors, wine, mixed beverages, beer, soft drinks, soda, and other beverages.

(2) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(3) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(B) The legislative authority of a county with a population of one million or more according to the most recent federal decennial census may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority and with the subsequent approval of a majority of the electors of the county voting upon it, levy a tax of not more than two per cent on every retail sale in the county of food and beverages to be consumed on the premises where sold to pay the expenses of administering the tax and to provide revenues for the county general fund. Such resolution shall direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board of elections, and such resolution may further direct the board of elections to include upon the ballot submitted to the electors any specific purposes for which the tax will be used. The legislative authority shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax and may provide for imposition of a penalty, interest, or both for late payments, provided that any such penalty may not exceed ten per cent of the amount of tax due and the rate at which interest accrues may not exceed the rate per annum required under section 5703.47 of the

Revised Code. 20647

(C) A tax levied under this section shall remain in effect 20648
for the period of time specified in the resolution or ordinance 20649
levying the tax, but in no case for a longer period than forty 20650
years. 20651

(D) A tax levied under this section is in addition to any 20652
other tax levied under Chapter 307., 4301., 4305., 5739., 5741., 20653
or any other chapter of the Revised Code. "Price," as defined in 20654
sections 5739.01 and 5741.01 of the Revised Code, does not include 20655
any tax levied under this section and any tax levied under this 20656
section does not include any tax imposed under Chapter 5739. or 20657
5741. of the Revised Code. 20658

(E)(1) No amount collected from a tax levied under this 20659
section shall be contributed to a convention facilities authority, 20660
corporation, or other entity created after July 1, 2003, for the 20661
principal purpose of constructing, improving, expanding, 20662
equipping, financing, or operating a convention center unless the 20663
mayor of the municipal corporation in which the convention center 20664
is to be operated by that convention facilities authority, 20665
corporation, or other entity has consented to the creation of that 20666
convention facilities authority, corporation, or entity. 20667
Notwithstanding any contrary provision of section 351.04 of the 20668
Revised Code, if a tax is levied by a county under this section, 20669
the board of county commissioners of that county may determine the 20670
manner of selection, the qualifications, the number, and terms of 20671
office of the members of the board of directors of any convention 20672
facilities authority, corporation, or other entity described in 20673
division (E)(1) of this section. 20674

(2)(a) No amount collected from a tax levied under this 20675
section may be used for any purpose other than paying the direct 20676
and indirect costs of constructing, improving, expanding, 20677
equipping, financing, or operating a convention center and for the 20678

real and actual costs of administering the tax, unless, prior to 20679
the adoption of the resolution of the legislative authority of the 20680
county directing the board of elections to submit the question of 20681
the levy, extension, or increase to the electors of the county, 20682
the county and the mayor of the most populous municipal 20683
corporation in that county have entered into an agreement as to 20684
the use of such amounts, provided that such agreement has been 20685
approved by a majority of the mayors of the other municipal 20686
corporations in that county. The agreement shall provide that the 20687
amounts to be used for purposes other than paying the convention 20688
center or administrative costs described in division (E)(2)(a) of 20689
this section be used only for the direct and indirect costs of 20690
capital improvements in accordance with the agreement, including 20691
the financing of capital improvements. Immediately following the 20692
execution of the agreement, the county shall: 20693

(i) In accordance with section 7.12 of the Revised Code, 20694
cause the agreement to be published ~~at least~~ once in a newspaper 20695
of general circulation in that county; or 20696

(ii) Post the agreement in at least five public places in the 20697
county, as determined by the legislative authority, for a period 20698
not less than fifteen days. 20699

(b) If the county in which the tax is levied has an 20700
association of mayors and city managers, the approval of that 20701
association of an agreement described in division (E)(2)(a) of 20702
this section shall be considered to be the approval of the 20703
majority of the mayors of the other municipal corporations for 20704
purposes of that division. 20705

(F) Each year, the auditor of state shall conduct an audit of 20706
the uses of any amounts collected from taxes levied under this 20707
section and shall prepare a report of the auditor of state's 20708
findings. The auditor of state shall submit the report to the 20709
legislative authority of the county that has levied the tax, the 20710

speaker of the house of representatives, the president of the 20711
senate, and the leaders of the minority parties of the house of 20712
representatives and the senate. 20713

(G) The levy of any taxes under Chapter 5739. of the Revised 20714
Code on the same transactions subject to a tax under this section 20715
does not prevent the levy of a tax under this section. 20716

Sec. 307.70. In any county electing a county charter 20717
commission, the board of county commissioners shall appropriate 20718
money for the expenses of such commission in the preparation of a 20719
county charter, or charter amendment, and the study of problems 20720
involved. No appropriation shall be made for the compensation of 20721
members of the commission for their services. The board shall 20722
appropriate money for the printing and mailing or otherwise 20723
distributing to each elector in the county, as far as may be 20724
reasonably possible, a copy of a charter submitted to the electors 20725
of the county by a charter commission or by the board pursuant to 20726
petition as provided by Section 4 of Article X, Ohio Constitution. 20727
The copy of the charter shall be mailed or otherwise distributed 20728
at least thirty days prior to the election. The board shall 20729
appropriate money for the printing and distribution or publication 20730
of proposed amendments to a charter submitted by a charter 20731
commission pursuant to Section 4 of Article X, Ohio Constitution. 20732
Notice of amendments to a county charter shall be given by mailing 20733
or otherwise distributing a copy of each proposed amendment to 20734
each elector in the county, as far as may be reasonably possible, 20735
at least thirty days prior to the election or, if the board so 20736
determines, by publishing the full text of the proposed amendments 20737
once a week for at least two consecutive weeks in a newspaper 20738
~~published in the county. If no newspaper is published in the~~ 20739
~~county or the board is unable to obtain publication in a newspaper~~ 20740
~~published in the county, the proposed amendments may be published~~ 20741
~~in a newspaper~~ of general circulation within the county, or as 20742

provided in section 7.16 of the Revised Code. No public officer is 20743
precluded, because of being a public officer, from also holding 20744
office as a member of a county charter commission, except that not 20745
more than four officeholders may be elected to a county charter 20746
commission at the same time. No member of a county charter 20747
commission, because of charter commission membership, is precluded 20748
from seeking or holding other public office. 20749

Sec. 307.79. (A) The board of county commissioners may adopt, 20750
amend, and rescind rules establishing technically feasible and 20751
economically reasonable standards to achieve a level of management 20752
and conservation practices that will abate wind or water erosion 20753
of the soil or abate the degradation of the waters of the state by 20754
soil sediment in conjunction with land grading, excavating, 20755
filling, or other soil disturbing activities on land used or being 20756
developed for nonfarm commercial, industrial, residential, or 20757
other nonfarm purposes, and establish criteria for determination 20758
of the acceptability of those management and conservation 20759
practices. The rules shall be designed to implement the applicable 20760
areawide waste treatment management plan prepared under section 20761
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 20762
(1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of 20763
the storm water program of the national pollutant discharge 20764
elimination system established in 40 C.F.R. Part 122. The rules to 20765
implement phase II of the storm water program of the national 20766
pollutant discharge elimination system shall not be inconsistent 20767
with, more stringent than, or broader in scope than the rules or 20768
regulations adopted by the environmental protection agency under 20769
40 C.F.R. Part 122. The rules adopted under this section shall not 20770
apply inside the limits of municipal corporations or the limits of 20771
townships with a limited home rule government that have adopted 20772
rules under section 504.21 of the Revised Code, to lands being 20773
used in a strip mine operation as defined in section 1513.01 of 20774

the Revised Code, or to land being used in a surface mine 20775
operation as defined in section 1514.01 of the Revised Code. 20776

20777

The rules adopted under this section may require persons to 20778
file plans governing erosion control, sediment control, and water 20779
management before clearing, grading, excavating, filling, or 20780
otherwise wholly or partially disturbing one or more contiguous 20781
acres of land owned by one person or operated as one development 20782
unit for the construction of nonfarm buildings, structures, 20783
utilities, recreational areas, or other similar nonfarm uses. If 20784
the rules require plans to be filed, the rules shall do all of the 20785
following: 20786

(1) Designate the board itself, its employees, or another 20787
agency or official to review and approve or disapprove the plans; 20788

(2) Establish procedures and criteria for the review and 20789
approval or disapproval of the plans; 20790

(3) Require the designated entity to issue a permit to a 20791
person for the clearing, grading, excavating, filling, or other 20792
project for which plans are approved and to deny a permit to a 20793
person whose plans have been disapproved; 20794

(4) Establish procedures for the issuance of the permits; 20795

(5) Establish procedures under which a person may appeal the 20796
denial of a permit. 20797

Areas of less than one contiguous acre shall not be exempt 20798
from compliance with other provisions of this section or rules 20799
adopted under this section. The rules adopted under this section 20800
may impose reasonable filing fees for plan review, permit 20801
processing, and field inspections. 20802

No permit or plan shall be required for a public highway, 20803
transportation, or drainage improvement or maintenance project 20804

undertaken by a government agency or political subdivision in 20805
accordance with a statement of its standard sediment control 20806
policies that is approved by the board or the chief of the 20807
division of soil and water resources in the department of natural 20808
resources. 20809

(B) Rules or amendments may be adopted under this section 20810
only after public hearings at not fewer than two regular sessions 20811
of the board. The board of county commissioners shall cause to be 20812
published, in a newspaper of general circulation in the county, 20813
notice of the public hearings, including time, date, and place, 20814
once a week for two weeks immediately preceding the hearings, or 20815
as provided in section 7.16 of the Revised Code. The proposed 20816
rules or amendments shall be made available by the board to the 20817
public at the board office or other location indicated in the 20818
notice. The rules or amendments shall take effect on the 20819
thirty-first day following the date of their adoption. 20820

(C) The board of county commissioners may employ personnel to 20821
assist in the administration of this section and the rules adopted 20822
under it. The board also, if the action does not conflict with the 20823
rules, may delegate duties to review sediment control and water 20824
management plans to its employees, and may enter into agreements 20825
with one or more political subdivisions, other county officials, 20826
or other government agencies, in any combination, in order to 20827
obtain reviews and comments on plans governing erosion control, 20828
sediment control, and water management or to obtain other services 20829
for the administration of the rules adopted under this section. 20830

(D) The board of county commissioners or any duly authorized 20831
representative of the board may, upon identification to the owner 20832
or person in charge, enter any land upon obtaining agreement with 20833
the owner, tenant, or manager of the land in order to determine 20834
whether there is compliance with the rules adopted under this 20835
section. If the board or its duly authorized representative is 20836

unable to obtain such an agreement, the board or representative 20837
may apply for, and a judge of the court of common pleas for the 20838
county where the land is located may issue, an appropriate 20839
inspection warrant as necessary to achieve the purposes of this 20840
chapter. 20841

(E)(1) If the board of county commissioners or its duly 20842
authorized representative determines that a violation of the rules 20843
adopted under this section exists, the board or representative may 20844
issue an immediate stop work order if the violator failed to 20845
obtain any federal, state, or local permit necessary for sediment 20846
and erosion control, earth movement, clearing, or cut and fill 20847
activity. In addition, if the board or representative determines 20848
such a rule violation exists, regardless of whether or not the 20849
violator has obtained the proper permits, the board or 20850
representative may authorize the issuance of a notice of 20851
violation. If, after a period of not less than thirty days has 20852
elapsed following the issuance of the notice of violation, the 20853
violation continues, the board or its duly authorized 20854
representative shall issue a second notice of violation. Except as 20855
provided in division (E)(3) of this section, if, after a period of 20856
not less than fifteen days has elapsed following the issuance of 20857
the second notice of violation, the violation continues, the board 20858
or its duly authorized representative may issue a stop work order 20859
after first obtaining the written approval of the prosecuting 20860
attorney of the county if, in the opinion of the prosecuting 20861
attorney, the violation is egregious. 20862

Once a stop work order is issued, the board or its duly 20863
authorize representative shall request, in writing, the 20864
prosecuting attorney of the county to seek an injunction or other 20865
appropriate relief in the court of common pleas to abate excessive 20866
erosion or sedimentation and secure compliance with the rules 20867
adopted under this section. If the prosecuting attorney seeks an 20868

injunction or other appropriate relief, then, in granting relief, 20869
the court of common pleas may order the construction of sediment 20870
control improvements or implementation of other control measures 20871
and may assess a civil fine of not less than one hundred or more 20872
than five hundred dollars. Each day of violation of a rule or stop 20873
work order issued under this section shall be considered a 20874
separate violation subject to a civil fine. 20875

(2) The person to whom a stop work order is issued under this 20876
section may appeal the order to the court of common pleas of the 20877
county in which it was issued, seeking any equitable or other 20878
appropriate relief from that order. 20879

(3) No stop work order shall be issued under this section 20880
against any public highway, transportation, or drainage 20881
improvement or maintenance project undertaken by a government 20882
agency or political subdivision in accordance with a statement of 20883
its standard sediment control policies that is approved by the 20884
board or the chief of the division of soil and water resources in 20885
the department of natural resources. 20886

(F) No person shall violate any rule adopted or order issued 20887
under this section. Notwithstanding division (E) of this section, 20888
if the board of county commissioners determines that a violation 20889
of any rule adopted or administrative order issued under this 20890
section exists, the board may request, in writing, the prosecuting 20891
attorney of the county to seek an injunction or other appropriate 20892
relief in the court of common pleas to abate excessive erosion or 20893
sedimentation and secure compliance with the rules or order. In 20894
granting relief, the court of common pleas may order the 20895
construction of sediment control improvements or implementation of 20896
other control measures and may assess a civil fine of not less 20897
than one hundred or more than five hundred dollars. Each day of 20898
violation of a rule adopted or administrative order issued under 20899
this section shall be considered a separate violation subject to a 20900

civil fine. 20901

Sec. 307.791. The question of repeal of a county sediment 20902
control rule adopted under section 307.79 of the Revised Code may 20903
be initiated by filing with the board of elections of the county 20904
not less than ninety days before the general or primary election 20905
in any year a petition requesting that an election be held on such 20906
question. Such petition shall be signed by qualified electors 20907
residing in the county equal in number to ten per cent of those 20908
voting for governor at the most recent gubernatorial election in 20909
the county. 20910

After determination by it that such petition is valid, the 20911
board of elections shall submit the question to the electors of 20912
the county at the next general or primary election. The election 20913
shall be conducted, canvassed, and certified in the same manner as 20914
regular elections for county offices in the county. Notice of the 20915
election shall be published in a newspaper of general circulation 20916
in the county once a week for two consecutive weeks prior to the 20917
election ~~and, if or as provided in section 7.16 of the Revised~~ 20918
Code. If the board of elections operates and maintains a web site, 20919
notice of the election also shall be posted on that web site for 20920
thirty days prior to the election. The notice shall state the 20921
purpose, time, and place of the election and ~~the complete text a~~ 20922
succinct summary of each rule sought to be repealed. The form of 20923
the ballot cast at such election shall be prescribed by the 20924
secretary of state. The question covered by such petition shall be 20925
submitted as a separate proposition, but it may be printed on the 20926
same ballot with any other proposition submitted at the same 20927
election other than the election of officers. If a majority of the 20928
qualified electors voting on the question of repeal approve the 20929
repeal, the result of the election shall be certified immediately 20930
after the canvass by the board of elections to the board of county 20931
commissioners, who shall thereupon rescind the rule. 20932

Sec. 307.80. The board of county commissioners of any county 20933
may, by resolution, establish a county microfilming board. The 20934
county microfilming board shall consist of the county treasurer or 20935
~~his~~ the treasurer's representative, the county auditor or ~~his~~ the 20936
auditor's representative, the clerk of the court of common pleas 20937
or ~~his~~ the clerk's representative, a member or representative of 20938
the board of county commissioners chosen by the board of county 20939
commissioners, and the county recorder or ~~his~~ the recorder's 20940
representative who shall serve as secretary. 20941

After the initial meeting of the county microfilming board, 20942
no county office shall purchase, lease, operate, or contract for 20943
the use of any microfilming or other image processing equipment, 20944
software, or services without prior approval of the board. 20945

As used in sections 307.80 to 307.806 of the Revised Code, 20946
"county office" means any officer, department, board, commission, 20947
agency, court, or other office of the county and the court of 20948
common pleas. The county hospital shall not be considered a 20949
"county office" when the county hospital uses microfilming to 20950
record and store for future access physical and psychiatric 20951
examinations or treatment records of its patients. The county 20952
hospital shall participate, at the request of the county 20953
microfilming board, in purchasing film and equipment and in 20954
entering into contracts for services for microfilming. 20955

Sec. 307.801. Within ninety days after a county microfilming 20956
board has been established, it shall hold its initial meeting at 20957
such time as the secretary of the board determines. Thereafter, 20958
the board shall meet annually on the ~~third~~ second Monday in 20959
January and at such other times and places as the secretary 20960
determines. The secretary shall, within five days after receiving 20961
a written request from any other member of the board, call the 20962
board together for a meeting. A majority of the board constitutes 20963

a quorum at any regular or special meeting. 20964

The board may, by unanimous consent, adopt such rules as it 20965
considers necessary for its operation, but no rule of the board 20966
shall derogate the authority or responsibility of any elected 20967
official. 20968

Sec. 307.802. The county microfilming board shall coordinate 20969
the use of all microfilming or image processing equipment, 20970
software, or services in use throughout the county offices at the 20971
time the board is established. 20972

The board may, in writing, authorize any county office to 20973
contract for microfilming or image processing services, or operate 20974
or acquire microfilming or image processing equipment or software, 20975
where the board determines such action is desirable. The 20976
authorization shall be signed by a majority of the members of the 20977
board and shall be filed in the office of the board of county 20978
commissioners. 20979

The county microfilming board may establish a microfilming 20980
center which shall provide a centralized system for the use of 20981
microfilming or image processing equipment, software, or services 20982
for all county offices. 20983

Sec. 307.803. The board of county commissioners may purchase, 20984
lease, or otherwise acquire any microfilming or image processing 20985
equipment, software, or services that the board determines is 20986
necessary, or that the county microfilming board or county board 20987
of information services and records management authorizes, from 20988
funds budgeted and appropriated by the board of county 20989
commissioners for such purposes. 20990

Sec. 307.806. The county microfilming board may enter into a 20991
contract with the legislative authorities of any municipal 20992

corporation, township, port authority, water or sewer district, 20993
school district, library district, county law library association, 20994
health district, park district, soil and water conservation 20995
district, conservancy district, other taxing district, regional 20996
council established pursuant to Chapter 167. of the Revised Code, 20997
or otherwise, county land reutilization corporation organized 20998
under Chapter 1724. of the Revised Code, or with the board of 20999
county commissioners or the microfilming board of any other 21000
county, or with any other federal or state governmental agency, 21001
and such authorities may enter into contracts with the county 21002
microfilming board, to provide microfilming or image processing 21003
services to any of them. The board shall establish a schedule of 21004
charges upon which the cost of providing such services shall be 21005
based. All moneys collected by the board for services rendered 21006
pursuant to contracts entered into under this section shall be 21007
deposited in the county general fund; however, such moneys may be 21008
segregated into a special fund in the county treasury until the 21009
end of the calendar year. County offices may also be charged for 21010
such services and the appropriation so charged and the 21011
appropriation of the board so credited. 21012

Sec. 307.81. (A) Where lands have been dedicated to or for 21013
the use of the public for parks or park lands, and where such 21014
lands have remained unimproved and unused by the public and there 21015
appears to be little or no possibility that such lands will be 21016
improved and used by the public, the board of county commissioners 21017
of the county in which the lands are located may, by resolution, 21018
declare such parks or park lands vacated upon the petition of a 21019
majority of the abutting freeholders. No such parks or park lands 21020
shall be vacated unless notice of the pendency and prayer of the 21021
petition is given in a newspaper of general circulation in the 21022
county in which such lands are situated for three consecutive 21023
weeks preceding action on such petition or as provided in section 21024

7.16 of the Revised Code. No such lands shall be vacated prior to 21025
a public hearing had thereon. 21026

(B) Before the board of county commissioners may act on a 21027
petition to vacate unimproved and unused parks or park lands under 21028
division (A) of this section, the board shall offer such parks or 21029
park lands to all political subdivisions described in division (C) 21030
of this section. The board shall give notice to those political 21031
subdivisions by first class mail that the parks or park lands may 21032
be declared vacated unless the board of county commissioners 21033
accepts an offer from another political subdivision to buy or 21034
lease the lands. The failure of delivery of any such notice does 21035
not invalidate any proceedings for the disposition of parks or 21036
park lands under this division. Any such political subdivision 21037
that wishes to buy or lease the parks or park lands shall make an 21038
offer for the lands to the board in writing not later than ninety 21039
days after receiving the notice. The board may reject any offer, 21040
except that if it receives an offer in which the political 21041
subdivision agrees to use the lands for park purposes and in which 21042
the board finds all of the other terms acceptable, the board shall 21043
accept that offer. No offer shall be accepted until notice of the 21044
offer is published for three consecutive weeks in a newspaper of 21045
general circulation in the county in which the lands are situated 21046
or as provided in section 7.16 of the Revised Code, and a public 21047
hearing is held. Proceeds from the sale or lease of the lands 21048
shall be placed in the general fund of the county and be disbursed 21049
as prescribed in section 307.82 of the Revised Code. Any deed 21050
conveying the lands shall be executed as provided in that section. 21051

(C) In order to receive a notice or to make an offer 21052
regarding parks or park lands under division (B) of this section, 21053
a political subdivision must meet both of the following 21054
conditions: 21055

(1) Have the authority to acquire, develop, and maintain 21056

public parks or recreation areas; 21057

(2) Contain the parks or park lands in question within its 21058
boundaries, or adjoin a political subdivision that contains those 21059
parks or park lands within its boundaries. 21060

Sec. 307.82. Upon the vacation of parks or park lands, the 21061
board of county commissioners shall offer such lands for sale at a 21062
public auction at the courthouse of the county in which such lands 21063
are situated. No lands shall be sold until the board gives notice 21064
of intention to sell such lands. Such notice shall be published 21065
once a week for four consecutive weeks in a newspaper of general 21066
circulation in the county in which sale is to be had or as 21067
provided in section 7.16 of the Revised Code. The board shall sell 21068
such lands to the highest and best bidder, provided, the board may 21069
reject any and all bids made hereunder. 21070

When such sale is made, the auditor of the county in which 21071
sale is had and in which such lands are located, shall enter into 21072
a deed, conveying said lands to the purchaser thereof. At the time 21073
of sale, the auditor shall place the lands sold hereunder on the 21074
tax duplicate of the county at a value to be established by ~~him~~ 21075
the auditor as in cases where ~~he~~ the auditor re-enters property 21076
which has been tax exempt on the taxable list of the county. 21077

The proceeds from the sale of lands sold pursuant to this 21078
section shall be placed in the general fund of the county in which 21079
such lands are located and may be disbursed as other general fund 21080
moneys. 21081

Sec. 307.83. When real estate which has been dedicated to or 21082
for the use of the public for parks or park lands is vacated by 21083
the board of county commissioners pursuant to division (A) of 21084
section 307.81 of the Revised Code or is to be sold or leased for 21085
nonpark use under division (B) of that section, and where 21086

reversionary interests have been set up in the event of the 21087
non-use of such lands for the dedicated purpose, such reversionary 21088
interests shall accelerate and vest in the holders thereof upon 21089
such vacation, or prior to the acceptance of an offer to buy or 21090
lease the land. Thereupon the auditor of the county shall place 21091
the lands on the tax duplicate of the county in the names of such 21092
reversioners as are known to the board of county commissioners. If 21093
the board is unable to establish the names of such reversioners, 21094
it shall fix a date on or before which claims to such real estate 21095
may be asserted and after which such real estate shall be sold or 21096
leased. The board shall give notice of such date and of the sale 21097
or lease to be held thereafter, once each week for four 21098
consecutive weeks in a newspaper of general circulation in the 21099
county wherein such lands are located or as provided in section 21100
7.16 of the Revised Code. In the event that no claims to such 21101
lands are asserted or found to be valid, the lands shall be sold 21102
pursuant to section 307.82 of the Revised Code in the case of a 21103
vacation of the lands pursuant to division (A) of section 307.81 21104
of the Revised Code, or be sold or leased pursuant to division (B) 21105
of section 307.81 of the Revised Code if an agreement with a 21106
political subdivision is entered into under that division, and the 21107
title of any holders of reversionary interests shall be 21108
extinguished. 21109

Sec. 307.84. The board of county commissioners of any county 21110
may, by resolution, establish a county automatic data processing 21111
board. The board shall consist of the county treasurer or the 21112
county treasurer's representative, the county recorder or the 21113
county recorder's representative, the clerk of the court of common 21114
pleas or the clerk's representative, a member or representative of 21115
the board of county commissioners chosen by the board, two members 21116
or representatives of the board of elections chosen by the board 21117
of elections one of whom shall be a member of the political party 21118

receiving the greatest number of votes at the most recent general 21119
election for the office of governor and one of whom shall be a 21120
member of the political party receiving the second greatest number 21121
of votes at such an election, if the board of elections desires to 21122
participate, and the county auditor or the county auditor's 21123
representative who shall serve as secretary. The members of the 21124
county automatic data processing board may by majority vote add to 21125
the board any additional members whose officers use the facilities 21126
of the board. 21127

After the initial meeting of the county automatic data 21128
processing board, no county office shall purchase, lease, operate, 21129
or contract for the use of any automatic or electronic data 21130
processing or record-keeping equipment, software, or services 21131
without prior approval of the board. 21132

As used in sections 307.84 to 307.846 of the Revised Code, 21133
"county office" means any officer, department, board, commission, 21134
agency, court, or other office of the county, other than a board 21135
of county hospital trustees. 21136

Sec. 307.842. The county automatic data processing board 21137
shall coordinate the use of all automatic or electronic data 21138
processing or record-keeping equipment, software, or services in 21139
use throughout the county offices at the time the board is 21140
established. 21141

The board may, in writing, authorize any county office to 21142
contract for automatic or electronic data processing or 21143
record-keeping services, or operate or acquire automatic or 21144
electronic data processing or record-keeping equipment, where the 21145
board determines such action is desirable. The authorization shall 21146
be signed by a majority of the members of the board and shall be 21147
filed in the office of the board of county commissioners. 21148

The county automatic data processing board may establish an 21149

automatic data processing center which shall provide a centralized 21150
system for the use of automatic or electronic data processing or 21151
record-keeping equipment, software, or services for all county 21152
offices. 21153

Sec. 307.843. The board of county commissioners may purchase, 21154
lease, or otherwise acquire any automatic or electronic data 21155
processing or record-keeping equipment, software, or services that 21156
the board determines is necessary, or that the county automatic 21157
data processing board or county board of information services and 21158
records management recommends, from funds budgeted and 21159
appropriated by the board of county commissioners for such 21160
purposes. 21161

Sec. 307.846. The county automatic data processing board may 21162
enter into a contract with the legislative authorities of any 21163
municipal corporation, township, port authority, water or sewer 21164
district, school district, library district, county law library 21165
association, health district, park district, soil and water 21166
conservation district, conservancy district, other taxing 21167
district, regional council established pursuant to Chapter 167. of 21168
the Revised Code, county land reutilization corporation organized 21169
under Chapter 1724. of the Revised Code, or otherwise or with the 21170
board of county commissioners or the automatic data processing 21171
board of any other county, or with any other federal or state 21172
governmental agency, and such authorities or entities may enter 21173
into contracts with the county automatic data processing board, to 21174
provide automatic or electronic data processing or record-keeping 21175
services to any of them. The board shall establish a schedule of 21176
charges upon which the cost of providing such services shall be 21177
based. All moneys collected by the board for services rendered 21178
pursuant to contracts entered into under this section shall be 21179
deposited in the county general fund; however, such moneys may be 21180

segregated into a special fund in the county treasury until the 21181
end of the calendar year. County offices may also be charged for 21182
such services and the appropriation so charged and the 21183
appropriation of the board so credited. 21184

Sec. 307.847. (A) In lieu of having a county records 21185
commission and a county microfilming board, a board of county 21186
commissioners may, by resolution, require the county automatic 21187
data processing board established under section 307.84 of the 21188
Revised Code to coordinate the management of information resources 21189
of the county, the records and information management operations 21190
of all county offices, and the various records and information 21191
technologies acquired and operated by county offices. The 21192
resolution requiring the board to assume these duties shall 21193
specify the date on which the county records commission and the 21194
county microfilming board no longer exist. If the duties of the 21195
county automatic data processing board are expanded under this 21196
section, the prosecuting attorney, county engineer, county 21197
coroner, sheriff, and a judge of the court of common pleas 21198
selected by a majority vote of all judges of the court shall be 21199
added to the membership of the board. Any of these additional 21200
members may designate a representative to serve on that member's 21201
behalf. 21202

After a resolution is adopted under this section, no county 21203
office shall purchase, lease, operate, or contract for the use of 21204
any automatic data processing equipment, software, or services; 21205
microfilming equipment or services; records center or archives 21206
facilities; or any other image processing or electronic data 21207
processing or record-keeping equipment, software, or services 21208
without prior approval of the board. The board may adopt such 21209
rules as it considers necessary for its operation, but no rule 21210
shall derogate the authority or responsibility of any county 21211
elected official. The board's rules may include any regulations or 21212

standards the board wishes to impose. For purposes of this 21213
section, "county office" means any officer, department, board, 21214
commission, agency, court, or other office of the county and the 21215
court of common pleas, except that in the case of microfilming 21216
equipment, "county office" does not include the county hospital 21217
when the county hospital uses microfilming to record and store for 21218
future access physical and psychiatric examinations or treatment 21219
records of its patients. The county hospital shall participate, at 21220
the request of the county automatic data processing board, in 21221
purchasing film and equipment and in entering into contracts for 21222
services for microfilming. 21223

(B) In the resolution expanding the duties of the county 21224
automatic data processing board adopted under this section, the 21225
board of county commissioners shall designate the date on which 21226
all equipment, records, files, effects, and other personal 21227
property; contractual obligations; and assets and liabilities of 21228
the county records commission and the county microfilming board 21229
shall be transferred to the county automatic data processing 21230
board. 21231

For purposes of succession of the functions, powers, duties, 21232
and obligations of the county records commission and the county 21233
microfilming board transferred and assigned to, devolved upon, and 21234
assumed by the county automatic data processing board under this 21235
section, the county automatic data processing board shall be 21236
deemed to constitute the continuation of the county records 21237
commission and the county microfilming board, as applicable. 21238

Any business, proceeding, or other matter undertaken or 21239
commenced by the county records commission or the county 21240
microfilming board pertaining to or connected with the functions, 21241
powers, duties, and obligations transferred or assigned and 21242
pending on the date of the transfer of duties to the county 21243
automatic data processing board shall be conducted, prosecuted or 21244

defended, and completed by the county automatic data processing 21245
board in the same manner and with the same effect as if conducted 21246
by the county records commission or the county microfilming board. 21247
In all such actions and proceedings, the county automatic data 21248
processing board shall be substituted as a party. 21249

All rules, acts, determinations, approvals, and decisions of 21250
the county records commission or the county microfilming board 21251
pertaining to the functions transferred and assigned under this 21252
section to the county automatic data processing board in force at 21253
the time of the transfer, assignment, assumption, or devolution 21254
shall continue in force as rules, acts, determinations, approvals, 21255
and decisions of the county automatic data processing board until 21256
duly modified or repealed by the board. 21257

Wherever the functions, powers, duties, and obligations of 21258
the county records commission or the county microfilming board are 21259
referred to or designated in any law, contract, or other document 21260
pertaining to those functions, powers, duties, and obligations, 21261
the reference or designation shall be deemed to refer to the 21262
county automatic data processing board, as appropriate. 21263

No existing right or remedy of any character shall be lost, 21264
impaired, or affected by reason of the transfer of duties to the 21265
county automatic data processing board, except insofar as those 21266
rights and remedies are administered by the county automatic data 21267
processing board. 21268

(C) Except for provisions regarding the microfilming, the 21269
county automatic data processing board shall have the powers, 21270
duties, and functions of the county records commission as provided 21271
in section 149.38 of the Revised Code and the county microfilming 21272
board as provided in section 307.802 of the Revised Code. 21273

(D) The county automatic data processing board may establish 21274
an automatic data processing center, microfilming center, records 21275

center, archives, and any other centralized or decentralized facilities it considers necessary to fulfill its duties. Any such centralized facilities shall be used by all county offices. The establishment of either centralized or decentralized facilities shall be contingent on the appropriation of funds by the board of county commissioners. 21276
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The county auditor shall be the chief administrator of either centralized or decentralized facilities, as provided under section 307.844 of the Revised Code. 21282
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The county auditor shall prepare an annual estimate of the revenues and expenditures of the county automatic data processing board for the ensuing fiscal year and submit it to the board of county commissioners as provided in section 5705.28 of the Revised Code. The estimate shall be sufficient to take care of all the needs of the county automatic data processing board, including, but not limited to, salaries, rental, and purchase of equipment. The board's funds shall be disbursed by the county auditor's warrant drawn on the county treasury five days after receipt of a voucher approved by a majority of that board and by a majority of the board of county commissioners. 21285
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On the first Monday in April of each year the county auditor shall file with the county automatic data processing board and the board of county commissioners a report of the operations of each center and a statement of each center's receipts and expenditures during the preceding calendar year. 21296
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(E) With the approval of the board of county commissioners, the county automatic data processing board may enter into a contract with the legislative authority of any municipal corporation, township, port authority, water or sewer district, school district, library district, county law library association, health district, park district, soil and water conservation district, conservancy district, other taxing district, or regional 21301
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council established under Chapter 167. of the Revised Code, or 21308
with the board of county commissioners or the automatic data 21309
processing board or microfilming board of any other county, or 21310
with any other federal or state governmental agency, and such 21311
authorities may enter into contracts with the county automatic 21312
data processing board to provide microfilming, automatic data 21313
processing, or other image processing or electronic data 21314
processing or record-keeping services to any of them. The board 21315
shall establish a schedule of charges upon which the cost of 21316
providing such services shall be based. All moneys collected by 21317
the board for services rendered pursuant to contracts entered into 21318
under this section shall be deposited in the county general fund, 21319
although these moneys may be segregated into a special fund in the 21320
county treasury until the end of the calendar year. County offices 21321
also may be charged for such services and the appropriations of 21322
those offices so charged and the appropriation of the county 21323
automatic data processing board so credited. 21324

Sec. 307.86. Anything to be purchased, leased, leased with an 21325
option or agreement to purchase, or constructed, including, but 21326
not limited to, any product, structure, construction, 21327
reconstruction, improvement, maintenance, repair, or service, 21328
except the services of an accountant, architect, attorney at law, 21329
physician, professional engineer, construction project manager, 21330
consultant, surveyor, or appraiser, by or on behalf of the county 21331
or contracting authority, as defined in section 307.92 of the 21332
Revised Code, at a cost in excess of twenty-five thousand dollars, 21333
except as otherwise provided in division (D) of section 713.23 and 21334
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 21335
307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 21336
5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall 21337
be obtained through competitive bidding. However, competitive 21338
bidding is not required when any of the following applies: 21339

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than fifty thousand dollars.

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is twenty-five thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year after the contract is awarded or the amount of time the federal government requires.

(B)(1) The purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the county, and the only source of supply for the supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information technology, such as programming services, that are proprietary or

limited to a single source. 21371

(C) The purchase is from the federal government, the state, 21372
another county or contracting authority of another county, or a 21373
board of education, educational service center, township, or 21374
municipal corporation. 21375

(D) The purchase is made by a county department of job and 21376
family services under section 329.04 of the Revised Code and 21377
consists of family services duties or workforce development 21378
activities or is made by a county board of developmental 21379
disabilities under section 5126.05 of the Revised Code and 21380
consists of program services, such as direct and ancillary client 21381
services, child care, case management services, residential 21382
services, and family resource services. 21383

(E) The purchase consists of criminal justice services, 21384
social services programs, family services, or workforce 21385
development activities by the board of county commissioners from 21386
nonprofit corporations or associations under programs funded by 21387
the federal government or by state grants. 21388

(F) The purchase consists of any form of an insurance policy 21389
or contract authorized to be issued under Title XXXIX of the 21390
Revised Code or any form of health care plan authorized to be 21391
issued under Chapter 1751. of the Revised Code, or any combination 21392
of such policies, contracts, plans, or services that the 21393
contracting authority is authorized to purchase, and the 21394
contracting authority does all of the following: 21395

(1) Determines that compliance with the requirements of this 21396
section would increase, rather than decrease, the cost of the 21397
purchase; 21398

(2) Requests issuers of the policies, contracts, plans, or 21399
services to submit proposals to the contracting authority, in a 21400
form prescribed by the contracting authority, setting forth the 21401

coverage and cost of the policies, contracts, plans, or services 21402
as the contracting authority desires to purchase; 21403

(3) Negotiates with the issuers for the purpose of purchasing 21404
the policies, contracts, plans, or services at the best and lowest 21405
price reasonably possible. 21406

(G) The purchase consists of computer hardware, software, or 21407
consulting services that are necessary to implement a computerized 21408
case management automation project administered by the Ohio 21409
prosecuting attorneys association and funded by a grant from the 21410
federal government. 21411

(H) Child care services are purchased for provision to county 21412
employees. 21413

(I)(1) Property, including land, buildings, and other real 21414
property, is leased for offices, storage, parking, or other 21415
purposes, and all of the following apply: 21416

(a) The contracting authority is authorized by the Revised 21417
Code to lease the property. 21418

(b) The contracting authority develops requests for proposals 21419
for leasing the property, specifying the criteria that will be 21420
considered prior to leasing the property, including the desired 21421
size and geographic location of the property. 21422

(c) The contracting authority receives responses from 21423
prospective lessors with property meeting the criteria specified 21424
in the requests for proposals by giving notice in a manner 21425
substantially similar to the procedures established for giving 21426
notice under section 307.87 of the Revised Code. 21427

(d) The contracting authority negotiates with the prospective 21428
lessors to obtain a lease at the best and lowest price reasonably 21429
possible considering the fair market value of the property and any 21430
relocation and operational costs that may be incurred during the 21431

period the lease is in effect. 21432

(2) The contracting authority may use the services of a real 21433
estate appraiser to obtain advice, consultations, or other 21434
recommendations regarding the lease of property under this 21435
division. 21436

(J) The purchase is made pursuant to section 5139.34 or 21437
sections 5139.41 to 5139.46 of the Revised Code and is of programs 21438
or services that provide case management, treatment, or prevention 21439
services to any felony or misdemeanor delinquent, unruly youth, 21440
or status offender under the supervision of the juvenile court, 21441
including, but not limited to, community residential care, day 21442
treatment, services to children in their home, or electronic 21443
monitoring. 21444

(K) The purchase is made by a public children services agency 21445
pursuant to section 307.92 or 5153.16 of the Revised Code and 21446
consists of family services, programs, or ancillary services that 21447
provide case management, prevention, or treatment services for 21448
children at risk of being or alleged to be abused, neglected, or 21449
dependent children. 21450

(L) The purchase is to obtain the services of emergency 21451
medical service organizations under a contract made by the board 21452
of county commissioners pursuant to section 307.05 of the Revised 21453
Code with a joint emergency medical services district. 21454

(M) The county contracting authority determines that the use 21455
of competitive sealed proposals would be advantageous to the 21456
county and the contracting authority complies with section 307.862 21457
of the Revised Code. 21458

Any issuer of policies, contracts, plans, or services listed 21459
in division (F) of this section and any prospective lessor under 21460
division (I) of this section may have the issuer's or prospective 21461
lessor's name and address, or the name and address of an agent, 21462

placed on a special notification list to be kept by the 21463
contracting authority, by sending the contracting authority that 21464
name and address. The contracting authority shall send notice to 21465
all persons listed on the special notification list. Notices shall 21466
state the deadline and place for submitting proposals. The 21467
contracting authority shall mail the notices at least six weeks 21468
prior to the deadline set by the contracting authority for 21469
submitting proposals. Every five years the contracting authority 21470
may review this list and remove any person from the list after 21471
mailing the person notification of that action. 21472

Any contracting authority that negotiates a contract under 21473
division (F) of this section shall request proposals and negotiate 21474
with issuers in accordance with that division at least every three 21475
years from the date of the signing of such a contract, unless the 21476
parties agree upon terms for extensions or renewals of the 21477
contract. Such extension or renewal periods shall not exceed six 21478
years from the date the initial contract is signed. 21479

Any real estate appraiser employed pursuant to division (I) 21480
of this section shall disclose any fees or compensation received 21481
from any source in connection with that employment. 21482

Sec. 308.13. (A) The board of trustees of a regional airport 21483
authority or any officer or employee designated by such board may 21484
make any contract for the purchase of supplies or material or for 21485
labor for any work, under the supervision of the board, the cost 21486
of which shall not exceed fifteen thousand dollars. Except where 21487
the contract is for equipment, materials, or supplies available 21488
from a qualified nonprofit agency pursuant to sections 4115.31 to 21489
4115.35 of the Revised Code, when an expenditure, other than for 21490
the acquisition of real estate, the discharge of noncontractual 21491
claims, personal services, or for the product or services of 21492
public utilities, exceeds fifteen thousand dollars, such 21493

expenditure shall be made only after a notice calling for bids has 21494
been published once a week for three consecutive weeks in ~~at least~~ 21495
~~one~~ a newspaper of general circulation within the territorial 21496
boundaries of the regional airport authority, or as provided in 21497
section 7.16 of the Revised Code. If the bid is for a contract for 21498
the construction, demolition, alteration, repair, or 21499
reconstruction of an improvement, it shall meet the requirements 21500
of section 153.54 of the Revised Code. If the bid is for any other 21501
contract authorized by this section, it shall be accompanied by a 21502
good and approved bond with ample security conditioned on the 21503
carrying out of the contract. The board may let the contract to 21504
the lowest and best bidder. Such contract shall be in writing and 21505
shall be accompanied by or shall refer to plans and specifications 21506
for the work to be done, approved by the board. The plans and 21507
specifications shall at all times be made and considered part of 21508
the contract. Said contract shall be approved by the board and 21509
signed by its chief executive officer and by the contractor, and 21510
shall be executed in duplicate. 21511

(B) Whenever a board of trustees of a regional airport 21512
authority or any officer or employee designated by the board makes 21513
a contract for the purchase of supplies or material or for labor 21514
for any work, the cost of which is greater than one thousand 21515
dollars but no more than fifteen thousand dollars, the board or 21516
designated officer or employee shall solicit informal estimates 21517
from no fewer than three potential suppliers before awarding the 21518
contract. With regard to each such contract, the board shall 21519
maintain a record of such estimates, including the name of each 21520
person from whom an estimate is solicited, for no less than one 21521
year after the contract is awarded. 21522

Sec. 309.09. (A) The prosecuting attorney shall be the legal 21523
adviser of the board of county commissioners, board of elections, 21524
and all other county officers and boards, including all 21525

tax-supported public libraries, and any of them may require 21526
written opinions or instructions from the prosecuting attorney in 21527
matters connected with their official duties. The prosecuting 21528
attorney shall prosecute and defend all suits and actions which 21529
any such officer or board directs or to which it is a party, and 21530
no county officer may employ any other counsel or attorney at the 21531
expense of the county, except as provided in section 305.14 of the 21532
Revised Code. 21533

(B)(1) The prosecuting attorney shall be the legal adviser 21534
for all township officers, boards, and commissions, unless, 21535
subject to division (B)(2) of this section, the township has 21536
adopted a limited home rule government pursuant to Chapter 504. of 21537
the Revised Code and has not entered into a contract to have the 21538
prosecuting attorney serve as the township law director, in which 21539
case, subject to division (B)(2) of this section, the township law 21540
director, whether serving full-time or part-time, shall be the 21541
legal adviser for all township officers, boards, and commissions. 21542
When the board of township trustees finds it advisable or 21543
necessary to have additional legal counsel, it may employ an 21544
attorney other than the township law director or the prosecuting 21545
attorney of the county, either for a particular matter or on an 21546
annual basis, to represent the township and its officers, boards, 21547
and commissions in their official capacities and to advise them on 21548
legal matters. No such legal counsel may be employed, except on 21549
the order of the board of township trustees, duly entered upon its 21550
journal, in which the compensation to be paid for the legal 21551
services shall be fixed. The compensation shall be paid from the 21552
township fund. 21553

Nothing in this division confers any of the powers or duties 21554
of a prosecuting attorney under section 309.08 of the Revised Code 21555
upon a township law director. 21556

(2)(a) If any township in the county served by the 21557

prosecuting attorney has adopted any resolution regarding the 21558
operation of adult entertainment establishments pursuant to the 21559
authority that is granted under section 503.52 of the Revised Code 21560
or if a resolution of that nature has been adopted under section 21561
503.53 of the Revised Code in a township in the county served by 21562
the prosecuting attorney, all of the following apply: 21563

(i) Upon the request of a township in the county that has 21564
adopted, or in which has been adopted, a resolution of that nature 21565
that is made pursuant to division (E)(1)(c) of section 503.52 of 21566
the Revised Code, the prosecuting attorney shall prosecute and 21567
defend on behalf of the township in the trial and argument in any 21568
court or tribunal of any challenge to the validity of the 21569
resolution. If the challenge to the validity of the resolution is 21570
before a federal court, the prosecuting attorney may request the 21571
attorney general to assist the prosecuting attorney in prosecuting 21572
and defending the challenge and, upon the prosecuting attorney's 21573
making of such a request, the attorney general shall assist the 21574
prosecuting attorney in performing that service if the resolution 21575
was drafted in accordance with legal guidance provided by the 21576
attorney general as described in division (B)(2) of section 503.52 21577
of the Revised Code. The attorney general shall provide this 21578
assistance without charge to the township for which the service is 21579
performed. If a township adopts a resolution without the legal 21580
guidance of the attorney general, the attorney general is not 21581
required to provide assistance as described in this division to a 21582
prosecuting attorney. 21583

(ii) Upon the request of a township in the county that has 21584
adopted, or in which has been adopted, a resolution of that nature 21585
that is made pursuant to division (E)(1)(a) of section 503.52 of 21586
the Revised Code, the prosecuting attorney shall prosecute and 21587
defend on behalf of the township a civil action to enjoin the 21588
violation of the resolution in question. 21589

(iii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(b) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance the place in the unincorporated area of the township at which the resolution is being or has been violated. Proceeds from the sale of personal property or contents seized pursuant to the action shall be applied and deposited in accordance with division (E)(1)(b) of section 503.52 of the Revised Code.

(b) The provisions of division (B)(2)(a) of this section apply regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, and regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

The prosecuting attorney shall prosecute and defend in the actions and proceedings described in division (B)(2)(a) of this section without charge to the township for which the services are performed.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board in its official capacity and to advise it on legal matters, the board shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total

compensation paid, in any year, by the board for legal services 21622
under this division shall not exceed the total annual compensation 21623
of the prosecuting attorney for that county. 21624

(D) The prosecuting attorney and the board of county 21625
commissioners jointly may contract with a board of park 21626
commissioners under section 1545.07 of the Revised Code for the 21627
prosecuting attorney to provide legal services to the park 21628
district the board of park commissioners operates. 21629

(E) The prosecuting attorney may be, in the prosecuting 21630
attorney's discretion and with the approval of the board of county 21631
commissioners, the legal adviser of a joint fire district created 21632
under section 505.371 of the Revised Code at no cost to the 21633
district or may be the legal adviser to the district under a 21634
contract that the prosecuting attorney and the district enter 21635
into, and that the board of county commissioner approves, to 21636
authorize the prosecuting attorney to provide legal services to 21637
the district. 21638

(F) The prosecuting attorney may be, in the prosecuting 21639
attorney's discretion and with the approval of the board of county 21640
commissioners, the legal adviser of a joint ambulance district 21641
created under section 505.71 of the Revised Code at no cost to the 21642
district or may be the legal adviser to the district under a 21643
contract that the prosecuting attorney and the district enter 21644
into, and that the board of county commissioners approves, to 21645
authorize the prosecuting attorney to provide legal services to 21646
the district. 21647

(G) The prosecuting attorney may be, in the prosecuting 21648
attorney's discretion and with the approval of the board of county 21649
commissioners, the legal adviser of a joint emergency medical 21650
services district created under section 307.052 of the Revised 21651
Code at no cost to the district or may be the legal adviser to the 21652
district under a contract that the prosecuting attorney and the 21653

district enter into, and that the board of county commissioners 21654
approves, to authorize the prosecuting attorney to provide legal 21655
services to the district. 21656

(H) The prosecuting attorney may be, in the prosecuting 21657
attorney's discretion and with the approval of the board of county 21658
commissioners, the legal adviser of a fire and ambulance district 21659
created under section 505.375 of the Revised Code at no cost to 21660
the district or may be the legal adviser to the district under a 21661
contract that the prosecuting attorney and the district enter 21662
into, and that the board of county commissioners approves, to 21663
authorize the prosecuting attorney to provide legal services to 21664
the district. 21665

(I) All money received pursuant to a contract entered into 21666
under division (D), (E), (F), (G), or (H) of this section shall be 21667
deposited into the prosecuting attorney's legal services fund, 21668
which shall be established in the county treasury of each county 21669
in which such a contract exists. Moneys in that fund may be 21670
appropriated only to the prosecuting attorney for the purpose of 21671
providing legal services to a park district, joint fire district, 21672
joint ambulance district, joint emergency medical services 21673
district, or a fire and ambulance district, as applicable, under a 21674
contract entered into under the applicable division. 21675

(J) The prosecuting attorney shall be the legal advisor of a 21676
lake facilities authority as provided in section 353.02 of the 21677
Revised Code. 21678

Sec. 311.29. (A) As used in this section, "Chautauqua 21679
assembly" has the same meaning as in section 4511.90 of the 21680
Revised Code. 21681

(B) The sheriff may, from time to time, enter into contracts 21682
with any municipal corporation, township, township police 21683
district, joint police district, metropolitan housing authority, 21684

port authority, water or sewer district, school district, library 21685
district, health district, park district created pursuant to 21686
section 511.18 or 1545.01 of the Revised Code, soil and water 21687
conservation district, water conservancy district, or other taxing 21688
district or with the board of county commissioners of any 21689
contiguous county with the concurrence of the sheriff of the other 21690
county, and such subdivisions, authorities, and counties may enter 21691
into agreements with the sheriff pursuant to which the sheriff 21692
undertakes and is authorized by the contracting subdivision, 21693
authority, or county to perform any police function, exercise any 21694
police power, or render any police service in behalf of the 21695
contracting subdivision, authority, or county, or its legislative 21696
authority, that the subdivision, authority, or county, or its 21697
legislative authority, may perform, exercise, or render. 21698

Upon the execution of an agreement under this division and 21699
within the limitations prescribed by it, the sheriff may exercise 21700
the same powers as the contracting subdivision, authority, or 21701
county possesses with respect to such policing that by the 21702
agreement the sheriff undertakes to perform or render, and all 21703
powers necessary or incidental thereto, as amply as such powers 21704
are possessed and exercised by the contracting subdivision, 21705
authority, or county directly. 21706

Any agreement authorized by division (A), (B), or (C) of this 21707
section shall not suspend the possession by a contracting 21708
subdivision, authority, or county of any police power performed or 21709
exercised or police service rendered in pursuance to the agreement 21710
nor limit the authority of the sheriff. 21711

(C) The sheriff may enter into contracts with any Chautauqua 21712
assembly that has grounds located within the county, and the 21713
Chautauqua assembly may enter into agreements with the sheriff 21714
pursuant to which the sheriff undertakes to perform any police 21715
function, exercise any police power, or render any police service 21716

upon the grounds of the Chautauqua assembly that the sheriff is 21717
authorized by law to perform, exercise, or render in any other 21718
part of the county within the sheriff's territorial jurisdiction. 21719
Upon the execution of an agreement under this division, the 21720
sheriff may, within the limitations prescribed by the agreement, 21721
exercise such powers with respect to such policing upon the 21722
grounds of the Chautauqua assembly, provided that any limitation 21723
contained in the agreement shall not be construed to limit the 21724
authority of the sheriff. 21725

(D) Contracts entered into under division (A), (B), or (C) of 21726
this section shall provide for the reimbursement of the county for 21727
the costs incurred by the sheriff for such policing including, but 21728
not limited to, the salaries of deputy sheriffs assigned to such 21729
policing, the current costs of funding retirement pensions and of 21730
providing workers' compensation, the cost of training, and the 21731
cost of equipment and supplies used in such policing, to the 21732
extent that such equipment and supplies are not directly furnished 21733
by the contracting subdivision, authority, county, or Chautauqua 21734
assembly. Each such contract shall provide for the ascertainment 21735
of such costs and shall be of any duration, not in excess of four 21736
years, and may contain any other terms that may be agreed upon. 21737
All payments pursuant to any such contract in reimbursement of the 21738
costs of such policing shall be made to the treasurer of the 21739
county to be credited to a special fund to be known as the 21740
"sheriff's policing revolving fund," hereby created. Any moneys 21741
coming into the fund shall be used for the purposes provided in 21742
divisions (A) to (D) of this section and paid out on vouchers by 21743
the county commissioners as other funds coming into their 21744
possession. Any moneys credited to the fund and not obligated at 21745
the termination of the contract shall be credited to the county 21746
general fund. 21747

The sheriff shall assign the number of deputies as may be 21748

provided for in any contract made pursuant to division (A), (B), 21749
or (C) of this section. The number of deputies regularly assigned 21750
to such policing shall be in addition to and an enlargement of the 21751
sheriff's regular number of deputies. Nothing in divisions (A) to 21752
(D) of this section shall preclude the sheriff from temporarily 21753
increasing or decreasing the deputies so assigned as emergencies 21754
indicate a need for shifting assignments to the extent provided by 21755
the contracts. 21756

All such deputies shall have the same powers and duties, the 21757
same qualifications, and be appointed and paid and receive the 21758
same benefits and provisions and be governed by the same laws as 21759
all other deputy sheriffs. 21760

Contracts under division (A), (B), or (C) of this section may 21761
be entered into jointly with the board of county commissioners, 21762
and sections 307.14 to 307.19 of the Revised Code apply to this 21763
section insofar as they may be applicable. 21764

(E)(1) As used in division (E) of this section: 21765

(a) "Ohio prisoner" has the same meaning as in section 21766
5120.64 of the Revised Code. 21767

(b) "Out-of-state prisoner" and "private contractor" have the 21768
same meanings as in section 9.07 of the Revised Code. 21769

(2) The sheriff may enter into a contract with a private 21770
person or entity for the return of Ohio prisoners who are the 21771
responsibility of the sheriff from outside of this state to a 21772
location in this state specified by the sheriff, if there are 21773
adequate funds appropriated by the board of county commissioners 21774
and there is a certification pursuant to division (D) of section 21775
5705.41 of the Revised Code that the funds are available for this 21776
purpose. A contract entered into under this division is within the 21777
coverage of section 325.07 of the Revised Code. If a sheriff 21778
enters into a contract as described in this division, subject to 21779

division (E)(3) of this section, the private person or entity in 21780
accordance with the contract may return Ohio prisoners from 21781
outside of this state to locations in this state specified by the 21782
sheriff. A contract entered into under this division shall include 21783
all of the following: 21784

(a) Specific provisions that assign the responsibility for 21785
costs related to medical care of prisoners while they are being 21786
returned that is not covered by insurance of the private person or 21787
entity; 21788

(b) Specific provisions that set forth the number of days, 21789
not exceeding ten, within which the private person or entity, 21790
after it receives the prisoner in the other state, must deliver 21791
the prisoner to the location in this state specified by the 21792
sheriff, subject to the exceptions adopted as described in 21793
division (E)(2)(c) of this section; 21794

(c) Any exceptions to the specified number of days for 21795
delivery specified as described in division (E)(2)(b) of this 21796
section; 21797

(d) A requirement that the private person or entity 21798
immediately report all escapes of prisoners who are being returned 21799
to this state, and the apprehension of all prisoners who are being 21800
returned and who have escaped, to the sheriff and to the local law 21801
enforcement agency of this state or another state that has 21802
jurisdiction over the place at which the escape occurs; 21803

(e) A schedule of fines that the sheriff shall impose upon 21804
the private person or entity if the private person or entity fails 21805
to perform its contractual duties, and a requirement that, if the 21806
private person or entity fails to perform its contractual duties, 21807
the sheriff shall impose a fine on the private person or entity 21808
from the schedule of fines and, in addition, may exercise any 21809
other rights the sheriff has under the contract. 21810

(f) If the contract is entered into on or after the effective 21811
date of the rules adopted by the department of rehabilitation and 21812
correction under section 5120.64 of the Revised Code, specific 21813
provisions that comport with all applicable standards that are 21814
contained in those rules. 21815

(3) If the private person or entity that enters into the 21816
contract fails to perform its contractual duties, the sheriff 21817
shall impose upon the private person or entity a fine from the 21818
schedule, the money paid in satisfaction of the fine shall be paid 21819
into the county treasury, and the sheriff may exercise any other 21820
rights the sheriff has under the contract. If a fine is imposed 21821
under this division, the sheriff may reduce the payment owed to 21822
the private person or entity pursuant to any invoice in the amount 21823
of the fine. 21824

(4) Upon the effective date of the rules adopted by the 21825
department of rehabilitation and correction under section 5120.64 21826
of the Revised Code, notwithstanding the existence of a contract 21827
entered into under division (E)(2) of this section, in no case 21828
shall the private person or entity that is a party to the contract 21829
return Ohio prisoners from outside of this state into this state 21830
for a sheriff unless the private person or entity complies with 21831
all applicable standards that are contained in the rules. 21832

(5) Divisions (E)(1) to (4) of this section do not apply 21833
regarding any out-of-state prisoner who is brought into this state 21834
to be housed pursuant to section 9.07 of the Revised Code in a 21835
correctional facility in this state that is managed and operated 21836
by a private contractor. 21837

Sec. 311.31. (A) The board of county commissioners of a 21838
county may establish, by resolution, a voluntary motor vehicle 21839
decal registration program to be controlled and conducted by the 21840
sheriff within the unincorporated areas of the county. The board 21841

may establish a fee for participation in the program in an amount 21842
sufficient to cover the cost of administering the program and the 21843
cost of the decals. The board shall coordinate its program with 21844
any pre-existing program established by a township located within 21845
the county under section 505.67 of the Revised Code. 21846

(B) Any resident of the county may enroll a motor vehicle 21847
that ~~he~~ the resident owns in the program by signing a consent 21848
form, displaying the decal issued under this section, and paying 21849
the prescribed fee. The motor vehicle owner shall remove the decal 21850
to withdraw from the program and also prior to the sale or 21851
transfer of ownership of the vehicle. Any law enforcement officer 21852
may conduct, at any place within this state at which the officer 21853
would be permitted to arrest the person operating the vehicle, an 21854
investigatory stop of any motor vehicle displaying a decal issued 21855
under this section when the vehicle is being driven between the 21856
hours of one a.m. and five a.m. A law enforcement officer may 21857
conduct an investigatory stop under this division regardless of 21858
whether the officer observes a violation of law involving the 21859
vehicle or whether ~~he~~ the officer has probable cause to believe 21860
that any violation of law involving the vehicle has occurred. 21861

(C) The consent form required under division (B) of this 21862
section shall: 21863

(1) Describe the conditions for participation in the program, 21864
including a description of an investigatory stop and a statement 21865
that any law enforcement officer may conduct, at any place within 21866
this state at which the officer would be permitted to arrest the 21867
person operating the vehicle, an investigatory stop of the motor 21868
vehicle when it is being driven between the hours of one a.m. and 21869
five a.m. 21870

(2) Contain other information identifying the vehicle and 21871
owner as the sheriff considers necessary. 21872

(D) The state director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the color, size, and design of decals issued under this section and the location where the decals shall be displayed on vehicles that are enrolled in the program.

(E) Divisions (A) to (D) of this section do not require a law enforcement officer to conduct an investigatory stop of a vehicle displaying a decal issued under this section.

(F) As used in this section:

(1) "Investigatory stop" means a temporary stop of a motor vehicle and its operator and occupants for purposes of determining the identity of the person who is operating the vehicle and, if the person who is operating it is not its owner, whether any violation of law has occurred or is occurring. An "investigatory stop" is not an arrest, but, if an officer who conducts an investigatory stop determines that illegal conduct has occurred or is ~~occurring~~ occurring, an "investigatory stop" may be the basis for an arrest.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.

Sec. 317.06. (A) Each county recorder who is newly elected to a full term of office shall attend and successfully complete at least fifteen hours of continuing education courses during the first year of the recorder's term of office and complete at least another eight hours of such courses each year of the remaining term. Each county recorder who is elected to a subsequent term of office shall attend and successfully complete at least eight hours of such courses in each year of any subsequent term of office. To be counted toward the continuing education hours required by this

section, a course must be approved by the Ohio recorders' association. Any county recorder who teaches an approved course shall be entitled to credit for the course in the same manner as if the county recorder had attended the course. 21904
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The Ohio recorders' association shall record and, upon request, verify the completion of required course work for each county recorder and issue a statement to each county recorder of the number of hours of continuing education the county recorder has successfully completed. Each year the association shall send a list of the continuing education courses, and the number of hours each county recorder has successfully completed, to the auditor of state and shall provide a copy of this list to any other individual who requests it. 21908
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The association shall issue a "failure to complete notice" to any county recorder required to complete continuing education courses under this section who fails to successfully complete at least fifteen hours of continuing education courses during the first year of the county recorder's first term of office or to complete a total of at least thirty-nine hours of such courses, including the fifteen hours completed in the first year of the first term, by the end of that term. The association shall issue a "failure to complete notice" to any county recorder required to complete continuing education courses under this section who fails to successfully complete at least eight hours of continuing education courses each year of any subsequent term of office or to complete a total of at least thirty-two hours of such courses, by the end of that subsequent term. The notice is for informational purposes only and does not affect any individual's ability to hold the office of county recorder. 21917
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(B) Each board of county commissioners shall approve, from money appropriated to the county recorder, a reasonable amount requested by the county recorder of its county to cover the costs 21933
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the county recorder must incur to meet the requirements of 21936
division (A) of this section, including registration fees, lodging 21937
and meal expenses, and travel expenses. 21938

Sec. 317.20. (A) When, in the opinion of the board of county 21939
commissioners, sectional indexes are needed and it so directs, in 21940
addition to the alphabetical indexes provided for in section 21941
317.18 of the Revised Code, the board may provide for making, in 21942
books prepared for that purpose, sectional indexes to the records 21943
of all real estate in the county beginning with some designated 21944
year and continuing through the period of years that the board 21945
specifies. The sectional indexes shall place under the heads of 21946
the original surveyed sections or surveys, parts of a section or 21947
survey, squares, subdivisions, permanent parcel numbers provided 21948
for under section 319.28 of the Revised Code, or lots, on the 21949
left-hand page or on the upper portion of that page of the index 21950
book, the name of the grantor, then the name of the grantee, then 21951
the number and page of the record in which the instrument is found 21952
recorded, then the character of the instrument, and then a 21953
pertinent description of the interest in property conveyed by the 21954
deed, lease, or assignment of lease and shall place under similar 21955
headings on the right-hand page or on the lower portion of that 21956
page of the index book, beginning at the bottom, all the 21957
mortgages, liens, notices provided for in sections 5301.51, 21958
5301.52, and 5301.56 of the Revised Code, or other encumbrances 21959
affecting the real estate. 21960

(B) The compensation for the services rendered under this 21961
section shall be paid from the general revenue fund of the county, 21962
and no additional levy shall be made in consequence of the 21963
services. 21964

(C) If the board of county commissioners decides to have 21965
sectional indexes made, it shall advertise for three consecutive 21966

weeks in one newspaper of general circulation in the county or as 21967
provided in section 7.16 of the Revised Code for sealed proposals 21968
to do the work provided for in this section, shall contract with 21969
the lowest and best bidder, and shall require the successful 21970
bidder to give a bond for the faithful performance of the contract 21971
in the sum that the board fixes. The work shall be done to the 21972
acceptance of the auditor of state upon allowance by the board. 21973
The board may reject any and all bids for the work, provided that 21974
no more than five cents shall be paid for each entry of each tract 21975
or lot of land. 21976

(D) When the sectional indexes are brought up and completed, 21977
the county recorder shall maintain the indexes and comply with 21978
division (E) of this section in connection with registered land. 21979

(E)(1) As used in division (E) of this section, "housing 21980
accommodations" and "restrictive covenant" have the same meanings 21981
as in section 4112.01 of the Revised Code. 21982

(2) In connection with any transfer of registered land that 21983
occurs on and after ~~the effective date of this amendment~~ March 30, 21984
1999, in accordance with Chapters 5309. and 5310. of the Revised 21985
Code, the county recorder shall delete from the sectional indexes 21986
maintained under this section all references to any restrictive 21987
covenant that appears to apply to the transferred registered land, 21988
if any inclusion of the restrictive covenant in a transfer, 21989
rental, or lease of housing accommodations, any honoring or 21990
exercising of the restrictive covenant, or any attempt to honor or 21991
exercise the restrictive covenant constitutes an unlawful 21992
discriminatory practice under division (H)(9) of section 4112.02 21993
of the Revised Code. 21994

Sec. 319.11. The county auditor shall, on or before ninety 21995
days after the close of the fiscal year, prepare a financial 21996
report of the county for the preceding fiscal year in such form as 21997

prescribed by the auditor of state. Upon completing the report, 21998
the county auditor shall publish notice that the report has been 21999
completed and is available for public inspection at the office of 22000
the county auditor. The notice shall be published once in ~~two~~ 22001
~~newspapers~~ a newspaper of general circulation ~~published~~ in the 22002
county, ~~except that if only one newspaper is published in the~~ 22003
~~county, then publication in only one newspaper is required, and~~ 22004
~~if.~~ If there are is no newspapers newspaper of general circulation 22005
in the county, then publication is required in the newspaper of 22006
general circulation in an adjoining county that has the largest 22007
circulation in ~~the~~ that adjoining county. The report shall contain 22008
at least the information required by section 117.38 of the Revised 22009
Code, and a copy shall be filed with the auditor of state. 22010

No county auditor shall fail or neglect to prepare the report 22011
or publish notice of completion of the report as required by this 22012
section. 22013

Sec. 319.301. (A) The reductions required by division (D) of 22014
this section do not apply to any of the following: 22015

(1) Taxes levied at whatever rate is required to produce a 22016
specified amount of tax money, including a tax levied under 22017
section 5705.199 ~~or~~, 5705.211, or 5748.09 of the Revised Code, or 22018
an amount to pay debt charges; 22019

(2) Taxes levied within the one per cent limitation imposed 22020
by Section 2 of Article XII, Ohio Constitution; 22021

(3) Taxes provided for by the charter of a municipal 22022
corporation. 22023

(B) As used in this section: 22024

(1) "Real property" includes real property owned by a 22025
railroad. 22026

(2) "Carryover property" means all real property on the 22027

current year's tax list except:	22028
(a) Land and improvements that were not taxed by the district in both the preceding year and the current year;	22029 22030
(b) Land and improvements that were not in the same class in both the preceding year and the current year.	22031 22032
(3) "Effective tax rate" means with respect to each class of property:	22033 22034
(a) The sum of the total taxes that would have been charged and payable for current expenses against real property in that class if each of the district's taxes were reduced for the current year under division (D)(1) of this section without regard to the application of division (E)(3) of this section divided by	22035 22036 22037 22038 22039
(b) The taxable value of all real property in that class.	22040
(4) "Taxes charged and payable" means the taxes charged and payable prior to any reduction required by section 319.302 of the Revised Code.	22041 22042 22043
(C) The tax commissioner shall make the determinations required by this section each year, without regard to whether a taxing district has territory in a county to which section 5715.24 of the Revised Code applies for that year. Separate determinations shall be made for each of the two classes established pursuant to section 5713.041 of the Revised Code.	22044 22045 22046 22047 22048 22049
(D) With respect to each tax authorized to be levied by each taxing district, the tax commissioner, annually, shall do both of the following:	22050 22051 22052
(1) Determine by what percentage, if any, the sums levied by such tax against the carryover property in each class would have to be reduced for the tax to levy the same number of dollars against such property in that class in the current year as were charged against such property by such tax in the preceding year	22053 22054 22055 22056 22057

subsequent to the reduction made under this section but before the 22058
reduction made under section 319.302 of the Revised Code. In the 22059
case of a tax levied for the first time that is not a renewal of 22060
an existing tax, the commissioner shall determine by what 22061
percentage the sums that would otherwise be levied by such tax 22062
against carryover property in each class would have to be reduced 22063
to equal the amount that would have been levied if the full rate 22064
thereof had been imposed against the total taxable value of such 22065
property in the preceding tax year. A tax or portion of a tax that 22066
is designated a replacement levy under section 5705.192 of the 22067
Revised Code is not a renewal of an existing tax for purposes of 22068
this division. 22069

(2) Certify each percentage determined in division (D)(1) of 22070
this section, as adjusted under division (E) of this section, and 22071
the class of property to which that percentage applies to the 22072
auditor of each county in which the district has territory. The 22073
auditor, after complying with section 319.30 of the Revised Code, 22074
shall reduce the sum to be levied by such tax against each parcel 22075
of real property in the district by the percentage so certified 22076
for its class. Certification shall be made by the first day of 22077
September except in the case of a tax levied for the first time, 22078
in which case certification shall be made within fifteen days of 22079
the date the county auditor submits the information necessary to 22080
make the required determination. 22081

(E)(1) As used in division (E)(2) of this section, "pre-1982 22082
joint vocational taxes" means, with respect to a class of 22083
property, the difference between the following amounts: 22084

(a) The taxes charged and payable in tax year 1981 against 22085
the property in that class for the current expenses of the joint 22086
vocational school district of which the school district is a part 22087
after making all reductions under this section; 22088

(b) The following percentage of the taxable value of all real 22089

property in that class: 22090

(i) In 1987, five one-hundredths of one per cent; 22091

(ii) In 1988, one-tenth of one per cent; 22092

(iii) In 1989, fifteen one-hundredths of one per cent; 22093

(iv) In 1990 and each subsequent year, two-tenths of one per cent. 22094
22095

If the amount in division (E)(1)(b) of this section exceeds 22096
the amount in division (E)(1)(a) of this section, the pre-1982 22097
joint vocational taxes shall be zero. 22098

As used in divisions (E)(2) and (3) of this section, "taxes 22099
charged and payable" has the same meaning as in division (B)(4) of 22100
this section and excludes any tax charged and payable in 1985 or 22101
thereafter under sections 5705.194 to 5705.197 or section 22102
5705.199, 5705.213, ~~or~~ 5705.219, or 5748.09 of the Revised Code. 22103

(2) If in the case of a school district other than a joint 22104
vocational or cooperative education school district any percentage 22105
required to be used in division (D)(2) of this section for either 22106
class of property could cause the total taxes charged and payable 22107
for current expenses to be less than two per cent of the taxable 22108
value of all real property in that class that is subject to 22109
taxation by the district, the commissioner shall determine what 22110
percentages would cause the district's total taxes charged and 22111
payable for current expenses against that class, after all 22112
reductions that would otherwise be made under this section, to 22113
equal, when combined with the pre-1982 joint vocational taxes 22114
against that class, the lesser of the following: 22115

(a) The sum of the rates at which those taxes are authorized 22116
to be levied; 22117

(b) Two per cent of the taxable value of the property in that 22118
class. The auditor shall use such percentages in making the 22119

reduction required by this section for that class. 22120

(3)(a) If in the case of a joint vocational school district 22121
any percentage required to be used in division (D)(2) of this 22122
section for either class of property could cause the total taxes 22123
charged and payable for current expenses for that class to be less 22124
than the designated amount, the commissioner shall determine what 22125
percentages would cause the district's total taxes charged and 22126
payable for current expenses for that class, after all reductions 22127
that would otherwise be made under this section, to equal the 22128
designated amount. The auditor shall use such percentages in 22129
making the reductions required by this section for that class. 22130

(b) As used in division (E)(3)(a) of this section, the 22131
designated amount shall equal the taxable value of all real 22132
property in the class that is subject to taxation by the district 22133
times the lesser of the following: 22134

(i) Two-tenths of one per cent; 22135

(ii) The district's effective rate plus the following 22136
percentage for the year indicated: 22137

WHEN COMPUTING THE	ADD THE FOLLOWING	
TAXES CHARGED FOR	PERCENTAGE:	
1987	0.025%	22140
1988	0.05%	22141
1989	0.075%	22142
1990	0.1%	22143
1991	0.125%	22144
1992	0.15%	22145
1993	0.175%	22146
1994 and thereafter	0.2%	22147

(F) No reduction shall be made under this section in the rate 22148
at which any tax is levied. 22149

(G) The commissioner may order a county auditor to furnish 22150

any information the commissioner needs to make the determinations 22151
required under division (D) or (E) of this section, and the 22152
auditor shall supply the information in the form and by the date 22153
specified in the order. If the auditor fails to comply with an 22154
order issued under this division, except for good cause as 22155
determined by the commissioner, the commissioner shall withhold 22156
from such county or taxing district therein fifty per cent of 22157
state revenues to local governments pursuant to section 5747.50 of 22158
the Revised Code or shall direct the department of education to 22159
withhold therefrom fifty per cent of state revenues to school 22160
districts pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the 22161
Revised Code. The commissioner shall withhold the distribution of 22162
such revenues until the county auditor has complied with this 22163
division, and the department shall withhold the distribution of 22164
such revenues until the commissioner has notified the department 22165
that the county auditor has complied with this division. 22166

(H) If the commissioner is unable to certify a tax reduction 22167
factor for either class of property in a taxing district located 22168
in more than one county by the last day of November because 22169
information required under division (G) of this section is 22170
unavailable, the commissioner may compute and certify an estimated 22171
tax reduction factor for that district for that class. The 22172
estimated factor shall be based upon an estimate of the 22173
unavailable information. Upon receipt of the actual information 22174
for a taxing district that received an estimated tax reduction 22175
factor, the commissioner shall compute the actual tax reduction 22176
factor and use that factor to compute the taxes that should have 22177
been charged and payable against each parcel of property for the 22178
year for which the estimated reduction factor was used. The amount 22179
by which the estimated factor resulted in an overpayment or 22180
underpayment in taxes on any parcel shall be added to or 22181
subtracted from the amount due on that parcel in the ensuing tax 22182
year. 22183

A percentage or a tax reduction factor determined or computed 22184
by the commissioner under this section shall be used solely for 22185
the purpose of reducing the sums to be levied by the tax to which 22186
it applies for the year for which it was determined or computed. 22187
It shall not be used in making any tax computations for any 22188
ensuing tax year. 22189

(I) In making the determinations under division (D)(1) of 22190
this section, the tax commissioner shall take account of changes 22191
in the taxable value of carryover property resulting from 22192
complaints filed under section 5715.19 of the Revised Code for 22193
determinations made for the tax year in which such changes are 22194
reported to the commissioner. Such changes shall be reported to 22195
the commissioner on the first abstract of real property filed with 22196
the commissioner under section 5715.23 of the Revised Code 22197
following the date on which the complaint is finally determined by 22198
the board of revision or by a court or other authority with 22199
jurisdiction on appeal. The tax commissioner shall account for 22200
such changes in making the determinations only for the tax year in 22201
which the change in valuation is reported. Such a valuation change 22202
shall not be used to recompute the percentages determined under 22203
division (D)(1) of this section for any prior tax year. 22204

Sec. 319.54. (A) On all moneys collected by the county 22205
treasurer on any tax duplicate of the county, other than estate 22206
tax duplicates, and on all moneys received as advance payments of 22207
personal property and classified property taxes, the county 22208
auditor, on settlement with the treasurer and tax commissioner, on 22209
or before the date prescribed by law for such settlement or any 22210
lawful extension of such date, shall be allowed as compensation 22211
for the county auditor's services the following percentages: 22212

(1) On the first one hundred thousand dollars, two and 22213
one-half per cent; 22214

(2) On the next two million dollars, eight thousand three hundred eighteen ten-thousandths of one per cent;

(3) On the next two million dollars, six thousand six hundred fifty-five ten-thousandths of one per cent;

(4) On all further sums, one thousand six hundred sixty-three ten-thousandths of one per cent.

If any settlement is not made on or before the date prescribed by law for such settlement or any lawful extension of such date, the aggregate compensation allowed to the auditor shall be reduced one per cent for each day such settlement is delayed after the prescribed date. No penalty shall apply if the auditor and treasurer grant all requests for advances up to ninety per cent of the settlement pursuant to section 321.34 of the Revised Code. The compensation allowed in accordance with this section on settlements made before the dates prescribed by law, or the reduced compensation allowed in accordance with this section on settlements made after the date prescribed by law or any lawful extension of such date, shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(B) For the purpose of reimbursing county auditors for the expenses associated with the increased number of applications for reductions in real property taxes under sections 323.152 and 4503.065 of the Revised Code that result from the amendment of those sections by Am. Sub. H.B. 119 of the 127th general assembly, there shall be paid from the state's general revenue fund to the county treasury, to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount equal to one per cent of the total annual amount of property tax relief reimbursement paid to that county under sections 323.156 and 4503.068 of the Revised Code for the preceding tax year. Payments

made under this division shall be made at the same times and in 22247
the same manner as payments made under section 323.156 of the 22248
Revised Code. 22249

(C) From all moneys collected by the county treasurer on any 22250
tax duplicate of the county, other than estate tax duplicates, and 22251
on all moneys received as advance payments of personal property 22252
and classified property taxes, there shall be paid into the county 22253
treasury to the credit of the real estate assessment fund created 22254
by section 325.31 of the Revised Code, an amount to be determined 22255
by the county auditor, which shall not exceed the percentages 22256
prescribed in divisions (C)(1) and (2) of this section. 22257

(1) For payments made after June 30, 2007, and before 2011, 22258
the following percentages: 22259

(a) On the first five hundred thousand dollars, four per 22260
cent; 22261

(b) On the next five million dollars, two per cent; 22262

(c) On the next five million dollars, one per cent; 22263

(d) On all further sums not exceeding one hundred fifty 22264
million dollars, three-quarters of one per cent; 22265

(e) On amounts exceeding one hundred fifty million dollars, 22266
five hundred eighty-five thousandths of one per cent. 22267

(2) For payments made in or after 2011, the following 22268
percentages: 22269

(a) On the first five hundred thousand dollars, four per 22270
cent; 22271

(b) On the next ten million dollars, two per cent; 22272

(c) On amounts exceeding ten million five hundred thousand 22273
dollars, three-fourths of one per cent. 22274

Such compensation shall be apportioned ratably by the auditor 22275

and deducted from the shares or portions of the revenue payable to 22276
the state as well as to the county, townships, municipal 22277
corporations, and school districts. 22278

(D) Each county auditor shall receive four per cent of the 22279
amount of tax collected and paid into the county treasury, on 22280
property omitted and placed by the county auditor on the tax 22281
duplicate. 22282

(E) On all estate tax moneys collected by the county 22283
treasurer, the county auditor, on settlement semiannually with the 22284
tax commissioner, shall be allowed, as compensation for the 22285
auditor's services under Chapter 5731. of the Revised Code, the 22286
following percentages: 22287

(1) Four per cent on the first one hundred thousand dollars; 22288

(2) One-half of one per cent on all additional sums. 22289

Such percentages shall be computed upon the amount collected 22290
and reported at each semiannual settlement, and shall be for the 22291
use of the general fund of the county. 22292

(F) On all cigarette license moneys collected by the county 22293
treasurer, the county auditor, on settlement semiannually with the 22294
treasurer, shall be allowed as compensation for the auditor's 22295
services in the issuing of such licenses one-half of one per cent 22296
of such moneys, to be apportioned ratably and deducted from the 22297
shares of the revenue payable to the county and subdivisions, for 22298
the use of the general fund of the county. 22299

(G) The county auditor shall charge and receive fees as 22300
follows: 22301

(1) For deeds of land sold for taxes to be paid by the 22302
purchaser, five dollars; 22303

(2) For the transfer or entry of land, lot, or part of lot, 22304
or the transfer or entry on or after January 1, 2000, of a used 22305

manufactured home or mobile home as defined in section 5739.0210 22306
of the Revised Code, fifty cents for each transfer or entry, to be 22307
paid by the person requiring it; 22308

(3) For receiving statements of value and administering 22309
section 319.202 of the Revised Code, one dollar, or ten cents for 22310
each one hundred dollars or fraction of one hundred dollars, 22311
whichever is greater, of the value of the real property 22312
transferred or, for sales occurring on or after January 1, 2000, 22313
the value of the used manufactured home or used mobile home, as 22314
defined in section 5739.0210 of the Revised Code, transferred, 22315
except no fee shall be charged when the transfer is made: 22316

(a) To or from the United States, this state, or any 22317
instrumentality, agency, or political subdivision of the United 22318
States or this state; 22319

(b) Solely in order to provide or release security for a debt 22320
or obligation; 22321

(c) To confirm or correct a deed previously executed and 22322
recorded or when a current owner on any record made available to 22323
the general public on the internet or a publicly accessible 22324
database and the general tax list of real and public utility 22325
property and the general duplicate of real and public utility 22326
property is a peace officer, parole officer, prosecuting attorney, 22327
assistant prosecuting attorney, correctional employee, youth 22328
services employee, firefighter, EMT, or investigator of the bureau 22329
of criminal identification and investigation and is changing the 22330
current owner name listed on any record made available to the 22331
general public on the internet or a publicly accessible database 22332
and the general tax list of real and public utility property and 22333
the general duplicate of real and public utility property to the 22334
initials of the current owner as prescribed in division (B)(1) of 22335
section 319.28 of the Revised Code; 22336

(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;	22337 22338 22339
(e) On sale for delinquent taxes or assessments;	22340
(f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order;	22341 22342 22343
(g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation;	22344 22345 22346 22347 22348 22349
(h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;	22350 22351 22352
(i) By lease, whether or not it extends to mineral or mineral rights, unless the lease is for a term of years renewable forever;	22353 22354
(j) When the value of the real property or the manufactured or mobile home or the value of the interest that is conveyed does not exceed one hundred dollars;	22355 22356 22357
(k) Of an occupied residential property, including a manufactured or mobile home, being transferred to the builder of a new residence or to the dealer of a new manufactured or mobile home when the former residence is traded as part of the consideration for the new residence or new manufactured or mobile home;	22358 22359 22360 22361 22362 22363
(l) To a grantee other than a dealer in real property or in manufactured or mobile homes, solely for the purpose of, and as a step in, the prompt sale of the real property or manufactured or	22364 22365 22366

mobile home to others;	22367
(m) To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate or manufactured or mobile home and the transaction is not a gift;	22368 22369 22370 22371
(n) Pursuant to division (B) of section 317.22 of the Revised Code, or section 2113.61 of the Revised Code, between spouses or to a surviving spouse pursuant to section 5302.17 of the Revised Code as it existed prior to April 4, 1985, between persons pursuant to section 5302.17 or 5302.18 of the Revised Code on or after April 4, 1985, to a person who is a surviving, survivorship tenant pursuant to section 5302.17 of the Revised Code on or after April 4, 1985, or pursuant to section 5309.45 of the Revised Code;	22372 22373 22374 22375 22376 22377 22378 22379
(o) To a trustee acting on behalf of minor children of the deceased;	22380 22381
(p) Of an easement or right-of-way when the value of the interest conveyed does not exceed one thousand dollars;	22382 22383
(q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;	22384 22385
(r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such transfer is without consideration and is in furtherance of the charitable or public purposes of such organization;	22386 22387 22388 22389 22390
(s) Among the heirs at law or devisees, including a surviving spouse, of a common decedent, when no consideration in money is paid or to be paid for the real property or manufactured or mobile home;	22391 22392 22393 22394
(t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;	22395 22396

(u) To the grantor of a trust by a trustee of the trust, when 22397
the transfer is made to the grantor pursuant to the exercise of 22398
the grantor's power to revoke the trust or to withdraw trust 22399
assets; 22400

(v) To the beneficiaries of a trust if the fee was paid on 22401
the transfer from the grantor of the trust to the trustee or if 22402
the transfer is made pursuant to trust provisions which became 22403
irrevocable at the death of the grantor; 22404

(w) To a corporation for incorporation into a sports facility 22405
constructed pursuant to section 307.696 of the Revised Code; 22406

(x) Between persons pursuant to section 5302.18 of the 22407
Revised Code; 22408

(y) From a county land reutilization corporation organized 22409
under Chapter 1724. of the Revised Code to a third party. 22410

(4) For the cost of publishing the delinquent manufactured 22411
home tax list, the delinquent tax list, and the delinquent vacant 22412
land tax list, a flat fee, as determined by the county auditor, to 22413
be charged to the owner of a home on the delinquent manufactured 22414
home tax list or the property owner of land on the delinquent tax 22415
list or the delinquent vacant land tax list. 22416

The auditor shall compute and collect the fee. The auditor 22417
shall maintain a numbered receipt system, as prescribed by the tax 22418
commissioner, and use such receipt system to provide a receipt to 22419
each person paying a fee. The auditor shall deposit the receipts 22420
of the fees on conveyances in the county treasury daily to the 22421
credit of the general fund of the county, except that fees charged 22422
and received under division (G)(3) of this section for a transfer 22423
of real property to a county land reutilization corporation shall 22424
be credited to the county land reutilization corporation fund 22425
established under section 321.263 of the Revised Code. 22426

The real property transfer fee provided for in division 22427

(G)(3) of this section shall be applicable to any conveyance of 22428
real property presented to the auditor on or after January 1, 22429
1968, regardless of its time of execution or delivery. 22430

The transfer fee for a used manufactured home or used mobile 22431
home shall be computed by and paid to the county auditor of the 22432
county in which the home is located immediately prior to the 22433
transfer. 22434

Sec. 321.18. As soon as sufficient funds are in the county 22435
treasury to redeem the warrants drawn on the treasury, and on 22436
which interest is accruing, the county treasurer shall give notice 22437
in a newspaper ~~published in and circulating of general circulation~~ 22438
in ~~his~~ the county that ~~he~~ the treasurer is ready to redeem such 22439
warrants, and from the date of the notice the interest on such 22440
warrants shall cease. 22441

Sec. 321.261. (A) ~~Five~~ In each county treasury there shall be 22442
created the treasurer's delinquent tax and assessment collection 22443
fund and the prosecuting attorney's delinquent tax and assessment 22444
collection fund. Except as otherwise provided in this division, 22445
two and one-half per cent of all delinquent real property, 22446
personal property, and manufactured and mobile home taxes and 22447
assessments collected by the county treasurer shall be deposited 22448
in the treasurer's delinquent tax and assessment collection fund, 22449
which shall be created in the county treasury. ~~Except as otherwise~~ 22450
~~provided in division (D) of this section, the moneys in the fund,~~ 22451
~~one half of which shall be appropriated by the board of county~~ 22452
~~commissioners to the treasurer and one half of which shall be~~ 22453
~~appropriated to the county prosecuting attorney, and two and~~ 22454
one-half per cent of such delinquent taxes and assessments shall 22455
be deposited in the prosecuting attorney's delinquent tax and 22456
assessment collection fund. The board of county commissioners 22457
shall appropriate to the county treasurer from the treasurer's 22458

delinquent tax and assessment collection fund, and shall 22459
appropriate to the prosecuting attorney from the prosecuting 22460
attorney's delinquent tax and assessment collection fund, money to 22461
the credit of the respective fund, and except as provided in 22462
division (D) of this section, the appropriation shall be used only 22463
for the following purposes: 22464

(1) By the county treasurer ~~and~~ or the county prosecuting 22465
attorney in connection with the collection of delinquent real 22466
property, personal property, and manufactured and mobile home 22467
taxes and assessments, including proceedings related to 22468
foreclosure of the state's lien for such taxes against such 22469
property; 22470

(2) With respect to any portion of the amount appropriated ~~to~~ 22471
~~the county treasurer~~ from the treasurer's delinquent tax and 22472
assessment collection fund for the benefit of ~~the~~ a county land 22473
reutilization corporation organized under Chapter 1724. of the 22474
Revised Code, ~~whether by transfer to or other application on~~ 22475
~~behalf of,~~ the county land reutilization corporation. Upon the 22476
deposit of amounts in the treasurer's delinquent tax and 22477
assessment collection fund ~~of the county~~, any amounts allocated at 22478
the direction of the treasurer to the support of the county land 22479
reutilization corporation shall be paid out of such fund to the 22480
corporation upon a warrant of the county auditor. 22481

If the balance in the treasurer's or prosecuting attorney's 22482
delinquent tax and assessment collection fund exceeds three times 22483
the amount deposited into the fund in the preceding year, the 22484
treasurer or prosecuting attorney, on or before the twentieth day 22485
of October of the current year, may direct the county auditor to 22486
forgo the allocation of delinquent taxes and assessments to that 22487
officer's respective fund in the ensuing year. If the county 22488
auditor receives such direction, the auditor shall cause the 22489
portion of taxes and assessments that otherwise would be credited 22490

to the fund under this section in that ensuing year to be 22491
allocated and distributed among taxing units' funds as otherwise 22492
provided in this chapter and other applicable law. 22493

(B) During the period of time that a county land 22494
reutilization corporation is functioning as such on behalf of a 22495
county, the board of county commissioners, upon the request of the 22496
county treasurer, may designate by resolution that an additional 22497
amount, not exceeding five per cent of all collections of 22498
delinquent real property, personal property, and manufactured and 22499
mobile home taxes and assessments, shall be deposited in the 22500
treasurer's delinquent tax and assessment collection fund and be 22501
available for appropriation by the board for the use of the 22502
corporation. Any such amounts so deposited and appropriated under 22503
this division shall be paid out of the treasurer's delinquent tax 22504
and assessment collection fund to the corporation upon a warrant 22505
of the county auditor. 22506

(C) Annually by the first day of December, the county 22507
treasurer and the prosecuting attorney each shall submit a report 22508
to the board of county commissioners regarding the use of the 22509
moneys appropriated ~~to~~ from their respective ~~offices from the~~ 22510
delinquent tax and assessment collection ~~fund~~ funds. Each report 22511
shall specify the amount appropriated ~~to the office~~ from the fund 22512
during the current calendar year, an estimate of the amount so 22513
appropriated that will be expended by the end of the year, a 22514
summary of how the amount appropriated has been expended in 22515
connection with delinquent tax collection activities or land 22516
reutilization, and an estimate of the amount that will be credited 22517
to the fund during the ensuing calendar year. 22518

The annual report of a county land reutilization corporation 22519
required by section 1724.05 of the Revised Code shall include 22520
information regarding the amount and use of the moneys that the 22521
corporation received from the treasurer's delinquent tax and 22522

assessment collection fund ~~of the county.~~ 22523

(D)(1) In any county, if the county treasurer or prosecuting attorney determines that the ~~amount appropriated to the office from the county's balance to the credit of that officer's corresponding~~ delinquent tax and assessment collection fund ~~under division (A) of this section~~ exceeds the amount required to be used as prescribed by ~~that~~ division (A) of this section, the county treasurer or prosecuting attorney may expend the excess to prevent residential mortgage foreclosures in the county and to address problems associated with other foreclosed real property. The amount used for that purpose in any year may not exceed the amount that would cause the fund to have a reserve of less than twenty per cent of the amount expended in the preceding year for the purposes of division (A) of this section. The county treasurer or prosecuting attorney may not expend any money from the officer's fund for the purpose of land reutilization unless the county treasurer or prosecuting attorney obtains the approval of the county investment advisory committee established under section 135.341 of the Revised Code. 22524
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Money authorized to be expended under division (D)(1) of this section shall be used to provide financial assistance in the form of loans to borrowers in default on their home mortgages, including for the payment of late fees, to clear arrearage balances, and to augment moneys used in the county's foreclosure prevention program. The money also may be used to assist municipal corporations or townships in the county, upon their application to the county treasurer, prosecuting attorney, or the county department of development, in the nuisance abatement of deteriorated residential buildings in foreclosure, or vacant, abandoned, tax-delinquent, or blighted real property, including paying the costs of boarding up such buildings, lot maintenance, and demolition. 22542
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(2) In a county having a population of more than one hundred 22555
thousand according to the department of development's 2006 census 22556
estimate, if the county treasurer or prosecuting attorney 22557
determines that the ~~amount appropriated to the office from the~~ 22558
~~county's~~ balance to the credit of that officer's corresponding 22559
~~delinquent tax and assessment collection fund under division (A)~~ 22560
~~of this section~~ exceeds the amount required to be used as 22561
prescribed by ~~that~~ division (A) of this section, the county 22562
treasurer or prosecuting attorney may expend the excess to assist 22563
townships or municipal corporations located in the county as 22564
provided in division (D)(2) of this section, provided that the 22565
combined amount so expended each year in a county shall not exceed 22566
three million dollars. Upon application for the funds by a 22567
township or municipal corporation, the county treasurer ~~and~~ or 22568
prosecuting attorney may assist the township or municipal 22569
corporation in abating foreclosed residential nuisances, including 22570
paying the costs of securing such buildings, lot maintenance, and 22571
demolition. At the prosecuting attorney's discretion, the 22572
prosecuting attorney also may apply the funds to costs of 22573
prosecuting alleged violations of criminal and civil laws 22574
governing real estate and related transactions, including fraud 22575
and abuse. 22576

Sec. 322.02. (A) For the purpose of paying the costs of 22577
enforcing and administering the tax and providing additional 22578
general revenue for the county, any county may levy and collect a 22579
tax to be known as the real property transfer tax on each deed 22580
conveying real property or any interest in real property located 22581
wholly or partially within the boundaries of the county at a rate 22582
not to exceed thirty cents per hundred dollars for each one 22583
hundred dollars or fraction thereof of the value of the real 22584
property or interest in real property located within the 22585
boundaries of the county granted, assigned, transferred, or 22586

otherwise conveyed by the deed. The tax shall be levied pursuant 22587
to a resolution adopted by the board of county commissioners of 22588
the county and, except as provided in division (A) of section 22589
322.07 of the Revised Code, shall be levied at a uniform rate upon 22590
all deeds as defined in division (D) of section 322.01 of the 22591
Revised Code. Prior to the adoption of any such resolution, the 22592
board of county commissioners shall conduct two public hearings 22593
thereon, the second hearing to be not less than three nor more 22594
than ten days after the first. Notice of the date, time, and place 22595
of the hearings shall be given by publication in a newspaper of 22596
general circulation in the county once a week on the same day of 22597
the week for two consecutive weeks, ~~the~~ or as provided in section 22598
7.16 of the Revised Code. The second publication being shall be 22599
not less than ten nor more than thirty days prior to the first 22600
hearing. The tax shall be levied upon the grantor named in the 22601
deed and shall be paid by the grantor for the use of the county to 22602
the county auditor at the time of the delivery of the deed as 22603
provided in section 319.202 of the Revised Code and prior to the 22604
presentation of the deed to the recorder of the county for 22605
recording. 22606

(B) No resolution levying a real property transfer tax 22607
pursuant to this section or a manufactured home transfer tax 22608
pursuant to section 322.06 of the Revised Code shall be effective 22609
sooner than thirty days following its adoption. Such a resolution 22610
is subject to a referendum as provided in sections 305.31 to 22611
305.41 of the Revised Code, unless the resolution is adopted as an 22612
emergency measure necessary for the immediate preservation of the 22613
public peace, health, or safety, in which case it shall go into 22614
immediate effect. An emergency measure must receive an affirmative 22615
vote of all of the members of the board of commissioners, and 22616
shall state the reasons for the necessity. A resolution may direct 22617
the board of elections to submit the question of levying the tax 22618
to the electors of the county at the next primary or general 22619

election in the county occurring not less than ninety days after 22620
the resolution is certified to the board. No such resolution shall 22621
go into effect unless approved by a majority of those voting upon 22622
it. 22623

Sec. 322.021. The question of a repeal of a county permissive 22624
tax adopted as an emergency measure pursuant to division (B) of 22625
section 322.02 of the Revised Code may be initiated by filing with 22626
the board of elections of the county not less than ninety days 22627
before the general election in any year a petition requesting that 22628
an election be held on such question. Such petition shall be 22629
signed by qualified electors residing in the county equal in 22630
number to ten per cent of those voting for governor at the most 22631
recent gubernatorial election. 22632

After determination by it that such petition is valid, the 22633
board of elections shall submit the question to the electors of 22634
the county at the next general election. The election shall be 22635
conducted, canvassed, and certified in the same manner as regular 22636
elections for county offices in the county. Notice of the election 22637
shall be published in a newspaper of general circulation in the 22638
district once a week for two consecutive weeks prior to the 22639
election ~~and, if~~ or as provided in section 7.16 of the Revised 22640
Code. If the board of elections operates and maintains a web site, 22641
notice of the election also shall be posted on that web site for 22642
thirty days prior to the election. The notice shall state the 22643
purpose, time, and place of the election. The form of the ballot 22644
cast at such election shall be prescribed by the secretary of 22645
state. The question covered by such petition shall be submitted as 22646
a separate proposition, but it may be printed on the same ballot 22647
with any other proposition submitted at the same election other 22648
than the election of officers. If a majority of the qualified 22649
electors voting on the question of repeal approve the repeal, the 22650
result of the election shall be certified immediately after the 22651

canvass by the board of elections to the board of county 22652
commissioners, who shall thereupon, after the current year, cease 22653
to levy the tax. 22654

Sec. 323.08. After certifying the tax list and duplicate 22655
pursuant to section 319.28 of the Revised Code, the county auditor 22656
shall deliver a list of the tax rates, tax reduction factors, and 22657
effective tax rates assessed and applied against each of the two 22658
classes of property of the county to the county treasurer, who 22659
shall immediately cause a schedule of such tax rates and effective 22660
rates to be published in a newspaper of ~~the type described in~~ 22661
~~section 5721.01 of the Revised Code having~~ general circulation in 22662
the county or, in lieu of such publication, the county treasurer 22663
may insert a copy of such schedule with each tax bill mailed. Such 22664
schedule shall specify particularly the rates and effective rates 22665
of taxation levied for all purposes on the tax list and duplicate 22666
for the support of the various taxing units within the county, 22667
expressed in dollars and cents for each one thousand dollars of 22668
valuation. The effective tax rates shall be printed in boldface 22669
type. 22670

The county treasurer shall publish notice of the date of the 22671
last date for payment of each installment of taxes once a week for 22672
two successive weeks prior to such date in ~~two newspapers a~~ 22673
newspaper of general circulation within the county or as provided 22674
in section 7.16 of the Revised Code. ~~If only one such newspaper~~ 22675
~~exists, the notice shall be published in it.~~ The notice shall be 22676
inserted in a conspicuous place in ~~each~~ the newspaper and shall 22677
also contain notice that any taxes paid after such date will 22678
accrue a penalty and interest and that failure to receive a tax 22679
bill will not avoid such penalty and interest. The notice shall 22680
contain a telephone number that may be called by taxpayers who 22681
have not received tax bills. 22682

As used in this section and section 323.131 of the Revised Code, "effective tax rate" means the effective rate after making the reduction required by section 319.301, but before making the reduction required by section 319.302 of the Revised Code.

Sec. 323.73. (A) Except as provided in division (G) of this section or section 323.78 of the Revised Code, a parcel of abandoned land that is to be disposed of under this section shall be disposed of at a public auction scheduled and conducted as described in this section. At least twenty-one days prior to the date of the public auction, the clerk of court or sheriff of the county shall advertise the public auction in a newspaper of general circulation that meets the requirements of section 7.12 of the Revised Code in the county in which the land is located. The advertisement shall include the date, time, and place of the auction, the permanent parcel number of the land if a permanent parcel number system is in effect in the county as provided in section 319.28 of the Revised Code or, if a permanent parcel number system is not in effect, any other means of identifying the parcel, and a notice stating that the abandoned land is to be sold subject to the terms of sections 323.65 to 323.79 of the Revised Code.

(B) The sheriff of the county or a designee of the sheriff shall conduct the public auction at which the abandoned land will be offered for sale. To qualify as a bidder, a person shall file with the sheriff on a form provided by the sheriff a written acknowledgment that the abandoned land being offered for sale is to be conveyed in fee simple to the successful bidder. At the auction, the sheriff of the county or a designee of the sheriff shall begin the bidding at an amount equal to the total of the impositions against the abandoned land, plus the costs apportioned to the land under section 323.75 of the Revised Code. The abandoned land shall be sold to the highest bidder. The county

sheriff or designee may reject any and all bids not meeting the 22715
minimum bid requirements specified in this division. 22716

(C) Except as otherwise permitted under section 323.74 of the 22717
Revised Code, the successful bidder at a public auction conducted 22718
under this section shall pay the sheriff of the county or a 22719
designee of the sheriff a deposit of at least ten per cent of the 22720
purchase price in cash, or by bank draft or official bank check, 22721
at the time of the public auction, and shall pay the balance of 22722
the purchase price within thirty days after the day on which the 22723
auction was held. Notwithstanding section 321.261 of the Revised 22724
Code, with respect to any proceedings initiated pursuant to 22725
sections 323.65 to 323.79 of the Revised Code, from the total 22726
proceeds arising from the sale, transfer, or redemption of 22727
abandoned land, twenty per cent of such proceeds shall be 22728
deposited to the credit of the county treasurer's delinquent tax 22729
and assessment collection fund to reimburse the fund for costs 22730
paid from the fund for the transfer, redemption, or sale of 22731
abandoned land at public auction. Not more than one-half of the 22732
twenty per cent may be used by the treasurer for community 22733
development, nuisance abatement, foreclosure prevention, 22734
demolition, and related services or distributed by the treasurer 22735
to a land reutilization corporation. The balance of the proceeds, 22736
if any, shall be distributed to the appropriate political 22737
subdivisions and other taxing units in proportion to their 22738
respective claims for taxes, assessments, interest, and penalties 22739
on the land. Upon the sale of foreclosed lands, the clerk of court 22740
shall hold any surplus proceeds in excess of the impositions until 22741
the clerk receives an order of priority and amount of distribution 22742
of the surplus that are adjudicated by a court of competent 22743
jurisdiction or receives a certified copy of an agreement between 22744
the parties entitled to a share of the surplus providing for the 22745
priority and distribution of the surplus. Any party to the action 22746
claiming a right to distribution of surplus shall have a separate 22747

cause of action in the county or municipal court of the 22748
jurisdiction in which the land reposes, provided the board 22749
confirms the transfer or regularity of the sale. Any dispute over 22750
the distribution of the surplus shall not affect or revive the 22751
equity of redemption after the board confirms the transfer or 22752
sale. 22753

(D) Upon the sale or transfer of abandoned land pursuant to 22754
this section, the owner's fee simple interest in the land shall be 22755
conveyed to the purchaser. A conveyance under this division is 22756
free and clear of any liens and encumbrances of the parties named 22757
in the complaint for foreclosure attaching before the sale or 22758
transfer, and free and clear of any liens for taxes, except for 22759
federal tax liens and covenants and easements of record attaching 22760
before the sale. 22761

(E) The county board of revision shall reject the sale of 22762
abandoned land to any person if it is shown by a preponderance of 22763
the evidence that the person is delinquent in the payment of taxes 22764
levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 22765
5741., or 5743. of the Revised Code or any real property taxing 22766
provision of the Revised Code. The board also shall reject the 22767
sale of abandoned land to any person if it is shown by a 22768
preponderance of the evidence that the person is delinquent in the 22769
payment of property taxes on any parcel in the county, or to a 22770
member of any of the following classes of parties connected to 22771
that person: 22772

(1) A member of that person's immediate family; 22773

(2) Any other person with a power of attorney appointed by 22774
that person; 22775

(3) A sole proprietorship owned by that person or a member of 22776
that person's immediate family; 22777

(4) A partnership, trust, business trust, corporation, 22778

association, or other entity in which that person or a member of 22779
that person's immediate family owns or controls directly or 22780
indirectly any beneficial or legal interest. 22781

(F) If the purchase of abandoned land sold pursuant to this 22782
section or section 323.74 of the Revised Code is for less than the 22783
sum of the impositions against the abandoned land and the costs 22784
apportioned to the land under division (A) of section 323.75 of 22785
the Revised Code, then, upon the sale or transfer, all liens for 22786
taxes due at the time the deed of the property is conveyed to the 22787
purchaser following the sale or transfer, and liens subordinate to 22788
liens for taxes, shall be deemed satisfied and discharged. 22789

(G) If the county board of revision finds that the total of 22790
the impositions against the abandoned land are greater than the 22791
fair market value of the abandoned land as determined by the 22792
auditor's then-current valuation of that land, the board, at any 22793
final hearing under section 323.70 of the Revised Code, may order 22794
the property foreclosed and, without an appraisal or public 22795
auction, order the sheriff to execute a deed to the certificate 22796
holder or county land reutilization corporation that filed a 22797
complaint under section 323.69 of the Revised Code, or to a 22798
community development organization, school district, municipal 22799
corporation, county, or township, whichever is applicable, as 22800
provided in section 323.74 of the Revised Code. Upon a transfer 22801
under this division, all liens for taxes due at the time the deed 22802
of the property is transferred to the certificate holder, 22803
community development organization, school district, municipal 22804
corporation, county, or township following the conveyance, and 22805
liens subordinate to liens for taxes, shall be deemed satisfied 22806
and discharged. 22807

Sec. 323.75. (A) The county treasurer or county prosecuting 22808
attorney shall apportion the costs of the proceedings with respect 22809

to abandoned lands offered for sale at a public auction held 22810
pursuant to section 323.73 or 323.74 of the Revised Code among 22811
those lands according to actual identified costs, equally, or in 22812
proportion to the fair market values of the lands. The costs of 22813
the proceedings include the costs of conducting the title search, 22814
notifying record owners or other persons required to be notified 22815
of the pending sale, advertising the sale, and any other costs 22816
incurred by the county board of revision, county treasurer, county 22817
auditor, clerk of court, prosecuting attorney, or county sheriff 22818
in performing their duties under sections 323.65 to 323.79 of the 22819
Revised Code. 22820

(B) All costs assessed in connection with proceedings under 22821
sections 323.65 to 323.79 of the Revised Code may be paid after 22822
they are incurred, as follows: 22823

(1) If the abandoned land in question is purchased at public 22824
auction, from the purchaser of the abandoned land; 22825

(2) In the case of abandoned land transferred to a community 22826
development organization, school district, municipal corporation, 22827
county, or township under section 323.74 of the Revised Code, from 22828
either of the following: 22829

(a) At the discretion of the county treasurer, in whole or in 22830
part from the delinquent tax and assessment collection ~~fund funds~~ 22831
created under section 321.261 of the Revised Code, ~~in which case~~ 22832
~~the amount shall be a prior charge to the fund before its equal~~ 22833
~~allocation between~~ allocated equally among the respective funds of 22834
the county treasurer and of the prosecuting attorney; 22835

(b) From the community development organization, school 22836
district, municipal corporation, county, or township, whichever is 22837
applicable. 22838

(3) If the abandoned land in question is transferred to a 22839

certificate holder, from the certificate holder. 22840

(C) If a parcel of abandoned land is sold or otherwise 22841
transferred pursuant to sections 323.65 to 323.79 of the Revised 22842
Code, the officer who conducted the sale or made the transfer, the 22843
prosecuting attorney, or the county treasurer may collect a 22844
recording fee from the purchaser or transferee of the parcel at 22845
the time of the sale or transfer and shall prepare the deed 22846
conveying title to the parcel or execute the deed prepared by the 22847
board for that purpose. That officer or the prosecuting attorney 22848
or treasurer is authorized to record on behalf of that purchaser 22849
or transferee the deed conveying title to the parcel, 22850
notwithstanding that the deed may not actually have been delivered 22851
to the purchaser or transferee prior to the recording of the deed. 22852
Receiving title to a parcel under sections 323.65 to 323.79 of the 22853
Revised Code constitutes the transferee's consent to an officer, 22854
prosecuting attorney, or county treasurer to file the deed to the 22855
parcel for recording. Nothing in this division shall be construed 22856
to require an officer, prosecuting attorney, or treasurer to file 22857
a deed or to relieve a transferee's obligation to file a deed. 22858
Upon confirmation of that sale or transfer, the deed shall be 22859
deemed delivered to the purchaser or transferee of the parcel. 22860

Sec. 324.02. For the purpose of providing additional general 22861
revenues for the county and paying the expense of administering 22862
such levy, any county may levy a county excise tax to be known as 22863
the utilities service tax on the charge for every utility service 22864
to customers within the county at a rate not to exceed two per 22865
cent of such charge. On utility service to customers engaged in 22866
business, the tax shall be imposed at a rate of one hundred fifty 22867
per cent of the rate imposed upon all other consumers within the 22868
county. The tax shall be levied pursuant to a resolution adopted 22869
by the board of county commissioners of the county and shall be 22870
levied at uniform rates required by this section upon all charges 22871

for utility service except as provided in section 324.03 of the Revised Code. The tax shall be levied upon the customer and shall be paid by the customer to the utility supplying the service at the time the customer pays the utility for the service. If the charge for utility service is billed to a person other than the customer at the request of such person, the tax commissioner of the state may, in accordance with section 324.04 of the Revised Code, provide for the levy of the tax against and the payment of the tax by such other person. Each utility furnishing a utility service the charge for which is subject to the tax shall set forth the tax as a separate item on each bill or statement rendered to the customer.

Prior to the adoption of any resolution levying a utilities service tax the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, ~~the or as~~ provided in section 7.16 of the Revised Code. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing. No resolution levying a utilities service tax pursuant to this section of the Revised Code shall be effective sooner than thirty days following its adoption and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the

next primary or general election in the county occurring not less 22905
than ninety days after such resolution is certified to the board. 22906
No such resolution shall go into effect unless approved by a 22907
majority of those voting upon it. The tax levied by such 22908
resolution shall apply to all bills rendered subsequent to the 22909
sixtieth day after the effective date of the resolution. No bills 22910
shall be rendered out of the ordinary course of business to avoid 22911
payment of the tax. 22912

Sec. 324.021. The question of repeal of a county permissive 22913
tax adopted as an emergency measure pursuant to section 324.02 of 22914
the Revised Code may be initiated by filing with the board of 22915
elections of the county not less than ninety days before the 22916
general election in any year a petition requesting that an 22917
election be held on such question. Such petition shall be signed 22918
by qualified electors residing in the county equal in number to 22919
ten per cent of those voting for governor at the most recent 22920
gubernatorial election. 22921

After determination by it that such petition is valid, the 22922
board of elections shall submit the question to the electors of 22923
the county at the next general election. The election shall be 22924
conducted, canvassed, and certified in the same manner as regular 22925
elections for county offices in the county. Notice of the election 22926
shall be published in a newspaper of general circulation in the 22927
district once a week for two consecutive weeks prior to the 22928
election ~~and, if~~ or as provided in section 7.16 of the Revised 22929
Code. If the board of elections operates and maintains a web site, 22930
notice of the election also shall be posted on that web site for 22931
thirty days prior to the election. The notice shall state the 22932
purpose, time, and place of the election. The form of the ballot 22933
cast at such election shall be prescribed by the secretary of 22934
state. The question covered by such petition shall be submitted as 22935
a separate proposition, but it may be printed on the same ballot 22936

with any other proposition submitted at the same election other 22937
than the election of officers. If a majority of the qualified 22938
electors voting on the question of repeal approve the repeal, the 22939
result of the election shall be certified immediately after the 22940
canvass by the board of elections to the board of county 22941
commissioners, who shall thereupon, after the current year, cease 22942
to levy the tax. 22943

Sec. 325.20. (A) Except as otherwise provided by law, no 22944
elected county officer and no deputy or employee of the county 22945
shall attend, at county expense, any association meeting, 22946
convention, or training sessions conducted pursuant to section 22947
901.10 of the Revised Code, unless authorized by the board of 22948
county commissioners. Before such allowance may be made, the head 22949
of the county office desiring it shall apply to the board in 22950
writing showing the necessity of such attendance and the probable 22951
costs to the county. If a majority of the members of the board 22952
approves the application, such expenses shall be paid from the 22953
moneys appropriated to such office for traveling expenses. 22954

(B) The board of county commissioners shall approve or 22955
disapprove any travel outside this state if the travel expenses 22956
will or may be in excess of one hundred dollars and will or may be 22957
paid for from funds in either of the delinquent tax and assessment 22958
collection ~~fund~~ funds created in section 321.261 of the Revised 22959
Code or the real estate assessment fund created in section 325.31 22960
of the Revised Code. The head of the county office seeking 22961
approval shall apply to the board in writing showing the necessity 22962
of the travel and the probable costs to the county from either ~~the~~ 22963
delinquent tax and assessment collection fund or from the real 22964
estate assessment fund. If the travel is requested by a county 22965
auditor, and the board does not approve the travel, the auditor 22966
may not apply to the tax commissioner pursuant to section 5713.01 22967
of the Revised Code for an additional allowance for such travel. 22968

Sec. 340.02. As used in this section, "mental health professional" means a person who is qualified to work with mentally ill persons, pursuant to standards established by the director of mental health under section 5119.611 of the Revised Code.

For each alcohol, drug addiction, and mental health service district, there shall be appointed a board of alcohol, drug addiction, and mental health services of eighteen members. Nine members shall be interested in mental health programs and facilities and nine other members shall be interested in alcohol or drug addiction programs. All members shall be residents of the service district. The membership shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex.

The director of mental health shall appoint four members of the board, the director of alcohol and drug addiction services shall appoint four members, and the board of county commissioners shall appoint ten members. In a joint-county district, the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

The director of mental health shall ensure that at least one member of the board is a psychiatrist and one member of the board is a mental health professional. If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a

resident of the service district and appoint a psychiatrist or 23000
licensed physician from a contiguous county. The director of 23001
mental health shall ensure that at least one member of the board 23002
is a person who has received or is receiving mental health 23003
services paid for by public funds and at least one member is a 23004
parent or other relative of such a person. 23005

The director of alcohol and drug addiction services shall 23006
ensure that at least one member of the board is a professional in 23007
the field of alcohol or drug addiction services and one member of 23008
the board is an advocate for persons receiving treatment for 23009
alcohol or drug addiction. Of the members appointed by the 23010
director of alcohol and drug addiction services, at least one 23011
shall be a person who has received or is receiving services for 23012
alcohol or drug addiction, and at least one shall be a parent or 23013
other relative of such a person. 23014

No member or employee of a board of alcohol, drug addiction, 23015
and mental health services shall serve as a member of the board of 23016
any agency with which the board of alcohol, drug addiction, and 23017
mental health services has entered into a contract for the 23018
provision of services or facilities. No member of a board of 23019
alcohol, drug addiction, and mental health services shall be an 23020
employee of any agency with which the board has entered into a 23021
contract for the provision of services or facilities, unless the 23022
board member's employment duties with the agency consist of 23023
providing, only outside the district the board serves, services 23024
for which the medicaid program pays. No person shall be an 23025
employee of a board and such an agency unless the board and agency 23026
both agree in writing. 23027

No person shall serve as a member of the board of alcohol, 23028
drug addiction, and mental health services whose spouse, child, 23029
parent, brother, sister, grandchild, stepparent, stepchild, 23030
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 23031

daughter-in-law, brother-in-law, or sister-in-law serves as a 23032
member of the board of any agency with which the board of alcohol, 23033
drug addiction, and mental health services has entered into a 23034
contract for the provision of services or facilities. No person 23035
shall serve as a member or employee of the board whose spouse, 23036
child, parent, brother, sister, stepparent, stepchild, 23037
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 23038
daughter-in-law, brother-in-law, or sister-in-law serves as a 23039
county commissioner of a county or counties in the alcohol, drug 23040
addiction, and mental health service district. 23041

Each year each board member shall attend at least one 23042
inservice training session provided or approved by the department 23043
of mental health or the department of alcohol and drug addiction 23044
services. Such training sessions shall not be considered to be 23045
regularly scheduled meetings of the board. 23046

Each member shall be appointed for a term of four years, 23047
commencing the first day of July, except that one-third of initial 23048
appointments to a newly established board, and to the extent 23049
possible to expanded boards, shall be for terms of two years, 23050
one-third of initial appointments shall be for terms of three 23051
years, and one-third of initial appointments shall be for terms of 23052
four years. No member shall serve more than two consecutive 23053
four-year terms. A member may serve for three consecutive terms 23054
only if one of the terms is for less than two years. A member who 23055
has served two consecutive four-year terms or three consecutive 23056
terms totaling less than ten years is eligible for reappointment 23057
one year following the end of the second or third term, 23058
respectively. 23059

When a vacancy occurs, appointment for the expired or 23060
unexpired term shall be made in the same manner as an original 23061
appointment. The appointing authority shall be notified by 23062
certified mail of any vacancy and shall fill the vacancy within 23063

sixty days following that notice. 23064

Any member of the board may be removed from office by the 23065
appointing authority for neglect of duty, misconduct, or 23066
malfeasance in office, and shall be removed by the appointing 23067
authority if the ~~member's spouse, child, parent, brother, sister,~~ 23068
~~stepparent, stepchild, stepbrother, stepsister, father-in-law,~~ 23069
~~mother-in-law, son-in-law, daughter-in-law, brother-in-law, or~~ 23070
~~sister-in-law serves as a county commissioner of a county or~~ 23071
~~counties in the service district or serves as a member or employee~~ 23072
~~of the board of an agency with which the board of alcohol, drug~~ 23073
~~addiction, and mental health services has entered a contract for~~ 23074
~~the provision of services or facilities~~ member is barred by this 23075
section from serving as a board member. The member shall be 23076
informed in writing of the charges and afforded an opportunity for 23077
a hearing. Upon the absence of a member within one year from 23078
either four board meetings or from two board meetings without 23079
prior notice, the board shall notify the appointing authority, 23080
which may vacate the appointment and appoint another person to 23081
complete the member's term. 23082

Members of the board shall serve without compensation, but 23083
shall be reimbursed for actual and necessary expenses incurred in 23084
the performance of their official duties, as defined by rules of 23085
the departments of mental health and alcohol and drug addiction 23086
services. 23087

Sec. 340.03. (A) Subject to rules issued by the director of 23088
mental health after consultation with relevant constituencies as 23089
required by division ~~(A)(11)~~(L) of section 5119.06 of the Revised 23090
Code, with regard to mental health services, the board of alcohol, 23091
drug addiction, and mental health services shall: 23092

(1) Serve as the community mental health planning agency for 23093
the county or counties under its jurisdiction, and in so doing it 23094

shall: 23095

(a) Evaluate the need for facilities and community mental health services; 23096
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(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services; 23098
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(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, annually develop and submit to the department of mental health, ~~no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire,~~ a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs. 23103
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The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to make available. The board must include crisis intervention services for individuals in an emergency situation in the plan and explain how the board intends to make such services available. The plan must also include ~~an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code,~~ a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of 23117
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residential facilities needed, such other information as the 23127
department requests, and a budget for moneys the board expects to 23128
receive. ~~The board shall also submit an allocation request for~~ 23129
~~state and federal funds. Within sixty days after the department's~~ 23130
~~determination that the plan and allocation request are complete,~~ 23131
the department shall approve or disapprove the plan ~~and request,~~ 23132
in whole or in part, according to the criteria developed pursuant 23133
to section 5119.61 of the Revised Code. The department's statement 23134
of approval or disapproval shall specify the inpatient and the 23135
community-based services that the department will operate for the 23136
board. Eligibility for state and federal funding shall be 23137
contingent upon an approved plan or relevant part of a plan. 23138

~~If the director disapproves all or part of any plan, the~~ 23139
~~director shall inform the board of the reasons for the disapproval~~ 23140
~~and of the criteria that must be met before the plan may be~~ 23141
~~approved. The director shall provide the board an opportunity to~~ 23142
~~present its case on behalf of the plan. The director shall give~~ 23143
~~the board a reasonable time in which to meet the criteria, and~~ 23144
~~shall offer the board technical assistance to help it meet the~~ 23145
~~criteria.~~ 23146

~~If the approval of a plan remains in dispute thirty days~~ 23147
~~prior to the conclusion of the fiscal year in which the board's~~ 23148
~~current plan is scheduled to expire, the board or the director may~~ 23149
~~request that the dispute be submitted to a mutually agreed upon~~ 23150
~~third party mediator with the cost to be shared by the board and~~ 23151
~~the department. The mediator shall issue to the board and the~~ 23152
~~department recommendations for resolution of the dispute. Prior to~~ 23153
~~the conclusion of the fiscal year in which the current plan is~~ 23154
~~scheduled to expire, the director, taking into consideration the~~ 23155
~~recommendations of the mediator, shall make a final determination~~ 23156
~~and approve or disapprove the plan, in whole or in part.~~ 23157

If a board determines that it is necessary to amend a plan or 23158

an allocation request that has been approved under division 23159
(A)(1)(c) of this section, the board shall submit a proposed 23160
amendment to the director. The director may approve or disapprove 23161
all or part of the amendment. ~~If the director does not approve all~~ 23162
~~or part of the amendment within thirty days after it is submitted,~~ 23163
~~the amendment or part of it shall be considered to have been~~ 23164
~~approved.~~ The director shall inform the board of the reasons for 23165
disapproval of all or part of an amendment and of the criteria 23166
that must be met before the amendment may be approved. The 23167
director shall provide the board an opportunity to present its 23168
case on behalf of the amendment. The director shall give the board 23169
a reasonable time in which to meet the criteria, and shall offer 23170
the board technical assistance to help it meet the criteria. 23171

The board shall implement the plan approved by the 23172
department. 23173

~~(d) Receive, compile, and transmit to the department of~~ 23174
~~mental health applications for state reimbursement;~~ 23175

~~(e) Promote, arrange, and implement working agreements with~~ 23176
~~social agencies, both public and private, and with judicial~~ 23177
~~agencies.~~ 23178

(2) Investigate, or request another agency to investigate, 23179
any complaint alleging abuse or neglect of any person receiving 23180
services from a community mental health agency as defined in 23181
section 5122.01 of the Revised Code, or from a residential 23182
facility licensed under section 5119.22 of the Revised Code. If 23183
the investigation substantiates the charge of abuse or neglect, 23184
the board shall take whatever action it determines is necessary to 23185
correct the situation, including notification of the appropriate 23186
authorities. Upon request, the board shall provide information 23187
about such investigations to the department. 23188

(3) For the purpose of section 5119.611 of the Revised Code, 23189

cooperate with the director of mental health in visiting and 23190
evaluating whether the services of a community mental health 23191
agency satisfy the certification standards established by rules 23192
adopted under that section; 23193

(4) In accordance with criteria established under division 23194
~~(G)~~(E) of section 5119.61 of the Revised Code, review and evaluate 23195
the quality, effectiveness, and efficiency of services provided 23196
through its community mental health plan and submit its findings 23197
and recommendations to the department of mental health; 23198

(5) In accordance with section 5119.22 of the Revised Code, 23199
review applications for residential facility licenses and 23200
recommend to the department of mental health approval or 23201
disapproval of applications; 23202

~~(6) Audit, in accordance with rules adopted by the auditor of 23203
state pursuant to section 117.20 of the Revised Code, at least 23204
annually all programs and services provided under contract with 23205
the board. In so doing, the board may contract for or employ the 23206
services of private auditors. A copy of the fiscal audit report 23207
shall be provided to the director of mental health, the auditor of 23208
state, and the county auditor of each county in the board's 23209
district. 23210~~

~~(7)~~ Recruit and promote local financial support for mental 23211
health programs from private and public sources; 23212

~~(8)~~(7)(a) Enter into contracts with public and private 23213
facilities for the operation of facility services included in the 23214
board's community mental health plan and enter into contracts with 23215
public and private community mental health agencies for the 23216
provision of community mental health services that are listed in 23217
section 340.09 of the Revised Code and included in the board's 23218
community mental health plan. The board may not contract with a 23219
community mental health agency to provide community mental health 23220

services included in the board's community mental health plan 23221
unless the services are certified by the director of mental health 23222
under section 5119.611 of the Revised Code. Section 307.86 of the 23223
Revised Code does not apply to contracts entered into under this 23224
division. In contracting with a community mental health agency, a 23225
board shall consider the cost effectiveness of services provided 23226
by that agency and the quality and continuity of care, and may 23227
review cost elements, including salary costs, of the services to 23228
be provided. A utilization review process shall be established as 23229
part of the contract for services entered into between a board and 23230
a community mental health agency. The board may establish this 23231
process in a way that is most effective and efficient in meeting 23232
local needs. ~~In the case of~~ Until July 1, 2012, a contract with a 23233
community mental health agency or facility, as defined in section 23234
5111.023 of the Revised Code, to provide services listed in 23235
division (B) of that section, ~~the contract~~ shall provide for the 23236
agency or facility to be paid in accordance with the contract 23237
entered into between the departments of job and family services 23238
and mental health under section 5111.91 of the Revised Code and 23239
any rules adopted under division (A) of section 5119.61 of the 23240
Revised Code. 23241

If either the board or a facility or community mental health 23242
agency with which the board contracts under division (A)~~(8)~~(7)(a) 23243
of this section proposes not to renew the contract or proposes 23244
substantial changes in contract terms, the other party shall be 23245
given written notice at least one hundred twenty days before the 23246
expiration date of the contract. During the first sixty days of 23247
this one hundred twenty-day period, both parties shall attempt to 23248
resolve any dispute through good faith collaboration and 23249
negotiation in order to continue to provide services to persons in 23250
need. If the dispute has not been resolved sixty days before the 23251
expiration date of the contract, either party may ~~notify the~~ 23252
~~department of mental health of the unresolved dispute. The~~ 23253

~~director may require request that both parties to submit the 23254
dispute to a third party with the cost to be shared by the board 23255
and the facility or community mental health agency. The third 23256
party shall issue to the board, the and facility or agency, and 23257
the department recommendations on how the dispute may be resolved 23258
twenty days prior to the expiration date of the contract, unless 23259
both parties agree to a time extension. The director shall adopt 23260
rules establishing the procedures of this dispute resolution 23261
process. 23262~~

(b) With the prior approval of the director of mental health, 23263
a board may operate a facility or provide a community mental 23264
health service as follows, if there is no other qualified private 23265
or public facility or community mental health agency that is 23266
immediately available and willing to operate such a facility or 23267
provide the service: 23268

(i) In an emergency situation, any board may operate a 23269
facility or provide a community mental health service in order to 23270
provide essential services for the duration of the emergency; 23271

(ii) In a service district with a population of at least one 23272
hundred thousand but less than five hundred thousand, a board may 23273
operate a facility or provide a community mental health service 23274
for no longer than one year; 23275

(iii) In a service district with a population of less than 23276
one hundred thousand, a board may operate a facility or provide a 23277
community mental health service for no longer than one year, 23278
except that such a board may operate a facility or provide a 23279
community mental health service for more than one year with the 23280
prior approval of the director and the prior approval of the board 23281
of county commissioners, or of a majority of the boards of county 23282
commissioners if the district is a joint-county district. 23283

The director shall not give a board approval to operate a 23284

facility or provide a community mental health service under 23285
division (A)~~(8)~~(7)(b)(ii) or (iii) of this section unless the 23286
director determines that it is not feasible to have the department 23287
operate the facility or provide the service. 23288

The director shall not give a board approval to operate a 23289
facility or provide a community mental health service under 23290
division (A)~~(8)~~(7)(b)(iii) of this section unless the director 23291
determines that the board will provide greater administrative 23292
efficiency and more or better services than would be available if 23293
the board contracted with a private or public facility or 23294
community mental health agency. 23295

The director shall not give a board approval to operate a 23296
facility previously operated by a person or other government 23297
entity unless the board has established to the director's 23298
satisfaction that the person or other government entity cannot 23299
effectively operate the facility or that the person or other 23300
government entity has requested the board to take over operation 23301
of the facility. The director shall not give a board approval to 23302
provide a community mental health service previously provided by a 23303
community mental health agency unless the board has established to 23304
the director's satisfaction that the agency cannot effectively 23305
provide the service or that the agency has requested the board 23306
take over providing the service. 23307

The director shall review and evaluate a board's operation of 23308
a facility and provision of community mental health service under 23309
division (A)~~(8)~~(7)(b) of this section. 23310

Nothing in division (A)~~(8)~~(7)(b) of this section authorizes a 23311
board to administer or direct the daily operation of any facility 23312
or community mental health agency, but a facility or agency may 23313
contract with a board to receive administrative services or staff 23314
direction from the board under the direction of the governing body 23315
of the facility or agency. 23316

(9) (8) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;	23317 23318 23319 23320 23321 23322
(10) (9) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;	23323 23324 23325 23326
(11) (10) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:	23327 23328 23329 23330 23331 23332
(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;	23333 23334
(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;	23335 23336 23337
(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;	23338 23339 23340
(d) Emergency services and crisis intervention;	23341
(e) Assistance for clients to obtain vocational services and opportunities for jobs;	23342 23343
(f) The provision of services designed to develop social, community, and personal living skills;	23344 23345
(g) Access to a wide range of housing and the provision of	23346

residential treatment and support;	23347
(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;	23348 23349 23350
(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;	23351 23352 23353 23354 23355
(j) Grievance procedures and protection of the rights of consumers of mental health services;	23356 23357
(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.	23358 23359 23360
(12) <u>(11)</u> Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.	23361 23362 23363 23364 23365 23366 23367 23368 23369 23370 23371 23372 23373 23374
(13) <u>(12)</u> Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate	23375 23376 23377

division of the court of common pleas in determining whether there 23378
is probable cause that a respondent is subject to involuntary 23379
hospitalization and what alternative treatment is available and 23380
appropriate, if any; 23381

~~(14)~~(13) Ensure that apartments or rooms built, subsidized, 23382
renovated, rented, owned, or leased by the board or a community 23383
mental health agency have been approved as meeting minimum fire 23384
safety standards and that persons residing in the rooms or 23385
apartments are receiving appropriate and necessary services, 23386
including culturally relevant services, from a community mental 23387
health agency. This division does not apply to residential 23388
facilities licensed pursuant to section 5119.22 of the Revised 23389
Code. 23390

~~(15)~~(14) Establish a mechanism for involvement of consumer 23391
recommendation and advice on matters pertaining to mental health 23392
services in the alcohol, drug addiction, and mental health service 23393
district; 23394

~~(16)~~(15) Perform the duties under section ~~3722.18~~ 5119.88 of 23395
the Revised Code required by rules adopted under section 5119.61 23396
of the Revised Code regarding referrals by the board or mental 23397
health agencies under contract with the board of individuals with 23398
mental illness or severe mental disability to adult care 23399
facilities and effective arrangements for ongoing mental health 23400
services for the individuals. The board is accountable in the 23401
manner specified in the rules for ensuring that the ongoing mental 23402
health services are effectively arranged for the individuals. 23403

(B) The board shall establish such rules, operating 23404
procedures, standards, and bylaws, and perform such other duties 23405
as may be necessary or proper to carry out the purposes of this 23406
chapter. 23407

(C) A board of alcohol, drug addiction, and mental health 23408

services may receive by gift, grant, devise, or bequest any 23409
moneys, lands, or property for the benefit of the purposes for 23410
which the board is established, and may hold and apply it 23411
according to the terms of the gift, grant, or bequest. All money 23412
received, including accrued interest, by gift, grant, or bequest 23413
shall be deposited in the treasury of the county, the treasurer of 23414
which is custodian of the alcohol, drug addiction, and mental 23415
health services funds to the credit of the board and shall be 23416
available for use by the board for purposes stated by the donor or 23417
grantor. 23418

(D) No board member or employee of a board of alcohol, drug 23419
addiction, and mental health services shall be liable for injury 23420
or damages caused by any action or inaction taken within the scope 23421
of the board member's official duties or the employee's 23422
employment, whether or not such action or inaction is expressly 23423
authorized by this section, section 340.033, or any other section 23424
of the Revised Code, unless such action or inaction constitutes 23425
willful or wanton misconduct. Chapter 2744. of the Revised Code 23426
applies to any action or inaction by a board member or employee of 23427
a board taken within the scope of the board member's official 23428
duties or employee's employment. For the purposes of this 23429
division, the conduct of a board member or employee shall not be 23430
considered willful or wanton misconduct if the board member or 23431
employee acted in good faith and in a manner that the board member 23432
or employee reasonably believed was in or was not opposed to the 23433
best interests of the board and, with respect to any criminal 23434
action or proceeding, had no reasonable cause to believe the 23435
conduct was unlawful. 23436

(E) The meetings held by any committee established by a board 23437
of alcohol, drug addiction, and mental health services shall be 23438
considered to be meetings of a public body subject to section 23439
121.22 of the Revised Code. 23440

Sec. 340.033. (A) The board of alcohol, drug addiction, and 23441
mental health services shall serve as the planning agency for 23442
alcohol and drug addiction services for the county or counties in 23443
its service district. In accordance with procedures and guidelines 23444
established by the department of alcohol and drug addiction 23445
services, the board shall do all of the following: 23446

(1) Assess alcohol and drug addiction service needs and 23447
evaluate the need for alcohol and drug addiction programs; 23448

(2) According to the needs determined under division (A)(1) 23449
of this section, set priorities and develop plans for the 23450
operation of alcohol and drug addiction programs in cooperation 23451
with other local and regional planning and funding bodies and with 23452
relevant ethnic organizations; 23453

(3) Submit the plan for alcohol and drug addiction services 23454
required by section 3793.05 of the Revised Code to the department 23455
and implement the plan as approved by the department; 23456

(4) Provide to the department information to be included in 23457
the information system or systems established by the department 23458
under section 3793.04 of the Revised Code; 23459

(5) Enter into contracts with alcohol and drug addiction 23460
programs for the provision of alcohol and drug addiction services; 23461

(6) Review and evaluate alcohol and drug addiction programs 23462
in the district, ~~and conduct program audits;~~ 23463

(7) Prepare and submit to the department an annual report of 23464
the alcohol and drug addiction programs in the district; 23465

(8) Receive, compile, and transmit to the department 23466
applications for funding; 23467

(9) Promote, arrange, and implement working agreements with 23468
public and private social agencies and with judicial agencies; 23469

(10) Investigate, or request another agency to investigate, 23470
any complaint alleging abuse or neglect of any person receiving 23471
services from an alcohol or drug addiction program; 23472

(11) Establish a mechanism for the involvement of persons 23473
receiving services in, and obtaining their advice on, matters 23474
pertaining to alcohol or drug addiction services; 23475

(12) Recruit and promote local financial support, from 23476
private and public sources, for alcohol and drug addiction 23477
programs; 23478

(13) Approve fee schedules and related charges, adopt a unit 23479
cost schedule, or adopt other methods of payment for services 23480
provided by programs under contract pursuant to division (A)(5) of 23481
this section, in accordance with guidelines established by the 23482
department under section 3793.04 of the Revised Code. 23483

~~(B) In accordance with rules adopted by the auditor of state 23484
pursuant to section 117.20 of the Revised Code, at least annually 23485
the board shall audit all alcohol and drug addiction programs 23486
provided under contract with the board. The board may contract 23487
with private auditors for the performance of these audits. A copy 23488
of the fiscal audit report shall be provided to the director of 23489
alcohol and drug addiction services, the auditor of state, and the 23490
county auditor of each county in the board's district. 23491~~

~~(C) In contracting with a program under division (A)(5) of 23492
this section, a board shall consider the cost effectiveness of 23493
services provided by the program and the program's quality and 23494
continuity of care. The board may review cost elements, including 23495
salary costs, of the services provided by the program. 23496~~

A utilization review process shall be established as part of 23497
the contract for services. The board may establish this process in 23498
any way that it considers to be the most effective and efficient 23499
in meeting local needs. 23500

~~(D)~~(C) If either the board or a program with which it 23501
contracts pursuant to division (A)(5) of this section proposes not 23502
to renew the contract or proposes substantial changes in contract 23503
terms on renewal of the contract, it shall give the other party to 23504
the contract written notice at least one hundred twenty days 23505
before the expiration date of the contract. During the first sixty 23506
days of this period, both parties shall attempt to resolve any 23507
dispute through good faith collaboration and negotiation in order 23508
that services to persons in need will be continued. If the dispute 23509
is not resolved during this time, either party may notify the 23510
department of alcohol and drug addiction services. The department 23511
may require both parties to submit the dispute to a mutually 23512
agreed upon third party with the cost to be shared by the board 23513
and the program. At least twenty days before the expiration of the 23514
contract, unless the board and the program agree to an extension, 23515
the third party shall issue to the board, program, and department, 23516
its recommendations for resolution of the dispute. 23517

The department shall adopt rules pursuant to Chapter 119. of 23518
the Revised Code establishing procedures for this dispute 23519
resolution process. 23520

~~(E)~~(D) Section 307.86 of the Revised Code does not apply to 23521
contracts entered into pursuant to division (A)(5) of this 23522
section. 23523

~~(F)~~(E)(1) With the prior approval of the department, a board 23524
of alcohol, drug addiction, and mental health services may operate 23525
an alcohol or drug addiction program as follows if there is no 23526
qualified program that is immediately available, willing to 23527
provide services, and able to obtain certification under Chapter 23528
3793. of the Revised Code: 23529

(a) In an emergency situation, any board may operate a 23530
program in order to provide essential services for the duration of 23531
the emergency; 23532

(b) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a program for no longer than one year;

(c) In a service district with a population of less than one hundred thousand, a board may operate a program for no longer than one year, except that such a board may operate a program for longer than one year with the prior approval of the department and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

(2) The department shall not give a board its approval to operate a program under division ~~(F)~~(E)(1)(c) of this section unless it determines that the board's program will provide greater administrative efficiency and more or better services than would be available if the board contracted with a program for provision of the services.

(3) The department shall not give a board its approval to operate a program previously operated by a public or private entity unless the board has established to the department's satisfaction that the entity cannot effectively operate the program, or that the entity has requested the board to take over operation of the program.

(4) The department shall review and evaluate the operation of each program operated by a board under this division.

(5) Nothing in this division authorizes a board to administer or direct the daily operation of any program other than a program operated by the board under this division, but a program may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the program.

~~(G)~~(F) If an investigation conducted pursuant to division

(A)(10) of this section substantiates a charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. On request, the board shall provide information about such investigations to the department.

~~(H)~~(G) When the board sets priorities and develops plans for the operation of alcohol and drug addiction programs under division (A)(2) of this section, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give a priority to those services, except that those services shall not have priority over services provided to pregnant women under programs developed in relation to the mandate established in section 3793.15 of the Revised Code. The plans shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

Sec. 340.05. A community mental health agency that receives a complaint under section ~~3722.17~~ 5119.87 of the Revised Code alleging abuse or neglect of an individual with mental illness or severe mental disability who resides in an adult care facility shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community mental health agency of such a complaint shall report the complaint to the director of mental health for the purpose of the director conducting an investigation under section ~~3722.17~~ 5119.87 of the Revised Code. The board may enter the adult care facility with or without the director and, if the health and

safety of a resident is in immediate danger, take any necessary 23596
action to protect the resident. The board's action shall not 23597
violate any resident's rights under section ~~3722.12~~ 5119.81 of the 23598
Revised Code and rules adopted by the ~~public health council~~ 23599
department of mental health under ~~that chapter~~ sections 5119.70 to 23600
5119.88 of the Revised Code. The board shall immediately report to 23601
the director regarding the board's actions under this section. 23602

Sec. 340.091. Each board of alcohol, drug addiction, and 23603
mental health services shall contract with a community mental 23604
health agency under division (A)~~(8)~~(7)(a) of section 340.03 of the 23605
Revised Code for the agency to do all of the following in 23606
accordance with rules adopted under section 5119.61 of the Revised 23607
Code for an individual referred to the agency under division 23608
(C)(2) of section ~~173.35~~ 5119.69 of the Revised Code: 23609

(A) Assess the individual to determine whether to recommend 23610
that a ~~PASSPORT~~ residential state supplement administrative agency 23611
designated under section 5119.69 of the Revised Code determine 23612
that the environment in which the individual will be living while 23613
receiving residential state supplement payments is appropriate for 23614
the individual's needs and, if it determines the environment is 23615
appropriate, issue the recommendation to the ~~PASSPORT~~ residential 23616
state supplement administrative agency; 23617

(B) Provide ongoing monitoring to ensure that services 23618
provided under section 340.09 of the Revised Code are available to 23619
the individual; 23620

(C) Provide discharge planning to ensure the individual's 23621
earliest possible transition to a less restrictive environment. 23622

Sec. 340.11. ~~(A)~~ A board of alcohol, drug addiction, and 23623
mental health services may procure a policy or policies of 23624
insurance insuring board members or employees of the board or 23625

agencies with which the board contracts against liability arising 23626
from the performance of their official duties. If the liability 23627
insurance is unavailable or the amount a board has procured or is 23628
able to procure is insufficient to cover the amount of a claim, 23629
the board may indemnify a board member or employee as follows: 23630

~~(1)~~(A) For any action or inaction in ~~his~~ the capacity ~~as a~~ of 23631
board member or employee or at the request of the board, whether 23632
or not the action or inaction is expressly authorized by this or 23633
any other section of the Revised Code, if: 23634

~~(a)~~(1) The board member or employee acted in good faith and 23635
in a manner that ~~he~~ the board member or employee reasonably 23636
believed was in or was not opposed to the best interests of the 23637
board; and 23638

~~(b)~~(2) With respect to any criminal action or proceeding, the 23639
board member or employee had no reason to believe ~~his~~ the board 23640
member's or employee's conduct was unlawful. 23641

~~(2)~~(B) Against any expenses, including attorneys' fees, the 23642
board member or employee actually and reasonably incurs as a 23643
result of a suit or other proceeding involving the defense of any 23644
action or inaction in ~~his~~ the capacity ~~as a~~ of board member or 23645
employee or at the request of the board, or in defense of any 23646
claim, issue, or matter raised in connection with the defense of 23647
such an action or inaction, to the extent that the board member or 23648
employee is successful on the merits or otherwise. 23649

~~(B) The board may utilize up to that per cent of its budget 23650
as approved by the department of mental health to purchase 23651
insurance and to pool with funds of other boards of alcohol, drug 23652
addiction, and mental health services, as provided in division (E) 23653
of section 5119.62 of the Revised Code, to pay expenditures for 23654
utilization of state hospital facilities that exceed the amount 23655
allocated to the board under the formula developed under that 23656~~

~~section.~~ 23657

Sec. 341.192. (A) As used in this section: 23658

(1) "Jail" means a county jail, or a multicounty, municipal-county, or multicounty-municipal correctional center. 23659
23660

(2) "Medical assistance program" has the same meaning as in 23661
section 2913.40 of the Revised Code. 23662

~~(2)~~(3) "Medical provider" means a physician, hospital, 23663
laboratory, pharmacy, or other health care provider that is not 23664
employed by or under contract to a county, municipal corporation, 23665
township, the department of youth services, or the department of 23666
rehabilitation and correction to provide medical services to 23667
persons confined in ~~the county~~ a jail or a state correctional 23668
institution, or is in the custody of a law enforcement officer. 23669

~~(3)~~(4) "Necessary care" means medical care of a nonelective 23670
nature that cannot be postponed until after the period of 23671
confinement of a person who is confined in a ~~county~~ jail or a 23672
state correctional institution, or is in the custody of a law 23673
enforcement officer without endangering the life or health of the 23674
person. 23675

(B) If a physician employed by or under contract to a county, 23676
municipal corporation, township, the department of youth services, 23677
or the department of rehabilitation and correction to provide 23678
medical services to persons confined in ~~the county~~ a jail or state 23679
correctional institution determines that a person who is confined 23680
in the ~~county~~ jail or a state correctional institution or who is 23681
in the custody of a law enforcement officer prior to the person's 23682
confinement in ~~the county~~ a jail or a state correctional 23683
institution requires necessary care that the physician cannot 23684
provide, the necessary care shall be provided by a medical 23685
provider. The county, municipal corporation, township, the 23686

department of youth services, or the department of rehabilitation 23687
and correction shall pay a medical provider for necessary care an 23688
amount not exceeding the authorized reimbursement rate for the 23689
same service established by the department of job and family 23690
services under the medical assistance program. 23691

Sec. 343.08. (A) The board of county commissioners of a 23692
county solid waste management district and the board of directors 23693
of a joint solid waste management district may fix reasonable 23694
rates or charges to be paid by every person, municipal 23695
corporation, township, or other political subdivision that owns 23696
premises to which solid waste collection, storage, transfer, 23697
disposal, recycling, processing, or resource recovery service is 23698
provided by the district and may change the rates or charges 23699
whenever it considers it advisable. Charges for collection, 23700
storage, transfer, disposal, recycling, processing, or resource 23701
recovery service shall be made only against lots or parcels that 23702
are improved, or in the process of being improved, with at least 23703
one permanent, portable, or temporary building. The rates or 23704
charges may be collected by either of the following means: 23705

(1) Periodic billings made by the district directly or in 23706
conjunction with billings for public utility rates or charges by a 23707
county water district established under section 6103.02 of the 23708
Revised Code, a county sewer district established under section 23709
6117.02 of the Revised Code, or a municipal corporation or other 23710
political subdivision authorized by law to provide public utility 23711
service. When any such charges that are so billed are not paid, 23712
the board shall certify them to the county auditor of the county 23713
where the lots or parcels are located, who shall place them upon 23714
the real property duplicate against the property served by the 23715
collection, storage, transfer, disposal, recycling, processing, or 23716
resource recovery service. The charges shall be a lien on the 23717
property from the date they are placed upon the real property 23718

duplicate by the auditor and shall be collected in the same manner 23719
as other taxes. 23720

(2) Certifying the rates or charges to the county auditor of 23721
the county where the lots or parcels are located, who shall place 23722
them on the real property duplicate against the lots or parcels. 23723
The rates or charges are a lien on the property from the date they 23724
are placed upon the real property duplicate by the auditor and 23725
shall be collected in the same manner as other taxes. 23726

The county or joint district need not fix a rate or charge 23727
against property if the district does not operate a collection 23728
system. 23729

Where a county or joint district owns or operates a solid 23730
waste facility, either without a collection system or in 23731
conjunction therewith, the board of county commissioners or board 23732
of directors may fix reasonable rates or charges for the use of 23733
the facility by persons, municipal corporations, townships, and 23734
other political subdivisions, may contract with any public 23735
authority or person for the collection of solid wastes in any part 23736
of any district for collection, storage, disposal, transfer, 23737
recycling, processing, or resource recovery in any solid waste 23738
facility, or may lease the facility to any public authority or 23739
person. The cost of collection, storage, transfer, disposal, 23740
recycling, processing, or resource recovery under such contracts 23741
may be paid by rates or charges fixed and collected under this 23742
section or by rates and charges fixed under those contracts and 23743
collected by the contractors. 23744

All moneys collected by or on behalf of a county or joint 23745
district as rates or charges for solid waste collection, storage, 23746
transfer, disposal, recycling, processing, or resource recovery 23747
service in any district shall be paid to the county treasurer in a 23748
county district or to the county treasurer or other official 23749
designated by the board of directors in a joint district and kept 23750

in a separate and distinct fund to the credit of the district. The 23751
fund shall be used for the payment of the cost of the management, 23752
maintenance, and operation of the solid waste collection or other 23753
solid waste facilities of the district and, if applicable, the 23754
payment of the cost of collecting the rates or charges of the 23755
district pursuant to division (A)(1) or (2) of this section. Prior 23756
to the approval of the district's initial solid waste management 23757
plan under section 3734.55 of the Revised Code or the issuance of 23758
an order under that section requiring the district to implement an 23759
initial plan prepared by the director, as appropriate, the fund 23760
also may be used for the purposes of division (G)(1) or (3) of 23761
section 3734.57 of the Revised Code. On and after the approval of 23762
the district's initial plan under section 3734.521 or 3734.55 of 23763
the Revised Code or the issuance of an order under either of those 23764
sections, as appropriate, requiring the district to implement an 23765
initial plan prepared by the director, the fund also may be used 23766
for the purposes of divisions (G)(1) to (10) of section 3734.57 of 23767
the Revised Code. Those uses may include, in accordance with a 23768
cost allocation plan adopted under division (B) of this section, 23769
the payment of all allowable direct and indirect costs of the 23770
district, the sanitary engineer or sanitary engineering 23771
department, or a federal or state grant program, incurred for the 23772
purposes of this chapter and sections 3734.52 to 3734.572 of the 23773
Revised Code. Any surplus remaining after those uses of the fund 23774
may be used for the enlargement, modification, or replacement of 23775
such facilities and for the payment of the interest and principal 23776
on bonds and bond anticipation notes issued pursuant to section 23777
343.07 of the Revised Code. In no case shall money so collected be 23778
expended otherwise than for the use and benefit of the district. 23779

A board of county commissioners or directors, instead of 23780
operating and maintaining solid waste collection or other solid 23781
waste facilities of the district with county or joint district 23782
personnel, may enter into a contract with a municipal corporation 23783

having territory within the district pursuant to which the 23784
operation and maintenance of the facilities will be performed by 23785
the municipal corporation. 23786

The products of any solid waste collection or other solid 23787
waste facility owned under this chapter shall be sold through 23788
competitive bidding in accordance with section 307.12 of the 23789
Revised Code, except when a board of county commissioners or 23790
directors determines by resolution that it is in the public 23791
interest to sell those products in a commercially reasonable 23792
manner without competitive bidding. 23793

(B) A board of county commissioners or directors may adopt a 23794
cost allocation plan that identifies, accumulates, and distributes 23795
allowable direct and indirect costs that may be paid from the fund 23796
of the district created in division (A) of this section and 23797
prescribes methods for allocating those costs. The plan shall 23798
authorize payment from the fund for only those costs incurred by 23799
the district, the sanitary engineer or sanitary engineering 23800
department, or a federal or state grant program, and those costs 23801
incurred by the general and other funds of the county for a common 23802
or joint purpose, that are necessary and reasonable for the proper 23803
and efficient administration of the district under this chapter 23804
and sections 3734.52 to 3734.572 of the Revised Code. The plan 23805
shall not authorize payment from the fund of any general 23806
government expense required to carry out the overall governmental 23807
responsibilities of a county. The plan shall conform to United 23808
States office of management and budget Circular A-87 "Cost 23809
Principles for State and Local Governments," published January 15, 23810
1983. 23811

(C) A board of county commissioners or directors shall fix 23812
rates or charges, or enter into contracts fixing the rates or 23813
charges to be collected by the contractor, for solid waste 23814
collection, storage, transfer, disposal, recycling, processing, or 23815

resource recovery services at a public meeting held in accordance 23816
with section 121.22 of the Revised Code. In addition to fulfilling 23817
the requirements of section 121.22 of the Revised Code, the board, 23818
before fixing or changing rates or charges for solid waste 23819
collection, storage, transfer, disposal, recycling, processing, or 23820
resource recovery services, or before entering into a contract 23821
that fixes rates or charges to be collected by the contractor 23822
providing the services, shall hold at least three public hearings 23823
on the proposed rates, charges, or contract. Prior to the first 23824
public hearing, the board shall publish notice of the public 23825
hearings as provided in section 7.16 of the Revised Code or once a 23826
week for three consecutive weeks in a newspaper of general 23827
circulation in the county or counties that would be affected by 23828
the proposed rates, charges, or contract. The notice shall include 23829
a listing of the proposed rates or charges to be fixed and 23830
collected by the board or fixed pursuant to the contract and 23831
collected by the contractor, and the dates, time, and place of 23832
each of the three hearings thereon. The board shall hear any 23833
person who wishes to testify on the proposed rates, charges, or 23834
contract. 23835

Sec. 345.03. A copy of any resolution adopted under section 23836
345.01 of the Revised Code shall be certified within five days by 23837
the taxing authority and not later than four p. m. of the 23838
ninetieth day before the day of the election, to the county board 23839
of elections, and such board shall submit the proposal to the 23840
electors of the subdivision at the succeeding general election. 23841
The board shall make the necessary arrangements for the submission 23842
of such question to the electors of the subdivision, and the 23843
election shall be conducted, canvassed, and certified in like 23844
manner as regular elections in such subdivision. 23845

Notice of the election shall be published once in a newspaper 23846
of general circulation in the subdivision, ~~at least once~~, not less 23847

than two weeks prior to such election. The notice shall set out 23848
the purpose of the proposed increase in rate, the amount of the 23849
increase expressed in dollars and cents for each one hundred 23850
dollars of valuation as well as in mills for each one dollar of 23851
property valuation, the number of years during which such increase 23852
will be in effect, and the time and place of holding such 23853
election. 23854

Sec. 349.03. (A) Proceedings for the organization of a new 23855
community authority shall be initiated by a petition filed by the 23856
developer in the office of the clerk of the board of county 23857
commissioners of one of the counties in which all or part of the 23858
proposed new community district is located. Such petition shall be 23859
signed by the developer and may be signed by each proximate city. 23860
The legislative authorities of each such proximate city shall act 23861
in behalf of such city. Such petition shall contain: 23862

(1) The name of the proposed new community authority; 23863

(2) The address where the principal office of the authority 23864
will be located or the manner in which the location will be 23865
selected; 23866

(3) A map and a full and accurate description of the 23867
boundaries of the new community district together with a 23868
description of the properties within such boundaries, if any, 23869
which will not be included in the new community district. Unless 23870
the district is wholly contained within municipalities, the total 23871
acreage included in such district shall not be less than one 23872
thousand acres, all of which acreage shall be owned by, or under 23873
the control through leases of at least seventy-five years' 23874
duration, options, or contracts to purchase, of the developer, if 23875
the developer is a private entity. Such acreage shall be 23876
developable as one functionally interrelated community. In the 23877
case of a new community authority established on or after the 23878

effective date of this amendment and before January 1, 2012, such 23879
leases may be of not less than forty years' duration, and the 23880
acreage may be developable so that the community is one 23881
functionally interrelated community. 23882

(4) A statement setting forth the zoning regulations proposed 23883
for zoning the area within the boundaries of the new community 23884
district for comprehensive development as a new community, and if 23885
the area has been zoned for such development, a certified copy of 23886
the applicable zoning regulations therefor; 23887

(5) A current plan indicating the proposed development 23888
program for the new community district, the land acquisition and 23889
land development activities, community facilities, services 23890
proposed to be undertaken by the new community authority under 23891
such program, the proposed method of financing such activities and 23892
services, including a description of the bases, timing, and manner 23893
of collecting any proposed community development charges, and the 23894
projected total residential population of, and employment within, 23895
the new community; 23896

(6) A suggested number of members, consistent with section 23897
349.04 of the Revised Code, for the board of trustees; 23898

(7) A preliminary economic feasibility analysis, including 23899
the area development pattern and demand, location and proposed new 23900
community district size, present and future socio-economic 23901
conditions, public services provision, financial plan, and the 23902
developer's management capability; 23903

(8) A statement that the development will comply with all 23904
applicable environmental laws and regulations. 23905

Upon the filing of such petition, the organizational board of 23906
commissioners shall determine whether such petition complies with 23907
the requirements of this section as to form and substance. The 23908
board in subsequent proceedings may at any time permit the 23909

petition to be amended in form and substance to conform to the 23910
facts by correcting any errors in the description of the proposed 23911
new community district or in any other particular. 23912

Upon the determination of the organizational board of 23913
commissioners that a sufficient petition has been filed in 23914
accordance with this section, the board shall fix the time and 23915
place of a hearing on the petition for the establishment of the 23916
proposed new community authority. Such hearing shall be held not 23917
less than ninety-five nor more than one hundred fifteen days after 23918
the petition filing date, except that if the petition has been 23919
signed by all proximate cities, such hearing shall be held not 23920
less than thirty nor more than forty-five days after the petition 23921
filing date. The clerk of the board of county commissioners with 23922
which the petition was filed shall give notice thereof by 23923
publication once each week for three consecutive weeks, or as 23924
provided in section 7.16 of the Revised Code, in a newspaper of 23925
general circulation in any county of which a portion is within the 23926
proposed new community district. Such clerk shall also give 23927
written notice of the date, time, and place of the hearing and 23928
furnish a certified copy of the petition to the clerk of the 23929
legislative authority of each proximate city which has not signed 23930
such petition. In the event that the legislative authority of a 23931
proximate city which did not sign the petition does not approve by 23932
ordinance, resolution, or motion the establishment of the proposed 23933
new community authority and does not deliver such ordinance, 23934
resolution, or motion to the clerk of the board of county 23935
commissioners with which the petition was filed within ninety days 23936
following the date of the first publication of the notice of the 23937
public hearing, the organizational board of commissioners shall 23938
cancel such public hearing and terminate the proceedings for the 23939
establishment of the new community authority. 23940

Upon the hearing, if the organizational board of 23941

commissioners determines by resolution that the proposed new 23942
community district will be conducive to the public health, safety, 23943
convenience, and welfare, and is intended to result in the 23944
development of a new community, the board shall by its resolution, 23945
entered of record in its journal and the journal of the board of 23946
county commissioners with which the petition was filed, declare 23947
the new community authority to be organized and a body politic and 23948
corporate with the corporate name designated in the resolution, 23949
and define the boundary of the new community district. In 23950
addition, the resolution shall provide the method of selecting the 23951
board of trustees of the new community authority and fix the 23952
surety for their bonds in accordance with section 349.04 of the 23953
Revised Code. 23954

If the organizational board of commissioners finds that the 23955
establishment of the district will not be conducive to the public 23956
health, safety, convenience, or welfare, or is not intended to 23957
result in the development of a new community, it shall reject the 23958
petition thereby terminating the proceedings for the establishment 23959
of the new community authority. 23960

(B) At any time after the creation of a new community 23961
authority, the developer may file an application with the clerk of 23962
the board of county commissioners of the county in which the 23963
original petition was filed, setting forth a general description 23964
of territory it desires to add or to delete from such district, 23965
that such change will be conducive to the public health, safety, 23966
convenience, and welfare, and will be consistent with the 23967
development of a new community and will not jeopardize the plan of 23968
the new community. If the developer is not a municipal 23969
corporation, port authority, or county, all of such an addition to 23970
such a district shall be owned by, or under the control through 23971
leases of at least seventy-five years' duration, options, or 23972
contracts to purchase, of the developer. In the case of a new 23973

community authority established on or after the effective date of 23974
this amendment and before January 1, 2012, such leases may be of 23975
not less than forty years' duration. Upon the filing of the 23976
application, the organizational board of commissioners shall 23977
follow the same procedure as required by this section in relation 23978
to the petition for the establishment of the proposed new 23979
community. 23980

(C) If all or any part of the new community district is 23981
annexed to one or more existing municipal corporations, their 23982
legislative authorities may appoint persons to replace any 23983
appointed citizen member of the board of trustees. The number of 23984
such trustees to be replaced by the municipal corporation shall be 23985
the number, rounded to the lowest integer, bearing the 23986
proportionate relationship to the number of existing appointed 23987
citizen members as the acreage of the new community district 23988
within such municipal corporation bears to the total acreage of 23989
the new community district. If any such municipal corporation 23990
chooses to replace an appointed citizen member, it shall do so by 23991
ordinance, the term of the trustee being replaced shall terminate 23992
thirty days from the date of passage of such ordinance, and the 23993
trustee to be replaced shall be determined by lot. Each newly 23994
appointed member shall assume the term of the member's 23995
predecessor. 23996

Sec. 353.01. For purposes of this chapter: 23997

(A) "Lake facilities authority" means a body corporate and 23998
politic created pursuant to section 353.02 of the Revised Code. 23999

(B) "Watershed" means a watershed as determined by the United 24000
States geological survey. 24001

(C) "Distressed watershed" means a watershed meeting all of 24002
the following conditions: 24003

(1) The last resolution necessary for the creation of a lake facilities authority under section 353.02 of the Revised Code is adopted before the end of the calendar year that includes the date that is two years after the director of natural resources designated the watershed as a "watershed in distress" pursuant to section 1511.02 of the Revised Code; 24004
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(2) The watershed contains a natural or man-made lake of at least one-half square mile that has experienced levels of microcystin toxins in excess of eighty parts-per-billion, as measured by the Ohio environmental protection agency, during the twenty-four month period immediately preceding the date the last resolution necessary for the creation of a lake facilities authority under section 353.02 of the Revised Code was adopted; 24010
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(3) The watershed is partially or completely located within a state park, as defined in section 154.01 of the Revised Code, that has averaged at least four hundred thousand visitors per year for the four calendar years preceding the calendar year in which the last resolution necessary for the creation of a lake facilities authority under section 353.02 of the Revised Code was adopted. 24017
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(D) "Impacted lake district" means the territory of all townships and municipal corporations having territory in a distressed watershed. 24023
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(E) "Cost" as applied to a lake facilities authority facility means the cost of acquisition or construction of the facility; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of acquiring or constructing and equipping a principal office of the lake facilities authority; the cost of diverting highways, interchange of highways, and access roads to private property, 24026
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including the cost of land or easements for the access roads, the 24036
cost of public utility and common carrier relocation or 24037
duplication, the cost of all machinery, furnishings, and 24038
equipment, financing charges, interest prior to and during any 24039
construction and for no more than eighteen months after completion 24040
of any construction; engineering; expenses of research and 24041
development with respect to an impacted lake district; legal 24042
expenses; expenses of developing or obtaining plans, 24043
specifications, engineering surveys, studies, and estimates of 24044
cost and revenues; expenses necessary or incident to determining 24045
the feasibility or practicability of acquiring or constructing the 24046
facility or remediating the impacted lake district; administrative 24047
expense; and such other expenses as may be necessary or incident 24048
to the acquisition or construction of the facility, the 24049
remediation of the impacted lake district and other activities 24050
authorized by this chapter, the financing of such acquisition, 24051
construction or remediation, including the amount authorized in 24052
the resolution of the lake facilities authority providing for the 24053
issuance of lake facilities authority revenue bonds to be paid 24054
into any special funds from the proceeds of such bonds and the 24055
financing of the placing of the facility in operation, the cost of 24056
issuing the bonds, and the financing of remediation and other 24057
purposes authorized by this chapter. 24058

(F) "Revenues" means all rentals and other charges received 24059
by the lake facilities authority with respect to a distressed 24060
watershed; any gift or grant received with respect to any 24061
distressed watershed; money received in repayment of, and for 24062
interest on, any loans made by the authority to a person or 24063
governmental agency, whether from the United States or any 24064
department, administration, or agency thereof, or otherwise; 24065
proceeds of lake facilities authority revenue bonds to the extent 24066
the use thereof for payment of principal or of premium, if any, or 24067
interest on the bonds is authorized by the authority; proceeds 24068

from any insurance, appropriation, or guaranty pertaining to a 24069
distressed watershed or property mortgaged to secure bonds or 24070
pertaining to the financing of any activities authorized under 24071
this chapter; income and profit from the investment of the 24072
proceeds of lake facilities authority revenue bonds or of any 24073
revenues; contributions of service payments in lieu of taxes 24074
generated pursuant to section 5709.40, 5709.41, 5709.73, or 24075
5709.78 of the Revised Code, and all other nontax revenues paid or 24076
payable to the lake facilities authority; and the proceeds of 24077
charges levied pursuant to section 353.06 of the Revised Code. 24078

(G) "Lake facilities revenue bonds," unless the context 24079
indicates a different meaning or intent, includes revenue notes, 24080
revenue renewal notes, and revenue refunding bonds. 24081

(H) "Authorized purpose" means activities that remediate, 24082
rehabilitate, enhance, foster, aid, improve, provide, or promote a 24083
distressed watershed within the jurisdiction of the lake 24084
facilities authority, including, without limitation, research and 24085
development efforts related thereto. 24086

(I) "Lake facilities authority facility" or "facility" means 24087
real or personal property, or any combination thereof owned, 24088
leased, or otherwise controlled or financed by a lake facilities 24089
authority and directly related to an authorized purpose. 24090

Sec. 353.02. A lake facilities authority may be created by 24091
the board of county commissioners of a county that contains all of 24092
the territory of a distressed watershed. If the territory of a 24093
distressed watershed is contained within more than one county, a 24094
joint facilities lake authority may be created by resolution of 24095
the board of commissioners of each county in which the distressed 24096
watershed is located. A resolution creating a lake facilities 24097
authority must include a finding that the watershed sought to be 24098
improved or remediated pursuant to this chapter is a distressed 24099

watershed. 24100

A lake facilities authority created pursuant to this section 24101
is a body corporate and politic which may sue and be sued, plead 24102
and be impleaded, and has the powers and jurisdiction enumerated 24103
in this chapter. The exercise by an authority of the powers 24104
conferred upon it shall be deemed to be essential governmental 24105
functions of this state. 24106

Within sixty days after the creation of a lake facilities 24107
authority, the county engineer of each county with territory in 24108
the distressed watershed shall prepare a survey denoting the 24109
boundaries of the distressed watershed in the county. The survey 24110
shall include references to the county auditor's permanent parcel 24111
number designations as those parcel number designations correspond 24112
to the boundaries of the distressed watershed. If requested by the 24113
county engineer of each county with territory in the distressed 24114
watershed, the cost of such surveys shall be paid from the funds 24115
of the lake facilities authority pursuant to an agreement between 24116
the lake facilities authority and the county engineer of each 24117
county. Such funds may be advanced by the board of county 24118
commissioners of any county with territory in the distressed 24119
watershed. 24120

The county auditor of the county with the greatest amount of 24121
territory in the distressed watershed shall be the fiscal officer 24122
for the lake facilities authority. The county prosecutor of the 24123
county with the greatest amount of territory in the distressed 24124
watershed shall be the legal advisor of the lake facilities 24125
authority and shall prosecute and defend all suits and actions 24126
that the lake facilities authority directs or to which it is a 24127
party. 24128

Upon the creation of a lake facilities authority, no 24129
authority that is granted by law any powers or duties that are 24130

substantially the same as the powers and duties of a lake 24131
facilities authority may be created if its territorial 24132
jurisdiction includes any territory within the impacted lake 24133
district. 24134

Sec. 353.03. A lake facilities authority may do all of the 24135
following: 24136

(A) Acquire by purchase, lease, gift, or otherwise, on such 24137
terms and in such manner as it considers proper, real and personal 24138
property necessary for an authorized purpose or any estate, 24139
interest, or right therein, within or without the impacted lake 24140
district; 24141

(B) Improve, remediate, maintain, sell, lease, or otherwise 24142
dispose of real and personal property on such terms and in such 24143
manner as it considers proper; 24144

(C) Adopt, modify, and enforce reasonable rules and 24145
regulations governing distressed watersheds; 24146

(D) Employ such managers, administrative officers, agents, 24147
engineers, architects, attorneys, contractors, subcontractors, and 24148
employees as may be appropriate in the exercise of the rights, 24149
powers, and duties conferred on it, prescribe the duties and 24150
compensation for such persons, require bonds to be given by any 24151
such persons and by officers of the authority for the faithful 24152
performance of their duties, and fix the amount and surety 24153
therefor, and pay the surety; 24154

(E) Sue and be sued in its corporate name; 24155

(F)(1) Make and enter into all contracts and agreements and 24156
execute all instruments relating to the provisions of this 24157
chapter; 24158

(2) Except as provided otherwise under division (F)(2) and 24159
(3) of this section, when the cost of a contract for the 24160

construction of any building, structure, or other improvement 24161
undertaken by a lake facilities authority involves an expenditure 24162
exceeding twenty-five thousand dollars, and the lake facilities 24163
authority is the contracting authority, the lake facilities 24164
authority shall make a written contract after notice calling for 24165
bids for the award of the contract has been given by publication 24166
twice, with at least seven days between publications, in a 24167
newspaper of general circulation in the impacted lake district. 24168
Each such contract shall be awarded to the lowest responsive and 24169
responsible bidder in accordance with section 9.312 of the Revised 24170
Code. The board of directors by rule may provide criteria for the 24171
negotiation and award without competitive bidding of any contract 24172
as to which the lake facilities authority is the contracting 24173
authority for the construction of any building or structure or 24174
other improvement under any of the following circumstances: 24175

(a) There exists a real and present emergency that threatens 24176
damage to property or injury to persons of the lake facilities 24177
authority or other persons, provided that a statement specifying 24178
the nature of the emergency that is the basis for the negotiation 24179
and award of a contract without competitive bidding shall be 24180
signed at the time of the contract's execution by the officer of 24181
the lake facilities authority that executes the contract and shall 24182
be attached to the contract; 24183

(b) A commonly recognized industry or other standard or 24184
specification does not exist and cannot objectively be articulated 24185
for the improvement; 24186

(c) The contract is for any energy conservation measure as 24187
defined in section 307.041 of the Revised Code; 24188

(d) With respect to material to be incorporated into the 24189
improvement, only a single source or supplier exists for the 24190
material; 24191

(e) A single bid is received by the lake facilities authority 24192
after complying with the above provisions; 24193

(3) In addition to the exceptions to competitive bidding 24194
requirements under division (F)(2) of this section, a lake 24195
facilities authority may contract for the acquisition or 24196
construction of any property for an authorized purpose and for the 24197
leasing, subleasing, sale, or other disposition of the property in 24198
a manner determined by the lake facilities authority in its sole 24199
discretion, without necessity for competitive bidding or 24200
performance bonds. 24201

(4) With respect to any public improvement undertaken by, or 24202
under contract for, the lake facilities authority, the authority 24203
may elect to apply sections 4115.03 to 4115.21 of the Revised 24204
Code. 24205

(G) Accept aid or contributions from any source of money, 24206
property, labor, or other things of value, to be held, used, and 24207
applied only for the purposes for which the grants and 24208
contributions are made; 24209

(H) Apply for and accept grants, loans, or commitments of 24210
guarantee or insurance, including any guarantees of lake 24211
facilities authority bonds and notes, from the United States, the 24212
state, or other public body or other sources, and provide any 24213
consideration which may be required in order to obtain such 24214
grants, loans, or contracts of guarantee or insurance; 24215

(I) Procure insurance against loss to the lake facilities 24216
authority by reason of damage to its properties resulting from 24217
fire, theft, accident, or other casualties, or by reason of its 24218
liability for any damages to persons or property occurring in the 24219
construction or operation of facilities or areas under its 24220
jurisdiction or the conduct of its activities; 24221

(J) Maintain such funds or reserves as it considers necessary 24222

for the efficient performance of its duties; 24223

(K)(1) Enforce any covenants, of which the lake facilities authority is the beneficiary, running with the land, including the collection of any lake facilities development charge deemed to be a covenant running with the land and enforceable by the lake facilities authority pursuant to section 353.06 of the Revised Code; 24224
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(2) Waive, reduce, or terminate any lake facilities development charge of which the lake facilities authority is the beneficiary, to the extent not needed for any of the purposes provided in section 353.06 of the Revised Code and to the extent a resolution authorizing the issuance of lake facilities authority revenue bonds or a trust agreement or indenture of mortgage securing the bonds does not prohibit such waiver, reduction, or termination. The procedure for any waiver, reduction, or termination shall be provided in the covenants. 24230
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(L) Appropriate for its use, under sections 163.01 to 163.22 of the Revised Code, any land, easement, rights, rights-of-way, franchises, or other property in the distressed watershed necessary for an authorized purpose; 24239
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(M) Issue securities for the remediation of a distressed watershed and directly related permanent improvements in compliance with Chapter 133. of the Revised Code, except that such bonds or notes may be issued only pursuant to a vote of the electors residing within the impacted lake district. The net indebtedness incurred by a lake facilities authority pursuant to this division may not exceed one-tenth of one per cent of the total value of all property within the territory comprising the impacted lake district as listed and assessed for taxation. 24243
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(N) Issue lake facilities authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from 24252
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revenues as provided in section 353.10 of the Revised Code for the 24254
purpose of providing funds to pay costs of any facility or 24255
facilities or parts thereof; 24256

(O) Advise and provide input to political subdivisions within 24257
the impacted lake district with respect to zoning and land use 24258
planning within the impacted lake district; 24259

(P) Enter into agreements for the management, ownership, 24260
possession, or control of lands or property to be used for wetland 24261
mitigation banking; 24262

(O) With the approval of the director of natural resources 24263
with respect to a state park, charge user fees within the 24264
distressed watershed, including, but not limited to, dock fees and 24265
campsite fees in amounts to be determined by the lake facilities 24266
authority in its sole discretion. 24267

Sec. 353.04. (A) Upon the creation of a lake facilities 24268
authority under section 353.02 of the Revised Code, a board of 24269
directors consisting of the county commissioners of each county 24270
with territory in the impacted lake district shall be created. 24271
Membership on the board is not a direct or indirect interest in a 24272
contract or expenditure of money by the county. Notwithstanding 24273
any provision of law to the contrary, no member of the board shall 24274
be disqualified from holding any public office or employment by 24275
reason of membership on the board. The board is a public body for 24276
the purposes of section 121.22 of the Revised Code and a public 24277
office for the purposes of section 149.43 of the Revised Code. 24278
Notwithstanding those sections, the board may hold closed meetings 24279
and protect the confidentiality of information under the same 24280
circumstances as authorized for a community improvement 24281
corporation under section 1724.11 of the Revised Code. Chapter 24282
2744. of the Revised Code applies to the board. Each year, the 24283
board shall prepare an annual report of its activities and make it 24284

available to the public. 24285

(B) A board of directors shall consult with the advisory 24286
council created under this division in performing the remediation 24287
and other activities authorized by this chapter. 24288

Not later than sixty days after the creation of the board of 24289
directors, the board shall provide written notice of its creation 24290
to the legislative authority of each political subdivision with 24291
territory in the impacted lake district. The notice shall describe 24292
the process for the appointment of an advisory council. Upon 24293
receipt of such notice, the legislative authority of each 24294
political subdivision with territory in the impacted lake district 24295
shall appoint one representative each to serve on the advisory 24296
council. The representative need not be an elected or appointed 24297
official of the political subdivision. 24298

Sec. 353.05. The board of directors of a lake facilities 24299
authority, by resolution, may propose the levy of a tax upon the 24300
taxable property in the impacted lake district pursuant to section 24301
5705.55 of the Revised Code. 24302

Sec. 353.06. (A) Upon the affirmative vote of at least a 24303
majority of the qualified electors in a primary or general 24304
election within the distressed watershed voting at an election 24305
held for the purpose of authorizing same, the board of directors 24306
of a lake facilities authority may, by resolution, levy a lake 24307
facilities development charge on property within the territory of 24308
the distressed watershed. The charge may be used for any costs 24309
authorized under this chapter. A charge levied under this section 24310
may not exceed one-half per cent of the true value of a parcel of 24311
real property as enhanced by the improvement for which the charge 24312
is levied. The true value shall be determined as of the date of 24313
the resolution adopted under this division. The term of the lake 24314

facilities development charge shall not exceed thirty years. The 24315
charge shall be apportioned to and levied on each tract of land or 24316
other property in the distressed watershed based on either of the 24317
following allocation methods: 24318

(1) The benefit conferred on property owners within the 24319
distressed watershed as a result of remediation activities and 24320
other capital expenditures occurring within the distressed 24321
watershed pursuant to this chapter; 24322

(2) The measurable pollution or other harm caused by the 24323
property owners within the distressed watershed. 24324

The lake facilities development charges authorized under this 24325
section shall be used for any and all costs authorized by this 24326
chapter. 24327

(B) The board of directors shall prepare a listing of the 24328
properties to be affected by the lake facilities development 24329
charge and the estimated amount of such charges. Not later than 24330
thirty days before the date of the primary or general election at 24331
which the electors will vote on the imposition of the charge, the 24332
listing shall be placed on file in the office of the lake 24333
facilities authority, and notice by publication shall be given to 24334
property owners to be assessed. Not earlier than thirty days after 24335
the approval of the charge by the electors, the board of directors 24336
shall provide property owners with a final assessment notice for 24337
the first year of the charge by mail. Any owner of real property 24338
assessed shall pay the first year of the charge to the treasurer 24339
of the lake facilities authority within thirty days after receipt 24340
of the final assessment notice. 24341

For the first year of the charge, after the expiration of the 24342
thirty-day period during which property owners shall pay the lake 24343
facilities development charges, a copy of that part of the charge 24344
record shall be filed with the county auditor of the county and 24345

placed on the tax list, and the charges shall be a lien upon the 24346
several parcels of land respectively from and after the date of 24347
the order of the board approving and levying the charge until it 24348
is paid. For all subsequent years, the charges shall be a lien 24349
upon the several parcels of land, and the county treasurer of the 24350
county shall collect the charges in the same manner and at the 24351
time as property taxes are collected, and shall pay the amounts 24352
collected, together with any interest and penalty, to the 24353
treasurer of the lake facilities authority. For the purpose of 24354
enforcing the charge, the county treasurer has the same power and 24355
authority as allowed by law for the collection of property taxes. 24356
The lien imposed under this division shall be treated in the same 24357
manner as taxes for the purposes of the lien described in section 24358
323.11 of the Revised Code, including the priority and enforcement 24359
of the lien and the collection of the charges secured by the lien. 24360

In the event the charge specified in this section is not paid 24361
within the time limits prescribed by this section, a penalty equal 24362
to ten per cent of the charge amount then due, plus interest 24363
charged at the rate provided under section 5703.47 of the Revised 24364
Code, shall be added to the balance of the charges due. 24365

The form of the ballot in an election held on the question of 24366
levying a charge proposed pursuant to this section shall be as 24367
follows or in any other form acceptable to the secretary of state: 24368

"A charge for the benefit of (name of lake facilities 24369
authority) for the purpose of to be based on 24370
..... (the benefit conferred on property owners within the 24371
distressed watershed as a result of remediation activities and 24372
other capital expenditures occurring within the distressed 24373
watershed or the measurable pollution or other harm caused by the 24374
property owners within the distressed watershed), but not to 24375
exceed 10 mills for each one dollar of valuation, for 24376
(number of years the charge is to run). 24377

	<u>For the Charge</u>	
	<u>Against the Charge</u>	"

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Sec. 353.07. As used in this section, "hotel" and "transient 24382
guests" have the same meanings as in section 5739.01 of the 24383
Revised Code, except that "transient guests" includes persons 24384
renting a private or public campground. 24385

A resolution creating a lake facilities authority under 24386
section 353.02 of the Revised Code, or any amendments or 24387
supplements thereto, may authorize the authority to levy an excise 24388
tax on transactions by which lodging in a hotel or rental of a 24389
private or public campground is or is to be furnished to transient 24390
guests to pay any costs authorized under this chapter; to pay 24391
principal, interest, and premium on lake facilities authority tax 24392
anticipation bonds issued to pay those costs; to pay the operating 24393
costs of the authority; and to pay the costs of administering the 24394
tax. 24395

Upon the affirmative vote of at least a majority of the 24396
qualified electors in a primary or general election within the 24397
impacted lake district voting at an election held for the purpose 24398
of authorizing the tax, the board of directors of a lake 24399
facilities authority authorized to levy a tax under this section 24400
may, by resolution, levy an additional excise tax within the 24401
territory of the impacted lake district on all transactions by 24402
which lodging in a hotel or rental of a private or public 24403
campground is or is to be furnished to transient guests. The rate 24404
of the tax, when added to the aggregate rate of excise taxes 24405
levied in the impacted lake district pursuant to section 351.021, 24406
5739.08, or 5739.09 of the Revised Code, shall not cause the total 24407
aggregate rate to exceed five per cent on any such transaction. 24408

The lake facilities authority shall provide for the 24409
administration and allocation of a tax levied pursuant to this 24410
section. All receipts arising from the tax shall be expended for 24411
the purposes provided in, and in accordance with, this section. An 24412
excise tax levied under this section shall remain in effect at the 24413
rate at which it is levied for at least the duration of the period 24414
for which the receipts from the tax have been anticipated and 24415
pledged pursuant to section 353.09 of the Revised Code. 24416

The form of the ballot in an election held on the question of 24417
levying a tax proposed pursuant to this section shall be as 24418
follows or in any other form acceptable to the secretary of state: 24419

"An excise tax on all transactions by which lodging in a 24420
hotel or rental of a private or public campground is or is to be 24421
furnished to transient guests within the territory of the (name of 24422
impacted lake district) for the purpose of 24423
at a rate of for (number of years the tax 24424
is to be levied). 24425

	<u>For the Excise Tax</u>	"
	<u>Against the Excise Tax</u>	

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Sec. 353.08. The director of natural resources may transfer 24429
real property owned by the state to a lake facilities authority 24430
for the purpose of promoting wetland banking, wildlife, or 24431
sporting activities. The division of wildlife within the 24432
department of natural resources may enter into an agreement with a 24433
lake facilities authority to establish wetland or natural areas to 24434
benefit wildlife or sporting activities. The agreement may be 24435
entered as part of, or in conjunction with, a mitigation banking 24436
program. 24437

Sec. 353.09. A lake facilities authority that levies the tax 24438

or development charge authorized by sections 353.05 and 5705.55 or 24439
section 353.06 of the Revised Code may, by resolution, anticipate 24440
the proceeds of the tax or charge and issue lake facilities 24441
authority anticipation bonds, and notes anticipating the proceeds 24442
or the bonds, in the principal amount that, in the opinion of the 24443
authority, are necessary for the purpose of paying the cost of an 24444
authorized purpose, and that the authority is able to pay over the 24445
term of the issue with the interest on the bonds or notes, or in 24446
the case of notes anticipating bonds over the term of the bonds, 24447
by the estimated amount of the taxes or charges anticipated. The 24448
taxes or charges are determined by the general assembly to satisfy 24449
any applicable requirement of Section 11 of Article XII, Ohio 24450
Constitution. 24451

Every issue of outstanding anticipation bonds shall be 24452
payable out of the proceeds of the taxes or charges anticipated 24453
and other revenues of the authority that are pledged for such 24454
payment. The pledge shall be valid and binding from the time the 24455
pledge is made, and the anticipated excise taxes, charges, and 24456
revenues so pledged and thereafter received by the authority 24457
immediately shall be subject to the lien of that pledge without 24458
any physical delivery of those taxes, charges, and revenues or 24459
further act. The lien of any pledge is valid and binding as 24460
against all parties having claims of any kind in tort, contract, 24461
or otherwise against the authority, whether or not such parties 24462
have notice of the lien. Neither the resolution nor any trust 24463
agreement by which a pledge is created need be filed or recorded 24464
except in the authority's records. 24465

The anticipation bonds shall bear such date or dates, and 24466
shall mature at such time or times, in the case of any such notes 24467
or any renewals of such notes not exceeding twenty years from the 24468
date of issue of such original notes and in the case of any such 24469
bonds or any refunding bonds not exceeding forty years from the 24470

date of the original issue of notes or bonds for the purpose, and 24471
shall be executed in the manner that the resolution authorizing 24472
the bonds may provide. The anticipation bonds shall bear interest 24473
at such rates, or at variable rate or rates changing from time to 24474
time, in accordance with provisions provided in the authorizing 24475
resolution, be in such denominations and form, either coupon or 24476
registered, carry such registration privileges, be payable in such 24477
medium of payment and at such place or places, and be subject to 24478
such terms of redemption, as the authority may authorize or 24479
provide. 24480

Sec. 353.10. A lake facilities authority at any time may 24481
issue lake facilities authority revenue bonds in such principal 24482
amounts as, in the opinion of the lake facilities authority, are 24483
necessary for the purpose of paying the cost of one or more lake 24484
facilities authority facilities or parts thereof. A lake 24485
facilities authority at any time may issue renewal notes, issue 24486
bonds to retire its notes and, whenever it considers refunding 24487
expedient, refund any bonds by the issuance of lake facilities 24488
authority revenue refunding bonds, whether the bonds to be 24489
refunded have or have not matured, and issue lake facilities 24490
authority revenue bonds partly to refund outstanding bonds and 24491
partly for any other authorized purpose. The lake facilities 24492
authority revenue refunding bonds shall be sold and the proceeds 24493
applied to the purchase, redemption, or payment of the bonds to be 24494
refunded. Lake facilities authority revenue bonds shall be special 24495
obligations of the lake facilities authority payable out of the 24496
revenues of the lake facilities authority that are pledged for 24497
such payment. The pledge shall be valid and binding from the time 24498
the pledge is made and the revenues so pledged and thereafter 24499
received by the lake facilities authority immediately shall be 24500
subject to the lien of the pledge without any physical delivery 24501
thereof or further act, and the lien of the pledge is valid and 24502

binding as against all parties having claims of any kind in tort, 24503
contract, or otherwise against the lake facilities authority, 24504
irrespective of whether those parties have notice thereof. Neither 24505
the resolution nor any trust agreement by which a pledge is 24506
created need be filed or recorded except in the records of the 24507
lake facilities authority. 24508

Whether or not the lake facilities authority revenue bonds 24509
are of such form and character as to be negotiable instruments, 24510
the lake facilities authority revenue bonds shall have all the 24511
qualities and incidents of negotiable instruments, subject only to 24512
the provisions of the bonds for registration. 24513

The lake facilities authority revenue bonds shall be 24514
authorized by resolution of the lake facilities authority, and 24515
shall bear interest at such rate or rates, shall bear such date or 24516
dates, and shall mature at such time or times, and in such number 24517
of installments as may be provided in or pursuant to that 24518
resolution. The final maturity of any lake facilities authority 24519
revenue bond in the form of a note and any renewals thereof shall 24520
not exceed five years from the date of issue of the original note. 24521
The final maturity of any issue of lake facilities authority 24522
revenue bonds shall not be later than forty-five years from the 24523
date of issue of the original issue of bonds. Any such bonds or 24524
notes shall be executed in a manner as the resolution or 24525
resolutions may provide. The lake facilities authority revenue 24526
bonds shall be in such denominations, be in such form, either 24527
coupon or registered, carry such registration privileges, be 24528
payable in such medium of payment, at such place or places, and be 24529
subject to such terms of redemption as may be provided in or 24530
pursuant to the resolution authorizing their issuance. Lake 24531
facilities authority revenue bonds of the lake facilities 24532
authority may be sold by the lake facilities authority, at public 24533
or private sale, at or at not less than a price or prices as the 24534

lake facilities authority determines. In case any officer whose 24535
signature or a facsimile of whose signature appears on any bonds, 24536
notes, or coupons, ceases to be such officer before delivery of 24537
bonds or notes, the signature or facsimile shall nevertheless be 24538
sufficient for all purposes the same as if the officer had 24539
remained in office until such delivery, and in case the seal of 24540
the lake facilities authority has been changed after a facsimile 24541
has been imprinted on such bonds or notes, the facsimile seal will 24542
continue to be sufficient for all purposes. 24543

Any resolution or resolutions authorizing any lake facilities 24544
authority revenue bonds or any issue of bonds may contain 24545
provisions, subject to any agreements with bondholders as may then 24546
exist, which provisions shall be a part of the contract with the 24547
holders of bonds, as to the pledging of all or any part of the 24548
revenues of the lake facilities authority to secure the payment of 24549
the lake facilities authority bonds or of any issue of the bonds; 24550
the use and disposition of revenues of the lake facilities 24551
authority; a covenant to fix, alter, and collect rentals and other 24552
charges so that pledged revenues will be sufficient to pay costs 24553
of operation, maintenance, and repairs, pay principal of and 24554
interest on bonds secured by the pledge of such revenues, and 24555
provide any reserves that may be required by the applicable 24556
resolution or trust agreement; the setting aside of reserve funds, 24557
sinking funds, or replacement and improvement funds and the 24558
regulation and disposition thereof; the crediting of the proceeds 24559
of the sale of bonds to and among the funds referred to or 24560
provided for in or pursuant to the resolution authorizing the 24561
issuance of the bonds or notes; the use, lease, sale, or other 24562
disposition of any lake facilities authority facility or any other 24563
assets of the lake facilities authority; limitations on the 24564
purpose to which the proceeds of sale of bonds may be applied and 24565
the pledging of those proceeds to secure the payment of the bonds 24566
or of any issue of the bonds; as to notes issued in anticipation 24567

of the issuance of bonds, the agreement of the lake facilities 24568
authority to do all things necessary for the authorization, 24569
issuance, and sale of the bonds in amounts that may be necessary 24570
for the timely retirement of the notes; limitations on the 24571
issuance of additional bonds; the terms upon which additional 24572
bonds may be issued and secured; the refunding of outstanding 24573
bonds; the procedure, if any, by which the terms of any contract 24574
with bondholders may be amended or abrogated, the amount of bonds 24575
the holders of which must consent thereto, and the manner in which 24576
such consent may be given; limitations on the amount of moneys to 24577
be expended by the lake facilities authority for operating, 24578
administrative, or other expenses of the lake facilities 24579
authority; securing any bonds or notes by a trust agreement; and 24580
any other matters, of like or different character, that in any way 24581
affect the security or protection of the bonds or notes. 24582

Neither the board of directors of the lake facilities 24583
authority nor any person executing the bonds shall be liable 24584
personally on the bonds or be subject to any personal liability or 24585
accountability by reason of the issuance thereof. 24586

The issuance of lake facilities authority revenue bonds under 24587
this section need not comply with any other law applicable to the 24588
issuance of bonds or notes. 24589

Sec. 353.11. (A) With respect to facilities, and their 24590
financing, for an authorized purpose, under agreements whereby the 24591
person to whom the facility is to be leased, subleased, or sold, 24592
or to whom a loan is to be made for the facility, is to make 24593
payments sufficient to pay all of the principal of, premium, if 24594
any, and interest on the lake facilities authority revenue bonds 24595
issued for the facility, the lake facilities authority, in 24596
addition to other powers under this chapter, may do any of the 24597
following: 24598

(1) Make loans for the acquisition or construction of the facility to such person upon such terms as the lake facilities authority may determine or authorize including secured or unsecured loans, and, in connection therewith, enter into loan agreements and other agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take actions it considers appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale; 24599
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(2) Sell the facility under such terms as it may determine, including, without limitation, sale by conditional sale or installment sale, under which title may pass prior to or after completion of the facility or payment or provisions for payment of all principal of, premium, if any, and interest on the bonds, or at any other time provided in the agreement pertaining to the sale, and including sale under an option to purchase at a price which may be a nominal amount or less than true value at the time of purchase; 24613
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(3) Grant a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to, all or any part of the facility, revenues, reserve funds, or other funds established in connection with the bonds, or on, of, or with respect to any lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sublease, sale, or other disposition of a facility or pertaining to a loan made for a facility, or any guaranty or insurance agreement made with respect thereto, or any 24622
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interest of the lake facilities authority therein, or any other 24631
interest granted, assigned, or released to secure payments of the 24632
principal of, premium, if any, or interest on the bonds or to 24633
secure any other payments to be made by the lake facilities 24634
authority, which mortgage, lien, encumbrance, pledge, assignment, 24635
or other security interest may be prior or subordinate to or on a 24636
parity with any other mortgage, assignment, or other security 24637
interest, or lien or encumbrance; 24638

(4) Provide that the interest on the bonds may be at a 24639
variable rate or rates changing from time to time in accordance 24640
with a base or formula as authorized by the lake facilities 24641
authority; 24642

(5) Contract for the acquisition or construction of the 24643
facility or any part thereof and for the leasing, subleasing, 24644
sale, or other disposition of the facility in a manner determined 24645
by the lake facilities authority in its sole discretion, without 24646
necessity for competitive bidding or performance bonds; 24647

(6) Make appropriate provision for adequate maintenance of 24648
the facility. 24649

(B) With respect to the facilities referred to in this 24650
section, the authority granted by this section is cumulative and 24651
supplementary to all other authority granted in this chapter. The 24652
authority granted by this section does not alter or impair any 24653
similar authority granted elsewhere in this chapter for or with 24654
respect to other facilities. 24655

Sec. 353.12. In the discretion of the lake facilities 24656
authority, any lake facilities authority revenue bonds issued 24657
under this chapter may be secured by a trust agreement between the 24658
lake facilities authority and a corporate trustee that may be any 24659
trust company or bank having the powers of a trust company within 24660
or without the state. 24661

The trust agreement may pledge or assign revenues of the lake facilities authority to be received and may convey or mortgage any facility or any part thereof. The trust agreement or any resolution providing for the issuance of such bonds may contain any provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the lake facilities authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the facility in connection with which the bonds are authorized, the rentals or other charges to be imposed for the use or services of any facility, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of the facility.

Any bank or trust company incorporated under the laws of this state that may act as depository of the proceeds of bonds or of revenues may furnish any indemnifying bonds or may pledge any securities that are required by the lake facilities authority. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing similar bonds. The trust agreement may contain any other provisions that the lake facilities authority determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the facility.

Sec. 353.13. Any holder of lake facilities authority revenue bonds issued under sections 353.10 to 353.16 of the Revised Code, or any of the coupons pertaining to those bonds, and the trustee under any trust agreement, except to the extent the rights given

by those sections may be restricted by the applicable resolution 24694
or that trust agreement, may by suit, action, mandamus, or other 24695
proceedings, protect and enforce any rights under the laws of the 24696
state or granted under those sections, the trust agreement, or the 24697
resolution authorizing the issuance of the bonds, and may enforce 24698
and compel the performance of all duties required by those 24699
sections, or by the trust agreement or resolution, to be performed 24700
by the lake facilities authority or any officer of the lake 24701
facilities authority, including the fixing, charging, and 24702
collecting of rentals or other charges. 24703

Sec. 353.14. Lake facilities authority revenue bonds issued 24704
under sections 353.10 to 353.16 of the Revised Code do not 24705
constitute a debt, or a pledge of the faith and credit, of the 24706
state or any political subdivision of the state. The holders or 24707
owners of the bonds have no right to have taxes levied by the 24708
general assembly or taxing authority of any political subdivision 24709
of the state for the payment of the principal of or interest on 24710
the bonds. The bonds are payable solely from the revenues and 24711
funds pledged for their payment as authorized by this chapter, 24712
unless the revenue bonds are notes issued in anticipation of the 24713
issuance of the bonds, or the revenue bonds are refunded by 24714
refunding bonds issued under section 353.10 of the Revised Code, 24715
provided that the refunding bonds shall be payable solely from 24716
revenues and funds pledged for their payment as authorized by that 24717
section. All bonds shall contain on the face thereof a statement 24718
to the effect that the bonds, as to both principal and interest, 24719
are not debts of the state or any political subdivision of the 24720
state, but are payable solely from revenues and funds pledged for 24721
their payment. 24722

Sec. 353.15. All moneys, funds, properties, and assets 24723

acquired by the lake facilities authority under this chapter, 24724
whether as proceeds from the sale of lake facilities authority 24725
revenue bonds or as revenues, or otherwise, shall be held by it in 24726
trust for the purposes of carrying out its powers and duties, 24727
shall be used and reused as provided in this chapter, and shall at 24728
no time be part of other public funds. Such funds, except as 24729
otherwise provided in any resolution authorizing its lake 24730
facilities authority revenue bonds or in any trust agreement 24731
securing those bonds, or except when invested pursuant to section 24732
353.16 of the Revised Code, shall be kept in depositories selected 24733
by the lake facilities authority in the manner provided in Chapter 24734
135. of the Revised Code for the selection of eligible public 24735
depositories, and the deposits shall be secured as provided in 24736
that chapter. The resolution authorizing the issuance of such 24737
bonds or the trust agreement securing the bonds shall provide that 24738
any officer to whom, or any bank or trust company to which, such 24739
money is paid shall act as trustee of the money and hold and apply 24740
the money for the purposes for which the bonds are issued, subject 24741
to such conditions as Chapter 135. of the Revised Code and such 24742
resolutions or trust agreement provide. 24743

Sec. 353.16. Except as otherwise provided in any resolution 24744
authorizing the issuance of its lake facilities authority revenue 24745
bonds or in any trust agreement securing the bonds, moneys in the 24746
funds of the lake facilities authority in excess of current needs 24747
may be invested as permitted by sections 135.01 to 135.21 of the 24748
Revised Code or invested in linked deposit programs established by 24749
resolution of the board of directors in accordance with section 24750
135.80 of the Revised Code. Income from all investments of moneys 24751
in any fund shall be credited to funds as the lake facilities 24752
authority determines, subject to the provisions of any such 24753
resolution or trust agreement, and the investments may be sold at 24754

any time the lake facilities authority determines. 24755

Sec. 353.17. Bonds of a lake facilities authority and lake 24756
facilities authority revenue bonds are lawful investments of 24757
banks, societies for savings, trust companies, savings and loan 24758
associations, deposit guaranty associations, trustees, 24759
fiduciaries, trustees or other officers having charge of the bond 24760
retirement funds or sinking funds of port authorities and 24761
political subdivisions, and taxing districts of this state, the 24762
commissioners of the sinking fund of this state, the administrator 24763
of workers' compensation, the state teachers retirement system, 24764
the school employees retirement system, the public employees 24765
retirement system, the Ohio police and fire pension fund, and 24766
insurance companies, including domestic life insurance companies 24767
and domestic insurance companies other than life, and are 24768
acceptable as security for the deposit of public moneys. 24769

Sec. 501.07. Lands described in division (A) of section 24770
501.06 of the Revised Code shall continue to be leased under the 24771
terms granted until such time as the lease may expire. At the time 24772
of expiration, subject to section 501.04 of the Revised Code, the 24773
land may be leased again by the board of education of the school 24774
district for whose benefit the land has been allocated or be 24775
offered for sale by public auction or by the receipt of sealed 24776
bids with the sale awarded by the school board to the highest 24777
bidder. Prior to the offering of these lands for sale, the school 24778
board shall have an appraisal made of these lands by at least two 24779
disinterested appraisers. Notification of the sale of these lands, 24780
including the minerals in or on these or other lands, shall be 24781
advertised ~~at least~~ once a week for two consecutive weeks, or as 24782
provided in section 7.16 of the Revised Code, in a newspaper of 24783
general circulation in the county in which the land is located. No 24784

bids shall be accepted for less than the appraised value of the 24785
land. 24786

Sec. 503.05. When a boundary line between townships is in 24787
dispute, the board of county commissioners, upon application of 24788
the board of township trustees of one of such townships, and upon 24789
notice in writing to the board of township trustees of such civil 24790
township, and on thirty days' public notice printed in a newspaper 24791
~~published~~ of general circulation within the county, shall 24792
establish such boundary line and make a record thereof as provided 24793
by section 503.04 of the Revised Code. 24794

Sec. 503.162. (A) After certification of a resolution as 24795
provided in section 503.161 of the Revised Code, the board of 24796
elections shall submit the question of whether the township's name 24797
shall be changed to the electors of the unincorporated area of the 24798
township in accordance with division (C) of that section, and the 24799
ballot language shall be substantially as follows: 24800

"Shall the township of (name) change its name to 24801
..... (proposed name)? 24802

..... For name change 24803

..... Against name change" 24804

(B)(1) At least forty-five days before the election on this 24805
question, the board of township trustees shall provide notice of 24806
the election and an explanation of the proposed name change in a 24807
newspaper of general circulation in the township once a week for 24808
two consecutive weeks ~~and~~ or as provided in section 7.16 of the 24809
Revised Code. The board of township trustees shall post the notice 24810
and explanation in five conspicuous places in the unincorporated 24811
area of the township. 24812

(2) If the board of elections operates and maintains a web 24813
site, notice of the election and an explanation of the proposed 24814

name change shall be posted on that web site for at least thirty 24815
days before the election on this question. 24816

(C) If a majority of the votes cast on the proposition of 24817
changing the township's name is in the affirmative, the name 24818
change is adopted and becomes effective ninety days after the 24819
board of elections certifies the election results to the fiscal 24820
officer of the township. Upon receipt of the certification of the 24821
election results from the board of elections, the fiscal officer 24822
of the township shall send a copy of that certification to the 24823
secretary of state. 24824

(D) A change in the name of a township shall not alter the 24825
rights or liabilities of the township as previously named. 24826

Sec. 503.41. (A) A board of township trustees, by resolution, 24827
may regulate and require the registration of massage 24828
establishments and their employees within the unincorporated 24829
territory of the township. In accordance with sections 503.40 to 24830
503.49 of the Revised Code, for that purpose, the board, by a 24831
majority vote of all members, may adopt, amend, administer, and 24832
enforce regulations within the unincorporated territory of the 24833
township. 24834

(B) A board may adopt regulations and amendments under this 24835
section only after public hearing at not fewer than two regular 24836
sessions of the board. The board shall cause to be published in ~~at~~ 24837
~~least one~~ a newspaper of general circulation in the township, or 24838
as provided in section 7.16 of the Revised Code, notice of the 24839
public hearings, including the time, date, and place, once a week 24840
for two weeks immediately preceding the hearings. The board shall 24841
make available proposed regulations or amendments to the public at 24842
the office of the board. 24843

(C) Regulations or amendments adopted by the board are 24844
effective thirty days after the date of adoption unless, within 24845

thirty days after the adoption of the regulations or amendments, 24846
the township fiscal officer receives a petition, signed by a 24847
number of qualified electors residing in the unincorporated area 24848
of the township equal to not less than ten per cent of the total 24849
vote cast for all candidates for governor in the area at the most 24850
recent general election at which a governor was elected, 24851
requesting the board to submit the regulations or amendments to 24852
the electors of the area for approval or rejection at the next 24853
primary or general election occurring at least ninety days after 24854
the board receives the petition. 24855

No regulation or amendment for which the referendum vote has 24856
been requested is effective unless a majority of the votes cast on 24857
the issue is in favor of the regulation or amendment. Upon 24858
certification by the board of elections that a majority of the 24859
votes cast on the issue was in favor of the regulation or 24860
amendment, the regulation or amendment takes immediate effect. 24861

(D) The board shall make available regulations it adopts or 24862
amends to the public at the office of the board and shall cause to 24863
be published once a notice of the availability of the regulations 24864
in ~~at least one~~ a newspaper of general circulation in the township 24865
within ten days after their adoption or amendment. 24866

(E) Nothing in sections 503.40 to 503.49 of the Revised Code 24867
shall be construed to allow a board of township trustees to 24868
regulate the practice of any limited branch of medicine specified 24869
in section 4731.15 of the Revised Code or the practice of 24870
providing therapeutic massage by a licensed physician, a licensed 24871
chiropractor, a licensed podiatrist, a licensed nurse, or any 24872
other licensed health professional. As used in this division, 24873
"licensed" means licensed, certified, or registered to practice in 24874
this state. 24875

Sec. 504.02. (A) After certification of a resolution as 24876

provided in division (A) of section 504.01 of the Revised Code, 24877
the board of elections shall submit the question of whether to 24878
adopt a limited home rule government to the electors of the 24879
unincorporated area of the township, and the ballot language shall 24880
be substantially as follows: 24881

"Shall the township of (name) adopt a limited 24882
home rule government, under which government the board of township 24883
trustees, by resolution, may exercise limited powers of local 24884
self-government and limited police powers? 24885

..... For adoption of a limited home rule government 24886

..... Against adoption of a limited home rule government" 24887

(B)(1) At least forty-five days before the election on this 24888
question, the board of township trustees shall have notice of the 24889
election and a description of the proposed limited home rule 24890
government published in a newspaper of general circulation in the 24891
township once a week for two consecutive weeks or as provided in 24892
section 7.16 of the Revised Code, and shall have the notice and 24893
description posted in five conspicuous places in the 24894
unincorporated area of the township. 24895

(2) If a board of elections operates and maintains a web 24896
site, notice of the election and a description of the proposed 24897
limited home rule government shall be posted on that web site for 24898
at least thirty days before the election on this question. 24899

(C) If a majority of the votes cast on the proposition of 24900
adopting a limited home rule government is in the affirmative, 24901
that government is adopted and becomes the government of the 24902
township on the first day of January immediately following the 24903
election. 24904

Sec. 504.03. (A)(1) If a limited home rule government is 24905
adopted pursuant to section 504.02 of the Revised Code, it shall 24906
remain in effect for at least three years except as otherwise 24907

provided in division (B) of this section. At the end of that 24908
period, if the board of township trustees determines that that 24909
government is not in the best interests of the township, it may 24910
adopt a resolution causing the board of elections to submit to the 24911
electors of the unincorporated area of the township the question 24912
of whether the township should continue the limited home rule 24913
government. The question shall be voted upon at the next general 24914
election occurring at least ninety days after the certification of 24915
the resolution to the board of elections. After certification of 24916
the resolution, the board of elections shall submit the question 24917
to the electors of the unincorporated area of the township, and 24918
the ballot language shall be substantially as follows: 24919

"Shall the township of (name) continue the 24920
limited home rule government under which it is operating? 24921
..... For continuation of the limited home rule government 24922
..... Against continuation of the limited home rule government" 24923

(2)(a) At least forty-five days before the election on the 24924
question of continuing the limited home rule government, the board 24925
of township trustees shall have notice of the election published 24926
in a newspaper of general circulation in the township once a week 24927
for two consecutive weeks or as provided in section 7.16 of the 24928
Revised Code, and shall have the notice posted in five conspicuous 24929
places in the unincorporated area of the township. 24930

(b) If a board of elections operates and maintains a web 24931
site, notice of the election shall be posted on that web site for 24932
at least thirty days before the election on the question of 24933
continuing the limited home rule government. 24934

(B) The electors of a township that has adopted a limited 24935
home rule government may propose at any time by initiative 24936
petition, in accordance with section 504.14 of the Revised Code, a 24937
resolution submitting to the electors in the unincorporated area 24938
of the township, in an election, the question set forth in 24939

division (A)(1) of this section. 24940

(C) If a majority of the votes cast under division (A) or (B) 24941
of this section on the proposition of continuing the limited home 24942
rule government is in the negative, that government is terminated 24943
effective on the first day of January immediately following the 24944
election, and a limited home rule government shall not be adopted 24945
in the unincorporated area of the township pursuant to section 24946
504.02 of the Revised Code for at least three years after that 24947
date. 24948

(D) If a limited home rule government is terminated under 24949
this section, the board of township trustees immediately shall 24950
adopt a resolution repealing all resolutions adopted pursuant to 24951
this chapter that are not authorized by any other section of the 24952
Revised Code outside this chapter, effective on the first day of 24953
January immediately following the election described in division 24954
(A) or (B) of this section. However, no resolution adopted under 24955
this division shall affect or impair the obligations of the 24956
township under any security issued or contracts entered into by 24957
the township in connection with the financing of any water supply 24958
facility or sewer improvement under sections 504.18 to 504.20 of 24959
the Revised Code or the authority of the township to collect or 24960
enforce any assessments or other revenues constituting security 24961
for or source of payments of debt service charges of those 24962
securities. 24963

(E) Upon the termination of a limited home rule government 24964
under this section, if the township had converted its board of 24965
township trustees to a five-member board before September 26, 24966
2003, the current board member who received the lowest number of 24967
votes of the current board members who were elected at the most 24968
recent election for township trustees, and the current board 24969
member who received the lowest number of votes of the current 24970
board members who were elected at the second most recent election 24971

for township trustees, shall cease to be township trustees on the 24972
date that the limited home rule government terminates. Their 24973
offices likewise shall cease to exist at that time, and the board 24974
shall continue as a three-member board as provided in section 24975
505.01 of the Revised Code. 24976

Sec. 504.12. No resolution and no section or numbered or 24977
lettered division of a section shall be revised or amended unless 24978
the new resolution contains the entire resolution, section, or 24979
division as revised or amended, and the resolution, section, or 24980
division so amended shall be repealed. This requirement does not 24981
prevent the amendment of a resolution by the addition of a new 24982
section, or division, and in this case the full text of the former 24983
resolution need not be set forth, nor does this section prevent 24984
repeals by implication. Except in the case of a codification or 24985
recodification of resolutions, a separate vote shall be taken on 24986
each resolution proposed to be amended. Resolutions that have been 24987
introduced and have received their first reading or their first 24988
and second readings, but have not been voted on for passage, may 24989
be amended or revised by a majority vote of the members of the 24990
board of township trustees, and the amended or revised resolution 24991
need not receive additional readings. 24992

The board of township trustees of a limited home rule 24993
township may revise, codify, and publish in book form the 24994
resolutions of the township in the same manner as provided in 24995
section 731.23 of the Revised Code for municipal corporations. 24996
Resolutions adopted by the board shall be published in the same 24997
manner as provided by sections 731.21, 731.22, 731.24, 731.25, and 24998
731.26 of the Revised Code for municipal corporations, except that 24999
they shall be published in ~~newspapers circulating~~ a newspaper of 25000
general circulation within the township. The fiscal officer of the 25001
township shall perform the duties that the clerk of the 25002
legislative authority of a municipal corporation is required to 25003

perform under those sections. 25004

The procedures provided in this section apply only to 25005
resolutions adopted pursuant to a township's limited home rule 25006
powers as authorized by this chapter. 25007

Sec. 504.16. (A) Each township that adopts a limited home 25008
rule government shall promptly do one of the following: 25009

(1) Establish a police district pursuant to section 505.48 of 25010
the Revised Code, except that the district shall include all of 25011
the unincorporated area of the township and no other territory; 25012

(2) Establish a joint ~~township~~ police district pursuant to 25013
section ~~505.481~~ 505.482 of the Revised Code; 25014

(3) Contract pursuant to section 311.29, 505.43, or 505.50 of 25015
the Revised Code to obtain police protection services, including 25016
the enforcement of township resolutions adopted under this 25017
chapter, on a regular basis; 25018

(4) Designate one or more police constables under Chapter 25019
509. of the Revised Code. 25020

(B) A township that has taken an action described in division 25021
(A) of this section before adopting a limited home rule government 25022
need not take any other such action upon adopting that government. 25023

(C) The requirement that a township take one of the actions 25024
described in divisions (A)(1), (2), and (3) of this section does 25025
not prevent a township that acts under division (A)(1) or (2) of 25026
this section from contracting under division (A)(3) of this 25027
section to obtain additional police protection services on a 25028
regular basis. 25029

Sec. 504.21. (A) The board of township trustees of a township 25030
that has adopted a limited home rule government may, for the 25031
unincorporated territory in the township, adopt, amend, and 25032

rescind rules establishing technically feasible and economically 25033
reasonable standards to achieve a level of management and 25034
conservation practices that will abate wind or water erosion of 25035
the soil or abate the degradation of the waters of the state by 25036
soil sediment in conjunction with land grading, excavating, 25037
filling, or other soil disturbing activities on land used or being 25038
developed in the township for nonfarm commercial, industrial, 25039
residential, or other nonfarm purposes, and establish criteria for 25040
determination of the acceptability of those management and 25041
conservation practices. The rules shall be designed to implement 25042
the applicable areawide waste treatment management plan prepared 25043
under section 208 of the "Federal Water Pollution Control Act," 86 25044
Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement 25045
phase II of the storm water program of the national pollutant 25046
discharge elimination system established in 40 C.F.R. Part 122. 25047
The rules to implement phase II of the storm water program of the 25048
national pollutant discharge elimination system shall not be 25049
inconsistent with, more stringent than, or broader in scope than 25050
the rules or regulations adopted by the environmental protection 25051
agency under 40 C.F.R. Part 122. The rules adopted under this 25052
section shall not apply inside the limits of municipal 25053
corporations, to lands being used in a strip mine operation as 25054
defined in section 1513.01 of the Revised Code, or to land being 25055
used in a surface mine operation as defined in section 1514.01 of 25056
the Revised Code. 25057

The rules adopted under this section may require persons to 25058
file plans governing erosion control, sediment control, and water 25059
management before clearing, grading, excavating, filling, or 25060
otherwise wholly or partially disturbing one or more contiguous 25061
acres of land owned by one person or operated as one development 25062
unit for the construction of nonfarm buildings, structures, 25063
utilities, recreational areas, or other similar nonfarm uses. If 25064
the rules require plans to be filed, the rules shall do all of the 25065

following:	25066
(1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;	25067 25068
(2) Establish procedures and criteria for the review and approval or disapproval of the plans;	25069 25070
(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;	25071 25072 25073 25074
(4) Establish procedures for the issuance of the permits;	25075
(5) Establish procedures under which a person may appeal the denial of a permit.	25076 25077
Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.	25078 25079 25080 25081 25082
No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water resources in the department of natural resources.	25083 25084 25085 25086 25087 25088 25089
(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board of township trustees. The board shall cause to be published, in a newspaper of general circulation in the township, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings, <u>or</u>	25090 25091 25092 25093 25094 25095

as provided in section 7.16 of the Revised Code. The proposed 25096
rules or amendments shall be made available by the board to the 25097
public at the board office or other location indicated in the 25098
notice. The rules or amendments shall take effect on the 25099
thirty-first day following the date of their adoption. 25100

(C) The board of township trustees may employ personnel to 25101
assist in the administration of this section and the rules adopted 25102
under it. The board also, if the action does not conflict with the 25103
rules, may delegate duties to review sediment control and water 25104
management plans to its employees, and may enter into agreements 25105
with one or more political subdivisions, other township officials, 25106
or other government agencies, in any combination, in order to 25107
obtain reviews and comments on plans governing erosion control, 25108
sediment control, and water management or to obtain other services 25109
for the administration of the rules adopted under this section. 25110

(D) The board of township trustees or any duly authorized 25111
representative of the board may, upon identification to the owner 25112
or person in charge, enter any land upon obtaining agreement with 25113
the owner, tenant, or manager of the land in order to determine 25114
whether there is compliance with the rules adopted under this 25115
section. If the board or its duly authorized representative is 25116
unable to obtain such an agreement, the board or representative 25117
may apply for, and a judge of the court of common pleas for the 25118
county where the land is located may issue, an appropriate 25119
inspection warrant as necessary to achieve the purposes of this 25120
section. 25121

(E)(1) If the board of township trustees or its duly 25122
authorized representative determines that a violation of the rules 25123
adopted under this section exists, the board or representative may 25124
issue an immediate stop work order if the violator failed to 25125
obtain any federal, state, or local permit necessary for sediment 25126
and erosion control, earth movement, clearing, or cut and fill 25127

activity. In addition, if the board or representative determines 25128
such a rule violation exists, regardless of whether or not the 25129
violation has obtained the proper permits, the board or 25130
representative may authorize the issuance of a notice of 25131
violation. If, after a period of not less than thirty days has 25132
elapsed following the issuance of the notice of violation, the 25133
violation continues, the board or its duly authorized 25134
representative shall issue a second notice of violation. Except as 25135
provided in division (E)(3) of this section, if, after a period of 25136
not less than fifteen days has elapsed following the issuance of 25137
the second notice of violation, the violation continues, the board 25138
or its duly authorized representative may issue a stop work order 25139
after first obtaining the written approval of the prosecuting 25140
attorney of the county in which the township is located if, in the 25141
opinion of the prosecuting attorney, the violation is egregious. 25142

Once a stop work order is issued, the board or its duly 25143
authorized representative shall request, in writing, the 25144
prosecuting attorney to seek an injunction or other appropriate 25145
relief in the court of common pleas to abate excessive erosion or 25146
sedimentation and secure compliance with the rules adopted under 25147
this section. If the prosecuting attorney seeks an injunction or 25148
other appropriate relief, then, in granting relief, the court of 25149
common pleas may order the construction of sediment control 25150
improvements or implementation of other control measures and may 25151
assess a civil fine of not less than one hundred or more than five 25152
hundred dollars. Each day of violation of a rule or stop work 25153
order issued under this section shall be considered a separate 25154
violation subject to a civil fine. 25155

(2) The person to whom a stop work order is issued under this 25156
section may appeal the order to the court of common pleas of the 25157
county in which it was issued, seeking any equitable or other 25158
appropriate relief from that order. 25159

(3) No stop work order shall be issued under this section 25160
against any public highway, transportation, or drainage 25161
improvement or maintenance project undertaken by a government 25162
agency or political subdivision in accordance with a statement of 25163
its standard sediment control policies that is approved by the 25164
board or the chief of the division of soil and water resources in 25165
the department of natural resources. 25166

(F) No person shall violate any rule adopted or order issued 25167
under this section. Notwithstanding division (E) of this section, 25168
if the board of township trustees determines that a violation of 25169
any rule adopted or administrative order issued under this section 25170
exists, the board may request, in writing, the prosecuting 25171
attorney of the county in which the township is located, to seek 25172
an injunction or other appropriate relief in the court of common 25173
pleas to abate excessive erosion or sedimentation and secure 25174
compliance with the rules or order. In granting relief, the court 25175
of common pleas may order the construction of sediment control 25176
improvements or implementation of other control measures and may 25177
assess a civil fine of not less than one hundred or more than five 25178
hundred dollars. Each day of violation of a rule adopted or 25179
administrative order issued under this section shall be considered 25180
a separate violation subject to a civil fine. 25181

Sec. 505.101. The board of township trustees of any township 25182
may, by resolution, enter into a contract, without advertising or 25183
bidding, for the purchase or sale of materials, equipment, or 25184
supplies from or to any department, agency, or political 25185
subdivision of the state, for the purchase of services with a soil 25186
and water conservation district established under Chapter 1515. of 25187
the Revised Code, ~~or~~ for the purchase of supplies, services, 25188
materials, and equipment with a regional planning commission 25189
pursuant to division (D) of section 713.23 of the Revised Code, or 25190
for the purchase of services from an educational service center 25191

under section 3313.846 of the Revised Code. The resolution shall: 25192

(A) Set forth the maximum amount to be paid as the purchase 25193
price for the materials, equipment, supplies, or services; 25194

(B) Describe the type of materials, equipment, supplies, or 25195
services that are to be purchased; 25196

(C) Appropriate sufficient funds to pay the purchase price 25197
for the materials, equipment, supplies, or services, except that 25198
no such appropriation is necessary if funds have been previously 25199
appropriated for the purpose and remain unencumbered at the time 25200
the resolution is adopted. 25201

Sec. 505.105. Stolen or other property recovered by members 25202
of an organized police department of a township, a township police 25203
district, a joint ~~township~~ police district, or the office of a 25204
township constable shall be deposited and kept in a place 25205
designated by the head of the department, district, or office. 25206
Each article of property shall be entered in a book kept for that 25207
purpose, with the name of its owner, if ascertained, the person 25208
from whom it was taken, the place where it was found with general 25209
circumstances, the date of its receipt, and the name of the 25210
officer receiving it. 25211

An inventory of all money or other property shall be given to 25212
the party from whom it was taken, and, if it is not claimed by 25213
some person within thirty days after arrest and seizure, it shall 25214
be delivered to the person from whom it was taken, and to no other 25215
person, either attorney, agent, factor, or clerk, except by 25216
special order of the head of the department, district, or office. 25217

Sec. 505.106. No officer, or other member of an organized 25218
police department of a township, a township police district, a 25219
joint ~~township~~ police district, or the office of a township 25220
constable shall neglect or refuse to deposit property taken or 25221

found by the officer or other member in possession of a person 25222
arrested. Any conviction for a violation of this section shall 25223
vacate the office of the person so convicted. 25224

Sec. 505.107. If, within thirty days, the money or property 25225
recovered under section 505.105 of the Revised Code is claimed by 25226
any other person, it shall be retained by its custodian until 25227
after the discharge or conviction of the person from whom it was 25228
taken and as long as it is required as evidence in any case in 25229
court. If that claimant establishes to the satisfaction of the 25230
court that the claimant is the rightful owner, the money or 25231
property shall be restored to the claimant; otherwise, it shall be 25232
returned to the accused person, personally, and not to any 25233
attorney, agent, factor, or clerk of the accused person, except 25234
upon special order of the head of the organized police department 25235
of the township, township police district, joint ~~township~~ police 25236
district, or office of a township constable, as the case may be, 25237
after all liens and claims in favor of the township have first 25238
been discharged and satisfied. 25239

Sec. 505.108. Except as otherwise provided in this section 25240
and unless the property involved is required to be disposed of 25241
pursuant to another section of the Revised Code, property that is 25242
unclaimed for ninety days or more shall be sold by the chief of 25243
police or other head of the organized police department of the 25244
township, township police district, joint ~~township~~ police 25245
district, or office of a township constable at public auction, 25246
after notice of the sale has been provided by publication once a 25247
week for three successive weeks in a newspaper of general 25248
circulation, or as provided in section 7.16 of the Revised Code, 25249
in the county, or counties, if appropriate, in the case of a joint 25250
~~township~~ police district. The proceeds of the sale shall be paid 25251
to the fiscal officer of the township and credited to the township 25252

general fund, except that, in the case of a joint ~~township~~ police 25253
district, the proceeds of a sale shall be paid to the ~~fiscal~~ 25254
~~officer~~ treasurer of the ~~most populous participating township~~ 25255
joint police district board and credited to the appropriate 25256
~~township general fund or funds~~ according to agreement of the 25257
participating townships and municipal corporations. 25258

If authorized to do so by a resolution adopted by the board 25259
of township trustees or, in the case of a joint ~~township~~ police 25260
district, ~~each participating~~ the joint police district board ~~of~~ 25261
~~township trustees~~, and if the property involved is not required to 25262
be disposed of pursuant to another section of the Revised Code, 25263
the head of the department, district, or office may contribute 25264
property that is unclaimed for ninety days or more to one or more 25265
public agencies, to one or more nonprofit organizations no part of 25266
the net income of which inures to the benefit of any private 25267
shareholder or individual and no substantial part of the 25268
activities of which consists of carrying on propaganda or 25269
otherwise attempting to influence legislation, or to one or more 25270
organizations satisfying section 501(c)(3) or (c)(19) of the 25271
Internal Revenue Code of 1986. 25272

Sec. 505.109. Upon the sale of any unclaimed property as 25273
provided in section 505.108 of the Revised Code, if any of the 25274
unclaimed property was ordered removed to a place of storage or 25275
stored, or both, by or under the direction of the head of the 25276
organized police department of the township, township police 25277
district, joint ~~township~~ police district, or office of a township 25278
constable, any expenses or charges for the removal or storage, or 25279
both, and costs of sale, provided they are approved by the head of 25280
the department, district, or office, shall first be paid from the 25281
proceeds of the sale. Notice shall be given by certified mail, 25282
thirty days before the date of the sale, to the owner and 25283
mortgagee, or other lienholder, at their last known addresses. 25284

Sec. 505.17. (A) Except in a township or portion of a 25285
township that is within the limits of a municipal corporation, the 25286
board of township trustees may make regulations and orders as are 25287
necessary to control passenger car, motorcycle, and internal 25288
combustion engine noise, as permitted under section 4513.221 of 25289
the Revised Code, and all vehicle parking in the township. This 25290
authorization includes, among other powers, the power to regulate 25291
parking on established roadways proximate to buildings on private 25292
property as necessary to provide access to the property by public 25293
safety vehicles and equipment, if the property is used for 25294
commercial purposes, the public is permitted to use the parking 25295
area, and accommodation for more than ten motor vehicles is 25296
provided, and the power to authorize the issuance of orders 25297
limiting or prohibiting parking on any township street or highway 25298
during a snow emergency declared pursuant to a snow-emergency 25299
authorization adopted under this division. All such regulations 25300
and orders shall be subject to the limitations, restrictions, and 25301
exceptions in sections 4511.01 to 4511.76 and 4513.02 to 4513.37 25302
of the Revised Code. 25303

A board of township trustees may adopt a general 25304
snow-emergency authorization, which becomes effective under 25305
division (B)(1) of this section, allowing the president of the 25306
board or some other person specified in the authorization to issue 25307
an order declaring a snow emergency and limiting or prohibiting 25308
parking on any township street or highway during the snow 25309
emergency. Any such order becomes effective under division (B)(2) 25310
of this section. Each general snow-emergency authorization adopted 25311
under this division shall specify the weather conditions under 25312
which a snow emergency may be declared in that township. 25313

(B)(1) All regulations and orders, including any 25314
snow-emergency authorization established by the board under this 25315
section, except for an order declaring a snow emergency as 25316

provided in division (B)(2) of this section, shall be posted by 25317
the township fiscal officer in five conspicuous public places in 25318
the township for thirty days before becoming effective, and shall 25319
be published in a newspaper of general circulation in the township 25320
for three consecutive weeks or as provided in section 7.16 of the 25321
Revised Code. In addition to these requirements, no general 25322
snow-emergency authorization shall become effective until 25323
permanent signs giving notice that parking is limited or 25324
prohibited during a snow emergency are properly posted, in 25325
accordance with any applicable standards adopted by the department 25326
of transportation, along streets or highways specified in the 25327
authorization. 25328

(2) Pursuant to the adoption of a snow-emergency 25329
authorization under this section, an order declaring a snow 25330
emergency becomes effective two hours after the president of the 25331
board or the other person specified in the general snow-emergency 25332
authorization makes an announcement of a snow emergency to the 25333
local news media. The president or other specified person shall 25334
request the local news media to announce that a snow emergency has 25335
been declared, the time the declaration will go into effect, and 25336
whether the snow emergency will remain in effect for a specified 25337
period of time or indefinitely until canceled by a subsequent 25338
announcement to the local news media by the president or other 25339
specified person. 25340

(C) Such regulations and orders may be enforced where traffic 25341
control devices conforming to section 4511.09 of the Revised Code 25342
are prominently displayed. Parking regulations authorized by this 25343
section do not apply to any state highway unless the parking 25344
regulations are approved by the director of transportation. 25345

(D) A board of township trustees or its designated agent may 25346
order into storage any vehicle parked in violation of a township 25347
parking regulation or order, if the violation is not one that is 25348

required to be handled pursuant to Chapter 4521. of the Revised 25349
Code. The owner or any lienholder of a vehicle ordered into 25350
storage may claim the vehicle upon presentation of proof of 25351
ownership, which may be evidenced by a certificate of title to the 25352
vehicle, and payment of all expenses, charges, and fines incurred 25353
as a result of the parking violation and removal and storage of 25354
the vehicle. 25355

(E) Whoever violates any regulation or order adopted pursuant 25356
to this section is guilty of a minor misdemeanor, unless the 25357
township has enacted a regulation pursuant to division (A) of 25358
section 4521.02 of the Revised Code, that specifies that the 25359
violation shall not be considered a criminal offense and shall be 25360
handled pursuant to Chapter 4521. of the Revised Code. Fines 25361
levied and collected under this section shall be paid into the 25362
township general revenue fund. 25363

Sec. 505.172. (A) As used in this section, "law enforcement 25364
officer" means a sheriff, deputy sheriff, constable, police 25365
officer of a township or joint ~~township~~ police district, marshal, 25366
deputy marshal, or municipal police officer. 25367

(B) Except as otherwise provided in this section and section 25368
505.17 of the Revised Code, a board of township trustees may adopt 25369
regulations and orders that are necessary to control noise within 25370
the unincorporated territory of the township that is generated at 25371
any premises to which a D permit has been issued by the division 25372
of liquor control or that is generated within any areas zoned for 25373
residential use. 25374

(C) Any person who engages in any of the activities described 25375
in section 1.61 of the Revised Code is exempt from any regulation 25376
or order adopted under division (B) of this section if the noise 25377
is attributed to an activity described in section 1.61 of the 25378
Revised Code. Any person who engages in coal mining and 25379

reclamation operations, as defined in division (B) of section 25380
1513.01 of the Revised Code, or surface mining, as defined in 25381
division (A) of section 1514.01 of the Revised Code, is exempt 25382
from any regulation or order adopted under division (B) of this 25383
section if the noise is attributed to coal mining and reclamation 25384
or surface mining activities. Noise resulting from the drilling, 25385
completion, operation, maintenance, or construction of any crude 25386
oil or natural gas wells or pipelines or any appurtenances to 25387
those wells or pipelines or from the distribution, transportation, 25388
gathering, or storage of crude oil or natural gas is exempt from 25389
any regulation or order adopted under division (B) of this 25390
section. 25391

(D)(1) Except as otherwise provided in division (C) ~~or (D)(2)~~ 25392
of this section, any regulation or order adopted under division 25393
(B) of this section shall apply to any business or industry ~~in~~ 25394
~~existence and operating on October 20, 1999, and a regulation or~~ 25395
~~order so adopted shall apply to any new operation or expansion of~~ 25396
~~that business or industry that results in substantially increased~~ 25397
~~noise levels from those generated by that business or industry on~~ 25398
~~that date.~~ 25399

~~(2) Any regulation or order adopted under division (B) of~~ 25400
~~this section applies or~~ to any premises to which a D permit has 25401
been issued by the division of liquor control regardless of 25402
~~whether the premises was in existence and operating on October 20,~~ 25403
~~1999, or whether~~ when it came into existence ~~and operation after~~ 25404
~~that date.~~ 25405

(E) Whoever violates any regulation or order adopted under 25406
division (B) of this section is guilty of a misdemeanor of the 25407
second degree. Fines levied and collected under this section shall 25408
be paid into the township general revenue fund. 25409

(F) Any person allegedly aggrieved by another person's 25410
violation of a regulation or order adopted under division (B) of 25411

this section may seek in a civil action a declaratory judgment, an injunction, or other appropriate relief against the other person committing the act or practice that violates that regulation or order. A board of township trustees that adopts a regulation or order under division (B) of this section ~~shall~~ may seek in a civil action an injunction against ~~each~~ any person that commits an act or practice that violates that regulation or order. The court involved in a civil action referred to in this division may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

(G) If any law enforcement officer with jurisdiction in a township that has adopted a regulation or order under division (B) of this section has reasonable cause to believe that any premises to which a D permit has been issued by the division of liquor control has violated the regulation or order and, as a result of the violation, has caused, is causing, or is about to cause substantial and material harm, the law enforcement officer may issue an order that the premises cease and desist from the activity violating the regulation or order. The cease-and-desist order shall be served personally upon the owner, operator, manager, or other person in charge of the premises immediately after its issuance by the officer. The township thereafter may publicize or otherwise make known to all interested persons that the cease-and-desist order has been issued.

The cease-and-desist order shall specify the particular conduct that is subject to the order and shall inform the person upon whom it is served that the premises will be granted a hearing in the municipal court or county court with jurisdiction over the premises regarding the operation of the order and the possible issuance of an injunction or other appropriate relief. The premises shall comply with the cease-and-desist order immediately upon receipt of the order. Upon service of the cease-and-desist

order upon the owner, operator, manager, or other person in charge 25444
of the premises, the township law director or, if the township 25445
does not have a law director, the prosecuting attorney of the 25446
county in which the township is located shall file in the 25447
municipal court or county court with jurisdiction over the 25448
premises a civil action seeking to confirm the cease-and-desist 25449
order and seeking an injunction or other appropriate relief 25450
against the premises. The owner, operator, manager, or other 25451
person in charge of the premises may file a motion in that civil 25452
action for a stay of the cease-and-desist order for good cause 25453
shown, pending the court's rendering its decision in the action. 25454
The court shall set a date for a hearing, hold the hearing, and 25455
render a decision in the action not more than ten days after the 25456
date of the cease-and-desist order, or the cease-and-desist order 25457
is terminated. Division (F) of this section applies regarding an 25458
action filed as described in this division. 25459

(H) Nothing in this section authorizes a township to enforce 25460
any regulation or order adopted under division (B) of this section 25461
against a premises to which a D permit has been issued by the 25462
division of liquor control if that premises is not located in the 25463
unincorporated territory of that township. 25464

Sec. 505.24. Each township trustee is entitled to 25465
compensation as follows: 25466

(A) Except as otherwise provided in division (B) of this 25467
section, an amount for each day of service in the business of the 25468
township, to be paid from the township treasury as follows: 25469

(1) In townships having a budget of fifty thousand dollars or 25470
less, twenty dollars per day for not more than two hundred days; 25471

(2) In townships having a budget of more than fifty thousand 25472
but not more than one hundred thousand dollars, twenty-four 25473
dollars per day for not more than two hundred days; 25474

(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars,	25475
twenty-eight dollars and fifty cents per day for not more than two hundred days;	25476
	25477
	25478
(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars,	25479
thirty-three dollars per day for not more than two hundred days;	25480
	25481
(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars,	25482
thirty-five dollars per day for not more than two hundred days;	25483
	25484
(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars,	25485
forty dollars per day for not more than two hundred days;	25486
	25487
(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars,	25488
forty-four dollars per day for not more than two hundred days;	25489
	25490
	25491
(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars,	25492
forty-eight dollars per day for not more than two hundred days;	25493
	25494
	25495
(9) In townships having a budget of more than six million dollars,	25496
fifty-two dollars per day for not more than two hundred days.	25497
	25498
(B) Beginning in calendar year 1999, the amounts paid as specified in division (A) of this section shall be replaced by the following amounts:	25499
	25500
	25501
(1) In calendar year 1999, the amounts specified in division (A) of this section increased by three per cent;	25502
	25503
(2) In calendar year 2000, the amounts determined under	25504

division (B)(1) of this section increased by three per cent;	25505
(3) In calendar year 2001, the amounts determined under	25506
division (B)(2) of this section increased by three per cent;	25507
(4) In calendar year 2002, except in townships having a	25508
budget of more than six million dollars, the amounts determined	25509
under division (B)(3) of this section increased by three per cent;	25510
in townships having a budget of more than six million but not more	25511
than ten million dollars, seventy dollars per day for not more	25512
than two hundred days; and in townships having a budget of more	25513
than ten million dollars, ninety dollars per day for not more than	25514
two hundred days;	25515
(5) In calendar years 2003 through 2008, the amounts	25516
determined under division (B) of this section for the immediately	25517
preceding calendar year increased by the lesser of the following:	25518
(a) Three per cent;	25519
(b) The percentage increase, if any, in the consumer price	25520
index over the twelve-month period that ends on the thirtieth day	25521
of September of the immediately preceding calendar year, rounded	25522
to the nearest one-tenth of one per cent;	25523
(6) In calendar year 2009 and thereafter, the amount	25524
determined under division (B) of this section for calendar year	25525
2008.	25526
As used in division (B) of this section, "consumer price	25527
index" has the same meaning as in section 325.18 of the Revised	25528
Code.	25529
(C) Whenever members of a board of township trustees are	25530
compensated per diem and not by annual salary, the board shall	25531
establish, by resolution, a method by which each member of the	25532
board shall periodically notify the township fiscal officer of the	25533
number of days spent in the service of the township and the kinds	25534

of services rendered on those days. The per diem compensation 25535
shall be paid from the township general fund or from other 25536
township funds in such proportions as the kinds of services 25537
performed may require. The notice shall be filed with the township 25538
fiscal officer and preserved for inspection by any persons 25539
interested. 25540

By unanimous vote, a board of township trustees may adopt a 25541
method of compensation consisting of an annual salary to be paid 25542
in equal monthly payments. If the office of trustee is held by 25543
more than one person during any calendar year, each person holding 25544
the office shall receive payments for only those months, and any 25545
fractions of those months, during which the person holds the 25546
office. The amount of the annual salary approved by the board 25547
shall be no more than the maximum amount that could be received 25548
annually by a trustee if the trustee were paid on a per diem basis 25549
as specified in this division, and shall be paid from the township 25550
general fund or from other township funds in such proportions as 25551
the board may specify by resolution. Each trustee shall certify 25552
the percentage of time spent working on matters to be paid from 25553
the township general fund and from other township funds in such 25554
proportions as the kinds of services performed. A board of 25555
township trustees that has adopted a salary method of compensation 25556
may return to a method of compensation on a per diem basis as 25557
specified in this division by a majority vote. Any change in the 25558
method of compensation shall be effective on the first day of 25559
January of the year following the year during which the board has 25560
voted to change the method of compensation. 25561

Sec. 505.264. (A) As used in this section, "energy 25562
conservation measure" means an installation or modification of an 25563
installation in, or remodeling of, an existing building, to reduce 25564
energy consumption. It includes the following: 25565

(1) Insulation of the building structure and of systems within the building;	25566 25567
(2) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;	25568 25569 25570 25571 25572
(3) Automatic energy control systems;	25573
(4) Heating, ventilating, or air conditioning system modifications or replacements;	25574 25575
(5) Caulking and weatherstripping;	25576
(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;	25577 25578 25579 25580 25581
(7) Energy recovery systems;	25582
(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;	25583 25584 25585
(9) Any other modification, installation, or remodeling approved by the board of township trustees as an energy conservation measure.	25586 25587 25588
(B) For the purpose of evaluating township buildings for energy conservation measures, a township may contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for a report that analyzes the buildings' energy needs and presents recommendations for building installations, modifications of existing	25589 25590 25591 25592 25593 25594 25595

installations, or building remodeling that would significantly 25596
reduce energy consumption in the buildings owned by that township. 25597
The report shall include estimates of all costs of the 25598
installations, modifications, or remodeling, including costs of 25599
design, engineering, installation, maintenance, and repairs, and 25600
estimates of the amounts by which energy consumption could be 25601
reduced. 25602

(C) A township desiring to implement energy conservation 25603
measures may proceed under either of the following methods: 25604

(1) Using a report or any part of a report prepared under 25605
division (B) of this section, advertise for bids and comply with 25606
the bidding procedures set forth in sections 307.86 to 307.92 of 25607
the Revised Code; 25608

(2) Request proposals from at least three vendors for the 25609
implementation of energy conservation measures. Prior to sending 25610
any installer of energy conservation measures a copy of any such 25611
request, the township shall advertise its intent to request 25612
proposals for the installation of energy conservation measures in 25613
a newspaper of general circulation in the township once a week for 25614
two consecutive weeks or as provided in section 7.16 of the 25615
Revised Code. The notice shall state that the township intends to 25616
request proposals for the installation of energy conservation 25617
measures; indicate the date, which shall be at least ten days 25618
after the second publication, on which the request for proposals 25619
will be mailed to installers of energy conservation measures; and 25620
state that any installer of energy conservation measures 25621
interested in receiving the request for proposal shall submit 25622
written notice to the township not later than noon of the day on 25623
which the request for proposal will be mailed. 25624

Upon receiving the proposals, the township shall analyze them 25625
and select the proposal or proposals most likely to result in the 25626
greatest energy savings considering the cost of the project and 25627

the township's ability to pay for the improvements with current 25628
revenues or by financing the improvements. The awarding of a 25629
contract to install energy conservation measures under division 25630
(C)(2) of this section shall be conditioned upon a finding by the 25631
township that the amount of money spent on energy savings measures 25632
is not likely to exceed the amount of money the township would 25633
save in energy and operating costs over ten years or a lesser 25634
period as determined by the township or, in the case of contracts 25635
for cogeneration systems, over five years or a lesser period as 25636
determined by the township. Nothing in this section prohibits a 25637
township from rejecting all proposals or from selecting more than 25638
one proposal. 25639

(D) A board of township trustees may enter into an 25640
installment payment contract for the purchase and installation of 25641
energy conservation measures. Any provisions of those installment 25642
payment contracts that deal with interest charges and financing 25643
terms shall not be subject to the competitive bidding procedures 25644
of section 307.86 of the Revised Code. Unless otherwise approved 25645
by a resolution of the board, an installment payment contract 25646
entered into by a board of township trustees under this section 25647
shall require the board to contract in accordance with the 25648
procedures set forth in section 307.86 of the Revised Code for the 25649
installation, modification, or remodeling of energy conservation 25650
measures pursuant to this section. 25651

(E) The board may issue securities of the township specifying 25652
the terms of the purchase and securing the deferred payments, 25653
payable at the times provided and bearing interest at a rate not 25654
exceeding the rate determined as provided in section 9.95 of the 25655
Revised Code. The maximum maturity of the securities shall be as 25656
provided in division (B)(7)(g) of section 133.20 of the Revised 25657
Code. The securities may contain an option for prepayment and 25658
shall not be subject to Chapter 133. of the Revised Code. Revenues 25659

derived from local taxes or otherwise, for the purpose of 25660
conserving energy or for defraying the current operating expenses 25661
of the township, may be applied to the payment of interest and the 25662
retirement of the securities. The securities may be sold at 25663
private sale or given to the contractor under the installment 25664
payment contract authorized by division (D) of this section. 25665

(F) Debt incurred under this section shall not be included in 25666
the calculation of the net indebtedness of a township under 25667
section 133.09 of the Revised Code. 25668

Sec. 505.267. (A) As used in this section: 25669

(1) "Lease-purchase agreement" has the same meaning as a 25670
lease with an option to purchase. 25671

(2) "Public obligation" has the same meaning as in section 25672
133.01 of the Revised Code. 25673

(B) For any purpose for which a board of township trustees, 25674
~~or a board of trustees of a joint township~~ police district board, 25675
a township fire district, a joint fire district, or a fire and 25676
ambulance district is authorized to acquire real or personal 25677
property, that board may enter into a lease-purchase agreement in 25678
accordance with this section to acquire the property. The board's 25679
resolution authorizing the lease-purchase agreement may provide 25680
for the issuance of certificates of participation or other 25681
evidences of fractionalized interests in the lease-purchase 25682
agreement, for the purpose of financing, or refinancing or 25683
refunding, any public obligation that financed or refinanced the 25684
acquisition of the property. Sections 9.94, 133.03, and 133.30 of 25685
the Revised Code shall apply to any such fractionalized interests. 25686

The lease-purchase agreement shall provide for a series of 25687
terms in which no term extends beyond the end of the fiscal year 25688
of the township or district in which that term commences. In 25689

total, the terms provided for in the agreement shall be for not 25690
more than the useful life of the real or personal property that is 25691
the subject of the agreement. A property's useful life shall be 25692
determined either by the maximum number of installment payments 25693
permitted under the statute that authorizes the board to acquire 25694
the property or, if there is no such provision, by the maximum 25695
number of years to maturity provided for the issuance of bonds in 25696
division (B) of section 133.20 of the Revised Code for that 25697
property. If the useful life cannot be determined under either of 25698
those statutes, it shall be estimated as provided in division (C) 25699
of section 133.20 of the Revised Code. 25700

The lease-purchase agreement shall provide that, at the end 25701
of the final term in the agreement, if all obligations of the 25702
township or district have been satisfied, the title to the leased 25703
property shall vest in the township or district executing the 25704
lease-purchase agreement, if that title has not vested in the 25705
township or district before or during the lease terms; except that 25706
the lease-purchase agreement may require the township or district 25707
to pay an additional lump sum payment as a condition of obtaining 25708
that title. 25709

(C) A board of trustees that enters into a lease-purchase 25710
agreement under this section may do any of the following with the 25711
property that is the subject of the agreement: 25712

(1) If the property is personal property, assign the board's 25713
rights to that property; 25714

(2) Grant the lessor a security interest in the property; 25715

(3) If the property is real property, grant leases, 25716
easements, or licenses for underlying land or facilities under the 25717
board's control for terms not exceeding five years beyond the 25718
final term of the lease-purchase agreement. 25719

(D) The authority granted in this section is in addition to, 25720

and not in derogation of, any other financing authority provided 25721
by law. 25722

Sec. 505.28. The board of township trustees may create a 25723
waste disposal district under sections 505.27 to 505.33 of the 25724
Revised Code, by a unanimous vote of the board and give notice 25725
thereof by a publication in ~~two newspapers~~ a newspaper of general 25726
circulation in the township. If, within thirty days after such 25727
publication, a protest petition is filed with the board, signed by 25728
at least fifty per cent of the electors residing in the district, 25729
the act of the board in creating such district shall be void. If a 25730
petition is filed with the board asking for the creation of such a 25731
district in the township, accompanied by a map clearly showing the 25732
boundaries of such district, and signed by at least sixty-five per 25733
cent of the electors residing therein, with addresses of such 25734
signers, the board shall, within sixty days, create such a 25735
district. 25736

Each district shall be given a name, and the entire cost of 25737
any necessary equipment and labor shall be apportioned against 25738
each district by the respective boards. 25739

Sec. 505.373. The board of township trustees may, by 25740
resolution, adopt by incorporation by reference a standard code 25741
pertaining to fire, fire hazards, and fire prevention prepared and 25742
promulgated by the state or any department, board, or other agency 25743
of the state, or any such code prepared and promulgated by a 25744
public or private organization that publishes a model or standard 25745
code. 25746

After the adoption of the code by the board, a notice clearly 25747
identifying the code, stating the purpose of the code, and stating 25748
that a complete copy of the code is on file with the township 25749
fiscal officer for inspection by the public and also on file in 25750

the law library of the county in which the township is located and 25751
that the fiscal officer has copies available for distribution to 25752
the public at cost, shall be posted by the fiscal officer in five 25753
conspicuous places in the township for thirty days before becoming 25754
effective. The notice required by this section shall also be 25755
published in a newspaper of general circulation in the township 25756
once a week for three consecutive weeks or as provided in section 25757
7.16 of the Revised Code. If the adopting township amends or 25758
deletes any provision of the code, the notice shall contain a 25759
brief summary of the deletion or amendment. 25760

If the agency that originally promulgated or published the 25761
code thereafter amends the code, any township that has adopted the 25762
code pursuant to this section may adopt the amendment or change by 25763
incorporation by reference in the same manner as provided for 25764
adoption of the original code. 25765

Sec. 505.43. In order to obtain police protection, or to 25766
obtain additional police protection, any township may enter into a 25767
contract with one or more townships, municipal corporations, park 25768
districts created pursuant to section 511.18 or 1545.01 of the 25769
Revised Code, ~~or~~ county sheriffs, joint police districts, or with 25770
a governmental entity of an adjoining state upon any terms that 25771
are agreed to by them, for services of police departments or use 25772
of police equipment, or the interchange of the service of police 25773
departments or use of police equipment within the several 25774
territories of the contracting subdivisions, if the contract is 25775
first authorized by respective boards of township trustees or 25776
other legislative bodies. The cost of the contract may be paid for 25777
from the township general fund or from funds received pursuant to 25778
the passage of a levy authorized pursuant to division (J) of 25779
section 5705.19 and section 5705.25 of the Revised Code. 25780

Chapter 2744. of the Revised Code, insofar as it is 25781

applicable to the operation of police departments, applies to the 25782
contracting political subdivisions and police department members 25783
when the members are rendering service outside their own 25784
subdivision pursuant to the contract. 25785

Police department members acting outside the subdivision in 25786
which they are employed may participate in any pension or 25787
indemnity fund established by their employer to the same extent as 25788
while acting within the employing subdivision, and are entitled to 25789
all the rights and benefits of Chapter 4123. of the Revised Code, 25790
to the same extent as while performing service within the 25791
subdivision. 25792

The contract may provide for a fixed annual charge to be paid 25793
at the times agreed upon and stipulated in the contract. 25794

Sec. 505.48. (A) The board of township trustees of any 25795
township may, by resolution adopted by two-thirds of the members 25796
of the board, create a township police district comprised of all 25797
or a portion of the unincorporated territory of the township as 25798
the resolution may specify. If the township police district does 25799
not include all of the unincorporated territory of the township, 25800
the resolution creating the district shall contain a complete and 25801
accurate description of the territory of the district and a 25802
separate and distinct name for the district. 25803

At any time not less than one hundred twenty days after a 25804
township police district is created and operative, the territorial 25805
limits of the district may be altered in the manner provided in 25806
division (B) of this section or, if applicable, as provided in 25807
section 505.482 of the Revised Code. 25808

(B) Except as otherwise provided in section ~~505.482~~ 505.481 25809
of the Revised Code, the territorial limits of a township police 25810
district may be altered by a resolution adopted by a two-thirds 25811
vote of the board of township trustees. If the township police 25812

district imposes a tax, any territory proposed for addition to the 25813
district shall become part of the district only after all of the 25814
following have occurred: 25815

(1) Adoption by two-thirds vote of the board of township 25816
trustees of a resolution approving the expansion of the 25817
territorial limits of the district; 25818

(2) Adoption by a two-thirds vote of the board of township 25819
trustees of a resolution recommending the extension of the tax to 25820
the additional territory; 25821

(3) Approval of the tax by the electors of the territory 25822
proposed for addition to the district. 25823

Each resolution of the board adopted under division (B)(2) of 25824
this section shall state the name of the township police district, 25825
a description of the territory to be added, and the rate and 25826
termination date of the tax, which shall be the rate and 25827
termination date of the tax currently in effect in the district. 25828

The board of trustees shall certify each resolution adopted 25829
under division (B)(2) of this section to the board of elections in 25830
accordance with section 5705.19 of the Revised Code. The election 25831
required under division (B)(3) of this section shall be held, 25832
canvassed, and certified in the manner provided for the submission 25833
of tax levies under section 5705.25 of the Revised Code, except 25834
that the question appearing on the ballot shall read: 25835

"Shall the territory within 25836
(description of the proposed territory to be added) be added to 25837
..... (name) township police district, and a property 25838
tax at a rate of taxation not exceeding (here insert 25839
tax rate) be in effect for (here insert the number of 25840
years the tax is to be in effect or "a continuing period of time," 25841
as applicable)?" 25842

If the question is approved by at least a majority of the 25843

electors voting on it, the joinder shall be effective as of the 25844
first day of January of the year following approval, and, on that 25845
date, the township police district tax shall be extended to the 25846
taxable property within the territory that has been added. 25847

Sec. ~~505.482~~ 505.481. (A) If a township police district does 25848
not include all the unincorporated territory of the township, the 25849
remaining unincorporated territory of the township may be added to 25850
the district by a resolution adopted by a unanimous vote of the 25851
board of township trustees to place the issue of expansion of the 25852
district on the ballot for the electors of the entire 25853
unincorporated territory of the township. The resolution shall 25854
state whether the proposed township police district initially will 25855
hire personnel as provided in section 505.49 of the Revised Code 25856
or contract for the provision of police protection services or 25857
additional police protection services as provided in section 25858
505.43 or 505.50 of the Revised Code. 25859

The ballot measure shall provide for the addition into a new 25860
district of all the unincorporated territory of the township not 25861
already included in the township police district and for the levy 25862
of any tax then imposed by the district throughout the 25863
unincorporated territory of the township. The measure shall state 25864
the rate of the tax, if any, to be imposed in the district 25865
resulting from approval of the measure, which need not be the same 25866
rate of any tax imposed by the existing district, and the last 25867
year in which the tax will be levied or that it will be levied for 25868
a continuous period of time. 25869

(B) The election on the measure shall be held, canvassed, and 25870
certified in the manner provided for the submission of tax levies 25871
under section 5705.25 of the Revised Code, except that the 25872
question appearing on the ballot shall read substantially as 25873
follows: 25874

"Shall the unincorporated territory within (name 25875
of the township) not already included within the (name 25876
of township police district) be added to the township police 25877
district to create the (name of new township police 25878
district) township police district?" 25879

The name of the proposed township police district shall be 25880
separate and distinct from the name of the existing township 25881
police district. 25882

If a tax is imposed in the existing township police district, 25883
the question shall be modified by adding, at the end of the 25884
question, the following: ", and shall a property tax be levied in 25885
the new township police district, replacing the tax in the 25886
existing township police district, at a rate not exceeding 25887
..... mills per dollar of taxable valuation, which amounts to 25888
..... (rate expressed in dollars and cents per one thousand 25889
dollars in taxable valuation), for (number of years the 25890
tax will be levied, or "a continuing period of time")." 25891

If the measure is not approved by a majority of the electors 25892
voting on it, the township police district shall continue to 25893
occupy its existing territory until altered as provided in this 25894
section or section 505.48 of the Revised Code, and any existing 25895
tax imposed under section 505.51 of the Revised Code shall remain 25896
in effect in the existing district at the existing rate and for as 25897
long as provided in the resolution under the authority of which 25898
the tax is levied. 25899

Sec. ~~505.481~~ 505.482. (A) The boards of township trustees of 25900
any two or more contiguous townships, or the boards of township 25901
trustees of one or more contiguous townships and the legislative 25902
authorities of one or more contiguous municipal corporations, 25903
whether or not within the same county, ~~may,~~ by adoption of a joint 25904
resolution by a two-thirds majority favorable vote of each such 25905

board and of the members of the legislative authority of each such 25906
municipal corporation, may form themselves into a joint township 25907
police district board, and such townships shall be a part of a 25908
joint township police district comprising all or any part of the 25909
townships or municipal corporations as are mutually agreed upon. 25910
The governing body of the joint police district shall be a joint 25911
police district board, which shall include either all of the 25912
township trustees of each township and all of the members of the 25913
legislative authority of each municipal corporation in the 25914
district, as agreed to and established in the joint resolution 25915
creating the joint police district; or an odd number of members as 25916
agreed to and established in the joint resolution, as long as the 25917
members are representatives from each board of township trustees 25918
of each township and from the legislative authority of each 25919
municipal corporation in the joint police district. 25920

~~Such (B) The joint township~~ police district board shall 25921
organize within thirty days after the favorable vote by the last 25922
board of township trustees or the members of the legislative 25923
authority of the last municipal corporation joining itself into 25924
the joint ~~township~~ police district board. The president of the 25925
board of township trustees of the most populous participating 25926
township or the legislative authority of the most populous 25927
participating municipal corporation shall give notice of the time 25928
and place of organization to each pending member of the joint 25929
police district board ~~of township trustees of each participating~~ 25930
~~township,~~ as established in the joint resolution. Such notice 25931
shall be signed ~~by the president of the board of township trustees~~ 25932
~~of the most populous participating township,~~ and shall be sent by 25933
certified mail to each such pending member of the board ~~of~~ 25934
~~township trustees of each participating township,~~ at least five 25935
days prior to the organization meeting, which meeting shall be 25936
held in one of the participating townships or municipal 25937
corporations. ~~All members of the boards of township trustees of~~ 25938

~~the participating townships constitute the joint township police district board.~~ Two-thirds of all the ~~township trustees of the participating townships~~ joint police district board members constitutes a quorum. ~~Such~~ The members of the ~~boards of township trustees~~ joint police district board shall, at the organization meeting ~~of the joint township police district board~~, proceed with the election of a president, a secretary, and a treasurer, and such other officers as they consider necessary and proper, and shall transact such other business as properly comes before the board.

(C) In the formation of ~~such~~ a joint police district, such action may be taken by or on behalf of part of a township, by excluding that portion of the township lying within a municipal corporation. The joint ~~township~~ police district board may exercise the same powers as are granted to a board of township trustees in the operation of a township police district under sections 505.49 to 505.55 of the Revised Code, including, but not limited to, the power to employ, train, and discipline personnel, to acquire equipment and buildings, to levy a tax, to issue bonds and notes, and to dissolve the district.

Sec. 505.483. A township or municipal corporation, or parts thereof, may join an existing joint police district by the adoption of a resolution by the township or of an ordinance by the municipal corporation requesting participation in the district and upon approval of the existing joint police district board.

Sec. 505.484. The treasurer of the joint police district board, before entering upon the duties of that office, shall execute a bond payable to the state, in the amount and with surety to be approved by the joint police district board, conditioned for the faithful performance of all the official duties required by the treasurer. The bond shall be deposited with the president of

the joint police district board, and a copy thereof, certified by 25970
the president, shall be filed with the county auditor. 25971

Sec. 505.49. (A) As used in this section, "felony" has the 25972
same meaning as in section 109.511 of the Revised Code. 25973

(B)(1) The township trustees of a township police district, 25974
by a two-thirds vote of the board, or a joint police district 25975
board, by majority vote of its members, may adopt rules necessary 25976
for the operation of the township or joint police district, 25977
including a determination of the qualifications of the chief of 25978
police, patrol officers, and others to serve as members of the 25979
district police force. 25980

(2) Except as otherwise provided in division (E) of this 25981
section and subject to division (D) of this section, the township 25982
trustees of a township police district, by a two-thirds vote of 25983
the board or the joint police district board, by majority vote of 25984
its members, shall appoint a chief of police for the district, 25985
determine the number of patrol officers and other personnel 25986
required by the district, and establish salary schedules and other 25987
conditions of employment for the employees of the township or 25988
joint police district. The chief of police of the district shall 25989
serve at the pleasure of the township trustees or the joint police 25990
district board and shall appoint patrol officers and other 25991
personnel that the district may require, subject to division (D) 25992
of this section and to the rules and limits as to qualifications, 25993
salary ranges, and numbers of personnel established by the board 25994
of township trustees or the joint police district board. The 25995
township trustees may include in the township police district and 25996
under the direction and control of the chief of police any 25997
constable appointed pursuant to section 509.01 of the Revised 25998
Code, or may designate the chief of police or any patrol officer 25999
appointed by the chief of police as a constable, as provided for 26000

in section 509.01 of the Revised Code, for the township police 26001
district. 26002

(3) Except as provided in division (D) of this section, a 26003
patrol officer, other police district employee, or police 26004
constable, who has been awarded a certificate attesting to the 26005
satisfactory completion of an approved state, county, or municipal 26006
police basic training program, as required by section 109.77 of 26007
the Revised Code, may be removed or suspended only under the 26008
conditions and by the procedures in sections 505.491 to 505.495 of 26009
the Revised Code. Any other patrol officer, police district 26010
employee, or police constable shall serve at the pleasure of the 26011
township trustees or joint police district board. In case of 26012
removal or suspension of an appointee by the board of township 26013
trustees of a township police district or the joint police 26014
district board, that appointee may appeal the decision of ~~the~~ 26015
either board to the court of common pleas of the county in which 26016
the district is situated to determine the sufficiency of the cause 26017
of removal or suspension. The appointee shall take the appeal 26018
within ten days of written notice to the appointee of the decision 26019
of the board. 26020

(C)(1) Division (B) of this section does not apply to a 26021
township that has a population of ten thousand or more persons 26022
residing within the township and outside of any municipal 26023
corporation, that has its own police department employing ten or 26024
more full-time paid employees, and that has a civil service 26025
commission established under division (B) of section 124.40 of the 26026
Revised Code. The township shall comply with the procedures for 26027
the employment, promotion, and discharge of police personnel 26028
provided by Chapter 124. of the Revised Code, except as otherwise 26029
provided in divisions (C)(2) and (3) of this section. 26030

(2) The board of township trustees of the township may 26031
appoint the chief of police, and a person so appointed shall be in 26032

the unclassified service under section 124.11 of the Revised Code 26033
and shall serve at the pleasure of the board. A person appointed 26034
chief of police under these conditions who is removed by the board 26035
or who resigns from the position shall be entitled to return to 26036
the classified service in the township police department, in the 26037
position that person held previous to the person's appointment as 26038
chief of police. 26039

(3) The appointing authority of an urban township, as defined 26040
in section 504.01 of the Revised Code, may appoint to a vacant 26041
position any one of the three highest scorers on the eligible list 26042
for a promotional examination. 26043

(4) The board of township trustees of a township described in 26044
this division shall determine the number of personnel required and 26045
establish salary schedules and conditions of employment not in 26046
conflict with Chapter 124. of the Revised Code. 26047

(5) Persons employed as police personnel in a township 26048
described in this division on the date a civil service commission 26049
is appointed pursuant to division (B) of section 124.40 of the 26050
Revised Code, without being required to pass a competitive 26051
examination or a police training program, shall retain their 26052
employment and any rank previously granted them by action of the 26053
township trustees or otherwise, but those persons are eligible for 26054
promotion only by compliance with Chapter 124. of the Revised 26055
Code. 26056

(6) This division does not apply to constables appointed 26057
pursuant to section 509.01 of the Revised Code. This division is 26058
subject to division (D) of this section. 26059

(D)(1) The board of township trustees or a joint police 26060
district board shall not appoint or employ a person as a chief of 26061
police, and the chief of police shall not appoint or employ a 26062
person as a patrol officer or other peace officer of a township 26063

police district ~~or a~~ township police department, or joint police 26064
district on a permanent basis, on a temporary basis, for a 26065
probationary term, or on other than a permanent basis if the 26066
person previously has been convicted of or has pleaded guilty to a 26067
felony. 26068

(2)(a) The board of township trustees or joint police 26069
district board shall terminate the appointment or employment of a 26070
chief of police, patrol officer, or other peace officer of a 26071
township police district ~~or a~~ township police department, or joint 26072
police district who does either of the following: 26073

(i) Pleads guilty to a felony; 26074

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 26075
plea agreement as provided in division (D) of section 2929.43 of 26076
the Revised Code in which the chief of police, patrol officer, or 26077
other peace officer of a township police district ~~or a~~ township 26078
police department, or joint police district agrees to surrender 26079
the certificate awarded to that chief of police, patrol officer, 26080
or other peace officer under section 109.77 of the Revised Code. 26081

(b) The board shall suspend the appointment or employment of 26082
a chief of police, patrol officer, or other peace officer of a 26083
township police district ~~or a~~ township police department, or joint 26084
police district who is convicted, after trial, of a felony. If ~~the~~ 26085
such chief of police, patrol officer, or other peace officer ~~of a~~ 26086
~~township police district or township police department~~ files an 26087
appeal from that conviction and the conviction is upheld by the 26088
highest court to which the appeal is taken, ~~or~~ if no timely 26089
appeal is filed, the board shall terminate the appointment or 26090
employment of that chief of police, patrol officer, or other peace 26091
officer. If the chief of police, patrol officer, or other peace 26092
officer of a township police district ~~or a~~ township police 26093
department, or joint police district files an appeal that results 26094
in that chief of police's, patrol officer's, or other peace 26095

officer's acquittal of the felony or conviction of a misdemeanor, 26096
or in the dismissal of the felony charge against the chief of 26097
police, patrol officer, or other peace officer, the board shall 26098
reinstate that chief of police, patrol officer, or other peace 26099
officer. A chief of police, patrol officer, or other peace officer 26100
~~of a township police district or township police department~~ who is 26101
reinstated under division (D)(2)(b) of this section shall not 26102
receive any back pay unless the conviction of that chief of 26103
police, patrol officer, or other peace officer of the felony was 26104
reversed on appeal, or the felony charge was dismissed, because 26105
the court found insufficient evidence to convict the chief of 26106
police, patrol officer, or other peace officer of the felony. 26107

(3) Division (D) of this section does not apply regarding an 26108
offense that was committed prior to January 1, 1997. 26109

(4) The suspension or termination of the appointment or 26110
employment of a chief of police, patrol officer, or other peace 26111
officer under division (D)(2) of this section shall be in 26112
accordance with Chapter 119. of the Revised Code. 26113

(E) The board of township trustees or the joint police 26114
district board may enter into a contract under section 505.43 or 26115
505.50 of the Revised Code to obtain all police protection for the 26116
township police district or joint police district from one or more 26117
municipal corporations, county sheriffs, or other townships. If 26118
the board enters into such a contract, subject to division (D) of 26119
this section, it may, but is not required to, appoint a police 26120
chief for the district. 26121

(F) The members of the police force of a township police 26122
district of a township, or of a joint police district board 26123
comprised of a township, that adopts the limited self-government 26124
form of township government shall serve as peace officers for the 26125
township territory included in the district. 26126

(G) A chief of police or patrol officer of a township police 26127
district, ~~or of a~~ township police department, or joint police 26128
district may participate, as the director of an organized crime 26129
task force established under section 177.02 of the Revised Code or 26130
as a member of the investigatory staff of that task force, in an 26131
investigation of organized criminal activity in any county or 26132
counties in this state under sections 177.01 to 177.03 of the 26133
Revised Code. 26134

Sec. 505.491. Except as provided in division (D) of section 26135
505.49 or in division (C) of section 509.01 of the Revised Code 26136
for a board of township trustees, and except as provided in 26137
division (D) of section 505.49 of the Revised Code for a joint 26138
police district board, if the board ~~of trustees of a township~~ has 26139
reason to believe that a chief of police, patrol officer, or other 26140
township or joint police district employee appointed under 26141
division (B) of section 505.49 of the Revised Code or a police 26142
constable appointed under division (B) of section 509.01 of the 26143
Revised Code has been guilty, in the performance of the official 26144
duty of that chief of police, patrol officer, other township or 26145
joint police district employee, or police constable, of bribery, 26146
misfeasance, malfeasance, nonfeasance, misconduct in office, 26147
neglect of duty, gross immorality, habitual drunkenness, 26148
incompetence, or failure to obey orders given that person by the 26149
proper authority, the board immediately shall file written charges 26150
against that person, ~~setting.~~ The written charges shall set forth 26151
in detail a statement of the alleged guilt and, at the same time, 26152
or as soon thereafter as possible, serve a true copy of those 26153
charges upon the person against whom they are made. The service 26154
may be made on the person or by leaving a copy of the charges at 26155
the office or residence of that person. Return of the service 26156
shall be made to the board in the same manner that is provided for 26157
the return of the service of summons in a civil action. 26158

Sec. 505.492. Charges filed by the board of township trustees 26159
or joint police district board under section 505.491 of the 26160
Revised Code shall be heard at the next regular meeting thereof, 26161
unless the board extends the time for the hearing, which shall be 26162
done only on the application of the accused. The accused may 26163
appear in person and by counsel, examine all witnesses, and answer 26164
all charges against ~~him~~ the accused. 26165

Sec. 505.493. Pending any proceedings under sections 505.491 26166
and 505.492 of the Revised Code, an accused person may be 26167
suspended by the board of township trustees or joint police 26168
district board, but such suspension shall be for a period not 26169
longer than fifteen days, unless the hearing of such charges is 26170
extended upon the application of the accused, in which event the 26171
suspension shall not exceed thirty days. 26172

Sec. 505.494. For the purpose of investigating charges filed 26173
pursuant to section 505.491 of the Revised Code, the board of 26174
township trustees or joint police district board may issue 26175
subpoenas or compulsory process to compel the attendance of 26176
persons and the production of books and papers before it and 26177
provide by resolution for exercising and enforcing this section. 26178

Sec. 505.495. In all cases in which the attendance of 26179
witnesses may be compelled for an investigation, under section 26180
505.494 of the Revised Code, any member of the board of township 26181
trustees or of the joint police district board may administer the 26182
requisite oaths. The board has the same power to compel the giving 26183
of testimony by attending witnesses as is conferred upon courts. 26184
In all such cases, witnesses shall be entitled to the same 26185
privileges and immunities as are allowed witnesses in civil cases. 26186
Witnesses shall be paid the fees and mileage provided for under 26187
section 1901.26 of the Revised Code, and the costs of all such 26188

proceedings shall be payable from the general fund of the township 26189
or joint police district. 26190

Sec. 505.50. The board of township trustees of a township or 26191
of a township police district, or a joint police district board, 26192
may purchase, lease, lease with an option to purchase, or 26193
otherwise acquire any police apparatus, equipment, including a 26194
public communications system, or materials that the township ~~or,~~ 26195
township police district, or joint police district requires and 26196
may build, purchase, lease, or lease with an option to purchase 26197
any building or buildings and site of the building or buildings 26198
that are necessary for the police operations of the township or 26199
either district. 26200

The boards of trustees of any two or more contiguous 26201
townships, ~~may~~ or the boards of township trustees of one or more 26202
contiguous townships and the legislative authorities of one or 26203
more contiguous municipal corporations, by joint agreement, may 26204
unite in the joint purchase, lease, lease with an option to 26205
purchase, maintenance, use, and operation of police equipment for 26206
any other police purpose designated in sections 505.48 to 505.55 26207
of the Revised Code, and to prorate the expense of that joint 26208
action on terms mutually agreed upon by the trustees in each 26209
affected township and the legislative authorities of each affected 26210
municipal corporation. 26211

The board of trustees of a township or of a township police 26212
district, or a joint police district board, may enter into a 26213
contract with one or more townships, a municipal corporation, a 26214
park district created pursuant to section 511.18 or 1545.01 of the 26215
Revised Code, or the county sheriff upon any terms that are 26216
mutually agreed upon for the provision of police protection 26217
services or additional police protection services either on a 26218
regular basis or for additional protection in times of emergency. 26219

The contract shall be agreed to in each instance by the respective board or boards of township trustees, the board of county commissioners, the board of park commissioners, the joint police district board, or the legislative authority of the municipal corporation involved. The contract may provide for a fixed annual charge to be paid at the time agreed upon in the contract.

Chapter 2744. of the Revised Code, insofar as it is applicable to the operation of police departments, applies to the contracting political subdivisions and police department members when the members are serving outside their own political subdivision pursuant to such a contract. Police department members acting outside the political subdivision in which they are employed may participate in any pension or indemnity fund established by their employer and are entitled to all the rights and benefits of Chapter 4123. of the Revised Code, to the same extent as while performing services within the political subdivision.

Sec. 505.51. The board of trustees of a township police district or a joint police district board may levy a tax upon all of the taxable property in the township police district or joint police district, respectively, pursuant to sections 5705.19 and 5705.25 of the Revised Code to defray all or a portion of expenses of the district in providing police protection.

Sec. 505.511. (A) A board of township trustees that operates a township police department ~~or~~, the board of township trustees of a township police district, or a joint police district board may, after police constables, the township police, a law enforcement agency with which the township contracts for police services, the joint police district police, and the county sheriff or the sheriff's deputy have answered a combined total of three false alarms from the same commercial or residential security alarm

system within the township in the same calendar year, cause the township fiscal officer to mail the manager of the commercial establishment or the occupant, lessee, agent, or tenant of the residence a bill for each subsequent false alarm from the same alarm system during that year, to defray the costs incurred. The bill's amount shall be as follows:

(1) For the fourth false alarm of that year \$50.00;

(2) For the fifth false alarm of that year \$100.00;

(3) For all false alarms in that year occurring after the fifth false alarm \$150.00.

If payment of the bill is not received within thirty days, the township fiscal officer or joint police district treasurer shall send a notice by certified mail to the manager and to the owner, if different, of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and to the owner, if different, of the real estate of which the residence is a part, indicating that failure to pay the bill within thirty days, or to show just cause why the bill should not be paid, will result in the assessment of a lien upon the real estate in the amount of the bill. If payment is not received within those thirty days or if just cause is not shown, the amount of the bill shall be entered upon the tax duplicate, shall be a lien upon the real estate from the date of the entry, and shall be collected as other taxes and returned to the township treasury to be earmarked for use for police services.

The board of township trustees shall not cause the township fiscal officer, or the joint police district board shall not cause the joint police district treasurer, to send a bill pursuant to this division if a bill has already been sent pursuant to division (B) of this section for the same false alarm.

(B) The county sheriff may, after the county sheriff or the

sheriff's deputy, police constables, the township police, the 26282
joint police district police, and a law enforcement agency with 26283
which the township contracts for police services have answered a 26284
combined total of three false alarms from the same commercial or 26285
residential security alarm system within the unincorporated area 26286
of the county in the same calendar year, mail the manager of the 26287
commercial establishment or the occupant, lessee, agent, or tenant 26288
of the residence a bill for each subsequent false alarm from the 26289
same alarm system during that year, to defray the costs incurred. 26290
The bill's amount shall be as follows: 26291

- (1) For the fourth false alarm of that year \$50.00; 26292
- (2) For the fifth false alarm of that year \$100.00; 26293
- (3) For all false alarms in that year occurring after the 26294
fifth false alarm \$150.00. 26295

If payment of the bill is not received within thirty days, 26296
the sheriff shall send a notice by certified mail to the manager 26297
and to the owner, if different, of the real estate of which the 26298
commercial establishment is a part, or to the occupant, lessee, 26299
agent, or tenant and to the owner, if different, of the real 26300
estate of which the residence is a part, indicating that failure 26301
to pay the bill within thirty days, or to show just cause why the 26302
bill should not be paid, will result in the assessment of a lien 26303
upon the real estate in the amount of the bill. If payment is not 26304
received within those thirty days or if just cause is not shown, 26305
the amount of the bill shall be entered upon the tax duplicate, 26306
shall be a lien upon the real estate from the date of the entry, 26307
and shall be collected as other taxes and returned to the county 26308
treasury. 26309

The sheriff shall not send a bill pursuant to this division 26310
if a bill has already been sent pursuant to division (A) of this 26311
section for the same false alarm. 26312

(C) As used in this section, "commercial establishment" has 26313
the same meaning as in section 505.391 of the Revised Code. 26314

Sec. 505.52. The board of trustees of a township police 26315
district or a joint police district board may issue bonds for the 26316
purpose of buying police equipment in the manner provided for in 26317
section 133.18 and pursuant to Chapter 133. of the Revised Code. 26318
The proceeds of the bonds issued under this section, other than 26319
any premium and accrued interest which is credited to the sinking 26320
fund, shall be placed in the township treasury or joint police 26321
district board treasury to the credit of a fund to be known as the 26322
"police equipment fund." Money from the police equipment fund 26323
shall be paid out only upon order of the township board of 26324
trustees of the township police district or of the joint police 26325
district board. 26326

Sec. 505.53. The board of trustees of a township police 26327
district or a joint police district board may issue notes for a 26328
period not to exceed three years for the purpose of buying police 26329
equipment or a building or site to house police equipment. 26330
One-third of the purchase price of the equipment, building, or 26331
site shall be paid at the time of purchase, and the remainder of 26332
the purchase price shall be covered by notes maturing in two and 26333
three years respectively. Notes may bear interest not to exceed 26334
the rate determined as provided in section 9.95 of the Revised 26335
Code, and shall not be subject to Chapter 133. of the Revised 26336
Code. Such notes shall be offered for sale on the open market or 26337
given to a vendor if no sale is made. 26338

Sec. 505.54. The board of trustees of the township or the 26339
joint police district board may, upon nomination by the chief of 26340
police, send one or more of the officers, ~~patrolmen~~ patrol 26341
officers, or other employees of the township police district or 26342

the joint police district to a school of instruction designed to 26343
provide additional training or skills related to the employees 26344
work assignment in the district. The trustees may make advance 26345
tuition payments for any employee so nominated and may defray all 26346
or a portion of the employee's expenses while receiving this 26347
instruction. 26348

Sec. 505.541. (A) The board of township trustees or a joint 26349
police district board, respectively, may establish, by resolution, 26350
a parking enforcement unit within a township police district or 26351
within a joint police district, and provide for the regulation of 26352
parking enforcement officers. The chief of police of the district 26353
shall be the executive head of the parking enforcement unit, shall 26354
make all appointments and removals of parking enforcement 26355
officers, subject to any general rules prescribed by the board of 26356
township trustees by resolution or joint police district board, as 26357
appropriate, and shall prescribe rules for the organization, 26358
training, administration, control, and conduct of the parking 26359
enforcement unit. The chief of police may appoint parking 26360
enforcement officers who agree to serve for nominal compensation, 26361
and persons with physical disabilities may receive appointments as 26362
parking enforcement officers. 26363

(B) The authority of the parking enforcement officers shall 26364
be limited to the enforcement of section 4511.69 of the Revised 26365
Code and any other parking laws specified in the resolution 26366
creating the parking enforcement unit. Parking enforcement 26367
officers shall have no other powers. 26368

(C) The training the parking enforcement officers shall 26369
receive shall include instruction in general administrative rules 26370
and procedures governing the parking enforcement unit, the role of 26371
the judicial system as it relates to parking regulation and 26372
enforcement, proper techniques and methods relating to the 26373

enforcement of parking laws, human interaction skills, and first aid. 26374
26375

Sec. 505.55. In the event that need for a township police 26376
district ceases to exist, the township trustees by a two-thirds 26377
vote of the board shall adopt a resolution specifying the date 26378
that the township police district shall cease to exist and provide 26379
for the disposal of all property belonging to the district by 26380
public sale. Such sale must be by public auction and upon notice 26381
thereof being published once a week for three weeks in a newspaper 26382
~~published, or~~ of general circulation in such township, ~~the~~ or as 26383
provided in section 7.16 of the Revised Code. The last of such 26384
publications ~~to~~ shall be made at least five days before the date 26385
of the sale. Any moneys remaining after the dissolution of the 26386
district or received from the public sale of property shall be 26387
paid into the treasury of the township and may be expended for any 26388
public purpose when duly authorized by the township board of 26389
trustees. 26390

Sec. 505.551. (A) Any township or municipal corporation may 26391
withdraw from a joint police district created under section 26392
505.482 of the Revised Code by adopting a resolution or an 26393
ordinance, respectively, ordering withdrawal. On or after the 26394
first day of January of the year following the adoption of the 26395
resolution or ordinance of withdrawal, the township or municipal 26396
corporation withdrawing ceases to be a part of the district, and 26397
the power of the district to levy a tax upon the taxable property 26398
in the withdrawing township or municipal corporation terminates, 26399
except that the district shall continue to levy and collect taxes 26400
for the payment of indebtedness within the territory of the 26401
district as it was comprised at the time the indebtedness was 26402
incurred. 26403

(B) Upon the withdrawal of any township or municipal 26404

corporation from a joint police district, the county auditor shall 26405
ascertain, apportion, and order a division of the funds on hand 26406
and moneys and taxes in the process of collection, except for 26407
taxes levied for the payment of indebtedness, credits, and real 26408
and personal property, either in money or in kind, on the basis of 26409
the valuation of the respective tax duplicates of the withdrawing 26410
township or municipal corporation and the remaining territory of 26411
the joint police district. 26412

(C) When the number of townships or municipal corporations 26413
comprising a joint police district is reduced to one, the joint 26414
police district ceases to exist by operation of law, and the 26415
funds, credits, and property remaining after apportionments to 26416
withdrawing townships or municipal corporations shall be assumed 26417
by the one remaining township or municipal corporation. When a 26418
joint police district ceases to exist and an indebtedness remains 26419
unpaid, the board of county commissioners shall continue to levy 26420
and collect taxes for the payment of that indebtedness within the 26421
territory of the joint police district as it was comprised at the 26422
time the indebtedness was incurred. 26423

Sec. 505.60. The following applies until the department of 26424
administrative services implements for townships the health care 26425
plans under section 9.901 of the Revised Code. If those plans do 26426
not include or address any benefits listed in division (A) of this 26427
section, the following provisions continue in effect for those 26428
benefits. 26429

(A) As provided in this section and section 505.601 of the 26430
Revised Code, the board of township trustees of any township may 26431
procure and pay all or any part of the cost of insurance policies 26432
that may provide benefits for hospitalization, surgical care, 26433
major medical care, disability, dental care, eye care, medical 26434
care, hearing aids, prescription drugs, or sickness and accident 26435

insurance, or a combination of any of the foregoing types of 26436
insurance for township officers and employees. The board of 26437
township trustees of any township may negotiate and contract for 26438
the purchase of a policy of long-term care insurance for township 26439
officers and employees pursuant to section 124.841 of the Revised 26440
Code. 26441

If the board procures any insurance policies under this 26442
section, the board shall provide uniform coverage under these 26443
policies for township officers and full-time township employees 26444
and their immediate dependents, and may provide coverage under 26445
these policies for part-time township employees and their 26446
immediate dependents, from the funds or budgets from which the 26447
officers or employees are compensated for services, such policies 26448
to be issued by an insurance company duly authorized to do 26449
business in this state. 26450

(B) The board may also provide coverage for any or all of the 26451
benefits described in division (A) of this section by entering 26452
into a contract for group health care services with health 26453
insuring corporations holding certificates of authority under 26454
Chapter 1751. of the Revised Code for township officers and 26455
employees and their immediate dependents. If the board so 26456
contracts, it shall provide uniform coverage under any such 26457
contracts for township officers and full-time township employees 26458
and their immediate dependents, from the funds or budgets from 26459
which the officers or employees are compensated for services, and 26460
may provide coverage under such contracts for part-time township 26461
employees and their immediate dependents, from the funds or 26462
budgets from which the officers or employees are compensated for 26463
services, provided that each officer and employee so covered is 26464
permitted to: 26465

(1) Choose between a plan offered by an insurance company and 26466
a plan offered by a health insuring corporation, and provided 26467

further that the officer or employee pays any amount by which the 26468
cost of the plan chosen exceeds the cost of the plan offered by 26469
the board under this section; 26470

(2) Change the choice made under this division at a time each 26471
year as determined in advance by the board. 26472

An addition of a class or change of definition of coverage to 26473
the plan offered under this division by the board may be made at 26474
any time that it is determined by the board to be in the best 26475
interest of the township. If the total cost to the township of the 26476
revised plan for any trustee's coverage does not exceed that cost 26477
under the plan in effect during the prior policy year, the 26478
revision of the plan does not cause an increase in that trustee's 26479
compensation. 26480

(C) Any township officer or employee may refuse to accept any 26481
coverage authorized by this section without affecting the 26482
availability of such coverage to other township officers and 26483
employees. 26484

(D) If any township officer or employee is denied coverage 26485
under a health care plan procured under this section or if any 26486
township officer or employee elects not to participate in the 26487
township's health care plan, the township may reimburse the 26488
officer or employee for each out-of-pocket premium attributable to 26489
the coverage provided for the officer or employee for insurance 26490
benefits described in division (A) of this section that the 26491
officer or employee otherwise obtains, but not to exceed an amount 26492
equal to the average premium paid by the township for its officers 26493
and employees under any health care plan it procures under this 26494
section. 26495

(E) The board may provide the benefits authorized under this 26496
section, without competitive bidding, by contributing to a health 26497
and welfare trust fund administered through or in conjunction with 26498

a collective bargaining representative of the township employees. 26499

The board may also provide the benefits described in this 26500
section through an individual self-insurance program or a joint 26501
self-insurance program as provided in section 9.833 of the Revised 26502
Code. 26503

(F) If a board of township trustees fails to pay one or more 26504
premiums for a policy, contract, or plan of insurance or health 26505
care services authorized under this section and the failure causes 26506
a lapse, cancellation, or other termination of coverage under the 26507
policy, contract, or plan, it may reimburse a township officer or 26508
employee for, or pay on behalf of the officer or employee, any 26509
expenses incurred that would have been covered under the policy, 26510
contract, or plan. 26511

(G) As used in this section and section 505.601 of the 26512
Revised Code: 26513

(1) "Part-time township employee" means a township employee 26514
who is hired with the expectation that the employee will work not 26515
more than one thousand five hundred hours in any year. 26516

(2) "Premium" does not include any deductible or health care 26517
costs paid directly by a township officer or employee. 26518

Sec. 505.601. The following applies until the department of 26519
administrative services implements for townships the health care 26520
plans under section 9.901 of the Revised Code. 26521

If a board of township trustees does not procure an insurance 26522
policy or group health care services as provided in section 505.60 26523
of the Revised Code, the board of township trustees may reimburse 26524
any township officer or employee for each out-of-pocket premium 26525
attributable to the coverage provided for that officer or employee 26526
for insurance benefits described in division (A) of section 505.60 26527
of the Revised Code that the officer or employee otherwise 26528

obtains, if all of the following conditions are met: 26529

(A) The board of township trustees adopts a resolution that 26530
states that the township has chosen not to procure a health care 26531
plan under section 505.60 of the Revised Code and has chosen 26532
instead to reimburse its officers and employees for each 26533
out-of-pocket premium attributable to the coverage provided for 26534
them for insurance benefits described in division (A) of section 26535
505.60 of the Revised Code that they otherwise obtain. 26536

(B) That resolution provides for a uniform maximum monthly or 26537
yearly payment amount for each officer or employee to cover 26538
themselves and their immediate dependents, beyond which the 26539
township will not reimburse the officer or employee. 26540

(C) That resolution states the specific benefits listed in 26541
division (A) of section 505.60 of the Revised Code for which the 26542
township will reimburse all officers and employees of the 26543
township. The township may not reimburse officers and employees 26544
for benefits other than those listed in division (A) of section 26545
505.60 of the Revised Code. 26546

Sec. 505.603. The following applies until the department of 26547
administrative services implements for townships the health care 26548
plans under section 9.901 of the Revised Code. If those plans do 26549
not include or address any benefits incorporated in this section, 26550
the following provisions continue in effect for those benefits. 26551

In addition to or in lieu of providing benefits to township 26552
officers and employees under section 505.60, 505.601, or 505.602 26553
of the Revised Code, a board of township trustees may offer 26554
benefits to officers and employees through a cafeteria plan that 26555
meets the requirements of section 125 of the "Internal Revenue 26556
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, as amended, after 26557
first adopting a policy authorizing an officer or employee to 26558
receive a cash payment in lieu of a benefit otherwise offered to 26559

township officers or employees under any of those sections, but 26560
only if the cash payment does not exceed twenty-five per cent of 26561
the cost of premiums or payments that otherwise would be paid by 26562
the board for benefits for the officer or employee under an 26563
offered policy, contract, or plan. No cash payment in lieu of a 26564
benefit shall be made pursuant to this section unless the officer 26565
or employee signs a statement affirming that the officer or 26566
employee is covered under another health insurance or health care 26567
policy, contract, or plan in the case of a health benefit, or a 26568
life insurance policy in the case of a life insurance benefit, and 26569
setting forth the name of the employer, if any, that sponsors the 26570
coverage, the name of the carrier that provides the coverage, and 26571
an identifying number of the applicable policy, contract, or plan. 26572

Sec. 505.61. A board of township trustees may purchase a 26573
policy or policies of insurance to indemnify township constables 26574
appointed under Chapter 509. of the Revised Code or the chief of 26575
police, ~~patrolmen~~ patrol officers, and other employees of a 26576
township police district established under sections 505.48 to 26577
505.55 of the Revised Code against liability arising from the 26578
performance of their official duties. 26579

A joint police district board may purchase a policy or 26580
policies of insurance to indemnify the chief of police, patrol 26581
officers, and other employees of a joint police district 26582
established under section 505.482 of the Revised Code against 26583
liability arising from the performance of their duties. 26584

Sec. 505.67. (A) If the board of county commissioners of the 26585
county in which a township is located has not established a motor 26586
vehicle decal registration program under section 311.31 of the 26587
Revised Code, the board of township trustees may establish, by 26588
resolution, a voluntary motor vehicle decal registration program 26589
to be controlled and conducted by the chief law enforcement 26590

officer of the township within the unincorporated areas of the 26591
township. The board may establish a fee for participation in the 26592
program in an amount sufficient to cover the cost of administering 26593
the program and the cost of the decals. 26594

(B) Any resident of the township may enroll a motor vehicle 26595
that ~~he~~ the resident owns in the program by signing a consent 26596
form, displaying the decal issued under this section, and paying 26597
the prescribed fee. The motor vehicle owner shall remove the decal 26598
to withdraw from the program and also prior to the sale or 26599
transfer of ownership of the vehicle. Any law enforcement officer 26600
may conduct, at any place within this state at which the officer 26601
would be permitted to arrest the person operating the vehicle, an 26602
investigatory stop of any motor vehicle displaying a decal issued 26603
under this section when the vehicle is being driven between the 26604
hours of one a.m. and five a.m. A law enforcement officer may 26605
conduct an investigatory stop under this division regardless of 26606
whether the officer observes a violation of law involving the 26607
vehicle or whether ~~he~~ the officer has probable cause to believe 26608
that any violation of law involving the vehicle has occurred. 26609

(C) The consent form required under division (B) of this 26610
section shall: 26611

(1) Describe the conditions for participation in the program, 26612
including a description of an investigatory stop and a statement 26613
that any law enforcement officer may conduct, at any place within 26614
this state at which the officer would be permitted to arrest the 26615
person operating the vehicle, an investigatory stop of the motor 26616
vehicle when it is being driven between the hours of one a.m. and 26617
five a.m. 26618

(2) Contain other information identifying the vehicle and 26619
owner as the chief law enforcement officer of the township 26620
considers necessary. 26621

(D) The state director of public safety, in accordance with 26622
Chapter 119. of the Revised Code, shall adopt rules governing the 26623
color, size, and design of decals issued under this section and 26624
the location where the decals shall be displayed on vehicles that 26625
are enrolled in the program. 26626

(E) Divisions (A) to (D) of this section do not require a law 26627
enforcement officer to conduct an investigatory stop of a vehicle 26628
displaying a decal issued under this section. 26629

(F) As used in this section: 26630

(1) "Investigatory stop" means a temporary stop of a motor 26631
vehicle and its operator and occupants for purposes of determining 26632
the identity of the person who is operating the vehicle and, if 26633
the person who is operating it is not its owner, whether any 26634
violation of law has occurred or is occurring. An "investigatory 26635
stop" is not an arrest, but, if an officer who conducts an 26636
investigatory stop determines that illegal conduct has occurred or 26637
is ~~occurring~~ occurring, an "investigatory stop" may be the basis 26638
for an arrest. 26639

(2) "Law enforcement officer" means a sheriff, deputy 26640
sheriff, constable, police officer of a township or joint ~~township~~ 26641
police district, marshal, deputy marshal, municipal police 26642
officer, or state highway patrol trooper. 26643

Sec. 505.73. (A) The board of township trustees may, by 26644
resolution, adopt by incorporation by reference, administer, and 26645
enforce within the unincorporated area of the township an existing 26646
structures code pertaining to the repair and continued maintenance 26647
of structures and the premises of those structures. For that 26648
purpose, the board shall adopt any model or standard code prepared 26649
and promulgated by this state, any department, board, or agency of 26650
this state, or any public or private organization that publishes a 26651
recognized model or standard code on the subject. The board shall 26652

ensure that the code adopted governs subject matter not addressed 26653
by the state residential building code and that it is fully 26654
compatible with the state residential and nonresidential building 26655
codes the board of building standards adopts pursuant to section 26656
3781.10 of the Revised Code. 26657

(B) The board shall assign the duties of administering and 26658
enforcing the existing structures code to a township officer or 26659
employee who is trained and qualified for those duties and shall 26660
establish by resolution the minimum qualifications necessary to 26661
perform those duties. 26662

(C)(1) After the board adopts an existing structures code, 26663
the township fiscal officer shall post a notice that clearly 26664
identifies the code, states the code's purpose, and states that a 26665
complete copy of the code is on file for inspection by the public 26666
with the fiscal officer and in the county law library and that the 26667
fiscal officer has copies available for distribution to the public 26668
at cost. 26669

(2) The township fiscal officer shall post the notice in five 26670
conspicuous places in the township for thirty days before the code 26671
becomes effective and shall publish the notice in a newspaper of 26672
general circulation in the township for three consecutive weeks or 26673
as provided in section 7.16 of the Revised Code. If the adopting 26674
township amends or deletes any provision of the code, the notice 26675
shall contain a brief summary of the deletion or amendment. 26676

(D) If the agency that originally promulgated or published 26677
the existing structures code amends the code, the board may adopt 26678
the amendment or change by incorporation by reference in the 26679
manner provided for the adoption of the original code. 26680

Sec. 507.09. (A) Except as otherwise provided in division (D) 26681
of this section, the township fiscal officer shall be entitled to 26682
compensation as follows: 26683

(1) In townships having a budget of fifty thousand dollars or less, three thousand five hundred dollars;	26684 26685
(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, five thousand five hundred dollars;	26686 26687 26688
(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, seven thousand seven hundred dollars;	26689 26690 26691
(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, nine thousand nine hundred dollars;	26692 26693 26694
(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, eleven thousand dollars;	26695 26696 26697
(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, thirteen thousand two hundred dollars;	26698 26699 26700
(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, fifteen thousand four hundred dollars;	26701 26702 26703
(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars, sixteen thousand five hundred dollars;	26704 26705 26706
(9) In townships having a budget of more than six million dollars, seventeen thousand six hundred dollars.	26707 26708
(B) Any township fiscal officer may elect to receive less than the compensation the fiscal officer is entitled to under division (A) of this section. Any township fiscal officer electing to do this shall so notify the board of township trustees in writing, and the board shall include this notice in the minutes of	26709 26710 26711 26712 26713

its next board meeting. 26714

(C) The compensation of the township fiscal officer shall be 26715
paid in equal monthly payments. If the office of township fiscal 26716
officer is held by more than one person during any calendar year, 26717
each person holding the office shall receive payments for only 26718
those months, and any fractions of those months, during which the 26719
person holds the office. 26720

A township fiscal officer may be compensated from the 26721
township general fund or from other township funds based on the 26722
proportion of time the township fiscal officer spends providing 26723
services related to each fund. A township fiscal officer must 26724
document the amount of time the township fiscal officer spends 26725
providing services related to each fund by certification 26726
specifying the percentage of time spent working on matters to be 26727
paid from the township general fund or from other township funds 26728
in such proportions as the kinds of services performed. 26729

(D) Beginning in calendar year 1999, the township fiscal 26730
officer shall be entitled to compensation as follows: 26731

(1) In calendar year 1999, the compensation specified in 26732
division (A) of this section increased by three per cent; 26733

(2) In calendar year 2000, the compensation determined under 26734
division (D)(1) of this section increased by three per cent; 26735

(3) In calendar year 2001, the compensation determined under 26736
division (D)(2) of this section increased by three per cent; 26737

(4) In calendar year 2002, except in townships having a 26738
budget of more than six million dollars, the compensation 26739
determined under division (D)(3) of this section increased by 26740
three per cent; in townships having a budget of more than six 26741
million but not more than ten million dollars, nineteen thousand 26742
eight hundred ten dollars; and in townships having a budget of 26743
more than ten million dollars, twenty thousand nine hundred 26744

dollars; 26745

(5) In calendar year 2003, the compensation determined under 26746
division (D)(4) of this section increased by three per cent or the 26747
percentage increase in the consumer price index as described in 26748
division (D)(7)(b) of this section, whichever percentage is lower; 26749

(6) In calendar year 2004, except in townships having a 26750
budget of more than six million dollars, the compensation 26751
determined under division (D)(5) of this section for the calendar 26752
year 2003 increased by three per cent or the percentage increase 26753
in the consumer price index as described in division (D)(7)(b) of 26754
this section, whichever percentage is lower; in townships having a 26755
budget of more than six million but not more than ten million 26756
dollars, twenty-two thousand eighty-seven dollars; and in 26757
townships having a budget of more than ten million dollars, 26758
twenty-five thousand five hundred fifty-three dollars; 26759

(7) In calendar years 2005 through 2008, the compensation 26760
determined under division (D) of this section for the immediately 26761
preceding calendar year increased by the lesser of the following: 26762

(a) Three per cent; 26763

(b) The percentage increase, if any, in the consumer price 26764
index over the twelve-month period that ends on the thirtieth day 26765
of September of the immediately preceding calendar year, rounded 26766
to the nearest one-tenth of one per cent; 26767

(8) In calendar year 2009 and thereafter, the amount 26768
determined under division (D) of this section for calendar year 26769
2008. 26770

As used in this division, "consumer price index" has the same 26771
meaning as in section 325.18 of the Revised Code. 26772

Sec. 509.15. The following fees and expenses shall be taxed 26773
as costs, collected from the judgment debtor, and paid to the 26774

general fund of the appropriate township or district as	26775
compensation due for services rendered by township constables or	26776
members of the police force of a township police district or joint	26777
police district:	26778
(A) Serving and making return of each of the following:	26779
(1) Order to commit to jail, order on jailer for prisoner, or	26780
order of ejectment, including copies to complete service, one	26781
dollar for each defendant named therein;	26782
(2) Search warrant or warrant of arrest, for each person	26783
named in the writ, five dollars;	26784
(3) Writ of attachment of property, except for purpose of	26785
garnishment, twenty dollars;	26786
(4) Writ of attachment for the purpose of garnishment, five	26787
dollars;	26788
(5) Writ of possession or restitution, twenty dollars;	26789
(6) Attachment for contempt, for each person named in the	26790
writ, three dollars;	26791
(7) Writ of replevin, twenty dollars;	26792
(8) Summons and writs, subpoena, venire, and notice to	26793
garnishee, including copies to complete service, three dollars for	26794
each person named therein;	26795
(9) Execution against property or person, eighty cents, and	26796
six per cent of all money thus collected;	26797
(10) Any other writ, order, or notice required by law, for	26798
each person named therein, including copies to complete service,	26799
three dollars for the first name and fifty cents for each	26800
additional name.	26801
(B) Mileage for the distance actually and necessarily	26802
traveled in serving and returning any of the preceding writs,	26803

orders, and notices, fifty cents for the first mile and for each 26804
additional mile, twenty cents; 26805

(C) For attending a criminal case during the trial or hearing 26806
and having charge of prisoners, each case, two dollars and fifty 26807
cents, but, when so acting, such constable shall not be entitled 26808
to a witness fee if called upon to testify; 26809

(D) For attending civil court during a jury trial, each case, 26810
two dollars; 26811

(E) For attending civil court during a trial without jury, 26812
each case, one dollar and fifty cents; 26813

(F) The actual amount paid solely for the transportation, 26814
meals, and lodging of prisoners, and for the moving and storage of 26815
goods and the care of animals taken on any legal process, such 26816
expense shall be specifically itemized on the back of the writs 26817
and sworn to; 26818

(G) For summoning and swearing appraisers, each case, two 26819
dollars; 26820

(H) For advertising property for sale, by posting, taken on 26821
any legal process, one dollar; 26822

(I) For taking and making return of any bond required by law, 26823
eighty cents. 26824

Notwithstanding anything to the contrary in this section, if 26825
any comparable fee or expense specified under section 311.17 of 26826
the Revised Code is increased to an amount greater than that set 26827
forth in this section, the board of township trustees, board of 26828
trustees of the township police district, or joint ~~township~~ police 26829
district board, as appropriate, may require that the amount taxed 26830
as costs under this section equal the amount specified under 26831
section 311.17 of the Revised Code. 26832

Sec. 511.01. If, in a township, a town hall is to be built, 26833

improved, enlarged, or removed at a cost greater than ~~ten~~ fifty 26834
thousand dollars, the board of township trustees shall submit the 26835
question to the electors of such township and shall certify their 26836
resolution to the board of elections not later than four p.m. of 26837
the ninetieth day before the day of the election. 26838

Sec. 511.12. The board of township trustees may prepare plans 26839
and specifications and make contracts for the construction and 26840
erection of a memorial building, monument, statue, or memorial, 26841
for the purposes specified and within the amount authorized by 26842
section 511.08 of the Revised Code. If the total estimated cost of 26843
the construction and erection exceeds ~~twenty-five~~ fifty thousand 26844
dollars, the contract shall be let by competitive bidding. If the 26845
estimated cost is ~~twenty-five~~ fifty thousand dollars or less, 26846
competitive bidding may be required at the board's discretion. In 26847
making contracts under this section, the board shall be governed 26848
as follows: 26849

(A) Contracts for construction when competitive bidding is 26850
required shall be based upon detailed plans, specifications, forms 26851
of bids, and estimates of cost, adopted by the board. 26852

(B) Contracts shall be made in writing upon concurrence of a 26853
majority of the members of the board, and shall be signed by at 26854
least two of the members and by the contractor. If competitive 26855
bidding is required, no contract shall be made or signed until an 26856
advertisement has been placed in a newspaper, published or of 26857
general circulation in the township, at least twice. The board may 26858
also cause notice to be inserted in trade papers or other 26859
publications designated by it or to be distributed by electronic 26860
means, including posting the notice on the board's internet web 26861
site. If the board posts the notice on its web site, it may 26862
eliminate the second notice otherwise required to be published in 26863
a newspaper published or of general circulation in the township, 26864

provided that the first notice published in such newspaper meets 26865
all of the following requirements: 26866

(1) It is published at least two weeks before the opening of 26867
bids. 26868

(2) It includes a statement that the notice is posted on the 26869
board's internet web site. 26870

(3) It includes the internet address of the board's internet 26871
web site. 26872

(4) It includes instructions describing how the notice may be 26873
accessed on the board's internet web site. 26874

(C) No contract shall be let by competitive bidding except to 26875
the lowest and best bidder, who shall meet the requirements of 26876
section 153.54 of the Revised Code. 26877

(D) When, in the opinion of the board, it becomes necessary 26878
in the prosecution of such work to make alterations or 26879
modifications in any contract, the alterations or modifications 26880
shall be made only by order of the board, and that order shall be 26881
of no effect until the price to be paid for the work or materials 26882
under the altered or modified contract has been agreed upon in 26883
writing and signed by the contractor and at least two members of 26884
the board. 26885

(E) No contract or alteration or modification of it shall be 26886
valid unless made in the manner provided in this section. 26887

Sec. 511.23. (A) When the vote under section 511.22 of the 26888
Revised Code is in favor of establishing one or more public parks, 26889
the board of park commissioners shall constitute a board, to be 26890
called the board of park commissioners of that township park 26891
district, and they shall be a body politic and corporate. Their 26892
office is not a township office within the meaning of section 26893
703.22 of the Revised Code but is an office of the township park 26894

district. The members of the board shall serve without 26895
compensation but shall be allowed their actual and necessary 26896
expenses incurred in the performance of their duties. 26897

(B) The board may locate, establish, improve, maintain, and 26898
operate a public park or parks in accordance with division (B) of 26899
section 511.18 of the Revised Code, with or without recreational 26900
facilities. Any township park district that contains only 26901
unincorporated territory and that operated a public park or parks 26902
outside the township immediately prior to July 18, 1990, may 26903
continue to improve, maintain, and operate these parks outside the 26904
township, but further acquisitions of land shall not affect the 26905
boundaries of the park district itself or the appointing authority 26906
for the board of park commissioners. 26907

The board may lease, accept a conveyance of, or purchase 26908
suitable lands for cash, by purchase by installment payments with 26909
or without a mortgage, by lease or lease-purchase agreements, or 26910
by lease with option to purchase, may acquire suitable lands 26911
through an exchange under section 511.241 of the Revised Code, or 26912
may appropriate suitable lands and materials for park district 26913
purposes. The board also may lease facilities from other political 26914
subdivisions or private sources. The board shall have careful 26915
surveys and plats made of the lands acquired for park district 26916
purposes and shall establish permanent monuments on the boundaries 26917
of the lands. Those plats, when executed according to sections 26918
711.01 to 711.38 of the Revised Code, shall be recorded in the 26919
office of the county recorder, and those records shall be 26920
admissible in evidence for the purpose of locating and 26921
ascertaining the true boundaries of the park or parks. 26922

(C) In furtherance of the use and enjoyment of the lands 26923
controlled by it, the board may accept donations of money or other 26924
property or act as trustees of land, money, or other property, and 26925
may use and administer the land, money, or other property as 26926

stipulated by the donor or as provided in the trust agreement. 26927

The board may receive and expend grants for park purposes 26928
from agencies and instrumentalities of the United States and this 26929
state and may enter into contracts or agreements with those 26930
agencies and instrumentalities to carry out the purposes for which 26931
the grants were furnished. 26932

(D) In exercising any powers conferred upon the board under 26933
divisions (B) and (C) of this section and for other types of 26934
assistance that the board finds necessary in carrying out its 26935
duties, the board may hire and contract for professional, 26936
technical, consulting, and other special services and may purchase 26937
goods and award contracts. The procuring of goods and awarding of 26938
contracts shall be done in accordance with the procedures 26939
established for the board of county commissioners by sections 26940
307.86 to 307.91 of the Revised Code. 26941

(E) The board may appoint an executive for the park or parks 26942
and may designate the executive or another person as the clerk of 26943
the board. It may appoint all other necessary officers and 26944
employees, fix their compensation, and prescribe their duties, or 26945
it may require the executive to appoint all other necessary 26946
officers and employees, and to fix their compensation and 26947
prescribe their duties, in accordance with guidelines and policies 26948
adopted by the board. 26949

(F) The board may adopt bylaws and rules that it considers 26950
advisable for the following purposes: 26951

(1) To prohibit selling, giving away, or using any 26952
intoxicating liquors in the park or parks; 26953

(2) For the government and control of the park or parks and 26954
the operation of motor vehicles in the park or parks; 26955

(3) To provide for the protection and preservation of all 26956
property and natural life within its jurisdiction. 26957

Before the bylaws and rules take effect, the board shall 26958
provide for a notice of their adoption to be published once a week 26959
for two consecutive weeks or as provided in section 7.16 of the 26960
Revised Code, in a newspaper of general circulation in the county 26961
within which the park district is located. 26962

No person shall violate any of the bylaws or rules. Fines 26963
levied and collected for violations shall be paid into the 26964
treasury of the township park district. The board may use moneys 26965
collected from those fines for any purpose that is not 26966
inconsistent with sections 511.18 to 511.37 of the Revised Code. 26967

(G) The board may do either of the following: 26968

(1) Establish and charge fees for the use of any facilities 26969
and services of the park or parks regardless of whether the park 26970
or parks were acquired before, on, or after ~~the effective date of~~ 26971
~~this amendment~~ September 21, 2000; 26972

(2) Enter into a lease agreement with an individual or 26973
organization that provides for the exclusive use of a specified 26974
portion of the park or parks within the township park district by 26975
that individual or organization for the duration of an event 26976
produced by the individual or organization. The board, for the 26977
specific portion of the park or parks covered by the lease 26978
agreement, may charge a fee to, or permit the individual or 26979
organization to charge a fee to, participants in and spectators at 26980
the event covered by the agreement. 26981

(H) If the board finds that real or personal property owned 26982
by the township park district is not currently needed for park 26983
purposes, the board may lease that property to other persons or 26984
organizations during any period of time the board determines the 26985
property will not be needed. If the board finds that competitive 26986
bidding on a lease is not feasible, it may lease the property 26987
without taking bids. 26988

(I) The board may exchange property owned by the township 26989
park district for property owned by the state, another political 26990
subdivision, or the federal government on terms that it considers 26991
desirable, without the necessity of competitive bidding. 26992

(J) Any rights or duties established under this section may 26993
be modified, shared, or assigned by an agreement pursuant to 26994
section 755.16 of the Revised Code. 26995

Sec. 511.235. The board of park commissioners of a township 26996
park district may enter into contracts with one or more townships, 26997
township police districts, joint police districts, municipal 26998
corporations, or county sheriffs of this state, with one or more 26999
park districts created pursuant to section 1545.01 of the Revised 27000
Code or other township park districts, or with a contiguous 27001
political subdivision of an adjoining state, and a township, 27002
township police district, joint police district board, municipal 27003
corporation, county sheriff, park district, or other township park 27004
district of this state may enter into a contract with a township 27005
park district upon any terms that are agreed to by them, to allow 27006
the use of the township park district law enforcement officers 27007
designated under section 511.232 of the Revised Code to perform 27008
any police function, exercise any police power, or render any 27009
police service in behalf of the contracting political subdivision 27010
that the subdivision may perform, exercise, or render. 27011

Chapter 2744. of the Revised Code, insofar as it applies to 27012
the operation of police departments, shall apply to the 27013
contracting political subdivisions and to the members of their 27014
police force or law enforcement department when they are rendering 27015
service outside their own subdivisions pursuant to that contract. 27016

Any members of the police force or law enforcement department 27017
acting pursuant to that contract outside the political subdivision 27018
in which they are employed shall be entitled to participate in any 27019

indemnity fund established by their employer to the same extent as 27020
while acting within the employing subdivision. Those members shall 27021
be entitled to all the rights and benefits of Chapter 4123. of the 27022
Revised Code, to the same extent as while performing service 27023
within the subdivision. 27024

The contracts entered into pursuant to this section may 27025
provide for the following: 27026

(A) A fixed annual charge to be paid at the times agreed upon 27027
and stipulated in the contract; 27028

(B) Compensation based upon the following: 27029

(1) A stipulated price for each call or emergency; 27030

(2) The number of members or pieces of equipment employed; 27031

(3) The elapsed time of service required in each call or 27032
emergency. 27033

(C) Compensation for loss or damage to equipment while 27034
engaged in rendering police services outside the limits of the 27035
subdivision that owns and furnishes the equipment; 27036

(D) Reimbursement of the subdivision in which the police 27037
force or law enforcement department members are employed, for any 27038
indemnity award or premium contribution assessed against the 27039
employing subdivision for workers' compensation benefits for 27040
injuries or death to members of its police force or law 27041
enforcement department occurring while engaged in rendering 27042
service pursuant to the contract. 27043

Sec. 511.236. The police force or law enforcement department 27044
of any township park district may provide police protection to any 27045
county, municipal corporation, township, ~~or~~ township police 27046
district, or joint police district of this state, to any other 27047
township park district or any park district created pursuant to 27048
section 1545.01 of the Revised Code, or to a governmental entity 27049

of an adjoining state without a contract to provide police 27050
protection, upon the approval, by resolution, of the board of park 27051
commissioners of the township park district in which the police 27052
force or law enforcement department is located and upon 27053
authorization by an officer or employee of the police force or 27054
department providing the police protection who is designated by 27055
title of office or position, pursuant to the resolution of the 27056
board of park commissioners, to give the authorization. 27057

Chapter 2744. of the Revised Code, insofar as it applies to 27058
the operation of police departments, shall apply to any township 27059
park district and to members of its police force or law 27060
enforcement department when those members are rendering police 27061
services pursuant to this section outside the township park 27062
district by which they are employed. 27063

Police force or law enforcement department members acting, as 27064
provided in this section, outside the township park district by 27065
which they are employed shall be entitled to participate in any 27066
pension or indemnity fund established by their employer to the 27067
same extent as while acting within the township park district by 27068
which they are employed. Those members shall be entitled to all 27069
rights and benefits of Chapter 4123. of the Revised Code to the 27070
same extent as while performing services within the township park 27071
district by which they are employed. 27072

Sec. 511.25. If the board of park commissioners of a township 27073
park district finds that any lands that the board has acquired are 27074
not necessary for the purposes for which they were acquired, it 27075
may sell and dispose of those lands upon terms that the board 27076
considers advisable and may reject any purchase bid received under 27077
this section that the board determines does not meet its terms for 27078
sale. 27079

Except as otherwise provided in this section, no lands shall 27080

be sold without first giving notice of the board's intention to 27081
sell the lands by publication once a week for four consecutive 27082
weeks in a newspaper of general circulation in the township or as 27083
provided in section 7.16 of the Revised Code. The notice shall 27084
contain an accurate description of the lands being offered for 27085
sale and shall state the time and place at which sealed bids for 27086
the lands will be received. If the board rejects all of the 27087
purchase bids, it may reoffer the lands for sale in accordance 27088
with this section. 27089

The board also may sell park lands not necessary for district 27090
purposes to another political subdivision, the state, or the 27091
federal government without giving the notices or taking bids as 27092
otherwise required by this section. 27093

No lands acquired by a township park district may be sold 27094
without the approval of the court of common pleas of the county in 27095
which the park district is located, if the court appointed the 27096
board under section 511.18 of the Revised Code, or the approval of 27097
the board of township trustees, if the board of township trustees 27098
appointed the board of park commissioners under section 511.18 of 27099
the Revised Code. 27100

Sec. 511.28. A copy of any resolution for a tax levy adopted 27101
by the township board of park commissioners as provided in section 27102
511.27 of the Revised Code shall be certified by the clerk of the 27103
board of park commissioners to the board of elections of the 27104
proper county, together with a certified copy of the resolution 27105
approving the levy, passed by the board of township trustees if 27106
such a resolution is required by division (C) of section 511.27 of 27107
the Revised Code, not less than ninety days before a general or 27108
primary election in any year. The board of elections shall submit 27109
the proposal to the electors as provided in section 511.27 of the 27110
Revised Code at the succeeding general or primary election. A 27111

resolution to renew an existing levy may not be placed on the 27112
 ballot unless the question is submitted at the general election 27113
 held during the last year the tax to be renewed may be extended on 27114
 the real and public utility property tax list and duplicate, or at 27115
 any election held in the ensuing year. The board of park 27116
 commissioners shall cause notice that the vote will be taken to be 27117
 published once a week for two consecutive weeks prior to the 27118
 election in a newspaper of general circulation, or as provided in 27119
section 7.16 of the Revised Code, in the county within which the 27120
 park district is located. Additionally, if the board of elections 27121
 operates and maintains a web site, the board of elections shall 27122
 post that notice on its web site for thirty days prior to the 27123
 election. The notice shall state the purpose of the proposed levy, 27124
 the annual rate proposed expressed in dollars and cents for each 27125
 one hundred dollars of valuation as well as in mills for each one 27126
 dollar of valuation, the number of consecutive years during which 27127
 the levy shall be in effect, and the time and place of the 27128
 election. 27129

The form of the ballots cast at the election shall be: "An 27130
 additional tax for the benefit of (name of township park district) 27131
 for the purpose of (purpose stated in the order of the 27132
 board) at a rate not exceeding mills for 27133
 each one dollar of valuation, which amounts to (rate expressed in 27134
 dollars and cents) for each one hundred dollars of 27135
 valuation, for (number of years the levy is to run)" 27136

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

27137
 27138
 27139
 27140
 If the levy submitted is a proposal to renew, increase, or 27141
 decrease an existing levy, the form of the ballot specified in 27142
 this section may be changed by substituting for the words "An 27143

additional" at the beginning of the form, the words "A renewal of 27144
a" in the case of a proposal to renew an existing levy in the same 27145
amount; the words "A renewal of mills and an increase 27146
of mills to constitute a" in the case of an increase; 27147
or the words "A renewal of part of an existing levy, being a 27148
reduction of mills, to constitute a" in the case of a 27149
decrease in the rate of the existing levy. 27150

If the tax is to be placed on the current tax list, the form 27151
of the ballot shall be modified by adding, after the statement of 27152
the number of years the levy is to run, the phrase ", commencing 27153
in (first year the tax is to be levied), first due in 27154
calendar year (first calendar year in which the tax 27155
shall be due)." 27156

The question covered by the order shall be submitted as a 27157
separate proposition, but may be printed on the same ballot with 27158
any other proposition submitted at the same election, other than 27159
the election of officers. More than one such question may be 27160
submitted at the same election. 27161

Sec. 511.34. In townships composed of islands, and on one of 27162
which islands lands have been conveyed in trust for the benefit of 27163
the inhabitants of the island for use as a park, and a board of 27164
park trustees has been provided for the control of the park, the 27165
board of township trustees may create a tax district of the island 27166
to raise funds by taxation as provided under divisions (A) and (B) 27167
of this section. 27168

(A) For the care and maintenance of parks on the island, the 27169
board of township trustees annually may levy a tax, not to exceed 27170
one mill, upon all the taxable property in the district. The tax 27171
shall be in addition to all other levies authorized by law, and 27172
subject to no limitation on tax rates except as provided in this 27173
division. 27174

The proceeds of the tax levy shall be expended by the board 27175
of township trustees for the purpose of the care and maintenance 27176
of the parks, and shall be paid out of the township treasury upon 27177
the orders of the board of park trustees. 27178

(B) For the purpose of acquiring additional land for use as a 27179
park, the board of township trustees may levy a tax in excess of 27180
the ten-mill limitation on all taxable property in the district. 27181
The tax shall be proposed by resolution adopted by two-thirds of 27182
the members of the board of township trustees. The resolution 27183
shall specify the purpose and rate of the tax and the number of 27184
years the tax will be levied, which shall not exceed five years, 27185
and which may include a levy on the current tax list and 27186
duplicate. The resolution shall go into immediate effect upon its 27187
passage, and no publication of the resolution is necessary other 27188
than that provided for in the notice of election. The board of 27189
township trustees shall certify a copy of the resolution to the 27190
proper board of elections not later than ninety days before the 27191
primary or general election in the township, and the board of 27192
elections shall submit the question of the tax to the voters of 27193
the district at the succeeding primary or general election. The 27194
board of elections shall make the necessary arrangements for the 27195
submission of the question to the electors of the district, and 27196
the election shall be conducted, canvassed, and certified in the 27197
same manner as regular elections in the township for the election 27198
of officers. Notice of the election shall be published in a 27199
newspaper of general circulation in the township once a week for 27200
two consecutive weeks, or as provided in section 7.16 of the 27201
Revised Code prior to the election ~~and, if.~~ If the board of 27202
elections operates and maintains a web site, notice of the 27203
election also shall be posted on that web site for thirty days 27204
prior to the election. The notice shall state the purpose of the 27205
tax, the proposed rate of the tax expressed in dollars and cents 27206
for each one hundred dollars of valuation and mills for each one 27207

dollar of valuation, the number of years the tax will be in 27208
effect, the first year the tax will be levied, and the time and 27209
place of the election. 27210

The form of the ballots cast at an election held under this 27211
division shall be as follows: 27212

"An additional tax for the benefit of (name of the 27213
township) for the purpose of acquiring additional park land at a 27214
rate of mills for each one dollar of valuation, which 27215
amounts to (rate expressed in dollars and cents) for each 27216
one hundred dollars of valuation, for (number of years 27217
the levy is to run) beginning in (first year the tax 27218
will be levied). 27219

	FOR THE TAX LEVY	
	AGAINST THE TAX LEVY	"

27220
27221
27222
27223

The question shall be submitted as a separate proposition but 27224
may be printed on the same ballot with any other proposition 27225
submitted at the same election other than the election of 27226
officers. More than one such question may be submitted at the same 27227
election. 27228

If the levy is approved by a majority of electors voting on 27229
the question, the board of elections shall certify the result of 27230
the election to the tax commissioner. In the first year of the 27231
levy, the tax shall be extended on the tax lists after the 27232
February settlement following the election. If the tax is to be 27233
placed on the tax lists of the current year as specified in the 27234
resolution, the board of elections shall certify the result of the 27235
election immediately after the canvass to the board of township 27236
trustees, which shall forthwith make the necessary levy and 27237
certify the levy to the county auditor, who shall extend the levy 27238

on the tax lists for collection. After the first year of the levy, 27239
the levy shall be included in the annual tax budget that is 27240
certified to the county budget commission. 27241

Sec. 513.14. The board of elections shall advertise the 27242
proposed tax levy question mentioned in section 513.13 of the 27243
Revised Code in ~~two newspapers of opposite political faith, if two~~ 27244
~~such newspapers are published in the joint township hospital~~ 27245
~~district, or otherwise in one~~ a newspaper, ~~published or~~ of general 27246
circulation in the proposed township hospital district, once a 27247
week for two consecutive weeks, or as provided in section 7.16 of 27248
the Revised Code, prior to the election ~~and, if.~~ If the board 27249
operates and maintains a web site, the board also shall advertise 27250
that proposed tax levy question on its web site for thirty days 27251
prior to the election. 27252

Sec. 515.01. The board of township trustees may provide 27253
artificial lights for any road, highway, public place, or building 27254
under its supervision or control, or for any territory within the 27255
township and outside the boundaries of any municipal corporation, 27256
when the board determines that the public safety or welfare 27257
requires that the road, highway, public place, building, or 27258
territory shall be lighted. The lighting may be procured either by 27259
the township installing a lighting system or by contracting with 27260
any person or corporation to furnish lights. 27261

If lights are furnished under contract, the contract may 27262
provide that the equipment employed may be owned by the township 27263
or by the person or corporation supplying the lights. 27264

If the board determines to procure lighting by contract and 27265
the total estimated cost of the contract exceeds ~~twenty-five~~ fifty 27266
thousand dollars, the board shall prepare plans and specifications 27267
for the lighting equipment and shall, for two weeks, advertise for 27268

bids for furnishing the lighting equipment, either by posting the advertisement in three conspicuous places in the township or by publication of the advertisement once a week, for two consecutive weeks, in a newspaper of general circulation in the township. Any such contract for lighting shall be made with the lowest and best bidder.

The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation in the township, provided that the first notice published in such newspaper meets all of the following requirements:

(A) It is published at least two weeks before the opening of bids.

(B) It includes a statement that the notice is posted on the board's internet web site.

(C) It includes the internet address of the board's internet web site.

(D) It includes instructions describing how the notice may be accessed on the board's internet web site.

No lighting contract awarded by the board shall be made to cover a period of more than twenty years. The cost of installing and operating any lighting system or any light furnished under contract shall be paid from the general fund of the township treasury.

Sec. 515.04. The township fiscal officer shall fix a day, not more than thirty days from the date of notice to the board of township trustees, for the hearing of the petition authorized by

section 515.02 or 515.16 of the Revised Code. The township fiscal officer or the fiscal officer's designee shall prepare and deliver to any of the petitioners a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance, pendency, and prayer of the petition and the time and place of the hearing on it.

A copy of the notice shall be served upon each lot or land owner or left at the lot or land owner's usual place of residence, and upon an officer or agent of each corporation having its place of business in the district or area, at least fifteen days before the date set for the hearing. On or before the day of the hearing, the person serving the notice shall make return on it, under oath, of the time and manner of service and shall file the return with the township fiscal officer.

The township fiscal officer or the fiscal officer's designee shall give the notice to each nonresident lot or land owner, by publication once, in a newspaper ~~published in and~~ of general circulation in the county in which the district or area is situated, at least two weeks before the day set for hearing. The notice shall be verified by affidavit of the printer or other person knowing the fact and shall be filed with the township fiscal officer or the fiscal officer's designee on or before the day of hearing. No further notice of the petition or the proceedings under it shall thereafter be required.

Sec. 515.07. If the total estimated cost of any lighting improvement provided for in section 515.06 of the Revised Code is ~~twenty-five~~ fifty thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the district, a notice

specifying the number, candle power, and location of lights and 27330
the kind of supports for the lights as provided by section 515.06 27331
of the Revised Code, as well as the time, which shall not be less 27332
than thirty days from the posting of the notices, and the place 27333
the board will receive bids to furnish the lights. The board shall 27334
accept the lowest and best bid, if the successful bidder meets the 27335
requirements of section 153.54 of the Revised Code. The board may 27336
reject all bids. 27337

Sec. 517.06. The board of township trustees shall have the 27338
cemetery laid out in lots, avenues, and paths, shall number the 27339
lots, and shall have a suitable plat of the lots made, which plat 27340
shall be carefully kept by the township fiscal officer. The board 27341
shall make and enforce all needful rules and regulations for the 27342
division of the cemetery into lots, for the allotment of lots to 27343
families or individuals, and for the care, supervision, and 27344
improvement of the lots. The board also may make and enforce all 27345
needful rules and regulations for burial, interment, reinterment, 27346
or disinterment. The board shall require the grass and weeds in 27347
the cemetery to be cut and destroyed at least twice each year. 27348
Suitable provision shall be made in the cemetery for persons whose 27349
burial is at the expense of the township. 27350

Sec. 517.12. The board of township trustees may make rules 27351
specifying the times when cemeteries under its control shall be 27352
closed to the public. The board shall cause the rules to be 27353
published once a week for two consecutive weeks in a newspaper of 27354
general circulation within the township or as provided in section 27355
7.16 of the Revised Code, and may post appropriate notice in the 27356
township as considered necessary. 27357

The purposes of such rules shall be to assure a reasonable 27358
time of access to the cemeteries in view of the differences in 27359
attendance anticipated from past experience as to each, to exclude 27360

attendance at times when no proper purposes could normally be 27361
expected, to permit exceptions to the normal hours of access on 27362
reasonable request with adequate reason provided, and to 27363
facilitate the task of protecting the premises from vandalism, 27364
desecration, and other improper usage. 27365

Whoever violates these rules is guilty of a minor 27366
misdemeanor. 27367

Sec. 517.22. The board of township trustees or the trustees 27368
or directors of a cemetery association, after notice has first 27369
been given in ~~two newspapers~~ a newspaper of general circulation in 27370
the county, may dispose of, at public sale, and convey any 27371
cemetery under their control that they have determined to 27372
discontinue as burial grounds, but possession of the cemetery 27373
shall not be given to a grantee until after the remains buried in 27374
that cemetery, together with stones and monuments, have been 27375
removed as provided by section 517.21 of the Revised Code. 27376

Sec. 521.03. On receiving a petition filed under section 27377
521.02 of the Revised Code, or at the request of the board of 27378
township trustees, the township fiscal officer shall fix a time, 27379
not more than thirty days after the date of giving notice of the 27380
filing to the board or the date of receiving the request from the 27381
board, and place for a hearing on the issue of repair or 27382
maintenance of the tiles. The township fiscal officer shall 27383
prepare a notice in writing directed to the lot and land owners 27384
and to the corporations, either public or private, affected by the 27385
improvement. The notice shall set forth the substance of the 27386
petition or board request, and the time and place of the hearing 27387
on it. 27388

If the hearing is to be held in response to a petition, the 27389
township fiscal officer shall deliver a copy of the notice to any 27390

of the petitioners, who shall see that the notice is served on 27391
each lot or land owner or left at the lot or land owner's usual 27392
place of residence, and served on an officer or agent of each 27393
corporation affected by the improvement, at least fifteen days 27394
before the date set for the hearing. If the hearing is to be held 27395
at the request of the board, the board shall see that the notice 27396
is so served. On or before the day of the hearing, the person 27397
serving the notice shall certify, under oath, the time and manner 27398
of service, and shall file this certification with the township 27399
fiscal officer. 27400

The township fiscal officer shall give notice of the hearing 27401
to each nonresident lot or land owner, by publication once, in a 27402
newspaper ~~published in and~~ of general circulation in the county in 27403
which the township is situated, at least two weeks before the day 27404
set for the hearing. This notice shall be verified by affidavit of 27405
the printer or other person knowing the fact, and shall be filed 27406
with the township fiscal officer on or before the day of the 27407
hearing. No further notice of the petition or the proceedings 27408
under it shall thereafter be required. 27409

Sec. 521.05. (A) If the total estimated cost of any 27410
improvement provided for in section 521.04 of the Revised Code is 27411
~~twenty-five~~ fifty thousand dollars or less, the contract may be 27412
let without competitive bidding. When competitive bidding is 27413
required, the board of township trustees shall post, in three of 27414
the most conspicuous public places in the township, a notice 27415
specifying the improvement to be made and the time, which shall be 27416
at least thirty days after the posting of the notices, and the 27417
place the board will receive bids to make the improvement. The 27418
board shall accept the lowest and best bid, if the successful 27419
bidder meets the requirements of section 153.54 of the Revised 27420
Code. The board may reject all bids. 27421

(B) On accepting a bid, the board shall enter into a contract 27422
with the successful bidder for making the improvement according to 27423
specifications. The contract shall not be for a term longer than 27424
ten years. 27425

Sec. 523.01. The territory of one or more townships may be 27426
merged with that of a contiguous township to create a new 27427
township, in the manner provided under this chapter. The new 27428
township shall have all of, and only, the rights, powers, and 27429
responsibilities afforded by law to townships. 27430

Sec. 523.02. (A) A resolution for a merger under this chapter 27431
may be proposed by initiative petition by the electors of each 27432
township being proposed for merger, and adopted by election by 27433
these electors under the same circumstances, in the same manner, 27434
and subject to the same penalties as provided by sections 731.28 27435
to 731.40 and 731.99 of the Revised Code for municipal 27436
corporations, except that all of the following apply: 27437

(1) Each board of township trustees shall perform the duties 27438
imposed on the legislative authority of the municipal corporation 27439
under those sections; 27440

(2) Initiative petitions shall be filed with the township 27441
fiscal officer of each township proposed for merger, who shall 27442
perform the duties imposed under those sections upon the city 27443
auditor or village clerk; 27444

(3) Initiative petitions shall contain the signatures of not 27445
less than ten per cent of the total number of electors in a 27446
township proposed for merger who voted for the office of governor 27447
at the most recent general election in the township for that 27448
office; 27449

(4) Each signer of an initiative petition shall be an elector 27450
of the township in which the election on the proposed resolution 27451

is to be held. 27452

(B) The merger shall take effect one hundred twenty days 27453
after certification by the board or boards of elections that the 27454
merger has been approved by the electors of each township proposed 27455
for merger. 27456

Sec. 523.03. (A) The boards of township trustees of two or 27457
more townships, by adopting resolutions by unanimous vote of the 27458
board of township trustees of each township, may cause the 27459
appropriate board of elections for each township to submit to the 27460
electors of each township the question of merger under section 27461
523.01 of the Revised Code. The question shall be voted upon at 27462
the next general election occurring not less than ninety days 27463
after the certification of the resolutions to the appropriate 27464
board of elections. 27465

(B) In submitting to the electors of each township the 27466
question of merger, the board of elections shall submit the 27467
question in language substantially as follows: 27468

"Shall the townships of (Names of all of the 27469
townships to be merged) be merged to create the new township of 27470
..... (Name of the new township)?" 27471

(C) The merger shall take effect one hundred twenty days 27472
after certification by the board or boards of elections that the 27473
merger has been approved by the electors of each township proposed 27474
for merger. 27475

Sec. 523.04. (A) Within one hundred twenty days after 27476
approval of the merger by the electors under section 523.02 or 27477
523.03 of the Revised Code, each board of township trustees of the 27478
townships merged, by adopting a joint resolution approved by a 27479
majority of the members of each board, shall enter into a merger 27480
agreement that contains the specific terms and conditions of the 27481

<u>merger. At a minimum, the merger agreement shall set forth all of</u>	27482
<u>the following:</u>	27483
<u>(1) The names of the former townships that were merged;</u>	27484
<u>(2) The name of the new township;</u>	27485
<u>(3) The place in which the principal office of the new</u>	27486
<u>township will be located or the manner in which it may be</u>	27487
<u>selected;</u>	27488
<u>(4) The territorial boundaries of the new township;</u>	27489
<u>(5) The date on which the merger took effect;</u>	27490
<u>(6) The governmental operations and organization for the new</u>	27491
<u>township, including a plan for electing officers at the next</u>	27492
<u>general election that is held not later than ninety days after the</u>	27493
<u>merger agreement is finalized;</u>	27494
<u>(7) A procedure for the efficient and timely transition of</u>	27495
<u>specific services, functions, and responsibilities from each</u>	27496
<u>township and its respective offices to the new township;</u>	27497
<u>(8) Terms for the disposition of the assets and property of</u>	27498
<u>each township, if necessary;</u>	27499
<u>(9) The liquidation of existing indebtedness for each</u>	27500
<u>township, if necessary;</u>	27501
<u>(10) A plan for the common administration and enforcement of</u>	27502
<u>resolutions of the townships merged, to be enforced uniformly</u>	27503
<u>within the new township;</u>	27504
<u>(11) A provision that specifies whether there will be any</u>	27505
<u>zoning changes as a result of the merger, if applicable;</u>	27506
<u>(12) A plan to conform the boundaries of an existing special</u>	27507
<u>purpose district with the new township, to dissolve the special</u>	27508
<u>purpose district, or to absorb the special purpose district into</u>	27509
<u>the new township. As used in this division, "special purpose</u>	27510

district" has the meaning in division (F) of section 523.06 of the 27511
Revised Code. 27512

(B) A copy of the joint resolution and the merger agreement 27513
adopted under this section shall be filed with the township fiscal 27514
officer of the new township. The merger agreement shall take 27515
effect on the day on which such filing is made. 27516

(C) If no merger agreement, or if only a partial merger 27517
agreement, is entered into within the time period prescribed by 27518
division (A) of this section, the new township shall comply with 27519
and operate under a merger agreement that contains the terms and 27520
conditions required by section 523.06 of the Revised Code. 27521

Sec. 523.05. (A) A new township created under this chapter 27522
shall succeed to the following interests of each township merged: 27523

(1) All money, taxes, and special assessments, whether in the 27524
township treasury or in the process of collection; 27525

(2) All property and interests in property, whether real or 27526
personal; 27527

(3) All rights and interests in contracts, or in securities, 27528
bonds, notes, or other instruments; 27529

(4) All accounts receivable and rights of action; 27530

(5) All other matters not included in this section that are 27531
not addressed in the merger agreement. 27532

(B) A new township created under this chapter is legally 27533
obligated for all outstanding franchises, contracts, debts, and 27534
other legally binding obligations for each township merged into 27535
the new township. A new township created under this chapter is 27536
legally responsible for maintaining, defending, or otherwise 27537
resolving any and all legal claims or actions of each township 27538
merged into the new township. 27539

Sec. 523.06. If a merger agreement is entered into as 27540
required by section 523.04 of the Revised Code, this section does 27541
not apply. If a merger agreement is not entered into under section 27542
523.04 of the Revised Code, the merger agreement shall contain all 27543
of the terms and conditions specified in this section. If a 27544
partial merger agreement is entered into under section 523.04 of 27545
the Revised Code, this section applies only to the extent any term 27546
or condition that is required by section 523.04 of the Revised 27547
Code to be addressed in the merger agreement is not addressed 27548
therein. 27549

The terms and conditions of a merger agreement to which this 27550
section applies shall be as follows: 27551

(A) All members of each board of township trustees shall 27552
serve as board members of the new township. At the first general 27553
election for township officers occurring not less than ninety days 27554
after a merger is approved, the electors of the new township shall 27555
elect three township trustees with staggered terms of office. The 27556
first terms of office following the election shall be modified to 27557
an even number of years not to exceed four to allow subsequent 27558
elections for the office to be held in the same year as other 27559
township officers. 27560

(B) The township fiscal officer of the largest township, by 27561
population, shall be the township fiscal officer for the new 27562
township. At the first general election for township officers 27563
occurring not less than ninety days after the merger, the electors 27564
shall elect a township fiscal officer, whose first term of office 27565
shall be modified to an even number of years not to exceed four to 27566
allow subsequent elections for that office to be held in the same 27567
year as other township fiscal officers. 27568

(C) Voted property tax levies shall remain in effect for the 27569
parcels of real property to which they applied prior to the 27570

merger, and the merger shall not affect the proceeds of a tax levy 27571
pledged for the retirement of any debt obligation. Upon expiration 27572
of a property tax levy, the levy may only be replaced or renewed 27573
by vote of the electors in the manner provided by law, to apply to 27574
real property within the boundaries of the new township. If the 27575
millage levied inside the ten-mill limitation of each township 27576
merged is different, the board of township trustees of the new 27577
township shall immediately equalize the millage for the entire new 27578
township. 27579

(D) For purposes of the retirement of all debt obligations of 27580
each township merged, the township fiscal officer shall continue 27581
to track parcels of real property and the tax revenue generated on 27582
those parcels by the tax districts that were in place prior to the 27583
merger, and shall provide that information on an annual basis to 27584
the board of township trustees of the new township. Debt 27585
obligations that existed at the time of the merger shall be 27586
retired from the revenue generated from the parcels of real 27587
property that made up the township that incurred the debt before 27588
the merger. 27589

(E)(1) With respect to any agreement entered into under 27590
Chapter 4117. of the Revised Code that covers any of the employees 27591
of the townships merged under this chapter, the state employment 27592
relations board, within one hundred twenty days after the date the 27593
merger is approved, shall designate the appropriate bargaining 27594
units for the employees of the new township in accordance with 27595
section 4117.06 of the Revised Code. Notwithstanding the 27596
recognition procedures prescribed in section 4117.05 and division 27597
(A) of section 4117.07 of the Revised Code, the board shall 27598
conduct a representation election with respect to each bargaining 27599
unit designated under this division in accordance with divisions 27600
(B) and (C) of section 4117.07 of the Revised Code. If an 27601
exclusive representative is selected through this election, the 27602

exclusive representative shall negotiate and enter into an 27603
agreement with the new township in accordance with Chapter 4117. 27604
of the Revised Code. Until the parties reach an agreement, any 27605
agreement in effect on the date of the merger shall apply to the 27606
employees that were in the bargaining unit that is covered by the 27607
agreement. An agreement in existence on the date of the merger is 27608
terminated on the effective date of an agreement negotiated under 27609
this division. 27610

(2) If an exclusive representative is not selected, any 27611
agreement in effect on the date of the merger shall apply to the 27612
employees that were in the bargaining unit that is covered by the 27613
agreement and shall expire on its terms. 27614

(3) Each agreement entered into under Chapter 4117. of the 27615
Revised Code on or after the effective date of this section 27616
involving a new township shall contain a provision regarding the 27617
designation of an exclusive representative and bargaining units 27618
for the new township as described in division (E) of this section. 27619

(4) In addition to the laws listed in division (A) of section 27620
4117.10 of the Revised Code that prevail over conflicting 27621
agreements between employee organizations and public employers, 27622
division (E) of this section prevails over any conflicting 27623
provisions of agreements between employee organizations and public 27624
employers that are entered into on or after the effective date of 27625
this section pursuant to Chapter 4117. of the Revised Code. 27626

(5) As used in division (E) of this section, "employee 27627
organization" and "exclusive representative" have the same 27628
meanings as in section 4117.01 of the Revised Code. 27629

(F)(1) If the boundaries of the new township are not 27630
coextensive with a special purpose district, the new township 27631
shall remain in the existing special purpose district as a 27632
successor to the original township, unless the special purpose 27633

district is dissolved. The board of township trustees of the new 27634
township may place a question on the ballot at the next general 27635
election held after the merger to conform the boundaries, dissolve 27636
the special purpose district, or absorb the special purpose 27637
district into the new township on the terms specified in the 27638
resolution that places the question on the ballot for approval of 27639
the electors of the new township. 27640

(2) As used in division (F) of this section, "special purpose 27641
district" means any geographic or political jurisdiction that is 27642
created under law by a township merged. 27643

(G) Zoning codes that existed at the time of the merger shall 27644
remain in effect after the merger, and the townships that existed 27645
before the merger shall be treated as administrative districts 27646
within the new township for the purposes of zoning. 27647

Sec. 523.09. If a merger is disapproved by a majority of 27648
those voting on it in the townships proposed to be merged, an 27649
identical merger shall not be considered for at least three years 27650
after the date of the disapproval. 27651

Sec. 705.16. (A) All ordinances or resolutions shall be in 27652
effect after thirty days from the date of their passage, except as 27653
provided in section 705.75 of the Revised Code. 27654

(B) ~~Notwithstanding any conflicting provision of section 7.12~~ 27655
~~of the Revised Code, A succinct summary of~~ each ordinance and 27656
resolution of a general nature, or providing for public 27657
improvements, or assessing property, ~~or a succinct summary of each~~ 27658
~~such ordinance or resolution,~~ shall, upon passage of the ordinance 27659
or resolution, be promptly published one time in ~~not more than two~~ 27660
~~newspapers~~ a newspaper of general circulation in the municipal 27661
corporation. Such publication shall be made in the body type of 27662
the paper under headlines in eighteen point type, which headlines 27663

shall specify the nature of such legislation. ~~If a summary of an ordinance or resolution is published, the~~ The publication shall contain notice that the complete text of each such ordinance or resolution may be obtained or viewed at the office of the clerk of the legislative authority of the municipal corporation and may be viewed at any other location designated by the legislative authority of the municipal corporation. The city director of law, village solicitor, or other chief legal officer of the municipal corporation shall review ~~any~~ the summary of an ordinance or resolution published under this section prior to forwarding it to the clerk for publication, to ensure that the summary is legally accurate and sufficient.

(C) Upon publication of a summary of an ordinance or resolution in accordance with this section, the clerk of the legislative authority shall supply a copy of the complete text of each such ordinance or resolution to any person, upon request, and may charge a reasonable fee, set by the legislative authority, for each copy supplied. The clerk shall post a copy of the text at ~~his~~ the clerk's office and at every other location designated by the legislative authority.

(D) No newspaper shall be paid a higher price for the publication of summaries of ordinances than its ~~maximum bona fide commercial government~~ rate established under section 7.10 of the Revised Code.

Sec. 709.43. As used in sections 709.43 to 709.48 of the Revised Code, "merger" means the annexation, one to another, of existing municipal corporations or of the unincorporated area of a township with one or more municipal corporations, or the merger of one or more municipal corporations with the unincorporated area of a township.

Sec. 709.44. The territory of one or more municipal corporations, whether or not adjacent to one another, may be merged with that of an adjacent municipal corporation, and the unincorporated area of a township may be merged with one or more municipal corporations, or one or more municipal corporations, whether or not adjacent to one another, may be merged with that of an adjacent unincorporated area of a township, in the manner provided in sections 709.43 to 709.48 of the Revised Code.

Sec. 709.451. (A) In lieu of filing a petition under section 709.45 of the Revised Code, if the legislative authorities of each political subdivision that may be merged as provided in section 709.44 of the Revised Code agree to a merger and adopt, by a two-thirds vote of each legislative authority, an ordinance or resolution approving a merger, no election of a commission to draw up a statement of conditions for merger of the political subdivisions shall be held. Instead, the legislative authorities of those political subdivisions shall have one hundred twenty days to enter into a merger agreement that specifies the conditions of the proposed merger, in identical ordinances or a resolution adopted by a simple majority vote of each legislative authority. At a minimum, the proposed merger agreement shall include all of the following:

(1) The names of the municipal corporations and township, if any, agreeing to the merger;

(2) The territorial boundaries of the resulting municipal corporation or township;

(3) The date that the merger will take effect;

(4) A procedure for the efficient and timely transition to the resulting municipal corporation or township of specified services, functions, and responsibilities from each municipal

corporation or township and its respective departments and 27724
agencies; 27725

(5) A transition plan and schedule. 27726

(B) The merger shall become effective on the one hundred 27727
twentieth day after the adoption of the last ordinance or 27728
resolution supporting the proposed merger unless, prior to the 27729
expiration of the one hundred twenty-day period, a referendum 27730
petition is filed under division (C) of this section. 27731

(C)(1) A qualified elector of a municipal corporation or 27732
township proposed for merger, not later than one hundred twenty 27733
days after the last ordinance or resolution is adopted under 27734
division (B) of this section, may present to the legislative 27735
authority of that municipal corporation or township a referendum 27736
petition, signed by a number of qualified electors residing in the 27737
municipal corporation or township, equal in number to not less 27738
than ten per cent of the total vote cast in the municipal 27739
corporation or township for governor at the most recent general 27740
election at which a governor was elected, requesting the 27741
legislative authority to submit the question of the merger to the 27742
electors of the municipal corporation or township for approval or 27743
rejection at a special election to be held on the day of the next 27744
primary or general election occurring at least ninety days after 27745
the petition is submitted. The referendum petition shall be 27746
governed by section 3501.38 of the Revised Code. 27747

(2) The referendum petition shall be filed with the clerk of 27748
the legislative authority of the municipal corporation that is the 27749
subject of the petition and the township clerk of the township 27750
that is the subject of the petition. The person presenting the 27751
petition shall be given a receipt containing the time of the day, 27752
the date, and the purpose of the petition. The clerk shall cause 27753
the appropriate board of elections to check the sufficiency of 27754
signatures on the referendum petition and if the signatures are 27755

found to be sufficient, shall present the petition to the 27756
legislative authority at a meeting of the legislative authority 27757
that occurs not later than thirty days following the filing of the 27758
petition. 27759

(3) Upon presentation to the legislative authority of a 27760
referendum petition, the legislative authority shall promptly 27761
certify the petition to the board of elections for the purpose of 27762
having the question of the merger placed on the ballot at a 27763
special election to be held on the day of the next general or 27764
primary election that occurs not less than ninety days after the 27765
date of the meeting of the legislative authority, the date of 27766
which shall be specified in the certification. 27767

(4) Signatures on a referendum petition may be withdrawn up 27768
to and including the meeting of the legislative authority 27769
certifying the proposal to the appropriate board of elections. 27770

(5) Upon certification of the referendum petition to the 27771
appropriate board of elections, the board of elections shall make 27772
the necessary arrangements for the submission of the question of 27773
merger to the qualified electors of the municipal corporation or 27774
township proposed for merger that is the subject of the petition. 27775
The election shall be conducted, canvassed, and certified in the 27776
same manner as regular elections in the municipal corporation or 27777
township for the election of officers. Notice of the election 27778
shall be published in a newspaper of general circulation in the 27779
municipal corporation or township once a week for two consecutive 27780
weeks prior to the election. If the board of elections operates 27781
and maintains a web site, the board shall post notice of the 27782
election on the web site for thirty days prior to the election. 27783
The notice shall state the necessity for merger, the municipal 27784
corporations and township, if any, that are proposed for merger, 27785
the boundaries of the entity created as the result of the merger, 27786
and the time and place of the election. The form of the ballots 27787

cast at the election shall read as follows: 27788

"Shall the municipal corporations or township of 27789
..... (Names of all municipal corporations or of the 27790
township to be merged) be merged into the (municipal 27791
corporation or township) of (Name of the municipal 27792
corporation or township into which the municipal corporations or 27793
township are to be merged), as provided in section 709.44 of the 27794
Revised Code?" 27795

(6) No merger for which a referendum vote has been requested 27796
shall be put into effect unless a majority of the votes cast on 27797
the issue in the municipal corporation or township that is the 27798
subject of the referendum petition is in favor of the merger. Upon 27799
certification by the board of elections that the merger has been 27800
approved by the electors, the merger shall take immediate effect. 27801

(D) On the effective date of the merger, a municipal 27802
corporation merging into a township only has the rights, powers, 27803
and responsibilities afforded by law to townships, and all other 27804
authority ceases to exist. 27805

(E) If an existing charter of a municipal corporation 27806
proposed for merger under this section conflicts with the 27807
processes and procedures specified in this section, the processes 27808
and procedures for merger addressed in the municipal corporation's 27809
charter apply. 27810

Sec. 709.452. (A) The legislative authority of each municipal 27811
corporation or township proposed for merger as provided in section 27812
709.44 of the Revised Code that adopts a merger agreement under 27813
section 709.451 of the Revised Code may submit the question of 27814
merger to the electors of the municipal corporations and township 27815
proposed for merger. The legislative authorities may certify the 27816
ordinances or resolution that adopted the merger agreement to the 27817
board or boards of elections, if the territory proposed for merger 27818

is located in more than one county, directing the submission of 27819
the question of merger to the electors of the municipal 27820
corporations and township proposed for merger at a special 27821
election to be held on the day of the next primary or general 27822
election in the county or counties that occurs not less than 27823
ninety days after the ordinances or resolution are certified to 27824
the board or boards of elections. The question shall be put on the 27825
ballot and voted upon, separately, in each municipal corporation 27826
or township proposed for merger. 27827

(B) The ordinances or resolution specifying the merger 27828
conditions agreed to by the municipal corporations and township 27829
proposed for merger shall be posted on the web sites of those 27830
municipal corporations and township, and shall be published in a 27831
newspaper of general circulation in the municipal corporations and 27832
township once a week for two consecutive weeks prior to the 27833
election. 27834

(C) If the merger is approved by a majority of those voting 27835
on it in each municipal corporation or township proposed to be 27836
merged, the merger agreement shall take immediate effect. 27837

(D) If an existing charter of a municipal corporation 27838
proposed for merger under this section conflicts with the 27839
processes and procedures specified in this section, the processes 27840
and procedures for merger addressed in the municipal corporation's 27841
charter apply. 27842

Sec. 711.35. Upon the filing of the application provided for 27843
in section 711.34 of the Revised Code, the county auditor shall 27844
give notice of the filing, by publication, for two consecutive 27845
weeks in a newspaper ~~published and~~ of general circulation in the 27846
county, ~~of the filing thereof, and~~ or as provided in section 7.16 27847
of the Revised Code. The county auditor shall also notify the 27848

board of county commissioners of such filing. 27849

Sec. 715.011. Each municipal corporation may lease for a 27850
period not to exceed forty years, pursuant to a contract providing 27851
for the construction thereof under a lease-purchase plan, 27852
buildings, structures, and other improvements for any authorized 27853
municipal purpose, and in conjunction therewith, may grant leases, 27854
easements, or licenses for lands under the control of the 27855
municipal corporation for a period not to exceed forty years. The 27856
lease shall provide that at the end of the lease period the 27857
buildings, structures, and related improvements together with the 27858
land on which they are situate shall become the property of the 27859
municipal corporation without cost. 27860

Whenever any building, structure, or other improvement is to 27861
be so leased by a municipal corporation, the appropriate 27862
contracting officer of the municipal corporation shall file with 27863
the clerk of the council such basic plans, specifications, bills 27864
of materials, and estimates of cost with sufficient detail to 27865
afford bidders all needed information, or alternatively, shall 27866
file the following plans, details, bills of materials, and 27867
specifications: 27868

(A) Full and accurate plans, suitable for the use of 27869
mechanics and other builders in such construction, improvement, 27870
addition, alteration, or installation; 27871

(B) Details to scale and full sized, so drawn and represented 27872
as to be easily understood; 27873

(C) Accurate bills showing the exact quantity of different 27874
kinds of material necessary to the construction; 27875

(D) Definite and complete specifications of the work to be 27876
performed, together with such directions as will enable a 27877
competent mechanic or other builder to carry them out and afford 27878

bidders all needed information; 27879

(E) A full and accurate estimate of each item of expense and 27880
of the aggregate cost thereof. 27881

The council of the municipal corporation shall give public 27882
notice, ~~in the~~ a newspaper of general circulation in the municipal 27883
corporation, and in the form and with the phraseology as the 27884
council orders, published once each week for four consecutive 27885
weeks or as provided in section 7.16 of the Revised Code, of the 27886
time and place, when and where bids will be received for entering 27887
into an agreement to lease to the municipal corporation a 27888
building, structure, or other improvement, the last publication to 27889
be at least eight days preceding the day for opening the bids. The 27890
bids shall contain the terms upon which the builder would propose 27891
to lease the building, structure, or other improvement to the 27892
municipal corporation. The form of the bid approved by the council 27893
of the municipal corporation shall be used and a bid shall be 27894
invalid and not considered unless such form is used without 27895
change, alteration, or addition. Before submitting bids pursuant 27896
to this section, any builder shall have complied with sections 27897
153.50 to 153.52 of the Revised Code. 27898

On the day and at the place named for receiving bids for 27899
entering into lease agreements with the municipal corporation, the 27900
appropriate contracting officer of the municipal corporation shall 27901
open the bids, and shall publicly proceed immediately to tabulate 27902
the bids upon triplicate sheets, one of each of which sheets shall 27903
be filed with the clerk of the council. No lease agreement shall 27904
be entered into until the bureau of workers' compensation has 27905
certified that the corporation, partnership, or person to be 27906
awarded the lease agreement has complied with Chapter 4123. of the 27907
Revised Code, and until, if the builder submitting the lowest and 27908
best bid is a foreign corporation, the secretary of state has 27909
certified that the corporation is authorized to do business in 27910

this state, and until, if the builder submitting the lowest and 27911
best bid is a person or partnership nonresident of this state, the 27912
person or partnership has filed with the secretary of state a 27913
power of attorney designating the secretary of state as its agent 27914
for the purpose of accepting service of summons in any action 27915
brought under Chapter 4123. of the Revised Code, and until the 27916
agreement is submitted to the village solicitor or city director 27917
of law of the municipal corporation and ~~his~~ the solicitor's or 27918
director's approval is certified thereon. Within thirty days after 27919
the day on which the bids are received, the council shall 27920
investigate the bids received and shall determine that the bureau 27921
and the secretary of state have made the certifications required 27922
by this section of the builder who has submitted the lowest and 27923
best bid. Within ten days of the completion of the investigation 27924
of the bids the council may award the lease agreement to the 27925
builder who has submitted the lowest and best bid and who has been 27926
certified by the bureau and secretary of state as required by this 27927
section. If bidding for the lease agreement has been conducted 27928
upon the basis of basic plans, specifications, bills of materials, 27929
and estimates of costs, upon the award to the builder, the 27930
council, or the builder with the approval of the council, shall 27931
appoint an architect or engineer licensed in this state to prepare 27932
such further detailed plans, specifications, and bills of 27933
materials as are required to construct the building, structure, or 27934
improvement. 27935

The council may reject any bid. Where there is reason to 27936
believe there is collusion or combination among bidders, the bids 27937
of those concerned therein shall be rejected. 27938

Sec. 715.47. A municipal corporation may fill or drain any 27939
lot or land within its limits on which water at any time becomes 27940
stagnant, remove all putrid substances from any lot, and remove 27941
all obstructions from culverts, covered drains, or private 27942

property, laid in any natural watercourse, creek, brook, or 27943
branch, which obstruct the water naturally flowing therein, 27944
causing it to flow back or become stagnant, in a way prejudicial 27945
to the health, comfort, or convenience of any of the citizens of 27946
the neighborhood. If such culverts or drains are of insufficient 27947
capacity, the municipal corporation may make them of such capacity 27948
as reasonably to accommodate the flow of such water at all times. 27949
The legislative authority of such municipal corporation may, by 27950
resolution, direct the owner to fill or drain such lot, remove 27951
such putrid substance or such obstructions, and if necessary, 27952
enlarge such culverts or covered drains to meet the requirements 27953
thereof. 27954

After service of a copy of such resolution, or after a 27955
publication thereof, in a newspaper of general circulation in such 27956
municipal corporation or as provided in section 7.16 of the 27957
Revised Code, for two consecutive weeks, such owner, or ~~his~~ such 27958
owner's agent or attorney, shall comply with the directions of the 27959
resolution within the time therein specified. 27960

In case of the failure or refusal of such owner to comply 27961
with the resolution, the work required thereby may be done at the 27962
expense of the municipal corporation, and the amount of money so 27963
expended shall be recovered from the owner before any court of 27964
competent jurisdiction. Such expense from the time of the adoption 27965
of the resolution shall be a lien on such lot, which may be 27966
enforced by suit in the court of common pleas, and like 27967
proceedings may be had as directed in relation to the improvement 27968
of streets. 27969

The officers connected with the health department of every 27970
such municipal corporation shall see that this section is strictly 27971
and promptly enforced. 27972

Sec. 718.01. (A) As used in this chapter: 27973

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five per cent of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(d)(i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in

the computation of federal taxable income; 28005

(g) ~~If Deduct, to the extent not otherwise deducted or~~ 28006
~~excluded in computing federal taxable income, any income derived~~ 28007
~~from providing public services under a contract through a project~~ 28008
~~owned by the state, as described in section 126.604 of the Revised~~ 28009
~~Code or derived from a transfer agreement or from the enterprise~~ 28010
~~transferred under that agreement under section 4313.02 of the~~ 28011
~~Revised Code.~~ 28012

If the taxpayer is not a C corporation and is not an 28013
individual, the taxpayer shall compute adjusted federal taxable 28014
income as if the taxpayer were a C corporation, except+ guaranteed 28015

~~(i) Guaranteed~~ payments and other similar amounts paid or 28016
accrued to a partner, former partner, member, or former member 28017
shall not be allowed as a deductible expense; ~~and~~ amounts 28018

~~(ii) Amounts~~ paid or accrued to a qualified self-employed 28019
retirement plan with respect to an owner or owner-employee of the 28020
taxpayer, amounts paid or accrued to or for health insurance for 28021
an owner or owner-employee, and amounts paid or accrued to or for 28022
life insurance for an owner or owner-employee shall not be allowed 28023
as a deduction. 28024

Nothing in division (A)(1) of this section shall be construed 28025
as allowing the taxpayer to add or deduct any amount more than 28026
once or shall be construed as allowing any taxpayer to deduct any 28027
amount paid to or accrued for purposes of federal self-employment 28028
tax. 28029

Nothing in this chapter shall be construed as limiting or 28030
removing the ability of any municipal corporation to administer, 28031
audit, and enforce the provisions of its municipal income tax. 28032

(2) "Internal Revenue Code" means the Internal Revenue Code 28033
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 28034

- (3) "Schedule C" means internal revenue service schedule C 28035
filed by a taxpayer pursuant to the Internal Revenue Code. 28036
- (4) "Form 2106" means internal revenue service form 2106 28037
filed by a taxpayer pursuant to the Internal Revenue Code. 28038
- (5) "Intangible income" means income of any of the following 28039
types: income yield, interest, capital gains, dividends, or other 28040
income arising from the ownership, sale, exchange, or other 28041
disposition of intangible property including, but not limited to, 28042
investments, deposits, money, or credits as those terms are 28043
defined in Chapter 5701. of the Revised Code, and patents, 28044
copyrights, trademarks, tradenames, investments in real estate 28045
investment trusts, investments in regulated investment companies, 28046
and appreciation on deferred compensation. "Intangible income" 28047
does not include prizes, awards, or other income associated with 28048
any lottery winnings or other similar games of chance. 28049
- (6) "S corporation" means a corporation that has made an 28050
election under subchapter S of Chapter 1 of Subtitle A of the 28051
Internal Revenue Code for its taxable year. 28052
- (7) For taxable years beginning on or after January 1, 2004, 28053
"net profit" for a taxpayer other than an individual means 28054
adjusted federal taxable income and "net profit" for a taxpayer 28055
who is an individual means the individual's profit required to be 28056
reported on schedule C, schedule E, or schedule F, other than any 28057
amount allowed as a deduction under division (E)(2) or (3) of this 28058
section or amounts described in division (H) of this section. 28059
- (8) "Taxpayer" means a person subject to a tax on income 28060
levied by a municipal corporation. Except as provided in division 28061
(L) of this section, "taxpayer" does not include any person that 28062
is a disregarded entity or a qualifying subchapter S subsidiary 28063
for federal income tax purposes, but "taxpayer" includes any other 28064
person who owns the disregarded entity or qualifying subchapter S 28065

subsidiary.	28066
(9) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.	28067 28068 28069
(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:	28070 28071 28072
(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;	28073 28074 28075 28076
(b) A municipal corporation acting as the agent of another municipal corporation; and	28077 28078
(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.	28079 28080 28081 28082
(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.	28083 28084 28085 28086
(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.	28087 28088
(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.	28089 28090
(B) No municipal corporation shall tax income at other than a uniform rate.	28091 28092
(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the	28093 28094 28095

municipality voting on the question at a general, primary, or 28096
special election. The legislative authority of the municipal 28097
corporation shall file with the board of elections at least ninety 28098
days before the day of the election a copy of the ordinance 28099
together with a resolution specifying the date the election is to 28100
be held and directing the board of elections to conduct the 28101
election. The ballot shall be in the following form: "Shall the 28102
Ordinance providing for a ... per cent levy on income for (Brief 28103
description of the purpose of the proposed levy) be passed? 28104

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

28105
28106
28107
28108

In the event of an affirmative vote, the proceeds of the levy 28109
may be used only for the specified purpose. 28110

(D)(1) Except as otherwise provided in this section, no 28111
municipal corporation shall exempt from a tax on income 28112
compensation for personal services of individuals over eighteen 28113
years of age or the net profit from a business or profession. 28114

(2)(a) For taxable years beginning on or after January 1, 28115
2004, no municipal corporation shall tax the net profit from a 28116
business or profession using any base other than the taxpayer's 28117
adjusted federal taxable income. 28118

(b) Division (D)(2)(a) of this section does not apply to any 28119
taxpayer required to file a return under section 5745.03 of the 28120
Revised Code or to the net profit from a sole proprietorship. 28121

(E)(1) The legislative authority of a municipal corporation 28122
may, by ordinance or resolution, exempt from withholding and from 28123
a tax on income the following: 28124

(a) Compensation arising from the sale, exchange, or other 28125

disposition of a stock option, the exercise of a stock option, or 28126
the sale, exchange, or other disposition of stock purchased under 28127
a stock option; or 28128

(b) Compensation attributable to a nonqualified deferred 28129
compensation plan or program described in section 3121(v)(2)(C) of 28130
the Internal Revenue Code. 28131

(2) The legislative authority of a municipal corporation may 28132
adopt an ordinance or resolution that allows a taxpayer who is an 28133
individual to deduct, in computing the taxpayer's municipal income 28134
tax liability, an amount equal to the aggregate amount the 28135
taxpayer paid in cash during the taxable year to a health savings 28136
account of the taxpayer, to the extent the taxpayer is entitled to 28137
deduct that amount on internal revenue service form 1040. 28138

(3) The legislative authority of a municipal corporation may 28139
adopt an ordinance or resolution that allows a taxpayer who has a 28140
net profit from a business or profession that is operated as a 28141
sole proprietorship to deduct from that net profit the amount that 28142
the taxpayer paid during the taxable year for medical care 28143
insurance premiums for the taxpayer, the taxpayer's spouse, and 28144
dependents as defined in section 5747.01 of the Revised Code. The 28145
deduction shall be allowed to the same extent the taxpayer is 28146
entitled to deduct the premiums on internal revenue service form 28147
1040. The deduction allowed under this division shall be net of 28148
any related premium refunds, related premium reimbursements, or 28149
related insurance premium dividends received by the taxpayer 28150
during the taxable year. 28151

(F) If an individual's taxable income includes income against 28152
which the taxpayer has taken a deduction for federal income tax 28153
purposes as reportable on the taxpayer's form 2106, and against 28154
which a like deduction has not been allowed by the municipal 28155
corporation, the municipal corporation shall deduct from the 28156
taxpayer's taxable income an amount equal to the deduction shown 28157

on such form allowable against such income, to the extent not 28158
otherwise so allowed as a deduction by the municipal corporation. 28159

(G)(1) In the case of a taxpayer who has a net profit from a 28160
business or profession that is operated as a sole proprietorship, 28161
no municipal corporation may tax or use as the base for 28162
determining the amount of the net profit that shall be considered 28163
as having a taxable situs in the municipal corporation, an amount 28164
other than the net profit required to be reported by the taxpayer 28165
on schedule C or F from such sole proprietorship for the taxable 28166
year. 28167

(2) In the case of a taxpayer who has a net profit from 28168
rental activity required to be reported on schedule E, no 28169
municipal corporation may tax or use as the base for determining 28170
the amount of the net profit that shall be considered as having a 28171
taxable situs in the municipal corporation, an amount other than 28172
the net profit from rental activities required to be reported by 28173
the taxpayer on schedule E for the taxable year. 28174

(H) A municipal corporation shall not tax any of the 28175
following: 28176

(1) The military pay or allowances of members of the armed 28177
forces of the United States and of members of their reserve 28178
components, including the Ohio national guard; 28179

(2) The income of religious, fraternal, charitable, 28180
scientific, literary, or educational institutions to the extent 28181
that such income is derived from tax-exempt real estate, 28182
tax-exempt tangible or intangible property, or tax-exempt 28183
activities; 28184

(3) Except as otherwise provided in division (I) of this 28185
section, intangible income; 28186

(4) Compensation paid under section 3501.28 or 3501.36 of the 28187
Revised Code to a person serving as a precinct election official, 28188

to the extent that such compensation does not exceed one thousand 28189
dollars annually. Such compensation in excess of one thousand 28190
dollars may be subjected to taxation by a municipal corporation. A 28191
municipal corporation shall not require the payer of such 28192
compensation to withhold any tax from that compensation. 28193

(5) Compensation paid to an employee of a transit authority, 28194
regional transit authority, or regional transit commission created 28195
under Chapter 306. of the Revised Code for operating a transit bus 28196
or other motor vehicle for the authority or commission in or 28197
through the municipal corporation, unless the bus or vehicle is 28198
operated on a regularly scheduled route, the operator is subject 28199
to such a tax by reason of residence or domicile in the municipal 28200
corporation, or the headquarters of the authority or commission is 28201
located within the municipal corporation; 28202

(6) The income of a public utility, when that public utility 28203
is subject to the tax levied under section 5727.24 or 5727.30 of 28204
the Revised Code, except a municipal corporation may tax the 28205
following, subject to Chapter 5745. of the Revised Code: 28206

(a) Beginning January 1, 2002, the income of an electric 28207
company or combined company; 28208

(b) Beginning January 1, 2004, the income of a telephone 28209
company. 28210

As used in division (H)(6) of this section, "combined 28211
company," "electric company," and "telephone company" have the 28212
same meanings as in section 5727.01 of the Revised Code. 28213

(7) On and after January 1, 2003, items excluded from federal 28214
gross income pursuant to section 107 of the Internal Revenue Code; 28215

(8) On and after January 1, 2001, compensation paid to a 28216
nonresident individual to the extent prohibited under section 28217
718.011 of the Revised Code; 28218

(9)(a) Except as provided in division (H)(9)(b) and (c) of 28219
this section, an S corporation shareholder's distributive share of 28220
net profits of the S corporation, other than any part of the 28221
distributive share of net profits that represents wages as defined 28222
in section 3121(a) of the Internal Revenue Code or net earnings 28223
from self-employment as defined in section 1402(a) of the Internal 28224
Revenue Code. 28225

(b) If, pursuant to division (H) of former section 718.01 of 28226
the Revised Code as it existed before March 11, 2004, a majority 28227
of the electors of a municipal corporation voted in favor of the 28228
question at an election held on November 4, 2003, the municipal 28229
corporation may continue after 2002 to tax an S corporation 28230
shareholder's distributive share of net profits of an S 28231
corporation. 28232

(c) If, on December 6, 2002, a municipal corporation was 28233
imposing, assessing, and collecting a tax on an S corporation 28234
shareholder's distributive share of net profits of the S 28235
corporation to the extent the distributive share would be 28236
allocated or apportioned to this state under divisions (B)(1) and 28237
(2) of section 5733.05 of the Revised Code if the S corporation 28238
were a corporation subject to taxes imposed under Chapter 5733. of 28239
the Revised Code, the municipal corporation may continue to impose 28240
the tax on such distributive shares to the extent such shares 28241
would be so allocated or apportioned to this state only until 28242
December 31, 2004, unless a majority of the electors of the 28243
municipal corporation voting on the question of continuing to tax 28244
such shares after that date vote in favor of that question at an 28245
election held November 2, 2004. If a majority of those electors 28246
vote in favor of the question, the municipal corporation may 28247
continue after December 31, 2004, to impose the tax on such 28248
distributive shares only to the extent such shares would be so 28249
allocated or apportioned to this state. 28250

(d) For the purposes of division (D) of section 718.14 of the Revised Code, a municipal corporation shall be deemed to have elected to tax S corporation shareholders' distributive shares of net profits of the S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation vote in favor of a question at an election held under division (H)(9)(b) or (c) of this section. The municipal corporation shall specify by ordinance or rule that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(10) Employee compensation that is not "qualifying wages" as defined in section 718.03 of the Revised Code;

(11) Beginning August 1, 2007, compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, municipal income tax shall be payable only to the municipal corporation of residence or domicile.

(I) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th general assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(J) Nothing in this section or section 718.02 of the Revised Code shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing

laws or shall require a municipal corporation to allow a deduction 28283
from taxable income for losses incurred from a sole proprietorship 28284
or partnership. 28285

(K)(1) Nothing in this chapter prohibits a municipal 28286
corporation from allowing, by resolution or ordinance, a net 28287
operating loss carryforward. 28288

(2) Nothing in this chapter requires a municipal corporation 28289
to allow a net operating loss carryforward. 28290

(L)(1) A single member limited liability company that is a 28291
disregarded entity for federal tax purposes may elect to be a 28292
separate taxpayer from its single member in all Ohio municipal 28293
corporations in which it either filed as a separate taxpayer or 28294
did not file for its taxable year ending in 2003, if all of the 28295
following conditions are met: 28296

(a) The limited liability company's single member is also a 28297
limited liability company; 28298

(b) The limited liability company and its single member were 28299
formed and doing business in one or more Ohio municipal 28300
corporations for at least five years before January 1, 2004; 28301

(c) Not later than December 31, 2004, the limited liability 28302
company and its single member each make an election to be treated 28303
as a separate taxpayer under division (L) of this section; 28304

(d) The limited liability company was not formed for the 28305
purpose of evading or reducing Ohio municipal corporation income 28306
tax liability of the limited liability company or its single 28307
member; 28308

(e) The Ohio municipal corporation that is the primary place 28309
of business of the sole member of the limited liability company 28310
consents to the election. 28311

(2) For purposes of division (L)(1)(e) of this section, a 28312

municipal corporation is the primary place of business of a 28313
limited liability company if, for the limited liability company's 28314
taxable year ending in 2003, its income tax liability is greater 28315
in that municipal corporation than in any other municipal 28316
corporation in Ohio, and that tax liability to that municipal 28317
corporation for its taxable year ending in 2003 is at least four 28318
hundred thousand dollars. 28319

Sec. 718.09. (A) This section applies to either of the 28320
following: 28321

(1) A municipal corporation that shares the same territory as 28322
a city, local, or exempted village school district, to the extent 28323
that not more than five per cent of the territory of the municipal 28324
corporation is located outside the school district and not more 28325
than five per cent of the territory of the school district is 28326
located outside the municipal corporation; 28327

(2) A municipal corporation that shares the same territory as 28328
a city, local, or exempted village school district, to the extent 28329
that not more than five per cent of the territory of the municipal 28330
corporation is located outside the school district, more than five 28331
per cent but not more than ten per cent of the territory of the 28332
school district is located outside the municipal corporation, and 28333
that portion of the territory of the school district that is 28334
located outside the municipal corporation is located entirely 28335
within another municipal corporation having a population of four 28336
hundred thousand or more according to the federal decennial census 28337
most recently completed before the agreement is entered into under 28338
division (B) of this section. 28339

(B) The legislative authority of a municipal corporation to 28340
which this section applies may propose to the electors an income 28341
tax, one of the purposes of which shall be to provide financial 28342
assistance to the school district through payment to the district 28343

of not less than twenty-five per cent of the revenue generated by 28344
the tax, except that the legislative authority may not propose to 28345
levy the income tax on the incomes of nonresident individuals. 28346
Prior to proposing the tax, the legislative authority shall 28347
negotiate and enter into a written agreement with the board of 28348
education of the school district specifying the tax rate, the 28349
percentage of tax revenue to be paid to the school district, the 28350
purpose for which the school district will use the money, the 28351
first year the tax will be levied, the date of the special 28352
election on the question of the tax, and the method and schedule 28353
by which the municipal corporation will make payments to the 28354
school district. The special election shall be held on a day 28355
specified in division (D) of section 3501.01 of the Revised Code, 28356
except that the special election may not be held on the day for 28357
holding a primary election as authorized by the municipal 28358
corporation's charter unless the municipal corporation is to have 28359
a primary election on that day. 28360

After the legislative authority and board of education have 28361
entered into the agreement, the legislative authority shall 28362
provide for levying the tax by ordinance. The ordinance shall 28363
state the tax rate, the percentage of tax revenue to be paid to 28364
the school district, the purpose for which the municipal 28365
corporation will use its share of the tax revenue, the first year 28366
the tax will be levied, and that the question of the income tax 28367
will be submitted to the electors of the municipal corporation. 28368
The legislative authority also shall adopt a resolution specifying 28369
the regular or special election date the election will be held and 28370
directing the board of elections to conduct the election. At least 28371
ninety days before the date of the election, the legislative 28372
authority shall file certified copies of the ordinance and 28373
resolution with the board of elections. 28374

(C) The board of elections shall make the necessary 28375

arrangements for the submission of the question to the electors of 28376
the municipal corporation, and shall conduct the election in the 28377
same manner as any other municipal income tax election. Notice of 28378
the election shall be published in a newspaper of general 28379
circulation in the municipal corporation once a week for four 28380
consecutive weeks, or as provided in section 7.16 of the Revised 28381
Code, prior to the election, and shall include statements of the 28382
rate and municipal corporation and school district purposes of the 28383
income tax, the percentage of tax revenue that will be paid to the 28384
school district, and the first year the tax will be levied. The 28385
ballot shall be in the following form: 28386

"Shall the ordinance providing for a per cent levy on 28387
income for (brief description of the municipal corporation and 28388
school district purposes of the levy, including a statement of the 28389
percentage of tax revenue that will be paid to the school 28390
district) be passed? The income tax, if approved, will not be 28391
levied on the incomes of individuals who do not reside in (the 28392
name of the municipal corporation). 28393

	For the income tax	
	Against the income tax	"

28394
28395
28396
28397

(D) If the question is approved by a majority of the 28398
electors, the municipal corporation shall impose the income tax 28399
beginning in the year specified in the ordinance. The proceeds of 28400
the levy may be used only for the specified purposes, including 28401
payment of the specified percentage to the school district. 28402

Sec. 718.10. (A) This section applies to a group of two or 28403
more municipal corporations that, taken together, share the same 28404
territory as a single city, local, or exempted village school 28405
district, to the extent that not more than five per cent of the 28406

territory of the municipal corporations as a group is located 28407
outside the school district and not more than five per cent of the 28408
territory of the school district is located outside the municipal 28409
corporations as a group. 28410

(B) The legislative authorities of the municipal corporations 28411
in a group of municipal corporations to which this section applies 28412
each may propose to the electors an income tax, to be levied in 28413
concert with income taxes in the other municipal corporations of 28414
the group, except that a legislative authority may not propose to 28415
levy the income tax on the incomes of individuals who do not 28416
reside in the municipal corporation. One of the purposes of such a 28417
tax shall be to provide financial assistance to the school 28418
district through payment to the district of not less than 28419
twenty-five per cent of the revenue generated by the tax. Prior to 28420
proposing the taxes, the legislative authorities shall negotiate 28421
and enter into a written agreement with each other and with the 28422
board of education of the school district specifying the tax rate, 28423
the percentage of the tax revenue to be paid to the school 28424
district, the first year the tax will be levied, and the date of 28425
the election on the question of the tax, all of which shall be the 28426
same for each municipal corporation. The agreement also shall 28427
state the purpose for which the school district will use the 28428
money, and specify the method and schedule by which each municipal 28429
corporation will make payments to the school district. The special 28430
election shall be held on a day specified in division (D) of 28431
section 3501.01 of the Revised Code, including a day on which all 28432
of the municipal corporations are to have a primary election. 28433

After the legislative authorities and board of education have 28434
entered into the agreement, each legislative authority shall 28435
provide for levying its tax by ordinance. Each ordinance shall 28436
state the rate of the tax, the percentage of tax revenue to be 28437
paid to the school district, the purpose for which the municipal 28438

corporation will use its share of the tax revenue, and the first 28439
year the tax will be levied. Each ordinance also shall state that 28440
the question of the income tax will be submitted to the electors 28441
of the municipal corporation on the same date as the submission of 28442
questions of an identical tax to the electors of each of the other 28443
municipal corporations in the group, and that unless the electors 28444
of all of the municipal corporations in the group approve the tax 28445
in their respective municipal corporations, none of the municipal 28446
corporations in the group shall levy the tax. Each legislative 28447
authority also shall adopt a resolution specifying the regular or 28448
special election date the election will be held and directing the 28449
board of elections to conduct the election. At least ninety days 28450
before the date of the election, each legislative authority shall 28451
file certified copies of the ordinance and resolution with the 28452
board of elections. 28453

(C) For each of the municipal corporations, the board of 28454
elections shall make the necessary arrangements for the submission 28455
of the question to the electors, and shall conduct the election in 28456
the same manner as any other municipal income tax election. For 28457
each of the municipal corporations, notice of the election shall 28458
be published in a newspaper of general circulation in the 28459
municipal corporation once a week for four consecutive weeks, or 28460
as provided in section 7.16 of the Revised Code, prior to the 28461
election. The notice shall include a statement of the rate and 28462
municipal corporation and school district purposes of the income 28463
tax, the percentage of tax revenue that will be paid to the school 28464
district, and the first year the tax will be levied, and an 28465
explanation that the tax will not be levied unless an identical 28466
tax is approved by the electors of each of the other municipal 28467
corporations in the group. The ballot shall be in the following 28468
form: 28469

"Shall the ordinance providing for a ... per cent levy on 28470

income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of income tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation). In order for the income tax to be levied, the voters of (the other municipal corporations in the group), which are also in the (name of the school district) school district, must approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

	For the income tax
	Against the income tax

"

(D) If the question is approved by a majority of the electors and identical taxes are approved by a majority of the electors in each of the other municipal corporations in the group, the municipal corporation shall impose the tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 719.012. In order to rehabilitate a building or structure that a municipal corporation determines to be a blighted property as defined in section 1.08 of the Revised Code, a municipal corporation may appropriate, in the manner provided in sections 163.01 to 163.22 of the Revised Code, any such building or structure and the real property of which it is a part. The municipal corporation shall rehabilitate the building or structure or cause it to be rehabilitated within two years after the appropriation, so that the building or structure is no longer a public nuisance, insecure, unsafe, structurally defective,

unhealthful, or unsanitary, or a threat to the public health, 28502
safety, or welfare, or in violation of a building code or 28503
ordinance adopted under section 731.231 of the Revised Code. Any 28504
building or structure appropriated pursuant to this section which 28505
is not rehabilitated within two years shall be demolished. 28506

If during the rehabilitation process the municipal 28507
corporation retains title to the building or structure and the 28508
real property of which it is a part, then within one hundred 28509
eighty days after the rehabilitation is complete, the municipal 28510
corporation shall appraise the rehabilitated building or structure 28511
and the real property of which it is a part, and shall sell the 28512
building or structure and property at public auction. The 28513
municipal corporation shall advertise the public auction in a 28514
newspaper of general circulation in the municipal corporation once 28515
a week for three consecutive weeks, or as provided in section 7.16 28516
of the Revised Code, prior to the date of sale. The municipal 28517
corporation shall sell the building or structure and real property 28518
to the highest and best bidder. No property that a municipal 28519
corporation acquires pursuant to this section shall be leased. 28520

Sec. 719.05. The mayor of a municipal corporation shall, 28521
immediately upon the passage of a resolution under section 719.04 28522
of the Revised Code, declaring an intent to appropriate property, 28523
for which but one reading is necessary, cause written notice to be 28524
given to the owner of, person in possession of, or person having 28525
an interest of record in, every piece of property sought to be 28526
appropriated, or to ~~his~~ the authorized agent of the owner or other 28527
such person. Such notice shall be served by a person designated 28528
for the purpose and return made in the manner provided for the 28529
service and return of summons in civil actions. If such owner, 28530
person, or agent cannot be found, notice shall be given by 28531
publication once a week for three consecutive weeks in a newspaper 28532
of general circulation in the municipal corporation or as provided 28533

in section 7.16 of the Revised Code, and the legislative authority 28534
may thereupon pass an ordinance by a two-thirds vote of all 28535
members elected thereto, directing such appropriation to proceed. 28536

Sec. 721.03. No contract, except as provided in section 28537
721.28 of the Revised Code, for the sale or lease of real estate 28538
belonging to a municipal corporation shall be made unless 28539
authorized by an ordinance, approved by a two-thirds vote of the 28540
members of the legislative authority of such municipal 28541
corporation, and by the board or officer having supervision or 28542
management of such real estate. When the contract is so 28543
authorized, it shall be made in writing by such board or officer, 28544
and, except as provided in section 721.27 of the Revised Code, 28545
only with the highest bidder, after advertisement once a week for 28546
five consecutive weeks in a newspaper of general circulation 28547
within the municipal corporation or as provided in section 7.16 of 28548
the Revised Code. Such board or officer may reject any bids and 28549
readvertise until all such real estate is sold or leased. 28550

Sec. 721.15. (A) Personal property not needed for municipal 28551
purposes, the estimated value of which is less than one thousand 28552
dollars, may be sold by the board or officer having supervision or 28553
management of that property. If the estimated value of that 28554
property is one thousand dollars or more, it shall be sold only 28555
when authorized by an ordinance of the legislative authority of 28556
the municipal corporation and approved by the board, officer, or 28557
director having supervision or management of that property. When 28558
so authorized, the board, officer, or director shall make a 28559
written contract with the highest and best bidder after 28560
advertisement for not less than two ~~or~~ nor more than four 28561
consecutive weeks in a newspaper of general circulation within the 28562
municipal corporation or as provided in section 7.16 of the 28563
Revised Code, or with a board of county commissioners upon such 28564

lawful terms as are agreed upon, as provided by division (B)(1) of 28565
section 721.27 of the Revised Code. 28566

(B) When the legislative authority finds, by resolution, that 28567
the municipal corporation has vehicles, equipment, or machinery 28568
which is obsolete, or is not needed or is unfit for public use, 28569
that the municipal corporation has need of other vehicles, 28570
equipment, or machinery of the same type, and that it will be in 28571
the best interest of the municipal corporation that the sale of 28572
obsolete, unneeded, or unfit vehicles, equipment, or machinery be 28573
made simultaneously with the purchase of the new vehicles, 28574
equipment, or machinery of the same type, the legislative 28575
authority may offer to sell, or authorize a board, officer, or 28576
director of the municipal corporation having supervision or 28577
management of the property to offer to sell, those vehicles, 28578
equipment, or machinery and to have the selling price credited 28579
against the purchase price of other vehicles, equipment, or 28580
machinery and to consummate the sale and purchase by a single 28581
contract with the lowest and best bidder to be determined by 28582
subtracting from the selling price of the vehicles, equipment, or 28583
machinery to be purchased by the municipal corporation the 28584
purchase price offered for the municipally-owned vehicles, 28585
equipment, or machinery. When the legislative authority or the 28586
authorized board, officer, or director of a municipal corporation 28587
advertises for bids for the sale of new vehicles, equipment, or 28588
machinery to the municipal corporation, they may include in the 28589
same advertisement a notice of willingness to accept bids for the 28590
purchase of municipally-owned vehicles, equipment, or machinery 28591
which is obsolete, or is not needed or is unfit for public use, 28592
and to have the amount of those bids subtracted from the selling 28593
price as a means of determining the lowest and best bidder. 28594

(C) If the legislative authority of the municipal corporation 28595
determines that municipal personal property is not needed for 28596

public use, or is obsolete or unfit for the use for which it was 28597
acquired, and that the property has no value, the legislative 28598
authority may discard or salvage that property. 28599

(D) Notwithstanding anything to the contrary in division (A) 28600
or (B) of this section and regardless of the property's value, the 28601
legislative authority of a municipal corporation may sell personal 28602
property, including motor vehicles acquired for the use of 28603
municipal officers and departments, and road machinery, equipment, 28604
tools, or supplies, which is not needed for public use, or is 28605
obsolete or unfit for the use for which it was acquired, by 28606
internet auction. The legislative authority shall adopt, during 28607
each calendar year, a resolution expressing its intent to sell 28608
that property by internet auction. The resolution shall include a 28609
description of how the auctions will be conducted and shall 28610
specify the number of days for bidding on the property, which 28611
shall be no less than ten days, including Saturdays, Sundays, and 28612
legal holidays. The resolution shall indicate whether the 28613
municipal corporation will conduct the auction or the legislative 28614
authority will contract with a representative to conduct the 28615
auction and shall establish the general terms and conditions of 28616
sale. If a representative is known when the resolution is adopted, 28617
the resolution shall provide contact information such as the 28618
representative's name, address, and telephone number. 28619

After adoption of the resolution, the legislative authority 28620
shall publish, in a newspaper of general circulation in the 28621
municipal corporation or as provided in section 7.16 of the 28622
Revised Code, notice of its intent to sell unneeded, obsolete, or 28623
unfit municipal personal property by internet auction. The notice 28624
shall include a summary of the information provided in the 28625
resolution and shall be published ~~at least~~ twice. The second ~~and~~ 28626
~~any subsequent~~ notice shall be published not less than ten nor 28627
more than twenty days after the previous notice. A similar notice 28628

also shall be posted continually throughout the calendar year in a 28629
conspicuous place in the offices of the village clerk or city 28630
auditor, and the legislative authority, ~~and, if.~~ If the municipal 28631
corporation maintains a ~~website~~ web site on the internet, the 28632
notice shall be posted continually throughout the calendar year at 28633
that ~~website~~ web site. 28634

When the property is to be sold by internet auction, the 28635
legislative authority or its representative may establish a 28636
minimum price that will be accepted for specific items and may 28637
establish any other terms and conditions for the particular sale, 28638
including requirements for pick-up or delivery, method of payment, 28639
and sales tax. This type of information shall be provided on the 28640
internet at the time of the auction and may be provided before 28641
that time upon request after the terms and conditions have been 28642
determined by the legislative authority or its representative. 28643

Sec. 721.20. Notice of the filing, pendency, and prayer of 28644
the petition provided for by section 721.19 of the Revised Code 28645
shall be published for four consecutive weeks or as provided in 28646
section 7.16 of the Revised Code, prior to the day of hearing, in 28647
a newspaper ~~published in the municipal corporation, or if there is~~ 28648
~~none, then in a newspaper published in the county, and~~ of general 28649
circulation in such municipal corporation. 28650

Sec. 723.07. No street or alley shall be vacated or narrowed 28651
unless notice of the pendency and prayer of the petition under 28652
section 723.04 of the Revised Code is given by publishing, in a 28653
newspaper ~~published or~~ of general circulation in such municipal 28654
corporation, for six consecutive weeks preceding action on such 28655
petition, ~~or, where~~ as provided in section 7.16 of the Revised 28656
Code preceding action on the petition. Where no newspaper is 28657
~~published of general circulation~~ in the municipal corporation, 28658
notice shall be given by posting the notice in three public places 28659

therein six weeks preceding such action. Action thereon shall take 28660
place within three months after the completion of the notice. 28661

Sec. 727.011. For the purpose of controlling the blight and 28662
disease of shade trees within public rights-of-way, and for 28663
planting, maintaining, trimming, and removing shade trees in and 28664
along the streets of a municipality, the legislative authority of 28665
such municipal corporation may establish one or more districts in 28666
the municipality designating the boundaries thereof, and may each 28667
year thereafter, by ordinance, designate the district in which 28668
such control, planting, care, and maintenance shall be effected, 28669
setting forth an estimate of the cost and providing for the levy 28670
of a special assessment upon all the real property in the 28671
district, in the amount and in the manner provided in section 28672
727.01 of the Revised Code, for planting, maintaining, trimming, 28673
and removing shade trees. The ordinance shall be adopted ~~and~~ 28674
~~published~~ as other ordinances and a succinct summary of the 28675
ordinance shall be published in the manner provided in section 28676
731.21 of the Revised Code. Bonds and anticipatory notes may be 28677
issued in anticipation of the collection of such special 28678
assessments, under section 133.17 of the Revised Code. 28679

Sec. 727.012. For the purpose of constructing, maintaining, 28680
repairing, cleaning, and enclosing ditches, the legislative 28681
authority of such municipal corporation may establish one or more 28682
districts in the municipality designating the boundaries thereof, 28683
and may each year thereafter, by ordinance, designate the district 28684
in which such constructing, maintaining, repairing, cleaning, and 28685
enclosing of ditches shall be effected, setting forth an estimate 28686
of the cost and providing for the levying of a special assessment 28687
upon all the real property in the district, in the amount and in 28688
the manner provided in section 727.01 of the Revised Code, for 28689
constructing, maintaining, repairing, cleaning, and enclosing 28690

ditches. The ordinance shall be adopted ~~and published~~ as other 28691
ordinances and a succinct summary of the ordinance shall be 28692
published in the manner provided in section 731.21 of the Revised 28693
Code. Bonds and anticipatory notes may be issued in anticipation 28694
of the collection of such special assessments, under section 28695
133.17 of the Revised Code. 28696

Sec. 727.08. The cost of any public improvement to be paid 28697
for directly or indirectly, in whole or in part, by funds derived 28698
from special assessments may include but not be limited to: 28699

(A) The purchase price of real estate or any interest therein 28700
when acquired by purchase, or not more than fifty per cent of the 28701
cost of acquiring such real estate or any interest therein when 28702
acquired by appropriation; 28703

(B) The cost of preliminary and other surveys; 28704

(C) The cost of preparing plans, specifications, profiles, 28705
and estimates except, to the extent that costs of plans, 28706
specifications, and estimates of cost have been paid for by the 28707
levy of assessments under section 729.11 of the Revised Code, such 28708
costs shall not be included in determining the cost of the 28709
improvement under this section; 28710

(D) The cost of printing, serving, and publishing notices~~7~~ 28711
and summaries of resolutions~~7~~ and ordinances; 28712

(E) The cost of all special proceedings; 28713

(F) The cost of labor and material, whether furnished by 28714
contract or otherwise; 28715

(G) Interest on securities issued in anticipation of the levy 28716
and collection of the special assessments or, if securities in 28717
anticipation of the levy of the special assessments are not 28718
issued, interest, at a rate to be determined by the legislative 28719
authority in the resolution of necessity adopted pursuant to 28720

section 727.12 of the Revised Code, on moneys advanced by the 28721
municipal corporation for the cost of the public improvement in 28722
anticipation of the levy of the special assessments; 28723

(H) The total amount of damages, resulting from the 28724
improvement, assessed in favor of any owner of lands affected by 28725
the improvement, and interest thereon; 28726

(I) The cost incurred in connection with the preparation, 28727
levy, and collection of the special assessments, including legal 28728
expenses incurred by reason of the improvement; 28729

(J) Incidental costs directly connected with the improvement. 28730

Sec. 727.14. In lieu of the procedure provided in section 28731
727.13 of the Revised Code, the legislative authority may provide 28732
for notice of the passage of a resolution of necessity providing 28733
for the lighting, sprinkling, sweeping, or cleaning of any street, 28734
alley, public road, or place, or parts thereof or for treating the 28735
surface of the same with dust-laying or preservative substances, 28736
or for the planting, maintaining, and removing of shade trees, or 28737
for the constructing, maintaining, repairing, cleaning, and 28738
enclosing of ditches, and the filing of the estimated assessment 28739
under section 727.12 of the Revised Code, to be given by 28740
publication of such notice once a week for two consecutive weeks 28741
in a newspaper of general circulation in the municipal corporation 28742
or as provided in section 7.16 of the Revised Code. When it 28743
appears from the estimated assessment filed as provided by section 28744
727.12 of the Revised Code, that the assessment against the owner 28745
of any lot or parcel of land will exceed two hundred fifty 28746
dollars, such owner shall be notified of the assessment in the 28747
manner provided in section 727.13 of the Revised Code. 28748

Sec. 727.46. When a general plan has been prepared under 28749
section 727.44 of the Revised Code and reported to the legislative 28750

authority, it shall be filed with the clerk of the legislative 28751
authority and the legislative authority shall cause its clerk to 28752
publish, once a week for two consecutive weeks in a newspaper of 28753
general circulation in the municipal corporation or as provided in 28754
section 7.16 of the Revised Code, a notice stating that such 28755
general plan has been prepared and is on file in the office of the 28756
clerk of the legislative authority for examination by interested 28757
persons and that written objections to such plan may be filed in 28758
the office of such clerk before the date specified in the notice, 28759
which shall not be earlier than the seventeenth day following the 28760
date of the first publication in said newspaper. Any person having 28761
an objection to the general plan shall file such objection in 28762
writing, with the clerk of the legislative authority within the 28763
time specified. 28764

Sec. 729.08. The legislative authority of the municipal 28765
corporation shall cause a notice to be published for three 28766
consecutive weeks in a newspaper of general circulation in the 28767
municipal corporation or as provided in section 7.16 of the 28768
Revised Code, stating that such list of estimated assessments has 28769
been made and is on file in the office of the clerk of the 28770
legislative authority for the inspection and examination of 28771
persons interested therein. 28772

If any person objects to an assessment on such list, ~~he~~ the 28773
person shall file ~~his~~ the objection in writing with the clerk of 28774
the legislative authority within two weeks after the expiration of 28775
the notice provided in this section. 28776

Sec. 729.11. In addition to the power conferred upon 28777
municipal corporations under section 727.01 of the Revised Code to 28778
levy and collect special assessments, the legislative authority of 28779
a municipal corporation may, whenever it has determined by 28780
ordinance that it is necessary to construct, enlarge, or improve a 28781

system of storm or sanitary sewerage for the municipal corporation 28782
or any part thereof, including sewage disposal works, treatment 28783
plants, and sewage pumping stations, or a water supply system for 28784
the municipal corporation or any part thereof including mains, 28785
dams, reservoirs, wells, intakes, purification works, and pumping 28786
stations, and that any such improvement shall be constructed, 28787
enlarged, or improved, may levy upon property to be benefited in 28788
the municipal corporation or any designated part thereof, which 28789
property shall be described in the ordinance, a preliminary 28790
assessment upon the benefited lots and lands within the 28791
corporation or such part thereof, apportioned according to 28792
benefits or to the tax valuation or partly by one method and 28793
partly by the other, as the legislative authority determines for 28794
the purpose of paying the costs of general and detailed plans, 28795
specifications, estimates, preparation of the tentative 28796
assessment, financing, and legal services incident to the 28797
preparation of such plans, and a plan for financing the proposed 28798
improvements. 28799

Prior to the adoption of such ordinance, the legislative 28800
authority of such municipal corporation shall give notice of the 28801
pendency thereof and of the proposed determination of the 28802
necessity of the improvement therein generally described, which 28803
notice shall set forth the description of the benefited property 28804
as designated in the ordinance and the time and place of hearing 28805
of objections to and endorsements of the improvement. Such notice 28806
shall be given by publication in a newspaper of general 28807
circulation in the municipal corporation once a week for two 28808
consecutive weeks or as provided in section 7.16 of the Revised 28809
Code, the first publication to be at least two weeks prior to the 28810
date set for the hearing. At such hearing, or at any adjournment 28811
thereof, of which no further published notice need be given, the 28812
legislative authority shall hear all persons whose properties are 28813
proposed to be assessed, and such evidence as is deemed to be 28814

necessary, and shall then determine the necessity of the proposed 28815
improvement and in addition shall determine whether the 28816
improvement shall be made by the municipal corporation, and shall 28817
direct the preparation of tentative assessments upon the benefited 28818
properties and by whom they shall be prepared. 28819

Such assessments shall be in the amount determined to be 28820
necessary by the legislative authority to pay the costs of general 28821
and detailed plans, specifications, estimates of cost, preparation 28822
of the tentative assessment, financing and legal services incident 28823
to the preparation of such plans, and a plan of financing the 28824
proposed improvements, and shall be payable in such number of 28825
years as the legislative authority determines, not to exceed 28826
twenty, together with interest on any notes which may be issued in 28827
anticipation of the collection of such assessments. 28828

The legislative authority may at any time levy additional 28829
assessments according to benefits or to tax valuation or partly by 28830
one method and partly by the other as the legislative authority 28831
determines for such purposes upon such properties to complete the 28832
payment of such costs or to pay the cost of any additional plans, 28833
specifications, estimates of cost, tentative assessments, and the 28834
cost of financing and legal services incident to the preparation 28835
of such plans and such plan of financing, which additional 28836
assessments shall be payable in such number of years as the 28837
legislative authority determines, not to exceed twenty years, 28838
together with interest on any notes and bonds which may be issued 28839
in anticipation of the collection thereof. 28840

Upon completion of the tentative assessments or any 28841
additional assessments, they shall be filed with the clerk of the 28842
legislative authority and shall be and remain open to public 28843
inspection, and thereupon, the legislative authority shall give at 28844
least ten days' notice of the filing thereof in one newspaper of 28845
general circulation in the municipal corporation, or shall give 28846

notice as provided in section 7.16 of the Revised Code, which 28847
notice shall state the time and place when and where such 28848
tentative assessments shall be taken up for consideration. At such 28849
time and place or at any adjournment thereof, of which no further 28850
published notice need be given, the legislative authority shall 28851
hear all persons whose properties are proposed to be assessed, 28852
shall correct any errors and make any revisions that appear to be 28853
necessary or just, and may then pass an ordinance levying upon the 28854
properties determined to be benefited such assessments as so 28855
corrected and revised. 28856

The assessments levied by such ordinance shall be certified 28857
to the county auditor for collection as other taxes in the year or 28858
years in which they are payable; provided any such assessment in 28859
the amount of five dollars or less, or any unpaid balance of any 28860
such assessment which is five dollars or less, shall be paid in 28861
full, and not in installments, at the time the first or next 28862
installment would otherwise become due and payable. 28863

Upon the adoption of such ordinance levying assessments the 28864
legislative authority may authorize contracts to carry out the 28865
purposes for which such assessments have been levied without the 28866
prior issuance of notes and bonds; provided that the payments due 28867
by the municipal corporation do not fall due prior to the times in 28868
which such assessments shall be collected. The municipal 28869
corporation may also issue and sell its bonds with a maximum 28870
maturity of twenty years in anticipation of the collection of such 28871
assessments and may issue its notes in anticipation of the 28872
issuance of such bonds, which notes and bonds shall be issued and 28873
sold as provided in Chapter 133. of the Revised Code. 28874

Sec. 731.14. All contracts made by the legislative authority 28875
of a village shall be executed in the name of the village and 28876
signed on its behalf by the mayor and clerk. Except where the 28877

contract is for equipment, services, materials, or supplies to be 28878
purchased under division (D) of section 713.23 or section 125.04 28879
or 5513.01 of the Revised Code, available from a qualified 28880
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 28881
Revised Code, or required to be purchased from a qualified 28882
nonprofit agency under sections 125.60 to 125.6012 of the Revised 28883
Code, when any expenditure, other than the compensation of persons 28884
employed in the village, exceeds ~~twenty-five~~ fifty thousand 28885
dollars, such contracts shall be in writing and made with the 28886
lowest and best bidder after advertising once a week for not less 28887
than two consecutive weeks in a newspaper of general circulation 28888
within the village. The legislative authority may also cause 28889
notice to be inserted in trade papers or other publications 28890
designated by it or to be distributed by electronic means, 28891
including posting the notice on the legislative authority's 28892
internet web site. If the legislative authority posts the notice 28893
on its web site, it may eliminate the second notice otherwise 28894
required to be published in a newspaper of general circulation 28895
within the village, provided that the first notice published in 28896
such newspaper meets all of the following requirements: 28897

(A) It is published at least two weeks before the opening of 28898
bids. 28899

(B) It includes a statement that the notice is posted on the 28900
legislative authority's internet web site. 28901

(C) It includes the internet address of the legislative 28902
authority's internet web site. 28903

(D) It includes instructions describing how the notice may be 28904
accessed on the legislative authority's internet web site. 28905

The bids shall be opened and shall be publicly read by the 28906
clerk of the village or a person designated by the clerk at the 28907
time, date, and place specified in the advertisement to bidders or 28908

specifications. The time, date, and place of bid openings may be 28909
extended to a later date by the legislative authority of the 28910
village, provided that written or oral notice of the change shall 28911
be given to all persons who have received or requested 28912
specifications no later than ninety-six hours prior to the 28913
original time and date fixed for the opening. This section does 28914
not apply to those villages that have provided for the appointment 28915
of a village administrator under section 735.271 of the Revised 28916
Code. 28917

Sec. 731.141. In those villages that have established the 28918
position of village administrator, as provided by section 735.271 28919
of the Revised Code, the village administrator shall make 28920
contracts, purchase supplies and materials, and provide labor for 28921
any work under the administrator's supervision involving not more 28922
than twenty-five thousand dollars. When an expenditure, other than 28923
the compensation of persons employed by the village, exceeds 28924
twenty-five thousand dollars, the expenditure shall first be 28925
authorized and directed by ordinance of the legislative authority 28926
of the village. When so authorized and directed, except where the 28927
contract is for equipment, services, materials, or supplies to be 28928
purchased under division (D) of section 713.23 or section 125.04 28929
or 5513.01 of the Revised Code, available from a qualified 28930
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 28931
Revised Code, or required to be purchased from a qualified 28932
nonprofit agency under sections 125.60 to 125.6012 of the Revised 28933
Code, the village administrator shall make a written contract with 28934
the lowest and best bidder after advertisement for not less than 28935
two nor more than four consecutive weeks in a newspaper of general 28936
circulation within the village or as provided in section 7.16 of 28937
the Revised Code. The bids shall be opened and shall be publicly 28938
read by the village administrator or a person designated by the 28939
village administrator at the time, date, and place as specified in 28940

the advertisement to bidders or specifications. The time, date, 28941
and place of bid openings may be extended to a later date by the 28942
village administrator, provided that written or oral notice of the 28943
change shall be given to all persons who have received or 28944
requested specifications no later than ninety-six hours prior to 28945
the original time and date fixed for the opening. All contracts 28946
shall be executed in the name of the village and signed on its 28947
behalf by the village administrator and the clerk. 28948

The legislative authority of a village may provide, by 28949
ordinance, for central purchasing for all offices, departments, 28950
divisions, boards, and commissions of the village, under the 28951
direction of the village administrator, who shall make contracts, 28952
purchase supplies or materials, and provide labor for any work of 28953
the village in the manner provided by this section. 28954

Sec. 731.20. Ordinances, resolutions, and bylaws shall be 28955
authenticated by the signature of the presiding officer and clerk 28956
of the legislative authority of the municipal corporation. 28957
~~Ordinances~~ A succinct summary of ordinances of a general nature or 28958
providing for improvements shall be published as provided by 28959
sections 731.21 and 731.22 of the Revised Code before going into 28960
operation. No ordinance shall take effect until the expiration of 28961
ten days after the first publication of such notice. As soon as a 28962
bylaw, resolution, or ordinance is passed and signed, it shall be 28963
recorded by the clerk in a book furnished by the legislative 28964
authority for that purpose. 28965

Sec. 731.21. (A) ~~Notwithstanding any conflicting provision of~~ 28966
~~section 7.12 of the Revised Code,~~ A succinct summary of each 28967
municipal ordinance or resolution, ~~or a succinct summary of each~~ 28968
~~municipal ordinance and resolution,~~ and all statements, orders, 28969
proclamations, notices, and reports required by law or ordinance 28970
to be published shall be published ~~as follows:~~ 28971

~~(1) In two English language newspapers of opposite politics, published and in a newspaper of general circulation in the municipal corporation, if there are any such newspapers;~~

~~(2) If two English language newspapers of opposite politics are not published and of general circulation in the municipal corporation, then in one such political newspaper and one other English language newspaper published and of general circulation therein;~~

~~(3) If only one english language newspaper is published and of general circulation in the municipal corporation, then in that newspaper;~~

~~(4) If no english language newspaper is published and of general circulation in the municipal corporation, then in any English language newspaper of general circulation therein or by posting as provided in section 731.25 of the Revised Code, at the option of the legislative authority of such municipal corporation. Proof of the publication and required circulation of any newspaper used as a medium of publication as provided by this section shall be made by affidavit of the proprietor of either of such newspapers the newspaper, and shall be filed with the clerk of the legislative authority.~~

~~(B) If a summary of an ordinance or resolution is published under division (A) of this section, the The publication shall contain notice that the complete text of each such ordinance or resolution may be obtained or viewed at the office of the clerk of the legislative authority of the municipal corporation and may be viewed at any other location designated by the legislative authority of the municipal corporation. The city director of law, village solicitor, or other chief legal officer of the municipal corporation shall review ~~any~~ the summary of an ordinance or resolution published under this section prior to forwarding it to the clerk for publication, to ensure that the summary is legally~~

accurate and sufficient. 29004

(C) Upon publication of a summary of an ordinance or 29005
resolution in accordance with this section, the clerk of the 29006
legislative authority shall supply a copy of the complete text of 29007
each such ordinance or resolution to any person, upon request, and 29008
may charge a reasonable fee, set by the legislative authority, for 29009
each copy supplied. The clerk shall post a copy of the text at ~~his~~ 29010
the clerk's office and at every other location designated by the 29011
legislative authority. 29012

Sec. 731.211. In accordance with Section 9 of Article XVIII, 29013
Ohio Constitution, notice of proposed amendments to municipal 29014
charters shall be given in one of the following ways: 29015

(A) Not less than thirty days prior to the election at which 29016
the amendment is to be submitted to the electors, the clerk of the 29017
municipality shall mail a copy of the proposed charter amendment 29018
to each elector whose name appears upon the poll or registration 29019
books of the last regular or general election held therein. 29020

(B) The full text of the proposed charter amendment shall be 29021
published once a week for not less than two consecutive weeks in a 29022
newspaper ~~published~~ of general circulation in the municipal 29023
corporation or as provided in section 7.16 of the Revised Code, 29024
with the first publication being at least fifteen days prior to 29025
the election at which the amendment is to be submitted to the 29026
electors. ~~If no newspaper is published in the municipal~~ 29027
~~corporation, then such publication shall be made in a newspaper of~~ 29028
~~general circulation within the municipal corporation.~~ 29029

Sec. 731.22. The publication required in section 731.21 of 29030
the Revised Code shall be for the following times: 29031

(A) ~~Ordinances and resolutions, or summaries~~ Summaries of 29032
ordinances or resolutions, and proclamations of elections, once a 29033

week for two consecutive weeks or as provided in section 7.16 of 29034
the Revised Code; 29035

(B) Notices, not less than two nor more than four consecutive 29036
weeks or as provided in section 7.16 of the Revised Code; 29037

(C) All other matters shall be published once. 29038

Sec. 731.23. When ordinances are revised, codified, 29039
rearranged, published in book form, and certified as correct by 29040
the clerk of the legislative authority of a municipal corporation 29041
and the mayor, such publication shall be a sufficient publication, 29042
and the ordinances so published, under appropriate titles, 29043
chapters, and sections, shall be held the same in law as though 29044
they had been published in a newspaper. A new ordinance so 29045
published in book form, a summary of which has not been published 29046
as required by sections 731.21 and 731.22 of the Revised Code, and 29047
which contains entirely new matter, shall be published as required 29048
by such sections. If such revision or codification is made by a 29049
municipal corporation and contains new matter, it shall be a 29050
sufficient publication of such codification, including the new 29051
matter, to publish, in the manner required by such sections, a 29052
notice of the enactment of such codifying ordinance, containing 29053
the title of the ordinance and a summary of the new matters 29054
covered by it. Such revision and codification may be made under 29055
appropriate titles, chapters, and sections and in one ordinance 29056
containing one or more subjects. 29057

Except as provided by this section, a succinct summary of all 29058
ordinances, including emergency ordinances, shall be published in 29059
accordance with section 731.21 of the Revised Code. 29060

Sec. 731.24. Immediately after the expiration of the period 29061
of publication ~~for ordinances or~~ of summaries of ordinances 29062
required by section 731.22 of the Revised Code, the clerk of the 29063

legislative authority of a municipal corporation shall enter on 29064
the record of ordinances, in a blank to be left for such purpose 29065
under the recorded ordinance, a certificate stating in which 29066
newspaper and on what dates such publication was made, and shall 29067
sign ~~his~~ the clerk's name thereto officially. Such certificate 29068
shall be prima-facie evidence that legal publication of the 29069
~~ordinance or~~ summary of the ordinance was made. 29070

Sec. 731.25. ~~Notwithstanding any conflicting provision of~~ 29071
~~section 7.12 of the Revised Code, in~~ In municipal corporations in 29072
which no newspaper is ~~published~~ generally circulated, publication 29073
of ~~ordinances and resolutions, or~~ summaries of ordinances and 29074
resolutions, and publication of all statements, orders, 29075
proclamations, notices, and reports, required by law or ordinance 29076
to be published, shall be accomplished ~~in either of the following~~ 29077
~~methods, as determined by the legislative authority:~~ 29078

~~(A) By~~ by posting copies in not less than five of the most 29079
public places in the municipal corporation, as determined by the 29080
legislative authority, for a period of not less than fifteen days 29081
prior to the effective date thereof: 29082

~~(B) By publication in any newspaper printed in this state and~~ 29083
~~of general circulation in such municipal corporation.~~ 29084

Notices to bidders for the construction of public 29085
improvements and notices of the sale of bonds shall be published 29086
~~in not more than two newspapers, printed in this state and a~~ 29087
newspaper of general circulation in such municipal corporation, 29088
for the time prescribed in section 731.22 of the Revised Code. 29089

Where such publication is by posting, the clerk shall make a 29090
certificate as to such posting, and as to the times when and the 29091
places where such posting is done, in the manner provided in 29092
section 731.24 of the Revised Code, and such certificate shall be 29093
prima-facie evidence that the copies were posted as required. 29094

Sec. 735.05. The director of public service may make any 29095
contract, purchase supplies or material, or provide labor for any 29096
work under the supervision of the department of public service 29097
involving not more than twenty-five thousand dollars. When an 29098
expenditure within the department, other than the compensation of 29099
persons employed in the department, exceeds twenty-five thousand 29100
dollars, the expenditure shall first be authorized and directed by 29101
ordinance of the city legislative authority. When so authorized 29102
and directed, except where the contract is for equipment, 29103
services, materials, or supplies to be purchased under division 29104
(D) of section 713.23 or section 125.04 or 5513.01 of the Revised 29105
Code or available from a qualified nonprofit agency pursuant to 29106
sections 4115.31 to 4115.35 of the Revised Code, the director 29107
shall make a written contract with the lowest and best bidder 29108
after advertisement for not less than two nor more than four 29109
consecutive weeks in a newspaper of general circulation within the 29110
city or as provided in section 7.16 of the Revised Code. 29111

Sec. 735.20. When a whole plan, or any portion thereof, as 29112
provided in section 735.19 of the Revised Code is completed, or 29113
when the location of any avenue, street, roadway, or alley has 29114
been finally determined by the platting commissioner of a city, a 29115
plat of the plan, avenue, street, roadway, or alley shall be 29116
placed in the office of the city engineer for the inspection of 29117
persons interested, and notice that it is ready for inspection 29118
shall be published in ~~one or more newspapers~~, a newspaper of 29119
general circulation within the city, for six consecutive weeks, or 29120
as provided in section 7.16 of the Revised Code. 29121

Sec. 737.04. The legislative authority of any municipal 29122
corporation, in order to obtain police protection or to obtain 29123
additional police protection, or to allow its police officers to 29124

work in multijurisdictional drug, gang, or career criminal task 29125
forces, may enter into contracts with one or more municipal 29126
corporations, townships, township police districts, joint police 29127
districts, or county sheriffs in this state, with one or more park 29128
districts created pursuant to section 511.18 or 1545.01 of the 29129
Revised Code, with one or more port authorities, or with a 29130
contiguous municipal corporation in an adjoining state, upon any 29131
terms that are agreed upon, for services of police departments or 29132
the use of police equipment or for the interchange of services of 29133
police departments or police equipment within the several 29134
territories of the contracting subdivisions. 29135

Chapter 2744. of the Revised Code, insofar as it applies to 29136
the operation of police departments, shall apply to the 29137
contracting political subdivisions and to the police department 29138
members when they are rendering service outside their own 29139
subdivisions pursuant to the contracts. 29140

Police department members acting outside the subdivision in 29141
which they are employed, pursuant to a contract entered into under 29142
this section, shall be entitled to participate in any indemnity 29143
fund established by their employer to the same extent as while 29144
acting within the employing subdivision. Those members shall be 29145
entitled to all the rights and benefits of Chapter 4123. of the 29146
Revised Code, to the same extent as while performing service 29147
within the subdivision. 29148

The contracts may provide for: 29149

(A) A fixed annual charge to be paid at the times agreed upon 29150
and stipulated in the contract; 29151

(B) Compensation based upon: 29152

(1) A stipulated price for each call or emergency; 29153

(2) The number of members or pieces of equipment employed; 29154

(3) The elapsed time of service required in each call or emergency. 29155
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(C) Compensation for loss or damage to equipment while engaged in rendering police services outside the limits of the subdivision owning and furnishing the equipment; 29157
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(D) Reimbursement of the subdivision in which the police department members are employed for any indemnity award or premium contribution assessed against the employing subdivision for workers' compensation benefits for injuries or death of its police department members occurring while engaged in rendering police services pursuant to the contract. 29160
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Sec. 737.041. The police department of any municipal corporation may provide police protection to any county, municipal corporation, township, ~~or~~ township police district, or joint police district of this state, to a park district created pursuant to section 511.18 or 1545.01 of the Revised Code, to a port authority, to any multijurisdictional drug, gang, or career criminal task force, or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the legislative authority of the municipal corporation in which the department is located and upon authorization by an officer or employee of the police department providing the police protection who is designated by title of office or position, pursuant to the resolution of the legislative authority of the municipal corporation, to give the authorization. 29166
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Chapter 2744. of the Revised Code, insofar as it applies to the operation of police departments, shall apply to any municipal corporation and to members of its police department when the members are rendering police services pursuant to this section outside the municipal corporation by which they are employed. 29180
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Police department members acting, as provided in this 29185

section, outside the municipal corporation by which they are 29186
employed shall be entitled to participate in any pension or 29187
indemnity fund established by their employer to the same extent as 29188
while acting within the municipal corporation by which they are 29189
employed. Those members shall be entitled to all the rights and 29190
benefits of Chapter 4123. of the Revised Code to the same extent 29191
as while performing services within the municipal corporation by 29192
which they are employed. 29193

Sec. 737.32. Except as otherwise provided in this section and 29194
unless the property involved is required to be disposed of 29195
pursuant to another section of the Revised Code, property that is 29196
unclaimed for ninety days or more shall be sold by the chief of 29197
police of the municipal corporation, marshal of the village, or 29198
licensed auctioneer at public auction, after notice of the sale 29199
has been provided by publication once a week for three successive 29200
weeks in a newspaper of general circulation in the county or as 29201
provided in section 7.16 of the Revised Code. The proceeds of the 29202
sale shall be paid to the treasurer of the municipal corporation 29203
and shall be credited to the general fund of the municipal 29204
corporation. 29205

If authorized to do so by an ordinance adopted by the 29206
legislative authority of the municipal corporation and if the 29207
property involved is not required to be disposed of pursuant to 29208
another section of the Revised Code, the chief of police or 29209
marshal may contribute property that is unclaimed for ninety days 29210
or more to one or more public agencies, to one or more nonprofit 29211
organizations no part of the net income of which inures to the 29212
benefit of any private shareholder or individual and no 29213
substantial part of the activities of which consists of carrying 29214
on propaganda or otherwise attempting to influence legislation, or 29215
to one or more organizations satisfying section 501(c)(3) or 29216
(c)(19) of the Internal Revenue Code of 1986. 29217

Sec. 737.40. (A) The legislative authority of a municipal corporation may establish, by ordinance or resolution, a voluntary motor vehicle decal registration program to be controlled by the director of public safety of the municipal corporation and conducted by the police department of the municipal corporation. The legislative authority may establish a fee for participation in the program in an amount sufficient to cover the cost of administering the program and the cost of the decals.

(B) Any resident of the municipal corporation may enroll a motor vehicle that he owns in the program by signing a consent form, displaying the decal issued under this section, and paying the prescribed fee. The motor vehicle owner shall remove the decal to withdraw from the program and also prior to the sale or transfer of ownership of the vehicle. Any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of any motor vehicle displaying a decal issued under this section when the vehicle is being driven between the hours of one a.m. and five a.m. A law enforcement officer may conduct an investigatory stop under this division regardless of whether the officer observes a violation of law involving the vehicle or whether he has probable cause to believe that any violation of law involving the vehicle has occurred.

(C) The consent form required under division (B) of this section shall:

(1) Describe the conditions for participation in the program, including a description of an investigatory stop and a statement that any law enforcement officer may conduct, at any place within this state at which the officer would be permitted to arrest the person operating the vehicle, an investigatory stop of the motor vehicle when it is being driven between the hours of one a.m. and

five a.m. 29249

(2) Contain other information identifying the vehicle and 29250
owner as the director of public safety of the municipal 29251
corporation or the chief of police considers necessary. 29252

(D) The state director of public safety, in accordance with 29253
Chapter 119. of the Revised Code, shall adopt rules governing the 29254
color, size, and design of decals issued under this section and 29255
the location where the decals shall be displayed on vehicles that 29256
are enrolled in the program. 29257

(E) Divisions (A) to (D) and (G) of this section do not 29258
require a law enforcement officer to conduct an investigatory stop 29259
of a vehicle displaying a decal issued under this section or under 29260
a program described in division (G) of this section. 29261

(F) As used in this section: 29262

(1) "Investigatory stop" means a temporary stop of a motor 29263
vehicle and its operator and occupants for purposes of determining 29264
the identity of the person who is operating the vehicle and, if 29265
the person who is operating it is not its owner, whether any 29266
violation of law has occurred or is occurring. An "investigatory 29267
stop" is not an arrest, but, if an officer who conducts an 29268
investigatory stop determines that illegal conduct has occurred or 29269
is occurring, an "investigatory stop" may be the basis for an 29270
arrest. 29271

(2) "Law enforcement officer" means a sheriff, deputy 29272
sheriff, constable, police officer of a township or joint ~~township~~ 29273
police district, marshal, deputy marshal, municipal police 29274
officer, or state highway patrol trooper. 29275

(G) Any motor vehicle decal registration program that was in 29276
existence on June 1, 1993, and administered by a municipal 29277
corporation shall not be required to conform in any manner to this 29278
section and may continue to be administered in the manner in which 29279

it was administered on that date. 29280

Sec. 742.41. (A) As used in this section: 29281

(1) "Other system retirant" has the same meaning as in 29282
section 742.26 of the Revised Code. 29283

(2) "Personal history record" includes a member's, former 29284
member's, or other system retirant's name, address, telephone 29285
number, social security number, record of contributions, 29286
correspondence with the Ohio police and fire pension fund, status 29287
of any application for benefits, and any other information deemed 29288
confidential by the trustees of the fund. 29289

(B) The treasurer of state shall furnish annually to the 29290
board of trustees of the fund a sworn statement of the amount of 29291
the funds in the treasurer of state's custody belonging to the 29292
Ohio police and fire pension fund. The records of the fund shall 29293
be open for public inspection except for the following, which 29294
shall be excluded, except with the written authorization of the 29295
individual concerned: 29296

(1) The individual's personal history record; 29297

(2) Any information identifying, by name and address, the 29298
amount of a monthly allowance or benefit paid to the individual. 29299

(C) All medical reports and recommendations required are 29300
privileged, except as follows: 29301

(1) Copies of medical reports or recommendations shall be 29302
made available to the personal physician, attorney, or authorized 29303
agent of the individual concerned upon written release received 29304
from the individual or the individual's agent or, when necessary 29305
for the proper administration of the fund, to the board-assigned 29306
physician. 29307

(2) Documentation required by section 2929.193 of the Revised 29308
Code shall be provided to a court holding a hearing under that 29309

section. 29310

(D) Any person who is a member of the fund or an other system 29311
retirant shall be furnished with a statement of the amount to the 29312
credit of the person's individual account upon the person's 29313
written request. The fund need not answer more than one such 29314
request of a person in any one year. 29315

(E) Notwithstanding the exceptions to public inspection in 29316
division (B) of this section, the fund may furnish the following 29317
information: 29318

(1) If a member, former member, or other system retirant is 29319
subject to an order issued under section 2907.15 of the Revised 29320
Code or an order issued under division (A) or (B) of section 29321
2929.192 of the Revised Code or is convicted of or pleads guilty 29322
to a violation of section 2921.41 of the Revised Code, on written 29323
request of a prosecutor as defined in section 2935.01 of the 29324
Revised Code, the fund shall furnish to the prosecutor the 29325
information requested from the individual's personal history 29326
record. 29327

(2) Pursuant to a court order issued pursuant to Chapter 29328
3119., 3121., 3123., or 3125. of the Revised Code, the fund shall 29329
furnish to a court or child support enforcement agency the 29330
information required under that section. 29331

(3) At the request of any organization or association of 29332
members of the fund, the fund shall provide a list of the names 29333
and addresses of members of the fund and other system retirants. 29334
The fund shall comply with the request of such organization or 29335
association at least once a year and may impose a reasonable 29336
charge for the list. 29337

(4) Within fourteen days after receiving from the director of 29338
job and family services a list of the names and social security 29339
numbers of recipients of public assistance pursuant to section 29340

5101.181 of the Revised Code, the fund shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member or other system retirant whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The fund and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A)~~ of section 5101.181 of the Revised Code.

(5) The fund shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the fund shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the fund shall make available to the person copies of all documents, including resumes, in the fund's possession regarding filling a vacancy of a police officer employee member, firefighter employee member, police retirant member, or firefighter retirant member of the board of trustees. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The fund shall provide the notice required by section 742.464 of the Revised Code to the prosecutor assigned to the case.

(F) A statement that contains information obtained from the fund's records that is signed by the secretary of the board of trustees of the Ohio police and fire pension fund and to which the

board's official seal is affixed, or copies of the fund's records 29372
to which the signature and seal are attached, shall be received as 29373
true copies of the fund's records in any court or before any 29374
officer of this state. 29375

Sec. 745.07. An ordinance passed pursuant to section 745.06 29376
of the Revised Code shall not take effect until submitted to the 29377
electors of the municipal corporation, at a special or general 29378
election held in the municipal corporation at such time as the 29379
legislative authority determines, and approved by a majority of 29380
the electors voting on it. The ordinance shall be passed by an 29381
affirmative vote of not less than a majority of the members of the 29382
legislative authority and shall be subject to the approval of the 29383
mayor as provided by law. The ordinance shall specify the form or 29384
phrasing of the question to be placed upon the ballot. Thirty 29385
days' notice of the election shall be given by publication once a 29386
week for two consecutive weeks in ~~two daily or weekly newspapers~~ 29387
~~published or circulated~~ a newspaper of general circulation in the 29388
municipal corporation ~~and, if~~ or as provided in section 7.16 of 29389
the Revised Code. If the board of elections operates and maintains 29390
a web site, notice of the election also shall be posted on that 29391
web site for thirty days prior to the election. The notice shall 29392
contain the full form or phrasing of the question to be submitted. 29393
The clerk of the legislative authority shall certify the passage 29394
of the ordinance to the officers having control of elections in 29395
the municipal corporation, who shall cause the question to be 29396
voted on at the general or special election as specified in the 29397
ordinance. 29398

Sec. 747.05. The board of rapid transit commissioners shall 29399
have control of the expenditure of all moneys appropriated by the 29400
legislative authority of the city, received from the sale of bonds 29401
provided for in sections 747.01 to 747.13, ~~inclusive,~~ of the 29402

Revised Code, or from any other source, for the purchase, 29403
construction, improvement, maintenance, equipment, or enjoyment of 29404
all such rapid transit property, but no liability shall be 29405
incurred or expenditure made unless the money required therefor is 29406
in the city treasury to the credit of the board of rapid transit 29407
commissioners' fund and not appropriated for any other purpose. 29408
Moneys to be derived from the sale of bonds, the issue of which 29409
has been authorized, shall be deemed to be in the treasury to the 29410
credit of such fund. 29411

All moneys expended for the construction and acquisition of 29412
parkways or boulevards, as authorized by such sections, shall be 29413
provided for partly by special appropriation or bond issue and 29414
partly by assessments, as specified in section 747.06 of the 29415
Revised Code, and such funds shall be separately accounted for, 29416
and such expenditure shall not be considered a part of the rapid 29417
transit expenditure authorized by this section. The board may let 29418
contracts for any part of the work to the lowest and best bidder 29419
after three weeks' advertisement in ~~two newspapers~~ a newspaper of 29420
general circulation in the city or as provided in section 7.16 of 29421
the Revised Code. 29422

The board may reject any bid, and the proceedings for such 29423
contracts and payment therefor shall be the same as provided for 29424
the director of public service except the requirement of the 29425
approval of the board of control. 29426

Sec. 747.11. The board of rapid transit commissioners may 29427
grant to any corporation organized for street or interurban 29428
railway purposes the right to operate, by lease or otherwise, the 29429
depots, terminals, and railways mentioned in section 747.08 of the 29430
Revised Code upon such terms as the board is authorized by 29431
ordinance to agree upon with such corporation, subject to the 29432
approval of a majority of the electors of the city voting on the 29433

question. 29434

The board of rapid transit commissioners shall certify such 29435
lease or agreement to the board of elections, which shall then 29436
submit the question of the approval of such lease or agreement to 29437
the qualified electors of the city at either a special or general 29438
election as the ordinance specifies. Thirty days' notice of the 29439
election shall be given by publication in ~~one or more of the~~ 29440
~~newspapers published~~ a newspaper of general circulation in the 29441
city once a week for two consecutive weeks prior to the election, 29442
~~and, if or as provided in section 7.16 of the Revised Code.~~ If the 29443
board of elections operates and maintains a web site, the board of 29444
elections shall post notice of the election for thirty days prior 29445
to the election on its web site. The notice shall set forth the 29446
terms of the lease or agreement and the time of holding the 29447
election. On the approval by a majority of the voters voting at 29448
the election, the corporation may operate such depots, terminals, 29449
and railways as provided in the lease or agreement, and 29450
corporations organized under the laws of this state for street or 29451
interurban railway purposes may lease and operate such depots, 29452
terminals, and railways. 29453

Sec. 747.12. Whenever the board of rapid transit 29454
commissioners of a city declares by resolution that real estate of 29455
the city acquired for rapid transit purposes is not needed for the 29456
proper conduct and maintenance of such rapid transit system, such 29457
real estate may be sold or leased by the board to the highest 29458
bidder after advertisement once a week for three consecutive weeks 29459
in a newspaper of general circulation within the city or as 29460
provided in section 7.16 of the Revised Code. The board may reject 29461
any bid and readvertise until all such property is sold or leased. 29462
When the board has twice so offered to sell or lease such 29463
property, and it is not sold or leased, the board may privately 29464
sell or lease it. 29465

Moneys arising from such sales or leases shall be deposited 29466
in the treasury of the city to the credit of the board of rapid 29467
transit commissioners' fund, and may be expended for the purchase, 29468
construction, improvement, maintenance, equipment, and enjoyment 29469
of the city's rapid transit property, as such board directs. 29470

Contracts, leases, deeds, bills of sale, or other instruments 29471
in writing pertaining to such sales or leases shall be executed on 29472
behalf of the city by the board, by its president and secretary. 29473

Sec. 755.16. (A) Any ~~municipal corporation, township,~~ 29474
~~township park district, county, or school district~~ contracting 29475
subdivision, jointly with one or more other ~~municipal~~ 29476
~~corporations, townships, township park districts, counties, or~~ 29477
~~school districts or with an educational service center~~ contracting 29478
subdivisions, in any combination, ~~and a joint recreation district,~~ 29479
may acquire property for, construct, operate, and maintain any 29480
parks, playgrounds, playfields, gymnasiums, public baths, swimming 29481
pools, indoor recreation centers, educational facilities, or 29482
community centers. Any school district ~~or~~ educational service 29483
~~center, or state institution of higher education~~ may provide by 29484
the erection of any school ~~or~~ educational service center, or 29485
state institution of higher education building or premises, or by 29486
the enlargement of, addition to, or reconstruction or improvement 29487
of any school ~~or~~ educational service center, or state institution 29488
of higher education building or premises, for the inclusion of any 29489
such parks, recreational facilities, educational facilities, and 29490
community centers to be jointly acquired, constructed, operated, 29491
and maintained. Any ~~municipal corporation, township, township park~~ 29492
~~district, county, or school district~~ contracting subdivision, 29493
jointly with one or more other ~~municipal corporations, townships,~~ 29494
~~township park districts, counties, or school districts or with an~~ 29495
~~educational service center~~ contracting subdivisions, in any 29496
combination, ~~and a joint recreation district,~~ may equip, operate, 29497

and maintain those parks, recreational facilities, educational facilities, and community centers and may appropriate money for them those purposes. ~~An educational service center also may appropriate money for purposes of equipping, operating, and maintaining those parks, recreational facilities, and community centers.~~

~~Any municipal corporation, township, township park district, county, school district, or educational service center~~ contracting subdivision agreeing to jointly acquire, construct, operate, or maintain parks, recreational facilities, educational facilities, and community centers pursuant to this section may contribute lands, money, other personal property, or services to the joint venture, as may be agreed upon. Any agreement shall specify the rights of the parties in any lands or personal property contributed.

Any lands acquired by a township park district pursuant to Chapter 511. of the Revised Code and established as a public park or parks may be contributed to a joint venture authorized by this section. Fees may be charged in connection with the use of any recreational facilities, educational facilities, and community centers that may be constructed on those lands.

(B) Any township may, jointly with a private land owner, construct, operate, equip, and maintain free public playgrounds and playfields. Any equipment provided by a township pursuant to this division shall remain township property and shall be used subject to a right of removal by the township.

(C) As used in this section and in sections 755.17 and 755.18 of the Revised Code:

(1) "Community centers" means facilities characterized by all of the following:

(a) They are acquired, constructed, operated, or maintained

by ~~political~~ contracting subdivisions or ~~an educational service~~ 29529
~~center~~ pursuant to division (A) of this section. 29530

(b) They may be used for governmental, civic, or educational 29531
operations or purposes, or recreational activities. 29532

(c) They may be used only by the ~~entities~~ contracting 29533
subdivisions that acquire, construct, operate, or maintain them or 29534
by any other person upon terms and conditions determined by those 29535
~~entities~~ contracting subdivisions. 29536

(2) "Educational service center" has the same meaning as in 29537
division (A) of section 3311.05 of the Revised Code. 29538

(3) "Contracting subdivision" means a municipal corporation, 29539
township, joint recreation district, township park district, 29540
county, school district, educational service center, or state 29541
institution of higher education. 29542

(4) "School district" means any of the school districts or 29543
joint vocational school districts referred to in section 3311.01 29544
of the Revised Code. 29545

(5) "State institution of higher education" has the same 29546
meaning as in section 3345.011 of the Revised Code. 29547

Sec. 755.29. The board of park trustees, before entering into 29548
any contract for the performance of any work, the cost of which 29549
exceeds ~~ten~~ twenty-five thousand dollars, shall cause plans and 29550
specifications and forms of bids to be prepared, and when adopted 29551
by the board, ~~it~~ shall have them printed for distribution among 29552
bidders. 29553

Sec. 755.41. When lands lying within the limits of a 29554
municipal corporation have been dedicated to or for the use of the 29555
public for parks or park lands, and where such lands have remained 29556
unimproved and unused by the public for a period of twenty-one 29557

years and there appears to be little or no possibility that such 29558
lands will be improved and used by the public, the legislative 29559
authority of a municipal corporation in which said lands are 29560
located may, by ordinance, declare such parks or park lands 29561
vacated upon the petition of a majority of the abutting 29562
freeholders. No such parks or park lands shall be vacated unless 29563
notice of the pendency and prayer of the petition is given, in a 29564
newspaper of general circulation in the municipal corporation in 29565
which such lands are situated for three consecutive weeks, or as 29566
provided in section 7.16 of the Revised Code, preceding action on 29567
such petition. No such lands shall be vacated prior to a public 29568
hearing had thereon. 29569

Sec. 755.42. Upon the vacation of parks or park lands as 29570
provided by section 755.41 of the Revised Code, the legislative 29571
authority of a municipal corporation shall offer such lands for 29572
sale at a public auction. No lands shall be sold until the 29573
legislative authority of such municipal corporation gives notice 29574
of intention to sell such lands. Such notice shall be published as 29575
provided in section 7.16 of the Revised Code or once a week for 29576
four consecutive weeks in a newspaper of general circulation in a 29577
municipal corporation in which the sale is to be had. The 29578
legislative authority of such municipal corporation or the board 29579
or officer having supervision or management of such real estate 29580
shall sell such lands to the highest and best bidder, provided 29581
that any and all bids made hereunder may be rejected. 29582

When such sale is made, the mayor or other officer of a 29583
municipal corporation in which sale is had and in which such lands 29584
are located, shall enter into a deed, conveying said lands to the 29585
purchaser thereof. At or after the time of sale, the auditor of 29586
the county shall place the lands sold hereunder on the tax 29587
duplicate of the county at a value to be established by ~~him~~ the 29588
auditor as in cases where ~~he~~ the auditor re-enters property which 29589

has been tax exempt on the taxable list of the county. 29590

The proceeds from the sale of lands sold pursuant to this 29591
section shall be placed in the general fund of the treasury of the 29592
municipal corporation in which such lands are located and may be 29593
disbursed as other general fund moneys. 29594

Sec. 755.43. When real estate ~~which~~ that has been dedicated 29595
to or for the use of the public for parks or park lands is vacated 29596
by the legislative authority of a municipal corporation pursuant 29597
to section 755.41 of the Revised Code, and where reversionary 29598
interests have been set up in the event of the non-use of such 29599
lands for the dedicated purpose, such reversionary interests shall 29600
accelerate and vest in the holders thereof upon such vacation. 29601
Thereupon, the auditor of the county shall place the lands on the 29602
tax duplicate of the county in the names of such reversionaries as 29603
are known to and supplied by the legislative authority of the 29604
municipal corporation or the board or officer having supervision 29605
or management of such real estate. If the legislative authority of 29606
such board or officer is unable to furnish the names of such 29607
reversioners, the legislative authority of a municipal corporation 29608
shall fix a date on or before which claims to such real estate may 29609
be asserted and after which such real estate shall be sold. Notice 29610
shall be given of such date and of the sale to be held thereafter, 29611
as provided in section 7.16 of the Revised Code or once each week 29612
for four consecutive weeks in a newspaper of general circulation 29613
in the municipal corporation wherein such lands are located. In 29614
the event that no claims to such lands are asserted or found to be 29615
valid, the lands shall be sold pursuant to section 755.42 of the 29616
Revised Code, and the title of any holders of reversionary 29617
interests shall be extinguished. 29618

Nothing contained in sections 755.41, 755.42, or 755.43 of 29619
the Revised Code shall be construed as limiting any of the home 29620

rule powers conferred upon municipalities by Article XVIII of the 29621
Constitution of the State of Ohio. 29622

Sec. 759.47. Land belonging to a public cemetery and used for 29623
an approach thereto, and which is, in the judgment of a majority 29624
of the officers having control or management thereof, unnecessary 29625
for cemetery purposes, may be sold by them at public sale to the 29626
highest bidder after advertisement as provided in section 7.16 of 29627
the Revised Code or once a week for five consecutive weeks in a 29628
newspaper of general circulation within the county in which the 29629
cemetery is situated. The board of township trustees or board of 29630
cemetery trustees of a municipal corporation making such sale 29631
shall execute in the name of the township or municipal corporation 29632
owning such cemetery proper conveyances for the land so sold. 29633
29634

Sec. 901.09. (A) The director of agriculture may employ and 29635
establish a compensation rate for seasonal produce graders and 29636
seasonal gypsy mothtrap tenders, who shall be in the unclassified 29637
civil service. 29638

(B) In lieu of employing seasonal gypsy moth tenders as 29639
provided in division (A) of this section, the director may 29640
contract with qualified individuals or entities to perform gypsy 29641
moth trapping. 29642

Sec. 924.52. (A) The Ohio grape industries committee may: 29643

(1) Conduct, and contract with others to conduct, research, 29644
including the study, analysis, dissemination, and accumulation of 29645
information obtained from the research or elsewhere, concerning 29646
the marketing and distribution of grapes and grape products, the 29647
storage, refrigeration, processing, and transportation of them, 29648
and the production and product development of grapes and grape 29649
products. The committee shall expend for these activities ~~no less~~ 29650

~~than thirty per cent and no more than seventy per cent of all~~ 29651
money it receives from the Ohio grape industries fund created 29652
under section 924.54 of the Revised Code. 29653

(2) Provide the wholesale and retail trade with information 29654
relative to proper methods of handling and selling grapes and 29655
grape products; 29656

(3) Make or contract for market surveys and analyses, 29657
undertake any other similar activities that it determines are 29658
appropriate for the maintenance and expansion of present markets 29659
and the creation of new and larger markets for grapes and grape 29660
products, and make, in the name of the committee, contracts to 29661
render service in formulating and conducting plans and programs 29662
and such other contracts or agreements as the committee considers 29663
necessary for the promotion of the sale of grapes and grape 29664
products. The committee shall expend for these activities ~~no less~~ 29665
~~than thirty per cent and no more than seventy per cent of all~~ 29666
money it receives from the fund. 29667

(4) Publish and distribute to producers and others 29668
information relating to the grape and grape product industries; 29669

(5) Propose to the director of agriculture for adoption, 29670
rescission, or amendment, pursuant to Chapter 119. of the Revised 29671
Code, rules necessary for the exercise of its powers and the 29672
performance of its duties; 29673

(6) Advertise for, post notices seeking, or otherwise solicit 29674
applicants to serve in administrative positions in the department 29675
of agriculture as employees who support the administrative 29676
functions of the committee. Applications shall be submitted to the 29677
committee. The committee shall select applicants that it wishes to 29678
recommend for employment and shall submit a list of the 29679
recommended applicants to the director. 29680

(B) The committee shall: 29681

(1) Promote the sale of grapes and grape products for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for grapes and grape products, and inform the public of the uses and benefits of grapes and grape products;

(2) Perform all acts and exercise all powers incidental to, in connection with, or considered reasonably necessary, proper, or advisable to effectuate the purposes of this section.

Sec. 927.69. To effect the purpose of sections 927.51 to 927.73 of the Revised Code, the director of agriculture or the director's authorized representative may:

(A) Make reasonable inspection of any premises in this state and any property therein or thereon;

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.

If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees shall be as follows:

(1) ~~Phyto sanitary~~ Phytosanitary certificates, twenty-five 29712
dollars for ~~those collectors or dealers that are licensed under~~ 29713
~~section 927.53 of the Revised Code~~ shipments comprised exclusively 29714
of nursery stock; 29715

(2) ~~Phyto sanitary~~ Phytosanitary certificates, one hundred 29716
dollars for all others; 29717

(3) Phytosanitary certificates, twenty-five dollars for 29718
replacement of an issued certificate because of a mistake on the 29719
certificate or a change made by the shipper if no additional 29720
inspection is required; 29721

(4) Compliance agreements, forty dollars; 29722

~~(4)~~(5) Agricultural products and their conveyances 29723
inspections, an amount equal to the hourly rate of pay in the 29724
highest step in the pay range, including fringe benefits, of a 29725
plant pest control specialist multiplied by the number of hours 29726
worked by such a specialist in conducting an inspection. 29727

The director may adopt rules under section 927.52 of the 29728
Revised Code that define the certificates, agreements, and 29729
inspections. 29730

The fees shall be credited to the plant pest program fund 29731
created in section 927.54 of the Revised Code. 29732

Sec. 951.11. A person finding an animal at large in violation 29733
of section 951.01 or 951.02 of the Revised Code, may, and a law 29734
enforcement officer of a county, township, city, or village, on 29735
view or information, shall, take and confine such animal, 29736
forthwith giving notice thereof to the owner or keeper, if known, 29737
and, if not known, by publishing a notice describing such animal 29738
~~at least~~ once in a newspaper of general circulation in the county, 29739
township, city, or village wherein the animal was found. If the 29740
owner or keeper does not appear and claim the animal and pay the 29741

compensation prescribed in section 951.13 of the Revised Code for 29742
so taking, advertising, and keeping it within ten days from the 29743
date of such notice, such person or the county shall have a lien 29744
therefor and the animal may be sold at public auction as provided 29745
in section 1311.49 of the Revised Code, and the residue of the 29746
proceeds of sale shall be paid and deposited by the treasurer in 29747
the general fund of the county. 29748

Sec. 955.011. (A) When an application is made for 29749
registration of an assistance dog and the owner can show proof by 29750
certificate or other means that the dog is an assistance dog, the 29751
owner of the dog shall be exempt from any fee for the 29752
registration. Registration for an assistance dog shall be 29753
permanent and not subject to annual renewal so long as the dog is 29754
an assistance dog. Certificates and tags stamped "Ohio Assistance 29755
Dog-Permanent Registration," with registration number, shall be 29756
issued upon registration of such a dog. Any certificate and tag 29757
stamped "Ohio Guide Dog-Permanent Registration" or "Ohio Hearing 29758
Dog-Permanent Registration," with registration number, that was 29759
issued for a dog in accordance with this section as it existed 29760
prior to July 4, 1984, any certificate and tag stamped "Ohio 29761
Handicapped Assistance Dog-Permanent Registration," with 29762
registration number, that was issued for a dog in accordance with 29763
this section as it existed on and after July 5, 1984, but prior to 29764
November 26, 2004, and any certificate and tag stamped "Ohio 29765
Service Dog-Permanent Registration," with registration number, 29766
that was issued for a dog in accordance with this section as it 29767
existed on and after November 26, 2004, but prior to ~~the effective~~ 29768
~~date of this amendment~~ June 30, 2006, shall remain in effect as 29769
valid proof of the registration of the dog on and after November 29770
26, 2004. Duplicate certificates and tags for a dog registered in 29771
accordance with this section, upon proper proof of loss, shall be 29772
issued and no fee required. Each duplicate certificate and tag 29773

that is issued shall be stamped "Ohio Assistance Dog-Permanent
Registration." 29774
29775

(B) As used in this section and in sections 955.16 and 955.43 29776
of the Revised Code: 29777

(1) "Mobility impaired person" means any person, regardless 29778
of age, who is subject to a physiological defect or deficiency 29779
regardless of its cause, nature, or extent that renders the person 29780
unable to move about without the aid of crutches, a wheelchair, or 29781
any other form of support, or that limits the person's functional 29782
ability to ambulate, climb, descend, sit, rise, or perform any 29783
related function. "Mobility impaired person" includes a person 29784
with a neurological or psychological disability that limits the 29785
person's functional ability to ambulate, climb, descend, sit, 29786
rise, or perform any related function. "Mobility impaired person" 29787
also includes a person with a seizure disorder and a person who is 29788
diagnosed with autism. 29789

(2) "Blind" means either of the following: 29790

(a) Vision twenty/two hundred or less in the better eye with 29791
proper correction; 29792

(b) Field defect in the better eye with proper correction 29793
that contracts the peripheral field so that the diameter of the 29794
visual field subtends an angle no greater than twenty degrees. 29795

(3) "Assistance dog" means a guide dog, hearing dog, or 29796
service dog that has been trained by a nonprofit special agency. 29797

(4) "Guide dog" means a dog that has been trained or is in 29798
training to assist a blind person. 29799

(5) "Hearing dog" means a dog that has been trained or is in 29800
training to assist a deaf or hearing-impaired person. 29801

(6) "Service dog" means a dog that has been trained or is in 29802
training to assist a mobility impaired person. 29803

Sec. 955.012. (A) As used in this section: 29804

(1) "Controlled substance" has the same meaning as in section 29805
3719.01 of the Revised Code. 29806

(2) "Law enforcement agency" means the state highway patrol, 29807
the office of a county sheriff, the police department of a 29808
municipal corporation or township, or a township or joint ~~township~~ 29809
police district. 29810

(3) "Law enforcement canine" means a dog regularly utilized 29811
by a law enforcement agency for general law enforcement purposes, 29812
tracking, or detecting the presence of a controlled substance or 29813
explosive. 29814

(B) Instead of obtaining an annual registration under section 29815
955.01 of the Revised Code, a law enforcement agency owning, 29816
keeping, or harboring a law enforcement canine may obtain an 29817
annual registration for the dog as a law enforcement canine under 29818
this section. The application for a law enforcement canine 29819
registration shall be submitted to the county auditor of the 29820
county in which the central office of the law enforcement agency 29821
that owns, keeps, or harbors the dog is located, except that for a 29822
dog owned, kept, or harbored by the state highway patrol, the 29823
application shall be submitted to the county auditor of the county 29824
in which is located the state highway patrol post to which the dog 29825
and its handler primarily are assigned. The application shall be 29826
submitted on or after the first day of December immediately 29827
preceding the beginning of the registration year and before the 29828
thirty-first day of January of that year. If the period for filing 29829
registration applications under division (A)(1) of section 955.01 29830
of the Revised Code is extended in the county in which a law 29831
enforcement canine is to be registered, an application for 29832
registration under this section shall be submitted to the county 29833
auditor not later than the registration deadline for that year, as 29834

so extended. 29835

The application for registration of a law enforcement canine 29836
shall state the age, sex, hair color, character of hair, whether 29837
short or long, and breed, if known, of the dog, the name and 29838
address of the owner of the dog, and, if the law enforcement 29839
agency keeping or harboring the dog is different from the owner, 29840
the name of that law enforcement agency. For a dog owned, kept, or 29841
harbored by the police department of a municipal corporation or 29842
township or by a township or joint ~~township~~ police district, the 29843
application shall be signed by the chief of the police department 29844
or district. For a dog owned, kept, or harbored by the office of a 29845
county sheriff, the application shall be signed by the sheriff. 29846
For a dog owned, kept, or harbored by the state highway patrol, 29847
the application shall be signed by the officer in charge of the 29848
post of the state highway patrol to which the dog and its handler 29849
primarily are assigned. The application shall include a 29850
certification by the chief of the police department or district, 29851
sheriff, or officer of the state highway patrol post, as 29852
applicable, that the dog described in the application has been 29853
properly trained to carry out one or more of the purposes 29854
described in division (A)(3) of this section and actually is used 29855
for one or more of those purposes by the law enforcement agency 29856
making the application. 29857

No fee is required for issuance of a law enforcement canine 29858
registration. Upon proper proof of loss, a duplicate certificate 29859
and tag shall be issued for a dog registered under this section, 29860
and no fee shall be required. 29861

If an application for registration of a law enforcement 29862
canine is not filed under this section on or before the 29863
thirty-first day of January of the registration year, or the 29864
extended registration deadline established under division (A)(1) 29865
of section 955.01 of the Revised Code, as applicable, the law 29866

enforcement canine shall be registered under that section, and the 29867
registration fee and late registration penalty applicable under 29868
divisions (A) and (B) of that section shall accompany the 29869
application. 29870

(C) If a law enforcement agency becomes the owner, keeper, or 29871
harborer of a law enforcement canine or brings a law enforcement 29872
canine into the state after the thirty-first day of January of a 29873
registration year or the extended registration deadline 29874
established under division (A)(1) of section 955.01 of the Revised 29875
Code, as applicable, the law enforcement agency, within thirty 29876
days after becoming the owner, keeper, or harborer or bringing the 29877
dog into the state, may submit an application for registration of 29878
the dog under this section. Upon submission of the application, 29879
the law enforcement agency shall be issued such a registration in 29880
the manner provided in division (B) of this section. If such an 29881
application is not filed within the thirty-day period, the dog 29882
shall be registered under section 955.05 of the Revised Code, and 29883
the registration fee and late registration penalty applicable 29884
under that section or section 955.06 of the Revised Code shall 29885
accompany the application. 29886

Sec. 1309.528. ~~(A)~~ All fees collected by the secretary of 29887
state for filings under Title XIII or XVII of the Revised Code 29888
shall be deposited into the state treasury to the credit of the 29889
corporate and uniform commercial code filing fund, which is hereby 29890
created. All moneys credited to the fund, ~~subject to division (B)~~ 29891
~~of this section,~~ shall be used for the purpose of paying for the 29892
operations of the office of the secretary of state and for the 29893
purpose of paying for expenses relating to the processing of 29894
filings under Title XIII or XVII of the Revised Code. 29895

~~(B) There is hereby created in the state treasury the 29896
secretary of state business technology fund. One per cent of the 29897~~

~~money credited to the corporate and uniform commercial code filing 29898
fund created in division (A) of this section shall be transferred 29899
to the credit of this fund. All moneys credited to this fund shall 29900
be used only for the upkeep, improvement, or replacement of 29901
equipment, or for the purpose of training employees in the use of 29902
equipment, used to conduct business of the secretary of state's 29903
office under Title XIII or XVII of the Revised Code. 29904~~

Sec. 1327.46. ~~(A)~~ As used in sections 1327.46 to 1327.61 of 29905
the Revised Code: 29906

(A) "Weights and measures" means all weights and measures of 29907
every kind, instruments and devices for weighing and measuring, 29908
and any appliances and accessories associated with any such 29909
instruments and devices, except that ~~the term~~ "weights and 29910
measures" shall not be construed to include meters for the 29911
measurement of electricity, gas, whether natural or manufactured, 29912
or water when the same are operated in a public utility system. 29913
Such electricity, gas, and water meters, and appliances or 29914
accessories associated therewith, are specifically excluded from 29915
the purview of the weights and measures laws. 29916

(B) "Intrastate commerce" means all commerce or trade that is 29917
begun, carried on, and completed wholly within the limits of this 29918
state, and "introduced into intrastate commerce" defines the time 29919
and place in which the first sale and delivery of a commodity is 29920
made within the state, the delivery being made either directly to 29921
the purchaser or to a common carrier for shipment to the 29922
purchaser. 29923

(C) "Package" means any commodity put up or packaged in any 29924
manner in advance of sale in units suitable for either wholesale 29925
or retail sale. 29926

(D) "Consumer package" means a package that is customarily 29927
produced or distributed for sale through a retail sales agency for 29928

consumption by an individual or use by an individual.	29929
(E) "Weight" as used in connection with any commodity means net weight.	29930 29931
(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.	29932 29933 29934 29935
(G) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.	29936 29937 29938
(H) "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.	29939 29940 29941 29942
(I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.	29943 29944
(J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.	29945 29946 29947 29948 29949 29950 29951
(K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights.	29952 29953 29954
<u>(L) "Sold" includes keeping, offering, or exposing for sale.</u>	29955
<u>(M) "Commercially used weighing and measuring device" means a device described in the national institute of standards and technology handbook 44 or its supplements and revisions and any</u>	29956 29957 29958

other weighing and measuring device designated by rules adopted 29959
under division (C) of section 1327.50 of the Revised Code. 29960

"Commercially used weighing and measuring device" includes, but is 29961
not limited to, a livestock scale, vehicle scale, railway scale, 29962
vehicle tank meter, bulk rack meter, and LPG meter. 29963

(N) "Livestock scale" means a scale equipped with stock racks 29964
and gates that is adapted to weighing livestock standing on the 29965
scale platform. 29966

(O) "Vehicle scale" means a scale that is adapted to weighing 29967
highway, farm, or other large industrial vehicles other than 29968
railroad cars. 29969

(P) "Railway scale" means a rail scale that is designed to 29970
weigh railroad cars. 29971

(Q) "Vehicle tank meter" means a vehicle mounted device that 29972
is designed for the measurement and delivery of liquid products 29973
from a tank. 29974

(R) "Bulk rack meter" means a wholesale device, usually 29975
mounted on a rack, that is designed for the measurement and 29976
delivery of liquid products. 29977

(S) "LPG meter" means a system, including a mechanism or 29978
machine of the meter type, that is designed to measure and deliver 29979
liquefied petroleum gas in the liquid state by a definite quantity 29980
whether installed in a permanent location or mounted on a vehicle. 29981

Sec. 1327.50. The director of agriculture shall: 29982

(A) Maintain traceability of the state standards to those of 29983
the national institute of standards and technology; 29984

(B) Enforce sections 1327.46 to 1327.61 of the Revised Code; 29985

(C) Issue reasonable rules for the uniform enforcement of 29986
sections 1327.46 to 1327.61 of the Revised Code, which rules shall 29987

have the force and effect of law;	29988
(D) Establish standards of weight, measure, or count,	29989
reasonable standards of fill, and standards for the voluntary	29990
presentation of cost per unit information for any package;	29991
(E) Grant any exemptions from sections 1327.46 to 1327.61 of	29992
the Revised Code, or any rules adopted under those sections, when	29993
appropriate to the maintenance of good commercial practices in the	29994
state;	29995
(F) Conduct investigations to ensure compliance with sections	29996
1327.46 to 1327.61 of the Revised Code;	29997
(G) Delegate to appropriate personnel any of these	29998
responsibilities for the proper administration of the director's	29999
office;	30000
(H) Test as often as is prescribed by rule the standards of	30001
weight and measure used by any municipal corporation or county	30002
within the state, and approve the same when found to be correct;	30003
(I) Inspect and test weights and measures kept, offered, or	30004
exposed for sale <u>that are sold</u> ;	30005
(J) Inspect and test to ascertain if they are correct,	30006
weights and measures commercially used either:	30007
(1) In determining the weight, measure, or count of	30008
commodities or things sold, or offered or exposed for sale, on the	30009
basis of weight, measure, or count;	30010
(2) In computing the basic charge or payment for goods or	30011
services rendered on the basis of weight, measure, or count.	30012
(K) Test all weights and measures used in checking the	30013
receipt or disbursement of supplies in every institution, for the	30014
maintenance of which funds are appropriated by the general	30015
assembly;	30016
(L) Approve for use, and may mark, such weights and measures	30017

as the director finds to be correct, and shall reject and mark as 30018
rejected such weights and measures as the director finds to be 30019
incorrect. Weights and measures that have been rejected may be 30020
seized if not corrected within the time specified or if used or 30021
disposed of in a manner not specifically authorized, and may be 30022
condemned and seized if found to be incorrect and not capable of 30023
being made correct. 30024

(M) Weigh, measure, or inspect packaged commodities ~~kept,~~ 30025
~~offered, or exposed for sale,~~ that are sold, or in the process of 30026
delivery to determine whether they contain the amounts represented 30027
and whether they are ~~kept, offered, or exposed for sale~~ sold in 30028
accordance with sections 1327.46 to 1327.61 of the Revised Code or 30029
rules adopted under those sections. In carrying out this section, 30030
the director shall employ recognized sampling procedures, such as 30031
those designated in the national institute of standards and 30032
technology handbook 133 "checking the net contents of packaged 30033
goods." 30034

(N) Prescribe by rule the appropriate term or unit of weight 30035
or measure to be used, whenever the director determines in the 30036
case of a specific commodity that an existing practice of 30037
declaring the quantity by weight, measure, numerical count, or 30038
combination thereof, does not facilitate value comparisons by 30039
consumers, or offers an opportunity for consumer confusion; 30040

(O) Allow reasonable variations from the stated quantity of 30041
contents, which shall include those caused by unavoidable 30042
deviations in good manufacturing practice and by loss or gain of 30043
moisture during the course of good distribution practice, only 30044
after the commodity has entered intrastate commerce; 30045

(P) Provide for the weights and measures training of 30046
inspector personnel and establish minimum training requirements, 30047
which shall be met by all inspector personnel, whether county, 30048
municipal, or state; 30049

(Q) Prescribe the methods of tests and inspections to be employed in the enforcement of sections 1327.46 to 1327.61 of the Revised Code. The director may prescribe the official test and inspection forms to be used.

(R) Provide by rule for voluntary registration with the director of private weighing and measuring device servicing agencies, and personnel;

(S) In conjunction with the national institute of standards and technology, operate a type evaluation program for certification of weighing and measuring devices as part of the national type evaluation program. The director shall establish a schedule of fees for services rendered by the department of agriculture for type evaluation services. The director may require any weighing or measuring instrument or device to be traceable to a national type evaluation program certificate of conformance prior to use for commercial or law enforcement purposes.

Sec. 1327.501. (A) No person shall operate in this state a commercially used weighing and measuring device that provides the final quantity and final cost of a transaction and for which a fee is established in division (G) of this section unless the operator of the device obtains a permit issued by the director of agriculture or the director's designee.

(B) An application for a permit shall be submitted to the director on a form that the director prescribes and provides. The applicant shall include with the application any information that is specified on the application form as well as the application fee established in this section.

(C) Upon receipt of a completed application and the required fee from an applicant, the director or the director's designee shall issue or deny the permit to operate the commercially used weighing and measuring device that was the subject of the

application. 30081

(D) A permit issued under this section expires on the thirtieth day of June of the year following its issuance and may be renewed annually on or before the first day of July of that year upon payment of a permit renewal fee established in this section. 30082
30083
30084
30085
30086

(E) If a permit renewal fee is more than sixty days past due, the director may assess a late penalty in an amount established under this section. 30087
30088
30089

(F) The director shall do both of the following: 30090

(1) Establish procedures and requirements governing the issuance or denial of permits under this section; 30091
30092

(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits. 30093
30094
30095

(G) An applicant for a permit to operate under this section shall pay an application fee in the following applicable amount: 30096
30097

(1) Seventy-five dollars for a livestock scale; 30098

(2) Seventy-five dollars for a vehicle scale; 30099

(3) Seventy-five dollars for a railway scale; 30100

(4) Seventy-five dollars for a vehicle tank meter; 30101

(5) Seventy-five dollars for a bulk rack meter; 30102

(6) Seventy-five dollars for a LPG meter. 30103

A person who is issued a permit under this section and who seeks to renew that permit shall pay an annual permit renewal fee. 30104
30105

The amount of a permit renewal fee shall be equal to the application fee for that permit established in this division. 30106
30107

(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to 30108
30109

the metrology and scale certification and device permitting fund 30110
created in section 1327.511 of the Revised Code. 30111

Sec. 1327.51. (A) When necessary for the enforcement of 30112
sections 1327.46 to 1327.61 of the Revised Code or rules adopted 30113
pursuant thereto, the director of agriculture and any weights and 30114
measures official acting under the authority of section 1327.52 of 30115
the Revised Code may do any of the following: 30116

(1) Enter any commercial premises during normal business 30117
hours, except that in the event such premises are not open to the 30118
public, ~~he~~ the director or official shall first present ~~his~~ the 30119
director's or official's credentials and obtain consent before 30120
making entry thereto, unless a search warrant previously has been 30121
obtained; 30122

(2) Issue stop-use, hold, and removal orders with respect to 30123
any weights and measures commercially used, and stop-sale, hold, 30124
and removal orders with respect to any packaged commodities or 30125
bulk commodity observed to be or believed to be ~~kept, offered, or~~ 30126
~~exposed for sale~~ sold; 30127

(3) Seize for use as evidence any incorrect or unapproved 30128
weight or measure or any package or commodity found to be used, 30129
retained, ~~offered or exposed for sale,~~ or sold in violation of 30130
sections 1327.46 to 1327.61 of the Revised Code or rules 30131
~~promulgated~~ adopted pursuant thereto. 30132

(B) The director shall afford an opportunity for a hearing in 30133
accordance with Chapter 119. of the Revised Code to any owner or 30134
operator whose property is seized by the ~~Ohio~~ department of 30135
agriculture. 30136

Sec. 1327.511. All money collected under ~~section~~ sections 30137
1327.50 and 1327.501 of the Revised Code from fees and for 30138
services rendered by the department of agriculture in operating 30139

the type evaluation program, a metrology laboratory program, and 30140
the device permitting program shall be deposited in the state 30141
treasury to the credit of the metrology and scale certification 30142
and device permitting fund, which is hereby created. Money 30143
credited to the fund shall be used to pay operating costs incurred 30144
by the department in administering the ~~program~~ programs. 30145

Sec. 1327.54. No person shall misrepresent the price of any 30146
commodity or service sold, ~~offered, exposed,~~ or advertised for 30147
sale by weight, measure, or count, nor represent the price in any 30148
manner calculated or tending to mislead or in any way deceive a 30149
person. 30150

Sec. 1327.57. (A) Except as otherwise provided by law, any 30151
consumer package or commodity in package form introduced or 30152
delivered for introduction into or received in intrastate 30153
commerce, ~~kept for the purpose of sale, or offered or exposed for~~ 30154
~~sale~~ sold in intrastate commerce shall bear on the outside of the 30155
package a definite, plain, and conspicuous declaration, as may be 30156
prescribed by rule adopted by the director of agriculture, of any 30157
of the following, as applicable: 30158

(1) The identity of the commodity in the package unless the 30159
same can easily be identified through the wrapper or container; 30160

(2) The net quantity of the contents in terms of weight, 30161
measure, or count; 30162

(3) In the case of any package ~~kept, or offered or exposed~~ 30163
~~for sale, or~~ sold at any place other than on the premises where 30164
packed, the name and place of business of the manufacturer, 30165
packer, or distributor. 30166

This section does not apply to beer or intoxicating liquor as 30167
defined in section 4301.01 of the Revised Code, or packages 30168
thereof, or to malt or brewer's wort, or packages thereof. 30169

(B) Under division (A)(2) of this section, neither the 30170
qualifying term "when packed" or any words of similar import, nor 30171
any term qualifying a unit of weight, measure, or count that tends 30172
to exaggerate the amount of commodity in a package, shall be used. 30173

(C) In addition to the declarations required by division (A) 30174
of this section, any package or commodity in package form, if the 30175
package is one of a lot containing random weights, measures, or 30176
counts of the same commodity and bears the total selling price of 30177
the package, shall bear on the outside of the package a plain and 30178
conspicuous declaration of the price per single unit of weight, 30179
measure, or count. 30180

(D) No package or commodity in package form shall be so 30181
wrapped, nor shall it be in a container so made, formed, or 30182
filled, as to mislead the purchaser as to the quantity of the 30183
contents of the package, and the contents of a container shall not 30184
fall below any reasonable standard of fill that may have been 30185
prescribed for the commodity in question by the director. 30186

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ 30187
the director's designee, has cause to believe that any person has 30188
violated, or is violating, ~~section~~ any provision of sections 30189
~~1327.54 or 1327.46~~ to 1327.61 of the Revised Code or a rule 30190
adopted under them, he the director, or his the director's 30191
designee, may conduct a hearing in accordance with Chapter 119. of 30192
the Revised Code to determine whether a violation has occurred. If 30193
the director or ~~his~~ the director's designee determines that the 30194
person has violated or is violating ~~section 1327.54 or any~~ 30195
provision of sections 1327.46 to 1327.61 of the Revised Code or a 30196
rule adopted under it, he the director or the director's designee 30197
may assess a civil penalty against the person. The person is 30198
liable for a civil penalty of not more than five hundred dollars 30199
for a first violation; for a second violation the person is liable 30200

for a civil penalty of not more than two thousand five hundred 30201
dollars; for each subsequent violation that occurs within five 30202
years after the second violation, the person is liable for a civil 30203
penalty of not more than ten thousand dollars. 30204

Any person assessed a civil penalty under this section shall 30205
pay the amount prescribed to the department of agriculture. The 30206
department shall remit all moneys collected under this section to 30207
the treasurer of state for deposit in the general revenue fund. 30208

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or 30209
division (A), (B), (C), or (D) of section 1327.61 of the Revised 30210
Code or a rule adopted under sections 1327.46 to 1327.61 of the 30211
Revised Code is guilty of a misdemeanor of the second degree on a 30212
first offense; on each subsequent offense within seven years after 30213
the first offense, such person is guilty of a misdemeanor of the 30214
first degree. 30215

Sec. 1329.04. Registration of a trade name or report of a 30216
fictitious name, under sections 1329.01 to 1329.10 of the Revised 30217
Code, shall be effective for a term of five years from the date of 30218
registration or report. Upon application filed within six months 30219
prior to the expiration of such term, on a form furnished by the 30220
secretary of state, the registration or report may be renewed at 30221
the end of each five-year period for a like term, provided that a 30222
general partnership shall renew its registration or report 30223
whenever any partner named on its registration or report ceases to 30224
be a partner. Such a renewal shall extend the registration or 30225
report for five years, unless further changes occur in the 30226
interim. The renewal fee specified in division (S)(3) of section 30227
111.16 of the Revised Code, payable to the secretary of state, 30228
shall accompany the application for renewal of the registration or 30229
report. 30230

The secretary of state shall notify persons who have 30231
registered trade names or reported fictitious names, within the 30232
six months next preceding the expiration of the five years from 30233
the date of registration or report, of the necessity of renewal by 30234
~~writing~~ ordinary or electronic mail to the last known physical or 30235
electronic mail address of such persons. 30236

Sec. 1329.42. A person who uses in this state a name, mark, 30237
or device to indicate ownership of articles or supplies may file 30238
in the office of the secretary of state, on a form to be 30239
prescribed by the secretary of state, a verified statement setting 30240
forth, but not limited to, the following information: 30241

(A) The name and business address of the person filing the 30242
statement; and, if a corporation, the state of incorporation; 30243

(B) The nature of the business of the applicant; 30244

(C) The type of articles or supplies in connection with which 30245
the name, mark, or device is used. 30246

The statement shall include or be accompanied by a specimen 30247
evidencing actual use of the name, mark, or device, together with 30248
the filing fee specified in division (U)(1) of section 111.16 of 30249
the Revised Code. The registration of a name, mark, or device 30250
pursuant to this section is effective for a ten-year period 30251
beginning on the date of registration. If an application for 30252
renewal is filed within six months prior to the expiration of the 30253
ten-year period on a form prescribed by the secretary of state, 30254
the registration may be renewed at the end of each ten-year period 30255
for an additional ten-year period. The renewal fee specified in 30256
division (U)(2) of section 111.16 of the Revised Code shall 30257
accompany the application for renewal. The secretary of state 30258
shall notify a registrant within the six months next preceding the 30259
expiration of ten years from the date of registration of the 30260
necessity of renewal by ~~writing~~ ordinary or electronic mail to the 30261

last known physical or electronic mail address of the registrant. 30262

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of 30263
the Revised Code, the director of commerce may issue to any 30264
person, or renew, a video service authorization, which 30265
authorization confers on the person the authority, subject to 30266
sections 1332.21 to 1332.34 of the Revised Code, to provide video 30267
service in its video service area; construct and operate a video 30268
service network in, along, across, or on public rights-of-way for 30269
the provision of video service; and, when necessary to provide 30270
that service, exercise the power of a telephone company under 30271
section 4931.04 of the Revised Code. The term of a video service 30272
authorization or authorization renewal shall be ten years. 30273

(2) For the purposes of the "Cable Communications Policy Act 30274
of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et 30275
seq., a video service authorization shall constitute a franchise 30276
under that law, and the director shall be the sole franchising 30277
authority under that law for video service authorizations in this 30278
state. 30279

(3) The director may impose upon and collect an annual 30280
assessment on video service providers. All money collected under 30281
division (A)(3) of this section shall be deposited in the state 30282
treasury to the credit of the ~~division of administration~~ video 30283
service authorization fund created under section ~~121-08~~ 1332.25 of 30284
the Revised Code. The total amount assessed in a fiscal year shall 30285
not exceed the lesser of four hundred fifty thousand dollars or, 30286
as shall be determined annually by the director, the department's 30287
actual, current fiscal year administrative costs in carrying out 30288
its duties under sections 1332.21 to 1332.34 of the Revised Code. 30289
The director shall allocate that total amount proportionately 30290
among the video service providers to be assessed, using a formula 30291
based on subscriber counts as of the thirty-first day of December 30292

of the preceding calendar year, which counts shall be submitted to 30293
the director not later than the thirty-first day of January of 30294
each year, via a notarized statement signed by an authorized 30295
officer. Any information submitted by a video service provider to 30296
the director for the purpose of determining subscriber counts 30297
shall be considered trade secret information, shall not be 30298
disclosed except by court order, and shall not constitute a public 30299
record under section 149.43 of the Revised Code. On or about the 30300
first day of June of each year, the director shall send to each 30301
video service provider to be assessed written notice of its 30302
proportional amount of the total assessment. The provider shall 30303
pay that amount on a quarterly basis not later than forty-five 30304
days after the end of each calendar quarter. After the initial 30305
assessment, the director annually shall reconcile the amount 30306
collected with the total, current amount assessed pursuant to this 30307
section, and either shall charge each assessed video service 30308
provider its respective proportion of any insufficiency or 30309
proportionately credit the provider's next assessment for any 30310
excess collected. 30311

(B)(1) The director may investigate alleged violations of or 30312
failures to comply with division (A) of section 1332.23, division 30313
(A) of this section, division (C) of section 1332.25, division (C) 30314
or (D) of section 1332.26, division (A), (B), or (C) of section 30315
1332.27, division (A) of section 1332.28, division (A) or (B) of 30316
section 1332.29, or section 1332.30 or 1332.31 of the Revised 30317
Code, or complaints concerning any such violation or failure. 30318
Except as provided in this section, the director has no authority 30319
to regulate video service in this state, including, but not 30320
limited to, the rates, terms, or conditions of that service. 30321

(2) In conducting an investigation under division (B)(1) of 30322
this section, the director, by subpoena, may compel witnesses to 30323
testify in relation to any matter over which the director has 30324

jurisdiction and may require the production of any book, record, 30325
or other document pertaining to that matter. If a person fails to 30326
file any statement or report, obey any subpoena, give testimony, 30327
produce any book, record, or other document as required by a 30328
subpoena, or permit photocopying of any book, record, or other 30329
document subpoenaed, the court of common pleas of any county in 30330
this state, upon application made to it by the director, shall 30331
compel obedience by attachment proceedings for contempt, as in the 30332
case of disobedience of the requirements of a subpoena issued from 30333
the court or a refusal to testify. 30334

(C)(1) If the director finds that a person has violated or 30335
failed to comply with division (A) of section 1332.23, division 30336
(A) of this section, division (C) of section 1332.25, division (C) 30337
or (D) of section 1332.26, division (A), (B), or (C) of section 30338
1332.27, division (A) of section 1332.28, division (A) or (B) of 30339
section 1332.29, or section 1332.30 or 1332.31 of the Revised 30340
Code, and the person has failed to cure the violation or failure 30341
after reasonable, written notice and reasonable time to cure, the 30342
director may do any of the following: 30343

(a) Apply to the court of common pleas of any county in this 30344
state for an order enjoining the activity or requiring compliance. 30345
Such an action shall be commenced not later than three years after 30346
the date the alleged violation or failure occurred or was 30347
reasonably discovered. Upon a showing by the director that the 30348
person has engaged in a violation or failure to comply, the court 30349
shall grant an injunction, restraining order, or other appropriate 30350
relief. 30351

(b) Enter into a written assurance of voluntary compliance 30352
with the person; 30353

(c) Pursuant to an adjudication under Chapter 119. of the 30354
Revised Code, assess a civil penalty in an amount determined by 30355
the director, including for any failure to comply with an 30356

assurance of voluntary compliance under division (C)(1)(b) of this 30357
section. The amount shall be not more than one thousand dollars 30358
for each day of violation or noncompliance, not to exceed a total 30359
of ten thousand dollars, counting all subscriber impacts as a 30360
single violation or act of noncompliance. In determining whether a 30361
civil penalty is appropriate under division (C)(1)(c) of this 30362
section, the director shall consider all of the following factors: 30363

- (i) The seriousness of the noncompliance; 30364
- (ii) The good faith efforts of the person to comply; 30365
- (iii) The person's history of noncompliance; 30366
- (iv) The financial resources of the person; 30367
- (v) Any other matter that justice requires. 30368

Civil penalties collected pursuant to division (C)(1)(c) of 30369
this section shall be deposited to the credit of the video service 30370
enforcement fund in the state treasury, which is hereby created, 30371
to be used by the department of commerce in carrying out its 30372
duties under this section. 30373

(2) Pursuant to an adjudication under Chapter 119. of the 30374
Revised Code, the director may revoke, in whole or in part, the 30375
video service authorization of any person that has repeatedly and 30376
knowingly violated or failed to comply with division (A) of 30377
section 1332.23, division (A) of this section, division (C) of 30378
section 1332.25, division (C) or (D) of section 1332.26, division 30379
(A), (B), or (C) of section 1332.27, division (A) of section 30380
1332.28, division (A) or (B) of section 1332.29, or section 30381
1332.30 or 1332.31 of the Revised Code and that has failed to cure 30382
the violations or noncompliances after reasonable written notice 30383
and reasonable time to cure. Such person acts knowingly, 30384
regardless of the person's purpose, when the person is aware that 30385
the person's conduct will probably cause a certain result or will 30386
probably be of a certain nature. A person has knowledge of 30387

circumstances when the person is aware that such circumstances probably exist. 30388
30389

(3) The court shall conduct a de novo review in any appeal from an adjudication under division (C)(1)(c) or (C)(2) of this section. 30390
30391
30392

(D) The public utilities commission has no authority over a video service provider in its offering of video service or a cable operator in its offering of cable or video service, or over any person in its offering of video service pursuant to a competitive video service agreement. 30393
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Sec. 1345.73. ~~It~~ (A) Except as provided in division (B) of this section, it shall be presumed that a reasonable number of attempts have been undertaken by the manufacturer, its dealer, or its authorized agent to conform a motor vehicle to any applicable express warranty if, during the period of one year following the date of original delivery or during the first eighteen thousand miles of operation, whichever is earlier, any of the following apply: 30398
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~~(A)~~(1) Substantially the same nonconformity has been subject to repair three or more times and either continues to exist or recurs; 30406
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~~(B)~~(2) The vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days; 30409
30410

~~(C)~~(3) There have been eight or more attempts to repair any nonconformity; 30411
30412

~~(D)~~(4) There has been at least one attempt to repair a nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity either continues to exist or recurs. 30413
30414
30415
30416

(B)(1) Any period of time described in division (A) of this 30417

section shall be extended by any period of time during which the 30418
vehicle could not be reasonably repaired due to war, invasion, 30419
civil unrest, strike, fire, flood, or natural disaster. 30420

(2) If an extension of time is necessitated under division 30421
(B)(1) of this section due to the conditions described in that 30422
division, the manufacturer shall arrange for the use of a vehicle 30423
for the consumer whose vehicle is out of service at no cost to the 30424
consumer. If the manufacturer utilizes or contracts with a motor 30425
vehicle dealer or other third party to provide the vehicle, the 30426
manufacturer shall reimburse the motor vehicle dealer or other 30427
third party at a reasonable rate for the use of the vehicle. 30428

Sec. 1347.08. (A) Every state or local agency that maintains 30429
a personal information system, upon the request and the proper 30430
identification of any person who is the subject of personal 30431
information in the system, shall: 30432

(1) Inform the person of the existence of any personal 30433
information in the system of which the person is the subject; 30434

(2) Except as provided in divisions (C) and (E)(2) of this 30435
section, permit the person, the person's legal guardian, or an 30436
attorney who presents a signed written authorization made by the 30437
person, to inspect all personal information in the system of which 30438
the person is the subject; 30439

(3) Inform the person about the types of uses made of the 30440
personal information, including the identity of any users usually 30441
granted access to the system. 30442

(B) Any person who wishes to exercise a right provided by 30443
this section may be accompanied by another individual of the 30444
person's choice. 30445

(C)(1) A state or local agency, upon request, shall disclose 30446
medical, psychiatric, or psychological information to a person who 30447

is the subject of the information or to the person's legal guardian, unless a physician, psychiatrist, or psychologist determines for the agency that the disclosure of the information is likely to have an adverse effect on the person, in which case the information shall be released to a physician, psychiatrist, or psychologist who is designated by the person or by the person's legal guardian.

(2) Upon the signed written request of either a licensed attorney at law or a licensed physician designated by the inmate, together with the signed written request of an inmate of a correctional institution under the administration of the department of rehabilitation and correction, the department shall disclose medical information to the designated attorney or physician as provided in division (C) of section 5120.21 of the Revised Code.

(D) If an individual who is authorized to inspect personal information that is maintained in a personal information system requests the state or local agency that maintains the system to provide a copy of any personal information that the individual is authorized to inspect, the agency shall provide a copy of the personal information to the individual. Each state and local agency may establish reasonable fees for the service of copying, upon request, personal information that is maintained by the agency.

(E)(1) This section regulates access to personal information that is maintained in a personal information system by persons who are the subject of the information, but does not limit the authority of any person, including a person who is the subject of personal information maintained in a personal information system, to inspect or have copied, pursuant to section 149.43 of the Revised Code, a public record as defined in that section.

(2) This section does not provide a person who is the subject

of personal information maintained in a personal information 30480
system, the person's legal guardian, or an attorney authorized by 30481
the person, with a right to inspect or have copied, or require an 30482
agency that maintains a personal information system to permit the 30483
inspection of or to copy, a confidential law enforcement 30484
investigatory record or trial preparation record, as defined in 30485
divisions (A)(2) and (4) of section 149.43 of the Revised Code. 30486

(F) This section does not apply to any of the following: 30487

(1) The contents of an adoption file maintained by the 30488
department of health under section 3705.12 of the Revised Code; 30489

(2) Information contained in the putative father registry 30490
established by section 3107.062 of the Revised Code, regardless of 30491
whether the information is held by the department of job and 30492
family services or, pursuant to section 3111.69 of the Revised 30493
Code, the office of child support in the department or a child 30494
support enforcement agency; 30495

(3) Papers, records, and books that pertain to an adoption 30496
and that are subject to inspection in accordance with section 30497
3107.17 of the Revised Code; 30498

(4) Records listed in division (A) of section 3107.42 of the 30499
Revised Code or specified in division (A) of section 3107.52 of 30500
the Revised Code; 30501

(5) Records that identify an individual described in division 30502
~~(A)~~(B)(1) of section 3721.031 of the Revised Code, or that would 30503
tend to identify such an individual; 30504

(6) Files and records that have been expunged under division 30505
(D)(1) or (2) of section 3721.23 of the Revised Code; 30506

(7) Records that identify an individual described in division 30507
(A)(1) of section 3721.25 of the Revised Code, or that would tend 30508
to identify such an individual; 30509

(8) Records that identify an individual described in division 30510
(A)(1) of section 5111.61 of the Revised Code, or that would tend 30511
to identify such an individual; 30512

(9) Test materials, examinations, or evaluation tools used in 30513
an examination for licensure as a nursing home administrator that 30514
the board of examiners of nursing home administrators administers 30515
under section 4751.04 of the Revised Code or contracts under that 30516
section with a private or government entity to administer; 30517

(10) Information contained in a database established and 30518
maintained pursuant to section 5101.13 of the Revised Code. 30519

Sec. 1501.022. There is hereby created in the state treasury 30520
the injection well review fund consisting of moneys transferred to 30521
it under section 6111.046 of the Revised Code. Moneys in the fund 30522
shall be used by the chiefs of the divisions of mineral resources 30523
management, oil and gas resources management, geological survey, 30524
and soil and water resources in the department of natural 30525
resources exclusively for the purpose of executing their duties 30526
under sections 6111.043 to 6111.047 of the Revised Code. 30527

Sec. 1501.40. The department of natural resources is the 30528
designated state agency responsible for the coordination and 30529
administration of sections 120 to 136 of the "National and 30530
Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 30531
12401 to 12456, as amended. With the assistance of the Ohio 30532
~~community~~ commission on service council and volunteerism created 30533
in section 121.40 of the Revised Code, the director of natural 30534
resources shall coordinate with other state agencies to apply for 30535
funding under the act when appropriate and shall administer any 30536
federal funds the state receives under sections 120 to 136 of the 30537
act. 30538

Sec. 1503.05. (A) The chief of the division of forestry may 30539

sell timber and other forest products from the state forest and 30540
state forest nurseries whenever the chief considers such a sale 30541
desirable and, with the approval of the attorney general and the 30542
director of natural resources, may sell portions of the state 30543
forest lands when such a sale is advantageous to the state. 30544

(B) Except as otherwise provided in this section, a timber 30545
sale agreement shall not be executed unless the person or 30546
governmental entity bidding on the sale executes and files a 30547
surety bond conditioned on completion of the timber sale in 30548
accordance with the terms of the agreement in an amount equal to 30549
twenty-five per cent of the highest value cutting section. All 30550
bonds shall be given in a form prescribed by the chief and shall 30551
run to the state as obligee. 30552

The chief shall not approve any bond until it is personally 30553
signed and acknowledged by both principal and surety, or as to 30554
either by the attorney in fact thereof, with a certified copy of 30555
the power of attorney attached. The chief shall not approve the 30556
bond unless there is attached a certificate of the superintendent 30557
of insurance that the company is authorized to transact a fidelity 30558
and surety business in this state. 30559

In lieu of a bond, the bidder may deposit any of the 30560
following: 30561

(1) Cash in an amount equal to the amount of the bond; 30562

(2) United States government securities having a par value 30563
equal to or greater than the amount of the bond; 30564

(3) Negotiable certificates of deposit or irrevocable letters 30565
of credit issued by any bank organized or transacting business in 30566
this state having a par value equal to or greater than the amount 30567
of the bond. 30568

The cash or securities shall be deposited on the same terms 30569
as bonds. If one or more certificates of deposit are deposited in 30570

lieu of a bond, the chief shall require the bank that issued any 30571
of the certificates to pledge securities of the aggregate market 30572
value equal to the amount of the certificate or certificates that 30573
is in excess of the amount insured by the federal deposit 30574
insurance corporation. The securities to be pledged shall be those 30575
designated as eligible under section 135.18 of the Revised Code. 30576
The securities shall be security for the repayment of the 30577
certificate or certificates of deposit. 30578

Immediately upon a deposit of cash, securities, certificates 30579
of deposit, or letters of credit, the chief shall deliver them to 30580
the treasurer of state, who shall hold them in trust for the 30581
purposes for which they have been deposited. The treasurer of 30582
state is responsible for the safekeeping of the deposits. A bidder 30583
making a deposit of cash, securities, certificates of deposit, or 30584
letters of credit may withdraw and receive from the treasurer of 30585
state, on the written order of the chief, all or any portion of 30586
the cash, securities, certificates of deposit, or letters of 30587
credit upon depositing with the treasurer of state cash, other 30588
United States government securities, or other negotiable 30589
certificates of deposit or irrevocable letters of credit issued by 30590
any bank organized or transacting business in this state, equal in 30591
par value to the par value of the cash, securities, certificates 30592
of deposit, or letters of credit withdrawn. 30593

A bidder may demand and receive from the treasurer of state 30594
all interest or other income from any such securities or 30595
certificates as it becomes due. If securities so deposited with 30596
and in the possession of the treasurer of state mature or are 30597
called for payment by their issuer, the treasurer of state, at the 30598
request of the bidder who deposited them, shall convert the 30599
proceeds of the redemption or payment of the securities into other 30600
United States government securities, negotiable certificates of 30601
deposit, or cash as the bidder designates. 30602

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or governmental agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, certificates, or letters of credit forfeited. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the bond, cash, securities, certificates, or letters of credit.

In lieu of total forfeiture, the surety, at its option, may cause the timber sale to be completed or pay to the treasurer of state the cost thereof.

All moneys collected as a result of forfeitures of bonds, cash, securities, certificates, and letters of credit under this section shall be credited to the state forest fund created in this section.

(C) The chief may grant easements and leases on portions of the state forest lands and state forest nurseries under terms that are advantageous to the state, and the chief may grant mineral rights on a royalty basis on those lands and nurseries, with the approval of the attorney general and the director.

(D) All moneys received from the sale of state forest lands, or in payment for easements or leases on or as rents from those lands or from state forest nurseries, shall be paid into the state treasury to the credit of the state forest fund, which is hereby created. In addition, all moneys received from federal grants, payments, and reimbursements, from the sale of reforestation tree stock, from the sale of forest products, other than standing timber, and from the sale of minerals taken from the state forest lands and state forest nurseries, together with royalties from mineral rights, shall be paid into the state treasury to the credit of the state forest fund. Any other revenues derived from the operation of the state forests and related facilities or

equipment also shall be paid into the state treasury to the credit 30635
of the state forest fund, as shall contributions received for the 30636
issuance of Smokey Bear license plates under section 4503.574 of 30637
the Revised Code and any other moneys required by law to be 30638
deposited in the fund. 30639

The state forest fund shall not be expended for any purpose 30640
other than the administration, operation, maintenance, 30641
development, or utilization of the state forests, forest 30642
nurseries, and forest programs, for facilities or equipment 30643
incident to them, or for the further purchase of lands for state 30644
forest or forest nursery purposes and, in the case of 30645
contributions received pursuant to section 4503.574 of the Revised 30646
Code, for fire prevention purposes. 30647

All moneys received from the sale of standing timber taken 30648
from state forest lands and state forest nurseries shall be 30649
deposited into the state treasury to the credit of the forestry 30650
holding account redistribution fund, which is hereby created. The 30651
moneys shall remain in the fund until they are redistributed in 30652
accordance with this division. 30653

The redistribution shall occur at least once each year. To 30654
begin the redistribution, the chief first shall determine the 30655
amount of all standing timber sold from state forest lands and 30656
state forest nurseries, together with the amount of the total sale 30657
proceeds, in each county, in each township within the county, and 30658
in each school district within the county. The chief next shall 30659
determine the amount of the direct costs that the division of 30660
forestry incurred in association with the sale of that standing 30661
timber. The amount of the direct costs shall be subtracted from 30662
the amount of the total sale proceeds and shall be transferred 30663
from the forestry holding account redistribution fund to the state 30664
forest fund. 30665

The remaining amount of the total sale proceeds equals the 30666

net value of the standing timber that was sold. The chief shall 30667
determine the net value of standing timber sold from state forest 30668
lands and state forest nurseries in each county, in each township 30669
within the county, and in each school district within the county 30670
and shall send to each county treasurer a copy of the 30671
determination at the time that moneys are paid to the county 30672
treasurer under this division. 30673

~~Twenty-five~~ Thirty-five per cent of the net value of standing 30674
timber sold from state forest lands and state forest nurseries 30675
located in a county shall be transferred from the forestry holding 30676
account redistribution fund to the state forest fund. ~~Ten per cent~~ 30677
~~of that net value shall be transferred from the forestry holding~~ 30678
~~account redistribution fund to the general revenue fund.~~ The 30679
remaining sixty-five per cent of the net value shall be 30680
transferred from the forestry holding account redistribution fund 30681
and paid to the county treasurer for the use of the general fund 30682
of that county. 30683

The county auditor shall do all of the following: 30684

(1) Retain for the use of the general fund of the county 30685
one-fourth of the amount received by the county under division (D) 30686
of this section; 30687

(2) Pay into the general fund of any township located within 30688
the county and containing such lands and nurseries one-fourth of 30689
the amount received by the county from standing timber sold from 30690
lands and nurseries located in the township; 30691

(3) Request the board of education of any school district 30692
located within the county and containing such lands and nurseries 30693
to identify which fund or funds of the district should receive the 30694
moneys available to the school district under division (D)(3) of 30695
this section. After receiving notice from the board, the county 30696
auditor shall pay into the fund or funds so identified one-half of 30697

the amount received by the county from standing timber sold from 30698
lands and nurseries located in the school district, distributed 30699
proportionately as identified by the board. 30700

The division of forestry shall not supply logs, lumber, or 30701
other forest products or minerals, taken from the state forest 30702
lands or state forest nurseries, to any other agency or 30703
subdivision of the state unless payment is made therefor in the 30704
amount of the actual prevailing value thereof. This section is 30705
applicable to the moneys so received. 30706

(E) The chief may enter into a personal service contract for 30707
consulting services to assist the chief with the sale of timber or 30708
other forest products and related inventory. Compensation for 30709
consulting services shall be paid from the proceeds of the sale of 30710
timber or other forest products and related inventory that are the 30711
subject of the personal service contract. 30712

Sec. 1503.141. There is hereby created in the state treasury 30713
the wildfire suppression fund. The fund shall consist of any 30714
federal moneys received for the purposes of this section and 30715
donations, gifts, bequests, and other moneys received for those 30716
purposes. In addition, the chief of the division of forestry 30717
annually may request that the director of budget and management 30718
transfer, and, if so requested, the director shall transfer, not 30719
more than one hundred thousand dollars to the wildfire suppression 30720
fund from the ~~general revenue~~ state forest fund created in section 30721
1503.05 of the Revised Code. The amount transferred shall consist 30722
only of money deposited into the ~~general revenue~~ state forest fund 30723
from the sale of standing timber taken from state forest lands as 30724
set forth in that section ~~1503.05 of the Revised Code~~. 30725

The chief shall use moneys in the wildfire suppression fund 30726
to reimburse firefighting agencies and private fire companies for 30727
their costs incurred in the suppression of wildfires. The chief 30728

shall provide such reimbursement pursuant to agreements and 30729
contracts entered into under section 1503.14 of the Revised Code 30730
and in accordance with the following schedule: 30731

(A) For wildfire suppression on private land, an initial 30732
seventy-dollar payment to the firefighting agency or private fire 30733
company; 30734

(B) For wildfire suppression on land under the administration 30735
or care of the department of natural resources or on land that is 30736
part of any national forest administered by the United States 30737
department of agriculture forest service, an initial 30738
one-hundred-dollar payment to the firefighting agency or private 30739
fire company; 30740

(C) For any wildfire suppression on land specified in 30741
division (A) or (B) of this section lasting more than two hours, 30742
an additional payment of thirty-five dollars per hour. 30743

If at any time moneys in the fund exceed two hundred thousand 30744
dollars, the chief shall disburse the moneys that exceed that 30745
amount to the firefighting agencies and private fire companies in 30746
accordance with rules that the chief shall adopt in accordance 30747
with Chapter 119. of the Revised Code. The rules shall establish 30748
requirements and procedures that are similar in purpose and 30749
operation to the federal rural community fire protection program 30750
established under the "Cooperative Forestry Assistance Act of 30751
1978," 92 Stat. 365, 16 U.S.C.A. 2101, as amended. 30752

As used in this section, "firefighting agency" and "private 30753
fire company" have the same meanings as in section 9.60 of the 30754
Revised Code. 30755

Sec. 1505.01. The division of geological survey: 30756

(A) Shall collect, study, and interpret all available 30757
information pertaining to the geomorphology, stratigraphy, 30758

paleontology, mineralogy, and geologic structure of the state and 30759
shall publish reports on the same; 30760

(B) Shall collect, study, and interpret all available data 30761
pertaining to the origin, distribution, extent, use, and valuation 30762
of mineralogical and geological raw materials and natural 30763
resources such as: clays, coals, building stones, gypsum, salt, 30764
limestones and, dolomite, aggregates, sand, gravel, shales ~~for~~ 30765
~~cement and other uses, petroleum, oil, natural~~ gas, brines, ~~saline~~ 30766
~~deposits,~~ molding sands, and other natural substances of use and 30767
value, excluding only those pertaining to water usable as such for 30768
agricultural, industrial, commercial, and domestic purposes, but 30769
not excluding other rock fluids such as natural and artificial 30770
brines and oil-well fluids; 30771

(C) Shall make special studies and reports of resources of 30772
geological nature within the state ~~which~~ that in its discretion 30773
are of current or potential economic, environmental, or 30774
educational significance or of significance to the health, 30775
welfare, and safety of the public; 30776

(D) May examine the technological processes by which mining, 30777
quarrying, or other extracting processes may be improved, or by 30778
which materials now uneconomical to exploit may be extracted and 30779
used commercially for the public welfare; 30780

(E) Shall make, store, catalog, and have available ~~for~~ 30781
~~distribution in perpetuity data,~~ maps, diagrams, records, rock 30782
cores, samples, profiles, and geologic sections portraying the 30783
geological characteristics and topography of the state, both of 30784
general nature and of specific localities; 30785

(F) ~~May, or at the request of other agencies of the state~~ 30786
~~government shall,~~ advise and, consult, or collaborate with 30787
representatives of ~~those~~ agencies of the state, other state 30788
governments, or the United States government on problems or issues 30789

of a geological nature; 30790

(G) Shall advise, consult, or collaborate with 30791
representatives of agencies of the state, other state governments, 30792
or the United States government on problems or issues of a 30793
geological nature when requested by such an agency or government; 30794

(H) May create custom maps, custom data sets, or other custom 30795
products for government agencies, colleges and universities, and 30796
persons; 30797

(I) May provide information on the geological nature of the 30798
state to government agencies, colleges and universities, and 30799
persons. 30800

Sec. 1505.04. (A) Any person, firm, government agency, or 30801
corporation who, for hire, or by its own forces for economic use 30802
or exploration, drills, bores, or digs within the state a well for 30803
the production or extraction of any gas or liquid, excluding only 30804
water to be used as such, but including natural or artificial 30805
brines and oil-filled waters, or who drills wells, bores, or digs 30806
within the state a well to explore geological formations, shall 30807
keep a careful and accurate log of ~~such~~ the activity and report 30808
the same together with the results of any rock or fluid analyses 30809
or of any production test results or pressure tests in such form 30810
as is designated by the division of geological survey to the chief 30811
of the division of geological survey. 30812

(B) The division may file such well logs and establish and 30813
observe such regulations regarding their availability and use as 30814
will meet the legitimate requirements of the owner or lessee of 30815
the well. Personnel of the division ~~of~~ may examine any such well 30816
during its construction to confirm the accuracy of the log and to 30817
collect samples of the cores, chips, fluids, gases, or sludge. 30818

(C) No person, firm, agency, or corporation shall fail to 30819

keep an accurate log or file a report as required in division (A) 30820
of this section. 30821

Sec. 1505.05. (A) Notwithstanding any other provision of the 30822
Revised Code to the contrary, the chief of the division of 30823
geological survey shall adopt rules under Chapter 119. of the 30824
Revised Code that establish a fee schedule for requests for 30825
manipulated, interpreted, or analyzed data from the geologic 30826
records, data, maps, rock cores, and samples archived by the 30827
division. The fee schedule may include the cost of specialized 30828
storage requirements, programming, labor, research, retrieval, 30829
data manipulation, and copying and mailing of records requested 30830
from the archives. In addition, the rules shall establish 30831
procedures for the levying and collection of the fees in the fee 30832
schedule. 30833

(B) For purposes of divisions (H) and (I) of section 1505.01 30834
of the Revised Code, the chief shall adopt rules under Chapter 30835
119. of the Revised Code that establish a fee schedule to be paid 30836
for creating custom maps, custom data sets, and other custom 30837
products and for providing geological information of the state. 30838
The fee schedule may include the costs of labor, research, 30839
analysis, equipment, and technology. In addition, the rules shall 30840
establish procedures for the levying and collection of the fees in 30841
the fee schedule. 30842

(C) The chief may reduce or waive a fee in a fee schedule 30843
established in rules adopted under division (A) or (B) of this 30844
section for a student that is enrolled in an institution of higher 30845
education. 30846

(D) Any revision to a fee schedule established in rules 30847
adopted under division (A) or (B) of this section shall be 30848
established in rules adopted under Chapter 119. of the Revised 30849
Code. A revision to a fee schedule is subject to review by the 30850

Ohio geology advisory council created in section 1505.11 of the 30851
Revised Code and to approval by the director of natural resources. 30852

(E) All fees collected under this section shall be credited 30853
to the geological mapping fund created in section 1505.09 of the 30854
Revised Code. 30855

Sec. 1505.06. The chief of the division of geological survey 30856
in the discharge of ~~his~~ official duties under ~~section~~ sections 30857
1505.01 to 1505.08, ~~inclusive,~~ of the Revised Code, may call to 30858
~~his~~ the chief's assistance, temporarily, any engineers or other 30859
employees in any state department, or in the Ohio state 30860
university, or other educational institutions financed wholly or 30861
in part by the state, for the purpose of making studies, surveys, 30862
maps, and plans for ~~erosion~~ economic development or geologic 30863
hazards projects. 30864

Such engineers and employees shall not receive any additional 30865
compensation over that which they receive from the departments by 30866
which they are employed, but they shall be reimbursed for their 30867
actual necessary expenses incurred while working under the 30868
direction of the chief on ~~erosion~~ the projects. 30869

Sec. 1505.09. There is hereby created in the state treasury 30870
the geological mapping fund, to be administered by the chief of 30871
the division of geological survey. The fund shall be used 30872
~~exclusively~~ for the purposes of performing the necessary field, 30873
laboratory, and administrative tasks to map and make public 30874
reports on the geology, geologic hazards, and energy and mineral 30875
resources ~~of each county~~ of the state. The source of moneys for 30876
the fund shall include, but not be limited to, the mineral 30877
severance tax as specified in section 5749.02 of the Revised Code 30878
and the fees collected under rules adopted under section 1505.05 30879
of the Revised Code. The chief may seek federal or other moneys in 30880

addition to the mineral severance tax and fees to carry out the 30881
purposes of this section. If the chief receives federal moneys for 30882
the purposes of this section, ~~he~~ the chief shall deposit those 30883
moneys into the state treasury to the credit of a fund ~~which shall~~ 30884
~~be created at that time~~ by the controlling board to carry out 30885
those purposes. Other moneys received by the chief for the 30886
purposes of this section in addition to the mineral severance tax, 30887
fees, and federal moneys shall be credited to the geological 30888
mapping fund. 30889

Sec. 1505.11. There is hereby created in the department of 30890
natural resources the Ohio geology advisory council consisting of 30891
seven members to be appointed by the governor with the advice and 30892
consent of the senate. No more than four of the members shall be 30893
of the same political party. Members shall be persons who have a 30894
demonstrated interest in ~~Ohio~~ the geology and mineral resources of 30895
this state and whose expertise reflects the various 30896
responsibilities of the division of geological survey. The council 30897
shall include at least one representative from each of the 30898
following: the oil and gas industry, the industrial minerals 30899
industry, the coal industry, hydrogeology interests, environmental 30900
geology interests, and an institution of higher education in this 30901
state. The chief of the division of geological survey may 30902
participate in the deliberations of the council, but shall not 30903
vote. 30904

Within ninety days after ~~the effective date of this section~~ 30905
May 3, 1990, the governor shall make initial appointments to the 30906
council. Of the initial appointments, three shall be for a term 30907
ending one year after ~~the effective date of this section~~ May 3, 30908
1990, three shall be for a term ending two years after ~~the~~ 30909
~~effective date of this section~~ May 3, 1990, and one shall be for a 30910
term ending three years after ~~the effective date of this section~~ 30911
May 3, 1990. Thereafter, terms of office shall be for three years, 30912

with each term ending on the same day of the same month as did the 30913
term that it succeeds. Members may be reappointed. The governor 30914
may remove any member at any time for inefficiency, neglect of 30915
duty, or malfeasance in office. Vacancies shall be filled in the 30916
manner provided for original appointments. Any member appointed to 30917
fill a vacancy prior to the expiration date of the term for which 30918
~~his~~ the member's predecessor was appointed shall hold office as a 30919
member for the remainder of that term. A member shall continue in 30920
office subsequent to the expiration date of ~~his~~ the member's term 30921
until ~~his~~ the member's successor takes office or until a period of 30922
sixty days has elapsed, whichever occurs first. 30923

Serving as an appointed member on the council does not 30924
constitute holding a public office or position of employment under 30925
the laws of this state and does not constitute grounds for removal 30926
of public officers or employees from their offices or positions of 30927
employment. 30928

Members shall serve without compensation, but shall be 30929
reimbursed for their actual and necessary expenses incurred in the 30930
performance of their official duties from moneys appropriated to 30931
the division. 30932

The council annually shall select from its members a ~~chairman~~ 30933
chairperson and a ~~vice-chairman~~ vice-chairperson. The council 30934
shall hold at least one meeting each calendar quarter and shall 30935
keep a record of its proceedings, which shall be open to public 30936
inspection. Special meetings may be called by the ~~chairman~~ 30937
chairperson and shall be called upon the written request of two or 30938
more members. A majority of the members constitutes a quorum. The 30939
division shall furnish clerical, technical, legal, and other 30940
services required by the council in the performance of its duties. 30941

The council shall do all of the following: 30942

(A) Advise the chief ~~of the division of geological survey~~ in 30943

carrying out the duties of the division under this chapter; 30944

(B) Recommend policy and legislation with respect to geology, 30945
resource analysis, and management that will promote the economic 30946
and industrial development of the state while minimizing threats 30947
to the natural environment of the state; 30948

(C) Review and make recommendations on the development of 30949
plans and programs for long-term, comprehensive geologic mapping 30950
and analysis throughout the state; 30951

(D) Recommend ways to enhance cooperation among governmental 30952
agencies having an interest in ~~Ohio~~ the geology of the state to 30953
encourage wise use and management of the geology and mineral 30954
resources of the state. To this end, the council shall request 30955
nonvoting representation from appropriate governmental agencies. 30956

(E) Review and make recommendations with respect to changes 30957
in the fee schedules established in rules adopted under section 30958
1505.05 of the Revised Code. 30959

Sec. 1505.99. (A) Whoever violates section 1505.07 of the 30960
Revised Code shall be fined not less than one thousand nor more 30961
than two thousand dollars on a first offense; on each subsequent 30962
offense, the person shall be fined not less than two thousand nor 30963
more than five thousand dollars. 30964

(B) Whoever violates section 1505.04 or 1505.10 of the 30965
Revised Code shall be fined not less than one hundred nor more 30966
than one thousand dollars on a first offense; on each subsequent 30967
offense, the person shall be fined not less than one thousand nor 30968
more than two thousand dollars. Notwithstanding any section of the 30969
Revised Code relating to the distribution or crediting of fines 30970
for violations of the Revised Code, all fines imposed under this 30971
division shall be paid into the geological mapping fund created in 30972
section 1505.09 of the Revised Code. 30973

Sec. 1506.21. (A) There is hereby created the Ohio Lake Erie 30974
commission, consisting of the directors of environmental 30975
protection, natural resources, health, agriculture, and 30976
transportation, or their designees, and five additional members 30977
appointed by the governor who shall serve at the pleasure of the 30978
governor. The members of the commission annually shall designate a 30979
chairperson, who shall preside at the meetings of the commission, 30980
and a secretary. 30981

The commission shall hold at least one meeting every three 30982
months. The secretary of the commission shall keep a record of its 30983
proceedings. Special meetings shall be held at the call of the 30984
chairperson or upon the request of four members of the commission. 30985
All meetings and records of the commission shall be open to the 30986
public. ~~Three~~ Six members of the commission constitute a quorum. 30987
The agencies represented on the commission shall furnish clerical, 30988
technical, and other services required by the commission in the 30989
performance of its duties. 30990

(B) The commission shall do all of the following: 30991

(1) Ensure the coordination of state and local policies and 30992
programs pertaining to Lake Erie water quality, toxic pollution 30993
control, and resource protection; 30994

(2) Review, and make recommendations concerning, the 30995
development and implementation of policies, programs, and issues 30996
for long-term, comprehensive protection of Lake Erie water 30997
resources and water quality that are consistent with the great 30998
lakes water quality agreement and the great lakes toxic substances 30999
control agreement; 31000

(3) Recommend policies and programs to modify the coastal 31001
management program of this state; 31002

(4) At each regular meeting, consider matters relating to the 31003

implementation of sections 1506.22 and 1506.23 of the Revised Code;	31004 31005
(5) Publish and submit the Lake Erie protection agenda in accordance with division (C) of section 1506.23 of the Revised Code;	31006 31007 31008
(6) Ensure the implementation of a basinwide approach to Lake Erie issues;	31009 31010
(7) Increase representation of the interests of this state in state, regional, national, and international forums pertaining to the resources and water quality of Lake Erie and the Lake Erie basin;	31011 31012 31013 31014
(8) Promote education concerning the wise management of the resources of Lake Erie;	31015 31016
(9) Establish public advisory councils as considered necessary to assist in programs established under this section and sections 1506.22 and 1506.23 of the Revised Code. Members of the public advisory councils shall represent a broad cross section of interests, shall have experience or expertise in the subject for which the advisory council was established, and shall serve without compensation.	31017 31018 31019 31020 31021 31022 31023
(10) Prepare and submit the report required under division (D) of section 1506.23 of the Revised Code.	31024 31025
(C) Each state agency, upon the request of the commission, shall cooperate in the implementation of this section and sections 1506.22 and 1506.23 of the Revised Code.	31026 31027 31028
Sec. 1509.01. As used in this chapter:	31029
(A) "Well" means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.	31030 31031 31032 31033

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.

(D) "Condensate" means liquid hydrocarbons that were originally in the gaseous phase in the reservoir.

(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.

(F) "Field" means the general area underlaid by one or more pools.

(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.

(H) "Waste" includes all of the following:

(1) Physical waste, as that term generally is understood in the oil and gas industry;

(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;

(3) Inefficient storing of oil or gas;

(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or

destruction of oil or gas;	31064
(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.	31065 31066
(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.	31067 31068 31069 31070 31071
(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.	31072 31073
(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.	31074 31075 31076 31077 31078 31079 31080 31081 31082 31083 31084 31085 31086
(L) "Royalty interest" means the fee holder's share in the production from a well.	31087 31088
(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.	31089 31090
(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the	31091 31092 31093 31094

division of ~~mineral~~ oil and gas resources management. 31095

(O) "Rock sediment" means the combined cutting and residue 31096
from drilling sedimentary rocks and formation. 31097

(P) "Excavations and workings," "mine," and "pillar" have the 31098
same meanings as in section 1561.01 of the Revised Code. 31099

(Q) "Coal bearing township" means a township designated as 31100
such by the chief of the division of mineral resources management 31101
under section 1561.06 of the Revised Code. 31102

(R) "Gas storage reservoir" means a continuous area of a 31103
subterranean porous sand or rock stratum or strata into which gas 31104
is or may be injected for the purpose of storing it therein and 31105
removing it therefrom and includes a gas storage reservoir as 31106
defined in section 1571.01 of the Revised Code. 31107

(S) "Safe Drinking Water Act" means the "Safe Drinking Water 31108
Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the 31109
"Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 31110
U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 31111
100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water 31112
Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and 31113
regulations adopted under those acts. 31114

(T) "Person" includes any political subdivision, department, 31115
agency, or instrumentality of this state; the United States and 31116
any department, agency, or instrumentality thereof; and any legal 31117
entity defined as a person under section 1.59 of the Revised Code. 31118

(U) "Brine" means all saline geological formation water 31119
resulting from, obtained from, or produced in connection with 31120
exploration, drilling, well stimulation, production of oil or gas, 31121
or plugging of a well. 31122

(V) "Waters of the state" means all streams, lakes, ponds, 31123
marshes, watercourses, waterways, springs, irrigation systems, 31124

drainage systems, and other bodies of water, surface or 31125
underground, natural or artificial, that are situated wholly or 31126
partially within this state or within its jurisdiction, except 31127
those private waters that do not combine or effect a junction with 31128
natural surface or underground waters. 31129

(W) "Exempt Mississippian well" means a well that meets all 31130
of the following criteria: 31131

(1) Was drilled and completed before January 1, 1980; 31132

(2) Is located in an unglaciated part of the state; 31133

(3) Was completed in a reservoir no deeper than the 31134
Mississippian Big Injun sandstone in areas underlain by 31135
Pennsylvanian or Permian stratigraphy, or the Mississippian Berea 31136
sandstone in areas directly underlain by Permian stratigraphy; 31137

(4) Is used primarily to provide oil or gas for domestic use. 31138

(X) "Exempt domestic well" means a well that meets all of the 31139
following criteria: 31140

(1) Is owned by the owner of the surface estate of the tract 31141
on which the well is located; 31142

(2) Is used primarily to provide gas for the owner's domestic 31143
use; 31144

(3) Is located more than two hundred feet horizontal distance 31145
from any inhabited private dwelling house other than an inhabited 31146
private dwelling house located on the tract on which the well is 31147
located; 31148

(4) Is located more than two hundred feet horizontal distance 31149
from any public building that may be used as a place of resort, 31150
assembly, education, entertainment, lodging, trade, manufacture, 31151
repair, storage, traffic, or occupancy by the public. 31152

(Y) "Urbanized area" means an area where a well or production 31153
facilities of a well are located within a municipal corporation or 31154

within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities. 31155
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(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations. 31159
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(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access roads road construction, well drilling, well completion, well stimulation, well operation site activities, site reclamation, and well plugging. "Production operation" also includes all of the following: 31162
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(1) The piping ~~and~~, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery; 31172
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(2) The processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities; 31175
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(3) The processes and related equipment and facilities associated with production compression, gas lift, gas injection, ~~and~~ fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities. 31179
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(BB) "Annular overpressurization" means the accumulation of fluids within an annulus with sufficient pressure to allow migration of annular fluids into underground sources of drinking water.

(CC) "Idle and orphaned well" means a well for which a bond has been forfeited or an abandoned well for which no money is available to plug the well in accordance with this chapter and rules adopted under it.

(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.

(EE) "Material and substantial violation" means any of the following:

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;

(2) Failure to obtain or maintain insurance coverage that is required under this chapter;

(3) Failure to obtain or maintain a surety bond that is required under this chapter;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;

(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;

(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;

(7) Failure to comply with a final nonappealable order of the

chief issued under section 1509.04 of the Revised Code. 31216

(FF) "Severer" has the same meaning as in section 5749.01 of 31217
the Revised Code. 31218

Sec. 1509.02. There is hereby created in the department of 31219
natural resources the division of ~~mineral~~ oil and gas resources 31220
management, which shall be administered by the chief of the 31221
division of ~~mineral~~ oil and gas resources management. The division 31222
has sole and exclusive authority to regulate the permitting, 31223
location, and spacing of oil and gas wells and production 31224
operations within the state, excepting only those activities 31225
regulated under federal laws for which oversight has been 31226
delegated to the environmental protection agency and activities 31227
regulated under sections 6111.02 to 6111.029 of the Revised Code. 31228
The regulation of oil and gas activities is a matter of general 31229
statewide interest that requires uniform statewide regulation, and 31230
this chapter and rules adopted under it constitute a comprehensive 31231
plan with respect to all aspects of the locating, drilling, well 31232
stimulation, completing, and operating of oil and gas wells within 31233
this state, including site construction and restoration, 31234
permitting related to those activities, and the disposal of wastes 31235
from those wells. Nothing in this section affects the authority 31236
granted to the director of transportation and local authorities in 31237
section 723.01 or 4513.34 of the Revised Code, provided that the 31238
authority granted under those sections shall not be exercised in a 31239
manner that discriminates against, unfairly impedes, or obstructs 31240
oil and gas activities and operations regulated under this 31241
chapter. 31242

The chief shall not hold any other public office, nor shall 31243
the chief be engaged in any occupation or business that might 31244
interfere with or be inconsistent with the duties as chief. 31245

All moneys collected by the chief pursuant to sections 31246

1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.221, 31247
1509.222, 1509.34, and 1509.50 of the Revised Code, ninety per 31248
cent of moneys received by the treasurer of state from the tax 31249
levied in divisions (A)(5) and (6) of section 5749.02 of the 31250
Revised Code, all civil penalties paid under section 1509.33 of 31251
the Revised Code, and, notwithstanding any section of the Revised 31252
Code relating to the distribution or crediting of fines for 31253
violations of the Revised Code, all fines imposed under divisions 31254
(A) and (B) of section 1509.99 of the Revised Code and fines 31255
imposed under divisions (C) and (D) of section 1509.99 of the 31256
Revised Code for all violations prosecuted by the attorney general 31257
and for violations prosecuted by prosecuting attorneys that do not 31258
involve the transportation of brine by vehicle shall be deposited 31259
into the state treasury to the credit of the oil and gas well 31260
fund, which is hereby created. Fines imposed under divisions (C) 31261
and (D) of section 1509.99 of the Revised Code for violations 31262
prosecuted by prosecuting attorneys that involve the 31263
transportation of brine by vehicle and penalties associated with a 31264
compliance agreement entered into pursuant to this chapter shall 31265
be paid to the county treasury of the county where the violation 31266
occurred. 31267

The fund shall be used solely and exclusively for the 31268
purposes enumerated in division (B) of section 1509.071 of the 31269
Revised Code, for the expenses of the division associated with the 31270
administration of this chapter and Chapter 1571. of the Revised 31271
Code and rules adopted under them, and for expenses that are 31272
critical and necessary for the protection of human health and 31273
safety and the environment related to oil and gas production in 31274
this state. The expenses of the division in excess of the moneys 31275
available in the fund shall be paid from general revenue fund 31276
appropriations to the department. 31277

Sec. 1509.021. On and after ~~the effective date of this~~ 31278

~~section~~ June 30, 2010, all of the following apply: 31279

(A) The surface location of a new well or a tank battery of a 31280
well shall not be within one hundred fifty feet of an occupied 31281
dwelling that is located in an urbanized area unless the owner of 31282
the land on which the occupied dwelling is located consents in 31283
writing to the surface location of the well or tank battery of a 31284
well less than one hundred fifty feet from the occupied dwelling 31285
and the chief of the division of ~~mineral~~ oil and gas resources 31286
management approves the written consent of that owner. However, 31287
the chief shall not approve the written consent of such an owner 31288
when the surface location of a new well or a tank battery of a 31289
well will be within one hundred feet of an occupied dwelling that 31290
is located in an urbanized area. 31291

(B) The surface location of a new well shall not be within 31292
one hundred fifty feet from the property line of a parcel of land 31293
that is not in the drilling unit of the well if the parcel of land 31294
is located in an urbanized area and directional drilling will be 31295
used to drill the new well unless the owner of the parcel of land 31296
consents in writing to the surface location of the well less than 31297
one hundred fifty feet from the property line of the parcel of 31298
land and the chief approves the written consent of that owner. 31299
However, the chief shall not approve the written consent of such 31300
an owner when the surface location of a new well will be less than 31301
one hundred feet from the property line of the owner's parcel of 31302
land that is not in the drilling unit of the well if the parcel of 31303
land is located in an urbanized area and directional drilling will 31304
be used. 31305

(C) The surface location of a new well shall not be within 31306
two hundred feet of an occupied dwelling that is located in an 31307
urbanized area and that is located on land that has become part of 31308
the drilling unit of the well pursuant to a mandatory pooling 31309

order issued under section 1509.27 of the Revised Code unless the 31310
owner of the land on which the occupied dwelling is located 31311
consents in writing to the surface location of the well at a 31312
distance that is less than two hundred feet from the occupied 31313
dwelling. However, if the owner of the land on which the occupied 31314
dwelling is located provides such written consent, the surface 31315
location of the well shall not be within one hundred feet of the 31316
occupied dwelling. 31317

If an applicant cannot identify an owner of land or if an 31318
owner of land is not responsive to attempts by the applicant to 31319
contact the owner, the applicant may submit an affidavit to the 31320
chief attesting to such an unidentifiable owner or to such 31321
unresponsiveness of an owner and attempts by the applicant to 31322
contact the owner and include a written request to reduce the 31323
distance of the location of the well from the occupied dwelling to 31324
less than two hundred feet. If the chief receives such an 31325
affidavit and written request, the chief shall reduce the distance 31326
of the location of the well from the occupied dwelling to a 31327
distance of not less than one hundred feet. 31328

(D) Except as otherwise provided in division (L) of this 31329
section, the surface location of a new well shall not be within 31330
one hundred fifty feet of the property line of a parcel of land 31331
that is located in an urbanized area and that has become part of 31332
the drilling unit of the well pursuant to a mandatory pooling 31333
order issued under section 1509.27 of the Revised Code unless the 31334
owner of the land consents in writing to the surface location of 31335
the well at a distance that is less than one hundred fifty feet 31336
from the owner's property line. However, if the owner of the land 31337
provides such written consent, the surface location of the well 31338
shall not be within seventy-five feet of the property line of the 31339
owner's parcel of land. 31340

If an applicant cannot identify an owner of land or if an 31341

owner of land is not responsive to attempts by the applicant to 31342
contact the owner, the applicant may submit an affidavit to the 31343
chief attesting to such an unidentifiable owner or to such 31344
unresponsiveness of an owner and attempts by the applicant to 31345
contact the owner and include a written request to reduce the 31346
distance of the location of the well from the property line of the 31347
owner's parcel of land to less than one hundred fifty feet. If the 31348
chief receives such an affidavit and written request, the chief 31349
shall reduce the distance of the location of the well from the 31350
property line to a distance of not less than seventy-five feet. 31351

(E) The surface location of a new tank battery of a well 31352
shall not be within one hundred fifty feet of an occupied dwelling 31353
that is located in an urbanized area and that is located on land 31354
that has become part of the drilling unit of the well pursuant to 31355
a mandatory pooling order issued under section 1509.27 of the 31356
Revised Code unless the owner of the land on which the occupied 31357
dwelling is located consents in writing to the location of the 31358
tank battery at a distance that is less than one hundred fifty 31359
feet from the occupied dwelling. However, if the owner of the land 31360
on which the occupied dwelling is located provides such written 31361
consent, the location of the tank battery shall not be within one 31362
hundred feet of the occupied dwelling. 31363

If an applicant cannot identify an owner of land or if an 31364
owner of land is not responsive to attempts by the applicant to 31365
contact the owner, the applicant may submit an affidavit to the 31366
chief attesting to such an unidentifiable owner or to such 31367
unresponsiveness of an owner and attempts by the applicant to 31368
contact the owner and include a written request to reduce the 31369
distance of the location of the tank battery from the occupied 31370
dwelling to less than one hundred fifty feet. If the chief 31371
receives such an affidavit and written request, the chief shall 31372
reduce the distance of the location of the tank battery from the 31373

occupied dwelling to a distance of not less than one hundred feet. 31374

(F) Except as otherwise provided in division (L) of this 31375
section, the location of a new tank battery of a well shall not be 31376
within seventy-five feet of the property line of a parcel of land 31377
that is located in an urbanized area and that has become part of 31378
the drilling unit of the well pursuant to a mandatory pooling 31379
order issued under section 1509.27 of the Revised Code unless the 31380
owner of the land consents in writing to the location of the tank 31381
battery at a distance that is less than seventy-five feet from the 31382
owner's property line. However, if the owner of the land provides 31383
such written consent, the location of the tank battery shall not 31384
be within the property line of the owner's parcel of land. 31385

If an applicant cannot identify an owner of land or if an 31386
owner of land is not responsive to attempts by the applicant to 31387
contact the owner, the applicant may submit an affidavit to the 31388
chief attesting to such an unidentifiable owner or to such 31389
unresponsiveness of an owner and attempts by the applicant to 31390
contact the owner and include a written request to reduce the 31391
distance of the location of the tank battery from the property 31392
line of the owner's parcel of land to less than seventy-five feet. 31393
If the chief receives such an affidavit and written request, the 31394
chief shall reduce the distance of the location of the tank 31395
battery from the property line, provided that the tank battery 31396
shall not be within the property line of the owner's parcel of 31397
land. 31398

(G) For purposes of divisions (C) to (F) of this section, 31399
written consent of an owner of land may be provided by any of the 31400
following: 31401

(1) A copy of an original lease agreement as recorded in the 31402
office of the county recorder of the county in which the occupied 31403
dwelling or property is located that expressly provides for the 31404
reduction of the distance of the location of a well or a tank 31405

battery, as applicable, from an occupied dwelling or a property line; 31406
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(2) A copy of a deed severing the oil or gas mineral rights, as applicable, from the owner's parcel of land as recorded in the office of the county recorder of the county in which the property is located that expressly provides for the reduction of the distance of the location of a well or a tank battery, as applicable, from an occupied dwelling or a property line; 31408
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(3) A written statement that consents to the proposed location of a well or a tank battery, as applicable, and that is approved by the chief. For purposes of division (G)(3) of this section, an applicant shall submit a copy of a written statement to the chief. 31414
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(H) For areas that are not urbanized areas, the surface location of a new well shall not be within one hundred feet of an occupied private dwelling or of a public building that may be used as a place of assembly, education, entertainment, lodging, trade, manufacture, repair, storage, or occupancy by the public. This division does not apply to a building or other structure that is incidental to agricultural use of the land on which the building or other structure is located unless the building or other structure is used as an occupied private dwelling or for retail trade. 31419
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(I) The surface location of a new well shall not be within one hundred feet of any other well. However, an applicant may submit a written statement to request the chief to authorize a new well to be located at a distance that is less than one hundred feet from another well. If the chief receives such a written statement, the chief may authorize a new well to be located within one hundred feet of another well if the chief determines that the applicant satisfactorily has demonstrated that the location of the new well at a distance that is less than one hundred feet from 31429
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another well is necessary to reduce impacts to the owner of the 31438
land on which the well is to be located or to the surface of the 31439
land on which the well is to be located. 31440

(J) For areas that are not urbanized areas, the location of a 31441
new tank battery of a well shall not be within one hundred feet of 31442
an existing inhabited structure. 31443

(K) The location of a new tank battery of a well shall not be 31444
within fifty feet of any other well. 31445

(L) The location of a new well or a new tank battery of a 31446
well shall not be within fifty feet of a stream, river, 31447
watercourse, water well, pond, lake, or other body of water. 31448
However, the chief may authorize a new well or a new tank battery 31449
of a well to be located at a distance that is less than fifty feet 31450
from a stream, river, watercourse, water well, pond, lake, or 31451
other body of water if the chief determines that the reduction in 31452
the distance is necessary to reduce impacts to the owner of the 31453
land on which the well or tank battery of a well is to be located 31454
or to protect public safety or the environment. 31455

(M) The surface location of a new well or a new tank battery 31456
of a well shall not be within fifty feet of a railroad track or of 31457
the traveled portion of a public street, road, or highway. This 31458
division applies regardless of whether the public street, road, or 31459
highway has become part of the drilling unit of the well pursuant 31460
to a mandatory pooling order issued under section 1509.27 of the 31461
Revised Code. 31462

~~(M)~~(N) A new oil tank shall not be within three feet of 31463
another oil tank. 31464

~~(N)~~(O) The surface location of a mechanical separator shall 31465
not be within any of the following: 31466

(1) Fifty feet of a well; 31467

(2) Ten feet of an oil tank;	31468
(3) One hundred feet of an existing inhabited structure.	31469
(O) (P) A vessel that is equipped in such a manner that the contents of the vessel may be heated shall not be within any of the following:	31470 31471 31472
(1) Fifty feet of an oil production tank;	31473
(2) Fifty feet of a well;	31474
(3) One hundred feet of an existing inhabited structure;	31475
(4) If the contents of the vessel are heated by a direct fire heater, fifty feet of a mechanical separator.	31476 31477
<u>Sec. 1509.022. Except as provided in section 1509.021 of the Revised Code, the surface location of a new well that will be drilled using directional drilling may be located on a parcel of land that is not in the drilling unit of the well.</u>	31478 31479 31480 31481
<u>Sec. 1509.03.</u> (A) The chief of the division of mineral oil <u>and gas</u> resources management shall adopt, rescind, and amend, in accordance with Chapter 119. of the Revised Code, rules for the administration, implementation, and enforcement of this chapter. The rules shall include an identification of the subjects that the chief shall address when attaching terms and conditions to a permit with respect to a well and production facilities of a well that are located within an urbanized area. The subjects shall include all of the following:	31482 31483 31484 31485 31486 31487 31488 31489 31490
(1) Safety concerning the drilling or operation of a well;	31491
(2) Protection of the public and private water supply;	31492
(3) Fencing and screening of surface facilities of a well;	31493
(4) Containment and disposal of drilling and production wastes;	31494 31495

(5) Construction of access roads for purposes of the drilling and operation of a well;	31496 31497
(6) Noise mitigation for purposes of the drilling of a well and the operation of a well, excluding safety and maintenance operations.	31498 31499 31500
No person shall violate any rule of the chief adopted under this chapter.	31501 31502
(B) Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to this chapter shall be made in compliance with Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by mail. Every order issuing, denying, or modifying a permit under this chapter and described as such shall be considered an adjudication order for purposes of Chapter 119. of the Revised Code.	31503 31504 31505 31506 31507 31508 31509 31510
Where notice to the owners is required by this chapter, the notice shall be given as prescribed by a rule adopted by the chief to govern the giving of notices. The rule shall provide for notice by publication except in those cases where other types of notice are necessary in order to meet the requirements of the law.	31511 31512 31513 31514 31515
(C) The chief or the chief's authorized representative may at any time enter upon lands, public or private, for the purpose of administration or enforcement of this chapter, the rules adopted or orders made thereunder, or terms or conditions of permits or registration certificates issued thereunder and may examine and copy records pertaining to the drilling, conversion, or operation of a well for injection of fluids and logs required by division (C) of section 1509.223 of the Revised Code. No person shall prevent or hinder the chief or the chief's authorized representative in the performance of official duties. If entry is prevented or hindered, the chief or the chief's authorized	31516 31517 31518 31519 31520 31521 31522 31523 31524 31525 31526

representative may apply for, and the court of common pleas may 31527
issue, an appropriate inspection warrant necessary to achieve the 31528
purposes of this chapter within the court's territorial 31529
jurisdiction. 31530

(D) The chief may issue orders to enforce this chapter, rules 31531
adopted thereunder, and terms or conditions of permits issued 31532
thereunder. Any such order shall be considered an adjudication 31533
order for the purposes of Chapter 119. of the Revised Code. No 31534
person shall violate any order of the chief issued under this 31535
chapter. No person shall violate a term or condition of a permit 31536
or registration certificate issued under this chapter. 31537

(E) Orders of the chief denying, suspending, or revoking a 31538
registration certificate; approving or denying approval of an 31539
application for revision of a registered transporter's plan for 31540
disposal; or to implement, administer, or enforce division (A) of 31541
section 1509.224 and sections 1509.22, 1509.222, 1509.223, 31542
1509.225, and 1509.226 of the Revised Code pertaining to the 31543
transportation of brine by vehicle and the disposal of brine so 31544
transported are not adjudication orders for purposes of Chapter 31545
119. of the Revised Code. The chief shall issue such orders under 31546
division (A) or (B) of section 1509.224 of the Revised Code, as 31547
appropriate. 31548

Sec. 1509.04. (A) The chief of the division of mineral oil 31549
and gas resources management, or the chief's authorized 31550
representatives, shall enforce this chapter and the rules, terms 31551
and conditions of permits and registration certificates, and 31552
orders adopted or issued pursuant thereto, except that any peace 31553
officer, as defined in section 2935.01 of the Revised Code, may 31554
arrest for violations of this chapter involving transportation of 31555
brine by vehicle. The enforcement authority of the chief includes 31556
the authority to issue compliance notices and to enter into 31557

compliance agreements. 31558

(B)(1) The chief or the chief's authorized representative may 31559
issue an administrative order to an owner for a violation of this 31560
chapter or rules adopted under it, terms and conditions of a 31561
permit issued under it, a registration certificate that is 31562
required under this chapter, or orders issued under this chapter. 31563

(2) The chief may issue an order finding that an owner has 31564
committed a material and substantial violation. 31565

(C) The chief, by order, immediately may suspend drilling, 31566
operating, or plugging activities that are related to a material 31567
and substantial violation and suspend and revoke an unused permit 31568
after finding either of the following: 31569

(1) An owner has failed to comply with an order issued under 31570
division (B)(2) of this section that is final and nonappealable. 31571

(2) An owner is causing, engaging in, or maintaining a 31572
condition or activity that the chief determines presents an 31573
imminent danger to the health or safety of the public or that 31574
results in or is likely to result in immediate substantial damage 31575
to the natural resources of this state. 31576

(D)(1) The chief may issue an order under division (C) of 31577
this section without prior notification if reasonable attempts to 31578
notify the owner have failed or if the owner is currently in 31579
material breach of a prior order, but in such an event 31580
notification shall be given as soon thereafter as practical. 31581

(2) Not later than five days after the issuance of an order 31582
under division (C) of this section, the chief shall provide the 31583
owner an opportunity to be heard and to present evidence that one 31584
of the following applies: 31585

(a) The condition or activity does not present an imminent 31586
danger to the public health or safety or is not likely to result 31587

in immediate substantial damage to natural resources. 31588

(b) Required records, reports, or logs have been submitted. 31589

(3) If the chief, after considering evidence presented by the 31590
owner under division (D)(2)(a) of this section, determines that 31591
the activities do not present such a threat or that the required 31592
records, reports, or logs have been submitted under division 31593
(D)(2)(b) of this section, the chief shall revoke the order. The 31594
owner may appeal an order to the court of common pleas of the 31595
county in which the activity that is the subject of the order is 31596
located. 31597

(E) The chief may issue a bond forfeiture order pursuant to 31598
section 1509.071 of the Revised Code for failure to comply with a 31599
final nonappealable order issued or compliance agreement entered 31600
into under this section. 31601

(F) The chief may notify drilling contractors, transporters, 31602
service companies, or other similar entities of the compliance 31603
status of an owner. 31604

If the owner fails to comply with a prior enforcement action 31605
of the chief, the chief may issue a suspension order without prior 31606
notification, but in such an event the chief shall give notice as 31607
soon thereafter as practical. Not later than five calendar days 31608
after the issuance of an order, the chief shall provide the owner 31609
an opportunity to be heard and to present evidence that required 31610
records, reports, or logs have been submitted. If the chief, after 31611
considering the evidence presented by the owner, determines that 31612
the requirements have been satisfied, the chief shall revoke the 31613
suspension order. The owner may appeal a suspension order to the 31614
court of common pleas of the county in which the activity that is 31615
the subject of the suspension order is located. 31616

(G) The prosecuting attorney of the county or the attorney 31617
general, upon the request of the chief, may apply to the court of 31618

common pleas in the county in which any of the provisions of this 31619
chapter or any rules, terms or conditions of a permit or 31620
registration certificate, or orders adopted or issued pursuant to 31621
this chapter are being violated for a temporary restraining order, 31622
preliminary injunction, or permanent injunction restraining any 31623
person from such violation. 31624

Sec. 1509.041. The chief of the division of ~~mineral oil and~~ 31625
~~gas~~ resources management shall maintain a database on the division 31626
of ~~mineral oil and gas~~ resources management's web site that is 31627
accessible to the public. The database shall list each final 31628
nonappealable order issued for a material and substantial 31629
violation under this chapter. The list shall identify the 31630
violator, the date on which the violation occurred, and the date 31631
on which the violation was corrected. 31632

Sec. 1509.05. No person shall drill a new well, drill an 31633
existing well any deeper, reopen a well, convert a well to any use 31634
other than its original purpose, or plug back a well to a source 31635
of supply different from the existing pool, without having a 31636
permit to do so issued by the chief of the division of ~~mineral oil~~ 31637
~~and gas~~ resources management, and until the original permit or a 31638
photostatic copy thereof is posted or displayed in a conspicuous 31639
and easily accessible place at the well site, with the name, 31640
current address, and telephone number of the permit holder and the 31641
telephone numbers for fire and emergency medical services 31642
maintained on the posted permit or copy. The permit or a copy 31643
shall be continuously displayed in that manner at all times during 31644
the work authorized by the permit. 31645

Sec. 1509.06. (A) An application for a permit to drill a new 31646
well, drill an existing well deeper, reopen a well, convert a well 31647
to any use other than its original purpose, or plug back a well to 31648

a different source of supply, including associated production operations, shall be filed with the chief of the division of ~~mineral oil and gas~~ resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:

(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.

(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;

(5) Designation of the well by name and number;

(6) The geological formation to be tested or used and the proposed total depth of the well;

(7) The type of drilling equipment to be used;

(8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;

(9) For an application for a permit to drill a new well within an urbanized area, a sworn statement that the applicant has provided notice by regular mail of the application to the owner of each parcel of real property that is located within five hundred feet of the surface location of the well and to the executive authority of the municipal corporation or the board of township trustees of the township, as applicable, in which the well is to

be located. In addition, the notice shall contain a statement that
informs an owner of real property who is required to receive the
notice under division (A)(9) of this section that within five days
of receipt of the notice, the owner is required to provide notice
under section 1509.60 of the Revised Code to each residence in an
occupied dwelling that is located on the owner's parcel of real
property. The notice shall contain a statement that an application
has been filed with the division of ~~mineral~~ oil and gas resources
management, identify the name of the applicant and the proposed
well location, include the name and address of the division, and
contain a statement that comments regarding the application may be
sent to the division. The notice may be provided by hand delivery
or regular mail. The identity of the owners of parcels of real
property shall be determined using the tax records of the
municipal corporation or county in which a parcel of real property
is located as of the date of the notice.

(10) A plan for restoration of the land surface disturbed by
drilling operations. The plan shall provide for compliance with
the restoration requirements of division (A) of section 1509.072
of the Revised Code and any rules adopted by the chief pertaining
to that restoration.

(11) A description by name or number of the county, township,
and municipal corporation roads, streets, and highways that the
applicant anticipates will be used for access to and egress from
the well site;

(12) Such other relevant information as the chief prescribes
by rule.

Each application shall be accompanied by a map, on a scale
not smaller than four hundred feet to the inch, prepared by an
Ohio registered surveyor, showing the location of the well and
containing such other data as may be prescribed by the chief. If
the well is or is to be located within the excavations and

workings of a mine, the map also shall include the location of the 31711
mine, the name of the mine, and the name of the person operating 31712
the mine. 31713

(B) The chief shall cause a copy of the weekly circular 31714
prepared by the division to be provided to the county engineer of 31715
each county that contains active or proposed drilling activity. 31716
The weekly circular shall contain, in the manner prescribed by the 31717
chief, the names of all applicants for permits, the location of 31718
each well or proposed well, the information required by division 31719
(A)(11) of this section, and any additional information the chief 31720
prescribes. In addition, the chief promptly shall transfer an 31721
electronic copy or facsimile, or if those methods are not 31722
available to a municipal corporation or township, a copy via 31723
regular mail, of a drilling permit application to the clerk of the 31724
legislative authority of the municipal corporation or to the clerk 31725
of the township in which the well or proposed well is or is to be 31726
located if the legislative authority of the municipal corporation 31727
or the board of township trustees has asked to receive copies of 31728
such applications and the appropriate clerk has provided the chief 31729
an accurate, current electronic mailing address or facsimile 31730
number, as applicable. 31731

(C)(1) Except as provided in division (C)(2) of this section, 31732
the chief shall not issue a permit for at least ten days after the 31733
date of filing of the application for the permit unless, upon 31734
reasonable cause shown, the chief waives that period or a request 31735
for expedited review is filed under this section. However, the 31736
chief shall issue a permit within twenty-one days of the filing of 31737
the application unless the chief denies the application by order. 31738

(2) If the location of a well or proposed well will be or is 31739
within an urbanized area, the chief shall not issue a permit for 31740
at least eighteen days after the date of filing of the application 31741
for the permit unless, upon reasonable cause shown, the chief 31742

waives that period or the chief at the chief's discretion grants a 31743
request for an expedited review. However, the chief shall issue a 31744
permit for a well or proposed well within an urbanized area within 31745
thirty days of the filing of the application unless the chief 31746
denies the application by order. 31747

(D) An applicant may file a request with the chief for 31748
expedited review of a permit application if the well is not or is 31749
not to be located in a gas storage reservoir or reservoir 31750
protective area, as "reservoir protective area" is defined in 31751
section 1571.01 of the Revised Code. If the well is or is to be 31752
located in a coal bearing township, the application shall be 31753
accompanied by the affidavit of the landowner prescribed in 31754
section 1509.08 of the Revised Code. 31755

In addition to a complete application for a permit that meets 31756
the requirements of this section and the permit fee prescribed by 31757
this section, a request for expedited review shall be accompanied 31758
by a separate nonrefundable filing fee of two hundred fifty 31759
dollars. Upon the filing of a request for expedited review, the 31760
chief shall cause the county engineer of the county in which the 31761
well is or is to be located to be notified of the filing of the 31762
permit application and the request for expedited review by 31763
telephone or other means that in the judgment of the chief will 31764
provide timely notice of the application and request. The chief 31765
shall issue a permit within seven days of the filing of the 31766
request unless the chief denies the application by order. 31767
Notwithstanding the provisions of this section governing expedited 31768
review of permit applications, the chief may refuse to accept 31769
requests for expedited review if, in the chief's judgment, the 31770
acceptance of the requests would prevent the issuance, within 31771
twenty-one days of their filing, of permits for which applications 31772
are pending. 31773

(E) A well shall be drilled and operated in accordance with 31774

the plans, sworn statements, and other information submitted in 31775
the approved application. 31776

(F) The chief shall issue an order denying a permit if the 31777
chief finds that there is a substantial risk that the operation 31778
will result in violations of this chapter or rules adopted under 31779
it that will present an imminent danger to public health or safety 31780
or damage to the environment, provided that where the chief finds 31781
that terms or conditions to the permit can reasonably be expected 31782
to prevent such violations, the chief shall issue the permit 31783
subject to those terms or conditions, including, if applicable, 31784
terms and conditions regarding subjects identified in rules 31785
adopted under section 1509.03 of the Revised Code. The issuance of 31786
a permit shall not be considered an order of the chief. 31787

(G) Each application for a permit required by section 1509.05 31788
of the Revised Code, except an application to plug back an 31789
existing well that is required by that section and an application 31790
for a well drilled or reopened for purposes of section 1509.22 of 31791
the Revised Code, also shall be accompanied by a nonrefundable fee 31792
as follows: 31793

(1) Five hundred dollars for a permit to conduct activities 31794
in a township with a population of fewer than ten thousand; 31795

(2) Seven hundred fifty dollars for a permit to conduct 31796
activities in a township with a population of ten thousand or 31797
more, but fewer than fifteen thousand; 31798

(3) One thousand dollars for a permit to conduct activities 31799
in either of the following: 31800

(a) A township with a population of fifteen thousand or more; 31801

(b) A municipal corporation regardless of population. 31802

(4) If the application is for a permit that requires 31803
mandatory pooling, an additional five thousand dollars. 31804

For purposes of calculating fee amounts, populations shall be 31805
determined using the most recent federal decennial census. 31806

Each application for the revision or reissuance of a permit 31807
shall be accompanied by a nonrefundable fee of two hundred fifty 31808
dollars. 31809

(H) Prior to the issuance of a permit to drill a proposed 31810
well that is to be located in an urbanized area, the division 31811
shall conduct a site review to identify and evaluate any 31812
site-specific terms and conditions that may be attached to the 31813
permit. At the site review, a representative of the division shall 31814
consider fencing, screening, and landscaping requirements, if any, 31815
for similar structures in the community in which the well is 31816
proposed to be located. The terms and conditions that are attached 31817
to the permit shall include the establishment of fencing, 31818
screening, and landscaping requirements for the surface facilities 31819
of the proposed well, including a tank battery of the well. 31820

(I) A permit shall be issued by the chief in accordance with 31821
this chapter. A permit issued under this section for a well that 31822
is or is to be located in an urbanized area shall be valid for 31823
twelve months, and all other permits issued under this section 31824
shall be valid for twenty-four months. 31825

(J) A permittee or a permittee's authorized representative 31826
shall notify an inspector from the division ~~of mineral resources~~ 31827
~~management~~ at least twenty-four hours, or another time period 31828
agreed to by the chief's authorized representative, prior to the 31829
commencement of drilling, reopening, converting, well stimulation, 31830
or plugback operations. 31831

Sec. 1509.061. An owner of a well who has been issued a 31832
permit under section 1509.06 of the Revised Code may submit to the 31833
chief of the division of ~~mineral~~ oil and gas resources management, 31834
on a form prescribed by the chief, a request to revise an existing 31835

tract upon which exists a producing or idle well. The chief shall 31836
adopt, and may amend and rescind, rules under section 1509.03 of 31837
the Revised Code that are necessary for the administration of this 31838
section. The rules at least shall stipulate the information to be 31839
included on the request form and shall establish a fee to be paid 31840
by the person submitting the request, which fee shall not exceed 31841
two hundred fifty dollars. 31842

The chief shall approve a request submitted under this 31843
section unless it would result in a violation of this chapter or 31844
rules adopted under it, including provisions establishing spacing 31845
or minimum acreage requirements. 31846

Sec. 1509.062. (A)(1) The owner of a well that has not been 31847
completed, a well that has not produced within one year after 31848
completion, or an existing well that has no reported production 31849
for two consecutive reporting periods as reported in accordance 31850
with section 1509.11 of the Revised Code shall plug the well in 31851
accordance with section 1509.12 of the Revised Code, obtain 31852
temporary inactive well status for the well in accordance with 31853
this section, or perform another activity regarding the well that 31854
is approved by the chief of the division of ~~mineral~~ oil and gas 31855
resources management. 31856

(2) If a well has a reported annual production that is less 31857
than one hundred thousand cubic feet of natural gas or fifteen 31858
barrels of crude oil, or a combination thereof, the chief may 31859
require the owner of the well to submit an application for 31860
temporary inactive well status under this section for the well. 31861

(B) In order for the owner of a well to submit an application 31862
for temporary inactive well status for the well under this 31863
division, the owner and the well shall be in compliance with this 31864
chapter and rules adopted under it, any terms and conditions of 31865
the permit for the well, and applicable orders issued by the 31866

chief. An application for temporary inactive status for a well 31867
shall be submitted to the chief on a form prescribed and provided 31868
by the chief and shall contain all of the following: 31869

(1) The owner's name and address and, if the owner is a 31870
corporation, the name and address of the corporation's statutory 31871
agent; 31872

(2) The signature of the owner or of the owner's authorized 31873
agent. When an authorized agent signs an application, the 31874
application shall be accompanied by a certified copy of the 31875
appointment as such agent. 31876

(3) The permit number assigned to the well. If the well has 31877
not been assigned a permit number, the chief shall assign a permit 31878
number to the well. 31879

(4) A map, on a scale not smaller than four hundred feet to 31880
the inch, that shows the location of the well and the tank 31881
battery, that includes the latitude and longitude of the well, and 31882
that contains all other data that are required by the chief; 31883

(5) A demonstration that the well is of future utility and 31884
that the applicant has a viable plan to utilize the well within a 31885
reasonable period of time; 31886

(6) A demonstration that the well poses no threat to the 31887
health or safety of persons, property, or the environment; 31888

(7) Any other relevant information that the chief prescribes 31889
by rule. 31890

The chief may waive any of the requirements established in 31891
divisions (B)(1) to (6) of this section if the division of ~~mineral~~ 31892
oil and gas resources management possesses a current copy of the 31893
information or document that is required in the applicable 31894
division. 31895

(C) Upon receipt of an application for temporary inactive 31896

well status, the chief shall review the application and shall 31897
either deny the application by issuing an order or approve the 31898
application. The chief shall approve the application only if the 31899
chief determines that the well that is the subject of the 31900
application poses no threat to the health or safety of persons, 31901
property, or the environment. If the chief approves the 31902
application, the chief shall notify the applicant of the chief's 31903
approval. Upon receipt of the chief's approval, the owner shall 31904
shut in the well and empty all liquids and gases from all storage 31905
tanks, pipelines, and other equipment associated with the well. In 31906
addition, the owner shall maintain the well, other equipment 31907
associated with the well, and the surface location of the well in 31908
a manner that prevents hazards to the health and safety of people 31909
and the environment. The owner shall inspect the well at least 31910
every six months and submit to the chief within fourteen days 31911
after the inspection a record of inspection on a form prescribed 31912
and provided by the chief. 31913

(D) Not later than thirty days prior to the expiration of 31914
temporary inactive well status or a renewal of temporary inactive 31915
well status approved by the chief for a well, the owner of the 31916
well may submit to the chief an application for renewal of the 31917
temporary inactive well status on a form prescribed and provided 31918
by the chief. The application shall include a detailed plan that 31919
describes the ultimate disposition of the well, the time frames 31920
for that disposition, and any other information that the chief 31921
determines is necessary. The chief shall either deny an 31922
application by order or approve the application. If the chief 31923
approves the application, the chief shall notify the owner of the 31924
well of the chief's approval. 31925

(E) An application for temporary inactive well status shall 31926
be accompanied by a nonrefundable fee of one hundred dollars. An 31927
application for a renewal of temporary inactive well status shall 31928

be accompanied by a nonrefundable fee of two hundred fifty dollars 31929
for the first renewal and five hundred dollars for each subsequent 31930
renewal. 31931

(F) After a third renewal, the chief may require an owner to 31932
provide a surety bond in an amount not to exceed ten thousand 31933
dollars for each of the owner's wells that has been approved by 31934
the chief for temporary inactive well status. 31935

(G) Temporary inactive well status approved by the chief 31936
expires one year after the date of approval of the application for 31937
temporary inactive well status or production from the well 31938
commences, whichever occurs sooner. In addition, a renewal of a 31939
temporary inactive well status expires one year after the 31940
expiration date of the initial temporary inactive well status or 31941
one year after the expiration date of the previous renewal of the 31942
temporary inactive well status, as applicable, or production from 31943
the well commences, whichever occurs sooner. 31944

(H) The owner of a well that has been approved by the chief 31945
for temporary inactive well status may commence production from 31946
the well at any time. Not later than sixty days after the 31947
commencement of production from such a well, the owner shall 31948
notify the chief of the commencement of production. 31949

(I) This chapter and rules adopted under it, any terms and 31950
conditions of the permit for a well, and applicable orders issued 31951
by the chief apply to a well that has been approved by the chief 31952
for temporary inactive well status or renewal of that status. 31953

Sec. 1509.07. An owner of any well, except an exempt 31954
Mississippian well or an exempt domestic well, shall obtain 31955
liability insurance coverage from a company authorized to do 31956
business in this state in an amount of not less than one million 31957
dollars bodily injury coverage and property damage coverage to pay 31958
damages for injury to persons or damage to property caused by the 31959

drilling, operation, or plugging of all the owner's wells in this 31960
state. However, if any well is located within an urbanized area, 31961
the owner shall obtain liability insurance coverage in an amount 31962
of not less than three million dollars for bodily injury coverage 31963
and property damage coverage to pay damages for injury to persons 31964
or damage to property caused by the drilling, operation, or 31965
plugging of all of the owner's wells in this state. The owner 31966
shall maintain the coverage until all the owner's wells are 31967
plugged and abandoned or are transferred to an owner who has 31968
obtained insurance as required under this section and who is not 31969
under a notice of material and substantial violation or under a 31970
suspension order. The owner shall provide proof of liability 31971
insurance coverage to the chief of the division of ~~mineral oil and~~ 31972
gas resources management upon request. Upon failure of the owner 31973
to provide that proof when requested, the chief may order the 31974
suspension of any outstanding permits and operations of the owner 31975
until the owner provides proof of the required insurance coverage. 31976

Except as otherwise provided in this section, an owner of any 31977
well, before being issued a permit under section 1509.06 of the 31978
Revised Code or before operating or producing from a well, shall 31979
execute and file with the division of ~~mineral oil and gas~~ 31980
resources management a surety bond conditioned on compliance with 31981
the restoration requirements of section 1509.072, the plugging 31982
requirements of section 1509.12, the permit provisions of section 31983
1509.13 of the Revised Code, and all rules and orders of the chief 31984
relating thereto, in an amount set by rule of the chief. 31985

The owner may deposit with the chief, instead of a surety 31986
bond, cash in an amount equal to the surety bond as prescribed 31987
pursuant to this section or negotiable certificates of deposit or 31988
irrevocable letters of credit, issued by any bank organized or 31989
transacting business in this state or by any savings and loan 31990
association as defined in section 1151.01 of the Revised Code, 31991

having a cash value equal to or greater than the amount of the 31992
surety bond as prescribed pursuant to this section. Cash or 31993
certificates of deposit shall be deposited upon the same terms as 31994
those upon which surety bonds may be deposited. If certificates of 31995
deposit are deposited with the chief instead of a surety bond, the 31996
chief shall require the bank or savings and loan association that 31997
issued any such certificate to pledge securities of a cash value 31998
equal to the amount of the certificate that is in excess of the 31999
amount insured by any of the agencies and instrumentalities 32000
created under the "Federal Deposit Insurance Act," 64 Stat. 873 32001
(1950), 12 U.S.C. 1811, as amended, and regulations adopted under 32002
it, including at least the federal deposit insurance corporation, 32003
bank insurance fund, and savings association insurance fund. The 32004
securities shall be security for the repayment of the certificate 32005
of deposit. 32006

Immediately upon a deposit of cash, certificates of deposit, 32007
or letters of credit with the chief, the chief shall deliver them 32008
to the treasurer of state who shall hold them in trust for the 32009
purposes for which they have been deposited. 32010

Instead of a surety bond, the chief may accept proof of 32011
financial responsibility consisting of a sworn financial statement 32012
showing a net financial worth within this state equal to twice the 32013
amount of the bond for which it substitutes and, as may be 32014
required by the chief, a list of producing properties of the owner 32015
within this state or other evidence showing ability and intent to 32016
comply with the law and rules concerning restoration and plugging 32017
that may be required by rule of the chief. The owner of an exempt 32018
Mississippian well is not required to file scheduled updates of 32019
the financial documents, but shall file updates of those documents 32020
if requested to do so by the chief. The owner of a nonexempt 32021
Mississippian well shall file updates of the financial documents 32022
in accordance with a schedule established by rule of the chief. 32023

The chief, upon determining that an owner for whom the chief has accepted proof of financial responsibility instead of bond cannot demonstrate financial responsibility, shall order that the owner execute and file a bond or deposit cash, certificates of deposit, or irrevocable letters of credit as required by this section for the wells specified in the order within ten days of receipt of the order. If the order is not complied with, all wells of the owner that are specified in the order and for which no bond is filed or cash, certificates of deposit, or letters of credit are deposited shall be plugged. No owner shall fail or refuse to plug such a well. Each day on which such a well remains unplugged thereafter constitutes a separate offense.

The surety bond provided for in this section shall be executed by a surety company authorized to do business in this state.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the principal's or surety's attorney in fact, with a certified copy of the power of attorney attached thereto. The chief shall not approve a bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form to be prescribed by the chief and shall run to the state as obligee.

An owner of an exempt Mississippian well or an exempt domestic well, in lieu of filing a surety bond, cash in an amount equal to the surety bond, certificates of deposit, irrevocable letters of credit, or a sworn financial statement, may file a one-time fee of fifty dollars, which shall be deposited in the oil and gas well plugging fund created in section 1509.071 of the Revised Code.

An owner, operator, producer, or other person shall not 32056
operate a well or produce from a well at any time if the owner, 32057
operator, producer, or other person has not satisfied the 32058
requirements established in this section. 32059

Sec. 1509.071. (A) When the chief of the division of ~~mineral~~ 32060
oil and gas resources management finds that an owner has failed to 32061
comply with a final nonappealable order issued or compliance 32062
agreement entered into under section 1509.04, the restoration 32063
requirements of section 1509.072, plugging requirements of section 32064
1509.12, or permit provisions of section 1509.13 of the Revised 32065
Code, or rules and orders relating thereto, the chief shall make a 32066
finding of that fact and declare any surety bond filed to ensure 32067
compliance with those sections and rules forfeited in the amount 32068
set by rule of the chief. The chief thereupon shall certify the 32069
total forfeiture to the attorney general, who shall proceed to 32070
collect the amount of the forfeiture. In addition, the chief may 32071
require an owner, operator, producer, or other person who 32072
forfeited a surety bond to post a new surety bond in the amount of 32073
fifteen thousand dollars for a single well, thirty thousand 32074
dollars for two wells, or fifty thousand dollars for three or more 32075
wells. 32076

In lieu of total forfeiture, the surety or owner, at the 32077
surety's or owner's option, may cause the well to be properly 32078
plugged and abandoned and the area properly restored or pay to the 32079
treasurer of state the cost of plugging and abandonment. 32080

(B) All moneys collected because of forfeitures of bonds as 32081
provided in this section shall be deposited in the state treasury 32082
to the credit of the oil and gas well fund created in section 32083
1509.02 of the Revised Code. 32084

The chief annually shall spend not less than fourteen per 32085
cent of the revenue credited to the fund during the previous 32086

fiscal year for the following purposes: 32087

(1) In accordance with division (D) of this section, to plug 32088
idle and orphaned wells or to restore the land surface properly as 32089
required in section 1509.072 of the Revised Code; 32090

(2) In accordance with division (E) of this section, to 32091
correct conditions that the chief reasonably has determined are 32092
causing imminent health or safety risks at an idle and orphaned 32093
well or a well for which the owner cannot be contacted in order to 32094
initiate a corrective action within a reasonable period of time as 32095
determined by the chief. 32096

Expenditures from the fund shall be made only for lawful 32097
purposes. In addition, expenditures from the fund shall not be 32098
made to purchase real property or to remove a dwelling in order to 32099
access a well. 32100

(C)(1) Upon determining that the owner of a well has failed 32101
to properly plug and abandon it or to properly restore the land 32102
surface at the well site in compliance with the applicable 32103
requirements of this chapter and applicable rules adopted and 32104
orders issued under it or that a well is an abandoned well for 32105
which no funds are available to plug the well in accordance with 32106
this chapter, the chief shall do all of the following: 32107

(a) Determine from the records in the office of the county 32108
recorder of the county in which the well is located the identity 32109
of the owner of the land on which the well is located, the 32110
identity of the owner of the oil or gas lease under which the well 32111
was drilled or the identity of each person owning an interest in 32112
the lease, and the identities of the persons having legal title 32113
to, or a lien upon, any of the equipment appurtenant to the well; 32114

(b) Mail notice to the owner of the land on which the well is 32115
located informing the landowner that the well is to be plugged. If 32116
the owner of the oil or gas lease under which the well was drilled 32117

is different from the owner of the well or if any persons other 32118
than the owner of the well own interests in the lease, the chief 32119
also shall mail notice that the well is to be plugged to the owner 32120
of the lease or to each person owning an interest in the lease, as 32121
appropriate. 32122

(c) Mail notice to each person having legal title to, or a 32123
lien upon, any equipment appurtenant to the well, informing the 32124
person that the well is to be plugged and offering the person the 32125
opportunity to plug the well and restore the land surface at the 32126
well site at the person's own expense in order to avoid forfeiture 32127
of the equipment to this state. 32128

(2) If none of the persons described in division (C)(1)(c) of 32129
this section plugs the well within sixty days after the mailing of 32130
the notice required by that division, all equipment appurtenant to 32131
the well is hereby declared to be forfeited to this state without 32132
compensation and without the necessity for any action by the state 32133
for use to defray the cost of plugging and abandoning the well and 32134
restoring the land surface at the well site. 32135

(D) Expenditures from the fund for the purpose of division 32136
(B)(1) of this section shall be made in accordance with either of 32137
the following: 32138

(1) The expenditures may be made pursuant to contracts 32139
entered into by the chief with persons who agree to furnish all of 32140
the materials, equipment, work, and labor as specified and 32141
provided in such a contract for activities associated with the 32142
restoration or plugging of a well as determined by the chief. The 32143
activities may include excavation to uncover a well, geophysical 32144
methods to locate a buried well when clear evidence of leakage 32145
from the well exists, cleanout of wellbores to remove material 32146
from a failed plugging of a well, plugging operations, 32147
installation of vault and vent systems, including associated 32148
engineering certifications and permits, restoration of property, 32149

and repair of damage to property that is caused by such 32150
activities. Expenditures shall not be used for salaries, 32151
maintenance, equipment, or other administrative purposes, except 32152
for costs directly attributed to the plugging of an idle and 32153
orphaned well. Agents or employees of persons contracting with the 32154
chief for a restoration or plugging project may enter upon any 32155
land, public or private, on which the well is located for the 32156
purpose of performing the work. Prior to such entry, the chief 32157
shall give to the following persons written notice of the 32158
existence of a contract for a project to restore or plug a well, 32159
the names of the persons with whom the contract is made, and the 32160
date that the project will commence: the owner of the well, the 32161
owner of the land upon which the well is located, the owner or 32162
agents of adjoining land, and, if the well is located in the same 32163
township as or in a township adjacent to the excavations and 32164
workings of a mine and the owner or lessee of that mine has 32165
provided written notice identifying those townships to the chief 32166
at any time during the immediately preceding three years, the 32167
owner or lessee of the mine. 32168

(2)(a) The owner of the land on which a well is located who 32169
has received notice under division (C)(1)(b) of this section may 32170
plug the well and be reimbursed by the division of oil and gas 32171
resources management for the reasonable cost of plugging the well. 32172
In order to plug the well, the landowner shall submit an 32173
application to the chief on a form prescribed by the chief and 32174
approved by the technical advisory council on oil and gas created 32175
in section 1509.38 of the Revised Code. The application, at a 32176
minimum, shall require the landowner to provide the same 32177
information as is required to be included in the application for a 32178
permit to plug and abandon under section 1509.13 of the Revised 32179
Code. The application shall be accompanied by a copy of a proposed 32180
contract to plug the well prepared by a contractor regularly 32181
engaged in the business of plugging oil and gas wells. The 32182

proposed contract shall require the contractor to furnish all of 32183
the materials, equipment, work, and labor necessary to plug the 32184
well properly and shall specify the price for doing the work, 32185
including a credit for the equipment appurtenant to the well that 32186
was forfeited to the state through the operation of division 32187
(C)(2) of this section. Expenditures under division (D)(2)(a) of 32188
this section shall be consistent with the expenditures for 32189
activities described in division (D)(1) of this section. The 32190
application also shall be accompanied by the permit fee required 32191
by section 1509.13 of the Revised Code unless the chief, in the 32192
chief's discretion, waives payment of the permit fee. The 32193
application constitutes an application for a permit to plug and 32194
abandon the well for the purposes of section 1509.13 of the 32195
Revised Code. 32196

(b) Within thirty days after receiving an application and 32197
accompanying proposed contract under division (D)(2)(a) of this 32198
section, the chief shall determine whether the plugging would 32199
comply with the applicable requirements of this chapter and 32200
applicable rules adopted and orders issued under it and whether 32201
the cost of the plugging under the proposed contract is 32202
reasonable. If the chief determines that the proposed plugging 32203
would comply with those requirements and that the proposed cost of 32204
the plugging is reasonable, the chief shall notify the landowner 32205
of that determination and issue to the landowner a permit to plug 32206
and abandon the well under section 1509.13 of the Revised Code. 32207
Upon approval of the application and proposed contract, the chief 32208
shall transfer ownership of the equipment appurtenant to the well 32209
to the landowner. The chief may disapprove an application 32210
submitted under division (D)(2)(a) of this section if the chief 32211
determines that the proposed plugging would not comply with the 32212
applicable requirements of this chapter and applicable rules 32213
adopted and orders issued under it, that the cost of the plugging 32214
under the proposed contract is unreasonable, or that the proposed 32215

contract is not a bona fide, ~~arms~~ arm's length contract. 32216

(c) After receiving the chief's notice of the approval of the 32217
application and permit to plug and abandon a well under division 32218
(D)(2)(b) of this section, the landowner shall enter into the 32219
proposed contract to plug the well. 32220

(d) Upon determining that the plugging has been completed in 32221
compliance with the applicable requirements of this chapter and 32222
applicable rules adopted and orders issued under it, the chief 32223
shall reimburse the landowner for the cost of the plugging as set 32224
forth in the proposed contract approved by the chief. The 32225
reimbursement shall be paid from the oil and gas well fund. If the 32226
chief determines that the plugging was not completed in accordance 32227
with the applicable requirements, the chief shall not reimburse 32228
the landowner for the cost of the plugging, and the landowner or 32229
the contractor, as applicable, promptly shall transfer back to 32230
this state title to and possession of the equipment appurtenant to 32231
the well that previously was transferred to the landowner under 32232
division (D)(2)(b) of this section. If any such equipment was 32233
removed from the well during the plugging and sold, the landowner 32234
shall pay to the chief the proceeds from the sale of the 32235
equipment, and the chief promptly shall pay the moneys so received 32236
to the treasurer of state for deposit into the oil and gas well 32237
fund. 32238

The chief may establish an annual limit on the number of 32239
wells that may be plugged under division (D)(2) of this section or 32240
an annual limit on the expenditures to be made under that 32241
division. 32242

As used in division (D)(2) of this section, "plug" and 32243
"plugging" include the plugging of the well and the restoration of 32244
the land surface disturbed by the plugging. 32245

(E) Expenditures from the oil and gas well fund for the 32246

purpose of division (B)(2) of this section may be made pursuant to 32247
contracts entered into by the chief with persons who agree to 32248
furnish all of the materials, equipment, work, and labor as 32249
specified and provided in such a contract. The competitive bidding 32250
requirements of Chapter 153. of the Revised Code do not apply if 32251
the chief reasonably determines that correction of the applicable 32252
health or safety risk requires immediate action. The chief, 32253
designated representatives of the chief, and agents or employees 32254
of persons contracting with the chief under this division may 32255
enter upon any land, public or private, for the purpose of 32256
performing the work. 32257

(F) Contracts entered into by the chief under this section 32258
are not subject to either of the following: 32259

(1) Chapter 4115. of the Revised Code; 32260

(2) Section 153.54 of the Revised Code, except that the 32261
contractor shall obtain and provide to the chief as a bid guaranty 32262
a surety bond or letter of credit in an amount equal to ten per 32263
cent of the amount of the contract. 32264

(G) The owner of land on which a well is located who has 32265
received notice under division (C)(1)(b) of this section, in lieu 32266
of plugging the well in accordance with division (D)(2) of this 32267
section, may cause ownership of the well to be transferred to an 32268
owner who is lawfully doing business in this state and who has met 32269
the financial responsibility requirements established under 32270
section 1509.07 of the Revised Code, subject to the approval of 32271
the chief. The transfer of ownership also shall be subject to the 32272
landowner's filing the appropriate forms required under section 32273
1509.31 of the Revised Code and providing to the chief sufficient 32274
information to demonstrate the landowner's or owner's right to 32275
produce a formation or formations. That information may include a 32276
deed, a lease, or other documentation of ownership or property 32277
rights. 32278

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

Sec. 1509.072. No oil or gas well owner or agent of an oil or gas well owner shall fail to restore the land surface within the area disturbed in siting, drilling, completing, and producing the well as required in this section.

(A) Within fourteen days after the date upon which the drilling of a well is completed to total depth in an urbanized area and within two months after the date upon which the drilling of a well is completed in all other areas, the owner or the owner's agent, in accordance with the restoration plan filed under division (A)(10) of section 1509.06 of the Revised Code, shall

fill all the pits for containing brine and other waste substances 32309
resulting, obtained, or produced in connection with exploration or 32310
drilling for oil or gas that are not required by other state or 32311
federal law or regulation, and remove all drilling supplies and 32312
drilling equipment. Unless the chief of the division of ~~mineral~~ 32313
oil and gas resources management approves a longer time period, 32314
within three months after the date upon which the surface drilling 32315
of a well is commenced in an urbanized area and within six months 32316
after the date upon which the surface drilling of a well is 32317
commenced in all other areas, the owner or the owner's agent shall 32318
grade or terrace and plant, seed, or sod the area disturbed that 32319
is not required in production of the well where necessary to bind 32320
the soil and prevent substantial erosion and sedimentation. If the 32321
chief finds that a pit used for containing brine, other waste 32322
substances, or oil is in violation of section 1509.22 of the 32323
Revised Code or rules adopted or orders issued under it, the chief 32324
may require the pit to be emptied and closed before expiration of 32325
the fourteen-day or three-month restoration period. 32326

(B) Within three months after a well that has produced oil or 32327
gas is plugged in an urbanized area and within six months after a 32328
well that has produced oil or gas is plugged in all other areas, 32329
or after the plugging of a dry hole, unless the chief approves a 32330
longer time period, the owner or the owner's agent shall remove 32331
all production and storage structures, supplies, and equipment, 32332
and any oil, salt water, and debris, and fill any remaining 32333
excavations. Within that period the owner or the owner's agent 32334
shall grade or terrace and plant, seed, or sod the area disturbed 32335
where necessary to bind the soil and prevent substantial erosion 32336
and sedimentation. 32337

The owner shall be released from responsibility to perform 32338
any or all restoration requirements of this section on any part or 32339
all of the area disturbed upon the filing of a request for a 32340

waiver with and obtaining the written approval of the chief, which 32341
request shall be signed by the surface owner to certify the 32342
approval of the surface owner of the release sought. The chief 32343
shall approve the request unless the chief finds upon inspection 32344
that the waiver would be likely to result in substantial damage to 32345
adjoining property, substantial contamination of surface or 32346
underground water, or substantial erosion or sedimentation. 32347

The chief, by order, may shorten the time periods provided 32348
for under division (A) or (B) of this section if failure to 32349
shorten the periods would be likely to result in damage to public 32350
health or the waters or natural resources of the state. 32351

The chief, upon written application by an owner or an owner's 32352
agent showing reasonable cause, may extend the period within which 32353
restoration shall be completed under divisions (A) and (B) of this 32354
section, but not to exceed a further six-month period, except 32355
under extraordinarily adverse weather conditions or when essential 32356
equipment, fuel, or labor is unavailable to the owner or the 32357
owner's agent. 32358

If the chief refuses to approve a request for waiver or 32359
extension, the chief shall do so by order. 32360

Sec. 1509.073. A person that is issued a permit under this 32361
chapter to drill a new well or drill an existing well deeper in an 32362
urbanized area shall establish fluid drilling conditions prior to 32363
penetration of the Onondaga limestone and continue to use fluid 32364
drilling until total depth of the well is achieved unless the 32365
chief of the division of ~~mineral~~ oil and gas resources management 32366
authorizes such drilling without using fluid. 32367

Sec. 1509.08. Upon receipt of an application for a permit 32368
required by section 1509.05 of the Revised Code, or upon receipt 32369
of an application for a permit to plug and abandon under section 32370

1509.13 of the Revised Code, the chief of the division of ~~mineral~~ 32371
oil and gas resources management shall determine whether the well 32372
is or is to be located in a coal bearing township. 32373

Whether or not the well is or is to be located in a coal 32374
bearing township, the chief, by order, may refuse to issue a 32375
permit required by section 1509.05 of the Revised Code to any 32376
applicant who at the time of applying for the permit is in 32377
material or substantial violation of this chapter or rules adopted 32378
or orders issued under it. The chief shall refuse to issue a 32379
permit to any applicant who at the time of applying for the permit 32380
has been found liable by a final nonappealable order of a court of 32381
competent jurisdiction for damage to streets, roads, highways, 32382
bridges, culverts, or drainways pursuant to section 4513.34 or 32383
5577.12 of the Revised Code until the applicant provides the chief 32384
with evidence of compliance with the order. No applicant shall 32385
attempt to circumvent this provision by applying for a permit 32386
under a different name or business organization name, by 32387
transferring responsibility to another person or entity, by 32388
abandoning the well or lease, or by any other similar act. 32389

If the well is not or is not to be located in a coal bearing 32390
township, or if it is to be located in a coal bearing township, 32391
but the landowner submits an affidavit attesting to ownership of 32392
the property in fee simple, including the coal, and has no 32393
objection to the well, the chief shall issue the permit. 32394

If the application to drill, reopen, or convert concerns a 32395
well that is or is to be located in a coal bearing township, the 32396
chief shall transmit to the chief of the division of mineral 32397
resources management two copies of the application and three 32398
copies of the map required in section 1509.06 of the Revised Code, 32399
except that, when the affidavit with the waiver of objection 32400
described above is submitted, the chief of the division of oil and 32401
gas resources management shall not transmit the copies. 32402

The chief of the division of mineral resources management 32403
immediately shall notify the owner or lessee of any affected mine 32404
that the application has been filed and send to the owner or 32405
lessee two copies of the map accompanying the application setting 32406
forth the location of the well. 32407

If the owner or lessee objects to the location of the well or 32408
objects to any location within fifty feet of the original location 32409
as a possible site for relocation of the well, the owner or lessee 32410
shall notify the chief of the division of mineral resources 32411
management of the objection, giving the reasons for the objection 32412
and, if applicable, indicating on a copy of the map the particular 32413
location or locations within fifty feet of the original location 32414
to which the owner or lessee objects as a site for possible 32415
relocation of the well, within six days after the receipt of the 32416
notice. If the chief receives no objections from the owner or 32417
lessee of the mine within ten days after the receipt of the notice 32418
by the owner or lessee, or if in the opinion of the chief the 32419
objections offered by the owner or lessee are not sufficiently 32420
well founded, the chief immediately shall notify the owner or 32421
lessee of those findings. The owner or lessee may appeal the 32422
decision of the chief to the reclamation commission under section 32423
1513.13 of the Revised Code. The appeal shall be filed within 32424
fifteen days, notwithstanding provisions in divisions (A)(1) of 32425
section 1513.13 of the Revised Code, to the contrary, from the 32426
date on which the owner or lessee receives the notice. If the 32427
appeal is not filed within that time, the chief immediately shall 32428
approve the application and, retain a copy of the application and 32429
map, and return a copy of the application to the chief of the 32430
division of oil and gas resources management with the approval 32431
noted on it. The chief of the division of oil and gas resources 32432
management then shall issue the permit if the provisions of this 32433
chapter pertaining to the issuance of such a permit have been 32434
complied with. 32435

If the chief of the division of mineral resources management 32436
receives an objection from the owner or lessee of the mine as to 32437
the location of the well within ten days after receipt of the 32438
notice by the owner or lessee, and if in the opinion of the chief 32439
the objection is well founded, the chief shall disapprove the 32440
application and ~~suggest~~ immediately return it to the chief of the 32441
division of oil and gas resources management together with the 32442
reasons for disapproval and a suggestion for a new location for 32443
the well, provided that the suggested new location shall not be a 32444
location within fifty feet of the original location to which the 32445
owner or lessee has objected as a site for possible relocation of 32446
the well if the chief of the division of mineral resources 32447
management has determined that the objection is well founded. The 32448
chief of the division of oil and gas resources management 32449
immediately shall notify the applicant for the permit of the 32450
disapproval and any suggestion made by the chief of the division 32451
of mineral resources management as to a new location for the well. 32452
The applicant may withdraw the application or amend the 32453
application to drill the well at the location suggested by the 32454
chief, or the applicant may appeal the disapproval of the 32455
application by the chief to the reclamation commission. 32456

If the chief of the division of mineral resources management 32457
receives no objection from the owner or lessee of a mine as to the 32458
location of the well, but does receive an objection from the owner 32459
or lessee as to one or more locations within fifty feet of the 32460
original location as possible sites for relocation of the well 32461
within ten days after receipt of the notice by the owner or 32462
lessee, and if in the opinion of the chief the objection is well 32463
founded, the chief nevertheless shall approve the application and 32464
shall return it immediately to the chief of the division of oil 32465
and gas resources management together with the reasons for 32466
disapproving any of the locations to which the owner or lessee 32467
objects as possible sites for the relocation of the well. The 32468

chief of the division of oil and gas resources management then 32469
shall issue a permit if the provisions of this chapter pertaining 32470
to the issuance of such a permit have been complied with, 32471
incorporating as a term or condition of the permit that the 32472
applicant is prohibited from commencing drilling at any location 32473
within fifty feet of the original location that has been 32474
disapproved by the chief of the division of mineral resources 32475
management. The applicant may appeal to the reclamation commission 32476
the terms and conditions of the permit prohibiting the 32477
commencement of drilling at any such location disapproved by the 32478
chief of the division of mineral resources management. 32479

Any such appeal shall be filed within fifteen days, 32480
notwithstanding provisions in division (A)(1) of section 1513.13 32481
of the Revised Code to the contrary, from the date the applicant 32482
receives notice of the disapproval of the application, any other 32483
location within fifty feet of the original location, or terms or 32484
conditions of the permit, or the owner or lessee receives notice 32485
of the chief's decision. No approval or disapproval of an 32486
application shall be delayed by the chief of the division of 32487
mineral resources management for more than fifteen days from the 32488
date of sending the notice of the application to the mine owner or 32489
lessee as required by this section. 32490

All appeals provided for in this section shall be treated as 32491
expedited appeals. The reclamation commission shall hear any such 32492
appeal in accordance with section 1513.13 of the Revised Code and 32493
issue a decision within thirty days of the filing of the notice of 32494
appeal. 32495

The chief of the division of oil and gas resources management 32496
shall not issue a permit to drill a new well or reopen a well that 32497
is or is to be located within three hundred feet of any opening of 32498
any mine used as a means of ingress, egress, or ventilation for 32499
persons employed in the mine, nor within one hundred feet of any 32500

building or inflammable structure connected with the mine and 32501
actually used as a part of the operating equipment of the mine, 32502
unless the chief of the division of mineral resources management 32503
determines that life or property will not be endangered by 32504
drilling and operating the well in that location. 32505

The chief of the division of mineral resources management may 32506
suspend the drilling or reopening of a well in a coal bearing 32507
township after determining that the drilling or reopening 32508
activities present an imminent and substantial threat to public 32509
health or safety or to miners' health or safety and having been 32510
unable to contact the chief of the division of oil and gas 32511
resources management to request an order of suspension under 32512
section 1509.06 of the Revised Code. Before issuing a suspension 32513
order for that purpose, the chief of the division of mineral 32514
resources management shall notify the owner in a manner that in 32515
the chief's judgment would provide reasonable notification that 32516
the chief intends to issue a suspension order. The chief may issue 32517
such an order without prior notification if reasonable attempts to 32518
notify the owner have failed, but in that event notification shall 32519
be given as soon thereafter as practical. Within five calendar 32520
days after the issuance of the order, the chief shall provide the 32521
owner an opportunity to be heard and to present evidence that the 32522
activities do not present an imminent and substantial threat to 32523
public health or safety or to miners' health or safety. If, after 32524
considering the evidence presented by the owner, the chief 32525
determines that the activities do not present such a threat, the 32526
chief shall revoke the suspension order. An owner may appeal a 32527
suspension order issued by the chief of the division of mineral 32528
resources management under this section to the reclamation 32529
commission in accordance with section 1513.13 of the Revised Code 32530
or may appeal the order directly to the court of common pleas of 32531
the county in which the well is located. 32532

Sec. 1509.09. A well may be drilled under a permit only at 32533
the location designated on the map required in section 1509.06 of 32534
the Revised Code. The location of a well may be changed after the 32535
issuance of a permit only with the approval of the chief of the 32536
division of ~~mineral~~ oil and gas resources management and, if the 32537
well is located in a coal bearing township, with the approval of 32538
the chief of the division of mineral resources management using 32539
the procedures required in section 1509.08 of the Revised Code for 32540
a permit to drill a well unless the permit holder requests the 32541
issuance of an emergency drilling permit under this section due to 32542
a lost hole under such circumstances that completion of the well 32543
is not feasible at the original location. If a permit holder 32544
requests a change of location, the permit holder shall return the 32545
original permit and file an amended map indicating the proposed 32546
new location. 32547

Drilling shall not be commenced at a new location until the 32548
original permit bearing a notation of approval by the chief or 32549
chiefs is posted at the well site. However, a permit holder may 32550
commence drilling at a new location without first receiving the 32551
prior approval required by this section, if all of the following 32552
conditions are met: 32553

(A) Within one working day after spudding the new well, the 32554
permit holder files a request for an emergency drilling permit and 32555
submits to the chief of the division of oil and gas resources 32556
management an application for a permit that meets the requirements 32557
of section 1509.06 of the Revised Code, including the permit fee 32558
required by that section, with an amended map showing the new 32559
location~~+~~. 32560

(B) ~~A mineral~~ An oil and gas resources inspector is present 32561
before spudding operations are commenced at the location~~+~~. 32562

(C) The original well is plugged prior to the skidding of the 32563

drilling rig to the new location, and the plugging is witnessed or 32564
verified by ~~a mineral~~ an oil and gas resources inspector or, if 32565
the well is located in a coal bearing township, both a deputy mine 32566
inspector and ~~a mineral~~ an oil and gas resources inspector unless 32567
the chief or the chief's authorized representative temporarily 32568
waives the requirement, but in any event the original well shall 32569
be plugged before the drilling rig is moved from the location. 32570

(D) The new location is within fifty feet of the original 32571
location unless, upon request of the permit holder, the chief, 32572
with the approval of the chief of the division of mineral 32573
resources management if the well is located in a coal bearing 32574
township, agrees to a new location farther than fifty feet from 32575
the original location. 32576

(E) The new location meets all the distance and spacing 32577
requirements prescribed by rules adopted under sections 1509.23 32578
and 1509.24 of the Revised Code. 32579

(F) If the well is located in a coal bearing township, use of 32580
the new well location has not been disapproved by the chief of the 32581
division of mineral resources management and has not been 32582
prohibited as a term or condition of the permit under section 32583
1509.08 of the Revised Code. 32584

If the chief of the division of oil and gas resources 32585
management approves the change of location, the chief shall issue 32586
an emergency permit within two working days after the filing of 32587
the request for the emergency permit. If the chief disapproves the 32588
change of location, the chief shall, by order, deny the request 32589
and may issue an appropriate enforcement order under section 32590
1509.03 of the Revised Code. 32591

Sec. 1509.10. (A) Any person drilling within the state shall, 32592
within sixty days after the completion of drilling operations to 32593
the proposed total depth or after a determination that a well is a 32594

dry or lost hole, file with the division of ~~mineral~~ oil and gas 32595
resources management all wireline electric logs and an accurate 32596
well completion record on a form that is approved by the chief of 32597
the division of ~~mineral~~ oil and gas resources management that 32598
designates: 32599

(1) The purpose for which the well was drilled; 32600

(2) The character, depth, and thickness of geological units 32601
encountered, including coal seams, mineral beds, associated fluids 32602
such as fresh water, brine, and crude oil, natural gas, and sour 32603
gas, if such seams, beds, fluids, or gases are known; 32604

(3) The dates on which drilling operations were commenced and 32605
completed; 32606

(4) The types of drilling tools used and the name of the 32607
person that drilled the well; 32608

(5) The length in feet of the various sizes of casing and 32609
tubing used in drilling the well, the amount removed after 32610
completion, the type and setting depth of each packer, all other 32611
data relating to cementing in the annular space behind such casing 32612
or tubing, and data indicating completion as a dry, gas, oil, 32613
combination oil and gas, brine injection, or artificial brine well 32614
or a stratigraphic test; 32615

(6) The number of perforations in the casing and the 32616
intervals of the perforations; 32617

(7) The elevation above mean sea level of the point from 32618
which the depth measurements were made, stating also the height of 32619
the point above ground level at the well, the total depth of the 32620
well, and the deepest geological unit that was penetrated in the 32621
drilling of the well; 32622

(8) If applicable, the type, volume, and concentration of 32623
acid, and the date on which acid was used in acidizing the well; 32624

(9) If applicable, the type and volume of fluid used to stimulate the reservoir of the well, the reservoir breakdown pressure, the method used for the containment of fluids recovered from the fracturing of the well, the methods used for the containment of fluids when pulled from the wellbore from swabbing the well, the average pumping rate of the well, and the name of the person that performed the well stimulation. In addition, the owner shall include a copy of the log from the stimulation of the well, a copy of the invoice for each of the procedures and methods described in division (A)(9) of this section that were used on a well, and a copy of the pumping pressure and rate graphs. However, the owner may redact from the copy of each invoice that is required to be included under division (A)(9) of this section the costs of and charges for the procedures and methods described in division (A)(9) of this section that were used on a well.

(10) The name of the company that performed the logging of the well and the types of wireline electric logs performed on the well.

The well completion record shall be submitted in duplicate. The first copy shall be retained as a permanent record in the files of the division, and the second copy shall be transmitted by the chief to the division of geological survey.

(B)(1) Not later than sixty days after the completion of the drilling operations to the proposed total depth, the owner shall file all wireline electric logs with the division of ~~mineral oil~~ and gas resources management and the chief shall transmit such logs electronically, if available, to the division of geological survey. Such logs may be retained by the owner for a period of not more than six months, or such additional time as may be granted by the chief in writing, after the completion of the well substantially to the depth shown in the application required by section 1509.06 of the Revised Code.

(2) If a well is not completed within sixty days after the completion of drilling operations, the owner shall file with the division of oil and gas resources management a supplemental well completion record that includes all of the information required under this section within sixty days after the completion of the well.

(C) Upon request in writing by the chief of the division of geological survey prior to the beginning of drilling of the well, the person drilling the well shall make available a complete set of cuttings accurately identified as to depth.

(D) The form of the well completion record required by this section shall be one that has been approved by the chief of the division of ~~mineral~~ oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If there is a material listed on the invoice that is required by division (A)(9) of this section for which the division of ~~mineral~~ oil and gas resources management does not have a material safety data sheet, the chief shall obtain a copy of the material safety data sheet for the material and post a copy of the material safety data sheet on the division's web site.

Sec. 1509.11. The owner of any well producing or capable of producing oil or gas shall file with the chief of the division of ~~mineral~~ oil and gas resources management, on or before the thirty-first day of March, a statement of production of oil, gas, and brine for the last preceding calendar year in such form as the chief may prescribe. An owner that has more than one hundred wells in this state shall submit electronically the statement of production in a format that is approved by the chief. The chief

shall include on the form, at the minimum, a request for the 32688
submittal of the information that a person who is regulated under 32689
this chapter is required to submit under the "Emergency Planning 32690
and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 32691
U.S.C.A. 11001, and regulations adopted under it, and that the 32692
division does not obtain through other reporting mechanisms. 32693

Sec. 1509.12. (A) No owner of any well shall construct a 32694
well, or permit defective casing in a well to leak fluids or 32695
gases, that causes damage to other permeable strata, underground 32696
sources of drinking water, or the surface of the land or that 32697
threatens the public health and safety or the environment. Upon 32698
the discovery that the casing in a well is defective or that a 32699
well was not adequately constructed, the owner of the well shall 32700
notify the chief of the division of ~~mineral~~ oil and gas resources 32701
management within twenty-four hours of the discovery, and the 32702
owner shall immediately repair the casing, correct the 32703
construction inadequacies, or plug and abandon the well. 32704

(B) When the chief finds that a well should be plugged, the 32705
chief shall notify the owner to that effect by order in writing 32706
and shall specify in the order a reasonable time within which to 32707
comply. No owner shall fail or refuse to plug a well within the 32708
time specified in the order. Each day on which such a well remains 32709
unplugged thereafter constitutes a separate offense. 32710

Where the plugging method prescribed by rules adopted 32711
pursuant to section 1509.15 of the Revised Code cannot be applied 32712
or if applied would be ineffective in carrying out the protection 32713
that the law is meant to give, the chief may designate a different 32714
method of plugging. The abandonment report shall show the manner 32715
in which the well was plugged. 32716

(C) In case of oil or gas wells abandoned prior to September 32717
1, 1978, the board of county commissioners of the county in which 32718

the wells are located may submit to the electors of the county the 32719
question of establishing a special fund, by general levy, by 32720
general bond issue, or out of current funds, which shall be 32721
approved by a majority of the electors voting upon that question 32722
for the purpose of plugging the wells. The fund shall be 32723
administered by the board and the plugging of oil and gas wells 32724
shall be under the supervision of the chief, and the board shall 32725
let contracts for that purpose, provided that the fund shall not 32726
be used for the purpose of plugging oil and gas wells that were 32727
abandoned subsequent to September 1, 1978. 32728

Sec. 1509.13. (A) No person shall plug and abandon a well 32729
without having a permit to do so issued by the chief of the 32730
division of ~~mineral~~ oil and gas resources management. The permit 32731
shall be issued by the chief in accordance with this chapter and 32732
shall be valid for a period of twenty-four months from the date of 32733
issue. 32734

(B) Application by the owner for a permit to plug and abandon 32735
shall be filed as many days in advance as will be necessary for a 32736
~~mineral~~ an oil and gas resources inspector or, if the well is 32737
located in a coal bearing township, both a deputy mine inspector 32738
and a ~~mineral~~ an oil and gas resources inspector to be present at 32739
the plugging. The application shall be filed with the chief upon a 32740
form that the chief prescribes and shall contain the following 32741
information: 32742

(1) The name and address of the owner; 32743

(2) The signature of the owner or the owner's authorized 32744
agent. When an authorized agent signs an application, it shall be 32745
accompanied by a certified copy of the appointment as that agent. 32746

(3) The location of the well identified by section or lot 32747
number, city, village, township, and county; 32748

(4) Designation of well by name and number;	32749
(5) The total depth of the well to be plugged;	32750
(6) The date and amount of last production from the well;	32751
(7) Other data that the chief may require.	32752
(C) If oil or gas has been produced from the well, the	32753
application shall be accompanied by a fee of two hundred fifty	32754
dollars. If a well has been drilled in accordance with law and the	32755
permit is still valid, the permit holder may receive approval to	32756
plug the well from a mineral <u>an oil and gas</u> resources inspector so	32757
that the well can be plugged and abandoned without undue delay.	32758
Unless waived by a mineral <u>an oil and gas</u> resources inspector, the	32759
owner of a well or the owner's authorized representative shall	32760
notify a mineral <u>an oil and gas</u> resources inspector at least	32761
twenty-four hours prior to the commencement of the plugging of a	32762
well. No well shall be plugged and abandoned without a mineral <u>an</u>	32763
<u>oil and gas</u> resources inspector present unless permission has been	32764
granted by the chief. The owner of a well that has produced oil or	32765
gas shall give written notice at the same time to the owner of the	32766
land upon which the well is located and to all lessors that	32767
receive gas from the well pursuant to a lease agreement. If the	32768
well penetrates or passes within one hundred feet of the	32769
excavations and workings of a mine, the owner of the well shall	32770
give written notice to the owner or lessee of that mine, of the	32771
well owner's intention to abandon the well and of the time when	32772
the well owner will be prepared to commence plugging it.	32773
(D) An applicant may file a request with the chief for	32774
expedited review of an application for a permit to plug and	32775
abandon a well. The chief may refuse to accept a request for	32776
expedited review if, in the chief's judgment, acceptance of the	32777
request will prevent the issuance, within twenty-one days of	32778
filing, of permits for which applications filed under section	32779

1509.06 of the Revised Code are pending. In addition to a complete 32780
application for a permit that meets the requirements of this 32781
section and the permit fee prescribed by this section, if 32782
applicable, a request shall be accompanied by a nonrefundable 32783
filing fee of five hundred dollars unless the chief has ordered 32784
the applicant to plug and abandon the well. When a request for 32785
expedited review is filed, the chief shall immediately begin to 32786
process the application and shall issue a permit within seven days 32787
of the filing of the request unless the chief, by order, denies 32788
the application. 32789

(E) This section does not apply to a well plugged or 32790
abandoned in compliance with section 1571.05 of the Revised Code. 32791

Sec. 1509.14. Any person who abandons a well, when written 32792
permission has been granted by the chief of the division of 32793
~~mineral oil and gas~~ resources management to abandon and plug the 32794
well without an inspector being present to supervise the plugging, 32795
shall make a written report of the abandonment to the chief. The 32796
report shall be submitted not later than thirty days after the 32797
date of abandonment and shall include all of the following: 32798

(A) The date of abandonment; 32799

(B) The name of the owner or operator of the well at the time 32800
of abandonment and the post-office address of the owner or 32801
operator; 32802

(C) The location of the well as to township and county and 32803
the name of the owner of the surface upon which the well is 32804
drilled, with the address thereof; 32805

(D) The date of the permit to drill; 32806

(E) The date when drilled; 32807

(F) The depth of the well; 32808

(G) The depth of the top of the formation to which the well 32809

was drilled; 32810

(H) The depth of each seam of coal drilled through, if known; 32811

(I) A detailed report as to how the well was plugged, giving 32812
in particular the manner in which the coal and various formations 32813
were plugged, and the date of the plugging of the well, including 32814
the names of those who witnessed the plugging of the well. 32815

The report shall be signed by the owner or operator, or the 32816
agent of the owner or operator, who abandons and plugs the well 32817
and verified by the oath of the party so signing. For the purposes 32818
of this section, the ~~mineral oil and gas~~ resources inspectors may 32819
take acknowledgments and administer oaths to the parties signing 32820
the report. 32821

Sec. 1509.15. When any well is to be abandoned, it shall 32822
first be plugged in accordance with a method of plugging adopted 32823
by rule by the chief of the division of ~~mineral oil and gas~~ 32824
resources management. The abandonment report shall show the manner 32825
in which the well was plugged. 32826

Sec. 1509.17. (A) A well shall be constructed in a manner 32827
that is approved by the chief of the division of ~~mineral oil and~~ 32828
~~gas~~ resources management as specified in the permit using 32829
materials that comply with industry standards for the type and 32830
depth of the well and the anticipated fluid pressures that are 32831
associated with the well. In addition, a well shall be constructed 32832
using sufficient steel or conductor casing in a manner that 32833
supports unconsolidated sediments, that protects and isolates all 32834
underground sources of drinking water as defined by the Safe 32835
Drinking Water Act, and that provides a base for a blowout 32836
preventer or other well control equipment that is necessary to 32837
control formation pressures and fluids during the drilling of the 32838
well and other operations to complete the well. Using steel 32839

production casing with sufficient cement, an oil and gas reservoir 32840
shall be isolated during well stimulation and during the 32841
productive life of the well. In addition, sour gas zones and gas 32842
bearing zones that have sufficient pressure and volume to 32843
over-pressurize the surface production casing annulus resulting in 32844
annular overpressurization shall be isolated using approved 32845
cementing, casing, and well construction practices. However, 32846
isolating an oil and gas reservoir shall not exclude open-hole 32847
completion. A well shall not be perforated for purposes of well 32848
stimulation in any zone that is located around casing that 32849
protects underground sources of drinking water without written 32850
authorization from the chief in accordance with division (D) of 32851
this section. When the well penetrates the excavations of a mine, 32852
the casing shall remain intact as provided in section 1509.18 of 32853
the Revised Code and be plugged and abandoned in accordance with 32854
section 1509.15 of the Revised Code. 32855

(B) The chief may adopt rules in accordance with Chapter 119. 32856
of the Revised Code that are consistent with division (A) of this 32857
section and that establish standards for constructing a well, for 32858
evaluating the quality of well construction materials, and for 32859
completing remedial cementing. In addition, the standards 32860
established in the rules shall consider local geology and various 32861
drilling conditions and shall require the use of reasonable 32862
methods that are based on sound engineering principles. 32863

(C) An owner or an owner's authorized representative shall 32864
notify ~~a mineral~~ an oil and gas resources inspector each time that 32865
the owner or the authorized representative notifies a person to 32866
perform the cementing of the conductor casing, the surface casing, 32867
or the production casing. In addition, not later than sixty days 32868
after the completion of the cementing of the production casing, an 32869
owner shall submit to the chief a copy of the cement tickets for 32870
each cemented string of casing and a copy of all logs that were 32871

used to evaluate the quality of the cementing. 32872

(D) The chief shall grant an exemption from this section and 32873
rules adopted under it for a well if the chief determines that a 32874
cement bond log confirms zonal isolation and there is a minimum of 32875
five hundred feet between the uppermost perforation of the casing 32876
and the lowest depth of an underground source of drinking water. 32877

Sec. 1509.181. (A) The chief of the division of mineral 32878
resources management may order the immediate suspension of the 32879
drilling or reopening of a well in a coal bearing township after 32880
determining that the drilling or reopening activities present an 32881
imminent and substantial threat to public health or safety or to a 32882
miner's health or safety. 32883

(B) Before issuing an order under division (A) of this 32884
section, the chief shall notify the chief of the division of oil 32885
and gas resources management and the owner in any manner that the 32886
chief of the division of mineral resources management determines 32887
would provide reasonable notification of the chief's intent to 32888
issue a suspension order. However, the chief may order the 32889
immediate suspension of the drilling or reopening of a well in a 32890
coal bearing township without prior notification to the owner if 32891
the chief has made reasonable attempts to notify the owner and the 32892
attempts have failed. If the chief orders the immediate suspension 32893
of such drilling or reopening, the chief shall provide the chief 32894
of the division of oil and gas resources management and the owner 32895
notice of the order as soon as practical. 32896

(C) Not later than five days after the issuance of an order 32897
under division (A) of this section to immediately suspend the 32898
drilling or reopening of a well in a coal bearing township, the 32899
chief of the division of mineral resources management shall 32900
provide the owner an opportunity to be heard and to present 32901
evidence that the drilling or reopening activities will not likely 32902

result in an imminent and substantial threat to public health or 32903
safety or to a miner's health or safety, as applicable. If the 32904
chief, after considering all evidence presented by the owner, 32905
determines that the activities do not present such a threat, the 32906
chief shall revoke the suspension order. 32907

(D) Notwithstanding any other provision of this chapter, an 32908
owner may appeal a suspension order issued under this section to 32909
the reclamation commission in accordance with section 1513.13 of 32910
the Revised Code. 32911

Sec. 1509.19. An owner who elects to stimulate a well shall 32912
stimulate the well in a manner that will not endanger underground 32913
sources of drinking water. Not later than twenty-four hours before 32914
commencing the stimulation of a well, the owner or the owner's 32915
authorized representative shall notify ~~a mineral~~ an oil and gas 32916
resources inspector. If during the stimulation of a well damage to 32917
the production casing or cement occurs and results in the 32918
circulation of fluids from the annulus of the surface production 32919
casing, the owner shall immediately terminate the stimulation of 32920
the well and notify the chief of the division of ~~mineral~~ oil and 32921
gas resources management. If the chief determines that the casing 32922
and the cement may be remediated in a manner that isolates the oil 32923
and gas bearing zones of the well, the chief may authorize the 32924
completion of the stimulation of the well. If the chief determines 32925
that the stimulation of a well resulted in irreparable damage to 32926
the well, the chief shall order that the well be plugged and 32927
abandoned within thirty days of the issuance of the order. 32928

For purposes of determining the integrity of the remediation 32929
of the casing or cement of a well that was damaged during the 32930
stimulation of the well, the chief may require the owner of the 32931
well to submit cement evaluation logs, temperature surveys, 32932
pressure tests, or a combination of such logs, surveys, and tests. 32933

Sec. 1509.21. No person shall, without first having obtained 32934
a permit from the chief of the division of ~~mineral~~ oil and gas 32935
resources management, conduct secondary or additional recovery 32936
operations, including any underground injection of fluids or 32937
carbon dioxide for the secondary or tertiary recovery of oil or 32938
natural gas or for the storage of hydrocarbons that are liquid at 32939
standard temperature or pressure, unless a rule of the chief 32940
expressly authorizes such operations without a permit. The permit 32941
shall be in addition to any permit required by section 1509.05 of 32942
the Revised Code. Secondary or additional recovery operations 32943
shall be conducted in accordance with rules and orders of the 32944
chief and any terms or conditions of the permit authorizing such 32945
operations. In addition, the chief may authorize tests to evaluate 32946
whether fluids or carbon dioxide may be injected in a reservoir 32947
and to determine the maximum allowable injection pressure. The 32948
tests shall be conducted in accordance with methods prescribed in 32949
rules of the chief or conditions of the permit. Rules adopted 32950
under this section shall include provisions regarding applications 32951
for and the issuance of permits; the terms and conditions of 32952
permits; entry to conduct inspections and to examine records to 32953
ascertain compliance with this section and rules, orders, and 32954
terms and conditions of permits adopted or issued thereunder; the 32955
provision and maintenance of information through monitoring, 32956
recordkeeping, and reporting; and other provisions in furtherance 32957
of the goals of this section and the Safe Drinking Water Act. To 32958
implement the goals of the Safe Drinking Water Act, the chief 32959
shall not issue a permit for the underground injection of fluids 32960
for the secondary or tertiary recovery of oil or natural gas or 32961
for the storage of hydrocarbons that are liquid at standard 32962
temperature and pressure, unless the chief concludes that the 32963
applicant has demonstrated that the injection will not result in 32964
the presence of any contaminant in underground water that supplies 32965

or can be reasonably expected to supply any public water system, 32966
such that the presence of any such contaminant may result in the 32967
system's not complying with any national primary drinking water 32968
regulation or may otherwise adversely affect the health of 32969
persons. Rules, orders, and terms or conditions of permits adopted 32970
or issued under this section shall be construed to be no more 32971
stringent than required for compliance with the Safe Drinking 32972
Water Act, unless essential to ensure that underground sources of 32973
drinking water will not be endangered. 32974

Sec. 1509.22. (A) Except when acting in accordance with 32975
section 1509.226 of the Revised Code, no person shall place or 32976
cause to be placed brine, crude oil, natural gas, or other fluids 32977
associated with the exploration or development of oil and gas 32978
resources in surface or ground water or in or on the land in such 32979
quantities or in such manner as actually causes or could 32980
reasonably be anticipated to cause either of the following: 32981

(1) Water used for consumption by humans or domestic animals 32982
to exceed the standards of the Safe Drinking Water Act; 32983

(2) Damage or injury to public health or safety or the 32984
environment. 32985

(B) No person shall store or dispose of brine in violation of 32986
a plan approved under division (A) of section 1509.222 or section 32987
1509.226 of the Revised Code, in violation of a resolution 32988
submitted under section 1509.226 of the Revised Code, or in 32989
violation of rules or orders applicable to those plans or 32990
resolutions. 32991

(C) The chief of the division of ~~mineral~~ oil and gas 32992
resources management shall adopt rules and issue orders regarding 32993
storage and disposal of brine and other waste substances; however, 32994
the storage and disposal of brine and other waste substances and 32995
the chief's rules relating to storage and disposal are subject to 32996

all of the following standards: 32997

(1) Brine from any well except an exempt Mississippian well 32998
shall be disposed of only by injection into an underground 32999
formation, including annular disposal if approved by rule of the 33000
chief, which injection shall be subject to division (D) of this 33001
section; by surface application in accordance with section 33002
1509.226 of the Revised Code; in association with a method of 33003
enhanced recovery as provided in section 1509.21 of the Revised 33004
Code; or by other methods approved by the chief for testing or 33005
implementing a new technology or method of disposal. Brine from 33006
exempt Mississippian wells shall not be discharged directly into 33007
the waters of the state. 33008

(2) Muds, cuttings, and other waste substances shall not be 33009
disposed of in violation of any rule. 33010

(3) Pits or steel tanks shall be used as authorized by the 33011
chief for containing brine and other waste substances resulting 33012
from, obtained from, or produced in connection with drilling, well 33013
stimulation, reworking, reconditioning, plugging back, or plugging 33014
operations. The pits and steel tanks shall be constructed and 33015
maintained to prevent the escape of brine and other waste 33016
substances. 33017

(4) A dike or pit may be used for spill prevention and 33018
control. A dike or pit so used shall be constructed and maintained 33019
to prevent the escape of brine and crude oil, and the reservoir 33020
within such a dike or pit shall be kept reasonably free of brine, 33021
crude oil, and other waste substances. 33022

(5) Earthen impoundments constructed pursuant to the 33023
division's specifications may be used for the temporary storage of 33024
fluids used in the stimulation of a well. 33025

(6) No pit, earthen impoundment, or dike shall be used for 33026
the temporary storage of brine or other substances except in 33027

accordance with divisions (C)(3) to (5) of this section. 33028

(7) No pit or dike shall be used for the ultimate disposal of 33029
brine or other liquid waste substances. 33030

(D) No person, without first having obtained a permit from 33031
the chief, shall inject brine or other waste substances resulting 33032
from, obtained from, or produced in connection with oil or gas 33033
drilling, exploration, or production into an underground formation 33034
unless a rule of the chief expressly authorizes the injection 33035
without a permit. The permit shall be in addition to any permit 33036
required by section 1509.05 of the Revised Code, and the permit 33037
application shall be accompanied by a permit fee of one thousand 33038
dollars. The chief shall adopt rules in accordance with Chapter 33039
119. of the Revised Code regarding the injection into wells of 33040
brine and other waste substances resulting from, obtained from, or 33041
produced in connection with oil or gas drilling, exploration, or 33042
production. The rules may authorize tests to evaluate whether 33043
fluids or carbon dioxide may be injected in a reservoir and to 33044
determine the maximum allowable injection pressure, which shall be 33045
conducted in accordance with methods prescribed in the rules or in 33046
accordance with conditions of the permit. In addition, the rules 33047
shall include provisions regarding applications for and issuance 33048
of the permits required by this division; entry to conduct 33049
inspections and to examine and copy records to ascertain 33050
compliance with this division and rules, orders, and terms and 33051
conditions of permits adopted or issued under it; the provision 33052
and maintenance of information through monitoring, recordkeeping, 33053
and reporting; and other provisions in furtherance of the goals of 33054
this section and the Safe Drinking Water Act. To implement the 33055
goals of the Safe Drinking Water Act, the chief shall not issue a 33056
permit for the injection of brine or other waste substances 33057
resulting from, obtained from, or produced in connection with oil 33058
or gas drilling, exploration, or production unless the chief 33059

concludes that the applicant has demonstrated that the injection 33060
will not result in the presence of any contaminant in ground water 33061
that supplies or can reasonably be expected to supply any public 33062
water system, such that the presence of the contaminant may result 33063
in the system's not complying with any national primary drinking 33064
water regulation or may otherwise adversely affect the health of 33065
persons. This division and rules, orders, and terms and conditions 33066
of permits adopted or issued under it shall be construed to be no 33067
more stringent than required for compliance with the Safe Drinking 33068
Water Act unless essential to ensure that underground sources of 33069
drinking water will not be endangered. 33070

(E) The owner holding a permit, or an assignee or transferee 33071
who has assumed the obligations and liabilities imposed by this 33072
chapter and any rules adopted or orders issued under it pursuant 33073
to section 1509.31 of the Revised Code, and the operator of a well 33074
shall be liable for a violation of this section or any rules 33075
adopted or orders or terms or conditions of a permit issued under 33076
it. 33077

(F) An owner shall replace the water supply of the holder of 33078
an interest in real property who obtains all or part of the 33079
holder's supply of water for domestic, agricultural, industrial, 33080
or other legitimate use from an underground or surface source 33081
where the supply has been substantially disrupted by 33082
contamination, diminution, or interruption proximately resulting 33083
from the owner's oil or gas operation, or the owner may elect to 33084
compensate the holder of the interest in real property for the 33085
difference between the fair market value of the interest before 33086
the damage occurred to the water supply and the fair market value 33087
after the damage occurred if the cost of replacing the water 33088
supply exceeds this difference in fair market values. However, 33089
during the pendency of any order issued under this division, the 33090
owner shall obtain for the holder or shall reimburse the holder 33091

for the reasonable cost of obtaining a water supply from the time 33092
of the contamination, diminution, or interruption by the operation 33093
until the owner has complied with an order of the chief for 33094
compliance with this division or such an order has been revoked or 33095
otherwise becomes not effective. If the owner elects to pay the 33096
difference in fair market values, but the owner and the holder 33097
have not agreed on the difference within thirty days after the 33098
chief issues an order for compliance with this division, within 33099
ten days after the expiration of that thirty-day period, the owner 33100
and the chief each shall appoint an appraiser to determine the 33101
difference in fair market values, except that the holder of the 33102
interest in real property may elect to appoint and compensate the 33103
holder's own appraiser, in which case the chief shall not appoint 33104
an appraiser. The two appraisers appointed shall appoint a third 33105
appraiser, and within thirty days after the appointment of the 33106
third appraiser, the three appraisers shall hold a hearing to 33107
determine the difference in fair market values. Within ten days 33108
after the hearing, the appraisers shall make their determination 33109
by majority vote and issue their final determination of the 33110
difference in fair market values. The chief shall accept a 33111
determination of the difference in fair market values made by 33112
agreement of the owner and holder or by appraisers under this 33113
division and shall make and dissolve orders accordingly. This 33114
division does not affect in any way the right of any person to 33115
enforce or protect, under applicable law, the person's interest in 33116
water resources affected by an oil or gas operation. 33117

(G) In any action brought by the state for a violation of 33118
division (A) of this section involving any well at which annular 33119
disposal is used, there shall be a rebuttable presumption 33120
available to the state that the annular disposal caused the 33121
violation if the well is located within a one-quarter-mile radius 33122
of the site of the violation. 33123

Sec. 1509.221. (A) No person, without first having obtained a 33124
permit from the chief of the division of ~~mineral oil and gas~~ 33125
resources management, shall drill a well or inject a substance 33126
into a well for the exploration for or extraction of minerals or 33127
energy, other than oil or natural gas, including, but not limited 33128
to, the mining of sulfur by the Frasch process, the solution 33129
mining of minerals, the in situ combustion of fossil fuel, or the 33130
recovery of geothermal energy to produce electric power, unless a 33131
rule of the chief expressly authorizes the activity without a 33132
permit. The permit shall be in addition to any permit required by 33133
section 1509.05 of the Revised Code. The chief shall adopt rules 33134
in accordance with Chapter 119. of the Revised Code governing the 33135
issuance of permits under this section. The rules shall include 33136
provisions regarding the matters the applicant for a permit shall 33137
demonstrate to establish eligibility for a permit; the form and 33138
content of applications for permits; the terms and conditions of 33139
permits; entry to conduct inspections and to examine and copy 33140
records to ascertain compliance with this section and rules, 33141
orders, and terms and conditions of permits adopted or issued 33142
thereunder; provision and maintenance of information through 33143
monitoring, recordkeeping, and reporting; and other provisions in 33144
furtherance of the goals of this section and the Safe Drinking 33145
Water Act. To implement the goals of the Safe Drinking Water Act, 33146
the chief shall not issue a permit under this section, unless the 33147
chief concludes that the applicant has demonstrated that the 33148
drilling, injection of a substance, and extraction of minerals or 33149
energy will not result in the presence of any contaminant in 33150
underground water that supplies or can reasonably be expected to 33151
supply any public water system, such that the presence of the 33152
contaminant may result in the system's not complying with any 33153
national primary drinking water regulation or may otherwise 33154
adversely affect the health of persons. The chief may issue, 33155

without a prior adjudication hearing, orders requiring compliance 33156
with this section and rules, orders, and terms and conditions of 33157
permits adopted or issued thereunder. This section and rules, 33158
orders, and terms and conditions of permits adopted or issued 33159
thereunder shall be construed to be no more stringent than 33160
required for compliance with the Safe Drinking Water Act, unless 33161
essential to ensure that underground sources of drinking water 33162
will not be endangered. 33163

(B)(1) There is levied on the owner of an injection well who 33164
has been issued a permit under division (D) of section 1509.22 of 33165
the Revised Code the following fees: 33166

(a) Five cents per barrel of each substance that is delivered 33167
to a well to be injected in the well when the substance is 33168
produced within the division of ~~mineral~~ oil and gas resources 33169
management regulatory district in which the well is located or 33170
within an adjoining ~~mineral~~ oil and gas resources management 33171
regulatory district; 33172

(b) Twenty cents per barrel of each substance that is 33173
delivered to a well to be injected in the well when the substance 33174
is not produced within the division of ~~mineral~~ oil and gas 33175
resources management regulatory district in which the well is 33176
located or within an adjoining ~~mineral~~ oil and gas resources 33177
management regulatory district. 33178

(2) The maximum number of barrels of substance per injection 33179
well in a calendar year on which a fee may be levied under 33180
division (B) of this section is five hundred thousand. If in a 33181
calendar year the owner of an injection well receives more than 33182
five hundred thousand barrels of substance to be injected in the 33183
owner's well and if the owner receives at least one substance that 33184
is produced within the division's regulatory district in which the 33185
well is located or within an adjoining regulatory district and at 33186
least one substance that is not produced within the division's 33187

regulatory district in which the well is located or within an 33188
adjoining regulatory district, the fee shall be calculated first 33189
on all of the barrels of substance that are not produced within 33190
the division's regulatory district in which the well is located or 33191
within an adjoining district at the rate established in division 33192
(B)(2) of this section. The fee then shall be calculated on the 33193
barrels of substance that are produced within the division's 33194
regulatory district in which the well is located or within an 33195
adjoining district at the rate established in division (B)(1) of 33196
this section until the maximum number of barrels established in 33197
division (B)(2) of this section has been attained. 33198

(3) The owner of an injection well who is issued a permit 33199
under division (D) of section 1509.22 of the Revised Code shall 33200
collect the fee levied by division (B) of this section on behalf 33201
of the division of ~~mineral oil and gas~~ resources management and 33202
forward the fee to the division. The chief shall transmit all 33203
money received under division (B) of this section to the treasurer 33204
of state who shall deposit the money in the state treasury to the 33205
credit of the oil and gas well fund created in section 1509.02 of 33206
the Revised Code. The owner of an injection well who collects the 33207
fee levied by this division may retain up to three per cent of the 33208
amount that is collected. 33209

(4) The chief shall adopt rules in accordance with Chapter 33210
119. of the Revised Code establishing requirements and procedures 33211
for collection of the fee levied by division (B) of this section. 33212

(C) In an action under section 1509.04 or 1509.33 of the 33213
Revised Code to enforce this section, the court shall grant 33214
preliminary and permanent injunctive relief and impose a civil 33215
penalty upon the showing that the person against whom the action 33216
is brought has violated, is violating, or will violate this 33217
section or rules, orders, or terms or conditions of permits 33218
adopted or issued thereunder. The court shall not require, prior 33219

to granting such preliminary and permanent injunctive relief or 33220
imposing a civil penalty, proof that the violation was, is, or 33221
will be the result of intentional conduct or negligence. In any 33222
such action, any person may intervene as a plaintiff upon the 33223
demonstration that the person has an interest that is or may be 33224
adversely affected by the activity for which injunctive relief or 33225
a civil penalty is sought. 33226

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 33227
of the Revised Code, no person shall transport brine by vehicle in 33228
this state unless the business entity that employs the person 33229
first registers with and obtains a registration certificate and 33230
identification number from the chief of the division of ~~mineral~~ 33231
oil and gas resources management. 33232

(2) No more than one registration certificate shall be 33233
required of any business entity. Registration certificates issued 33234
under this section are not transferable. An applicant shall file 33235
an application with the chief, containing such information in such 33236
form as the chief prescribes, but including a plan for disposal 33237
that provides for compliance with the requirements of this chapter 33238
and rules of the chief pertaining to the transportation of brine 33239
by vehicle and the disposal of brine so transported and that lists 33240
all disposal sites that the applicant intends to use, the bond 33241
required by section 1509.225 of the Revised Code, and a 33242
certificate issued by an insurance company authorized to do 33243
business in this state certifying that the applicant has in force 33244
a liability insurance policy in an amount not less than three 33245
hundred thousand dollars bodily injury coverage and three hundred 33246
thousand dollars property damage coverage to pay damages for 33247
injury to persons or property caused by the collecting, handling, 33248
transportation, or disposal of brine. The policy shall be 33249
maintained in effect during the term of the registration 33250
certificate. The policy or policies providing the coverage shall 33251

require the insurance company to give notice to the chief if the 33252
policy or policies lapse for any reason. Upon such termination of 33253
the policy, the chief may suspend the registration certificate 33254
until proper insurance coverage is obtained. Each application for 33255
a registration certificate shall be accompanied by a nonrefundable 33256
fee of five hundred dollars. 33257

(3) If a business entity that has been issued a registration 33258
certificate under this section changes its name due to a business 33259
reorganization or merger, the business entity shall revise the 33260
bond or certificates of deposit required by section 1509.225 of 33261
the Revised Code and obtain a new certificate from an insurance 33262
company in accordance with division (A)(2) of this section to 33263
reflect the change in the name of the business entity. 33264

(B) The chief shall issue an order denying an application for 33265
a registration certificate if the chief finds that either of the 33266
following applies: 33267

(1) The applicant, at the time of applying for the 33268
registration certificate, has been found liable by a final 33269
nonappealable order of a court of competent jurisdiction for 33270
damage to streets, roads, highways, bridges, culverts, or 33271
drainways pursuant to section 4513.34 or 5577.12 of the Revised 33272
Code until the applicant provides the chief with evidence of 33273
compliance with the order. 33274

(2) The applicant's plan for disposal does not provide for 33275
compliance with the requirements of this chapter and rules of the 33276
chief pertaining to the transportation of brine by vehicle and the 33277
disposal of brine so transported. 33278

(C) No applicant shall attempt to circumvent division (B) of 33279
this section by applying for a registration certificate under a 33280
different name or business organization name, by transferring 33281
responsibility to another person or entity, or by any similar act. 33282

(D) A registered transporter shall apply to revise a disposal plan under procedures that the chief shall prescribe by rule. However, at a minimum, an application for a revision shall list all sources and disposal sites of brine currently transported. The chief shall deny any application for a revision of a plan under this division if the chief finds that the proposed revised plan does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported. Approvals and denials of revisions shall be by order of the chief.

(E) The chief may adopt rules, issue orders, and attach terms and conditions to registration certificates as may be necessary to administer, implement, and enforce sections 1509.222 to 1509.226 of the Revised Code for protection of public health or safety or conservation of natural resources.

Sec. 1509.223. (A) No permit holder or owner of a well shall enter into an agreement with or permit any person to transport brine produced from the well who is not registered pursuant to section 1509.222 of the Revised Code or exempt from registration under section 1509.226 of the Revised Code.

(B) Each registered transporter shall file with the chief of the division of ~~mineral~~ oil and gas resources management, on or before the fifteenth day of April, a statement concerning brine transported, including quantities transported and source and delivery points, during the last preceding calendar year, and such other information in such form as the chief may prescribe.

(C) Each registered transporter shall keep on each vehicle used to transport brine a daily log and have it available upon the request of the chief or an authorized representative of the chief or a peace officer. The log shall, at a minimum, include all of the following information:

(1) The name of the owner or owners of the well or wells producing the brine to be transported; 33314
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(2) The date and time the brine is loaded; 33316

(3) The name of the driver; 33317

(4) The amount of brine loaded at each collection point; 33318

(5) The disposal location; 33319

(6) The date and time the brine is disposed of and the amount of brine disposed of at each location. 33320
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No registered transporter shall falsify or fail to keep or submit the log required by this division. 33322
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(D) Each registered transporter shall legibly identify with reflective paints all vehicles employed in transporting or disposing of brine. Letters shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter. 33324
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(E) The chief shall maintain and keep a current list of persons registered to transport brine under section 1509.222 of the Revised Code. The list shall be open to public inspection. It is an affirmative defense to a charge under division (A) of this section that at the time the permit holder or owner of a well entered into an agreement with or permitted a person to transport brine, the person was shown on the list as currently registered to transport brine. 33330
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Sec. 1509.224. (A) In addition to any other remedies provided in this chapter, if the chief of the division of ~~mineral oil and gas~~ resources management has reason to believe that a pattern of the same or similar violations of any requirements of ~~sections~~ section 1509.22, 1509.222, or 1509.223 of the Revised Code, or any rule adopted thereunder or term or condition of the registration 33338
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certificate issued thereunder exists or has existed, and the 33344
violations are caused by the transporter's indifference, lack of 33345
diligence, or lack of reasonable care, or are willfully caused by 33346
the transporter, the chief shall immediately issue an order to the 33347
transporter to show cause why the certificate should not be 33348
suspended or revoked. After the issuance of the order, the chief 33349
shall provide the transporter an opportunity to be heard and to 33350
present evidence at an informal hearing conducted by the chief. 33351
If, at the conclusion of the hearing, the chief finds that such a 33352
pattern of violations exists or has existed, the chief shall issue 33353
an order suspending or revoking the transporter's registration 33354
certificate. An order suspending or revoking a certificate under 33355
this section may be appealed under sections 1509.36 and 1509.37 of 33356
the Revised Code, or notwithstanding any other provision of this 33357
chapter, may be appealed directly to the court of common pleas of 33358
Franklin county. 33359

(B) Before issuing an order denying a registration 33360
certificate; approving or denying approval of an application for 33361
revision of a registered transporter's plan for disposal; or to 33362
implement, administer, or enforce section 1509.22, 1509.222, 33363
1509.223, 1509.225, or 1509.226 of the Revised Code and rules and 33364
terms and conditions of registration certificates adopted or 33365
issued thereunder pertaining to the transportation of brine by 33366
vehicle and the disposal of brine so transported, the chief shall 33367
issue a preliminary order indicating the chief's intent to issue a 33368
final order. The preliminary order shall clearly state the nature 33369
of the chief's proposed action and the findings on which it is 33370
based and shall state that the preliminary order becomes a final 33371
order thirty days after its issuance unless the person to whom the 33372
preliminary order is directed submits to the chief a written 33373
request for an informal hearing before the chief within that 33374
thirty-day period. At the hearing the person may present evidence 33375
as to why the preliminary order should be revoked or modified. 33376

Based upon the findings from the informal hearing, the chief shall 33377
revoke, issue, or modify and issue the preliminary order as a 33378
final order. A final order may be appealed under sections 1509.36 33379
and 1509.37 of the Revised Code. 33380

Sec. 1509.225. (A) Before being issued a registration 33381
certificate under section 1509.222 of the Revised Code, an 33382
applicant shall execute and file with the division of ~~mineral oil~~ 33383
and gas resources management a surety bond for fifteen thousand 33384
dollars to provide compensation for damage and injury resulting 33385
from transporters' violations of sections 1509.22, 1509.222, and 33386
1509.223 of the Revised Code, all rules and orders of the chief of 33387
the division of ~~mineral resource~~ oil and gas resources management 33388
relating thereto, and all terms and conditions of the registration 33389
certificate imposed thereunder. The applicant may deposit with the 33390
chief, in lieu of a surety bond, cash in an amount equal to the 33391
surety bond as prescribed in this section, or negotiable 33392
certificates of deposit issued by any bank organized or 33393
transacting business in this state, or certificates of deposit 33394
issued by any building and loan association as defined in section 33395
1151.01 of the Revised Code, having a cash value equal to or 33396
greater than the amount of the surety bond as prescribed in this 33397
section. Cash or certificates of deposit shall be deposited upon 33398
the same terms as those upon which surety bonds may be deposited. 33399
If certificates of deposit are deposited with the chief in lieu of 33400
a surety bond, the chief shall require the bank or building and 33401
loan association that issued any such certificate to pledge 33402
securities of a cash value equal to the amount of the certificate 33403
that is in excess of the amount insured by any of the agencies and 33404
instrumentalities created under the "Federal Deposit Insurance 33405
Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and 33406
regulations adopted under it, including at least the federal 33407
deposit insurance corporation, bank insurance fund, and savings 33408

association insurance fund. 33409

Such securities shall be security for the repayment of the 33410
certificate of deposit. Immediately upon a deposit of cash or 33411
certificates with the chief, the chief shall deliver it to the 33412
treasurer of state who shall hold it in trust for the purposes for 33413
which it has been deposited. 33414

(B) The surety bond provided for in this section shall be 33415
executed by a surety company authorized to do business in this 33416
state. The chief shall not approve any bond until it is personally 33417
signed and acknowledged by both principal and surety, or as to 33418
either by an attorney in fact, with a certified copy of the power 33419
of attorney attached thereto. The chief shall not approve the bond 33420
unless there is attached a certificate of the superintendent of 33421
insurance that the company is authorized to transact a fidelity 33422
and surety business in this state. All bonds shall be given in a 33423
form to be prescribed by the chief. 33424

(C) If a registered transporter is found liable for a 33425
violation of section 1509.22, 1509.222, or 1509.223 of the Revised 33426
Code or a rule, order, or term or condition of a certificate 33427
involving, in any case, damage or injury to persons or property, 33428
or both, the court may order the forfeiture of any portion of the 33429
bond, cash, or other securities required by this section in full 33430
or partial payment of damages to the person to whom the damages 33431
are due. The treasurer of state and the chief shall deliver the 33432
bond or any cash or other securities deposited in lieu of bond, as 33433
specified in the court's order, to the person to whom the damages 33434
are due; however, execution against the bond, cash, or other 33435
securities, if necessary, is the responsibility of the person to 33436
whom the damages are due. The chief shall not release the bond, 33437
cash, or securities required by this section except by court order 33438
or until the registration is terminated. 33439

Sec. 1509.226. (A) If a board of county commissioners, a 33440
board of township trustees, or the legislative authority of a 33441
municipal corporation wishes to permit the surface application of 33442
brine to roads, streets, highways, and other similar land surfaces 33443
it owns or has the right to control for control of dust or ice, it 33444
may adopt a resolution permitting such application as provided in 33445
this section. If a board or legislative authority does not adopt 33446
such a resolution, then no such surface application of brine is 33447
permitted on such roads, streets, highways, and other similar 33448
surfaces. If a board or legislative authority votes on a proposed 33449
resolution to permit such surface application of brine, but the 33450
resolution fails to receive the affirmative vote of a majority of 33451
the board or legislative authority, the board or legislative 33452
authority shall not adopt such a resolution for one year following 33453
the date on which the vote was taken. A board or legislative 33454
authority shall hold at least one public hearing on any proposal 33455
to permit surface application of brine under this division and may 33456
hold additional hearings. The board or legislative authority shall 33457
publish notice of the time and place of each such public hearing 33458
in a newspaper of general circulation in the political subdivision 33459
at least five days before the day on which the hearing is to be 33460
held. 33461

(B) If a board or legislative authority adopts a resolution 33462
permitting the surface application of brine to roads, streets, 33463
highways, and other similar land surfaces under division (A) of 33464
this section, the board or legislative authority shall, within 33465
thirty days after the adoption of the resolution, prepare and 33466
submit to the chief of the division of ~~mineral~~ oil and gas 33467
resources management a copy of the resolution. Any department, 33468
agency, or instrumentality of this state or the United States that 33469
wishes to permit the surface application of brine to roads, 33470
streets, highways, and other similar land surfaces it owns or has 33471

a right to control shall prepare and submit guidelines for such application, but need not adopt a resolution under division (A) of this section permitting such surface application.

All resolutions and guidelines shall be subject to the following standards:

(1) Brine shall not be applied:

(a) To a water-saturated surface;

(b) Directly to vegetation near or adjacent to surfaces being treated;

(c) Within twelve feet of structures crossing bodies of water or crossing drainage ditches;

(d) Between sundown and sunrise, except for ice control.

(2) The discharge of brine through the spreader bar shall stop when the application stops.

(3) The applicator vehicle shall be moving at least five miles per hour at all times while the brine is being applied.

(4) The maximum spreader bar nozzle opening shall be three-quarters of an inch in diameter.

(5) The maximum uniform application rate of brine shall be three thousand gallons per mile on a twelve-foot-wide road or three gallons per sixty square feet on unpaved lots.

(6) The applicator vehicle discharge valve shall be closed between the brine collection point and the specific surfaces that have been approved for brine application.

(7) Any valves that provide for tank draining other than through the spreader bar shall be closed during the brine application and transport.

(8) The angle of discharge from the applicator vehicle spreader bar shall not be greater than sixty degrees from the

perpendicular to the unpaved surface. 33501

(9) Only the last twenty-five per cent of an applicator 33502
vehicle's contents shall be allowed to have a pressure greater 33503
than atmospheric pressure; therefore, the first seventy-five per 33504
cent of the applicator vehicle's contents shall be discharged 33505
under atmospheric pressure. 33506

(10) Only brine that is produced from a well shall be allowed 33507
to be spread on a road. Fluids from the drilling of a well, 33508
flowback from the stimulation of a well, and other fluids used to 33509
treat a well shall not be spread on a road. 33510

If a resolution or guidelines contain only the standards 33511
listed in ~~division~~ divisions (B)(1) to (10) of this section, 33512
without addition or qualification, the resolution or guidelines 33513
shall be deemed effective when submitted to the chief without 33514
further action by the chief. All other resolutions and guidelines 33515
shall comply with and be no less stringent than this chapter, 33516
rules concerning surface application that the chief shall adopt 33517
under division (C) of section 1509.22 of the Revised Code, and 33518
other rules of the chief. Within fifteen days after receiving such 33519
other resolutions and guidelines, the chief shall review them for 33520
compliance with the law and rules and disapprove them if they do 33521
not comply. 33522

The board, legislative authority, or department, agency, or 33523
instrumentality may revise and resubmit any resolutions or 33524
guidelines that the chief disapproves after each disapproval, and 33525
the chief shall again review and approve or disapprove them within 33526
fifteen days after receiving them. The board, legislative 33527
authority, or department, agency, or instrumentality may amend any 33528
resolutions or guidelines previously approved by the chief and 33529
submit them, as amended, to the chief. The chief shall receive, 33530
review, and approve or disapprove the amended resolutions or 33531
guidelines on the same basis and in the same time as original 33532

resolutions or guidelines. The board, legislative authority, or 33533
department, agency, or instrumentality shall not implement amended 33534
resolutions or guidelines until they are approved by the chief 33535
under this division. 33536

(C) Any person, other than a political subdivision required 33537
to adopt a resolution under division (A) of this section or a 33538
department, agency, or instrumentality of this state or the United 33539
States, who owns or has a legal right or obligation to maintain a 33540
road, street, highway, or other similar land surface may file with 33541
the board of county commissioners a written plan for the 33542
application of brine to the road, street, highway, or other 33543
surface. The board need not approve any such plans, but if it 33544
approves a plan, the plan shall comply with this chapter, rules 33545
adopted thereunder, and the board's resolutions, if any. 33546
Disapproved plans may be revised and resubmitted for the board's 33547
approval. Approved plans may also be revised and submitted to the 33548
board. A plan or revised plan shall do all of the following: 33549

(1) Identify the sources of brine to be used under the plan; 33550

(2) Identify by name, address, and registration certificate, 33551
if applicable, any transporters of the brine; 33552

(3) Specifically identify the places to which the brine will 33553
be applied; 33554

(4) Specifically describe the method, rate, and frequency of 33555
application. 33556

(D) The board may attach terms and conditions to approval of 33557
a plan, or revised plan, and may revoke approval for any violation 33558
of this chapter, rules adopted thereunder, resolutions adopted by 33559
the board, or terms or conditions attached by the board. The board 33560
shall conduct at least one public hearing before approving a plan 33561
or revised plan, publishing notice of the time and place of each 33562
such public hearing in a newspaper of general circulation in the 33563

county at least five days before the day on which the hearing is 33564
to be held. The board shall record the filings of all plans and 33565
revised plans in its journal. The board shall approve, disapprove, 33566
or revoke approval of a plan or revised plan by the adoption of a 33567
resolution. Upon approval of a plan or revised plan, the board 33568
shall send a copy of the plan to the chief. Upon revoking approval 33569
of a plan or revised plan, the board shall notify the chief of the 33570
revocation. 33571

(E) No person shall: 33572

(1) Apply brine to a water-saturated surface; 33573

(2) Apply brine directly to vegetation adjacent to the 33574
surface of roads, streets, highways, and other surfaces to which 33575
brine may be applied. 33576

(F) Each political subdivision that adopts a resolution under 33577
divisions (A) and (B) of this section, each department, agency, or 33578
instrumentality of this state or the United States that submits 33579
guidelines under division (B) of this section, and each person who 33580
files a plan under divisions (C) and (D) of this section shall, on 33581
or before the fifteenth day of April of each year, file a report 33582
with the chief concerning brine applied within the person's or 33583
governmental entity's jurisdiction, including the quantities 33584
transported and the sources and application points during the last 33585
preceding calendar year and such other information in such form as 33586
the chief requires. 33587

(G) Any political subdivision or department, agency, or 33588
instrumentality of this state or the United States that applies 33589
brine under this section may do so with its own personnel, 33590
vehicles, and equipment without registration under or compliance 33591
with section 1509.222 or 1509.223 of the Revised Code and without 33592
the necessity for filing the surety bond or other security 33593
required by section 1509.225 of the Revised Code. However, each 33594

such entity shall legibly identify vehicles used to apply brine 33595
with reflective paint in letters no less than four inches in 33596
height, indicating the word "brine" and that the vehicle is a 33597
vehicle of the political subdivision, department, agency, or 33598
instrumentality. Except as stated in this division, such entities 33599
shall transport brine in accordance with sections 1509.22 to 33600
1509.226 of the Revised Code. 33601

(H) A surface application plan filed for approval under 33602
division (C) of this section shall be accompanied by a 33603
nonrefundable fee of fifty dollars, which shall be credited to the 33604
general fund of the county. An approved plan is valid for one year 33605
from the date of its approval unless it is revoked before that 33606
time. An approved revised plan is valid for the remainder of the 33607
term of the plan it supersedes unless it is revoked before that 33608
time. Any person who has filed such a plan or revised plan and had 33609
it approved may renew it by refiling it in accordance with 33610
divisions (C) and (D) of this section within thirty days before 33611
any anniversary of the date on which the original plan was 33612
approved. The board shall notify the chief of renewals and 33613
nonrenewals of plans. Even if a renewed plan is approved under 33614
those divisions, the plan is not effective until notice is 33615
received by the chief, and until notice is received, the chief 33616
shall enforce this chapter and rules adopted thereunder with 33617
regard to the affected roads, streets, highways, and other similar 33618
land surfaces as if the plan had not been renewed. 33619

(I) A resolution adopted under division (A) of this section 33620
by a board or legislative authority shall be effective for one 33621
year following the date of its adoption and from month to month 33622
thereafter until the board or legislative authority, by 33623
resolution, terminates the authority granted in the original 33624
resolution. The termination shall be effective not less than seven 33625
days after enactment of the resolution, and a copy of the 33626

resolution shall be sent to the chief. 33627

Sec. 1509.23. (A) Rules of the chief of the division of 33628
~~mineral oil and gas~~ resources management may specify practices to 33629
be followed in the drilling and treatment of wells, production of 33630
oil and gas, and plugging of wells for protection of public health 33631
or safety or to prevent damage to natural resources, including 33632
specification of the following: 33633

(1) Appropriate devices; 33634

(2) Minimum distances that wells and other excavations, 33635
structures, and equipment shall be located from water wells, 33636
streets, roads, highways, rivers, lakes, streams, ponds, other 33637
bodies of water, railroad tracks, public or private recreational 33638
areas, zoning districts, and buildings or other structures. Rules 33639
adopted under division (A)(2) of this section shall not conflict 33640
with section 1509.021 of the Revised Code. 33641

(3) Other methods of operation; 33642

(4) Procedures, methods, and equipment and other requirements 33643
for equipment to prevent and contain discharges of oil and brine 33644
from oil production facilities and oil drilling and workover 33645
facilities consistent with and equivalent in scope, content, and 33646
coverage to section 311(j)(1)(c) of the "Federal Water Pollution 33647
Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, 33648
as amended, and regulations adopted under it. In addition, the 33649
rules may specify procedures, methods, and equipment and other 33650
requirements for equipment to prevent and contain surface and 33651
subsurface discharges of fluids, condensates, and gases. 33652

(5) Notifications. 33653

(B) The chief, in consultation with the emergency response 33654
commission created in section 3750.02 of the Revised Code, shall 33655
adopt rules in accordance with Chapter 119. of the Revised Code 33656

that specify the information that shall be included in an 33657
electronic database that the chief shall create and host. The 33658
information shall be that which the chief considers to be 33659
appropriate for the purpose of responding to emergency situations 33660
that pose a threat to public health or safety or the environment. 33661
At the minimum, the information shall include that which a person 33662
who is regulated under this chapter is required to submit under 33663
the "Emergency Planning and Community Right-To-Know Act of 1986," 33664
100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under 33665
it. 33666

In addition, the rules shall specify whether and to what 33667
extent the database and the information that it contains will be 33668
made accessible to the public. The rules shall ensure that the 33669
database will be made available via the internet or a system of 33670
computer disks to the emergency response commission and to every 33671
local emergency planning committee and fire department in this 33672
state. 33673

Sec. 1509.24. (A) The chief of the division of ~~mineral oil~~ and gas 33674
resources management, with the approval of the technical 33675
advisory council on oil and gas created in section 1509.38 of the 33676
Revised Code, may adopt, amend, or rescind rules relative to 33677
minimum acreage requirements for drilling units and minimum 33678
distances from which a new well may be drilled or an existing well 33679
deepened, plugged back, or reopened to a source of supply 33680
different from the existing pool from boundaries of tracts, 33681
drilling units, and other wells for the purpose of conserving oil 33682
and gas reserves. The rules relative to minimum acreage 33683
requirements for drilling units shall require a drilling unit to 33684
be compact and composed of contiguous land. 33685

(B) Rules adopted under this section and special orders made 33686
under section 1509.25 of the Revised Code shall apply only to new 33687

wells to be drilled or existing wells to be deepened, plugged 33688
back, or reopened to a source of supply different from the 33689
existing pool for the purpose of extracting oil or gas in their 33690
natural state. 33691

Sec. 1509.25. The chief of the division of ~~mineral oil and~~ 33692
gas resources management, upon the chief's own motion or upon 33693
application of an owner, may hold a hearing to consider the need 33694
or desirability of adopting a special order for drilling unit 33695
requirements in a particular pool different from those established 33696
under section 1509.24 of the Revised Code. The chief shall notify 33697
every owner of land within the area proposed to be included within 33698
the order, of the date, time, and place of the hearing and the 33699
nature of the order being considered at least thirty days prior to 33700
the date of the hearing. Each application for such an order shall 33701
be accompanied by such information as the chief may request. If 33702
the chief finds that the pool can be defined with reasonable 33703
certainty, that the pool is in the initial state of development, 33704
and that the establishment of such different requirements for 33705
drilling a well on a tract or drilling unit in ~~such the~~ pool is 33706
reasonably necessary to protect correlative rights or to provide 33707
effective development, use, or conservation of oil and gas, the 33708
chief, with the written approval of the technical advisory council 33709
on oil and gas created in section 1509.38 of the Revised Code, 33710
shall make a special order designating the area covered by the 33711
order, and specifying the acreage requirements for drilling a well 33712
on a tract or drilling unit in ~~such the~~ area, which acreage 33713
requirements shall be uniform for the entire pool. The order shall 33714
specify minimum distances from the boundary of the tract or 33715
drilling unit for the drilling of wells and minimum distances from 33716
other wells and allow exceptions for wells drilled or drilling in 33717
a particular pool at the time of the filing of the application. 33718
The chief may exempt the discovery well from minimum acreage and 33719

distance requirements in the order. After the date of the notice 33720
for a hearing called to make ~~such~~ the order, no additional well 33721
shall be commenced in the pool for a period of sixty days or until 33722
an order has been made pursuant to the application, whichever is 33723
earlier. The chief, upon the chief's own motion or upon 33724
application of an owner, after a hearing and with the approval of 33725
the technical advisory council on oil and gas, may include 33726
additional lands determined to be underlaid by a particular pool 33727
or to exclude lands determined not to be underlaid by a particular 33728
pool, and may modify the spacing and acreage requirements of the 33729
order. 33730

Nothing in this section permits the chief to establish 33731
drilling units in a pool by requiring the use of a survey grid 33732
coordinate system with fixed or established unit boundaries. 33733

Sec. 1509.26. The owners of adjoining tracts may agree to 33734
pool ~~such~~ the tracts to form a drilling unit that conforms to the 33735
minimum acreage and distance requirements of the division of 33736
~~mineral oil and gas~~ resources management under section 1509.24 or 33737
1509.25 of the Revised Code. ~~Such~~ The agreement shall be in 33738
writing, a copy of which shall be submitted to the division with 33739
the application for a permit required by section 1509.05 of the 33740
Revised Code. Parties to the agreement shall designate one of 33741
their number as the applicant for ~~such~~ the permit. 33742

Sec. 1509.27. If a tract of land is of insufficient size or 33743
shape to meet the requirements for drilling a well thereon as 33744
provided in section 1509.24 or 1509.25 of the Revised Code, 33745
whichever is applicable, and the owner of the tract who also is 33746
the owner of the mineral interest has been unable to form a 33747
drilling unit under agreement as provided in section 1509.26 of 33748
the Revised Code, on a just and equitable basis, such an owner may 33749
make application to the division of ~~mineral~~ oil and gas resources 33750

management for a mandatory pooling order. 33751

The application shall include information as shall be 33752
reasonably required by the chief of the division of ~~mineral oil~~ 33753
and gas resources management and shall be accompanied by an 33754
application for a permit as required by section 1509.05 of the 33755
Revised Code. The chief shall notify all owners of land within the 33756
area proposed to be included within the drilling unit of the 33757
filing of the application and of their right to a hearing. After 33758
the hearing or after the expiration of thirty days from the date 33759
notice of application was mailed to such owners, the chief, if 33760
satisfied that the application is proper in form and that 33761
mandatory pooling is necessary to protect correlative rights and 33762
to provide effective development, use, and conservation of oil and 33763
gas, shall issue a drilling permit and a mandatory pooling order 33764
complying with the requirements for drilling a well as provided in 33765
section 1509.24 or 1509.25 of the Revised Code, whichever is 33766
applicable. The mandatory pooling order shall: 33767

(A) Designate the boundaries of the drilling unit within 33768
which the well shall be drilled; 33769

(B) Designate the proposed production site; 33770

(C) Describe each separately owned tract or part thereof 33771
pooled by the order; 33772

(D) Allocate on a surface acreage basis a pro rata portion of 33773
the production to the owner of each tract pooled by the order. The 33774
pro rata portion shall be in the same proportion that the 33775
percentage of the owner's acreage is to the state minimum acreage 33776
requirements established in rules adopted under this chapter for a 33777
drilling unit unless the applicant demonstrates to the chief using 33778
geological evidence that the geologic structure containing the oil 33779
or gas is larger than the minimum acreage requirement in which 33780
case the pro rata portion shall be in the same proportion that the 33781

percentage of the owner's acreage is to the geologic structure. 33782

(E) Specify the basis upon which each owner of a tract pooled 33783
by the order shall share all reasonable costs and expenses of 33784
drilling and producing if the owner elects to participate in the 33785
drilling and operation of the well; 33786

(F) Designate the person to whom the permit shall be issued. 33787

A person shall not submit more than five applications for 33788
mandatory pooling orders per year under this section unless 33789
otherwise approved by the chief. 33790

No surface operations or disturbances to the surface of the 33791
land shall occur on a tract pooled by an order without the written 33792
consent of or a written agreement with the owner of the tract that 33793
approves the operations or disturbances. 33794

If an owner of a tract pooled by the order does not elect to 33795
participate in the risk and cost of the drilling and operation of 33796
a well, the owner shall be designated as a nonparticipating owner 33797
in the drilling and operation of the well on a limited or carried 33798
basis and is subject to terms and conditions determined by the 33799
chief to be just and reasonable. In addition, if an owner is 33800
designated as a nonparticipating owner, the owner is not liable 33801
for actions or conditions associated with the drilling or 33802
operation of the well. If the applicant bears the costs of 33803
drilling, equipping, and operating a well for the benefit of a 33804
nonparticipating owner, as provided for in the pooling order, then 33805
the applicant shall be entitled to the share of production from 33806
the drilling unit accruing to the interest of that 33807
nonparticipating owner, exclusive of the nonparticipating owner's 33808
proportionate share of the royalty interest until there has been 33809
received the share of costs charged to that nonparticipating owner 33810
plus such additional percentage of the share of costs as the chief 33811
shall determine. The total amount receivable hereunder shall in no 33812

event exceed two hundred per cent of the share of costs charged to 33813
that nonparticipating owner. After receipt of that share of costs 33814
by such an applicant, a nonparticipating owner shall receive a 33815
proportionate share of the working interest in the well in 33816
addition to a proportionate share of the royalty interest, if any. 33817

If there is a dispute as to costs of drilling, equipping, or 33818
operating a well, the chief shall determine those costs. 33819

Sec. 1509.28. (A) The chief of the division of ~~mineral oil~~ oil 33820
and gas resources management, upon the chief's own motion or upon 33821
application by the owners of sixty-five per cent of the land area 33822
overlying the pool, shall hold a hearing to consider the need for 33823
the operation as a unit of an entire pool or part thereof. An 33824
application by owners shall be accompanied by such information as 33825
the chief may request. 33826

The chief shall make an order providing for the unit 33827
operation of a pool or part thereof if the chief finds that such 33828
operation is reasonably necessary to increase substantially the 33829
ultimate recovery of oil and gas, and the value of the estimated 33830
additional recovery of oil or gas exceeds the estimated additional 33831
cost incident to conducting ~~such~~ the operation. The order shall be 33832
upon terms and conditions that are just and reasonable and shall 33833
prescribe a plan for unit operations that shall include: 33834

(1) A description of the unitized area, termed the unit area; 33835

(2) A statement of the nature of the operations contemplated; 33836

(3) An allocation to the separately owned tracts in the unit 33837
area of all the oil and gas that is produced from the unit area 33838
and is saved, being the production that is not used in the conduct 33839
of operations on the unit area or not unavoidably lost. The 33840
allocation shall be in accord with the agreement, if any, of the 33841
interested parties. If there is no such agreement, the chief shall 33842

determine the value, from the evidence introduced at the hearing, 33843
of each separately owned tract in the unit area, exclusive of 33844
physical equipment, for development of oil and gas by unit 33845
operations, and the production allocated to each tract shall be 33846
the proportion that the value of each tract so determined bears to 33847
the value of all tracts in the unit area. 33848

(4) A provision for the credits and charges to be made in the 33849
adjustment among the owners in the unit area for their respective 33850
investments in wells, tanks, pumps, machinery, materials, and 33851
equipment contributed to the unit operations; 33852

(5) A provision providing how the expenses of unit 33853
operations, including capital investment, shall be determined and 33854
charged to the separately owned tracts and how the expenses shall 33855
be paid; 33856

(6) A provision, if necessary, for carrying or otherwise 33857
financing any person who is unable to meet the person's financial 33858
obligations in connection with the unit, allowing a reasonable 33859
interest charge for such service; 33860

(7) A provision for the supervision and conduct of the unit 33861
operations, in respect to which each person shall have a vote with 33862
a value corresponding to the percentage of the expenses of unit 33863
operations chargeable against the interest of ~~such~~ that person; 33864

(8) The time when the unit operations shall commence, and the 33865
manner in which, and the circumstances under which, the unit 33866
operations shall terminate; 33867

(9) Such additional provisions as are found to be appropriate 33868
for carrying on the unit operations, and for the protection or 33869
adjustment of correlative rights. 33870

(B) No order of the chief providing for unit operations shall 33871
become effective unless and until the plan for unit operations 33872
prescribed by the chief has been approved in writing by those 33873

owners who, under the chief's order, will be required to pay at 33874
least sixty-five per cent of the costs of the unit operation, and 33875
also by the royalty or, with respect to unleased acreage, fee 33876
owners of sixty-five per cent of the acreage to be included in the 33877
unit. If the plan for unit operations has not been so approved by 33878
owners and royalty owners at the time the order providing for unit 33879
operations is made, the chief shall upon application and notice 33880
hold such supplemental hearings as may be required to determine if 33881
and when the plan for unit operations has been so approved. If the 33882
owners and royalty owners, or either, owning the required 33883
percentage of interest in the unit area do not approve the plan 33884
for unit operations within a period of six months from the date on 33885
which the order providing for unit operations is made, ~~such~~ the 33886
order shall cease to be of force and shall be revoked by the 33887
chief. 33888

An order providing for unit operations may be amended by an 33889
order made by the chief, in the same manner and subject to the 33890
same conditions as an original order providing for unit 33891
operations, provided that: 33892

(1) If such an amendment affects only the rights and 33893
interests of the owners, the approval of the amendment by the 33894
royalty owners shall not be required. 33895

(2) No such order of amendment shall change the percentage 33896
for allocation of oil and gas as established for any separately 33897
owned tract by the original order, except with the consent of all 33898
persons owning interest in ~~such~~ the tract. 33899

The chief, by an order, may provide for the unit operation of 33900
a pool or a part thereof that embraces a unit area established by 33901
a previous order of the chief. Such an order, in providing for the 33902
allocation of unit production, shall first treat the unit area 33903
previously established as a single tract, and the portion of the 33904
unit production so allocated thereto shall then be allocated among 33905

the separately owned tracts included in ~~such~~ the previously 33906
established unit area in the same proportions as those specified 33907
in the previous order. 33908

Oil and gas allocated to a separately owned tract shall be 33909
deemed, for all purposes, to have been actually produced from ~~such~~ 33910
the tract, and all operations, including, but not limited to, the 33911
commencement, drilling, operation of, or production from a well 33912
upon any portion of the unit area shall be deemed for all purposes 33913
the conduct of such operations and production from any lease or 33914
contract for lands any portion of which is included in the unit 33915
area. The operations conducted pursuant to the order of the chief 33916
shall constitute a fulfillment of all the express or implied 33917
obligations of each lease or contract covering lands in the unit 33918
area to the extent that compliance with such obligations cannot be 33919
had because of the order of the chief. 33920

Oil and gas allocated to any tract, and the proceeds from the 33921
sale thereof, shall be the property and income of the several 33922
persons to whom, or to whose credit, the same are allocated or 33923
payable under the order providing for unit operations. 33924

No order of the chief or other contract relating to the sale 33925
or purchase of production from a separately owned tract shall be 33926
terminated by the order providing for unit operations, but shall 33927
remain in force and apply to oil and gas allocated to ~~such~~ the 33928
tract until terminated in accordance with the provisions thereof. 33929

Except to the extent that the parties affected so agree, no 33930
order providing for unit operations shall be construed to result 33931
in a transfer of all or any part of the title of any person to the 33932
oil and gas rights in any tract in the unit area. All property, 33933
whether real or personal, that may be acquired for the account of 33934
the owners within the unit area shall be the property of such 33935
owners in the proportion that the expenses of unit operations are 33936
charged. 33937

Sec. 1509.29. Upon application by an owner of a tract for 33938
which a drilling permit may not be issued, and a showing by the 33939
owner that the owner is unable to enter a voluntary pooling 33940
agreement and that the owner would be unable to participate under 33941
a mandatory pooling order, the chief of the division of ~~mineral~~ 33942
oil and gas resources management shall issue a permit and order 33943
establishing the tract as an exception tract if the chief finds 33944
that ~~such~~ the owner would otherwise be precluded from producing 33945
oil or gas from the owner's tract because of minimum acreage or 33946
distance requirements. The order shall set a percentage of the 33947
maximum daily potential production at which the well may be 33948
produced. The percentage shall be the same as the percentage that 33949
the number of acres in the tract bears to the number of acres in 33950
the minimum acreage requirement that has been established under 33951
section 1509.24 or 1509.25 of the Revised Code, whichever is 33952
applicable, but if the well drilled on ~~such~~ the tract is located 33953
nearer to the boundary of the tract than the required minimum 33954
distance, the percentage may not exceed the percentage determined 33955
by dividing the distance from the well to the boundary by the 33956
minimum distance requirement. Within ten days after completion of 33957
the well, the maximum daily potential production of the well shall 33958
be determined by such drill stem, open flow, or other tests as may 33959
be required by the chief. The chief shall require such tests, at 33960
least once every three months, as are necessary to determine the 33961
maximum daily potential production at that time. 33962

Sec. 1509.31. (A) Whenever the entire interest of an oil and 33963
gas lease is assigned or otherwise transferred, the assignor or 33964
transferor shall notify the holders of the royalty interests, and, 33965
if a well or wells exist on the lease, the division of ~~mineral~~ oil 33966
and gas resources management, of the name and address of the 33967
assignee or transferee by certified mail, return receipt 33968

requested, not later than thirty days after the date of the 33969
assignment or transfer. When notice of any such assignment or 33970
transfer is required to be provided to the division, it shall be 33971
provided on a form prescribed and provided by the division and 33972
verified by both the assignor or transferor and by the assignee or 33973
transferee and shall be accompanied by a nonrefundable fee of one 33974
hundred dollars for each well. The notice form applicable to 33975
assignments or transfers of a well to the owner of the surface 33976
estate of the tract on which the well is located shall contain a 33977
statement informing the landowner that the well may require 33978
periodic servicing to maintain its productivity; that, upon 33979
assignment or transfer of the well to the landowner, the landowner 33980
becomes responsible for compliance with the requirements of this 33981
chapter and rules adopted under it, including, without limitation, 33982
the proper disposal of brine obtained from the well, the plugging 33983
of the well when it becomes incapable of producing oil or gas, and 33984
the restoration of the well site; and that, upon assignment or 33985
transfer of the well to the landowner, the landowner becomes 33986
responsible for the costs of compliance with the requirements of 33987
this chapter and rules adopted under it and the costs for 33988
operating and servicing the well. 33989

(B) When the entire interest of a well is proposed to be 33990
assigned or otherwise transferred to the landowner for use as an 33991
exempt domestic well, the owner who has been issued a permit under 33992
this chapter for the well shall submit to the chief of the 33993
division of oil and gas resources management an application for 33994
the assignment or transfer that contains all documents that the 33995
chief requires and a nonrefundable fee of one hundred dollars. The 33996
application for such an assignment or transfer shall be prescribed 33997
and provided by the chief. The chief may approve the application 33998
if the application is accompanied by a release of all of the oil 33999
and gas leases that are included in the applicable formation of 34000
the drilling unit, the release is in a form such that the well 34001

ownership merges with the fee simple interest of the surface 34002
tract, and the release is in a form that may be recorded. However, 34003
if the owner of the well does not release the oil and gas leases 34004
associated with the well that is proposed to be assigned or 34005
otherwise transferred or if the fee simple tract that results from 34006
the merger of the well ownership with the fee simple interest of 34007
the surface tract is less than five acres, the proposed exempt 34008
domestic well owner shall post a five thousand dollar bond with 34009
the division ~~of mineral resources management~~ prior to the 34010
assignment or transfer of the well to ensure that the well will be 34011
properly plugged. The chief, for good cause, may modify the 34012
requirements of this section governing the assignment or transfer 34013
of the interests of a well to the landowner. Upon the assignment 34014
or transfer of the well, the owner of an exempt domestic well is 34015
not subject to the severance tax levied under section 5749.02 of 34016
the Revised Code, but is subject to all applicable fees 34017
established in this chapter. 34018

(C) The owner holding a permit under section 1509.05 of the 34019
Revised Code is responsible for all obligations and liabilities 34020
imposed by this chapter and any rules, orders, and terms and 34021
conditions of a permit adopted or issued under it, and no 34022
assignment or transfer by the owner relieves the owner of the 34023
obligations and liabilities until and unless the assignee or 34024
transferee files with the division the information described in 34025
divisions (A)(1), (2), (3), (4), (5), (10), (11), and (12) of 34026
section 1509.06 of the Revised Code; obtains liability insurance 34027
coverage required by section 1509.07 of the Revised Code, except 34028
when none is required by that section; and executes and files a 34029
surety bond, negotiable certificates of deposit or irrevocable 34030
letters of credit, or cash, as described in that section. Instead 34031
of a bond, but only upon acceptance by the chief ~~of the division~~ 34032
~~of mineral resources management~~, the assignee or transferee may 34033
file proof of financial responsibility, described in section 34034

1509.07 of the Revised Code. Section 1509.071 of the Revised Code 34035
applies to the surety bond, cash, and negotiable certificates of 34036
deposit and irrevocable letters of credit described in this 34037
section. Unless the chief approves a modification, each assignee 34038
or transferee shall operate in accordance with the plans and 34039
information filed by the permit holder pursuant to section 1509.06 34040
of the Revised Code. 34041

(D) If a mortgaged property that is being foreclosed is 34042
subject to an oil or gas lease, pipeline agreement, or other 34043
instrument related to the production or sale of oil or natural gas 34044
and the lease, agreement, or other instrument was recorded 34045
subsequent to the mortgage, and if the lease, agreement, or other 34046
instrument is not in default, the oil or gas lease, pipeline 34047
agreement, or other instrument, as applicable, has priority over 34048
all other liens, claims, or encumbrances on the property so that 34049
the oil or gas lease, pipeline agreement, or other instrument is 34050
not terminated or extinguished upon the foreclosure sale of the 34051
mortgaged property. If the owner of the mortgaged property was 34052
entitled to oil and gas royalties before the foreclosure sale, the 34053
oil or gas royalties shall be paid to the purchaser of the 34054
foreclosed property. 34055

Sec. 1509.32. Any person adversely affected may file with the 34056
chief of the division of ~~mineral~~ oil and gas resources management 34057
a written complaint alleging failure to restore disturbed land 34058
surfaces in violation of section 1509.072 or 1509.22 of the 34059
Revised Code or a rule adopted thereunder. 34060

Upon receipt of a complaint, the chief shall cause an 34061
investigation to be made of the lands where the alleged violation 34062
has occurred and send copies of the investigation report to the 34063
person who filed the complaint and to the owner. Upon finding a 34064
violation the chief shall order the owner to eliminate the 34065

violation within a specified time. If the owner fails to eliminate 34066
the violation within the time specified, the chief may request the 34067
prosecuting attorney of the county in which the violation occurs 34068
or the attorney general to bring appropriate action to secure 34069
compliance with ~~such~~ those sections. If the chief fails to bring 34070
an appropriate action to secure compliance with ~~such~~ those 34071
sections within twenty days after the time specified, the person 34072
filing the complaint may request the prosecuting attorney of the 34073
county in which the violation occurs to bring an appropriate 34074
action to secure compliance with ~~such~~ those sections. The division 34075
of ~~mineral~~ oil and gas resources management may cooperate with any 34076
state or local agency to provide technical advice or minimum 34077
standards for the restoration of various soils and land surfaces 34078
or to assist in any investigation. 34079

Sec. 1509.33. (A) Whoever violates sections 1509.01 to 34080
1509.31 of the Revised Code, or any rules adopted or orders or 34081
terms or conditions of a permit or registration certificate issued 34082
pursuant to these sections for which no specific penalty is 34083
provided in this section, shall pay a civil penalty of not more 34084
than four thousand dollars for each offense. 34085

(B) Whoever violates section 1509.221 of the Revised Code or 34086
any rules adopted or orders or terms or conditions of a permit 34087
issued thereunder shall pay a civil penalty of not more than two 34088
thousand five hundred dollars for each violation. 34089

(C) Whoever violates division (D) of section 1509.22 or 34090
division (A)(1) of section 1509.222 of the Revised Code shall pay 34091
a civil penalty of not less than two thousand five hundred dollars 34092
nor more than twenty thousand dollars for each violation. 34093

(D) Whoever violates division (A) of section 1509.22 of the 34094
Revised Code shall pay a civil penalty of not less than two 34095
thousand five hundred dollars nor more than ten thousand dollars 34096

for each violation. 34097

(E) Whoever violates division (A) of section 1509.223 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each violation. 34098
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(F) Whoever violates section 1509.072 of the Revised Code or any rules adopted or orders issued to administer, implement, or enforce that section shall pay a civil penalty of not more than five thousand dollars for each violation. 34101
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(G) In addition to any other penalties provided in this chapter, whoever violates division (B) of section 1509.22 or division (A)(1) of section 1509.222 or knowingly violates division (A) of section 1509.223 of the Revised Code is liable for any damage or injury caused by the violation and for the cost of rectifying the violation and conditions caused by the violation. 34105
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If two or more persons knowingly violate one or more of ~~such~~ those divisions in connection with the same event, activity, or transaction, they are jointly and severally liable under this division. 34111
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(H) The attorney general, upon the request of the chief of the division of ~~mineral~~ oil and gas resources management, shall commence an action under this section against any person who violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections. Any action under this section is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. The remedy provided in this division is cumulative and concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other, except that no person shall be subject to both a civil penalty under division (A), (B), (C), or (D) of this section and a criminal penalty under section 1509.99 34115
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of the Revised Code for the same offense. 34129

Sec. 1509.34. (A)(1) If an owner fails to pay the fees 34130
imposed by this chapter, or if the chief of the division of 34131
~~mineral oil and gas~~ resources management incurs costs under 34132
division (E) of section 1509.071 of the Revised Code to correct 34133
conditions associated with the owner's well that the chief 34134
reasonably has determined are causing imminent health or safety 34135
risks, the division of ~~mineral oil and gas~~ resources management 34136
shall have a priority lien against that owner's interest in the 34137
applicable well in front of all other creditors for the amount of 34138
any such unpaid fees and costs incurred. The chief shall file a 34139
statement in the office of the county recorder of the county in 34140
which the applicable well is located of the amount of the unpaid 34141
fees and costs incurred as described in this division. The 34142
statement shall constitute a lien on the owner's interest in the 34143
well as of the date of the filing. The lien shall remain in force 34144
so long as any portion of the lien remains unpaid or until the 34145
chief issues a certificate of release of the lien. If the chief 34146
issues a certificate of release of the lien, the chief shall file 34147
the certificate of release in the office of the applicable county 34148
recorder. 34149

(2) A lien imposed under division (A)(1) of this section 34150
shall be in addition to any lien imposed by the attorney general 34151
for failure to pay the assessment imposed by section 1509.50 of 34152
the Revised Code or the tax levied under division (A)(5) or (6) of 34153
section 5749.02 of the Revised Code, as applicable. 34154

(3) If the attorney general cannot collect from a severer or 34155
an owner for an outstanding balance of amounts due under section 34156
1509.50 of the Revised Code or of unpaid taxes levied under 34157
division (A)(5) or (6) of section 5749.02 of the Revised Code, as 34158
applicable, the tax commissioner may request the chief to impose a 34159

priority lien against the owner's interest in the applicable well. 34160
Such a lien has priority in front of all other creditors. 34161

(B) The chief promptly shall issue a certificate of release 34162
of a lien under either of the following circumstances: 34163

(1) Upon the repayment in full of the amount of unpaid fees 34164
imposed by this chapter or costs incurred by the chief under 34165
division (E) of section 1509.071 of the Revised Code to correct 34166
conditions associated with the owner's well that the chief 34167
reasonably has determined are causing imminent health or safety 34168
risks; 34169

(2) Any other circumstance that the chief determines to be in 34170
the best interests of the state. 34171

(C) The chief may modify the amount of a lien under this 34172
section. If the chief modifies a lien, the chief shall file a 34173
statement in the office of the county recorder of the applicable 34174
county of the new amount of the lien. 34175

(D) An owner regarding which the division has recorded a lien 34176
against the owner's interest in a well in accordance with this 34177
section shall not transfer a well, lease, or mineral rights to 34178
another owner or person until the chief issues a certificate of 34179
release for each lien against the owner's interest in the well. 34180

(E) All money from the collection of liens under this section 34181
shall be deposited in the state treasury to the credit of the oil 34182
and gas well fund created in section 1509.02 of the Revised Code. 34183

Sec. 1509.36. Any person adversely affected by an order by 34184
the chief of the division of ~~mineral oil and gas~~ resources 34185
management may appeal to the oil and gas commission for an order 34186
vacating or modifying the order. 34187

The person so appealing to the commission shall be known as 34188
appellant and the chief shall be known as appellee. Appellant and 34189

appellee shall be deemed to be parties to the appeal. 34190

The appeal shall be in writing and shall set forth the order 34191
complained of and the grounds upon which the appeal is based. The 34192
appeal shall be filed with the commission within thirty days after 34193
the date upon which the appellant received notice by certified 34194
mail and, for all other persons adversely affected by the order, 34195
within thirty days after the date of the order complained of. 34196
Notice of the filing of the appeal shall be filed with the chief 34197
within three days after the appeal is filed with the commission. 34198

Upon the filing of the appeal the commission promptly shall 34199
fix the time and place at which the hearing on the appeal will be 34200
held, and shall give the appellant and the chief at least ten 34201
days' written notice thereof by mail. The commission may postpone 34202
or continue any hearing upon its own motion or upon application of 34203
the appellant or of the chief. 34204

The filing of an appeal provided for in this section does not 34205
automatically suspend or stay execution of the order appealed 34206
from, but upon application by the appellant the commission may 34207
suspend or stay the execution pending determination of the appeal 34208
upon such terms as the commission considers proper. 34209

Either party to the appeal or any interested person who, 34210
pursuant to commission rules has been granted permission to 34211
appear, may submit such evidence as the commission considers 34212
admissible. 34213

For the purpose of conducting a hearing on an appeal, the 34214
commission may require the attendance of witnesses and the 34215
production of books, records, and papers, and it may, and at the 34216
request of any party it shall, issue subpoenas for witnesses or 34217
subpoenas duces tecum to compel the production of any books, 34218
records, or papers, directed to the sheriffs of the counties where 34219
the witnesses are found. The subpoenas shall be served and 34220

returned in the same manner as subpoenas in criminal cases are 34221
served and returned. The fees of sheriffs shall be the same as 34222
those allowed by the court of common pleas in criminal cases. 34223
Witnesses shall be paid the fees and mileage provided for under 34224
section 119.094 of the Revised Code. Such fees and mileage 34225
expenses incurred at the request of appellant shall be paid in 34226
advance by the appellant, and the remainder of those expenses 34227
shall be paid out of funds appropriated for the expenses of the 34228
division of ~~mineral~~ oil and gas resources management. 34229

In case of disobedience or neglect of any subpoena served on 34230
any person, or the refusal of any witness to testify to any matter 34231
regarding which the witness may be lawfully interrogated, the 34232
court of common pleas of the county in which the disobedience, 34233
neglect, or refusal occurs, or any judge thereof, on application 34234
of the commission or any member thereof, shall compel obedience by 34235
attachment proceedings for contempt as in the case of disobedience 34236
of the requirements of a subpoena issued from that court or a 34237
refusal to testify therein. Witnesses at such hearings shall 34238
testify under oath, and any member of the commission may 34239
administer oaths or affirmations to persons who so testify. 34240

At the request of any party to the appeal, a stenographic 34241
record of the testimony and other evidence submitted shall be 34242
taken by an official court shorthand reporter at the expense of 34243
the party making the request therefor. The record shall include 34244
all of the testimony and other evidence and the rulings on the 34245
admissibility thereof presented at the hearing. The commission 34246
shall pass upon the admissibility of evidence, but any party may 34247
at the time object to the admission of any evidence and except to 34248
the rulings of the commission thereon, and if the commission 34249
refuses to admit evidence the party offering same may make a 34250
proffer thereof, and such proffer shall be made a part of the 34251
record of the hearing. 34252

If upon completion of the hearing the commission finds that 34253
the order appealed from was lawful and reasonable, it shall make a 34254
written order affirming the order appealed from; if the commission 34255
finds that the order was unreasonable or unlawful, it shall make a 34256
written order vacating the order appealed from and making the 34257
order that it finds the chief should have made. Every order made 34258
by the commission shall contain a written finding by the 34259
commission of the facts upon which the order is based. 34260

Notice of the making of the order shall be given forthwith to 34261
each party to the appeal by mailing a certified copy thereof to 34262
each such party by certified mail. 34263

The order of the commission is final unless vacated by the 34264
court of common pleas of Franklin county in an appeal as provided 34265
for in section 1509.37 of the Revised Code. Sections 1509.01 to 34266
1509.37 of the Revised Code, providing for appeals relating to 34267
orders by the chief or by the commission, or relating to rules 34268
adopted by the chief, do not constitute the exclusive procedure 34269
that any person who believes the person's rights to be unlawfully 34270
affected by those sections or any official action taken thereunder 34271
must pursue in order to protect and preserve those rights, nor do 34272
those sections constitute a procedure that that person must pursue 34273
before that person may lawfully appeal to the courts to protect 34274
and preserve those rights. 34275

Sec. 1509.38. There is hereby created in the division of 34276
~~mineral oil and gas~~ resources management a technical advisory 34277
council on oil and gas, which shall consist of eight members to be 34278
appointed by the governor with the advice and consent of the 34279
senate. Three members shall be independent oil or gas producers, 34280
operators, or their representatives, operating and producing 34281
primarily in this state, three members shall be oil or gas 34282
producers, operators, or their representatives having substantial 34283

oil and gas producing operations in this state and at least one 34284
other state, one member shall represent the public, and one member 34285
shall represent persons having landowners' royalty interests in 34286
oil and gas production. All members shall be residents of this 34287
state, and all members, except the members representing the public 34288
and persons having landowners' royalty interests, shall have at 34289
least five years of practical or technical experience in oil or 34290
gas drilling and production. Not more than one member may 34291
represent any one company, producer, or operator. 34292

Terms of office shall be for three years, commencing on the 34293
first day of February and ending on the thirty-first day of 34294
January. Each member shall hold office from the date of 34295
appointment until the end of the term for which the member was 34296
appointed. A vacancy in the office of a member shall be filled by 34297
the governor, with the advice and consent of the senate. Any 34298
member appointed to fill a vacancy occurring prior to the 34299
expiration of the term for which the member's predecessor was 34300
appointed shall hold office for the remainder of that term. Any 34301
member shall continue in office subsequent to the expiration date 34302
of the member's term until the member's successor takes office, or 34303
until a period of sixty days has elapsed, whichever occurs first. 34304

The council shall select from among its members a 34305
chairperson, a vice-chairperson, and a secretary. All members are 34306
entitled to their actual and necessary expenses incurred in the 34307
performance of their duties as members, payable from the 34308
appropriations for the division. 34309

The governor may remove any member for inefficiency, neglect 34310
of duty, or malfeasance in office. 34311

The council shall hold at least one regular meeting in each 34312
quarter of a calendar year and shall keep a record of its 34313
proceedings. Special meetings may be called by the chairperson and 34314
shall be called by the chairperson upon receipt of a written 34315

request signed by two or more members of the council. A written 34316
notice of the time and place of each meeting shall be sent to each 34317
member of the council. Five members constitute a quorum, and no 34318
action of the council is valid unless five members concur. 34319

The council, when requested by the chief of the division of 34320
~~mineral oil and gas~~ resources management, shall consult with and 34321
advise the chief and perform other duties that may be lawfully 34322
delegated to it by the chief. The council may participate in 34323
hearings held by the chief under this chapter and has powers of 34324
approval as provided in sections 1509.24 and 1509.25 of the 34325
Revised Code. The council shall conduct the activities required, 34326
and exercise the authority granted, under Chapter 1510. of the 34327
Revised Code. 34328

The council, upon receiving a request from the chairperson of 34329
the oil and gas commission under division (C) of section 1509.35 34330
of the Revised Code, immediately shall prepare and provide to the 34331
chairperson a list of its members who may serve as temporary 34332
members of the oil and gas commission as provided in that 34333
division. 34334

Sec. 1509.40. Except as provided in section 1509.29 of the 34335
Revised Code, no authority granted in this chapter shall be 34336
construed as authorizing a limitation on the amount that any well, 34337
leasehold, or field is permitted to produce under proration orders 34338
of the division of ~~mineral oil and gas~~ resources management. 34339

Sec. 1509.50. (A) An oil and gas regulatory cost recovery 34340
assessment is hereby imposed by this section on an owner. An owner 34341
shall pay the assessment in the same manner as a severer who is 34342
required to file a return under section 5749.06 of the Revised 34343
Code. However, an owner may designate a severer who shall pay the 34344
owner's assessment on behalf of the owner on the return that the 34345

severer is required to file under that section. If a severer so 34346
pays an owner's assessment, the severer may recoup from the owner 34347
the amount of the assessment. Except for an exempt domestic well, 34348
the assessment imposed shall be in addition to the taxes levied on 34349
the severance of oil and gas under section 5749.02 of the Revised 34350
Code. 34351

(B)(1) Except for an exempt domestic well, the oil and gas 34352
regulatory cost recovery assessment shall be calculated on a 34353
quarterly basis and shall be one of the following: 34354

(a) If the sum of ten cents per barrel of oil for all of the 34355
wells of the owner, one-half of one cent per one thousand cubic 34356
feet of natural gas for all of the wells of the owner, and the 34357
amount of the severance tax levied on each severer for all of the 34358
wells of the owner under divisions (A)(5) and (6) of section 34359
5749.02 of the Revised Code, as applicable, is greater than the 34360
sum of fifteen dollars for each well owned by the owner, the 34361
amount of the assessment is the sum of ten cents per barrel of oil 34362
for all of the wells of the owner and one-half of one cent per one 34363
thousand cubic feet of natural gas for all of the wells of the 34364
owner. 34365

(b) If the sum of ten cents per barrel of oil for all of the 34366
wells of the owner, one-half of one cent per one thousand cubic 34367
feet of natural gas for all of the wells of the owner, and the 34368
amount of the severance tax levied on each severer for all of the 34369
wells of the owner under divisions (A)(5) and (6) of section 34370
5749.02 of the Revised Code, as applicable, is less than the sum 34371
of fifteen dollars for each well owned by the owner, the amount of 34372
the assessment is the sum of fifteen dollars for each well owned 34373
by the owner less the amount of the tax levied on each severer for 34374
all of the wells of the owner under divisions (A)(5) and (6) of 34375
section 5749.02 of the Revised Code, as applicable. 34376

(2) The oil and gas regulatory cost recovery assessment for a well that becomes an exempt domestic well on and after ~~the effective date of this section~~ June 30, 2010, shall be sixty dollars to be paid to the division of ~~mineral~~ oil and gas resources management on the first day of July of each year.

(C) All money collected pursuant to this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

(D) Except for purposes of revenue distribution as specified in division (B) of section 5749.02 of the Revised Code, the oil and gas regulatory cost recovery assessment imposed by this section shall be treated the same and equivalent for all purposes as the taxes levied on the severance of oil and gas under that section. However, the assessment imposed by this section is not a tax under Chapter 5749. of the Revised Code.

Sec. 1510.01. As used in this chapter:

(A) "First purchaser" means:

(1) With regard to crude oil, the person to whom title first is transferred beyond the gathering tank or tanks, beyond the facility from which the crude oil was first produced, or both;

(2) With regard to natural gas, the person to whom title first is transferred beyond the inlet side of the measurement station from which the natural gas was first produced.

(B) "Independent producer" means a person who complies with both of the following:

(1) Produces oil or natural gas and is not engaged in refining either product;

(2) Derives a majority of income from ownership in properties producing oil or natural gas.

(C) "Qualified independent producer association" means an association that complies with all of the following:

(1) It is in existence on December 18, 1997.

(2) It is organized and operating within this state.

(3) A majority of the members of its governing body are independent producers.

(D) "Technical advisory council" or "council" means the technical advisory council created in the division of ~~mineral oil~~ oil and gas resources management under section 1509.38 of the Revised Code.

Sec. 1510.08. (A)(1) Except as provided in division (A)(2) of this section, an operating committee may levy assessments on the production of oil and natural gas in this state for the purposes of a marketing program established under this chapter.

(2) An operating committee shall not levy an assessment that was not approved by independent producers or that exceeds the amount authorized under division (B)(1) of section 1510.04 of the Revised Code. An operating committee shall not levy an assessment against an independent producer who is not eligible to vote in a referendum for the marketing program that the operating committee administers, as determined under division (C) of section 1510.02 of the Revised Code.

(B) The technical advisory council may require a first purchaser to withhold assessments from any amounts that the first purchaser owes to independent producers and, notwithstanding division (A)(2) of this section, to remit them to the chairperson of the council at the office of the division of ~~mineral oil~~ oil and gas resources management. A first purchaser who pays an assessment that is levied pursuant to this section for an independent producer may deduct the amount of the assessment from any moneys

that the first purchaser owes the independent producer. 34436

(C) A marketing program shall require a refund of assessments 34437
collected under this section after receiving an application for a 34438
refund from an independent producer. An application for a refund 34439
shall be made on a form furnished by the council. The operating 34440
committee shall ensure that refund forms are available where 34441
assessments for its program are withheld. 34442

An independent producer who desires a refund shall submit a 34443
request for a refund not later than the thirty-first day of March 34444
of the year in which the request is submitted. The council shall 34445
refund the assessment to the independent producer not later than 34446
the thirtieth day of June of the year in which the request for the 34447
refund is submitted. 34448

(D) An operating committee shall not use moneys from any 34449
assessments that it levies for any political or legislative 34450
purpose or for preferential treatment of one person to the 34451
detriment of another person who is affected by the marketing 34452
program that the operating committee administers. 34453

Sec. 1515.08. The supervisors of a soil and water 34454
conservation district have the following powers in addition to 34455
their other powers: 34456

(A) To conduct surveys, investigations, and research relating 34457
to the character of soil erosion, floodwater and sediment damages, 34458
and the preventive and control measures and works of improvement 34459
for flood prevention and the conservation, development, 34460
utilization, and disposal of water needed within the district, and 34461
to publish the results of those surveys, investigations, or 34462
research, provided that no district shall initiate any research 34463
program except in cooperation or after consultation with the Ohio 34464
agricultural research and development center; 34465

(B) To develop plans for the conservation of soil resources, 34466
for the control and prevention of soil erosion, and for works of 34467
improvement for flood prevention and the conservation, 34468
development, utilization, and disposal of water within the 34469
district, and to publish those plans and information; 34470

(C) To implement, construct, repair, maintain, and operate 34471
preventive and control measures and other works of improvement for 34472
natural resource conservation and development and flood 34473
prevention, and the conservation, development, utilization, and 34474
disposal of water within the district on lands owned or controlled 34475
by this state or any of its agencies and on any other lands within 34476
the district, which works may include any facilities authorized 34477
under state or federal programs, and to acquire, by purchase or 34478
gift, to hold, encumber, or dispose of, and to lease real and 34479
personal property or interests in such property for those 34480
purposes; 34481

(D) To cooperate or enter into agreements with any occupier 34482
of lands within the district in the carrying on of natural 34483
resource conservation operations and works of improvement for 34484
flood prevention and the conservation, development, utilization, 34485
and management of natural resources within the district, subject 34486
to such conditions as the supervisors consider necessary; 34487

(E) To accept donations, gifts, grants, and contributions in 34488
money, service, materials, or otherwise, and to use or expend them 34489
according to their terms; 34490

(F) To adopt, amend, and rescind rules to carry into effect 34491
the purposes and powers of the district; 34492

(G) To sue and plead in the name of the district, and be sued 34493
and impleaded in the name of the district, with respect to its 34494
contracts and, as indicated in section 1515.081 of the Revised 34495
Code, certain torts of its officers, employees, or agents acting 34496

within the scope of their employment or official responsibilities, 34497
or with respect to the enforcement of its obligations and 34498
covenants made under this chapter; 34499

(H) To make and enter into all contracts, leases, and 34500
agreements and execute all instruments necessary or incidental to 34501
the performance of the duties and the execution of the powers of 34502
the district under this chapter, provided that all of the 34503
following apply: 34504

(1) Except as provided in section 307.86 of the Revised Code 34505
regarding expenditures by boards of county commissioners, when the 34506
cost under any such contract, lease, or agreement, other than 34507
compensation for personal services or rental of office space, 34508
involves an expenditure of more than the amount established in 34509
that section regarding expenditures by boards of county 34510
commissioners, the supervisors shall make a written contract with 34511
the lowest and best bidder after advertisement, for not less than 34512
two nor more than four consecutive weeks preceding the day of the 34513
opening of bids, in a newspaper of general circulation within the 34514
district or as provided in section 7.16 of the Revised Code and in 34515
such other publications as the supervisors determine. The notice 34516
shall state the general character of the work and materials to be 34517
furnished, the place where plans and specifications may be 34518
examined, and the time and place of receiving bids. 34519

(2) Each bid for a contract shall contain the full name of 34520
every person interested in it. 34521

(3) Each bid for a contract for the construction, demolition, 34522
alteration, repair, or reconstruction of an improvement shall meet 34523
the requirements of section 153.54 of the Revised Code. 34524

(4) Each bid for a contract, other than a contract for the 34525
construction, demolition, alteration, repair, or reconstruction of 34526
an improvement, at the discretion of the supervisors, may be 34527

accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water resources to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

(N) To enter into contracts or agreements with the chief of the division of soil and water resources to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

(O) To develop operation and management plans, as defined in

section 1511.01 of the Revised Code, as necessary; 34558

(P) To determine whether operation and management plans 34559
developed under division (A) of section 1511.021 of the Revised 34560
Code comply with the standards established under division (E)(1) 34561
of section 1511.02 of the Revised Code and to approve or 34562
disapprove the plans, based on such compliance. If an operation 34563
and management plan is disapproved, the board shall provide a 34564
written explanation to the person who submitted the plan. The 34565
person may appeal the plan disapproval to the chief, who shall 34566
afford the person a hearing. Following the hearing, the chief 34567
shall uphold the plan disapproval or reverse it. If the chief 34568
reverses the plan disapproval, the plan shall be deemed approved 34569
under this division. In the event that any person operating or 34570
owning agricultural land or a concentrated animal feeding 34571
operation in accordance with an approved operation and management 34572
plan who, in good faith, is following that plan, causes 34573
agricultural pollution, the plan shall be revised in a fashion 34574
necessary to mitigate the agricultural pollution, as determined 34575
and approved by the board of supervisors of the soil and water 34576
conservation district. 34577

(Q) With regard to composting conducted in conjunction with 34578
agricultural operations, to do all of the following: 34579

(1) Upon request or upon their own initiative, inspect 34580
composting at any such operation to determine whether the 34581
composting is being conducted in accordance with section 1511.022 34582
of the Revised Code; 34583

(2) If the board determines that composting is not being so 34584
conducted, request the chief to issue an order under division (G) 34585
of section 1511.02 of the Revised Code requiring the person who is 34586
conducting the composting to prepare a composting plan in 34587
accordance with rules adopted under division (E)(8)(c) of that 34588
section and to operate in accordance with that plan or to operate 34589

in accordance with a previously prepared plan, as applicable; 34590

(3) In accordance with rules adopted under division (E)(8)(c) 34591
of section 1511.02 of the Revised Code, review and approve or 34592
disapprove any such composting plan. If a plan is disapproved, the 34593
board shall provide a written explanation to the person who 34594
submitted the plan. 34595

As used in division (Q) of this section, "composting" has the 34596
same meaning as in section 1511.01 of the Revised Code. 34597

(R) With regard to conservation activities that are conducted 34598
in conjunction with agricultural operations, to assist the county 34599
auditor, upon request, in determining whether a conservation 34600
activity is a conservation practice for purposes of Chapter 929. 34601
or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code. 34602

As used in this division, "conservation practice" has the 34603
same meaning as in section 5713.30 of the Revised Code. 34604

(S) To do all acts necessary or proper to carry out the 34605
powers granted in this chapter. 34606

The director of natural resources shall make recommendations 34607
to reduce the adverse environmental effects of each project that a 34608
soil and water conservation district plans to undertake under 34609
division (A), (B), (C), or (D) of this section and that will be 34610
funded in whole or in part by moneys authorized under section 34611
1515.16 of the Revised Code and shall disapprove any such project 34612
that the director finds will adversely affect the environment 34613
without equal or greater benefit to the public. The director's 34614
disapproval or recommendations, upon the request of the district 34615
filed in accordance with rules adopted by the Ohio soil and water 34616
conservation commission, shall be reviewed by the commission, 34617
which may confirm the director's decision, modify it, or add 34618
recommendations to or approve a project the director has 34619
disapproved. 34620

Any instrument by which real property is acquired pursuant to 34621
this section shall identify the agency of the state that has the 34622
use and benefit of the real property as specified in section 34623
5301.012 of the Revised Code. 34624

Sec. 1515.14. Within the limits of funds appropriated to the 34625
department of natural resources and the soil and water 34626
conservation district assistance fund created in this section, 34627
there shall be paid in each calendar year to each local soil and 34628
water conservation district an amount not to exceed one dollar for 34629
each one dollar received in accordance with section 1515.10 of the 34630
Revised Code, received from tax levies in excess of the ten-mill 34631
levy limitation approved for the benefit of local soil and water 34632
conservation districts, or received from an appropriation by a 34633
municipal corporation or a township to a maximum of eight thousand 34634
dollars, provided that the Ohio soil and water conservation 34635
commission may approve payment to a district in an amount in 34636
excess of eight thousand dollars in any calendar year upon receipt 34637
of a request and justification from the district. The county 34638
auditor shall credit such payments to the special fund established 34639
pursuant to section 1515.10 of the Revised Code for the local soil 34640
and water conservation district. The department may make advances 34641
at least quarterly to each district on the basis of the estimated 34642
contribution of the state to each district. Moneys received by 34643
each district shall be expended for the purposes of the district. 34644

For the purpose of providing money to soil and water 34645
conservation districts under this section, there is hereby created 34646
in the state treasury the soil and water conservation district 34647
assistance fund consisting of money credited to it under sections 34648
3714.073 and 3734.901 and division (A)~~(5)~~(4) of section 3734.57 of 34649
the Revised Code. 34650

Sec. 1515.24. (A) Following receipt of a certification made 34651

by the supervisors of a soil and water conservation district 34652
pursuant to section 1515.19 of the Revised Code together with 34653
receipt of all plans, specifications, and estimates submitted 34654
under that section and upon completion of a schedule of estimated 34655
assessments in accordance with section 1515.211 of the Revised 34656
Code, the board of county commissioners may adopt a resolution 34657
levying upon the property within the project area an assessment at 34658
a uniform or varied rate based upon the benefit to the area 34659
certified by the supervisors, as necessary to pay the cost of 34660
construction of the improvement not otherwise funded and to repay 34661
advances made for purposes of the improvement from the fund 34662
created by section 1515.15 of the Revised Code. The board of 34663
county commissioners shall direct the person or authority 34664
preparing assessments to give primary consideration, in 34665
determining a parcel's estimated assessments relating to the 34666
disposal of water, to the potential increase in productivity that 34667
the parcel may experience as a result of the improvement and also 34668
to give consideration to the amount of water disposed of, the 34669
location of the property relative to the project, the value of the 34670
project to the watershed, and benefits. The part of the assessment 34671
that is found to benefit state, county, or township roads or 34672
highways or municipal streets shall be assessed against the state, 34673
county, township, or municipal corporation, respectively, payable 34674
from motor vehicle revenues. The part of the assessment that is 34675
found to benefit property owned by any public corporation, any 34676
political subdivision of the state, or the state shall be assessed 34677
against the public corporation, the political subdivision, or the 34678
state and shall be paid out of the general funds or motor vehicle 34679
revenues of the public corporation, the political subdivision of 34680
the state, or the state, except as otherwise provided by law. 34681

(B) The assessment shall be certified to the county auditor 34682
and by the county auditor to the county treasurer. The collection 34683

of the assessment shall conform in all matters to Chapter 323. of 34684
the Revised Code. 34685

(C) Any land owned and managed by the department of natural 34686
resources for wildlife, recreation, nature preserve, or forestry 34687
purposes is exempt from assessments if the director of natural 34688
resources determines that the land derives no benefit from the 34689
improvement. In making such a determination, the director shall 34690
consider the purposes for which the land is owned and managed and 34691
any relevant articles of dedication or existing management plans 34692
for the land. If the director determines that the land derives no 34693
benefit from the improvement, the director shall notify the board 34694
of county commissioners, within thirty days after receiving the 34695
assessment notification required by this section, indicating that 34696
the director has determined that the land is to be exempt and 34697
explaining the specific reason for making this determination. The 34698
board of county commissioners, within thirty days after receiving 34699
the director's exemption notification, may appeal the 34700
determination to the court of common pleas. If the court of common 34701
pleas finds in favor of the board of county commissioners, the 34702
department of natural resources shall pay all court costs and 34703
legal fees. 34704

(D)(1) The board shall give notice by first class mail to 34705
every public and private property owner whose property is subject 34706
to assessment, at the tax mailing or other known address of the 34707
owner. The notice shall contain a statement of the amount to be 34708
assessed against the property of the addressee, a description of 34709
the method used to determine the necessity for and the amount of 34710
the proposed assessment, a description of any easement on the 34711
property that is necessary for purposes of the improvement, and a 34712
statement that the addressee may file an objection in writing at 34713
the office of the board of county commissioners within thirty days 34714
after the mailing of notice. If the residence of any owner cannot 34715

be ascertained, or if any mailed notice is returned undelivered, 34716
the board shall publish the notice to all such owners in a 34717
newspaper of general circulation within the project area, ~~at least~~ 34718
once each week for three weeks, ~~which~~ or as provided in section 34719
7.16 of the Revised Code. The notice shall include the information 34720
contained in the mailed notice, but shall state that the owner may 34721
file an objection in writing at the office of the board of county 34722
commissioners within thirty days after the last publication of the 34723
notice. 34724

(2) Upon receipt of objections as provided in this section, 34725
the board shall proceed within thirty days to hold a final hearing 34726
on the objections by fixing a date and giving notice by first 34727
class mail to the objectors at the address provided in filing the 34728
objection. If any mailed notice is returned undelivered, the board 34729
shall give due notice to the objectors in a newspaper of general 34730
circulation in the project area or as provided in section 7.16 of 34731
the Revised Code, stating the time, place, and purpose of the 34732
hearing. Upon hearing the objectors, the board may adopt a 34733
resolution amending and approving the final schedule of 34734
assessments and shall enter it in the journal. 34735

(3) Any owner whose objection is not allowed may appeal 34736
within thirty days to the court of common pleas of the county in 34737
which the property is located. 34738

(4) The board of county commissioners shall make an order 34739
approving the levying of the assessment and shall proceed under 34740
section 6131.23 of the Revised Code after one of the following has 34741
occurred, as applicable: 34742

(a) Final notice is provided by mail or publication. 34743

(b) The imposition of assessments is upheld in the final 34744
disposition of an appeal that is filed pursuant to division (D)(3) 34745
of this section. 34746

(c) The resolution levying the assessments is approved in a referendum that is held pursuant to section 305.31 of the Revised Code.

(5) The county treasurer shall deposit the proceeds of the assessment in the fund designated by the board and shall report to the county auditor the amount of money from the assessment that is collected by the treasurer. Moneys shall be expended from the fund for purposes of the improvement.

(E) Any moneys collected in excess of the amount needed for construction of the improvement and the subsequent first year's maintenance may be maintained in a fund to be used for maintenance of the improvement. In any year subsequent to a year in which an assessment for construction of an improvement levied under this section has been collected, and upon determination by the board of county commissioners that funds are not otherwise available for maintenance or repair of the improvement, the board shall levy on the property within the project area an assessment for maintenance at a uniform percentage of all construction costs based upon the assessment schedule used in determining the construction assessment. The assessment is not subject to the provisions concerning notice and petition contained in this section. An assessment for maintenance shall not be levied in any year in which the unencumbered balance of funds available for maintenance of the improvement exceeds twenty per cent of the cost of construction of the improvement, except that the board may adjust the level of assessment within the twenty per cent limitation, or suspend temporarily the levying of an assessment, for maintenance purposes as maintenance funds are needed.

For the purpose of levying an assessment for maintenance of an improvement, a board may use the procedures established in Chapter 6137. of the Revised Code regarding maintenance of improvements as defined in section 6131.01 of the Revised Code in

lieu of using the procedures established under this section. 34779

(F) The board of county commissioners may issue bonds and 34780
notes as authorized by section 131.23 or 133.17 of the Revised 34781
Code. 34782

Sec. 1517.02. There is hereby created in the department of 34783
natural resources the division of natural areas and preserves, 34784
which shall be administered by the chief of the division of 34785
natural areas and preserves. The chief shall take an oath of 34786
office and shall file in the office of the secretary of state a 34787
bond signed by the chief and by a surety approved by the governor 34788
for a sum fixed pursuant to section 121.11 of the Revised Code. 34789

The chief shall administer a system of nature preserves. The 34790
chief shall establish a system of nature preserves through 34791
acquisition and dedication of natural areas of state or national 34792
significance, which shall include, but not be limited to, areas 34793
that represent characteristic examples of Ohio's natural landscape 34794
types and its natural vegetation and geological history. The chief 34795
shall encourage landowners to dedicate areas of unusual 34796
significance as nature preserves, and shall establish and maintain 34797
a registry of natural areas of unusual significance. 34798

The chief may participate in watershed planning activities 34799
with other states or federal agencies. 34800

The chief shall do the following: 34801

(A) Formulate policies and plans for the acquisition, use, 34802
management, and protection of nature preserves; 34803

(B) Formulate policies for the selection of areas suitable 34804
for registration; 34805

(C) Formulate policies for the dedication of areas as nature 34806
preserves; 34807

(D) Prepare and maintain surveys and inventories of natural 34808

areas, rare and endangered species of plants and animals, and 34809
other unique natural features. The information shall be ~~stored~~ 34810
entered in the Ohio natural heritage database, established 34811
~~pursuant to this division, and may be made available to any~~ 34812
~~individual or private or public agency for research, educational,~~ 34813
~~environmental, land management, or other similar purposes that are~~ 34814
~~not detrimental to the conservation of a species or feature.~~ 34815
~~Information regarding sensitive site locations of species that are~~ 34816
~~listed pursuant to section 1518.01 of the Revised Code and of~~ 34817
~~unique natural features that are included in the Ohio natural~~ 34818
~~heritage database is not subject to section 149.43 of the Revised~~ 34819
~~Code if the chief determines that the release of the information~~ 34820
~~could be detrimental to the conservation of a species or unique~~ 34821
~~natural feature under section 1531.04 of the Revised Code.~~ 34822

(E) Adopt rules for the use, visitation, and protection of 34823
nature preserves and natural areas owned or managed through 34824
easement, license, or lease by the department and administered by 34825
the division in accordance with Chapter 119. of the Revised Code; 34826

(F) Provide facilities and improvements within the state 34827
system of nature preserves that are necessary for their 34828
visitation, use, restoration, and protection and do not impair 34829
their natural character; 34830

(G) Provide interpretive programs and publish and disseminate 34831
information pertaining to nature preserves and natural areas for 34832
their visitation and use; 34833

(H) Conduct and grant permits to qualified persons for the 34834
conduct of scientific research and investigations within nature 34835
preserves; 34836

(I) Establish an appropriate system for marking nature 34837
preserves; 34838

(J) Publish and submit to the governor and the general 34839

assembly a biennial report of the status and condition of each 34840
nature preserve, activities conducted within each preserve, and 34841
plans and recommendations for natural area preservation. 34842

Sec. 1517.03. (A) There is hereby created the Ohio natural 34843
areas council to advise the ~~chief of the division~~ director of 34844
~~natural areas and preserves~~ resources or the director's designee 34845
on the administration of nature preserves and the preservation of 34846
natural areas. 34847

(B) The council shall ~~have no fewer than five members as~~ 34848
~~determined by the director of natural resources. The members shall~~ 34849
~~be appointed by the director.~~ 34850

~~Not later than thirty days after the effective date of this~~ 34851
~~section, the director shall make initial appointments to the~~ 34852
~~council. The director shall establish the terms of office of the~~ 34853
~~members of the council~~ be composed of the following members 34854
appointed by the governor with the advice and consent of the 34855
senate: 34856

(1) One member representing natural history museums; 34857

(2) One member representing metropolitan park districts; 34858

(3) One member representing colleges and universities; 34859

(4) One member representing outdoor education programs in 34860
primary and secondary education; 34861

(5) One member representing nature centers; 34862

(6) Two members representing the public. 34863

Each appointed member shall be active or interested in 34864
natural area preservation. Not more than four of the appointed 34865
members shall belong to the same political party. 34866

The director or the director's designee shall be a nonvoting 34867
ex officio member of the council. 34868

(C) Not later than thirty days after the effective date of this amendment, the governor shall make appointments to the council. Of the initial appointments, two shall be for terms ending on the first Monday in February 2012, two shall be for terms ending on the first Monday in February 2013, two shall be for terms ending on the first Monday in February 2014, and one shall be for a term ending on the first Monday in February 2015. Thereafter, terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. A member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(D) The council annually shall select from among its members a chairperson and a secretary. ~~Members~~ The department of natural resources shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members of the council shall receive no compensation and shall not be reimbursed for expenses incurred as members of the council.

(E) The council shall hold at least one regular meeting in each calendar year every three months. Special meetings may be called by the chairperson and shall be called by the chairperson upon written request by two or more members of the council. A written notice of the time and place of each meeting shall be sent to each member and to the director. A majority of the members of

the council constitutes a quorum. The council shall keep a record 34901
of its proceedings at each meeting and shall send a copy of the 34902
record to the director. The record shall be open to the public for 34903
inspection. 34904

Sec. 1531.04. The division of wildlife, at the direction of 34905
the chief of the division, shall do all of the following: 34906

(A) Plan, develop, and institute programs and policies based 34907
on the best available information, including biological 34908
information derived from professionally accepted practices in 34909
wildlife and fisheries management, with the approval of the 34910
director of natural resources; 34911

(B) Have and take the general care, protection, and 34912
supervision of the wildlife in the state parks known as Lake St. 34913
Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, 34914
Guilford Lake, such part of Pymatuning reservoir as lies in this 34915
state, and all other state parks and lands owned by the state or 34916
in which it is interested or may acquire or become interested, 34917
except lands and lakes the care and supervision of which are 34918
vested in some other officer, body, board, association, or 34919
organization; 34920

(C) Enforce by proper legal action or proceeding the laws of 34921
the state and division rules for the protection, preservation, 34922
propagation, and management of wild animals and sanctuaries and 34923
refuges for the propagation of those wild animals, and adopt and 34924
carry into effect such measures as it considers necessary in the 34925
performance of its duties; 34926

(D) Promote, educate, and inform the citizens of the state 34927
about conservation and the values of fishing, hunting, and 34928
trapping, with the approval of the director; 34929

(E) Prepare and maintain surveys and inventories of rare and 34930

endangered species of plants and animals and other unique natural 34931
features. The information shall be stored in the Ohio natural 34932
heritage database, established pursuant to this division, and may 34933
be made available to any individual or private or public agency 34934
for research, educational, environmental, land management, or 34935
other similar purposes that are not detrimental to the 34936
conservation of a species or feature. Information regarding 34937
sensitive site locations of species that are listed pursuant to 34938
section 1518.01 of the Revised Code and of unique natural features 34939
that are included in the Ohio natural heritage database is not 34940
subject to section 149.43 of the Revised Code if the chief 34941
determines that the release of the information could be 34942
detrimental to the conservation of a species or unique natural 34943
feature. 34944

Sec. 1533.10. Except as provided in this section or division 34945
(A)(2) of section 1533.12 of the Revised Code, no person shall 34946
hunt any wild bird or wild quadruped without a hunting license. 34947
Each day that any person hunts within the state without procuring 34948
such a license constitutes a separate offense. Except as otherwise 34949
provided in this section, every applicant for a hunting license 34950
who is a resident of the state and eighteen years of age or more 34951
shall procure a resident hunting license or an apprentice resident 34952
hunting license, the fee for which shall be eighteen dollars 34953
unless the rules adopted under division (B) of section 1533.12 of 34954
the Revised Code provide for issuance of a resident hunting 34955
license to the applicant free of charge. Except as provided in 34956
rules adopted under division (B)(2) of that section, each 34957
applicant who is a resident of this state and who at the time of 34958
application is sixty-six years of age or older shall procure a 34959
special senior hunting license, the fee for which shall be 34960
one-half of the regular hunting license fee. Every applicant who 34961
is under the age of eighteen years shall procure a special youth 34962

hunting license or an apprentice youth hunting license, the fee 34963
for which shall be one-half of the regular hunting license fee. 34964

~~The owner of~~ 34965

A resident of this state who owns lands in the state and the 34966
owner's children of any age and grandchildren under eighteen years 34967
of age may hunt on the lands without a hunting license. If the 34968
owner of land in this state is a limited liability company or a 34969
limited liability partnership that consists of three or fewer 34970
individual members or partners, as applicable, an individual 34971
member or partner who is a resident of this state and the member's 34972
or partner's children of any age and grandchildren under eighteen 34973
years of age may hunt on the land owned by the limited liability 34974
company or limited liability partnership without a hunting 34975
license. In addition, if the owner of land in this state is a 34976
trust that has a total of three or fewer trustees and 34977
beneficiaries, an individual who is a trustee or beneficiary and 34978
who is a resident of this state and the individual's children of 34979
any age and grandchildren under eighteen years of age may hunt on 34980
the land owned by the trust without a hunting license. The tenant 34981
and children of the tenant, residing on lands in the state, may 34982
hunt on them without a hunting license. ~~Except~~ 34983

Except as otherwise provided in division (A)(1) of section 34984
1533.12 of the Revised Code, every applicant for a hunting license 34985
who is a nonresident of the state and who is eighteen years of age 34986
or older shall procure a nonresident hunting license or an 34987
apprentice nonresident hunting license, the fee for which shall be 34988
one hundred twenty-four dollars unless the applicant is a resident 34989
of a state that is a party to an agreement under section 1533.91 34990
of the Revised Code, in which case the fee shall be eighteen 34991
dollars. Apprentice resident hunting licenses, apprentice youth 34992
hunting licenses, and apprentice nonresident hunting licenses are 34993
subject to the requirements established under section 1533.102 of 34994

the Revised Code and rules adopted pursuant to it. 34995

The chief of the division of wildlife may issue a small game 34996
hunting license expiring three days from the effective date of the 34997
license to a nonresident of the state, the fee for which shall be 34998
thirty-nine dollars. No person shall take or possess deer, wild 34999
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 35000
animal while possessing only a small game hunting license. A small 35001
game hunting license or an apprentice nonresident hunting license 35002
does not authorize the taking or possessing of ducks, geese, or 35003
brant without having obtained, in addition to the small game 35004
hunting license or the apprentice nonresident hunting license, a 35005
wetlands habitat stamp as provided in section 1533.112 of the 35006
Revised Code. A small game hunting license or an apprentice 35007
nonresident hunting license does not authorize the taking or 35008
possessing of deer, wild turkeys, or fur-bearing animals. A 35009
nonresident of the state who wishes to take or possess deer, wild 35010
turkeys, or fur-bearing animals in this state shall procure, 35011
respectively, a deer or wild turkey permit as provided in section 35012
1533.11 of the Revised Code or a fur taker permit as provided in 35013
section 1533.111 of the Revised Code in addition to a nonresident 35014
hunting license, an apprentice nonresident hunting license, a 35015
special youth hunting license, or an apprentice youth hunting 35016
license, as applicable, as provided in this section. 35017

No person shall procure or attempt to procure a hunting 35018
license by fraud, deceit, misrepresentation, or any false 35019
statement. 35020

This section does not authorize the taking and possessing of 35021
deer or wild turkeys without first having obtained, in addition to 35022
the hunting license required by this section, a deer or wild 35023
turkey permit as provided in section 1533.11 of the Revised Code 35024
or the taking and possessing of ducks, geese, or brant without 35025
first having obtained, in addition to the hunting license required 35026

by this section, a wetlands habitat stamp as provided in section 35027
1533.112 of the Revised Code. 35028

This section does not authorize the hunting or trapping of 35029
fur-bearing animals without first having obtained, in addition to 35030
a hunting license required by this section, a fur taker permit as 35031
provided in section 1533.111 of the Revised Code. 35032

No hunting license shall be issued unless it is accompanied 35033
by a written explanation of the law in section 1533.17 of the 35034
Revised Code and the penalty for its violation, including a 35035
description of terms of imprisonment and fines that may be 35036
imposed. 35037

No hunting license, other than an apprentice hunting license, 35038
shall be issued unless the applicant presents to the agent 35039
authorized to issue the license a previously held hunting license 35040
or evidence of having held such a license in content and manner 35041
approved by the chief, a certificate of completion issued upon 35042
completion of a hunter education and conservation course approved 35043
by the chief, or evidence of equivalent training in content and 35044
manner approved by the chief. A previously held apprentice hunting 35045
license does not satisfy the requirement concerning the 35046
presentation of a previously held hunting license or evidence of 35047
it. 35048

No person shall issue a hunting license, except an apprentice 35049
hunting license, to any person who fails to present the evidence 35050
required by this section. No person shall purchase or obtain a 35051
hunting license, other than an apprentice hunting license, without 35052
presenting to the issuing agent the evidence required by this 35053
section. Issuance of a hunting license in violation of the 35054
requirements of this section is an offense by both the purchaser 35055
of the illegally obtained hunting license and the clerk or agent 35056
who issued the hunting license. Any hunting license issued in 35057
violation of this section is void. 35058

The chief, with approval of the wildlife council, shall adopt 35059
rules prescribing a hunter education and conservation course for 35060
first-time hunting license buyers, other than buyers of apprentice 35061
hunting licenses, and for volunteer instructors. The course shall 35062
consist of subjects including, but not limited to, hunter safety 35063
and health, use of hunting implements, hunting tradition and 35064
ethics, the hunter and conservation, the law in section 1533.17 of 35065
the Revised Code along with the penalty for its violation, 35066
including a description of terms of imprisonment and fines that 35067
may be imposed, and other law relating to hunting. Authorized 35068
personnel of the division or volunteer instructors approved by the 35069
chief shall conduct such courses with such frequency and at such 35070
locations throughout the state as to reasonably meet the needs of 35071
license applicants. The chief shall issue a certificate of 35072
completion to each person who successfully completes the course 35073
and passes an examination prescribed by the chief. 35074

Sec. 1533.11. (A) Except as provided in this section, no 35075
person shall hunt deer on lands of another without first obtaining 35076
an annual deer permit. Except as provided in this section, no 35077
person shall hunt wild turkeys on lands of another without first 35078
obtaining an annual wild turkey permit. Each applicant for a deer 35079
or wild turkey permit shall pay an annual fee of twenty-three 35080
dollars for each permit unless the rules adopted under division 35081
(B) of section 1533.12 of the Revised Code provide for issuance of 35082
a deer or wild turkey permit to the applicant free of charge. 35083
Except as provided in rules adopted under division (B)(2) of that 35084
section, each applicant who is a resident of this state and who at 35085
the time of application is sixty-six years of age or older shall 35086
procure a senior deer or wild turkey permit, the fee for which 35087
shall be one-half of the regular deer or wild turkey permit fee. 35088
Each applicant who is under the age of eighteen years shall 35089
procure a youth deer or wild turkey permit, the fee for which 35090

shall be one-half of the regular deer or wild turkey permit fee. 35091
Except as provided in division (A)(2) of section 1533.12 of the 35092
Revised Code, a deer or wild turkey permit shall run concurrently 35093
with the hunting license. The money received shall be paid into 35094
the state treasury to the credit of the wildlife fund, created in 35095
section 1531.17 of the Revised Code, exclusively for the use of 35096
the division of wildlife in the acquisition and development of 35097
land for deer or wild turkey management, for investigating deer or 35098
wild turkey problems, and for the stocking, management, and 35099
protection of deer or wild turkey. Every person, while hunting 35100
deer or wild turkey on lands of another, shall carry the person's 35101
deer or wild turkey permit and exhibit it to any enforcement 35102
officer so requesting. Failure to so carry and exhibit such a 35103
permit constitutes an offense under this section. The chief of the 35104
division of wildlife shall adopt any additional rules the chief 35105
considers necessary to carry out this section and section 1533.10 35106
of the Revised Code. 35107

The An owner who is a resident of this state and the children 35108
of the owner of lands in this state may hunt deer or wild turkey 35109
thereon without a deer or wild turkey permit. If the owner of land 35110
in this state is a limited liability company or a limited 35111
liability partnership that consists of three or fewer individual 35112
members or partners, as applicable, an individual member or 35113
partner who is a resident of this state and the member's or 35114
partner's children of any age may hunt deer or wild turkey on the 35115
land owned by the limited liability company or limited liability 35116
partnership without a deer or wild turkey permit. In addition, if 35117
the owner of land in this state is a trust that has a total of 35118
three or fewer trustees and beneficiaries, an individual who is a 35119
trustee or beneficiary and who is a resident of this state and the 35120
individual's children of any age may hunt deer or wild turkey on 35121
the land owned by the trust without a deer or wild turkey permit. 35122
The tenant and children of the tenant may hunt deer or wild turkey 35123

on lands where they reside without a deer or wild turkey permit. 35124

(B) A deer or wild turkey permit is not transferable. No 35125
person shall carry a deer or wild turkey permit issued in the name 35126
of another person. 35127

(C) The wildlife refunds fund is hereby created in the state 35128
treasury. The fund shall consist of money received from 35129
application fees for deer permits that are not issued. Money in 35130
the fund shall be used to make refunds of such application fees. 35131

(D) If the division establishes a system for the electronic 35132
submission of information regarding deer or wild turkey that are 35133
taken, the division shall allow the owner and the children of the 35134
owner of lands in this state to use the owner's name or address 35135
for purposes of submitting that information electronically via 35136
that system. 35137

Sec. 1533.111. Except as provided in this section or division 35138
(A)(2) of section 1533.12 of the Revised Code, no person shall 35139
hunt or trap fur-bearing animals on land of another without first 35140
obtaining some type of an annual fur taker permit. Each applicant 35141
for a fur taker permit or an apprentice fur taker permit shall pay 35142
an annual fee of fourteen dollars for the permit, except as 35143
otherwise provided in this section or unless the rules adopted 35144
under division (B) of section 1533.12 of the Revised Code provide 35145
for issuance of a fur taker permit to the applicant free of 35146
charge. Except as provided in rules adopted under division (B)(2) 35147
of that section, each applicant who is a resident of this state 35148
and who at the time of application is sixty-six years of age or 35149
older shall procure a special senior fur taker permit, the fee for 35150
which shall be one-half of the regular fur taker permit fee. Each 35151
applicant under the age of eighteen years shall procure a special 35152
youth fur taker permit or an apprentice youth fur taker permit, 35153
the fee for which shall be one-half of the regular fur taker 35154

permit fee. Each type of fur taker permit shall run concurrently 35155
with the hunting license. The money received shall be paid into 35156
the state treasury to the credit of the fund established in 35157
section 1533.15 of the Revised Code. Apprentice fur taker permits 35158
and apprentice youth fur taker permits are subject to the 35159
requirements established under section 1533.102 of the Revised 35160
Code and rules adopted pursuant to it. 35161

No fur taker permit shall be issued unless it is accompanied 35162
by a written explanation of the law in section 1533.17 of the 35163
Revised Code and the penalty for its violation, including a 35164
description of terms of imprisonment and fines that may be 35165
imposed. 35166

No fur taker permit, other than an apprentice fur taker 35167
permit or an apprentice youth fur taker permit, shall be issued 35168
unless the applicant presents to the agent authorized to issue a 35169
fur taker permit a previously held hunting license or trapping or 35170
fur taker permit or evidence of having held such a license or 35171
permit in content and manner approved by the chief of the division 35172
of wildlife, a certificate of completion issued upon completion of 35173
a trapper education course approved by the chief, or evidence of 35174
equivalent training in content and manner approved by the chief. A 35175
previously held apprentice hunting license, apprentice fur taker 35176
permit, or apprentice youth fur taker permit does not satisfy the 35177
requirement concerning the presentation of a previously held 35178
hunting license or fur taker permit or evidence of such a license 35179
or permit. 35180

No person shall issue a fur taker permit, other than an 35181
apprentice fur taker permit or an apprentice youth fur taker 35182
permit, to any person who fails to present the evidence required 35183
by this section. No person shall purchase or obtain a fur taker 35184
permit, other than an apprentice fur taker permit or an apprentice 35185
youth fur taker permit, without presenting to the issuing agent 35186

the evidence required by this section. Issuance of a fur taker 35187
permit in violation of the requirements of this section is an 35188
offense by both the purchaser of the illegally obtained permit and 35189
the clerk or agent who issued the permit. Any fur taker permit 35190
issued in violation of this section is void. 35191

The chief, with approval of the wildlife council, shall adopt 35192
rules prescribing a trapper education course for first-time fur 35193
taker permit buyers, other than buyers of apprentice fur taker 35194
permits or apprentice youth fur taker permits, and for volunteer 35195
instructors. The course shall consist of subjects that include, 35196
but are not limited to, trapping techniques, animal habits and 35197
identification, trapping tradition and ethics, the trapper and 35198
conservation, the law in section 1533.17 of the Revised Code along 35199
with the penalty for its violation, including a description of 35200
terms of imprisonment and fines that may be imposed, and other law 35201
relating to trapping. Authorized personnel of the division of 35202
wildlife or volunteer instructors approved by the chief shall 35203
conduct the courses with such frequency and at such locations 35204
throughout the state as to reasonably meet the needs of permit 35205
applicants. The chief shall issue a certificate of completion to 35206
each person who successfully completes the course and passes an 35207
examination prescribed by the chief. 35208

Every person, while hunting or trapping fur-bearing animals 35209
on lands of another, shall carry the person's fur taker permit 35210
with the person's signature written on the permit. Failure to 35211
carry such a signed permit constitutes an offense under this 35212
section. The chief shall adopt any additional rules the chief 35213
considers necessary to carry out this section. 35214

The An owner who is a resident of this state and the children 35215
of the owner of lands in this state may hunt or trap fur-bearing 35216
animals thereon without a fur taker permit. If the owner of land 35217
in this state is a limited liability company or a limited 35218

liability partnership that consists of three or fewer individual 35219
members or partners, as applicable, an individual member or 35220
partner who is a resident of this state and the member's or 35221
partner's children of any age may hunt or trap fur-bearing animals 35222
on the land owned by the limited liability company or limited 35223
liability partnership without a fur taker permit. In addition, if 35224
the owner of land in this state is a trust that has a total of 35225
three or fewer trustees and beneficiaries, an individual who is a 35226
trustee or beneficiary and who is a resident of this state and the 35227
individual's children of any age may hunt or trap fur-bearing 35228
animals on the land owned by the trust without a fur taker permit. 35229
The tenant and children of the tenant may hunt or trap fur-bearing 35230
animals on lands where they reside without a fur taker permit. 35231

A fur taker permit is not transferable. No person shall carry 35232
a fur taker permit issued in the name of another person. 35233

A fur taker permit entitles a nonresident to take from this 35234
state fur-bearing animals taken and possessed by the nonresident 35235
as provided by law or division rule. 35236

Sec. 1533.32. Except as provided in this section or division 35237
(A)(2) or (C) of section 1533.12 of the Revised Code, no person, 35238
including nonresidents, shall take or catch any fish by angling in 35239
any of the waters in the state or engage in fishing in those 35240
waters without a license. No person shall take or catch frogs or 35241
turtles without a valid fishing license, except as provided in 35242
this section. Persons fishing in privately owned ponds, lakes, or 35243
reservoirs to or from which fish are not accustomed to migrate are 35244
exempt from the license requirements set forth in this section. 35245
Persons fishing in privately owned ponds, lakes, or reservoirs 35246
that are open to public fishing through an agreement or lease with 35247
the division of wildlife shall comply with the license 35248
requirements set forth in this section. 35249

The fee for an annual license shall be thirty-nine dollars 35250
for a resident of a state that is not a party to an agreement 35251
under section 1533.91 of the Revised Code. The fee for an annual 35252
license shall be eighteen dollars for a resident of a state that 35253
is a party to such an agreement. The fee for an annual license for 35254
residents of this state shall be eighteen dollars unless the rules 35255
adopted under division (B) of section 1533.12 of the Revised Code 35256
provide for issuance of a resident fishing license to the 35257
applicant free of charge. Except as provided in rules adopted 35258
under division (B)(2) of that section, each applicant who is a 35259
resident of this state and who at the time of application is 35260
sixty-six years of age or older shall procure a special senior 35261
fishing license, the fee for which shall be one-half of the annual 35262
resident fishing license fee. 35263

Any person under the age of sixteen years may take or catch 35264
frogs and turtles and take or catch fish by angling without a 35265
license. 35266

The chief of the division of wildlife may issue a tourist's 35267
license expiring three days from the effective date of the license 35268
to a resident of a state that is not a party to an agreement under 35269
section 1533.91 of the Revised Code. The fee for a tourist's 35270
license shall be eighteen dollars. 35271

The chief shall adopt rules under section 1531.10 of the 35272
Revised Code providing for the issuance of a one-day fishing 35273
license to a resident of this state or of any other state. The fee 35274
for such a license shall be fifty-five per cent of the amount 35275
established under this section for a tourist's license, rounded up 35276
to the nearest whole dollar. A one-day fishing license shall allow 35277
the holder to take or catch fish by angling in the waters in the 35278
state, engage in fishing in those waters, or take or catch frogs 35279
or turtles in those waters for one day without obtaining an annual 35280
license or a tourist's license under this section. At the request 35281

of a holder of a one-day fishing license who wishes to obtain an 35282
annual license, a clerk or agent authorized to issue licenses 35283
under section 1533.13 of the Revised Code, not later than the last 35284
day on which the one-day license would be valid if it were an 35285
annual license, shall credit the amount of the fee paid for the 35286
one-day license toward the fee charged for the annual license if 35287
so authorized by the chief. The clerk or agent shall issue the 35288
annual license upon presentation of the one-day license and 35289
payment of a fee in an amount equal to the difference between the 35290
fee for the annual license and the fee for the one-day license. 35291

Unless otherwise provided by division rule, each annual 35292
license shall begin on the first day of March of the current year 35293
and expire on the last day of February of the following year. 35294

No person shall alter a fishing license or possess a fishing 35295
license that has been altered. 35296

No person shall procure or attempt to procure a fishing 35297
license by fraud, deceit, misrepresentation, or any false 35298
statement. 35299

~~Owners of~~ A resident of this state who owns land over, 35300
through, upon, or along which any water flows or stands, except 35301
where the land is in or borders on state parks or state-owned 35302
lakes, together with the members of the immediate families of such 35303
owners, may take frogs and turtles and may take or catch fish of 35304
the kind permitted to be taken or caught therefrom without 35305
procuring a license provided for in this section. This exemption 35306
extends to tenants actually residing upon such lands and to the 35307
members of the immediate families of the tenants. If the owner of 35308
such land in this state is a limited liability company or a 35309
limited liability partnership that consists of three or fewer 35310
individual members or partners, as applicable, an individual 35311
member or partner who is a resident of this state and the member's 35312
or partner's children of any age may take frogs and turtles and 35313

may take or catch fish of the kind permitted to be taken or caught 35314
therefrom without procuring a license provided for in this 35315
section. In addition, if the owner of such land in this state is a 35316
trust that has a total of three or fewer trustees and 35317
beneficiaries, an individual who is a trustee or beneficiary and 35318
who is a resident of this state and the individual's children of 35319
any age may take frogs and turtles and may take or catch fish of 35320
the kind permitted to be taken or caught therefrom without 35321
procuring a license provided for in this section. Residents of 35322
state or county institutions, charitable institutions, and 35323
military homes in this state may take frogs and turtles without 35324
procuring the required license, provided that a member of the 35325
institution or home has an identification card, which shall be 35326
carried on that person when fishing. 35327

Every fisher required to be licensed, while fishing or taking 35328
or attempting to take frogs or turtles, shall carry the license 35329
and exhibit it to any person. Failure to so carry and exhibit the 35330
license constitutes an offense under this section. 35331

Sec. 1533.731. (A) No wild animal hunting preserve shall be 35332
less than eighty acres in area. Each such preserve shall be in one 35333
continuous block of land, except that the block of land may be 35334
intersected by highways or roads. No wild animal hunting preserve 35335
shall be located within ~~three~~ one thousand five hundred feet of 35336
another such preserve or of a commercial bird shooting preserve 35337
licensed under section 1533.72 of the Revised Code. 35338

The boundaries of each wild animal hunting preserve shall be 35339
clearly defined by posting, at intervals of not more than ~~two~~ four 35340
hundred feet, with signs prescribed by the division of wildlife. 35341
Each wild animal hunting preserve shall be surrounded by a fence 35342
at least six feet in height that is constructed of a woven wire 35343
mesh, or such other enclosure approved by the chief of the 35344

division of wildlife. 35345

(B)(1) Except as provided in divisions (B)(2) and (3) of this 35346
section, game and nonnative wildlife that have been approved by 35347
the chief for such use, that have been legally acquired or 35348
propagated under the authority of a propagating license issued 35349
under section 1533.71 of the Revised Code, and that are marked and 35350
tagged as provided in division (C) of this section may be released 35351
and hunted within the confines of the licensed wild animal hunting 35352
preserve between sunrise and sunset, without regard to sex, bag 35353
limit, or open season, by licensed hunters authorized by the 35354
holder of the wild animal hunting preserve license to hunt on 35355
those lands. The chief shall establish, by rule, the allowable 35356
methods of taking game and nonnative wildlife in a wild animal 35357
hunting preserve. 35358

(2) No game or nonnative wildlife on the federal endangered 35359
species list established in accordance with the "Endangered 35360
Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1531, as amended, 35361
or the state endangered species list established in rules adopted 35362
under section 1531.25 of the Revised Code, no bears native to 35363
North America, and no large carnivores of the family Felidae shall 35364
be released for hunting or hunted in any wild animal hunting 35365
preserve in this state. 35366

(3) No person shall release for hunting or hunt within a wild 35367
animal hunting preserve any game or nonnative wildlife not listed 35368
in the application for a license for that preserve. 35369

(C) All game and nonnative wildlife released on a wild animal 35370
hunting preserve shall be identified with a tag that shall bear 35371
upon it a symbol identifying the preserve. 35372

(D) For the purposes of division (B) of section 1533.02 of 35373
the Revised Code, the owner or operator of a wild animal hunting 35374
preserve shall furnish each person who takes any game or nonnative 35375

wildlife from the preserve a certificate bearing a description of 35376
the animal, the date the animal was taken, and the name of the 35377
preserve. 35378

(E) The chief shall adopt rules under section 1531.10 of the 35379
Revised Code that provide for the safety of the public and for the 35380
protection of the game and nonnative wildlife to be hunted in a 35381
wild animal hunting preserve prior to their release in the 35382
preserve. 35383

(F) No holder of a wild animal hunting preserve license shall 35384
violate Chapter 1531. or this chapter of the Revised Code or any 35385
division rule. 35386

(G) This section does not authorize the hunting of game birds 35387
in a licensed wild animal hunting preserve. 35388

Sec. 1533.83. As used in sections 1533.83 to 1533.85 of the 35389
Revised Code: 35390

(A) "Political subdivision" means a municipal corporation, 35391
township, county, or other body corporate and politic responsible 35392
for governmental activities in a geographic area smaller than that 35393
of the state. 35394

(B) "Shooting range" means a facility operated for the 35395
purpose of shooting with firearms or archery equipment, whether 35396
publicly or privately owned and whether or not operated for 35397
profit, including, but not limited to, commercial bird shooting 35398
preserves and wild animal hunting preserves established pursuant 35399
to this chapter. "Shooting range" does not include a facility 35400
owned or operated by a municipal corporation, county, ~~or~~ township 35401
police district, or joint police district. 35402

(C) "Harm" means injury, death, or loss to person or 35403
property. 35404

(D) "The chief's noise rules" means the rules of the chief of 35405

the division of wildlife that are adopted pursuant to section 35406
1533.84 of the Revised Code and that pertain to the limitation or 35407
suppression of noise at a shooting range or to the hours of 35408
operation of shooting ranges. 35409

(E) "The chief's public safety rules" means the rules of the 35410
chief of the division of wildlife that are adopted pursuant to 35411
section 1533.84 of the Revised Code and that pertain to public 35412
safety, including standards for the reconstruction, enlargement, 35413
remodeling, or repair of any structure or facility that is part of 35414
a shooting range. 35415

Sec. 1541.05. (A) The chief of the division of parks and 35416
recreation, with the approval of the director of natural 35417
resources, may dispose of any of the following by sale, donation, 35418
trade, trade-in, recycling, or any other lawful means, in a manner 35419
that will benefit the division: 35420

(1) Standing timber that as a result of wind, storm, 35421
pestilence, or any other natural occurrence may present a hazard 35422
to life or property, timber that has weakened or fallen on lands 35423
under the control and management of the division, or any timber or 35424
other forest products that ~~requires~~ require management to improve 35425
wildlife habitat, protect against wildfires, provide access to 35426
recreational facilities, implement sustainable forestry practices, 35427
or improve the safety, quality, or appearance of any state park 35428
area; 35429

(2) Spoils of a dredging operation conducted by the division 35430
in waters under the control and management of the division. Prior 35431
to the disposition of any spoils under this division, the chief 35432
shall notify the director of environmental protection of the 35433
chief's intent so that the director may determine if the spoils 35434
constitute solid wastes or hazardous waste, as those terms are 35435
defined in section 3734.01 of the Revised Code, that must be 35436

disposed of in accordance with Chapter 3734. of the Revised Code. 35437
If the director does not notify the chief within thirty days after 35438
receiving notice of the disposition that the spoils must be 35439
disposed of in accordance with Chapter 3734. of the Revised Code, 35440
the chief may proceed with the disposition. 35441

(3) Notwithstanding sections 125.12 to 125.14 of the Revised 35442
Code, excess supplies and surplus supplies, as those terms are 35443
defined in section 125.12 of the Revised Code; 35444

(4) Agricultural products that are grown or raised by the 35445
division. As used in this division, "agricultural products" 35446
includes products of apiculture, animal husbandry, or poultry 35447
husbandry, field crops, fruits, and vegetables. 35448

(5) Abandoned personal property, including golf balls that 35449
are found on property under the control and management of the 35450
division. 35451

(B) In accordance with Chapter 119. of the Revised Code, the 35452
chief shall adopt, and may amend and rescind, such rules as are 35453
necessary to administer this section. 35454

(C) ~~Proceeds~~ Except as provided in division (D) of this 35455
section, proceeds from the disposition of items under this section 35456
shall be deposited in the state treasury to the credit of the 35457
state park fund created in section 1541.22 of the Revised Code. 35458

(D) The chief of the division of parks and recreation may 35459
enter into a memorandum of understanding with the chief of the 35460
division of forestry to allow the division of forestry to 35461
administer the sale of timber and forest products on lands that 35462
are owned or controlled by the division of parks and recreation. 35463
Proceeds from the sale of timber or forest products pursuant to 35464
the memorandum of understanding shall be apportioned as follows: 35465

(1) Seventy-five per cent of the proceeds shall be deposited 35466
in the state treasury to the credit of the state park fund. 35467

(2) Twenty-five per cent of the proceeds shall be deposited 35468
in the state treasury to the credit of the state forest fund 35469
created in section 1503.05 of the Revised Code. 35470

Sec. 1545.071. The following applies until the department of 35471
administrative services implements for park districts the health 35472
care plans under section 9.901 of the Revised Code. If those plans 35473
do not include or address any benefits listed in this section, the 35474
following provisions continue in effect for those benefits. 35475

The board of park commissioners of any park district may 35476
procure and pay all or any part of the cost of group insurance 35477
policies that may provide benefits for hospitalization, surgical 35478
care, major medical care, disability, dental care, eye care, 35479
medical care, hearing aids, or prescription drugs, or sickness and 35480
accident insurance or a combination of any of the foregoing types 35481
of insurance or coverage for park district officers and employees 35482
and their immediate dependents issued by an insurance company duly 35483
authorized to do business in this state. 35484

The board may procure and pay all or any part of the cost of 35485
group life insurance to insure the lives of park district 35486
employees. 35487

The board also may contract for group health care services 35488
with health insuring corporations holding a certificate of 35489
authority under Chapter 1751. of the Revised Code provided that 35490
each officer or employee is permitted to: 35491

(A) Choose between a plan offered by an insurance company and 35492
a plan offered by a health insuring corporation and provided 35493
further that the officer or employee pays any amount by which the 35494
cost of the plan chosen by the officer or employee exceeds the 35495
cost of the plan offered by the board under this section; 35496

(B) Change the choice made under division (A) of this section 35497

at a time each year as determined in advance by the board. 35498

Any appointed member of the board of park commissioners and 35499
the spouse and dependent children of the member may be covered, at 35500
the option and expense of the member, as a noncompensated employee 35501
of the park district under any benefit plan described in division 35502
(A) of this section. The member shall pay to the park district the 35503
amount certified to it by the benefit provider as the provider's 35504
charge for the coverage the member has chosen under division (A) 35505
of this section. Payments for coverage shall be made, in advance, 35506
in a manner prescribed by the board. The member's exercise of an 35507
option to be covered under this section shall be in writing, 35508
announced at a regular public meeting of the board, and recorded 35509
as a public record in the minutes of the board. 35510

The board may provide the benefits authorized in this section 35511
by contributing to a health and welfare trust fund administered 35512
through or in conjunction with a collective bargaining 35513
representative of the park district employees. 35514

The board may provide the benefits described in this section 35515
through an individual self-insurance program or a joint 35516
self-insurance program as provided in section 9.833 of the Revised 35517
Code. 35518

Sec. 1545.09. (A) The board of park commissioners shall adopt 35519
such bylaws and rules as the board considers advisable for the 35520
preservation of good order within and adjacent to parks and 35521
reservations of land, and for the protection and preservation of 35522
the parks, parkways, and other reservations of land under its 35523
jurisdiction and control and of property and natural life therein. 35524
The board shall also adopt bylaws or rules establishing a 35525
procedure for contracting for professional, technical, consulting, 35526
and other special services. Any competitive bidding procedures of 35527
the board do not apply to the purchase of benefits for park 35528

district officers or employees when such benefits are provided 35529
through a health and welfare trust fund administered through or in 35530
conjunction with a collective bargaining representative of the 35531
park district employees, as authorized in section 1545.071 of the 35532
Revised Code. ~~The~~ Summaries of the bylaws and rules shall be 35533
published as provided in the case of ordinances of municipal 35534
corporations under section 731.21 of the Revised Code before 35535
taking effect. 35536

(B)(1) As used in division (B)(2) of this section, "similar 35537
violation under state law" means a violation of any section of the 35538
Revised Code, other than division (C) of this section, that is 35539
similar to a violation of a bylaw or rule adopted under division 35540
(A) of this section. 35541

(2) The board of park commissioners may adopt by bylaw a 35542
penalty for a violation of any bylaw or rule adopted under 35543
division (A) of this section, and any penalty so adopted shall not 35544
exceed in severity whichever of the following is applicable: 35545

(a) The penalty designated under the Revised Code for a 35546
violation of the state law that is similar to the bylaw or rule 35547
for which the board adopted the penalty; 35548

(b) For a violation of a bylaw or rule adopted under division 35549
(A) of this section for which the similar violation under state 35550
law does not bear a penalty or for which there is no similar 35551
violation under state law, a fine of not more than one hundred 35552
fifty dollars for a first offense and not more than one thousand 35553
dollars for each subsequent offense. 35554

(3) ~~Any~~ A summary of any bylaw adopted under division (B)(2) 35555
of this section shall be published as provided in the case of 35556
ordinances of municipal corporations under section 731.21 of the 35557
Revised Code before taking effect. 35558

(C) No person shall violate any bylaws or rules adopted under 35559

division (A) of this section. All fines collected for any 35560
violation of this section shall be paid into the treasury of such 35561
park board. 35562

Sec. 1545.12. (A) Except as provided in division (B) of this 35563
section, if the board of park commissioners finds that any lands 35564
that it has acquired are not necessary for the purposes for which 35565
they were acquired by the board, it may sell and dispose of the 35566
lands upon terms the board considers advisable. The board also may 35567
lease or permit the use of any lands for purposes not inconsistent 35568
with the purposes for which the lands were acquired, and upon 35569
terms the board considers advisable. No lands shall be sold 35570
pursuant to this division without first giving notice of the 35571
board's intention to sell the lands by publication once a week for 35572
four consecutive weeks in ~~not less than two English newspapers~~ a 35573
newspaper of general circulation in the district or as provided in 35574
section 7.16 of the Revised Code. The notice shall contain an 35575
accurate description of the lands and shall state the time and 35576
place at which sealed bids will be received for the purchase of 35577
the lands, and the lands shall not thereafter be sold at private 35578
sale for less than the best and highest bid received without 35579
giving further notice as specified in this division. 35580

(B)(1) After compliance with division (B)(2) of this section, 35581
the board of park commissioners may sell land upon terms the board 35582
considers advisable to any park district established under section 35583
511.18 or Chapter 1545. of the Revised Code, any political 35584
subdivision of the state, the state or any department or agency of 35585
the state, or any department or agency of the federal government 35586
for conservation uses or for park or recreation purposes without 35587
the necessity of having to comply with division (A) of this 35588
section. 35589

(2) Before the board of park commissioners may sell land 35590

under division (B)(1) of this section, the board shall offer the 35591
land for sale to each of the following public agencies that is 35592
authorized to acquire, develop, and maintain land for conservation 35593
uses or for park or recreation purposes: each park district 35594
established under section 511.18 or Chapter 1545. of the Revised 35595
Code or political subdivision in which the land is located, each 35596
park district that is so established and that adjoins or each 35597
political subdivision that adjoins a park district so established 35598
or political subdivision in which the land is located, and each 35599
agency or department of the state or of the federal government 35600
that operates parks or conservation or recreation areas near the 35601
land. The board shall make the offer by giving a written notice 35602
that the land is available for sale, by first class mail, to these 35603
public agencies. A failure of delivery of the written notice to 35604
any of these public agencies does not invalidate any proceedings 35605
for the sale of land under this division. Any public agency that 35606
is so notified and that wishes to purchase the land shall make an 35607
offer to the board in writing not later than sixty days after 35608
receiving the written notice. 35609

If there is only one offer to purchase the land made in that 35610
sixty-day period, the board need not hold a public hearing on the 35611
offer. The board shall accept the offer only if it determines that 35612
acceptance of the offer will result in the best public use of the 35613
land. 35614

If there is more than one offer to purchase the land made in 35615
that sixty-day period, the board shall not accept any offer until 35616
the board holds a public hearing on the offers. If, after the 35617
hearing, the board decides to accept an offer, it shall accept the 35618
offer that it determines will result in the best public use of the 35619
land. 35620

(C) No lands shall be sold under this section at either 35621
public or private sale without the approval of the probate court 35622

of the county in which the lands are situated. 35623

Sec. 1545.131. The board of park commissioners of a park 35624
district may enter into contracts with one or more townships, 35625
township police districts, joint police districts, municipal 35626
corporations, or county sheriffs of this state, with one or more 35627
township park districts created pursuant to section 511.18 of the 35628
Revised Code or other park districts, with one or more state 35629
universities or colleges, as defined in section 3345.12 of the 35630
Revised Code, or with a contiguous political subdivision of an 35631
adjoining state, and a township, township police district, joint 35632
police district, municipal corporation, county sheriff, township 35633
park district, other park district, or state university or college 35634
may enter into a contract with a park district upon any terms that 35635
are agreed to by them, to allow the use of the park district 35636
police or law enforcement officers designated under section 35637
1545.13 of the Revised Code to perform any police function, 35638
exercise any police power, or render any police service on behalf 35639
of the contracting entity that the entity may perform, exercise, 35640
or render. 35641

Chapter 2744. of the Revised Code, insofar as it applies to 35642
the operation of police departments, applies to the contracting 35643
entities and to the members of the police force or law enforcement 35644
department when they are rendering service outside their own 35645
subdivisions pursuant to that contract. 35646

Members of the police force or law enforcement department 35647
acting outside the political subdivision in which they are 35648
employed, pursuant to that contract, shall be entitled to 35649
participate in any indemnity fund established by their employer to 35650
the same extent as while acting within the employing subdivision. 35651
Those members shall be entitled to all the rights and benefits of 35652
Chapter 4123. of the Revised Code, to the same extent as while 35653

performing service within the subdivision. 35654

The contracts entered into pursuant to this section may 35655
provide for the following: 35656

(A) A fixed annual charge to be paid at the times agreed upon 35657
and stipulated in the contract; 35658

(B) Compensation based upon the following: 35659

(1) A stipulated price for each call or emergency; 35660

(2) The number of members or pieces of equipment employed; 35661

(3) The elapsed time of service required in each call or 35662
emergency. 35663

(C) Compensation for loss or damage to equipment while 35664
engaged in rendering police services outside the limits of the 35665
subdivision that owns and furnishes the equipment; 35666

(D) Reimbursement of the subdivision in which the police 35667
force or law enforcement department members are employed for any 35668
indemnity award or premium contribution assessed against the 35669
employing subdivision for workers' compensation benefits for 35670
injuries or death of its police force or law enforcement 35671
department members occurring while engaged in rendering police 35672
services pursuant to the contract. 35673

Sec. 1545.132. The police force or law enforcement department 35674
of any park district may provide police protection to any county, 35675
municipal corporation, township, ~~or~~ township police district, or 35676
joint police district of this state, to any other park district or 35677
any township park district created pursuant to section 511.18 of 35678
the Revised Code, or to a governmental entity of an adjoining 35679
state without a contract to provide police protection, upon the 35680
approval, by resolution, of the board of park commissioners of the 35681
park district in which the police force or law enforcement 35682
department is located and upon authorization by an officer or 35683

employee of the police force or department providing the police 35684
protection who is designated by title of office or position, 35685
pursuant to the resolution of the board of park commissioners, to 35686
give the authorization. 35687

Chapter 2744. of the Revised Code, insofar as it applies to 35688
the operation of police departments, shall apply to any park 35689
district and to members of its police force or law enforcement 35690
department when those members are rendering police services 35691
pursuant to this section outside the park district by which they 35692
are employed. 35693

Police force or law enforcement department members acting, as 35694
provided in this section, outside the park district by which they 35695
are employed shall be entitled to participate in any pension or 35696
indemnity fund established by their employer to the same extent as 35697
while acting within the park district by which they are employed. 35698
Those members shall be entitled to all rights and benefits of 35699
Chapter 4123. of the Revised Code to the same extent as while 35700
performing services within the park district by which they are 35701
employed. 35702

Sec. 1547.30. (A) As used in this section and sections 35703
1547.301, 1547.302, and 1547.304 of the Revised Code: 35704

(1) "Vessel or outboard motor" excludes an abandoned junk 35705
vessel or outboard motor, as defined in section 1547.303 of the 35706
Revised Code, or any watercraft or outboard motor under section 35707
4585.31 of the Revised Code. 35708

(2) "Law enforcement agency" means any organization or unit 35709
comprised of law enforcement officers, as defined in section 35710
2901.01 of the Revised Code. 35711

(B)(1) The sheriff of a county, chief of police of a 35712
municipal corporation, township, ~~or~~ township police district, or 35713

joint police district, or other chief of a law enforcement agency, 35714
within the sheriff's or chief's respective territorial 35715
jurisdiction, upon complaint of any person adversely affected, may 35716
order into storage any vessel or outboard motor that has been left 35717
on private property, other than a private dock or mooring facility 35718
or structure, for at least seventy-two hours without the 35719
permission of the person having the right to the possession of the 35720
property. The sheriff or chief, upon complaint of the owner of a 35721
marine repair facility or place of storage, may order into storage 35722
any vessel or outboard motor that has been left at the facility or 35723
place of storage for a longer period than that agreed upon. The 35724
place of storage shall be designated by the sheriff or chief. When 35725
ordering a vessel or motor into storage under division (B)(1) of 35726
this section, a sheriff or chief, whenever possible, shall arrange 35727
for the removal of the vessel or motor by a private tow truck 35728
operator or towing company. 35729

(2)(a) Except as provided in division (B)(2)(d) of this 35730
section, no person, without the consent of the owner or other 35731
person authorized to give consent, shall moor, anchor, or tie a 35732
vessel or outboard motor at a private dock or mooring facility or 35733
structure owned by another person if the owner has posted, in a 35734
conspicuous manner, a prohibition against the mooring, anchoring, 35735
or tying of vessels or outboard motors at the dock, facility, or 35736
structure by any person not having the consent of the owner or 35737
other person authorized to give consent. 35738

(b) If the owner of a private dock or mooring facility or 35739
structure has posted at the dock, facility, or structure, in a 35740
conspicuous manner, conditions and regulations under which the 35741
mooring, anchoring, or tying of vessels or outboard motors is 35742
permitted at the dock, facility, or structure, no person, except 35743
as provided in division (B)(2)(d) of this section, shall moor, 35744
anchor, or tie a vessel or outboard motor at the dock, facility, 35745

or structure in violation of the posted conditions and 35746
regulations. 35747

(c) The owner of a private dock or mooring facility or 35748
structure may order towed into storage any vessel or outboard 35749
motor found moored, anchored, or tied in violation of division 35750
(B)(2)(a) or (b) of this section, provided that the owner of the 35751
dock, facility, or structure posts on it a sign that states that 35752
the dock, facility, or structure is private, is visible from all 35753
entrances to the dock, facility, or structure, and contains all of 35754
the following information: 35755

(i) The information specified in division (B)(2)(a) or (b) of 35756
this section, as applicable; 35757

(ii) A notice that violators will be towed and that violators 35758
are responsible for paying the cost of the towing; 35759

(iii) The telephone number of the person from whom a towed 35760
vessel or outboard motor may be recovered, and the address of the 35761
place to which the vessel or outboard motor will be taken and the 35762
place from which it may be recovered. 35763

(d) Divisions (B)(2)(a) and (b) of this section do not 35764
prohibit a person from mooring, anchoring, or tying a vessel or 35765
outboard motor at a private dock or mooring facility or structure 35766
if either of the following applies: 35767

(i) The vessel or outboard motor is disabled due to a 35768
mechanical or structural malfunction, provided that the person 35769
immediately removes the vessel or outboard motor from the dock, 35770
facility, or structure when the malfunction is corrected or when a 35771
reasonable attempt has been made to correct it; 35772

(ii) Weather conditions are creating an imminent threat to 35773
safe operation of the vessel or outboard motor, provided that the 35774
person immediately removes the vessel or outboard motor from the 35775
dock, facility, or structure when the weather conditions permit 35776

safe operation of the vessel or outboard motor. 35777

(e) A person whose vessel or outboard motor is towed into 35778
storage under division (B)(2)(c) of this section either shall pay 35779
the costs of the towing of the vessel or outboard motor or shall 35780
reimburse the owner of the dock or mooring facility or structure 35781
for the costs that the owner incurs in towing the vessel or 35782
outboard motor. 35783

(3) Subject to division (C) of this section, the owner of a 35784
vessel or motor that has been removed under division (B) of this 35785
section may recover the vessel or motor only in accordance with 35786
division (F) of this section. 35787

(C) If the owner or operator of a vessel or outboard motor 35788
that has been ordered into storage under division (B) of this 35789
section arrives after the vessel or motor has been prepared for 35790
removal, but prior to its actual removal from the property, the 35791
owner or operator shall be given the opportunity to pay a fee of 35792
not more than one-half of the charge for the removal of vessels or 35793
motors under division (B) of this section that normally is 35794
assessed by the person who has prepared the vessel or motor for 35795
removal, in order to obtain release of the vessel or motor. Upon 35796
payment of that fee, the vessel or motor shall be released to the 35797
owner or operator, and upon its release, the owner or operator 35798
immediately shall move it so that it is not on the private 35799
property without the permission of the person having the right to 35800
possession of the property, or is not at the facility or place of 35801
storage without the permission of the owner, whichever is 35802
applicable. 35803

(D) Each county sheriff, each chief of police of a municipal 35804
corporation, township, ~~or~~ township police district, or joint 35805
police district, and each other chief of a law enforcement agency 35806
shall maintain a record of vessels or outboard motors that are 35807
ordered into storage under division (B)(1) of this section. The 35808

record shall include an entry for each such vessel or motor that 35809
identifies the vessel's hull identification number or serial 35810
number, if any, the vessel's or motor's make, model, and color, 35811
the location from which it was removed, the date and time of its 35812
removal, the telephone number of the person from whom it may be 35813
recovered, and the address of the place to which it has been taken 35814
and from which it may be recovered. Any information in the record 35815
that pertains to a particular vessel or motor shall be provided to 35816
any person who, pursuant to a statement the person makes either in 35817
person or by telephone, is identified as the owner or operator of 35818
the vessel or motor and requests information pertaining to its 35819
location. 35820

(E) Any person who registers a complaint that is the basis of 35821
a sheriff's or chief's order for the removal and storage of a 35822
vessel or outboard motor under division (B)(1) of this section 35823
shall provide the identity of the law enforcement agency with 35824
which the complaint was registered to any person who, pursuant to 35825
a statement the person makes, is identified as the owner or 35826
operator of the vessel or motor and requests information 35827
pertaining to its location. 35828

(F)(1) The owner of a vessel or outboard motor that is 35829
ordered into storage under division (B) of this section may 35830
reclaim it upon payment of any expenses or charges incurred in its 35831
removal, in an amount not to exceed two hundred dollars, and 35832
storage, in an amount not to exceed five dollars per 35833
twenty-four-hour period, and upon presentation of proof of 35834
ownership, which may be evidenced by a certificate of title to the 35835
vessel or motor, certificate of United States coast guard 35836
documentation, or certificate of registration if the vessel or 35837
motor is not subject to titling under section 1548.01 of the 35838
Revised Code. 35839

(2) If a vessel or outboard motor that is ordered into 35840

storage under division (B)(1) of this section remains unclaimed by 35841
the owner for thirty days, the procedures established by sections 35842
1547.301 and 1547.302 of the Revised Code shall apply. 35843

(3) If a vessel or outboard motor ordered into storage under 35844
division (B)(2) of this section remains unclaimed for seventy-two 35845
hours after being stored, the tow truck operator or towing company 35846
that removed the vessel or outboard motor shall provide notice of 35847
the removal and storage to the sheriff of a county, chief of 35848
police of a municipal corporation, township, ~~or~~ township police 35849
district, or joint police district, or other chief of a law 35850
enforcement agency within whose territorial jurisdiction the 35851
vessel or outboard motor had been moored, anchored, or tied in 35852
violation of division (B)(2) of this section. The notice shall be 35853
in writing and include the vessel's hull identification number or 35854
serial number, if any, the vessel's or outboard motor's make, 35855
model, and color, the location from which it was removed, the date 35856
and time of its removal, the telephone number of the person from 35857
whom it may be recovered, and the address of the place to which it 35858
has been taken and from which it may be recovered. 35859

Upon receipt of the notice, the sheriff or chief immediately 35860
shall cause a search to be made of the records of the division of 35861
watercraft to ascertain the owner and any lienholder of the vessel 35862
or outboard motor, and, if known, shall send notice to the owner 35863
and lienholder, if any, at the owner's and lienholder's last known 35864
address by certified mail, return receipt requested, that the 35865
vessel or outboard motor will be declared a nuisance and disposed 35866
of if not claimed not later than thirty days after the date of the 35867
mailing of the notice. 35868

If the owner or lienholder makes no claim to the vessel or 35869
outboard motor within thirty days of the date of the mailing of 35870
the notice, the sheriff or chief shall file with the clerk of 35871
courts of the county in which the place of storage is located an 35872

affidavit showing compliance with the requirements of division 35873
(F)(3) of this section, and the vessel or outboard motor shall be 35874
disposed of in accordance with section 1547.302 of the Revised 35875
Code. 35876

(G) No person shall remove, or cause the removal of, any 35877
vessel or outboard motor from private property other than in 35878
accordance with division (B) of this section or section 1547.301 35879
of the Revised Code. 35880

Sec. 1547.301. The sheriff of a county, chief of police of a 35881
municipal corporation, township, ~~or~~ township police district, or 35882
joint police district, or other chief of a law enforcement agency, 35883
within ~~his~~ the sheriff's or chief's respective territorial 35884
jurisdiction, or a state highway patrol trooper, upon notification 35885
to the sheriff or chief of such action and of the location of the 35886
place of storage, may order into storage any vessel or outboard 35887
motor that has been left in a sunken, beached, or drifting 35888
condition for any period of time, or in a docked condition, on a 35889
public street or other property open to the public, or upon or 35890
within the right-of-way of any waterway, road, or highway, for 35891
forty-eight hours or longer without notification to the sheriff or 35892
chief of the reasons for leaving the vessel or motor in any such 35893
place or condition. The sheriff or chief shall designate the place 35894
of storage of any vessel or motor ordered removed by ~~him~~ the 35895
sheriff or chief. 35896

The sheriff or chief shall immediately cause a search to be 35897
made of the records of the division of watercraft to ascertain the 35898
owner and any lienholder of a vessel or outboard motor ordered 35899
into storage by the sheriff or chief, and, if known, shall send 35900
notice to the owner and lienholder, if any, at ~~his~~ the owner's or 35901
lienholder's last known address by certified mail, return receipt 35902
requested, that the vessel or motor will be declared a nuisance 35903

and disposed of if not claimed within ten days of the date of 35904
mailing of the notice. The owner or lienholder of the vessel or 35905
motor may reclaim it upon payment of any expenses or charges 35906
incurred in its removal and storage, and presentation of proof of 35907
ownership, which may be evidenced by a certificate of title to the 35908
vessel or motor, certificate of United States coast guard 35909
documentation, or certificate of registration if the vessel or 35910
motor is not subject to titling under section 1548.01 of the 35911
Revised Code. 35912

If the owner or lienholder makes no claim to the vessel or 35913
outboard motor within ten days of the date of mailing of the 35914
notice, and if the vessel or motor is to be disposed of at public 35915
auction as provided in section 1547.302 of the Revised Code, the 35916
sheriff or chief shall file with the clerk of courts of the county 35917
in which the place of storage is located an affidavit showing 35918
compliance with the requirements of this section. Upon 35919
presentation of the affidavit, the clerk of courts shall without 35920
charge issue a salvage certificate of title, free and clear of all 35921
liens and encumbrances, to the sheriff or chief and shall send a 35922
copy of the affidavit to the chief of the division of watercraft. 35923
If the vessel or motor is to be disposed of to a marine salvage 35924
dealer or other facility as provided in section 1547.302 of the 35925
Revised Code, the sheriff or chief shall execute in triplicate an 35926
affidavit, as prescribed by the chief of the division of 35927
watercraft, describing the vessel or motor and the manner in which 35928
it was disposed of, and that all requirements of this section have 35929
been complied with. The sheriff or chief shall retain the original 35930
of the affidavit for ~~his~~ the sheriff's or chief's records and 35931
shall furnish two copies to the marine salvage dealer or other 35932
facility. Upon presentation of a copy of the affidavit by the 35933
marine salvage dealer or other facility, the clerk of courts shall 35934
issue to such owner a salvage certificate of title, free and clear 35935
of all liens and encumbrances. 35936

Whenever the marine salvage dealer or other facility receives 35937
an affidavit for the disposal of a vessel or outboard motor as 35938
provided in this section, such owner shall not be required to 35939
obtain an Ohio certificate of title to the vessel or motor in ~~his~~ 35940
the owner's own name if the vessel or motor is dismantled or 35941
destroyed and both copies of the affidavit are delivered to the 35942
clerk of courts. Upon receipt of such an affidavit, the clerk of 35943
courts shall send one copy of it to the chief of the division of 35944
watercraft. 35945

Sec. 1547.302. (A) Unclaimed vessels or outboard motors 35946
ordered into storage under division (B) of section 1547.30 or 35947
section 1547.301 of the Revised Code shall be disposed of at the 35948
order of the sheriff of the county, the chief of police of the 35949
municipal corporation, township, or township police district, or 35950
another chief of a law enforcement agency in any of the following 35951
ways: 35952

(1) To a marine salvage dealer; 35953

(2) To any other facility owned, operated, or under contract 35954
with the state or the county, municipal corporation, township, or 35955
other political subdivision; 35956

(3) To a charitable organization, religious organization, or 35957
similar organization not used and operated for profit; 35958

(4) By sale at public auction by the sheriff, the chief, or 35959
an auctioneer licensed under Chapter 4707. of the Revised Code, 35960
after giving notice of the auction by advertisement, published 35961
once a week for two consecutive weeks in a newspaper of general 35962
circulation in the county or as provided in section 7.16 of the 35963
Revised Code. 35964

(B) Any moneys accruing from the disposition of an unclaimed 35965
vessel or motor that are in excess of the expenses resulting from 35966

the removal and storage of the vessel or motor shall be credited 35967
to the general revenue fund or to the general fund of the county, 35968
municipal corporation, township, or other political subdivision, 35969
as appropriate. 35970

(C) As used in this section, "charitable organization" has 35971
the same meaning as in section 1716.01 of the Revised Code. 35972

Sec. 1547.303. (A) As used in this section and section 35973
1547.304 of the Revised Code: 35974

(1) "Abandoned junk vessel or outboard motor" means any 35975
vessel or outboard motor meeting all of the following 35976
requirements: 35977

(a) It has been left on private property for at least 35978
seventy-two hours without the permission of the person having the 35979
right to the possession of the property; left in a sunken, 35980
beached, or drifting condition for any period of time; or left in 35981
a docked condition, on a public street or other property open to 35982
the public, or upon or within the right-of-way of any waterway, 35983
road, or highway, for forty-eight hours or longer without 35984
notification to the sheriff of the county, the chief of police of 35985
the municipal corporation, township, ~~or~~ township police district, 35986
or joint police district, or other chief of a law enforcement 35987
agency, having territorial jurisdiction with respect to the 35988
location of the vessel or motor, of the reasons for leaving the 35989
vessel or motor in any such place or condition; 35990

(b) It is three years old, or older; 35991

(c) It is extensively damaged, such damage including but not 35992
limited to any of the following: missing deck, hull, transom, 35993
gunwales, motor, or outdrive; 35994

(d) It is apparently inoperable; 35995

(e) It has a fair market value of two hundred dollars or 35996

less. 35997

(2) "Law enforcement agency" means any organization or unit 35998
comprised of law enforcement officers, as defined in section 35999
2901.01 of the Revised Code. 36000

(B) The sheriff of a county, chief of police of a municipal 36001
corporation, township, ~~or~~ township police district, or joint 36002
police district, or other chief of a law enforcement agency, 36003
within the sheriff's or chief's respective territorial 36004
jurisdiction, or a state highway patrol trooper, upon notification 36005
to the sheriff or chief of such action, shall order any abandoned 36006
junk vessel or outboard motor to be photographed by a law 36007
enforcement officer. The officer shall record the make of vessel 36008
or motor, the hull identification number or serial number when 36009
available, and shall also detail the damage or missing equipment 36010
to substantiate the value of two hundred dollars or less. The 36011
sheriff or chief shall thereupon immediately dispose of the 36012
abandoned junk vessel or outboard motor to a marine salvage dealer 36013
or other facility owned, operated, or under contract to the state, 36014
the county, township, or municipal corporation for the destruction 36015
of such vessels or motors. The records and photographs relating to 36016
the abandoned junk vessel or outboard motor shall be retained by 36017
the law enforcement agency ordering the disposition of the vessel 36018
or motor for a period of at least two years. The law enforcement 36019
agency shall execute in quadruplicate an affidavit, as prescribed 36020
by the chief of the division of watercraft, describing the vessel 36021
or motor and the manner in which it was disposed of, and that all 36022
requirements of this section have been complied with, and shall 36023
sign and file the same with the clerk of courts of the county in 36024
which the vessel or motor was abandoned. The clerk of courts shall 36025
retain the original of the affidavit for the clerk's files, shall 36026
furnish one copy thereof to the chief of the division of 36027
watercraft, one copy to the marine salvage dealer or other 36028

facility handling the disposal of the vessel or motor, and one 36029
copy to the law enforcement agency ordering the disposal, who 36030
shall file such copy with the records and photographs relating to 36031
the disposal. Any moneys arising from the disposal of an abandoned 36032
junk vessel or outboard motor shall be credited to the general 36033
revenue fund, or to the general fund of the county, township, 36034
municipal corporation, or other political subdivision, as 36035
appropriate. 36036

Notwithstanding section 1547.301 of the Revised Code, any 36037
vessel or outboard motor meeting the requirements of divisions 36038
(A)(1)(c) to (e) of this section which has remained unclaimed by 36039
the owner or lienholder for a period of ten days or longer 36040
following notification as provided in section 1547.301 of the 36041
Revised Code may be disposed of as provided in this section. 36042

Sec. 1547.304. No person shall purposely leave an abandoned 36043
junk vessel or outboard motor on private property for more than 36044
seventy-two hours without the permission of the person having the 36045
right to the possession of the property; in a sunken, beached, or 36046
drifting condition for any period of time; or in a docked 36047
condition, on a public street or other property open to the 36048
public, or upon or within the right-of-way of any waterway, road, 36049
or highway, for forty-eight hours or longer without notification 36050
to the sheriff of the county, chief of police of the municipal 36051
corporation, township, ~~or~~ township police district, or joint 36052
police district, or other chief of a law enforcement agency, 36053
having territorial jurisdiction with respect to the location of 36054
the vessel or motor, of the reasons for leaving the vessel or 36055
motor in any such place or condition. 36056

For purposes of this section, the fact that an abandoned junk 36057
vessel or outboard motor has been so left without permission or 36058
notification is prima-facie evidence of abandonment. 36059

Nothing in sections 1547.30, 1547.301, and 1547.303 of the Revised Code invalidates the provisions of any ordinance of a municipal corporation regulating or prohibiting the abandonment of vessels or outboard motors on waterways, beaches, docks, streets, highways, public property, or private property within the boundaries of the municipal corporation.

Sec. 1551.311. The general assembly hereby finds and declares that the future of the Ohio coal industry lies in the development of clean coal technology and that the disproportionate economic impact on the state under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants maximum federal assistance to this state for such development. It is therefore imperative that the ~~Ohio air quality department of development authority created under Chapter 3706. of the Revised Code,~~ its Ohio coal development office, the Ohio coal industry, the Ohio Washington office in the office of the governor, and the state's congressional delegation make every effort to acquire any federal assistance available for the development of clean coal technology, including assisting entities eligible for grants in their acquisition. The Ohio coal development agenda required by section 1551.34 of the Revised Code shall include, in addition to the other information required by that section, a description of such efforts and a description of the current status of the development of clean coal technology in this state and elsewhere.

Sec. 1551.32. (A) There is hereby established within the ~~Ohio air quality department of development authority~~ the Ohio coal development office whose purposes are to do all of the following:

(1) Encourage, promote, and support siting, financing, construction, and operation of commercially available or scaled facilities and technologies, including, without limitation, commercial-scale demonstration facilities and, when necessary or

appropriate to demonstrate the commercial acceptability of a 36091
specific technology, up to three installations within this state 36092
utilizing the specific technology, to more efficiently produce, 36093
beneficiate, market, or use Ohio coal; 36094

(2) Encourage, promote, and support the market acceptance and 36095
increased market use of Ohio coal through technology and market 36096
development; 36097

(3) Assist in the financing of coal development facilities; 36098

(4) Encourage, promote, and support, in state-owned 36099
buildings, facilities, and operations, use of Ohio coal and 36100
electricity sold by utilities and others in this state that use 36101
Ohio coal for generation; 36102

(5) Improve environmental quality, particularly through 36103
cleaner use of Ohio coal; 36104

(6) Assist and cooperate with governmental agencies, 36105
universities and colleges, coal producers, coal miners, electric 36106
utilities and other coal users, public and private sector coal 36107
development interests, and others in achieving these purposes. 36108

(B) The office shall give priority to improvement or 36109
reconstruction of existing facilities and equipment when 36110
economically feasible, to construction and operation of 36111
commercial-scale facilities, and to technologies, equipment, and 36112
other techniques that enable maximum use of Ohio coal in an 36113
environmentally acceptable, cost-effective manner. 36114

Sec. 1551.33. (A) The ~~Ohio air quality~~ director of 36115
~~development authority, by the affirmative vote of a majority of~~ 36116
~~its members,~~ shall appoint and fix the compensation of the 36117
director of the Ohio coal development office. The director shall 36118
serve at the pleasure of the ~~authority~~ director of development. 36119

(B) The director of the office shall do all of the following: 36120

- (1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code; 36121
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- (2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda; 36123
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- (3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda; 36126
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- (4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person; 36130
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- (5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the ~~authority~~ director of development. 36134
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- (6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code; 36139
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- (7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public 36142
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utilities commission a report recommending that the commission 36152
allow the recovery of costs associated with the facility or 36153
project under section 4905.304 of the Revised Code and including 36154
the reasons for the recommendation. 36155

(8) Establish such policies, procedures, and guidelines as 36156
are necessary to achieve the office's purposes. 36157

(C) ~~By the affirmative vote of a majority of the members of~~ 36158
~~the Ohio air quality development authority, the~~ The director of 36159
the office may exercise any of the powers and duties ~~of the~~ 36160
~~director of development as the authority and~~ that the director of 36161
the office ~~consider~~ considers appropriate or desirable to achieve 36162
the office's purposes, including, but not limited to, the powers 36163
and duties enumerated in sections 1551.11, 1551.12, ~~1551.13,~~ and 36164
1551.15 of the Revised Code. 36165

Additionally, the director of the office may make loans to 36166
governmental agencies or persons for projects to carry out the 36167
office's purposes. Fees, charges, rates of interest, times of 36168
payment of interest and principal, and other terms, conditions, 36169
and provisions of the loans shall be such as the director of the 36170
office determines to be appropriate and in furtherance of the 36171
purposes for which the loans are made. The mortgage lien securing 36172
any moneys lent by the director of the office may be subordinate 36173
to the mortgage lien securing any moneys lent or invested by a 36174
financial institution, but shall be superior to that securing any 36175
moneys lent or expended by any other person. The moneys used in 36176
making the loans shall be disbursed upon order of the director of 36177
the office. 36178

Sec. 1551.35. (A) There is hereby established a technical 36179
advisory committee to assist the director of the Ohio coal 36180
development office in achieving the office's purposes. The 36181
director shall appoint to the committee one member of the public 36182

utilities commission and one representative each of coal 36183
production companies, the united mine workers of America, electric 36184
utilities, manufacturers that use Ohio coal, and environmental 36185
organizations, as well as two people with a background in coal 36186
research and development technology, one of whom is employed at 36187
the time of the member's appointment by a state university, as 36188
defined in section 3345.011 of the Revised Code. In addition, the 36189
committee shall include four legislative members. The speaker and 36190
minority leader of the house of representatives each shall appoint 36191
one member of the house of representatives, and the president and 36192
minority leader of the senate each shall appoint one member of the 36193
senate, to the committee. The director of environmental protection 36194
~~and the director of development~~ shall serve on the committee as an 36195
ex officio ~~members~~ member. Any member of the committee may 36196
designate in writing a substitute to serve in the member's absence 36197
on the committee. The director of environmental protection may 36198
designate in writing the chief of the air pollution control 36199
division of the agency to represent the agency. Members shall 36200
serve on the committee at the pleasure of their appointing 36201
authority. Members of the committee appointed by the director of 36202
the office and, notwithstanding section 101.26 of the Revised 36203
Code, legislative members of the committee, when engaged in their 36204
official duties as members of the committee, shall be compensated 36205
on a per diem basis in accordance with division (J) of section 36206
124.15 of the Revised Code, except that the member of the public 36207
utilities commission and, while employed by a state university, 36208
the member with a background in coal research, shall not be so 36209
compensated. Members shall receive their actual and necessary 36210
expenses incurred in the performance of their duties. 36211

(B) The technical advisory committee shall review and make 36212
recommendations concerning the Ohio coal development agenda 36213
required under section 1551.34 of the Revised Code, project 36214
proposals, research and development projects submitted to the 36215

office by public utilities for the purpose of section 4905.304 of 36216
the Revised Code, proposals for grants, loans, and loan guarantees 36217
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 36218
and such other topics as the director of the office considers 36219
appropriate. 36220

(C) The technical advisory committee may hold an executive 36221
session at any regular or special meeting for the purpose of 36222
considering research and development project proposals or 36223
applications for assistance submitted to the Ohio coal development 36224
office under section 1551.33, or sections 1555.01 to 1555.06, of 36225
the Revised Code, to the extent that the proposals or applications 36226
consist of trade secrets or other proprietary information. 36227

Any materials or data submitted to, made available to, or 36228
received by the ~~Ohio air quality~~ department of development 36229
~~authority~~ or the director of the Ohio coal development office in 36230
connection with agreements for assistance entered into under this 36231
chapter or Chapter 1555. of the Revised Code, or any information 36232
taken from those materials or data for any purpose, to the extent 36233
that the materials or data consist of trade secrets or other 36234
proprietary information, are not public records for the purposes 36235
of section 149.43 of the Revised Code. 36236

As used in this division, "trade secrets" has the same 36237
meaning as in section 1333.61 of the Revised Code. 36238

Sec. 1555.02. It is hereby declared to be the public policy 36239
of this state through the operations of the Ohio coal development 36240
office under this chapter to contribute toward one or more of the 36241
following: to provide for the comfort, health, safety, and general 36242
welfare of all employees and other inhabitants of this state 36243
through research and development directed toward the discovery of 36244
new technologies or the demonstration or application of existing 36245
technologies to enable the conversion or use of Ohio coal as a 36246

fuel or chemical feedstock in an environmentally acceptable manner 36247
thereby enhancing the marketability and fostering the use of this 36248
state's vast reserves of coal, to assist in the financing of coal 36249
research and development and coal research and development 36250
projects or facilities for persons doing business in this state 36251
and educational and scientific institutions located in this state, 36252
to create or preserve jobs and employment opportunities or improve 36253
the economic welfare of the people of this state, or to assist and 36254
cooperate with such persons and educational and scientific 36255
institutions in conducting coal research and development. In 36256
furtherance of this public policy, the Ohio coal development 36257
office, with the advice of the technical advisory committee 36258
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 36259
~~vote of a majority of the members of the Ohio air quality~~ 36260
~~development authority~~, may make loans, guarantee loans, and make 36261
grants to persons doing business in this state or to educational 36262
or scientific institutions located in this state for coal research 36263
and development projects by such persons or educational or 36264
scientific institutions; may, with the advice of the technical 36265
advisory committee ~~and the affirmative vote of a majority of the~~ 36266
~~members of the Ohio air quality development authority~~, request the 36267
issuance of coal research and development general obligations 36268
under section 151.07 of the Revised Code to provide funds for 36269
making such loans, loan guarantees, and grants; and may, with the 36270
advice of the technical advisory committee ~~and the affirmative~~ 36271
~~vote of a majority of the members of the Ohio air quality~~ 36272
~~development authority~~, expend moneys credited to the coal research 36273
and development fund created in section 1555.15 of the Revised 36274
Code for the purpose of making such loans, loan guarantees, and 36275
grants. Determinations by the director of the Ohio coal 36276
development office that coal research and development or a coal 36277
research and development facility is a coal research and 36278
development project under this chapter and is consistent with the 36279

purposes of Section 15 of Article VIII, Ohio Constitution, and 36280
this chapter shall be conclusive as to the validity and 36281
enforceability of the coal research and development general 36282
obligations issued to finance such project and of the 36283
authorizations, trust agreements or indentures, loan agreements, 36284
loan guarantee agreements, or grant agreements, and other 36285
agreements made in connection therewith, all in accordance with 36286
their terms. 36287

Sec. 1555.03. For the purposes of this chapter, the director 36288
of the Ohio coal development office may: 36289

(A) With the advice of the technical advisory committee 36290
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 36291
~~vote of a majority of the members of the Ohio air quality~~ 36292
~~development authority~~, make loans, guarantee loans, and make 36293
grants to persons doing business in this state or to educational 36294
or scientific institutions located in this state for coal research 36295
and development projects by any such person or educational or 36296
scientific institution and adopt rules under Chapter 119. of the 36297
Revised Code for making such loans, guarantees, and grants. 36298

(B) In making loans, loan guarantees, and grants under 36299
division (A) of this section and section 1555.04 of the Revised 36300
Code, the director of the office shall ensure that an adequate 36301
portion of the total amount of those loans, loan guarantees, and 36302
grants, as determined by the director with the advice of the 36303
technical advisory committee, is used for conducting research on 36304
fundamental scientific problems related to the utilization of Ohio 36305
coal and shall ensure, to the maximum feasible extent, joint 36306
financial participation by the federal government or other 36307
investors or interested parties in conjunction with any such loan, 36308
loan guarantee, or grant. The director, in each grant agreement or 36309
contract under division (A) of this section, loan contract or 36310

agreement under this division or section 1555.04 of the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee ~~and the affirmative vote of a majority of the members of the Ohio air quality development authority~~, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15, Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents or copyrights, that result in whole or in part from coal research and development projects conducted under any such contract or agreement, in such amounts and for such period of years as may be negotiated and provided by the contract or agreement in advance of the making of the grant, loan, or loan guarantee. Moneys received by the director of the office under this section may be credited to the coal research and development bond service fund or used to make additional loans, loan guarantees, grants, or agreements under this section.

(E) Employ managers, superintendents, and other employees and

retain or contract with consulting engineers, financial 36343
consultants, accounting experts, architects, and such other 36344
consultants and independent contractors as are necessary in the 36345
judgment of the director of the office to carry out this chapter, 36346
and fix the compensation thereof. 36347

(F) Receive and accept from any federal agency, subject to 36348
the approval of the governor, grants for or in aid of the 36349
construction or operation of any coal research and development 36350
project or for coal research and development, and receive and 36351
accept aid or contributions from any source of money, property, 36352
labor, or other things of value, to be held, used, and applied 36353
only for the purposes for which such grants and contributions are 36354
made. 36355

(G) Purchase fire and extended coverage and liability 36356
insurance for any coal research and development project, insurance 36357
protecting the office and its officers and employees against 36358
liability for damage to property or injury to or death of persons 36359
arising from its operations, and any other insurance the director 36360
of the office determines necessary or proper under this chapter. 36361
Any moneys received by the director from the proceeds of any such 36362
insurance with respect to a coal research and development project 36363
and any moneys received by the director from the proceeds of any 36364
settlement, judgment, foreclosure, or other insurance with respect 36365
to a coal research and development project or facility shall be 36366
credited to the coal research and development bond service fund. 36367

(H) In the exercise of the powers of the director of the 36368
office under this chapter, call to the director's assistance, 36369
temporarily, from time to time, any engineers, technical experts, 36370
financial experts, and other employees in any state department, 36371
agency, or commission, or in the Ohio state university, or other 36372
educational institutions financed wholly or partially by this 36373
state for purposes of assisting the director of the office with 36374

reviewing and evaluating applications for financial assistance 36375
under this chapter, monitoring performance of coal research and 36376
development projects receiving financial assistance under this 36377
chapter, and reviewing and evaluating the progress and findings of 36378
those projects. Such engineers, experts, and employees shall not 36379
receive any additional compensation over that which they receive 36380
from the department, agency, commission, or educational 36381
institution by which they are employed, but they shall be 36382
reimbursed for their actual and necessary expenses incurred while 36383
working under the direction of the director. 36384

(I) Do all acts necessary or proper to carry out the powers 36385
expressly granted in this chapter. 36386

Sec. 1555.04. (A) With respect to coal research and 36387
development projects financed wholly or partially from a loan or 36388
loan guarantee under this chapter, the director of the Ohio coal 36389
development office, in addition to other powers under this 36390
chapter, with the advice of the technical advisory committee 36391
created in section 1551.35 of the Revised Code ~~and the affirmative~~ 36392
~~vote of a majority of the members of the Ohio air quality~~ 36393
~~development authority~~, may enter into loan agreements, accept 36394
notes and other forms of obligation to evidence such indebtedness 36395
and mortgages, liens, pledges, assignments, or other security 36396
interests to secure such indebtedness, which may be prior or 36397
subordinate to or on a parity with other indebtedness, 36398
obligations, mortgages, pledges, assignments, other security 36399
interests, or liens or encumbrances, and take such actions as the 36400
director of the office considers appropriate to protect such 36401
security and safeguard against losses, including, without 36402
limitation, foreclosure and the bidding upon and purchase of 36403
property upon foreclosure or other sale. 36404

(B) The authority granted by this section is cumulative and 36405

supplementary to all other authority granted in this chapter. The 36406
authority granted by this section does not alter or impair any 36407
similar authority granted elsewhere in this chapter with respect 36408
to other projects. 36409

Sec. 1555.05. (A) Subject to any limitations as to aggregate 36410
amounts thereof that may from time to time be prescribed by the 36411
general assembly and to other applicable provisions of this 36412
chapter, and subject to the one-hundred-million-dollar limitation 36413
provided in Section 15 of Article VIII, Ohio Constitution, the 36414
director of the Ohio coal development office, on behalf of this 36415
state, with the advice of the technical advisory committee created 36416
in section 1551.35 of the Revised Code ~~and the affirmative vote of~~ 36417
~~a majority of the members of the Ohio air quality development~~ 36418
~~authority,~~ may enter into contracts to guarantee the repayment or 36419
payment of the unpaid principal amount of loans made to pay the 36420
costs of coal research and development projects. 36421

(B) The contract of guarantee may make provision for the 36422
conditions of, time for, and manner of fulfillment of the 36423
guarantee commitment, subrogation of this state to the rights of 36424
the parties guaranteed and exercise of such parties' rights by the 36425
state, giving the state the option of making payment of the 36426
principal amount guaranteed in one or more installments and, if 36427
deferred, to pay interest thereon from the source specified in 36428
division (A) of this section, and any other terms or conditions 36429
customary to such guarantees and as the director of the office may 36430
approve, and may contain provisions for securing the guarantee in 36431
the manner consistent with this section, covenants on behalf of 36432
this state to issue obligations under section 1555.08 of the 36433
Revised Code to provide moneys to fulfill such guarantees and 36434
covenants, and covenants restricting the aggregate amount of 36435
guarantees that may be contracted under this section and 36436
obligations that may be issued under section 151.07 of the Revised 36437

Code, and terms pertinent to either, to better secure the parties 36438
guaranteed. 36439

(C) The director of the office may fix service charges for 36440
making a guarantee. Such charges shall be payable at such times 36441
and place and in such amounts and manner as may be prescribed by 36442
the director. Moneys received from such charges shall be credited 36443
to the coal research and development bond service fund. 36444

(D) Any guaranteed parties under this section, by any 36445
suitable form of legal proceedings and except to the extent that 36446
their rights are restricted by the guarantee documents, may 36447
protect and enforce any rights under the laws of this state or 36448
granted by such guarantee or guarantee documents. Such rights 36449
include the right to compel the performance of all duties of the 36450
office required by this section or the guarantee or guarantee 36451
documents; and in the event of default with respect to the payment 36452
of any guarantees, to apply to a court having jurisdiction of the 36453
cause to appoint a receiver to receive and administer the moneys 36454
pledged to such guarantee with full power to pay, and to provide 36455
for payment of, such guarantee, and with such powers, subject to 36456
the direction of the court, as are accorded receivers in general 36457
equity cases, excluding any power to pledge or apply additional 36458
revenues or receipts or other income or moneys of this state. Each 36459
duty of the office and its director and employees required or 36460
undertaken under this section or a guarantee made under this 36461
section is hereby established as a duty of the office and of its 36462
director and each such employee having authority to perform such 36463
duty, specifically enjoined by the law resulting from an office, 36464
trust, or station within the meaning of section 2731.01 of the 36465
Revised Code. The persons who are at the time the director of the 36466
office, or its employees, are not liable in their personal 36467
capacities on any guarantees or contracts to make guarantees by 36468
the director. 36469

Sec. 1555.06. Upon application by the director of the Ohio 36470
coal development office ~~with the affirmative vote of a majority of~~ 36471
~~the members of the Ohio air quality development authority,~~ the 36472
controlling board, from appropriations available to the board, may 36473
provide funds for surveys or studies by the office of any proposed 36474
coal research and development project subject to repayment by the 36475
office from funds available to it, within the time fixed by the 36476
board. Funds to be repaid shall be charged by the office to the 36477
appropriate coal research and development project and the amount 36478
thereof shall be a cost of the project. This section does not 36479
abrogate the authority of the controlling board to otherwise 36480
provide funds for use by the office in the exercise of the powers 36481
granted to it by this chapter. 36482

Sec. 1555.08. (A) Subject to the limitations provided in 36483
Section 15 of Article VIII, Ohio Constitution, the commissioners 36484
of the sinking fund, upon certification by the director of the 36485
Ohio coal development office of the amount of moneys or additional 36486
moneys needed in the coal research and development fund for the 36487
purpose of making grants or loans for allowable costs, or needed 36488
for capitalized interest, for funding reserves, and for paying 36489
costs and expenses incurred in connection with the issuance, 36490
carrying, securing, paying, redeeming, or retirement of the 36491
obligations or any obligations refunded thereby, including payment 36492
of costs and expenses relating to letters of credit, lines of 36493
credit, insurance, put agreements, standby purchase agreements, 36494
indexing, marketing, remarketing and administrative arrangements, 36495
interest swap or hedging agreements, and any other credit 36496
enhancement, liquidity, remarketing, renewal, or refunding 36497
arrangements, all of which are authorized by this section, or 36498
providing moneys for loan guarantees, shall issue obligations of 36499
the state under this section in amounts authorized by the general 36500

assembly; provided that such obligations may be issued to the 36501
extent necessary to satisfy the covenants in contracts of 36502
guarantee made under section 1555.05 of the Revised Code to issue 36503
obligations to meet such guarantees, notwithstanding limitations 36504
otherwise applicable to the issuance of obligations under this 36505
section except the one-hundred-million-dollar limitation provided 36506
in Section 15 of Article VIII, Ohio Constitution. The proceeds of 36507
such obligations, except for the portion to be deposited in the 36508
coal research and development bond service fund as may be provided 36509
in the bond proceedings, shall as provided in the bond proceedings 36510
be deposited in the coal research and development fund. The 36511
commissioners of the sinking fund may appoint trustees, paying 36512
agents, and transfer agents and may retain the services of 36513
financial advisors, accounting experts, and attorneys, and retain 36514
or contract for the services of marketing, remarketing, indexing, 36515
and administrative agents, other consultants, and independent 36516
contractors, including printing services, as are necessary in 36517
their judgment to carry out this section. 36518

(B) The full faith and credit of the state of Ohio is hereby 36519
pledged to obligations issued under this section. The right of the 36520
holders and owners to payment of bond service charges is limited 36521
to all or that portion of the moneys pledged thereto pursuant to 36522
the bond proceedings in accordance with this section, and each 36523
such obligation shall bear on its face a statement to that effect. 36524

(C) Obligations shall be authorized by resolution of the 36525
commissioners of the sinking fund on request of the director of 36526
the Ohio coal development office as provided in section 1555.02 of 36527
the Revised Code and the bond proceedings shall provide for the 36528
purpose thereof and the principal amount or amounts, and shall 36529
provide for or authorize the manner or agency for determining the 36530
principal maturity or maturities, not exceeding forty years from 36531
the date of issuance, the interest rate or rates or the maximum 36532

interest rate, the date of the obligations and the dates of 36533
payment of interest thereon, their denomination, and the 36534
establishment within or without the state of a place or places of 36535
payment of bond service charges. Sections 9.98 to 9.983 of the 36536
Revised Code apply to obligations issued under this section. The 36537
purpose of such obligations may be stated in the bond proceedings 36538
in terms describing the general purpose or purposes to be served. 36539
The bond proceedings shall also provide, subject to the provisions 36540
of any other applicable bond proceedings, for the pledge of all, 36541
or such part as the commissioners of the sinking fund may 36542
determine, of the moneys credited to the coal research and 36543
development bond service fund to the payment of bond service 36544
charges, which pledges may be made either prior or subordinate to 36545
other expenses, claims, or payments and may be made to secure the 36546
obligations on a parity with obligations theretofore or thereafter 36547
issued, if and to the extent provided in the bond proceedings. The 36548
moneys so pledged and thereafter received by the state are 36549
immediately subject to the lien of such pledge without any 36550
physical delivery thereof or further act, and the lien of any such 36551
pledges is valid and binding against all parties having claims of 36552
any kind against the state or any governmental agency of the 36553
state, irrespective of whether such parties have notice thereof, 36554
and shall create a perfected security interest for all purposes of 36555
Chapter 1309. of the Revised Code, without the necessity for 36556
separation or delivery of funds or for the filing or recording of 36557
the bond proceedings by which such pledge is created or any 36558
certificate, statement, or other document with respect thereto; 36559
and the pledge of such moneys is effective and the money therefrom 36560
and thereof may be applied to the purposes for which pledged 36561
without necessity for any act of appropriation. Every pledge, and 36562
every covenant and agreement made with respect thereto, made in 36563
the bond proceedings may therein be extended to the benefit of the 36564
owners and holders of obligations authorized by this section, and 36565

to any trustee therefor, for the further security of the payment 36566
of the bond service charges. 36567

(D) The bond proceedings may contain additional provisions as 36568
to: 36569

(1) The redemption of obligations prior to maturity at the 36570
option of the commissioners of the sinking fund at such price or 36571
prices and under such terms and conditions as are provided in the 36572
bond proceedings; 36573

(2) Other terms of the obligations; 36574

(3) Limitations on the issuance of additional obligations; 36575

(4) The terms of any trust agreement or indenture securing 36576
the obligations or under which the obligations may be issued; 36577

(5) The deposit, investment, and application of the coal 36578
research and development bond service fund, and the safeguarding 36579
of moneys on hand or on deposit, without regard to Chapter 131. or 36580
135. of the Revised Code, but subject to any special provisions of 36581
this chapter, with respect to particular moneys; provided, that 36582
any bank or trust company which acts as depository of any moneys 36583
in the fund may furnish such indemnifying bonds or may pledge such 36584
securities as required by the commissioners of the sinking fund; 36585

(6) Any other provision of the bond proceedings being binding 36586
upon the commissioners of the sinking fund, or such other body or 36587
person as may from time to time have the authority under law to 36588
take such actions as may be necessary to perform all or any part 36589
of the duty required by such provision; 36590

(7) Any provision which may be made in a trust agreement or 36591
indenture; 36592

(8) Any other or additional agreements with the holders of 36593
the obligations, or the trustee therefor, relating to the 36594
obligations or the security therefor, including the assignment of 36595

mortgages or other security obtained or to be obtained for loans 36596
under this chapter. 36597

(E) The obligations may have the great seal of the state or a 36598
facsimile thereof affixed thereto or printed thereon. The 36599
obligations shall be signed by such members of the commissioners 36600
of the sinking fund as are designated in the resolution 36601
authorizing the obligations or bear the facsimile signatures of 36602
such members. Any coupons attached to the obligations shall bear 36603
the facsimile signature of the treasurer of state. Any obligations 36604
may be executed by the persons who, on the date of execution, are 36605
the commissioners although on the date of such bonds the persons 36606
were not the commissioners. Any coupons may be executed by the 36607
person who, on the date of execution, is the treasurer of state 36608
although on the date of such coupons the person was not the 36609
treasurer of state. In case any officer or commissioner whose 36610
signature or a facsimile of whose signature appears on any such 36611
obligations or any coupons ceases to be such officer or 36612
commissioner before delivery thereof, such signature or facsimile 36613
is nevertheless valid and sufficient for all purposes as if the 36614
individual had remained such officer or commissioner until such 36615
delivery; and in case the seal to be affixed to obligations has 36616
been changed after a facsimile of the seal has been imprinted on 36617
such obligations, such facsimile seal shall continue to be 36618
sufficient as to such obligations and obligations issued in 36619
substitution or exchange therefor. 36620

(F) All obligations except loan guarantees are negotiable 36621
instruments and securities under Chapter 1308. of the Revised 36622
Code, subject to the provisions of the bond proceedings as to 36623
registration. The obligations may be issued in coupon or in 36624
registered form, or both, as the commissioners of the sinking fund 36625
determine. Provision may be made for the registration of any 36626
obligations with coupons attached thereto as to principal alone or 36627

as to both principal and interest, their exchange for obligations 36628
so registered, and for the conversion or reconversion into 36629
obligations with coupons attached thereto of any obligations 36630
registered as to both principal and interest, and for reasonable 36631
charges for such registration, exchange, conversion, and 36632
reconversion. 36633

(G) Obligations may be sold at public sale or at private 36634
sale, as determined in the bond proceedings. 36635

(H) Pending preparation of definitive obligations, the 36636
commissioners of the sinking fund may issue interim receipts or 36637
certificates which shall be exchanged for such definitive 36638
obligations. 36639

(I) In the discretion of the commissioners of the sinking 36640
fund, obligations may be secured additionally by a trust agreement 36641
or indenture between the commissioners and a corporate trustee, 36642
which may be any trust company or bank having a place of business 36643
within the state. Any such agreement or indenture may contain the 36644
resolution authorizing the issuance of the obligations, any 36645
provisions that may be contained in any bond proceedings, and 36646
other provisions that are customary or appropriate in an agreement 36647
or indenture of such type, including, but not limited to: 36648

(1) Maintenance of each pledge, trust agreement, indenture, 36649
or other instrument comprising part of the bond proceedings until 36650
the state has fully paid the bond service charges on the 36651
obligations secured thereby, or provision therefor has been made; 36652

(2) In the event of default in any payments required to be 36653
made by the bond proceedings, or any other agreement of the 36654
commissioners of the sinking fund made as a part of the contract 36655
under which the obligations were issued, enforcement of such 36656
payments or agreement by mandamus, the appointment of a receiver, 36657
suit in equity, action at law, or any combination of the 36658

foregoing; 36659

(3) The rights and remedies of the holders of obligations and 36660
of the trustee, and provisions for protecting and enforcing them, 36661
including limitations on rights of individual holders of 36662
obligations; 36663

(4) The replacement of any obligations that become mutilated 36664
or are destroyed, lost, or stolen; 36665

(5) Such other provisions as the trustee and the 36666
commissioners of the sinking fund agree upon, including 36667
limitations, conditions, or qualifications relating to any of the 36668
foregoing. 36669

(J) Any holder of obligations or a trustee under the bond 36670
proceedings, except to the extent that the holder's rights are 36671
restricted by the bond proceedings, may by any suitable form of 36672
legal proceedings protect and enforce any rights under the laws of 36673
this state or granted by such bond proceedings. Such rights 36674
include the right to compel the performance of all duties of the 36675
commissioners of the sinking fund, the ~~Ohio air quality department~~ 36676
of development authority, or the Ohio coal development office 36677
required by this chapter and Chapter 1551. of the Revised Code or 36678
the bond proceedings; to enjoin unlawful activities; and in the 36679
event of default with respect to the payment of any bond service 36680
charges on any obligations or in the performance of any covenant 36681
or agreement on the part of the commissioners, the ~~authority~~ 36682
department, or the office in the bond proceedings, to apply to a 36683
court having jurisdiction of the cause to appoint a receiver to 36684
receive and administer the moneys pledged, other than those in the 36685
custody of the treasurer of state, that are pledged to the payment 36686
of the bond service charges on such obligations or that are the 36687
subject of the covenant or agreement, with full power to pay, and 36688
to provide for payment of bond service charges on, such 36689
obligations, and with such powers, subject to the direction of the 36690

court, as are accorded receivers in general equity cases, 36691
excluding any power to pledge additional revenues or receipts or 36692
other income or moneys of the commissioners of the sinking fund or 36693
the state or governmental agencies of the state to the payment of 36694
such principal and interest and excluding the power to take 36695
possession of, mortgage, or cause the sale or otherwise dispose of 36696
any project. 36697

Each duty of the commissioners of the sinking fund and their 36698
employees, and of each governmental agency and its officers, 36699
members, or employees, undertaken pursuant to the bond proceedings 36700
or any grant, loan, or loan guarantee agreement made under 36701
authority of this chapter, and in every agreement by or with the 36702
commissioners, is hereby established as a duty of the 36703
commissioners, and of each such officer, member, or employee 36704
having authority to perform such duty, specifically enjoined by 36705
the law resulting from an office, trust, or station within the 36706
meaning of section 2731.01 of the Revised Code. 36707

The persons who are at the time the commissioners of the 36708
sinking fund, or their employees, are not liable in their personal 36709
capacities on any obligations issued by the commissioners or any 36710
agreements of or with the commissioners. 36711

(K) Obligations issued under this section are lawful 36712
investments for banks, societies for savings, savings and loan 36713
associations, deposit guarantee associations, trust companies, 36714
trustees, fiduciaries, insurance companies, including domestic for 36715
life and domestic not for life, trustees or other officers having 36716
charge of sinking and bond retirement or other special funds of 36717
political subdivisions and taxing districts of this state, the 36718
commissioners of the sinking fund of the state, the administrator 36719
of workers' compensation, the state teachers retirement system, 36720
the public employees retirement system, the school employees 36721
retirement system, and the Ohio police and fire pension fund, 36722

notwithstanding any other provisions of the Revised Code or rules 36723
adopted pursuant thereto by any governmental agency of the state 36724
with respect to investments by them, and are also acceptable as 36725
security for the deposit of public moneys. 36726

(L) If the law or the instrument creating a trust pursuant to 36727
division (I) of this section expressly permits investment in 36728
direct obligations of the United States or an agency of the United 36729
States, unless expressly prohibited by the instrument, such moneys 36730
also may be invested in no-front-end-load money market mutual 36731
funds consisting exclusively of obligations of the United States 36732
or an agency of the United States and in repurchase agreements, 36733
including those issued by the fiduciary itself, secured by 36734
obligations of the United States or an agency of the United 36735
States; and in collective investment funds established in 36736
accordance with section 1111.14 of the Revised Code and consisting 36737
exclusively of any such securities, notwithstanding division 36738
(A)(1)(c) of that section. The income from such investments shall 36739
be credited to such funds as the commissioners of the sinking fund 36740
determine, and such investments may be sold at such times as the 36741
commissioners determine or authorize. 36742

(M) Provision may be made in the applicable bond proceedings 36743
for the establishment of separate accounts in the bond service 36744
fund and for the application of such accounts only to the 36745
specified bond service charges on obligations pertinent to such 36746
accounts and bond service fund and for other accounts therein 36747
within the general purposes of such fund. Moneys to the credit of 36748
the bond service fund shall be disbursed on the order of the 36749
treasurer of state; provided, that no such order is required for 36750
the payment from the bond service fund when due of bond service 36751
charges on obligations. 36752

(N) The commissioners of the sinking fund may pledge all, or 36753
such portion as they determine, of the receipts of the bond 36754

service fund to the payment of bond service charges on obligations 36755
issued under this section, and for the establishment and 36756
maintenance of any reserves, as provided in the bond proceedings, 36757
and make other provisions therein with respect to pledged receipts 36758
as authorized by this chapter, which provisions control 36759
notwithstanding any other provisions of law pertaining thereto. 36760

(O) The commissioners of the sinking fund may covenant in the 36761
bond proceedings, and any such covenants control notwithstanding 36762
any other provision of law, that the state and applicable officers 36763
and governmental agencies of the state, including the general 36764
assembly, so long as any obligations are outstanding, shall: 36765

(1) Maintain statutory authority for and cause to be levied 36766
and collected taxes so that the pledged receipts are sufficient in 36767
amount to meet bond service charges, and the establishment and 36768
maintenance of any reserves and other requirements provided for in 36769
the bond proceedings, and, as necessary, to meet covenants 36770
contained in any loan guarantees made under this chapter; 36771

(2) Take or permit no action, by statute or otherwise, that 36772
would impair the exemption from federal income taxation of the 36773
interest on the obligations. 36774

(P) All moneys received by or on account of the state and 36775
required by the applicable bond proceedings, consistent with this 36776
section, to be deposited, transferred, or credited to the coal 36777
research and development bond service fund, and all other moneys 36778
transferred or allocated to or received for the purposes of the 36779
fund, shall be credited to such fund and to any separate accounts 36780
therein, subject to applicable provisions of the bond proceedings, 36781
but without necessity for any act of appropriation. During the 36782
period beginning with the date of the first issuance of 36783
obligations and continuing during such time as any such 36784
obligations are outstanding, and so long as moneys in the bond 36785
service fund are insufficient to pay all bond service charges on 36786

such obligations becoming due in each year, a sufficient amount of 36787
moneys of the state are committed and shall be paid to the bond 36788
service fund in each year for the purpose of paying the bond 36789
service charges becoming due in that year without necessity for 36790
further act of appropriation for such purpose. The bond service 36791
fund is a trust fund and is hereby pledged to the payment of bond 36792
service charges to the extent provided in the applicable bond 36793
proceedings, and payment thereof from such fund shall be made or 36794
provided for by the treasurer of state in accordance with such 36795
bond proceedings without necessity for any act of appropriation. 36796
All investment earnings of the fund shall be credited to the fund. 36797

(Q) For purposes of establishing the limitations contained in 36798
Section 15 of Article VIII, Ohio Constitution, the "principal 36799
amount" refers to the aggregate of the offering price of the bonds 36800
or notes. "Principal amount" does not refer to the aggregate value 36801
at maturity or redemption of the bonds or notes. 36802

(R) This section applies only with respect to obligations 36803
issued and delivered prior to September 30, 2000. 36804

Sec. 1555.17. All final actions of the director of the Ohio 36805
coal development office shall be journalized and such journal 36806
shall be open to inspection of the public at all reasonable times. 36807
Any materials or data, to the extent that they consist of trade 36808
secrets, as defined in section 1333.61 of the Revised Code, or 36809
other proprietary information, that are submitted or made 36810
available to, or received by, the ~~Ohio air quality~~ department of 36811
~~development authority~~ or the director of the Ohio coal development 36812
office, in connection with agreements for assistance entered into 36813
under this chapter or Chapter 1551. of the Revised Code, or any 36814
information taken from those materials or data, are not public 36815
records for the purposes of section 149.43 of the Revised Code. 36816

Sec. 1561.06. The chief of the division of mineral resources 36817
management shall designate the townships in which mineable or 36818
quarryable coal or other mineral is or may be mined or quarried, 36819
which townships shall be considered coal or mineral bearing 36820
townships. The chief shall divide the coal or other mineral 36821
bearing townships into such districts as the chief deems best for 36822
inspection purposes, and the chief may change such districts 36823
whenever, in the chief's judgment, the best interests of the 36824
service require. 36825

The chief shall designate as provided in this section as coal 36826
or mineral bearing townships those townships in which coal is 36827
being mined or in which coal is found in such thickness as to make 36828
the mining of ~~such~~ the coal or mineral probable at some future 36829
time, and shall designate ~~such~~ the township as a unit. As used in 36830
this chapter and Chapters 1563., 1565., and 1567. of the Revised 36831
Code, "coal or mineral bearing township" means a township that has 36832
been so designated by the chief under this section. 36833

The chief shall also designate the townships in which coal is 36834
being mined or in which coal is found in such thickness as to make 36835
the mining of ~~such~~ the coal probable at some future time as "coal 36836
bearing townships" as ~~such~~ that term is used in Chapter 1509. of 36837
the Revised Code. The chief shall certify to the chief of the 36838
division of oil and gas resources management the townships that 36839
are designated as coal bearing townships. 36840

Sec. 1561.12. An applicant for any examination or certificate 36841
under this section shall, before being examined, register the 36842
applicant's name with the chief of the division of mineral 36843
resources management and file with the chief an affidavit as to 36844
all matters of fact establishing the applicant's right to receive 36845
the examination, a certificate of good character and temperate 36846
habits signed by at least three reputable citizens of the 36847

community in which the applicant resides, and a certificate from a 36848
reputable and disinterested physician as to the physical condition 36849
of ~~such~~ the applicant showing that the applicant is physically 36850
capable of performing the duties of the office or position. 36851

36852

Each applicant for examination for any of the following 36853
positions shall present evidence satisfactory to the chief that 36854
the applicant has been a resident and citizen of this state for 36855
two years next preceding the date of application: 36856

(A) An applicant for the position of deputy mine inspector of 36857
underground mines shall have had actual practical experience of 36858
not less than six years, at least two of which shall have been in 36859
the underground workings of mines in this state. In the case of an 36860
applicant who would inspect underground coal mines, the two years 36861
shall consist of actual practical experience in underground coal 36862
mines. In the case of an applicant who would inspect noncoal 36863
mines, the two years shall consist of actual practical experience 36864
in noncoal mines. In lieu of two years of the actual practical 36865
experience required, the chief may accept as the equivalent 36866
thereof a certificate evidencing graduation from an accredited 36867
school of mines or mining, after a four-year course of study, but 36868
such credit shall not apply as to the two years' actual practical 36869
experience required in the mines in this state. 36870

The applicant shall pass an examination as to the applicant's 36871
practical and technological knowledge of mine surveying, mining 36872
machinery, and appliances; the proper development and operation of 36873
mines; the best methods of working and ventilating mines; the 36874
nature, properties, and powers of noxious, poisonous, and 36875
explosive gases, particularly methane; the best means and methods 36876
of detecting, preventing, and removing the accumulation of such 36877
gases; the use and operation of gas detecting devices and 36878
appliances; first aid to the injured; and the uses and dangers of 36879

electricity as applied and used in, at, and around mines. ~~Such~~ The 36880
applicant shall also hold a certificate for foreperson of gaseous 36881
mines issued by the chief. 36882

(B) An applicant for the position of deputy mine inspector of 36883
surface mines shall have had actual practical mining experience of 36884
not less than six years, at least two of which shall have been in 36885
surface mines in this state. In lieu of two years of the actual 36886
practical experience required, the chief may accept as the 36887
equivalent thereof a certificate evidencing graduation from an 36888
accredited school of mines or mining, after a four-year course of 36889
study, but that credit shall not apply as to the two years' actual 36890
practical experience required in the mines in this state. The 36891
applicant shall pass an examination as to the applicant's 36892
practical and technological knowledge of surface mine surveying, 36893
machinery, and appliances; the proper development and operations 36894
of surface mines; first aid to the injured; and the use and 36895
dangers of explosives and electricity as applied and used in, at, 36896
and around surface mines. The applicant shall also hold a surface 36897
mine foreperson certificate issued by the chief. 36898

(C) An applicant for the position of electrical inspector 36899
shall have had at least five years' practical experience in the 36900
installation and maintenance of electrical circuits and equipment 36901
in mines, and the applicant shall be thoroughly familiar with the 36902
principles underlying the safety features of permissible and 36903
approved equipment as authorized and used in mines. 36904

The applicant shall be required to pass the examination 36905
required for deputy mine inspectors and an examination testing and 36906
determining the applicant's qualification and ability to 36907
competently inspect and administer the mining law that relates to 36908
electricity used in and around mines and mining in this state. 36909

(D) An applicant for the position of superintendent or 36910
assistant superintendent of rescue stations shall possess the same 36911

qualifications as those required for a deputy mine inspector. In 36912
addition, the applicant shall present evidence satisfactory to the 36913
chief that the applicant is sufficiently qualified and trained to 36914
organize, supervise, and conduct group training classes in first 36915
aid, safety, and rescue work. 36916

The applicant shall pass the examination required for deputy 36917
mine inspectors and shall be tested as to the applicant's 36918
practical and technological experience and training in first aid, 36919
safety, and mine rescue work. 36920

(E) An applicant for the position of mine chemist shall have 36921
such educational training as is represented by the degree MS in 36922
chemistry from a university of recognized standing, and at least 36923
five years of actual practical experience in research work in 36924
chemistry or as an assistant chemist. The chief may provide that 36925
an equivalent combination of education and experience together 36926
with a wide knowledge of the methods of and skill in chemical 36927
analysis and research may be accepted in lieu of the above 36928
qualifications. It is preferred that ~~such~~ the chemist shall have 36929
had actual experience in mineralogy and metallurgy. 36930

~~(F) An applicant for the position of gas storage well 36931
inspector shall possess the same qualifications as an applicant 36932
for the position of deputy mine inspector and shall have a 36933
practical knowledge and experience of and in the operation, 36934
location, drilling, maintenance, and abandonment of oil and gas 36935
wells, especially in coal or mineral bearing townships, and shall 36936
have a thorough knowledge of the latest and best method of 36937
plugging and sealing abandoned oil and gas wells. 36938~~

~~Such applicant for gas storage well inspector shall pass an 36939
examination conducted by the chief to determine the applicant's 36940
fitness to act as a gas storage well inspector before being 36941
eligible for appointment. 36942~~

Sec. 1561.13. The chief of the division of mineral resources	36943
management shall conduct examinations for offices and positions in	36944
the division of mineral resources management, and for mine	36945
forepersons, mine electricians, shot firers, surface mine	36946
blasters, and fire bosses, as follows:	36947
(A) Division of mineral resources management:	36948
(1) Deputy mine inspectors of underground mines;	36949
(2) Deputy mine inspectors of surface mines;	36950
(3) Electrical inspectors;	36951
(4) Superintendent of rescue stations;	36952
(5) Assistant superintendents of rescue stations;	36953
(6) Mine chemists at a division laboratory if the chief	36954
chooses to operate a laboratory;	36955
 (7) Gas storage well inspector.	36956
(B) Mine forepersons:	36957
(1) Mine foreperson of gaseous mines;	36958
(2) Mine foreperson of nongaseous mines;	36959
(3) Mine foreperson of surface mines.	36960
(C) Forepersons:	36961
(1) Foreperson of gaseous mines;	36962
(2) Foreperson of nongaseous mines;	36963
(3) Foreperson of surface maintenance facilities at	36964
underground or surface mines;	36965
(4) Foreperson of surface mines.	36966
(D) Fire bosses.	36967
(E) Mine electricians.	36968

(F) Surface mine blasters. 36969

(G) Shot firers. 36970

The chief annually shall provide for the examination of 36971
candidates for appointment or promotion as deputy mine inspectors 36972
and such other positions and offices set forth in division (A) of 36973
this section as are necessary. Special examinations may be held 36974
whenever it becomes necessary to make appointments to any of those 36975
positions. 36976

The chief shall provide for the examination of persons 36977
seeking certificates of competency as mine forepersons, 36978
forepersons, mine electricians, shot firers, surface mine 36979
blasters, and fire bosses quarterly or more often as required, at 36980
such times and places within the state as shall, in the judgment 36981
of the chief, afford the best facilities to the greatest number of 36982
applicants. Public notice shall be given through the press or 36983
otherwise, not less than ten days in advance, announcing the time 36984
and place at which examinations under this section are to be held. 36985

The examinations provided for in this section shall be 36986
conducted under rules adopted under section 1561.05 of the Revised 36987
Code and conditions prescribed by the chief. Any rules that relate 36988
to particular candidates shall, upon application of any candidate, 36989
be furnished to the candidate by the chief; they shall also be of 36990
uniform application to all candidates in the several groups. 36991

Sec. 1561.35. If the deputy mine inspector finds that any 36992
matter, thing, or practice connected with any mine and not 36993
prohibited specifically by law is dangerous or hazardous, or that 36994
from a rigid enforcement of this chapter and Chapters ~~1509.,~~ 36995
1563., 1565., and 1567. and applicable provisions of Chapter 1509. 36996
of the Revised Code, the matter, thing, or practice would become 36997
dangerous and hazardous so as to tend to the bodily injury of any 36998
person, the deputy mine inspector forthwith shall give notice in 36999

writing to the owner, lessee, or agent of the mine of the 37000
particulars in which the deputy mine inspector considers the mine 37001
or any matter, thing, or practice connected therewith is dangerous 37002
or hazardous and recommend changes that the conditions require, 37003
and forthwith shall mail a copy of the report and the deputy mine 37004
inspector's recommendations to the chief of the division of 37005
mineral resources management. Upon receipt of the report and 37006
recommendations, the chief forthwith shall make a finding thereon 37007
and mail a copy to the owner, operator, lessee, or agent of the 37008
mine, and to the deputy mine inspector; a copy of the finding of 37009
the chief shall be posted upon the bulletin board of the mine. 37010
Where the miners have a mine safety committee, one additional copy 37011
shall be posted on the bulletin board for the use and possession 37012
of the committee. 37013

The owner, operator, lessee, or agent of the mine, or the 37014
authorized representative of the workers of the mine, within ten 37015
days may appeal to the reclamation commission for a review and 37016
redetermination of the finding of the chief in the matter in 37017
accordance with section 1513.13 of the Revised Code, 37018
notwithstanding division (A)(1) of that section, which provides 37019
for appeals within thirty days. A copy of the decision of the 37020
commission shall be mailed as required by this section for the 37021
mailing of the finding by the chief on the deputy mine inspector's 37022
report. 37023

Sec. 1561.49. The chief of the division of mineral resources 37024
management may designate not more than thirty deputy mine 37025
inspectors, at least one of whom shall be classified and appointed 37026
as electrical inspector provided for in division (B) of section 37027
1561.12 of the Revised Code; ~~one gas storage well inspector;~~ one 37028
superintendent of rescue stations; three assistant superintendents 37029
of rescue stations; three chemists; and such clerks, 37030
stenographers, and other employees as are necessary for the 37031

administration of this chapter and Chapters 1563., 1565., and 37032
1567. and applicable provisions of Chapter 1509. of the Revised 37033
Code. 37034

Such officers, employees, and personnel shall be appointed 37035
and employed under such conditions and qualifications as set forth 37036
in ~~such~~ those chapters. 37037

Sec. 1563.06. For the purpose of making the examinations 37038
provided for in this chapter and Chapters ~~1509.~~ 1561., 1565., and 37039
1567. and applicable provisions of Chapter 1509. of the Revised 37040
Code, the chief of the division of mineral resources management, 37041
and each deputy mine inspector, may enter any mine at a reasonable 37042
time, by day or by night, but in such manner as will not 37043
necessarily impede the working of the mine, and the owner, lessee, 37044
or agent thereof shall furnish the means necessary for such entry 37045
and examination. 37046

Sec. 1563.24. In all mines generating methane in such 37047
quantities as to be considered a gaseous mine under section 37048
1563.02 of the Revised Code, the mine foreperson of such a mine 37049
shall: 37050

(A) Employ a sufficient number of competent persons holding 37051
foreperson of gaseous mines or fire boss certificates, except as 37052
provided in section 1565.02 of the Revised Code, to examine the 37053
working places whether they are in actual course of working or 37054
not, and the traveling ways and entrances to old workings with 37055
approved flame safety lamps, all of which shall be done not more 37056
than three hours prior to the time fixed for the employees to 37057
enter ~~such~~ the mine; 37058

(B) Have all old parts of the mine not in the actual course 37059
of working, but that are open and safe to travel, examined not 37060
less than once each three days by a competent person who holds a 37061

foreperson of gaseous mines or a fire boss certificate; 37062

(C) See that all parts of the mine not sealed off as provided 37063
in section 1563.41 of the Revised Code are kept free from standing 37064
gas, and upon the discovery of any standing gas, see that the 37065
entrance to the place where the gas is so discovered is fenced off 37066
and marked with a sign upon which is written the word "danger," 37067
and ~~such~~ the sign shall so remain until ~~such~~ the gas has been 37068
removed; 37069

(D) Have the mine examined on all idle days, holidays, and 37070
Sundays on which employees are required to work therein; 37071

(E) If more than three hours elapse between shifts, have the 37072
places in which the succeeding shift works examined by a competent 37073
person who holds a foreperson of gaseous mines or fire boss 37074
certificate; 37075

(F) See that this chapter and Chapters ~~1509.~~ 1561., 1565., 37076
and 1567. and applicable provisions of Chapter 1509. of the 37077
Revised Code, with regard to examination of working places, 37078
removal of standing gas, and fencing off of dangerous places, are 37079
complied with before the employees employed by the mine foreperson 37080
for this particular work are permitted to do any other work; 37081

(G) Have a report made on the blackboard provided for in 37082
section 1567.06 of the Revised Code, which report shall show the 37083
condition of the mine as to the presence of gas and the place 37084
where such gas is present, if there is any, before the mine 37085
foreperson permits the employees to enter the mine; 37086

(H) Have reports of the duties and activities enumerated in 37087
this section signed by the person who makes ~~such~~ the examination. 37088
The reports so signed shall be sent once each week to the deputy 37089
mine inspector of the district in which the mine is located on 37090
blanks furnished by the division of mineral resources management 37091
for that purpose, and a copy of ~~such~~ the report shall be kept on 37092

file at the mine. 37093

(I) Have the fire boss record a report after each 37094
examination, in ink, in the fire boss' record book, which book 37095
shall show the time taken in making the examination and also 37096
clearly state the nature and location of any danger that was 37097
discovered in any room, entry, or other place in the mine, and, if 37098
any danger was discovered, the fire boss shall immediately report 37099
the location thereof to the mine foreperson. 37100

No person shall enter the mine until the fire bosses return 37101
to the mine office on the surface, or to a station located in the 37102
mine, where a record book as provided for in this section shall be 37103
kept and signed by the person making the examination, and report 37104
to the oncoming mine foreperson that the mine is in safe condition 37105
for the employees to enter. When a station is located in any mine, 37106
the fire bosses shall sign also the report entered in the record 37107
book in the mine office on the surface. The record books of the 37108
fire bosses shall at all times during working hours be accessible 37109
to the deputy mine inspector and the employees of the mine. 37110

In every mine generating explosive gas in quantities 37111
sufficient to be detected by an approved flame safety lamp, when 37112
the working portions are one mile or more from the entrance to the 37113
mine or from the bottom of the shaft or slope, a permanent station 37114
of suitable dimensions may be erected by the mine foreperson, 37115
provided that the location is approved by the deputy mine 37116
inspector, for the use of the fire bosses, and a fireproof vault 37117
of ample strength shall be erected in ~~such~~ the station of brick, 37118
stone, or concrete, in which the temporary record book of the fire 37119
bosses, as described in this section, shall be kept. No person, 37120
except a mine foreperson of gaseous mines, and in case of 37121
necessity such other persons as are designated by the mine 37122
foreperson, shall pass beyond the permanent station and danger 37123
signal until the mine has been examined by a fire boss, and the 37124

mine or certain portions thereof reported by the fire boss to be 37125
safe. 37126

This section does not prevent a mine foreperson or foreperson 37127
of gaseous mines from being qualified to act and acting in the 37128
capacity of fire boss. The record book shall be supplied by the 37129
division and purchased by the operator. 37130

No mine foreperson or person delegated by the mine 37131
foreperson, or any operator of a mine, or other person, shall 37132
refuse or neglect to comply with this section. 37133

Sec. 1563.28. The ~~man~~ worker performing the duties of fire 37134
boss shall, in an approved manner, use a flame safety lamp when 37135
making examinations under this chapter and Chapters ~~1509.~~, 1561., 37136
1565., and 1567. and applicable provisions of Chapter 1509. of the 37137
Revised Code. As evidence of such examinations ~~he~~ the fire boss 37138
shall mark with chalk, upon the face of the coal or in some other 37139
conspicuous place, ~~his~~ the fire boss's initials and the date of 37140
the month that ~~such~~ the examination is made, and shall fully 37141
comply with all the law relating to gas and ~~his~~ the fire boss's 37142
duties as to making such examinations. After making ~~his~~ such an 37143
examination and report, prior to employees entering the mine for 37144
the oncoming shift, ~~he~~ the fire boss who made the examination or 37145
another fire boss shall return to the working places with the 37146
employees at the starting time of the oncoming shift. 37147

No person shall refuse or neglect to comply with this 37148
section. 37149

Sec. 1571.01. As used in this chapter, unless other meaning 37150
is clearly indicated in the context: 37151

(A) "Gas storage reservoir" or "storage reservoir" or 37152
"reservoir" means a continuous area of a subterranean porous sand 37153
or rock stratum or strata, any part of which or of the protective 37154

area of which, is within a coal bearing township, into which gas 37155
is or may be injected for the purpose of storing it therein and 37156
removing it therefrom, or for the purpose of testing whether such 37157
stratum is suitable for such storage purposes. 37158

(B) "Gas" means any natural, manufactured, or by-product gas 37159
or any mixture thereof. 37160

(C) "Reservoir operator" or "operator," when used in 37161
referring to the operator of a gas storage reservoir, means a 37162
person who is engaged in the work of preparing to inject, or who 37163
injects gas into, or who stores gas in, or who removes gas from, a 37164
gas storage reservoir, and who owns the right to do so. 37165

(D)(1) "Boundary," when used in referring to the boundary of 37166
a gas storage reservoir, means the boundary of such reservoir as 37167
shown on the map or maps thereof on file in the division of 37168
~~mineral oil and gas~~ resources management as required by this 37169
chapter. 37170

(2) "Boundary," when used in referring to the boundary of a 37171
reservoir protective area, means the boundary of such reservoir 37172
protective area as shown on the map or maps thereof on file in the 37173
division as required by this chapter. 37174

(E) "Reservoir protective area" or "reservoir's protective 37175
area" means the area of land outside the boundary of a gas storage 37176
reservoir shown as such on the map or maps thereof on file in the 37177
division as required by this chapter. The area of land shown on 37178
such map or maps as such reservoir protective area shall be 37179
outside the boundary of such reservoir, and shall encircle such 37180
reservoir and touch all parts of the boundary of such reservoir, 37181
and no part of the outside boundary of such protective area shall 37182
be less than two thousand nor more than five thousand linear feet 37183
distant from the boundary of such reservoir. 37184

(F) "Coal bearing township" means a township designated as a 37185

coal bearing township by the chief of the division of mineral 37186
resources management as required by section 1561.06 of the Revised 37187
Code. 37188

(G) "Coal mine" means the underground excavations of a mine 37189
that are being used or are usable or are being developed for use 37190
in connection with the extraction of coal from its natural deposit 37191
in the earth. "Underground excavations," when used in referring to 37192
the underground excavations of a coal mine, includes the abandoned 37193
underground excavations of such mine. It also includes the 37194
underground excavations of an abandoned coal mine if such 37195
abandoned mine is connected with underground excavations of a coal 37196
mine. "Coal mine" does not mean or include: 37197

(1) A mine in which coal is extracted from its natural 37198
deposit in the earth by strip or open pit mining methods or by 37199
other methods by which individuals are not required to go 37200
underground in connection with the extraction of coal from its 37201
natural deposit in the earth; 37202

(2) A mine in which not more than fourteen individuals are 37203
regularly employed underground. 37204

(H) "Operator," when used in referring to the operator of a 37205
coal mine, means a person who engages in the work of developing 37206
such mine for use in extracting coal from its natural deposit in 37207
the earth, or who so uses such mine, and who owns the right to do 37208
so. 37209

(I) "Boundary," when used in referring to the boundary of a 37210
coal mine, means the boundary of the underground excavations of 37211
such mine as shown on the maps of such mine on file in the 37212
division of mineral resources management as required by sections 37213
1563.03 to 1563.05 and 1571.03 of the Revised Code. 37214

(J) "Mine protective area" or "mine's protective area" means 37215
the area of land that the operator of a coal mine designates and 37216

shows as such on the map or maps of such coal mine filed with the 37217
division as required by sections 1563.03 to 1563.05 and 1571.03 of 37218
the Revised Code. Such area of land shall be outside of the 37219
boundary of such coal mine, but some part of the boundary of such 37220
area of land shall abut upon a part of the boundary of such coal 37221
mine. Such area of land shall be comprised of such tracts of land 37222
in which such coal mine operator owns the right to extract coal 37223
therefrom by underground mining methods and in which underground 37224
excavations of such coal mine are likely to be made within the 37225
ensuing year for use in connection with the extraction of coal 37226
therefrom. 37227

(K) "Pillar" means a solid block of coal or other material 37228
left unmined to support the overlying strata in a coal mine, or to 37229
protect a well. 37230

(L) "Retreat mining" means the removal of pillars and ribs 37231
and stumps and other coal remaining in a section of a coal mine 37232
after the development mining has been completed in such section. 37233

(M) "Linear feet," when used to indicate distance between two 37234
points that are not in the same plane, means the length in feet of 37235
the shortest horizontal line that connects two lines projected 37236
vertically upward or downward from the two points. 37237

(N) "Map" means a graphic representation of the location and 37238
size of the existing or proposed items it is made to represent, 37239
accurately drawn according to a given scale. 37240

(O) "Well" means any hole, drilled or bored, or being drilled 37241
or bored, into the earth, whether for the purpose of, or whether 37242
used for: 37243

(1) Producing or extracting any gas or liquid mineral, or 37244
natural or artificial brines, or oil field waters; 37245

(2) Injecting gas into or removing gas from an underground 37246
gas storage reservoir; 37247

(3) Introducing water or other liquid pressure into an oil 37248
bearing sand to recover oil contained in such sand, provided that 37249
"well" does not mean a hole drilled or bored, or being drilled or 37250
bored, into the earth, whether for the purpose of, or whether used 37251
for, producing or extracting potable water to be used as such. 37252

(P) "Testing" means injecting gas into, or storing gas in or 37253
removing gas from, a gas storage reservoir for the sole purpose of 37254
determining whether such reservoir is suitable for use as a gas 37255
storage reservoir. 37256

(Q) "Casing" means a string or strings of pipe commonly 37257
placed in a well. 37258

(R) "Inactivate" means to shut off temporarily all flow of 37259
gas from a well at a point below the horizon of the coal mine that 37260
might be affected by such flow of gas, by means of a plug or other 37261
suitable device or by injecting water, bentonite, or some other 37262
equally nonporous material into the well, or any other method 37263
approved by ~~the mineral~~ an oil and gas resources inspector. 37264

(S) "Gas storage well inspector" means the gas storage well 37265
inspector in the division. 37266

(T) The verb "open" or the noun "opening," when used in 37267
clauses relating to the time when a coal mine operator intends to 37268
open a new coal mine, or the time when a new coal mine is opened, 37269
or the time of the opening of a new coal mine, or when used in 37270
other similar clauses to convey like meanings, means that time and 37271
condition in the initial development of a new coal mine when the 37272
second opening required by section 1563.14 of the Revised Code is 37273
completed in such mine. 37274

Sec. 1571.012. An applicant for the position of gas storage 37275
well inspector shall register the applicant's name with the chief 37276
of the division of oil and gas resources management and file with 37277

the chief an affidavit as to all matters of fact establishing the 37278
applicant's right to take the examination for that position, a 37279
certificate of good character and temperate habits signed by at 37280
least three reputable citizens of the community in which the 37281
applicant resides, and a certificate from a reputable and 37282
disinterested physician as to the physical condition of the 37283
applicant showing that the applicant is physically capable of 37284
performing the duties of the position. The applicant also shall 37285
present evidence satisfactory to the chief that the applicant has 37286
been a resident and citizen of this state for at least two years 37287
next preceding the date of application. 37288

An applicant shall possess the same qualifications as an 37289
applicant for the position of deputy mine inspector established in 37290
section 1561.12 of the Revised Code. In addition, the applicant 37291
shall have practical knowledge and experience of and in the 37292
operation, location, drilling, maintenance, and abandonment of oil 37293
and gas wells, especially in coal or mineral bearing townships, 37294
and shall have a thorough knowledge of the latest and best method 37295
of plugging and sealing abandoned oil and gas wells. 37296

An applicant for gas storage well inspector shall pass an 37297
examination conducted by the chief to determine the applicant's 37298
fitness to act as gas storage well inspector before being eligible 37299
for appointment. 37300

Sec. 1571.013. (A) The chief of the division of oil and gas 37301
resources management shall conduct examinations for the position 37302
of gas storage well inspector. The chief annually shall provide 37303
for the examination of candidates for appointment as gas storage 37304
well inspector. Special examinations may be held whenever it 37305
becomes necessary to make an appointment of gas storage well 37306
inspector. 37307

(B) Public notice shall be given through the press or otherwise, not less than ten days in advance, announcing the time and place at which examinations under this section are to be held. 37308
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(C) The examinations provided for in this section shall be conducted in accordance with rules adopted under section 1571.014 of the Revised Code and conditions prescribed by the chief. 37311
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Sec. 1571.014. The chief of the division of oil and gas resources management shall appoint a gas storage well inspector from the eligible list of candidates for that position that is prepared under section 124.24 of the Revised Code. If a vacancy occurs in the position of gas storage well inspector, the chief shall fill the position by selecting a person from that list. 37314
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The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for conducting examinations for the position of gas storage well inspector. 37320
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Sec. 1571.02. (A) Any reservoir operator who, on September 9, 1957, is injecting gas into, storing gas in, or removing gas from a reservoir shall within sixty days after such date file with the division of ~~mineral~~ oil and gas resources management a map thereof as described in division (C) of this section, provided that if a reservoir operator is, on September 9, 1957, injecting gas into or storing gas in a reservoir solely for testing, the reservoir operator shall at once file such map with the division. 37323
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(B) If the injection of gas into or storage of gas in a gas storage reservoir is begun after September 9, 1957, the operator of such reservoir shall file with the division a map thereof as described in division (C) of this section, on the same day and not less than three months prior to beginning such injection or storage. 37331
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(C) Each map filed with the division pursuant to this section 37337

shall be prepared by a registered surveyor, registered engineer, 37338
or competent geologist. It shall show both of the following: 37339

(1) The location of the boundary of such reservoir and the 37340
boundary of such reservoir's protective area, and the known fixed 37341
monuments, corner stones, or other permanent markers in such 37342
boundary lines; 37343

(2) The boundary lines of the counties, townships, and 37344
sections or lots that are within the limits of such map, and the 37345
name of each such county and township and the number of each such 37346
section or lot clearly indicated thereon. The legend of the map 37347
shall indicate the stratum or strata in which the gas storage 37348
reservoir is located. 37349

The location of the boundary of the gas storage reservoir as 37350
shown on the map shall be defined by the location of those wells 37351
around the periphery of such reservoir that had no gas production 37352
when drilled into the storage stratum of such reservoir, provided 37353
that if the operator of such reservoir, upon taking into 37354
consideration the number and nature of such wells, the geological 37355
and production knowledge of the storage stratum, its character, 37356
permeability, and distribution, and operating experience, 37357
determines that the location of the boundary of such reservoir 37358
should be differently defined, the reservoir operator may, on such 37359
map, show the boundary of such reservoir to be located at a 37360
location different than the location defined by the location of 37361
those wells around the periphery of such reservoir that had no gas 37362
production when drilled into the storage stratum. 37363

Whenever the operator of a gas storage reservoir determines 37364
that the location of the boundary of such reservoir as shown on 37365
the most recent map thereof on file in the division pursuant to 37366
this section is incorrect, the reservoir operator shall file with 37367
the division an amended map showing the boundary of such reservoir 37368
to be located at the location that the reservoir operator then 37369

considers to be correct. 37370

(D) Each operator of a gas storage reservoir who files with 37371
the division a map as required by this section shall, at the end 37372
of each six-month period following the date of such filing, file 37373
with the division an amended map showing changes, if any, in the 37374
boundary line of such reservoir or of such reservoir's protective 37375
area that have occurred in the six-month period. Nothing in this 37376
division shall be construed to require such a reservoir operator 37377
to file an amended map at the end of any such six-month period if 37378
no such boundary changes have occurred in such period. 37379

An operator of a gas storage reservoir who is required by 37380
this section to file an amended map with the division shall not be 37381
required to so file such an amended map after such time when the 37382
reservoir operator files with the division a map pertaining to 37383
such reservoir, as provided in section 1571.04 of the Revised 37384
Code. 37385

Sec. 1571.03. (A) Every operator of a coal mine who is 37386
required by sections 1563.03 to 1563.05 of the Revised Code, to 37387
file maps of such mine, shall cause to be shown on each of such 37388
maps, in addition to the boundary lines of each tract under which 37389
excavations are likely to be made during the ensuing year, as 37390
referred to in section 1563.03 of the Revised Code: 37391

(1) The boundary of such coal mine in accordance with the 37392
meaning of the term "boundary" ~~when used in referring to the~~ 37393
~~boundary of a coal mine, and the term "coal mine" as those terms~~ 37394
~~are defined~~ in section 1571.01 of the Revised Code; 37395

(2) The boundary of the mine protective area of such mine. 37396

This division shall not be construed to amend or repeal any 37397
provisions of sections 1563.03 to 1563.05 of the Revised Code, 37398
either by implication or otherwise. 37399

This division is intended only to add to existing statutory requirements pertaining to the filing of coal mine maps with the division of mineral resources management, the requirements established in this division.

(B) Every operator of a coal mine who believes that any part of the boundary of such mine is within two thousand linear feet of a well that is drilled through the horizon of such coal mine and into or through the storage stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall at once send notice to that effect by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management.

(C) Every operator of a coal mine who expects that any part of the boundary of such mine will, on a date after September 9, 1957, be extended beyond its location on such date to a point within two thousand linear feet of a well that is drilled through the horizon of such mine and into or through the stratum or strata of a gas storage reservoir within the boundary of such reservoir or within its protective area, shall send at least nine months' notice of such date and of the location of such well by registered mail to the operator of such reservoir, the division of mineral resources management, and ~~to~~ the division of oil and gas resources management. If at the end of three years after the date stated in the notice by an operator of a coal mine to an operator of a storage reservoir as the date upon which part of the boundary of such coal mine is expected to be extended to a point within two thousand linear feet of such well, no part of such coal mine is so extended, the operator of such coal mine shall be liable to the operator of such storage reservoir for all expenses incurred by such reservoir operator in doing the plugging or reconditioning of such well as the reservoir operator is required to do in such

cases as provided in section 1571.05 of the Revised Code. Such 37432
mine operator shall in no event be liable to such reservoir 37433
operator: 37434

(1) For expenses of plugging or reconditioning such well 37435
incurred prior to receipt by such reservoir operator from such 37436
mine operator of a notice as provided for in this division; 37437

(2) For any expenses of plugging or reconditioning such well 37438
if any part of the work of plugging or reconditioning was 37439
commenced prior to receipt by such reservoir operator from such 37440
mine operator of a notice as provided for in this division. 37441

(D) If a person intends to open a new coal mine after 37442
September 9, 1957, and if at the time of its opening any part of 37443
the boundary of such mine will be within two thousand linear feet 37444
of a well that is drilled through the horizon of such mine and 37445
into or through the storage stratum or strata of a gas storage 37446
reservoir within the boundary of such reservoir or within its 37447
protective area, such person shall send by registered mail to the 37448
operator of such storage reservoir, the division of mineral 37449
resources management, and ~~to~~ the division of oil and gas resources 37450
management at least nine months' notice of the date upon which the 37451
person intends to open such mine, and of the location of such 37452
well. If at the end of nine months after the date stated in the 37453
notice by an operator of a coal mine to an operator of a storage 37454
reservoir, the division of mineral resources management, and ~~to~~ 37455
the division of oil and gas resources management, as the date upon 37456
which such coal mine operator intends to open such new mine, such 37457
new mine is not opened, the operator of such coal mine shall be 37458
liable to the operator of such storage reservoir for all expenses 37459
incurred by such reservoir operator in doing the plugging or 37460
reconditioning of such well as the reservoir operator is required 37461
to do in such cases as provided in section 1571.05 of the Revised 37462
Code, provided: 37463

(1) That such mine operator may, prior to the end of nine 37464
months after the date stated in such mine operator's notice to 37465
such reservoir operator, the division of mineral resources 37466
management, and the division of oil and gas resources management 37467
as the date upon which the mine operator intended to open such new 37468
mine, notify such reservoir operator, the division of mineral 37469
resources management, and the division of oil and gas resources 37470
management in writing by registered mail, that the opening of such 37471
new mine will be delayed beyond the end of such nine-month period 37472
of time, and that the mine operator requests that a conference be 37473
held as provided in section 1571.10 of the Revised Code for the 37474
purpose of endeavoring to reach an agreement establishing a date 37475
subsequent to the end of such nine-month period of time, on or 37476
before which such mine operator may open such new mine without 37477
being liable to pay such reservoir operator expenses incurred by 37478
such reservoir operator in plugging or reconditioning such well as 37479
in this division provided; 37480

(2) That if such mine operator sends to such reservoir 37481
operator, the division of mineral resources management, and ~~to~~ the 37482
division of oil and gas resources management a notice and request 37483
for a conference as provided in division (D)(1) of this section, 37484
such mine operator shall not be liable to pay such reservoir 37485
operator for expenses incurred by such reservoir operator in 37486
plugging and reconditioning such well, unless such mine operator 37487
fails to open such new mine within the period of time fixed by an 37488
approved agreement reached in such conference, or fixed by an 37489
order by the chief of the division of ~~mineral~~ oil and gas 37490
resources management upon a hearing held in the matter in the 37491
event of failure to reach an approved agreement in the 37492
conference~~r~~. After issuing an order under this division, the chief 37493
shall notify the chief of the division of mineral resources 37494
management and send a copy of the order to the chief. 37495

(3) That such mine operator shall in no event be liable to 37496
such reservoir operator: 37497

(a) For expense of plugging or reconditioning such well 37498
incurred prior to the receipt by such reservoir operator from such 37499
mine operator of the notice of the date upon which such mine 37500
operator intends to open such new mine; 37501

(b) For any expense of plugging or reconditioning such well 37502
if any part of the work of plugging or reconditioning was 37503
commenced prior to receipt by such reservoir operator from such 37504
mine operator of such notice. 37505

Sec. 1571.04. (A) Upon the filing of each map or amended map 37506
with the division of mineral oil and gas resources management by 37507
operators of gas storage reservoirs as required by this chapter, 37508
and each coal mine map with the division of mineral resources 37509
management as required by sections 1563.03 to 1563.05 and division 37510
(A) of section 1571.03 of the Revised Code, the gas storage well 37511
inspector shall cause an examination to be made of all maps on 37512
file in ~~the division~~ those divisions as the gas storage well 37513
inspector may deem necessary to ascertain whether any part of a 37514
reservoir protective area as shown on any such map is within ten 37515
thousand linear feet of any part of the boundary of a coal mine as 37516
shown on any such map. If, upon making that examination, the gas 37517
storage well inspector finds that any part of such a reservoir 37518
protective area is within ten thousand linear feet of any part of 37519
the boundary of such a coal mine, the gas storage well inspector 37520
shall promptly send by registered mail notice to that effect to 37521
the operator of the reservoir and to the operator of the coal 37522
mine. 37523

(B) Within sixty days after receipt by an operator of a gas 37524
storage reservoir of a notice from the gas storage well inspector 37525
under division (A) of this section, such operator shall file on 37526

the same day with both the division ~~a map~~ of mineral resources 37527
management and the division of oil and gas resources management 37528
identical maps prepared by a registered surveyor, registered 37529
engineer, or competent geologist, which shall do all of the 37530
following: 37531

(1) Indicate the stratum or strata in which such gas storage 37532
reservoir is located; 37533

(2) Show the location of the boundary of the reservoir and 37534
the boundary of its protective area, and the known fixed 37535
monuments, corner stones, or other permanent markers in such 37536
boundary lines; 37537

(3) Show the boundary lines of the counties, townships, and 37538
sections or lots that are within the limits of such maps, and the 37539
name of each such county and township and the number of each such 37540
section or lot clearly indicated thereon; 37541

(4) Show the location of all oil or gas wells known to the 37542
operator of such reservoir that have been drilled within the 37543
boundary of the reservoir or within its protective area, and 37544
indicate which of such wells, if any, have been or are to be 37545
plugged or reconditioned for use in the operation of such 37546
reservoir. 37547

The location of the boundary of the gas storage reservoir as 37548
shown on the maps shall be defined by the location of those wells 37549
around the periphery of the reservoir that had no gas production 37550
when drilled into the storage stratum of the reservoir, provided 37551
that, if the operator of the reservoir, upon taking into 37552
consideration the number and nature of such wells, the geological 37553
and production knowledge of the storage stratum, its character, 37554
permeability, and distribution, and operating experience, 37555
determines that the location of the boundary of the reservoir 37556
should be differently defined, the reservoir operator may, on the 37557

maps, show the boundary of the reservoir to be located at a 37558
location different from the location defined by the location of 37559
those wells around the periphery of the reservoir that had no gas 37560
production when drilled into the storage stratum. 37561

(C) Any coal mine operator who receives from the gas storage 37562
well inspector a copy of a map as provided by division (E) of this 37563
section may request the gas storage well inspector to furnish the 37564
coal mine operator with: 37565

(1) The name of the original operator of any well shown on 37566
such map; 37567

(2) The date drilling of such well was completed; 37568

(3) The total depth of such well; 37569

(4) The depth at which oil or gas was encountered in such 37570
well if it was productive of oil or gas; 37571

(5) The initial rock pressure of such well; 37572

(6) A copy of the log of the driller of such well or other 37573
similar data; 37574

(7) The location of such well in respect to the property 37575
lines of the tract of land on which it is located; 37576

(8) A statement as to whether the well is inactive or active: 37577

(a) If inactive, the date of plugging and other pertinent 37578
data; 37579

(b) If active, whether it is being used for test purposes or 37580
storage purposes; 37581

(9) A statement of the maximum injection pressure 37582
contemplated by the operator of the reservoir shown on such map. 37583

Upon receipt of such a request, the gas storage well 37584
inspector shall promptly furnish the coal mine operator the 37585
information requested. If the information is not ascertainable 37586

from the files in the division of oil and gas resources 37587
management, the gas storage well inspector shall request the 37588
reservoir operator to furnish the division with such information 37589
to the extent that the reservoir operator has knowledge thereof. 37590
Upon receipt of such a request, the reservoir operator shall 37591
promptly furnish such information to the division. Thereupon the 37592
gas storage well inspector shall promptly transmit such 37593
information to the mine operator who requested it. 37594

Whenever the operator of a gas storage reservoir determines 37595
that the location of the boundary of the reservoir as shown on the 37596
most recent map thereof on file in the division pursuant to this 37597
section is incorrect, the reservoir operator shall file with the 37598
division an amended map showing the boundary of the reservoir to 37599
be located at the location that the reservoir operator then 37600
considers to be correct. 37601

(D) Each operator of a gas storage reservoir who files a ~~map~~ 37602
with the division of mineral resources management and the division 37603
of oil and gas resources management maps as required by this 37604
section shall, at the end of each six-month period following the 37605
date of such filing, file with ~~the~~ each division ~~an~~ identical 37606
amended ~~map~~ maps showing changes in the boundary line of the 37607
reservoir or of the reservoir's protective area that have occurred 37608
in the six-month period, and further showing or describing any 37609
other occurrences within that six-month period that cause the most 37610
recent ~~map~~ maps on file and pertaining to the reservoir to no 37611
longer be correct. Nothing in this division shall be construed to 37612
require such a reservoir operator to file an amended map at the 37613
end of any such six-month period if no boundary changes or other 37614
occurrences have occurred in that period. The operator of the 37615
reservoir shall also file with the division of mineral resources 37616
management and the division of oil and gas resources management, 37617
subsequent to the filing of a ~~map~~ maps as provided for in division 37618

(B) of this section, a statement whenever changing the maximum 37619
injection pressure is contemplated, stating for each affected well 37620
within the boundary of the reservoir or its protective area, the 37621
amount of change of injection pressure contemplated. The location 37622
or drilling of new wells or the abandonment or reconditioning of 37623
wells shall not be considered to be occurrences requiring the 37624
filing of an amended map or statement. 37625

(E) Promptly upon the filing with the division of oil and gas 37626
resources management of a map or an amended map pertaining to a 37627
gas storage reservoir under this section, the gas storage well 37628
inspector shall send by registered mail to the operator of the 37629
coal mine a part of the boundary of which is within ten thousand 37630
linear feet of any part of the boundary of the reservoir or of the 37631
outside boundary of the reservoir's protective area, notice of the 37632
filing together with a copy of the map. 37633

(F) When the operator of a gas storage reservoir files with 37634
the division ~~a map~~ of mineral resources management and the 37635
division of oil and gas resources management maps or ~~an~~ amended 37636
~~map~~ maps under this section, the reservoir operator shall file as 37637
many copies of the ~~map~~ maps as ~~the~~ each division may require for 37638
its files and as are needed for sending a copy to each coal mine 37639
operator under division (E) of this section. 37640

Sec. 1571.05. (A) Whenever any part of a gas storage 37641
reservoir or any part of its protective area underlies any part of 37642
a coal mine, or is, or within nine months is expected or intended 37643
to be, within two thousand linear feet of the boundary of a coal 37644
mine that is operating in a coal seam any part of which extends 37645
over any part of the storage reservoir or its protective area, the 37646
operator of the reservoir, if the reservoir operator or some other 37647
reservoir operator has not theretofore done so, shall: 37648

(1) Use every known method that is reasonable under the 37649

circumstance for discovering and locating all wells drilled within 37650
the area of the reservoir or its protective area that underlie any 37651
part of the coal mine or its protective area; 37652

(2) Plug or recondition all known wells drilled within the 37653
area of the reservoir or its protective area that underlie any 37654
part of the coal mine. 37655

(B) Whenever an operator of a gas storage reservoir is 37656
notified by the operator of a coal mine, as provided in division 37657
(B) of section 1571.03 of the Revised Code, that the coal mine 37658
operator believes that part of the boundary of the mine is within 37659
two thousand linear feet of a well that is drilled through the 37660
horizon of the coal mine and into or through the storage stratum 37661
or strata of the reservoir within the boundary of the reservoir or 37662
within its protective area, the reservoir operator shall plug or 37663
recondition the well as in this section prescribed, unless it is 37664
agreed in a conference or is ordered by the chief of the division 37665
of ~~mineral~~ oil and gas resources management after a hearing, as 37666
provided in section 1571.10 of the Revised Code, that the well 37667
referred to in the notice is not such a well as is described in 37668
division (B) of section 1571.03 of the Revised Code. 37669

Whenever an operator of a gas storage reservoir is notified 37670
by the operator of a coal mine as provided in division (C) or (D) 37671
of section 1571.03 of the Revised Code, that part of the boundary 37672
of the mine is, or within nine months is intended or expected to 37673
be, within two thousand linear feet of a well that is drilled 37674
through the horizon of the mine and into or through the storage 37675
stratum or strata of the reservoir within the boundary of the 37676
reservoir or within its protective area, the reservoir operator 37677
shall plug or recondition the well as in this section prescribed. 37678

Whenever the operator of a coal mine considers that the use 37679
of a well such as in this section described, if used for injecting 37680
gas into, or storing gas in, or removing gas from, a gas storage 37681

reservoir, would be hazardous to the safety of persons or property 37682
on or in the vicinity of the premises of the coal mine or the 37683
reservoir or well, the coal mine operator may file with the 37684
division objections to the use of the well for such purposes, and 37685
a request that a conference be held as provided in section 1571.10 37686
of the Revised Code, to discuss and endeavor to resolve by mutual 37687
agreement whether or not the well shall or shall not be used for 37688
such purposes, and whether or not the well shall be reconditioned, 37689
inactivated, or plugged. The request shall set forth the mine 37690
operator's reasons for such objections. If no approved agreement 37691
is reached in the conference, the gas storage well inspector shall 37692
within ten days after the termination of the conference, file with 37693
the chief a request that the chief hear and determine the matters 37694
considered at the conference as provided in section 1571.10 of the 37695
Revised Code. Upon conclusion of the hearing, the chief shall find 37696
and determine whether or not the safety of persons or of the 37697
property on or in the vicinity of the premises of the coal mine, 37698
or the reservoir, or the well requires that the well be 37699
reconditioned, inactivated, or plugged, and shall make an order 37700
consistent with that determination, provided that the chief shall 37701
not order a well plugged unless the chief first finds that there 37702
is underground leakage of gas therefrom. 37703

The plugging or reconditioning of each well described in a 37704
notice from a coal mine operator to a reservoir operator as 37705
provided in division (B) of section 1571.03 of the Revised Code, 37706
which must be plugged or reconditioned, shall be completed within 37707
such time as the gas storage well inspector may fix in the case of 37708
each such well. The plugging or reconditioning of each well 37709
described in a notice from a coal mine operator to a reservoir 37710
operator as provided in division (C) of section 1571.03 of the 37711
Revised Code, which must be plugged or reconditioned, shall be 37712
completed by the time the well, by reason of the extension of the 37713
boundary of the coal mine, is within two thousand linear feet of 37714

any part of the boundary of the mine. The plugging or 37715
reconditioning of each well described in a notice from a coal mine 37716
operator to a reservoir operator, as provided in division (D) of 37717
section 1571.03 of the Revised Code, which must be plugged or 37718
reconditioned, shall be completed by the time the well, by reason 37719
of the opening of the new mine, is within two thousand linear feet 37720
of any part of the boundary of the new mine. A reservoir operator 37721
who is required to complete the plugging or reconditioning of a 37722
well within a period of time fixed as in this division prescribed, 37723
may prior to the end of that period of time, notify the division 37724
and the mine operator from whom the reservoir operator received a 37725
notice as provided in division (B), (C), or (D) of section 1571.03 37726
of the Revised Code, in writing by registered mail, that the 37727
completion of the plugging or reconditioning of the well referred 37728
to in the notice will be delayed beyond the end of the period of 37729
time fixed therefor as in this section provided, and that the 37730
reservoir operator requests that a conference be held for the 37731
purpose of endeavoring to reach an agreement establishing a date 37732
subsequent to the end of that period of time, on or before which 37733
the reservoir operator may complete the plugging or reconditioning 37734
without incurring any penalties for failure to do so as provided 37735
in this chapter. If such a reservoir operator sends to such a mine 37736
operator and to the division a notice and request for a conference 37737
as in this division provided, the reservoir operator shall not 37738
incur any penalties for failure to complete the plugging or 37739
reconditioning of the well within the period of time fixed as in 37740
this division prescribed, unless the reservoir operator fails to 37741
complete the plugging or reconditioning of the well within the 37742
period of time fixed by an approved agreement reached in the 37743
conference, or fixed by an order by the chief upon a hearing held 37744
in the matter in the event of failure to reach an approved 37745
agreement in the conference. 37746

Whenever, in compliance with this division, a well is to be 37747

plugged by a reservoir operator, the operator shall give to the 37748
division notice thereof, as many days in advance as will be 37749
necessary for the gas storage well inspector or a deputy mine 37750
inspector to be present at the plugging. The notification shall be 37751
made on blanks furnished by the division and shall show the 37752
following information: 37753

(1) Name and address of the applicant; 37754

(2) The location of the well identified by section or lot 37755
number, city or village, and township and county; 37756

(3) The well name and number of each well to be plugged. 37757

(C) The operator shall give written notice at the same time 37758
to the owner of the land upon which the well is located, the 37759
owners or agents of the adjoining land, and adjoining well owners 37760
or agents of the operator's intention to abandon the well, and of 37761
the time when the operator will be prepared to commence plugging 37762
and filling the same. In addition to giving such notices, the 37763
reservoir operator shall also at the same time send a copy of the 37764
notice by registered mail to the coal mine operator, if any, who 37765
sent to the reservoir operator the notice as provided in division 37766
(B), (C), or (D) of section 1571.03 of the Revised Code, in order 37767
that the coal mine operator or the coal mine operator's designated 37768
representative may attend and observe the manner in which the 37769
plugging of the well is done. 37770

If the reservoir operator plugs the well without ~~an~~ the gas 37771
storage well inspector ~~from the division~~ or a deputy mine 37772
inspector being present to supervise the plugging, the reservoir 37773
operator shall send to the division and to the coal mine operator 37774
a copy of the report of the plugging of the well, including in the 37775
report: 37776

(1) The date of abandonment; 37777

(2) The name of the owner or operator of the well at the time 37778

of abandonment and the well owner's or operator's post office	37779
address;	37780
(3) The location of the well as to township and county and	37781
the name of the owner of the surface upon which the well is	37782
drilled, with the address thereof;	37783
(4) The date of the permit to drill;	37784
(5) The date when drilled;	37785
(6) Whether the well has been mapped;	37786
(7) The depth of the well;	37787
(8) The depth of the top of the sand to which the well was	37788
drilled;	37789
(9) The depth of each seam of coal drilled through;	37790
(10) A detailed report as to how the well was plugged, giving	37791
in particular the manner in which the coal and various sands were	37792
plugged, and the date of the plugging of the well, including	37793
therein the names of those who witnessed the plugging of the well.	37794
The report shall be signed by the operator or the operator's	37795
agent who plugged the well and verified by the oath of the party	37796
so signing. For the purposes of this section, a deputy mine	37797
inspector may take acknowledgements and administer oaths to the	37798
parties signing the report.	37799
Whenever, in compliance with this division, a well is to be	37800
reconditioned by a reservoir operator, the operator shall give to	37801
the division notice thereof as many days before the reconditioning	37802
is begun as will be necessary for the gas storage well inspector,	37803
or a deputy mine inspector, to be present at the reconditioning.	37804
No well shall be reconditioned if an inspector of the division is	37805
not present unless permission to do so has been granted by the	37806
chief. The reservoir operator, at the time of giving notice to the	37807
division as in this section required, also shall send a copy of	37808

the notice by registered mail to the coal mine operator, if any, 37809
who sent to the reservoir operator the notice as provided in 37810
division (B), (C), or (D) of section 1571.03 of the Revised Code, 37811
in order that the coal mine operator or the coal mine operator's 37812
designated representative may attend and observe the manner in 37813
which the reconditioning of the well is done. 37814

If the reservoir operator reconditions the well when ~~no~~ the 37815
gas storage well inspector ~~of the division~~ or a deputy mine 37816
inspector is not present to supervise the reconditioning, the 37817
reservoir operator shall make written report to the division 37818
describing the manner in which the reconditioning was done, and 37819
shall send to the coal mine operator a copy of the report by 37820
registered mail. 37821

(D) Wells that are required by this section to be plugged 37822
shall be plugged in the manner specified in sections 1509.13 to 37823
1509.17 of the Revised Code, and the operator shall give the 37824
notifications and reports required by divisions (B) and (C) of 37825
this section. No such well shall be plugged or abandoned without 37826
the written approval of the division, and no such well shall be 37827
mudded, plugged, or abandoned without the gas storage well 37828
inspector or a deputy mine inspector present unless written 37829
permission has been granted by the chief or the gas storage well 37830
inspector. For purposes of this section, the chief of the division 37831
of mineral resources management has the authority given the chief 37832
of the division of oil and gas resources management in sections 37833
1509.15 and 1509.17 of the Revised Code. If such a well has been 37834
plugged prior to the time plugging thereof is required by this 37835
section, and, on the basis of the data, information, and other 37836
evidence available it is determined that the plugging was done in 37837
the manner required by this section, or was done in accordance 37838
with statutes prescribing the manner of plugging wells in effect 37839
at the time the plugging was done, and that there is no evidence 37840

of leakage of gas from the well either at or below the surface, 37841
and that the plugging is sufficiently effective to prevent the 37842
leakage of gas from the well, the obligations imposed upon the 37843
reservoir operator by this section as to plugging the well shall 37844
be considered fully satisfied. The operator of a coal mine any 37845
part of the boundary of which is, or within nine months is 37846
expected or intended to be, within two thousand linear feet of the 37847
well may at any time raise a question as to whether the plugging 37848
of the well is sufficiently effective to prevent the leakage of 37849
gas therefrom, and the issue so made shall be determined by a 37850
conference or hearing as provided in section 1571.10 of the 37851
Revised Code. 37852

(E) Wells that are to be reconditioned as required by this 37853
section shall be, or shall be made to be: 37854

(1) Cased in accordance with the statutes of this state in 37855
effect at the time the wells were drilled, with the casing being, 37856
or made to be, sufficiently effective in that there is no evidence 37857
of any leakage of gas therefrom; 37858

(2) Equipped with a producing string and well head composed 37859
of new pipe, or pipe as good as new, and fittings designed to 37860
operate with safety and to contain the stored gas at maximum 37861
pressures contemplated. 37862

When a well that is to be reconditioned as required by this 37863
section has been reconditioned for use in the operation of the 37864
reservoir prior to the time prescribed in this section, and on the 37865
basis of the data, information, and other evidence available it is 37866
determined that at the time the well was so reconditioned the 37867
requirements prescribed in this division were met, and that there 37868
is no evidence of underground leakage of gas from the well, and 37869
that the reconditioning is sufficiently effective to prevent 37870
underground leakage from the well, the obligations imposed upon 37871
the reservoir operator by this section as to reconditioning the 37872

well shall be considered fully satisfied. Any operator of a coal 37873
mine any part of the boundary of which is, or within nine months 37874
is expected or intended to be, within two thousand linear feet of 37875
the well may at any time raise a question as to whether the 37876
reconditioning of the well is sufficiently effective to prevent 37877
underground leakage of gas therefrom, and the issue so made shall 37878
be determined by a conference or hearing as provided in section 37879
1571.10 of the Revised Code. 37880

If the gas storage well inspector at any time finds that a 37881
well that is drilled through the horizon of a coal mine and into 37882
or through the storage stratum or strata of a reservoir within the 37883
boundary of the reservoir or within its protective area is located 37884
within the boundary of the coal mine or within two thousand linear 37885
feet of the mine boundary, and was drilled prior to the time the 37886
statutes of this state required that wells be cased, and that the 37887
well fails to meet the casing and equipping requirements 37888
prescribed in this division, the gas storage well inspector shall 37889
promptly notify the operator of the reservoir thereof in writing, 37890
and the reservoir operator upon receipt of the notice shall 37891
promptly recondition the well in the manner prescribed in this 37892
division for reconditioning wells, unless, in a conference or 37893
hearing as provided in section 1571.10 of the Revised Code, a 37894
different course of action is agreed upon or ordered. 37895

(F)(1) When a well within the boundary of a gas storage 37896
reservoir or within the reservoir's protective area penetrates the 37897
storage stratum or strata of the reservoir, but does not penetrate 37898
the coal seam within the boundary of a coal mine, the gas storage 37899
well inspector may, upon application of the operator of the 37900
storage reservoir, exempt the well from the requirements of this 37901
section. Either party affected by the action of the gas storage 37902
well inspector may request a conference and hearing with respect 37903
to the exemption. 37904

(2) When a well located within the boundary of a storage reservoir or a reservoir's protective area is a producing well in a stratum above or below the storage stratum, the obligations imposed by this section shall not begin until the well ceases to be a producing well.

(G) When retreat mining reaches a point in a coal mine when the operator of the mine expects that within ninety days retreat work will be at the location of a pillar surrounding an active storage reservoir well, the operator of the mine shall promptly send by registered mail notice to that effect to the operator of the reservoir. Thereupon the operators may by agreement determine whether it is necessary or advisable to temporarily inactivate the well. If inactivated, the well shall not be reactivated until a reasonable period of time has elapsed, such period of time to be determined by agreement by the operators. In the event that the parties cannot agree upon either of the foregoing matters, the question shall be submitted to the gas storage well inspector for a conference in accordance with section 1571.10 of the Revised Code.

(H)(1) The provisions of this section that require the plugging or reconditioning of wells shall not apply to such wells as are used to inject gas into, store gas in, or remove gas from a gas storage reservoir when the sole purpose of the injection, storage, or removal is testing. The operator of a gas storage reservoir who injects gas into, stores gas in, or removes gas from a reservoir for the sole purpose of testing shall be subject to all other provisions of this chapter that are applicable to operators of reservoirs.

(2) If the injection of gas into, or storage of gas in, a gas storage reservoir any part of which, or of the protective area of which, is within the boundary of a coal mine is begun after September 9, 1957, and if the injection or storage of gas is for

the sole purpose of testing, the operator of the reservoir shall 37937
send by registered mail to the operator of the coal mine, the 37938
division of oil and gas resources management, and ~~to~~ the division 37939
of mineral resources management at least sixty days' notice of the 37940
date upon which the testing will be begun. 37941

If at any time within the period of time during which testing 37942
of a reservoir is in progress, any part of the reservoir or of its 37943
protective area comes within any part of the boundary of a coal 37944
mine, the operator of the reservoir shall promptly send notice to 37945
that effect by registered mail to the operator of the mine, the 37946
division of oil and gas resources management, and ~~to~~ the division 37947
of mineral resources management. 37948

(3) Any coal mine operator who receives a notice as provided 37949
for in division (H)(2) of this section may within thirty days of 37950
the receipt thereof file with the division objections to the 37951
testing. The gas storage well inspector also may, within the time 37952
within which a coal mine operator may file an objection, place in 37953
the files of the division objections to the testing. The reservoir 37954
operator shall comply throughout the period of the testing 37955
operations with all conditions and requirements agreed upon and 37956
approved in the conference on such objections conducted as 37957
provided in section 1571.10 of the Revised Code, or in an order 37958
made by the chief following a hearing in the matter as provided in 37959
section 1571.10 of the Revised Code. If in complying with the 37960
agreement or order either the reservoir operator or the coal mine 37961
operator encounters or discovers conditions that were not known to 37962
exist at the time of the conference or hearing and that materially 37963
affect the agreement or order, or the ability of the reservoir 37964
operator to comply therewith, either operator may apply for a 37965
rehearing or modification of the order. 37966

(I) In addition to complying with all other provisions of 37967
this chapter and any lawful orders issued thereunder, the operator 37968

of each gas storage reservoir shall keep all wells drilled into or 37969
through the storage stratum or strata within the boundary of the 37970
operator's reservoir or within the reservoir's protective area in 37971
such condition, and operate the same in such manner, as to prevent 37972
the escape of gas therefrom into any coal mine, and shall operate 37973
and maintain the storage reservoir and its facilities in such 37974
manner and at such pressures as will prevent gas from escaping 37975
from the reservoir or its facilities into any coal mine. 37976

Sec. 1571.06. (A) Distances between boundaries of gas storage 37977
reservoirs, reservoir protective areas, coal mines, coal mine 37978
protective areas, and wells, as shown on the most recent maps of 37979
storage reservoirs and of coal mines filed with the division of 37980
oil and gas resources management or the division of mineral 37981
resources management as required by this chapter and sections 37982
1563.03 to 1563.05 of the Revised Code, may be accepted and relied 37983
upon as being accurate and correct, by operators of coal mines and 37984
operators of reservoirs. Data, statements, and reports filed with 37985
~~the~~ either division as required by this chapter and sections 37986
1563.03 to 1563.05 of the Revised Code may be likewise accepted 37987
and relied upon. However, the gas storage well inspector or any 37988
reservoir operator or coal mine operator, or any other person 37989
having a direct interest in the matter, may at any time question 37990
the accuracy or correctness of any map, data, statement, or report 37991
so filed, with ~~the~~ either division by notifying ~~the division~~ both 37992
divisions thereof in writing. Such notice shall state the reasons 37993
why the question is raised. When any such notice is so filed, the 37994
gas storage well inspector shall proceed promptly to hold a 37995
conference on the question thus raised, as provided in section 37996
1571.10 of the Revised Code. 37997

(B) If, in any proceeding under this chapter, the accuracy or 37998
correctness of any map, data, statement, or report, filed by any 37999
person pursuant to the requirements of this chapter is in 38000

question, the person so filing the same shall have the burden of 38001
proving the accuracy or correctness thereof. 38002

(C) The operator of a gas storage reservoir shall, at all 38003
reasonable times, be permitted to inspect the premises and 38004
facilities of any coal mine any part of the boundary of which is 38005
within any part of the boundary of such gas storage reservoir or 38006
within its protective area, and the operator of a coal mine shall, 38007
at all reasonable times, be permitted to inspect the premises and 38008
facilities of any gas storage reservoir any part of the boundary 38009
of which or any part of the protective area of which is within the 38010
boundary of such coal mine. In the event that either such 38011
reservoir operator or such coal mine operator denies permission to 38012
make any such inspection, the chief of the division of ~~mineral~~ oil 38013
and gas resources management on the chief's own motion, or on an 38014
application by the operator desiring to make such inspection, upon 38015
a hearing thereon if requested by either operator, after 38016
reasonable notice of such hearing, may make an order providing for 38017
such inspection. 38018

Sec. 1571.08. (A) Whenever in this chapter, the method or 38019
material to be used in discharging any obligations imposed by this 38020
chapter is specified, an alternative method or material may be 38021
used if approved by the gas storage well inspector or the chief of 38022
the division of ~~mineral~~ oil and gas resources management. A person 38023
desiring to use such alternative method or material shall file 38024
with the division of ~~mineral~~ oil and gas resources management an 38025
application for permission to do so. Such application shall 38026
describe such alternative method or material in reasonable detail. 38027
The gas storage well inspector shall promptly send by registered 38028
mail notice of the filing of such application to any coal mine 38029
operator or reservoir operator whose mine or reservoir may be 38030
directly affected thereby. Any such coal mine operator or 38031
reservoir operator may within ten days following receipt of such 38032

notice, file with the division objections to such application. The 38033
gas storage well inspector may also file with the division an 38034
objection to such application at any time during which coal mine 38035
operators or reservoir operators are permitted to file objections. 38036
If no objections are filed within the ten-day period of time, the 38037
gas storage well inspector shall thereupon issue a permit 38038
approving the use of such alternative method or material. If any 38039
such objections are filed by any coal mine operator or reservoir 38040
operator, or by the gas storage well inspector, the question as to 38041
whether or not the use of such alternative method or material, or 38042
a modification thereof is approved, shall be determined by a 38043
conference or hearing as provided in section 1571.10 of the 38044
Revised Code. 38045

(B) Whenever in this chapter, provision is made for the 38046
filing of objections with the division, such objections shall be 38047
in writing and shall state as definitely as is reasonably possible 38048
the reasons for such objections. Upon the filing of any such 38049
objection the gas storage well inspector shall promptly fix the 38050
time and place for holding a conference for the purpose of 38051
discussing and endeavoring to resolve by mutual agreement the 38052
issue raised by such objection. The gas storage well inspector 38053
shall send written notice thereof by registered mail to each 38054
person having a direct interest therein. Thereupon the issue made 38055
by such objection shall be determined by a conference or hearing 38056
in accordance with the procedures for conferences and hearings as 38057
provided in section 1571.10 of the Revised Code. 38058

Sec. 1571.09. (A) The chief of the division of mineral oil 38059
and gas resources management or any officer or employee of the 38060
division thereunto duly authorized by the chief may investigate, 38061
inspect, or examine records and facilities of any coal mine 38062
operator or reservoir operator, for the purpose of determining the 38063
accuracy or correctness of any map, data, statement, report, or 38064

other item or article, filed with or otherwise received by the 38065
division pursuant to this chapter. When a material question is 38066
raised by any reservoir operator or coal mine operator as to the 38067
accuracy or correctness of any such map, data, statement, report, 38068
or other item or article, which may directly affect the reservoir 38069
operator or coal mine operator, the matter shall be determined by 38070
a conference or hearing as provided in section 1571.10 of the 38071
Revised Code. 38072

(B) The division of ~~mineral~~ oil and gas resources management 38073
shall keep all maps, data, statements, reports, well logs, 38074
notices, or other items or articles filed with or otherwise 38075
received by it pursuant to this chapter in a safe place and 38076
conveniently accessible to persons entitled to examine them. It 38077
shall maintain indexes of all such items and articles so that any 38078
of them may be promptly located. None of such items or articles 38079
shall be open to public inspection, but: (1) any of such items or 38080
articles pertaining to a mine may be examined by: the operator, 38081
owner, lessee, or agent of such mine; persons financially 38082
interested in such mine; owners of land adjoining such mine; the 38083
operator, owner, lessee, or agent of a mine adjoining such mine; 38084
authorized representatives of the persons employed to work in such 38085
mine; the operator of a gas storage reservoir any part of the 38086
boundary of which or of the boundary of its protective area is 38087
within ten thousand linear feet of the boundary of such mine, or 38088
the agent of such reservoir operator thereunto authorized by such 38089
reservoir operator; or any employee of the division of geological 38090
survey in the department of natural resources thereunto duly 38091
authorized by the chief of that division; and (2) any of such 38092
items or articles pertaining to a gas storage reservoir may be 38093
examined by: the operator of such reservoir; the operator of a 38094
coal mine any part of the boundary of which is within ten thousand 38095
linear feet of the boundary of a gas storage reservoir or of the 38096
boundary of its protective area, or the agent of such mine 38097

operator thereunto authorized by such mine operator, or the 38098
authorized representatives of the persons employed to work in such 38099
mine; or any employee of the division of geological survey 38100
thereunto duly authorized by the chief of that division. The 38101
division of ~~mineral~~ oil and gas resources management shall not 38102
permit any of such items or articles to be removed from its 38103
office, and it shall not furnish copies of any such items or 38104
articles to any person other than as provided in this chapter. 38105

The division shall keep a docket of all proceedings arising 38106
under this chapter, in which shall be entered the dates of any 38107
notice received or issued, the names of all persons to whom it 38108
sends a notice, and the address of each, the dates of conferences 38109
and hearings, and all findings, determinations, decisions, 38110
rulings, and orders, or other actions by the division. 38111

(C) Whenever any provision of this chapter requires the 38112
division to give notice to the operator of a coal mine of any 38113
proceeding to be held pursuant to this chapter, the division shall 38114
simultaneously give a copy of such notice to the authorized 38115
representatives of the persons employed to work in such mine. 38116

Sec. 1571.10. (A) The gas storage well inspector or any 38117
person having a direct interest in the administration of this 38118
chapter may at any time file with the division of ~~mineral~~ oil and 38119
gas resources management a written request that a conference be 38120
held for the purpose of discussing and endeavoring to resolve by 38121
mutual agreement any question or issue relating to the 38122
administration of this chapter, or to compliance with its 38123
provisions, or to any violation thereof. Such request shall 38124
describe the matter concerning which the conference is requested. 38125
Thereupon the gas storage well inspector shall promptly fix the 38126
time and place for the holding of such conference and shall send 38127
written notice thereof to each person having a direct interest 38128

therein. At such conference the gas storage well inspector or a 38129
representative of the division designated by the gas storage well 38130
inspector shall be in attendance, and shall preside at the 38131
conference, and the gas storage well inspector or designated 38132
representative may make such recommendations as the gas storage 38133
well inspector or designated representative deems proper. Any 38134
agreement reached at such conference shall be consistent with the 38135
requirements of this chapter and, if approved by the gas storage 38136
well inspector, it shall be reduced to writing and shall be 38137
effective. Any such agreement approved by the gas storage well 38138
inspector shall be kept on file in the division and a copy thereof 38139
shall be furnished to each of the persons having a direct interest 38140
therein. The conference shall be deemed terminated as of the date 38141
an approved agreement is reached or when any person having a 38142
direct interest therein refuses to confer thereafter. Such a 38143
conference shall be held in all cases prior to the holding of a 38144
hearing as provided in this section. 38145

(B) Within ten days after the termination of a conference at 38146
which no approved agreement is reached, any person who 38147
participated in such conference and who has a direct interest in 38148
the subject matter thereof, or the gas storage well inspector, may 38149
file with the chief of the division of ~~mineral~~ oil and gas 38150
resources management a request that the chief hear and determine 38151
the matter or matters, or any part thereof considered at the 38152
conference. Thereupon the chief shall promptly fix the time and 38153
place for the holding of such hearing and shall send written 38154
notice thereof to each person having a direct interest therein. 38155
The form of the request for such hearing and the conduct of the 38156
hearing shall be in accordance with rules that the chief adopts 38157
under section 1571.11 of the Revised Code. Consistent with the 38158
requirement for reasonable notice each such hearing shall be held 38159
promptly after the filing of the request therefor. Any person 38160
having a direct interest in the matter to be heard shall be 38161

entitled to appear and be heard in person or by attorney. The 38162
division may present at such hearing any evidence that is material 38163
to the matter being heard and that has come to the division's 38164
attention in any investigation or inspection made pursuant to this 38165
chapter. 38166

(C) For the purpose of conducting such a hearing the chief 38167
may require the attendance of witnesses and the production of 38168
books, records, and papers, and the chief may, and at the request 38169
of any person having a direct interest in the matter being heard, 38170
the chief shall, issue subpoenas for witnesses or subpoenas duces 38171
tecum to compel the production of any books, records, or papers, 38172
directed to the sheriffs of the counties where such witnesses are 38173
found, which subpoenas shall be served and returned in the same 38174
manner as subpoenas in criminal cases are served and returned. The 38175
fees of sheriffs shall be the same as those allowed by the court 38176
of common pleas in criminal cases. Witnesses shall be paid the 38177
fees and mileage provided for under section 119.094 of the Revised 38178
Code. Such fee and mileage expenses shall be paid in advance by 38179
the persons at whose request they are incurred, and the remainder 38180
of such expenses shall be paid out of funds appropriated for the 38181
expenses of the division. 38182

In case of disobedience or neglect of any subpoena served on 38183
any person, or the refusal of any witness to testify to any matter 38184
regarding which the witness may be lawfully interrogated, the 38185
court of common pleas of the county in which such disobedience, 38186
neglect, or refusal occurs, or any judge thereof, on application 38187
of the chief, shall compel obedience by attachment proceedings for 38188
contempt as in the case of disobedience of the requirements of a 38189
subpoena issued from such court or a refusal to testify therein. 38190
Witnesses at such hearings shall testify under oath, and the chief 38191
may administer oaths or affirmations to persons who so testify. 38192

(D) With the consent of the chief, the testimony of any 38193

witness may be taken by deposition at the instance of a party to 38194
any hearing before the chief at any time after hearing has been 38195
formally commenced. The chief may, of the chief's own motion, 38196
order testimony to be taken by deposition at any stage in any 38197
hearing, proceeding, or investigation pending before the chief. 38198
Such deposition shall be taken in the manner prescribed by the 38199
laws of this state for taking depositions in civil cases in courts 38200
of record. 38201

(E) After the conclusion of a hearing the chief shall make a 38202
determination and finding of facts. Every adjudication, 38203
determination, or finding by the chief shall be made by written 38204
order and shall contain a written finding by the chief of the 38205
facts upon which the adjudication, determination, or finding is 38206
based. Notice of the making of such order shall be given to the 38207
persons whose rights, duties, or privileges are affected thereby, 38208
by sending a certified copy thereof by registered mail to each of 38209
such persons. 38210

Adjudications, determinations, findings, and orders made by 38211
the chief shall not be governed by, or be subject to, Chapter 119. 38212
of the Revised Code. 38213

Sec. 1571.11. The chief of the division of ~~mineral oil and~~ 38214
gas resources management shall adopt rules governing 38215
administrative procedures to be followed in the administration of 38216
this chapter, which shall be of general application in all matters 38217
and to all persons affected by this chapter. 38218

No rule adopted by the chief pursuant to this section shall 38219
be effective until the tenth day after a certified copy thereof 38220
has been filed in the office of the secretary of state. 38221

All rules filed in the office of the secretary of state 38222
pursuant to this section shall be recorded by the secretary of 38223
state under a heading entitled "Regulations relating to the 38224

storage of gas in underground gas storage reservoirs" and shall be 38225
numbered consecutively under such heading and shall bear the date 38226
of filing. Such rules shall be public records open to public 38227
inspection. 38228

No rule filed in the office of the secretary of state 38229
pursuant to this section shall be amended except by a rule that 38230
contains the entire rule as amended and that repeals the rule 38231
amended. Each rule that amends a rule shall bear the same 38232
consecutive rule number as the number of the rule that it amends, 38233
and it shall bear the date of filing. 38234

No rule filed in the office of the secretary of state 38235
pursuant to this section shall be repealed except by a rule. Each 38236
rule that repeals a rule shall bear the same consecutive rule 38237
number as the number of the rule that it repeals, and it shall 38238
bear the date of filing. 38239

The authority and the duty of the chief to adopt rules as 38240
provided in this section shall not be governed by, or be subject 38241
to Chapter 119. of the Revised Code. 38242

The chief shall have available at all times copies of all 38243
rules adopted pursuant to this section, and shall furnish same 38244
free of charge to any person requesting same. 38245

Sec. 1571.14. Any person claiming to be aggrieved or 38246
adversely affected by an order of the chief of the division of 38247
~~mineral oil and gas~~ resources management made as provided in 38248
section 1571.10 or 1571.16 of the Revised Code may appeal to the 38249
director of natural resources for an order vacating or modifying 38250
such order. Upon receipt of the appeal, the director shall appoint 38251
an individual who has knowledge of the laws and rules regarding 38252
the underground storage of gas and who shall act as a hearing 38253
officer in accordance with Chapter 119. of the Revised Code in 38254
hearing the appeal. 38255

The person appealing to the director shall be known as 38256
appellant and the chief shall be known as appellee. The appellant 38257
and the appellee shall be deemed parties to the appeal. 38258

The appeal shall be in writing and shall set forth the order 38259
complained of and the grounds upon which the appeal is based. The 38260
appeal shall be filed with the director within thirty days after 38261
the date upon which appellant received notice by registered mail 38262
of the making of the order complained of, as required by section 38263
1571.10 of the Revised Code. Notice of the filing of such appeal 38264
shall be delivered by appellant to the chief within three days 38265
after the appeal is filed with the director. 38266

Within seven days after receipt of the notice of appeal the 38267
chief shall prepare and certify to the director at the expense of 38268
appellant a complete transcript of the proceedings out of which 38269
the appeal arises, including a transcript of the testimony 38270
submitted to the chief. 38271

Upon the filing of the appeal the director shall fix the time 38272
and place at which the hearing on the appeal will be held, and 38273
shall give appellant and the chief at least ten days' written 38274
notice thereof by mail. The director may postpone or continue any 38275
hearing upon the director's own motion or upon application of 38276
appellant or of the chief. 38277

The filing of an appeal provided for in this section does not 38278
automatically suspend or stay execution of the order appealed 38279
from, but upon application by the appellant the director may 38280
suspend or stay such execution pending determination of the appeal 38281
upon such terms as the director deems proper. 38282

The hearing officer appointed by the director shall hear the 38283
appeal de novo, and either party to the appeal may submit such 38284
evidence as the hearing officer deems admissible. 38285

For the purpose of conducting a hearing on an appeal, the 38286

hearing officer may require the attendance of witnesses and the 38287
production of books, records, and papers, and may, and at the 38288
request of any party shall, issue subpoenas for witnesses or 38289
subpoenas duces tecum to compel the production of any books, 38290
records, or papers, directed to the sheriffs of the counties where 38291
such witnesses are found, which subpoenas shall be served and 38292
returned in the same manner as subpoenas in criminal cases are 38293
served and returned. The fees of sheriffs shall be the same as 38294
those allowed by the court of common pleas in criminal cases. 38295
Witnesses shall be paid the fees and mileage provided for under 38296
section 119.094 of the Revised Code. Such fee and mileage expenses 38297
incurred at the request of appellant shall be paid in advance by 38298
appellant, and the remainder of such expenses shall be paid out of 38299
funds appropriated for the expenses of the division of ~~mineral oil~~ 38300
and gas resources management. 38301

In case of disobedience or neglect of any subpoena served on 38302
any person, or the refusal of any witness to testify to any matter 38303
regarding which the witness may be lawfully interrogated, the 38304
court of common pleas of the county in which such disobedience, 38305
neglect, or refusal occurs, or any judge thereof, on application 38306
of the director, shall compel obedience by attachment proceedings 38307
for contempt as in the case of disobedience of the requirements of 38308
a subpoena issued from such court or a refusal to testify therein. 38309
Witnesses at such hearings shall testify under oath, and the 38310
hearing officer may administer oaths or affirmations to persons 38311
who so testify. 38312

At the request of any party to the appeal, a stenographic 38313
record of the testimony and other evidence submitted shall be 38314
taken by an official court shorthand reporter at the expense of 38315
the party making the request therefor. The record shall include 38316
all of the testimony and other evidence and the rulings on the 38317
admissibility thereof presented at the hearing. The hearing 38318

officer shall pass upon the admissibility of evidence, but any 38319
party may at the time object to the admission of any evidence and 38320
except to the ruling of the hearing officer thereon, and if the 38321
hearing officer refuses to admit evidence, the party offering same 38322
may make a proffer thereof, and such proffer shall be made a part 38323
of the record of such hearing. 38324

If upon completion of the hearing the hearing officer finds 38325
that the order appealed from was lawful and reasonable, the 38326
hearing officer shall make a written order affirming the order 38327
appealed from. If the hearing officer finds that such order was 38328
unreasonable or unlawful, the hearing officer shall make a written 38329
order vacating the order appealed from and making the order that 38330
it finds the chief should have made. Every order made by the 38331
hearing officer shall contain a written finding by the hearing 38332
officer of the facts upon which the order is based. Notice of the 38333
making of such order shall be given forthwith to each party to the 38334
appeal by mailing a certified copy thereof to each such party by 38335
registered mail. 38336

Sec. 1571.16. (A) The gas storage well inspector or any 38337
person having a direct interest in the subject matter of this 38338
chapter may file with the division of ~~mineral~~ oil and gas 38339
resources management a complaint in writing stating that a person 38340
is violating, or is about to violate, a provision or provisions of 38341
this chapter, or has done, or is about to do, an act, matter, or 38342
thing therein prohibited or declared to be unlawful, or has 38343
failed, omitted, neglected, or refused, or is about to fail, omit, 38344
neglect, or refuse, to perform a duty enjoined upon the person by 38345
this chapter. Upon the filing of such a complaint, the chief of 38346
the division of ~~mineral~~ oil and gas resources management shall 38347
promptly fix the time for the holding of a hearing on such 38348
complaint and shall send by registered mail to the person so 38349
complained of, a copy of such complaint together with at least 38350

five days' notice of the time and place at which such hearing will 38351
be held. Such notice of such hearing shall also be given to all 38352
persons having a direct interest in the matters complained of in 38353
such complaint. Such hearing shall be conducted in the same 38354
manner, and the chief and persons having a direct interest in the 38355
matter being heard, shall have the same powers, rights, and duties 38356
as provided in divisions (B), (C), (D), and (E) of section 1571.10 38357
of the Revised Code, in connection with hearings by the chief, 38358
provided that if after conclusion of the hearing the chief finds 38359
that the charges against the person complained of, as stated in 38360
such complaint, have not been sustained by a preponderance of 38361
evidence, the chief shall make an order dismissing the complaint, 38362
and if the chief finds that the charges have been so sustained, 38363
the chief shall by appropriate order require compliance with those 38364
provisions. 38365

(B) Whenever the chief is of the opinion that any person is 38366
violating, or is about to violate, any provision of this chapter, 38367
or has done, or is about to do, any act, matter, or thing therein 38368
prohibited or declared to be unlawful, or has failed, omitted, 38369
neglected, or refused, or is about to fail, omit, neglect, or 38370
refuse, to perform any duty enjoined upon the person by this 38371
chapter, or has failed, omitted, neglected, or refused, or is 38372
about to fail, omit, neglect, or refuse, to obey any lawful 38373
requirement or order made by the chief, or any final judgment, 38374
order, or decree made by any court pursuant to this chapter, then 38375
and in every such case, the chief may institute in a court of 38376
competent jurisdiction of the county or counties wherein the 38377
operation is situated, an action to enjoin or restrain such 38378
violations or to enforce obedience with law or the orders of the 38379
chief. No injunction bond shall be required to be filed in any 38380
such proceeding. Such persons or corporations as the court may 38381
deem necessary or proper to be joined as parties in order to make 38382
its judgment, order, or writ effective may be joined as parties. 38383

An appeal may be taken as in other civil actions. 38384

(C) In addition to the other remedies as provided in 38385
divisions (A) and (B) of this section, any reservoir operator or 38386
coal mine operator affected by this chapter may proceed by 38387
injunction or other appropriate remedy to restrain violations or 38388
threatened violations of this chapter or of orders of the chief, 38389
or of the hearing officer appointed under section 1571.14 of the 38390
Revised Code, or the judgments, orders, or decrees of any court or 38391
to enforce obedience therewith. 38392

(D) Each remedy prescribed in divisions (A), (B), and (C) of 38393
this section is deemed concurrent or contemporaneous with each 38394
other remedy prescribed therein, and the existence or exercise of 38395
any one such remedy shall not prevent the exercise of any other 38396
such remedy. 38397

(E) The provisions of this chapter providing for conferences, 38398
hearings by the chief, appeals to the hearing officer from orders 38399
of the chief, and appeals to the court of common pleas from orders 38400
of the hearing officer, and the remedies prescribed in divisions 38401
(A), (B), (C), and (D) of this section, do not constitute the 38402
exclusive procedure that a person, who deems the person's rights 38403
to be unlawfully affected by any official action taken thereunder, 38404
must pursue in order to protect and preserve such rights, nor does 38405
this chapter constitute a procedure that such a person must pursue 38406
before the person may lawfully proceed by other actions, legal or 38407
equitable, to protect and preserve such rights. 38408

Sec. 1571.18. After ~~the effective date of this section~~ June 38409
30, 2010, and not later than the thirty-first day of March each 38410
year, the owner of a well that is used for gas storage or of a 38411
well that is used to monitor a gas storage reservoir and that is 38412
located in a reservoir protective area shall pay to the chief of 38413
the division of ~~mineral~~ oil and gas resources management a gas 38414

storage well regulatory fee of one hundred twenty-five dollars for 38415
each well that the owner owned as of the thirty-first day of 38416
December of the previous year for the purposes of administering 38417
this chapter and Chapter 1509. of the Revised Code. The chief may 38418
prescribe and provide a form for the collection of the fee imposed 38419
by this section and may adopt rules in accordance with Chapter 38420
119. of the Revised Code that are necessary for the administration 38421
of this section. 38422

All money collected under this section shall be deposited in 38423
the state treasury to the credit of the oil and gas well fund 38424
created in section 1509.02 of the Revised Code. 38425

Sec. 1571.99. Any person who purposely violates any order of 38426
the chief of the division of mineral oil and gas resources 38427
management, of a hearing officer appointed by the director of 38428
natural resources under section 1571.14 of the Revised Code, or of 38429
the director, made pursuant to this chapter shall be punished by a 38430
fine not exceeding two thousand dollars, or imprisoned in jail for 38431
a period not exceeding twelve months, or both, in the discretion 38432
of the court. 38433

Sec. 1701.07. (A) Every corporation shall have and maintain 38434
an agent, sometimes referred to as the "statutory agent," upon 38435
whom any process, notice, or demand required or permitted by 38436
statute to be served upon a corporation may be served. The agent 38437
may be a natural person who is a resident of this state or may be 38438
a domestic corporation or a foreign corporation holding a license 38439
as such under the laws of this state, that is authorized by its 38440
articles of incorporation to act as such agent and that has a 38441
business address in this state. 38442

(B) The secretary of state shall not accept original articles 38443
for filing unless there is filed with the articles a written 38444

appointment of an agent that is signed by the incorporators of the corporation or a majority of them and a written acceptance of the appointment that is signed by the agent. In all other cases, the corporation shall appoint the agent and shall file in the office of the secretary of state a written appointment of the agent that is signed by any authorized officer of the corporation and a written acceptance of the appointment that is either the original acceptance signed by the agent or a photocopy, facsimile, or similar reproduction of the original acceptance signed by the agent.

(C) The written appointment of an agent shall set forth the name and address in this state of the agent, including the street and number or other particular description, and shall otherwise be in such form as the secretary of state prescribes. The secretary of state shall keep a record of the names of corporations, and the names and addresses of their respective agents.

(D) If any agent dies, removes from the state, or resigns, the corporation shall forthwith appoint another agent and file with the secretary of state, on a form prescribed by the secretary of state, a written appointment of the agent.

(E) If the agent changes the agent's address from that appearing upon the record in the office of the secretary of state, the corporation or the agent shall forthwith file with the secretary of state, on a form prescribed by the secretary of state, a written statement setting forth the new address.

(F) An agent may resign by filing with the secretary of state, on a form prescribed by the secretary of state, a written notice to that effect that is signed by the agent and by sending a copy of the notice to the corporation at the current or last known address of its principal office on or prior to the date the notice is filed with the secretary of state. The notice shall set forth the name of the corporation, the name and current address of the

agent, the current or last known address, including the street and 38477
number or other particular description, of the corporation's 38478
principal office, the resignation of the agent, and a statement 38479
that a copy of the notice has been sent to the corporation within 38480
the time and in the manner prescribed by this division. Upon the 38481
expiration of thirty days after the filing, the authority of the 38482
agent shall terminate. 38483

(G) A corporation may revoke the appointment of an agent by 38484
filing with the secretary of state, on a form prescribed by the 38485
secretary of state, a written appointment of another agent and a 38486
statement that the appointment of the former agent is revoked. 38487

(H) Any process, notice, or demand required or permitted by 38488
statute to be served upon a corporation may be served upon the 38489
corporation by delivering a copy of it to its agent, if a natural 38490
person, or by delivering a copy of it at the address of its agent 38491
in this state, as the address appears upon the record in the 38492
office of the secretary of state. If (1) the agent cannot be 38493
found, or (2) the agent no longer has that address, or (3) the 38494
corporation has failed to maintain an agent as required by this 38495
section, and if in any such case the party desiring that the 38496
process, notice, or demand be served, or the agent or 38497
representative of the party, shall have filed with the secretary 38498
of state an affidavit stating that one of the foregoing conditions 38499
exists and stating the most recent address of the corporation that 38500
the party after diligent search has been able to ascertain, then 38501
service of process, notice, or demand upon the secretary of state, 38502
as the agent of the corporation, may be initiated by delivering to 38503
the secretary of state or at the secretary of state's office 38504
quadruplicate copies of such process, notice, or demand and by 38505
paying to the secretary of state a fee of five dollars. The 38506
secretary of state shall forthwith give notice of the delivery to 38507
the corporation at its principal office as shown upon the record 38508

in the secretary of state's office and at any different address 38509
shown on its last franchise tax report filed in this state, or to 38510
the corporation at any different address set forth in the above 38511
mentioned affidavit, and shall forward to the corporation at said 38512
addresses, by certified mail, with request for return receipt, a 38513
copy of the process, notice, or demand; and thereupon service upon 38514
the corporation shall be deemed to have been made. 38515

(I) The secretary of state shall keep a record of each 38516
process, notice, and demand delivered to the secretary of state or 38517
at the secretary of state's office under this section or any other 38518
law of this state that authorizes service upon the secretary of 38519
state, and shall record the time of the delivery and the action 38520
thereafter with respect thereto. 38521

(J) This section does not limit or affect the right to serve 38522
any process, notice, or demand upon a corporation in any other 38523
manner permitted by law. 38524

(K) Every corporation shall state in each annual report filed 38525
by it with the department of taxation the name and address of its 38526
statutory agent. 38527

(L) Except when an original appointment of an agent is filed 38528
with the original articles, a written appointment of an agent or a 38529
written statement filed by a corporation with the secretary of 38530
state shall be signed by any authorized officer of the corporation 38531
or by the incorporators of the corporation or a majority of them 38532
if no directors have been elected. 38533

(M) For filing a written appointment of an agent other than 38534
one filed with original articles, and for filing a statement of 38535
change of address of an agent, the secretary of state shall charge 38536
and collect the fee specified in division (R) of section 111.16 of 38537
the Revised Code. 38538

(N) Upon the failure of a corporation to appoint another 38539

agent or to file a statement of change of address of an agent, the 38540
secretary of state shall give notice thereof by ~~certified~~ ordinary 38541
or electronic mail to the corporation at the electronic mail 38542
address provided to the secretary of state, or at the address set 38543
forth in the notice of resignation or on the last franchise tax 38544
return filed in this state by the corporation. Unless the default 38545
is cured within thirty days after the mailing by the secretary of 38546
state of the notice or within any further period of time that the 38547
secretary of state grants, upon the expiration of that period of 38548
time from the date of the mailing, the articles of the corporation 38549
shall be canceled without further notice or action by the 38550
secretary of state. The secretary of state shall make a notation 38551
of the cancellation on the secretary of state's records. 38552

A corporation whose articles have been canceled may be 38553
reinstated by filing, on a form prescribed by the secretary of 38554
state, an application for reinstatement and the required 38555
appointment of agent or required statement, and by paying the 38556
filing fee specified in division (Q) of section 111.16 of the 38557
Revised Code. The rights, privileges, and franchises of a 38558
corporation whose articles have been reinstated are subject to 38559
section 1701.922 of the Revised Code. The secretary of state shall 38560
furnish the tax commissioner a monthly list of all corporations 38561
canceled and reinstated under this division. 38562

(O) This section does not apply to banks, trust companies, 38563
insurance companies, or any corporation defined under the laws of 38564
this state as a public utility for taxation purposes. 38565

Sec. 1702.59. (A) Every nonprofit corporation, incorporated 38566
under the general corporation laws of this state, or previous 38567
laws, or under special provisions of the Revised Code, or created 38568
before September 1, 1851, which corporation has expressly or 38569
impliedly elected to be governed by the laws passed since that 38570

date, and whose articles or other documents are filed with the 38571
secretary of state, shall file with the secretary of state a 38572
verified statement of continued existence, signed by a director, 38573
officer, or three members in good standing, setting forth the 38574
corporate name, the place where the principal office of the 38575
corporation is located, the date of incorporation, the fact that 38576
the corporation is still actively engaged in exercising its 38577
corporate privileges, and the name and address of its agent 38578
appointed pursuant to section 1702.06 of the Revised Code. 38579

(B) Each corporation required to file a statement of 38580
continued existence shall file it with the secretary of state 38581
within each five years after the date of incorporation or of the 38582
last corporate filing. 38583

(C) Corporations specifically exempted by division (N) of 38584
section 1702.06 of the Revised Code, or whose activities are 38585
regulated or supervised by another state official, agency, bureau, 38586
department, or commission are exempted from this section. 38587

(D) The secretary of state shall give notice ~~in writing~~ by 38588
ordinary or electronic mail and provide a form for compliance with 38589
this section to each corporation required by this section to file 38590
the statement of continued existence, such notice and form to be 38591
mailed to the last known physical or electronic mail address of 38592
the corporation as it appears on the records of the secretary of 38593
state or which the secretary of state may ascertain upon a 38594
reasonable search. 38595

(E) If any nonprofit corporation required by this section to 38596
file a statement of continued existence fails to file the 38597
statement required every fifth year, then the secretary of state 38598
shall cancel the articles of such corporation, make a notation of 38599
the cancellation on the records, and mail to the corporation a 38600
certificate of the action so taken. 38601

(F) A corporation whose articles have been canceled may be reinstated by filing an application for reinstatement and paying to the secretary of state the fee specified in division (Q) of section 111.16 of the Revised Code. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1702.06 of the Revised Code, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

(G) The secretary of state shall furnish the tax commissioner a list of all corporations failing to file the required statement of continued existence.

Sec. 1703.031. (A) If the laws of the United States prohibit, preempt, or otherwise eliminate the licensing requirement of sections 1703.01 to 1703.31 of the Revised Code with respect to a corporation that is a bank, savings bank, or savings and loan association chartered under the laws of the United States, the main office of which is located in another state, the bank, savings bank, or savings and loan association shall notify the

secretary of state that it is transacting business in this state 38634
by submitting a notice in such form as the secretary of state 38635
prescribes. The notice shall be verified by the oath of the 38636
president, vice-president, secretary, or treasurer of the bank, 38637
savings bank, or savings and loan association, and shall set forth 38638
all of the following: 38639

(1) The name of the corporation and any trade name under 38640
which it will do business in this state; 38641

(2) The location and complete address, including the county, 38642
of its main office in another state and its principal office, if 38643
any, in this state; 38644

(3) The appointment of a designated agent and the complete 38645
address of such agent in this state, which agent may be a natural 38646
person who is a resident of this state, or may be a domestic 38647
corporation for profit or a foreign corporation for profit holding 38648
a license as such under the laws of this state, provided that the 38649
domestic or foreign corporation has a business address in this 38650
state and is authorized by its articles of incorporation to act as 38651
such agent; 38652

(4) The irrevocable consent of the corporation to service of 38653
process on such agent so long as the authority of the agent 38654
continues and to service of process upon the secretary of state in 38655
the events provided for in section 1703.19 of the Revised Code; 38656

(5) A brief summary of the business to be transacted within 38657
this state. 38658

(B) The notice required by this section shall be accompanied 38659
by a certificate of good standing or subsistence, dated not 38660
earlier than sixty days prior to the submission of the notice, 38661
under the seal of the proper official of the agency of the United 38662
States that incorporated the bank, savings bank, or savings and 38663
loan association, setting forth the exact corporate title, the 38664

date of incorporation, and the fact that the bank, savings bank, 38665
or savings and loan association is in good standing or is a 38666
subsisting bank, savings bank, or savings and loan association. 38667

(C) Upon submission of the notice, a bank, savings bank, or 38668
savings and loan association shall pay a filing fee ~~of one hundred~~ 38669
~~dollars~~ to the secretary of state as required by section 111.16 of 38670
the Revised Code. 38671

(D)(1) No such notice shall be accepted for filing if it 38672
appears that the name of the bank, savings bank, or savings and 38673
loan association is any of the following: 38674

(a) Prohibited by law; 38675

(b) Not distinguishable upon the records in the office of the 38676
secretary of state from the name of a limited liability company, 38677
whether domestic or foreign, or any other corporation, whether 38678
nonprofit or for profit and whether that of a domestic corporation 38679
or of a foreign corporation authorized to transact business in 38680
this state, unless there is also filed with the secretary of state 38681
the consent of the other limited liability company or corporation 38682
to the use of the name, evidenced in a writing signed by any 38683
authorized representative or authorized officer of the other 38684
limited liability company or corporation; 38685

(c) Not distinguishable upon the records in the office of the 38686
secretary of state from a trade name, the exclusive right to which 38687
is at the time in question registered in the manner provided in 38688
Chapter 1329. of the Revised Code, unless there also is filed with 38689
the secretary of state the consent of the other corporation or 38690
person to the use of the name, evidenced in a writing signed by 38691
any authorized officer of the other corporation or authorized 38692
party of the other person owning the exclusive right to the 38693
registered trade name. 38694

(2) Notwithstanding division (D)(1)(b) of this section, if a 38695

notice is not acceptable for filing solely because the name of the bank, savings bank, or savings and loan association is not distinguishable from the name of another corporation or registered trade name, the bank, savings bank, or savings and loan association may be authorized to transact business in this state by filing with the secretary of state, in addition to those items otherwise prescribed by this section, a statement signed by an authorized officer directing the bank, savings bank, or savings and loan association to transact business in this state under an assumed business name or names that comply with the requirements of division (D) of this section and stating that the bank, savings bank, or savings and loan association will transact business in this state only under the assumed name or names.

(E) The secretary of state shall provide evidence of receipt of notice to each bank, savings bank, or savings and loan association that submits a notice required by this section.

Sec. 1703.07. If a foreign corporation has merged or consolidated with one or more foreign corporations, it shall file with the secretary of state a certificate setting forth the fact of merger or consolidation, certified by the secretary of state, or other proper official, of the state under the laws of which the foreign corporation was incorporated.

The secretary of state, before filing a certificate evidencing a foreign corporation's merger or consolidation, shall charge and collect from the foreign corporation a filing fee ~~of ten dollars~~ as required by section 111.16 of the Revised Code.

Sec. 1707.11. (A) Each person that is not organized under the laws of this state, that is not licensed under section 1703.03 of the Revised Code, or that does not have its principal place of business in this state, shall submit to the division of securities

an irrevocable consent to service of process, as described in 38726
division (B) of this section, in connection with any of the 38727
following: 38728

(1) Filings to claim any of the exemptions enumerated in 38729
division (Q), (W), ~~(X)~~, or (Y) of section 1707.03 of the Revised 38730
Code; 38731

(2) Applications for registration by description, 38732
qualification, or coordination; 38733

(3) Notice filings pursuant to section 1707.092 of the 38734
Revised Code. 38735

(B) The irrevocable written consent shall be executed and 38736
acknowledged by an individual duly authorized to give the consent 38737
and shall do all of the following: 38738

(1) Designate the secretary of state as agent for service of 38739
process or pleadings; 38740

(2) State that actions growing out of the sale of such 38741
securities, the giving of investment advice, or fraud committed by 38742
a person on whose behalf the consent is submitted may be commenced 38743
against the person, in the proper court of any county in this 38744
state in which a cause of action may arise or in which the 38745
plaintiff in the action may reside, by serving on the secretary of 38746
state any proper process or pleading authorized by the laws of 38747
this state; 38748

(3) Stipulate that service of process or pleading on the 38749
secretary of state shall be taken in all courts to be as valid and 38750
binding as if service had been made upon the person on whose 38751
behalf the consent is submitted. 38752

(C) Notwithstanding any application, form, or other material 38753
filed with or submitted to the division that purports to appoint 38754
as agent for service of process a person other than the secretary 38755

of state, the application, form, or other material shall be 38756
considered to appoint the secretary of state as agent for service 38757
of process. 38758

(D) Service of any process or pleadings may be made on the 38759
secretary of state by duplicate copies, of which one shall be 38760
filed in the office of the secretary of state, and the other 38761
immediately forwarded by the secretary of state by certified mail 38762
to the principal place of business of the person on whose behalf 38763
the consent is submitted or to the last known address as shown on 38764
the filing made with the division. However, failure to mail such 38765
copy does not invalidate the service. 38766

(E) Notwithstanding any provision of this chapter, or of any 38767
rule adopted by the division of securities under this chapter, 38768
that requires the submission of a consent to service of process, 38769
the division may provide by rule for the electronic filing or 38770
submission of a consent to service of process. 38771

Sec. 1707.17. (A)(1) The license of every dealer in and 38772
salesperson of securities shall expire on the thirty-first day of 38773
December of each year, and may be renewed upon the filing with the 38774
division of securities of an application for renewal, and the 38775
payment of the fee prescribed in this section. The division shall 38776
give notice, without unreasonable delay, of its action on any 38777
application for renewal of a dealer's or salesperson's license. 38778

(2) The license of every investment adviser and investment 38779
adviser representative licensed under section 1707.141 or 1707.161 38780
of the Revised Code shall expire on the thirty-first day of 38781
December of each year. The licenses may be renewed upon the filing 38782
with the division of an application for renewal, and the payment 38783
of the fee prescribed in division (B) of this section. The 38784
division shall give notice, without unreasonable delay, of its 38785
action on any application for renewal. 38786

(3) An investment adviser required to make a notice filing 38787
under division (B) of section 1707.141 of the Revised Code 38788
annually shall file with the division the notice filing and the 38789
fee prescribed in division (B) of this section, no later than the 38790
thirty-first day of December of each year. 38791

(4) The license of every state retirement system investment 38792
officer licensed under section 1707.163 of the Revised Code and 38793
the license of a bureau of workers' compensation chief investment 38794
officer issued under section 1707.165 of the Revised Code shall 38795
expire on the thirtieth day of June of each year. The licenses may 38796
be renewed on the filing with the division of an application for 38797
renewal, and the payment of the fee prescribed in division (B) of 38798
this section. The division shall give notice, without unreasonable 38799
delay, of its action on any application for renewal. 38800

(B)(1) The fee for each dealer's license, and for each annual 38801
renewal thereof, shall be two hundred dollars. 38802

(2) The fee for each salesperson's license, and for each 38803
annual renewal thereof, shall be sixty dollars. 38804

(3) The fee for each investment adviser's license, and for 38805
each annual renewal thereof, shall be one hundred dollars. 38806

(4) The fee for each investment adviser notice filing 38807
required by division (B) of section 1707.141 of the Revised Code 38808
shall be one hundred dollars. 38809

(5) The fee for each investment adviser representative's 38810
license, and for each annual renewal thereof, shall be thirty-five 38811
dollars. 38812

(6) The fee for each state retirement system investment 38813
officer's license, and for each annual renewal thereof, shall be 38814
fifty dollars. 38815

(7) The fee for a bureau of workers' compensation chief 38816

investment officer's license, and for each annual renewal thereof, 38817
shall be fifty dollars. 38818

(C) A dealer's, salesperson's, investment adviser's, 38819
investment adviser representative's, bureau of workers' 38820
compensation chief investment officer's, or state retirement 38821
system investment officer's license may be issued at any time for 38822
the remainder of the calendar year. In that event, the annual fee 38823
shall not be reduced. 38824

(D) The division may, by rule or order, waive, in whole or in 38825
part, any of the fee requirements of this section for any person 38826
or class of persons if, in the same calendar year, the person or 38827
class of persons is required to pay an additional fee as a result 38828
of changes in federal law and regulations implemented under Title 38829
IV of the "Dodd-Frank Wall Street Reform and Consumer Protection 38830
Act of 2010," 124 Stat. 1576 (2010), 15 U.S.C. 80b-3a(a), under 38831
which a person or class of persons formerly subject to regulation 38832
under the United States securities and exchange commission is 38833
subject to state regulation under Chapter 1707. of the Revised 38834
Code. 38835

Sec. 1711.05. Every county agricultural society annually 38836
shall publish an abstract of its treasurer's account in a 38837
newspaper of general circulation in the county and make a report 38838
of its proceedings during the year. It shall also make, in 38839
accordance with the rules of the department of agriculture, a 38840
synopsis of its awards for improvement in agriculture and in 38841
household manufactures and forward such synopsis to the director 38842
of agriculture at or before the annual meeting of the directors of 38843
the society with the director of agriculture, as provided for in 38844
section 901.06 of the Revised Code. No payment after such date 38845
shall be made from the county treasury to such society unless a 38846
certificate from the director is presented to the county auditor 38847

showing that such reports have been made. 38848

Sec. 1711.07. The board of directors of a county or 38849
independent agricultural society shall consist of at least eight 38850
members. An employee of the Ohio state university extension 38851
service and the county school superintendent shall be members ex 38852
officio. Their terms of office shall be determined by the rules of 38853
the department of agriculture. Any vacancy in the board caused by 38854
death, resignation, refusal to qualify, removal from county, or 38855
other cause may be filled by the board until the society's next 38856
annual election, when a director shall be elected for the 38857
unexpired term. There shall be an annual election of directors by 38858
ballot at a time and a place fixed by the board, but this election 38859
shall not be held later than the first Saturday in December 1994, 38860
and not later than the fifteenth day of November each year 38861
thereafter, beginning in 1995. The secretary of the society shall 38862
give notice of such election, for three weeks prior to the holding 38863
thereof, in ~~at least two newspapers~~ a newspaper of ~~opposite~~ 38864
~~politics and of~~ general circulation in the county or as provided 38865
in section 7.16 of the Revised Code, or by letter mailed to each 38866
member of the society. Only persons holding membership 38867
certificates at the close of the annual county fair, or at least 38868
fifteen calendar days before the date of election, as may be fixed 38869
by the board, may vote, unless such election is held on the 38870
fairground during the fair, in which case all persons holding 38871
membership certificates on the date and hour of the election may 38872
vote. When the election is to be held during the fair, notice of 38873
such election must be prominently mentioned in the premium list, 38874
in addition to the notice required in ~~newspapers~~ a newspaper. The 38875
terms of office of the retiring directors shall expire, and those 38876
of the directors-elect shall begin, not later than the first 38877
Saturday in January 1995, and not later than the thirtieth day of 38878
November each year thereafter, beginning in 1995. 38879

The secretary of such society shall send the name and address 38880
of each member of its board to the director of agriculture within 38881
ten days after the election. 38882

Sec. 1711.18. In a county in which there is a county 38883
agricultural society indebted fifteen thousand dollars or more, 38884
and such society has purchased a fairground or title to such 38885
fairground is vested in fee in the county, the board of county 38886
commissioners, upon the presentation of a petition signed by not 38887
less than five hundred resident electors of the county praying for 38888
the submission to the electors of the county of the question 38889
whether or not county bonds shall be issued and sold to liquidate 38890
such indebtedness, shall, by resolution within ten days 38891
thereafter, fix a date, which shall be within thirty days, upon 38892
which the question of issuing and selling such bonds, in the 38893
necessary amount and denomination, shall be submitted to the 38894
electors of the county. The board also shall cause a copy of such 38895
resolution to be certified to the county board of elections and 38896
such board of elections, within ten days after such certification, 38897
shall proceed to make the necessary arrangements for the 38898
submission of such question to such electors at the time fixed by 38899
such resolution. 38900

Such election shall be held at the regular places of voting 38901
in the county and shall be conducted, canvassed, and certified, 38902
except as otherwise provided by law, as are elections of county 38903
officers. The county board of elections must give fifteen days' 38904
notice of such submission by publication in ~~one or more newspapers~~ 38905
published a newspaper of general circulation in the county once a 38906
week for two consecutive weeks or as provided in section 7.16 of 38907
the Revised Code, stating the amount of bonds to be issued, the 38908
purpose for which they are to be issued, and the time and places 38909
of holding such election. Those who vote in favor of the 38910
proposition shall have written or printed on their ballots "for 38911

the issue of bonds" and those who vote against it shall have 38912
written or printed on their ballots "against the issue of bonds." 38913
If a majority of those voting upon the question of issuing the 38914
bonds vote in favor thereof, then and only then shall they be 38915
issued and the tax provided for in section 1711.20 of the Revised 38916
Code be levied. 38917

Sec. 1711.30. Before issuing bonds under section 1711.28 of 38918
the Revised Code, the board of county commissioners, by 38919
resolution, shall submit to the qualified electors of the county 38920
at the next general election for county officers, held not less 38921
than ninety days after receiving from the county agricultural 38922
society the notice provided for in section 1711.25 of the Revised 38923
Code, the question of issuing and selling such bonds in such 38924
amount and denomination as are necessary for the purpose in view, 38925
and shall certify a copy of such resolution to the county board of 38926
elections. 38927

The county board of elections shall place the question of 38928
issuing and selling such bonds upon the ballot and make all other 38929
necessary arrangements for the submission, at the time fixed by 38930
such resolution, of such question to such electors. The votes cast 38931
at such election upon such question must be counted, canvassed, 38932
and certified in the same manner, except as provided by law, as 38933
votes cast for county officers. Fifteen days' notice of such 38934
submission shall be given by the county board of elections, by 38935
publication once a week for two consecutive weeks in ~~two or more~~ 38936
~~newspapers published~~ a newspaper of general circulation in the 38937
county or as provided in section 7.16 of the Revised Code, stating 38938
the amount of bonds to be issued, the purpose for which they are 38939
to be issued, and the time and places of holding such election. 38940
Such question must be stated on the ballot as follows: "For the 38941
issue of county fair bonds, yes"; "For the issue of county fair 38942
bonds, no." If the majority of those voting upon the question of 38943

issuing the bonds vote in favor thereof, then and only then shall 38944
they be issued and the tax provided for in section 1711.29 of the 38945
Revised Code be levied. 38946

Sec. 1728.06. Every community urban redevelopment corporation 38947
qualifying under this chapter, before proceeding with any project 38948
authorized in this chapter, shall make written application to the 38949
municipal corporation for approval thereof. The application shall 38950
be in such form and shall certify to such facts and data as shall 38951
be required by the municipal corporation, and may include but not 38952
be limited to: 38953

(A) A general statement of the nature of the proposed 38954
project, that the undertaking conforms to all applicable municipal 38955
ordinances, that its completion will meet an existing need, and 38956
that the project accords with the master plan or official map, if 38957
any, of the municipal corporation; 38958

(B) A description of the proposed project outlining the area 38959
included and a description of each unit thereof if the project is 38960
to be undertaken in units and setting out such architectural and 38961
site plans as may be required; 38962

(C) A statement of the estimated cost of the proposed project 38963
in such detail as may be required, including the estimated cost of 38964
each unit if it is to be so undertaken; 38965

(D) The source, method, and amount of money to be subscribed 38966
through the investment of private capital, setting forth the 38967
amount of stock or other securities to be issued therefor; 38968

(E) A fiscal plan for the project outlining a schedule of 38969
rents, the estimated expenditures for operation and maintenance, 38970
payments for interest, amortization of debt and reserves, and 38971
payments to the municipal corporation to be made pursuant to a 38972
financial agreement to be entered into with the municipal 38973

corporation; 38974

(F) A relocation plan providing for the relocation of 38975
persons, including families, business concerns, and others, 38976
displaced by the project, which relocation plan shall include, but 38977
not be limited to, the proposed method for the relocation of 38978
residents who will be displaced from their dwelling accommodations 38979
in decent, safe, and sanitary dwelling accommodations within their 38980
means, or with provision for adjustment payments to bring such 38981
accommodations within their means, and without undue hardship, and 38982
reasonable moving costs; 38983

(G) The names and tax mailing addresses, as determined from 38984
the records of the county auditor not more than five days prior to 38985
the submission of the application to the mayor of the municipal 38986
corporation, of the owners of all property which the corporation 38987
proposes in its application to acquire. 38988

Such application shall be addressed and submitted to the 38989
mayor of the municipal corporation, who shall, within sixty days 38990
after receipt thereof, submit it with ~~his~~ the mayor's 38991
recommendations to the governing body. The application shall be a 38992
matter of public record upon receipt by the mayor. 38993

The governing body shall by notice published once a week for 38994
two consecutive weeks in a newspaper of general circulation in the 38995
municipal corporation or as provided in section 7.16 of the 38996
Revised Code, by written notice, by certified mail or personal 38997
service, to the owners of property which the corporation proposes 38998
in its application to purchase at the tax mailing address as set 38999
forth in the corporation's application, by the putting up of signs 39000
in at least five places within the area covered by the 39001
application, and by giving written notice, by certified mail or 39002
personal service, to community organizations known by the clerk of 39003
the governing body to represent a substantial number of the 39004
residents of the area covered by the application, advise that the 39005

application is on file in the office of the clerk of the governing 39006
body of the municipal corporation and is available for inspection 39007
by the general public during business hours and advise that a 39008
public hearing shall be held thereon, stating the place and time 39009
of the public hearing, which time shall be not less than fourteen 39010
days after the first publication, or after sending the mailed 39011
notice, or after the putting up of the signs, whichever is later. 39012

Following the public hearing and after complying with section 39013
5709.83 of the Revised Code, the governing body, taking into 39014
consideration the financial impact on the community, shall by 39015
resolution approve or disapprove the application, approval to be 39016
by an affirmative vote of not less than three-fifths of the 39017
governing body, but in the event of disapproval, changes may be 39018
suggested to secure its approval. 39019

An application may be revised or resubmitted in the same 39020
manner and subject to the same procedures as an original 39021
application. The clerk of the governing body shall diligently 39022
discharge the duties imposed on the clerk by this division, 39023
provided failure of the clerk to send written notices to all 39024
community organizations, in a good faith effort by the clerk to 39025
give the required notice, shall not invalidate any proceedings 39026
under this chapter. The failure of delivery of notice given by 39027
certified mail under this division shall not invalidate any 39028
proceedings under this chapter. 39029

Sec. 1728.07. Every approved project shall be evidenced by a 39030
financial agreement between the municipal corporation and the 39031
community urban redevelopment corporation. Such agreement shall be 39032
prepared by the community urban redevelopment corporation and 39033
submitted as a separate part of its application for project 39034
approval. 39035

The financial agreement shall be in the form of a contract 39036

requiring full performance within twenty years from the date of 39037
completion of the project and shall, as a minimum, include the 39038
following: 39039

(A) That all improvements in the project to be constructed or 39040
acquired by the corporation shall be exempt from taxation, subject 39041
to section 1728.10 of the Revised Code; 39042

(B) That the corporation shall make payments in lieu of real 39043
estate taxes not less than the amount as provided by section 39044
1728.11 of the Revised Code; or if the municipal corporation is an 39045
impacted city, not less than the amount as provided by section 39046
1728.111 of the Revised Code; 39047

(C) That the corporation, its successors and assigns, shall 39048
use, develop, and redevelop the real property of the project in 39049
accordance with, and for the period of, the community development 39050
plan approved by the governing body of the municipal corporation 39051
for the blighted area in which the project is situated and shall 39052
so bind its successors and assigns by appropriate agreements and 39053
covenants running with the land enforceable by the municipal 39054
corporation. 39055

(D) If the municipal corporation is an impacted city, the 39056
extent of the undertakings and activities of the corporation for 39057
the elimination and for the prevention of the development or 39058
spread of blight. 39059

(E) That the corporation or the municipal corporation, or 39060
both, shall provide for carrying out relocation of persons, 39061
families, business concerns, and others displaced by the project, 39062
pursuant to a relocation plan, including the method for the 39063
relocation of residents in decent, safe, and sanitary dwelling 39064
accommodations, and reasonable moving costs, determined to be 39065
feasible by the governing body of the municipal corporation. Where 39066
the relocation plan is carried out by the corporation, its 39067

officers, employees, agents, or lessees, the municipal corporation 39068
shall enforce and supervise the corporation's compliance with the 39069
relocation plan. If the corporation refuses or fails to comply 39070
with the relocation plan and the municipal corporation fails or 39071
refuses to enforce compliance with such plan, the director of 39072
development may request the attorney general to commence a civil 39073
action against the municipality and the corporation to require 39074
compliance with such relocation plan. Prior to requesting action 39075
by the attorney general the director shall give notice of the 39076
proposed action to the municipality and the corporation, provide 39077
an opportunity to such municipality and corporation for 39078
discussions on the matter, and allow a reasonable time in which 39079
the corporation may begin compliance with the relocation plan, or 39080
the municipality may commence enforcement of the relocation plan. 39081

(F) That the corporation shall submit annually, within ninety 39082
days after the close of its fiscal year, its auditor's reports to 39083
the mayor and governing body of the municipal corporation; 39084

(G) That the corporation shall, upon request, permit 39085
inspection of property, equipment, buildings, and other facilities 39086
of the corporation, and also permit examination and audit of its 39087
books, contracts, records, documents, and papers by authorized 39088
representatives of the municipal corporation; 39089

(H) That in the event of any dispute between the parties the 39090
matters in controversy shall be resolved by arbitration in the 39091
manner provided therein; 39092

(I) That operation under the financial agreement is 39093
terminable by the corporation in the manner provided by Chapter 39094
1728. of the Revised Code; 39095

(J) That the corporation shall, at all times prior to the 39096
expiration or other termination of the financial agreement, remain 39097
bound by Chapter 1728. of the Revised Code; 39098

~~(K) That all wages paid to laborers and mechanics employed for work on such projects, other than for residential structures containing seven or less family units, shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the project, which wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for determination of prevailing wage rates, provided that the requirements of this division do not apply where the federal government or any of its agencies furnishes by law or grant all or any part of the funds used in connection with such project and prescribes predetermined minimum wages to be paid to such laborers and mechanics.~~

Modifications of the financial agreement may from time to time be made by agreement between the governing body of the municipal corporation and the community urban redevelopment corporation.

Sec. 1751.01. As used in this chapter:

(A)(1) "Basic health care services" means the following services when medically necessary:

(a) Physician's services, except when such services are supplemental under division (B) of this section;

(b) Inpatient hospital services;

(c) Outpatient medical services;

(d) Emergency health services;

(e) Urgent care services;

(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental

illnesses; 39128

(h) Preventive health care services, including, but not 39129
limited to, voluntary family planning services, infertility 39130
services, periodic physical examinations, prenatal obstetrical 39131
care, and well-child care; 39132

(i) Routine patient care for patients enrolled in an eligible 39133
cancer clinical trial pursuant to section 3923.80 of the Revised 39134
Code. 39135

"Basic health care services" does not include experimental 39136
procedures. 39137

Except as provided by divisions (A)(2) and (3) of this 39138
section in connection with the offering of coverage for diagnostic 39139
and treatment services for biologically based mental illnesses, a 39140
health insuring corporation shall not offer coverage for a health 39141
care service, defined as a basic health care service by this 39142
division, unless it offers coverage for all listed basic health 39143
care services. However, this requirement does not apply to the 39144
coverage of beneficiaries enrolled in medicare pursuant to a 39145
medicare contract, or to the coverage of beneficiaries enrolled in 39146
the federal employee health benefits program pursuant to 5 39147
U.S.C.A. 8905, or to the coverage of medicaid recipients, ~~or to~~ 39148
~~the coverage of participants of the children's buy-in program,~~ or 39149
to the coverage of beneficiaries under any federal health care 39150
program regulated by a federal regulatory body, or to the coverage 39151
of beneficiaries under any contract covering officers or employees 39152
of the state that has been entered into by the department of 39153
administrative services. 39154

(2) A health insuring corporation may offer coverage for 39155
diagnostic and treatment services for biologically based mental 39156
illnesses without offering coverage for all other basic health 39157
care services. A health insuring corporation may offer coverage 39158

for diagnostic and treatment services for biologically based 39159
mental illnesses alone or in combination with one or more 39160
supplemental health care services. However, a health insuring 39161
corporation that offers coverage for any other basic health care 39162
service shall offer coverage for diagnostic and treatment services 39163
for biologically based mental illnesses in combination with the 39164
offer of coverage for all other listed basic health care services. 39165

(3) A health insuring corporation that offers coverage for 39166
basic health care services is not required to offer coverage for 39167
diagnostic and treatment services for biologically based mental 39168
illnesses in combination with the offer of coverage for all other 39169
listed basic health care services if all of the following apply: 39170

(a) The health insuring corporation submits documentation 39171
certified by an independent member of the American academy of 39172
actuaries to the superintendent of insurance showing that incurred 39173
claims for diagnostic and treatment services for biologically 39174
based mental illnesses for a period of at least six months 39175
independently caused the health insuring corporation's costs for 39176
claims and administrative expenses for the coverage of basic 39177
health care services to increase by more than one per cent per 39178
year. 39179

(b) The health insuring corporation submits a signed letter 39180
from an independent member of the American academy of actuaries to 39181
the superintendent of insurance opining that the increase in costs 39182
described in division (A)(3)(a) of this section could reasonably 39183
justify an increase of more than one per cent in the annual 39184
premiums or rates charged by the health insuring corporation for 39185
the coverage of basic health care services. 39186

(c) The superintendent of insurance makes the following 39187
determinations from the documentation and opinion submitted 39188
pursuant to divisions (A)(3)(a) and (b) of this section: 39189

(i) Incurred claims for diagnostic and treatment services for 39190
biologically based mental illnesses for a period of at least six 39191
months independently caused the health insuring corporation's 39192
costs for claims and administrative expenses for the coverage of 39193
basic health care services to increase by more than one per cent 39194
per year. 39195

(ii) The increase in costs reasonably justifies an increase 39196
of more than one per cent in the annual premiums or rates charged 39197
by the health insuring corporation for the coverage of basic 39198
health care services. 39199

Any determination made by the superintendent under this 39200
division is subject to Chapter 119. of the Revised Code. 39201

(B)(1) "Supplemental health care services" means any health 39202
care services other than basic health care services that a health 39203
insuring corporation may offer, alone or in combination with 39204
either basic health care services or other supplemental health 39205
care services, and includes: 39206

(a) Services of facilities for intermediate or long-term 39207
care, or both; 39208

(b) Dental care services; 39209

(c) Vision care and optometric services including lenses and 39210
frames; 39211

(d) Podiatric care or foot care services; 39212

(e) Mental health services, excluding diagnostic and 39213
treatment services for biologically based mental illnesses; 39214

(f) Short-term outpatient evaluative and crisis-intervention 39215
mental health services; 39216

(g) Medical or psychological treatment and referral services 39217
for alcohol and drug abuse or addiction; 39218

(h) Home health services; 39219

(i) Prescription drug services;	39220
(j) Nursing services;	39221
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	39222 39223
(l) Physical therapy services;	39224
(m) Chiropractic services;	39225
(n) Any other category of services approved by the superintendent of insurance.	39226 39227
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	39228 39229 39230 39231 39232
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	39233 39234 39235 39236 39237
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.	39238 39239 39240 39241 39242 39243 39244
(E) "Children's buy in program" has the same meaning as in section 5101.5211 of the Revised Code.	39245 39246
(F) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.	39247 39248
(G) <u>(F)</u> "Compensation" means remuneration for the provision of	39249

health care services, determined on other than a fee-for-service 39250
or discounted-fee-for-service basis. 39251

~~(H)~~(G) "Contractual periodic prepayment" means the formula 39252
for determining the premium rate for all subscribers of a health 39253
insuring corporation. 39254

~~(I)~~(H) "Corporation" means a corporation formed under Chapter 39255
1701. or 1702. of the Revised Code or the similar laws of another 39256
state. 39257

~~(J)~~(I) "Emergency health services" means those health care 39258
services that must be available on a seven-days-per-week, 39259
twenty-four-hours-per-day basis in order to prevent jeopardy to an 39260
enrollee's health status that would occur if such services were 39261
not received as soon as possible, and includes, where appropriate, 39262
provisions for transportation and indemnity payments or service 39263
agreements for out-of-area coverage. 39264

~~(K)~~(J) "Enrollee" means any natural person who is entitled to 39265
receive health care benefits provided by a health insuring 39266
corporation. 39267

~~(L)~~(K) "Evidence of coverage" means any certificate, 39268
agreement, policy, or contract issued to a subscriber that sets 39269
out the coverage and other rights to which such person is entitled 39270
under a health care plan. 39271

~~(M)~~(L) "Health care facility" means any facility, except a 39272
health care practitioner's office, that provides preventive, 39273
diagnostic, therapeutic, acute convalescent, rehabilitation, 39274
mental health, mental retardation, intermediate care, or skilled 39275
nursing services. 39276

~~(N)~~(M) "Health care services" means basic, supplemental, and 39277
specialty health care services. 39278

~~(O)~~(N) "Health delivery network" means any group of providers 39279

or health care facilities, or both, or any representative thereof, 39280
that have entered into an agreement to offer health care services 39281
in a panel rather than on an individual basis. 39282

~~(P)~~(O) "Health insuring corporation" means a corporation, as 39283
defined in division ~~(I)~~(H) of this section, that, pursuant to a 39284
policy, contract, certificate, or agreement, pays for, reimburses, 39285
or provides, delivers, arranges for, or otherwise makes available, 39286
basic health care services, supplemental health care services, or 39287
specialty health care services, or a combination of basic health 39288
care services and either supplemental health care services or 39289
specialty health care services, through either an open panel plan 39290
or a closed panel plan. 39291

"Health insuring corporation" does not include a limited 39292
liability company formed pursuant to Chapter 1705. of the Revised 39293
Code, an insurer licensed under Title XXXIX of the Revised Code if 39294
that insurer offers only open panel plans under which all 39295
providers and health care facilities participating receive their 39296
compensation directly from the insurer, a corporation formed by or 39297
on behalf of a political subdivision or a department, office, or 39298
institution of the state, or a public entity formed by or on 39299
behalf of a board of county commissioners, a county board of 39300
developmental disabilities, an alcohol and drug addiction services 39301
board, a board of alcohol, drug addiction, and mental health 39302
services, or a community mental health board, as those terms are 39303
used in Chapters 340. and 5126. of the Revised Code. Except as 39304
provided by division (D) of section 1751.02 of the Revised Code, 39305
or as otherwise provided by law, no board, commission, agency, or 39306
other entity under the control of a political subdivision may 39307
accept insurance risk in providing for health care services. 39308
However, nothing in this division shall be construed as 39309
prohibiting such entities from purchasing the services of a health 39310
insuring corporation or a third-party administrator licensed under 39311

Chapter 3959. of the Revised Code. 39312

~~(Q)~~(P) "Intermediary organization" means a health delivery 39313
network or other entity that contracts with licensed health 39314
insuring corporations or self-insured employers, or both, to 39315
provide health care services, and that enters into contractual 39316
arrangements with other entities for the provision of health care 39317
services for the purpose of fulfilling the terms of its contracts 39318
with the health insuring corporations and self-insured employers. 39319

~~(R)~~(O) "Intermediate care" means residential care above the 39320
level of room and board for patients who require personal 39321
assistance and health-related services, but who do not require 39322
skilled nursing care. 39323

~~(S)~~(R) "Medicaid" has the same meaning as in section 5111.01 39324
of the Revised Code. 39325

~~(T)~~(S) "Medical record" means the personal information that 39326
relates to an individual's physical or mental condition, medical 39327
history, or medical treatment. 39328

~~(U)~~(T) "Medicare" means the program established under Title 39329
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 39330
1395, as amended. 39331

~~(V)~~(U)(1) "Open panel plan" means a health care plan that 39332
provides incentives for enrollees to use participating providers 39333
and that also allows enrollees to use providers that are not 39334
participating providers. 39335

(2) No health insuring corporation may offer an open panel 39336
plan, unless the health insuring corporation is also licensed as 39337
an insurer under Title XXXIX of the Revised Code, the health 39338
insuring corporation, on June 4, 1997, holds a certificate of 39339
authority or license to operate under Chapter 1736. or 1740. of 39340
the Revised Code, or an insurer licensed under Title XXXIX of the 39341
Revised Code is responsible for the out-of-network risk as 39342

evidenced by both an evidence of coverage filing under section 39343
1751.11 of the Revised Code and a policy and certificate filing 39344
under section 3923.02 of the Revised Code. 39345

~~(W)~~(V) "Panel" means a group of providers or health care 39346
facilities that have joined together to deliver health care 39347
services through a contractual arrangement with a health insuring 39348
corporation, employer group, or other payor. 39349

~~(X)~~(W) "Person" has the same meaning as in section 1.59 of 39350
the Revised Code, and, unless the context otherwise requires, 39351
includes any insurance company holding a certificate of authority 39352
under Title XXXIX of the Revised Code, any subsidiary and 39353
affiliate of an insurance company, and any government agency. 39354

~~(Y)~~(X) "Premium rate" means any set fee regularly paid by a 39355
subscriber to a health insuring corporation. A "premium rate" does 39356
not include a one-time membership fee, an annual administrative 39357
fee, or a nominal access fee, paid to a managed health care system 39358
under which the recipient of health care services remains solely 39359
responsible for any charges accessed for those services by the 39360
provider or health care facility. 39361

~~(Z)~~(Y) "Primary care provider" means a provider that is 39362
designated by a health insuring corporation to supervise, 39363
coordinate, or provide initial care or continuing care to an 39364
enrollee, and that may be required by the health insuring 39365
corporation to initiate a referral for specialty care and to 39366
maintain supervision of the health care services rendered to the 39367
enrollee. 39368

~~(AA)~~(Z) "Provider" means any natural person or partnership of 39369
natural persons who are licensed, certified, accredited, or 39370
otherwise authorized in this state to furnish health care 39371
services, or any professional association organized under Chapter 39372
1785. of the Revised Code, provided that nothing in this chapter 39373

or other provisions of law shall be construed to preclude a health 39374
insuring corporation, health care practitioner, or organized 39375
health care group associated with a health insuring corporation 39376
from employing certified nurse practitioners, certified nurse 39377
anesthetists, clinical nurse specialists, certified nurse 39378
midwives, dietitians, physician assistants, dental assistants, 39379
dental hygienists, optometric technicians, or other allied health 39380
personnel who are licensed, certified, accredited, or otherwise 39381
authorized in this state to furnish health care services. 39382

~~(BB)~~(AA) "Provider sponsored organization" means a 39383
corporation, as defined in division ~~(I)~~(H) of this section, that 39384
is at least eighty per cent owned or controlled by one or more 39385
hospitals, as defined in section 3727.01 of the Revised Code, or 39386
one or more physicians licensed to practice medicine or surgery or 39387
osteopathic medicine and surgery under Chapter 4731. of the 39388
Revised Code, or any combination of such physicians and hospitals. 39389
Such control is presumed to exist if at least eighty per cent of 39390
the voting rights or governance rights of a provider sponsored 39391
organization are directly or indirectly owned, controlled, or 39392
otherwise held by any combination of the physicians and hospitals 39393
described in this division. 39394

~~(CC)~~(BB) "Solicitation document" means the written materials 39395
provided to prospective subscribers or enrollees, or both, and 39396
used for advertising and marketing to induce enrollment in the 39397
health care plans of a health insuring corporation. 39398

~~(DD)~~(CC) "Subscriber" means a person who is responsible for 39399
making payments to a health insuring corporation for participation 39400
in a health care plan, or an enrollee whose employment or other 39401
status is the basis of eligibility for enrollment in a health 39402
insuring corporation. 39403

~~(EE)~~(DD) "Urgent care services" means those health care 39404
services that are appropriately provided for an unforeseen 39405

condition of a kind that usually requires medical attention 39406
without delay but that does not pose a threat to the life, limb, 39407
or permanent health of the injured or ill person, and may include 39408
such health care services provided out of the health insuring 39409
corporation's approved service area pursuant to indemnity payments 39410
or service agreements. 39411

Sec. 1751.04. (A) Except as provided by division (D) of this 39412
section, upon the receipt by the superintendent of insurance of a 39413
complete application for a certificate of authority to establish 39414
or operate a health insuring corporation, which application sets 39415
forth or is accompanied by the information and documents required 39416
by division (A) of section 1751.03 of the Revised Code, the 39417
superintendent shall review the application and accompanying 39418
documents and make findings as to whether the applicant for a 39419
certificate of authority has done all of the following with 39420
respect to any basic health care services and supplemental health 39421
care services to be furnished: 39422

(1) Demonstrated the willingness and potential ability to 39423
ensure that all basic health care services and supplemental health 39424
care services described in the evidence of coverage will be 39425
provided to all its enrollees as promptly as is appropriate and in 39426
a manner that assures continuity; 39427

(2) Made effective arrangements to ensure that its enrollees 39428
have reliable access to qualified providers in those specialties 39429
that are generally available in the geographic area or areas to be 39430
served by the applicant and that are necessary to provide all 39431
basic health care services and supplemental health care services 39432
described in the evidence of coverage; 39433

(3) Made appropriate arrangements for the availability of 39434
short-term health care services in emergencies within the 39435
geographic area or areas to be served by the applicant, 39436

twenty-four hours per day, seven days per week, and for the 39437
provision of adequate coverage whenever an out-of-area emergency 39438
arises; 39439

(4) Made appropriate arrangements for an ongoing evaluation 39440
and assurance of the quality of health care services provided to 39441
enrollees, including, if applicable, the development of a quality 39442
assurance program complying with the requirements of sections 39443
1751.73 to 1751.75 of the Revised Code, and the adequacy of the 39444
personnel, facilities, and equipment by or through which the 39445
services are rendered; 39446

(5) Developed a procedure to gather and report statistics 39447
relating to the cost and effectiveness of its operations, the 39448
pattern of utilization of its services, and the quality, 39449
availability, and accessibility of its services. 39450

(B) Based upon the information provided in the application 39451
for issuance of a certificate of authority, the superintendent 39452
shall determine whether or not the applicant meets the 39453
requirements of division (A) of this section. If the 39454
superintendent determines that the applicant does not meet these 39455
requirements, the superintendent shall specify in what respects it 39456
is deficient. However, the superintendent shall not deny an 39457
application because the requirements of this section are not met 39458
unless the applicant has been given an opportunity for a hearing 39459
on that issue. 39460

(C) If the applicant requests a hearing, the superintendent 39461
shall hold a hearing before denying an application because the 39462
applicant does not meet the requirements of this section. The 39463
hearing shall be held in accordance with Chapter 119. of the 39464
Revised Code. 39465

(D) Nothing in this section requires the superintendent to 39466
review or make findings with regard to an application and 39467

accompanying documents to establish or operate any of the	39468
following:	39469
(1) A health insuring corporation to cover solely medicaid recipients;	39470 39471
(2) A health insuring corporation to cover solely medicare beneficiaries;	39472 39473
(3) A health insuring corporation to cover solely medicaid recipients and medicare beneficiaries;	39474 39475
(4) A health insuring corporation to cover solely participants of the children's buy-in program;	39476 39477
(5) A health insuring corporation to cover solely medicaid recipients and participants of the children's buy-in program;	39478 39479
(6) A health insuring corporation to cover solely medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program.	39480 39481 39482
 Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.	39483 39484 39485
(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-hours-per-day, seven-days-per-week basis, as to how health care services may be obtained. The identification card or document shall also list at least one toll-free number that, during normal business hours, provides the subscriber with access to information on the coverage	39486 39487 39488 39489 39490 39491 39492 39493 39494 39495 39496 39497

available under the subscriber's health care plan and information 39498
on the health care plan's internal and external review processes. 39499

(C) No evidence of coverage, or amendment to the evidence of 39500
coverage, shall be delivered, issued for delivery, renewed, or 39501
used, until the form of the evidence of coverage or amendment has 39502
been filed by the health insuring corporation with the 39503
superintendent of insurance. If the superintendent does not 39504
disapprove the evidence of coverage or amendment within sixty days 39505
after it is filed it shall be deemed approved, unless the 39506
superintendent sooner gives approval for the evidence of coverage 39507
or amendment. With respect to an amendment to an approved evidence 39508
of coverage, the superintendent only may disapprove provisions 39509
amended or added to the evidence of coverage. If the 39510
superintendent determines within the sixty-day period that any 39511
evidence of coverage or amendment fails to meet the requirements 39512
of this section, the superintendent shall so notify the health 39513
insuring corporation and it shall be unlawful for the health 39514
insuring corporation to use such evidence of coverage or 39515
amendment. At any time, the superintendent, upon at least thirty 39516
days' written notice to a health insuring corporation, may 39517
withdraw an approval, deemed or actual, of any evidence of 39518
coverage or amendment on any of the grounds stated in this 39519
section. Such disapproval shall be effected by a written order, 39520
which shall state the grounds for disapproval and shall be issued 39521
in accordance with Chapter 119. of the Revised Code. 39522

(D) No evidence of coverage or amendment shall be delivered, 39523
issued for delivery, renewed, or used: 39524

(1) If it contains provisions or statements that are 39525
inequitable, untrue, misleading, or deceptive; 39526

(2) Unless it contains a clear, concise, and complete 39527
statement of the following: 39528

(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;	39529 39530 39531
(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;	39532 39533 39534
(c) An enrollee's personal financial obligation for noncovered services;	39535 39536
(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;	39537 39538 39539
(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.	39540 39541 39542 39543
(f) The method utilized by the health insuring corporation for resolving enrollee complaints;	39544 39545
(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.85 of the Revised Code.	39546 39547 39548
(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:	39549 39550 39551 39552 39553 39554
(a) The enrollee's discharge from the hospital;	39555
(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section	39556 39557 39558

precludes a health insuring corporation from engaging in 39559
utilization review as described in the evidence of coverage. 39560

(c) The enrollee's reaching the limit for contractual 39561
benefits; 39562

(d) The effective date of any new coverage. 39563

(4) Unless it contains a provision that states, in substance, 39564
that the health insuring corporation is not a member of any 39565
guaranty fund, and that in the event of the health insuring 39566
corporation's insolvency, an enrollee is protected only to the 39567
extent that the hold harmless provision required by section 39568
1751.13 of the Revised Code applies to the health care services 39569
rendered; 39570

(5) Unless it contains a provision that states, in substance, 39571
that in the event of the insolvency of the health insuring 39572
corporation, an enrollee may be financially responsible for health 39573
care services rendered by a provider or health care facility that 39574
is not under contract to the health insuring corporation, whether 39575
or not the health insuring corporation authorized the use of the 39576
provider or health care facility. 39577

(E) Notwithstanding divisions (C) and (D) of this section, a 39578
health insuring corporation may use an evidence of coverage that 39579
provides for the coverage of beneficiaries enrolled in medicare 39580
pursuant to a medicare contract, or an evidence of coverage that 39581
provides for the coverage of beneficiaries enrolled in the federal 39582
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 39583
an evidence of coverage that provides for the coverage of medicaid 39584
recipients, ~~or an evidence of coverage that provides for coverage~~ 39585
~~of participants of the children's buy in program,~~ or an evidence 39586
of coverage that provides for the coverage of beneficiaries under 39587
any other federal health care program regulated by a federal 39588
regulatory body, or an evidence of coverage that provides for the 39589

coverage of beneficiaries under any contract covering officers or 39590
employees of the state that has been entered into by the 39591
department of administrative services, if both of the following 39592
apply: 39593

(1) The evidence of coverage has been approved by the United 39594
States department of health and human services, the United States 39595
office of personnel management, the Ohio department of job and 39596
family services, or the department of administrative services. 39597

(2) The evidence of coverage is filed with the superintendent 39598
of insurance prior to use and is accompanied by documentation of 39599
approval from the United States department of health and human 39600
services, the United States office of personnel management, the 39601
Ohio department of job and family services, or the department of 39602
administrative services. 39603

Sec. 1751.111. (A)(1) This section applies to both of the 39604
following: 39605

(a) A health insuring corporation that issues or requires the 39606
use of a standardized identification card or an electronic 39607
technology for submission and routing of prescription drug claims 39608
pursuant to a policy, contract, or agreement for health care 39609
services; 39610

(b) A person or entity that a health insuring corporation 39611
contracts with to issue a standardized identification card or an 39612
electronic technology described in division (A)(1)(a) of this 39613
section. 39614

(2) Notwithstanding division (A)(1) of this section, this 39615
section does not apply to the issuance or required use of a 39616
standardized identification card or an electronic technology for 39617
submission and routing of prescription drug claims in connection 39618
with any of the following: 39619

(a) Coverage provided under the medicare advantage program operated pursuant to Part C of Title XVIII of the "Social Security Act," 49 Stat. 62 (1935), 42 U.S.C. 301, as amended.	39620 39621 39622
(b) Coverage provided under medicaid.	39623
(c) Coverage provided under the children's buy-in program.	39624
(d) Coverage provided under an employer's self-insurance plan or by any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of this section to the plan and its administrators.	39625 39626 39627 39628 39629
(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.	39630 39631 39632 39633 39634
(1) The standardized identification card or the electronic technology shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.	39635 39636 39637 39638 39639 39640 39641 39642
(2) If the health insuring corporation or the person under contract with the corporation to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:	39643 39644 39645 39646 39647 39648
(a) The health insuring corporation's name;	39649

(b) The subscriber's name, group number, and identification number; 39650
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(c) A telephone number to inquire about pharmacy-related issues; 39652
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(d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN"; 39654
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(e) The processor's control number, labeled as "RxPCN"; 39656

(f) The subscriber's pharmacy benefits group number if different from the subscriber's medical group number, labeled as "RxGrp." 39657
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(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims. 39660
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(D) Each health insuring corporation described in division (A) of this section shall annually file a certificate with the superintendent of insurance certifying that it or any person it contracts with to issue a standardized identification card or electronic technology for submission and routing of prescription drug claims complies with this section. 39668
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(E)(1) Except as provided in division (E)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to a subscriber, the health insuring corporation or person under contract with the corporation to issue a standardized identification card or an electronic technology shall issue a new card or electronic technology to the subscriber. 39674
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(2) A health insuring corporation or person under contract 39681
with the corporation is not required under division (E)(1) of this 39682
section to issue a new card or electronic technology to a 39683
subscriber more than once during a twelve-month period. 39684

(F) Nothing in this section shall be construed as requiring a 39685
health insuring corporation to produce more than one standardized 39686
identification card or one electronic technology for use by 39687
subscribers accessing health care benefits provided under a 39688
policy, contract, or agreement for health care services. 39689

Sec. 1751.12. (A)(1) No contractual periodic prepayment and 39690
no premium rate for nongroup and conversion policies for health 39691
care services, or any amendment to them, may be used by any health 39692
insuring corporation at any time until the contractual periodic 39693
prepayment and premium rate, or amendment, have been filed with 39694
the superintendent of insurance, and shall not be effective until 39695
the expiration of sixty days after their filing unless the 39696
superintendent sooner gives approval. The filing shall be 39697
accompanied by an actuarial certification in the form prescribed 39698
by the superintendent. The superintendent shall disapprove the 39699
filing, if the superintendent determines within the sixty-day 39700
period that the contractual periodic prepayment or premium rate, 39701
or amendment, is not in accordance with sound actuarial principles 39702
or is not reasonably related to the applicable coverage and 39703
characteristics of the applicable class of enrollees. The 39704
superintendent shall notify the health insuring corporation of the 39705
disapproval, and it shall thereafter be unlawful for the health 39706
insuring corporation to use the contractual periodic prepayment or 39707
premium rate, or amendment. 39708

(2) No contractual periodic prepayment for group policies for 39709
health care services shall be used until the contractual periodic 39710
prepayment has been filed with the superintendent. The filing 39711

shall be accompanied by an actuarial certification in the form 39712
prescribed by the superintendent. The superintendent may reject a 39713
filing made under division (A)(2) of this section at any time, 39714
with at least thirty days' written notice to a health insuring 39715
corporation, if the contractual periodic prepayment is not in 39716
accordance with sound actuarial principles or is not reasonably 39717
related to the applicable coverage and characteristics of the 39718
applicable class of enrollees. 39719

(3) At any time, the superintendent, upon at least thirty 39720
days' written notice to a health insuring corporation, may 39721
withdraw the approval given under division (A)(1) of this section, 39722
deemed or actual, of any contractual periodic prepayment or 39723
premium rate, or amendment, based on information that either of 39724
the following applies: 39725

(a) The contractual periodic prepayment or premium rate, or 39726
amendment, is not in accordance with sound actuarial principles. 39727

(b) The contractual periodic prepayment or premium rate, or 39728
amendment, is not reasonably related to the applicable coverage 39729
and characteristics of the applicable class of enrollees. 39730

(4) Any disapproval under division (A)(1) of this section, 39731
any rejection of a filing made under division (A)(2) of this 39732
section, or any withdrawal of approval under division (A)(3) of 39733
this section, shall be effected by a written notice, which shall 39734
state the specific basis for the disapproval, rejection, or 39735
withdrawal and shall be issued in accordance with Chapter 119. of 39736
the Revised Code. 39737

(B) Notwithstanding division (A) of this section, a health 39738
insuring corporation may use a contractual periodic prepayment or 39739
premium rate for policies used for the coverage of beneficiaries 39740
enrolled in medicare pursuant to a medicare risk contract or 39741
medicare cost contract, or for policies used for the coverage of 39742

beneficiaries enrolled in the federal employees health benefits 39743
program pursuant to 5 U.S.C.A. 8905, or for policies used for the 39744
coverage of medicaid recipients, ~~or for policies used for coverage~~ 39745
~~of participants of the children's buy in program,~~ or for policies 39746
used for the coverage of beneficiaries under any other federal 39747
health care program regulated by a federal regulatory body, or for 39748
policies used for the coverage of beneficiaries under any contract 39749
covering officers or employees of the state that has been entered 39750
into by the department of administrative services, if both of the 39751
following apply: 39752

(1) The contractual periodic prepayment or premium rate has 39753
been approved by the United States department of health and human 39754
services, the United States office of personnel management, the 39755
department of job and family services, or the department of 39756
administrative services. 39757

(2) The contractual periodic prepayment or premium rate is 39758
filed with the superintendent prior to use and is accompanied by 39759
documentation of approval from the United States department of 39760
health and human services, the United States office of personnel 39761
management, the department of job and family services, or the 39762
department of administrative services. 39763

(C) The administrative expense portion of all contractual 39764
periodic prepayment or premium rate filings submitted to the 39765
superintendent for review must reflect the actual cost of 39766
administering the product. The superintendent may require that the 39767
administrative expense portion of the filings be itemized and 39768
supported. 39769

(D)(1) Copayments must be reasonable and must not be a 39770
barrier to the necessary utilization of services by enrollees. 39771

(2) A health insuring corporation, in order to ensure that 39772
copayments are reasonable and not a barrier to the necessary 39773

utilization of basic health care services by enrollees, may do one 39774
of the following: 39775

(a) Impose copayment charges on any single covered basic 39776
health care service that does not exceed forty per cent of the 39777
average cost to the health insuring corporation of providing the 39778
service; 39779

(b) Impose copayment charges that annually do not exceed 39780
twenty per cent of the total annual cost to the health insuring 39781
corporation of providing all covered basic health care services, 39782
including physician office visits, urgent care services, and 39783
emergency health services, when aggregated as to all persons 39784
covered under the filed product in question. In addition, annual 39785
copayment charges as to each enrollee shall not exceed twenty per 39786
cent of the total annual cost to the health insuring corporation 39787
of providing all covered basic health care services, including 39788
physician office visits, urgent care services, and emergency 39789
health services, as to such enrollee. The total annual cost of 39790
providing a health care service is the cost to the health insuring 39791
corporation of providing the health care service to its enrollees 39792
as reduced by any applicable provider discount. 39793

(3) To ensure that copayments are reasonable and not a 39794
barrier to the utilization of basic health care services, a health 39795
insuring corporation may not impose, in any contract year, on any 39796
subscriber or enrollee, copayments that exceed two hundred per 39797
cent of the average annual premium rate to subscribers or 39798
enrollees. 39799

(4) For purposes of division (D) of this section, both of the 39800
following apply: 39801

(a) Copayments imposed by health insuring corporations in 39802
connection with a high deductible health plan that is linked to a 39803
health savings account are reasonable and are not a barrier to the 39804

necessary utilization of services by enrollees. 39805

(b) Divisions (D)(2) and (3) of this section do not apply to 39806
a high deductible health plan that is linked to a health savings 39807
account. 39808

(E) A health insuring corporation shall not impose lifetime 39809
maximums on basic health care services. However, a health insuring 39810
corporation may establish a benefit limit for inpatient hospital 39811
services that are provided pursuant to a policy, contract, 39812
certificate, or agreement for supplemental health care services. 39813

(F) A health insuring corporation may require that an 39814
enrollee pay an annual deductible that does not exceed one 39815
thousand dollars per enrollee or two thousand dollars per family, 39816
except that: 39817

(1) A health insuring corporation may impose higher 39818
deductibles for high deductible health plans that are linked to 39819
health savings accounts; 39820

(2) The superintendent may adopt rules allowing different 39821
annual deductible amounts for plans with a medical savings 39822
account, health reimbursement arrangement, flexible spending 39823
account, or similar account; 39824

(3) A health insuring corporation may impose higher 39825
deductibles under health plans if requested by the group contract, 39826
policy, certificate, or agreement holder, or an individual seeking 39827
coverage under an individual health plan. This shall not be 39828
construed as requiring the health insuring corporation to create 39829
customized health plans for group contract holders or individuals. 39830

(G) As used in this section, "health savings account" and 39831
"high deductible health plan" have the same meanings as in the 39832
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as 39833
amended. 39834

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, 39835
either directly or indirectly, enter into contracts for the 39836
provision of health care services with a sufficient number and 39837
types of providers and health care facilities to ensure that all 39838
covered health care services will be accessible to enrollees from 39839
a contracted provider or health care facility. 39840

(b) A health insuring corporation shall not refuse to 39841
contract with a physician for the provision of health care 39842
services or refuse to recognize a physician as a specialist on the 39843
basis that the physician attended an educational program or a 39844
residency program approved or certified by the American 39845
osteopathic association. A health insuring corporation shall not 39846
refuse to contract with a health care facility for the provision 39847
of health care services on the basis that the health care facility 39848
is certified or accredited by the American osteopathic association 39849
or that the health care facility is an osteopathic hospital as 39850
defined in section 3702.51 of the Revised Code. 39851

(c) Nothing in division (A)(1)(b) of this section shall be 39852
construed to require a health insuring corporation to make a 39853
benefit payment under a closed panel plan to a physician or health 39854
care facility with which the health insuring corporation does not 39855
have a contract, provided that none of the bases set forth in that 39856
division are used as a reason for failing to make a benefit 39857
payment. 39858

(2) When a health insuring corporation is unable to provide a 39859
covered health care service from a contracted provider or health 39860
care facility, the health insuring corporation must provide that 39861
health care service from a noncontracted provider or health care 39862
facility consistent with the terms of the enrollee's policy, 39863
contract, certificate, or agreement. The health insuring 39864
corporation shall either ensure that the health care service be 39865

provided at no greater cost to the enrollee than if the enrollee 39866
had obtained the health care service from a contracted provider or 39867
health care facility, or make other arrangements acceptable to the 39868
superintendent of insurance. 39869

(3) Nothing in this section shall prohibit a health insuring 39870
corporation from entering into contracts with out-of-state 39871
providers or health care facilities that are licensed, certified, 39872
accredited, or otherwise authorized in that state. 39873

(B)(1) A health insuring corporation shall, either directly 39874
or indirectly, enter into contracts with all providers and health 39875
care facilities through which health care services are provided to 39876
its enrollees. 39877

(2) A health insuring corporation, upon written request, 39878
shall assist its contracted providers in finding stop-loss or 39879
reinsurance carriers. 39880

(C) A health insuring corporation shall file an annual 39881
certificate with the superintendent certifying that all provider 39882
contracts and contracts with health care facilities through which 39883
health care services are being provided contain the following: 39884

(1) A description of the method by which the provider or 39885
health care facility will be notified of the specific health care 39886
services for which the provider or health care facility will be 39887
responsible, including any limitations or conditions on such 39888
services; 39889

(2) The specific hold harmless provision specifying 39890
protection of enrollees set forth as follows: 39891

"[Provider/Health Care Facility] agrees that in no event, 39892
including but not limited to nonpayment by the health insuring 39893
corporation, insolvency of the health insuring corporation, or 39894
breach of this agreement, shall [Provider/Health Care Facility] 39895
bill, charge, collect a deposit from, seek remuneration or 39896

reimbursement from, or have any recourse against, a subscriber, 39897
enrollee, person to whom health care services have been provided, 39898
or person acting on behalf of the covered enrollee, for health 39899
care services provided pursuant to this agreement. This does not 39900
prohibit [Provider/Health Care Facility] from collecting 39901
co-insurance, deductibles, or copayments as specifically provided 39902
in the evidence of coverage, or fees for uncovered health care 39903
services delivered on a fee-for-service basis to persons 39904
referenced above, nor from any recourse against the health 39905
insuring corporation or its successor." 39906

(3) Provisions requiring the provider or health care facility 39907
to continue to provide covered health care services to enrollees 39908
in the event of the health insuring corporation's insolvency or 39909
discontinuance of operations. The provisions shall require the 39910
provider or health care facility to continue to provide covered 39911
health care services to enrollees as needed to complete any 39912
medically necessary procedures commenced but unfinished at the 39913
time of the health insuring corporation's insolvency or 39914
discontinuance of operations. The completion of a medically 39915
necessary procedure shall include the rendering of all covered 39916
health care services that constitute medically necessary follow-up 39917
care for that procedure. If an enrollee is receiving necessary 39918
inpatient care at a hospital, the provisions may limit the 39919
required provision of covered health care services relating to 39920
that inpatient care in accordance with division (D)(3) of section 39921
1751.11 of the Revised Code, and may also limit such required 39922
provision of covered health care services to the period ending 39923
thirty days after the health insuring corporation's insolvency or 39924
discontinuance of operations. 39925

The provisions required by division (C)(3) of this section 39926
shall not require any provider or health care facility to continue 39927
to provide any covered health care service after the occurrence of 39928

any of the following:	39929
(a) The end of the thirty-day period following the entry of a liquidation order under Chapter 3903. of the Revised Code;	39930 39931
(b) The end of the enrollee's period of coverage for a contractual prepayment or premium;	39932 39933
(c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee;	39934 39935 39936
(d) The enrollee or the enrollee's employer terminates coverage under the contract;	39937 39938
(e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code.	39939 39940 39941
(4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs;	39942 39943 39944 39945 39946 39947 39948 39949
(5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or	39950 39951 39952 39953 39954 39955 39956 39957 39958 39959

complaints of enrollees, and requiring the provider or health care facility to comply with applicable state and federal laws related to the confidentiality of medical or health records.

(6) A provision that states that contractual rights and responsibilities may not be assigned or delegated by the provider or health care facility without the prior written consent of the health insuring corporation;

(7) A provision requiring the provider or health care facility to maintain adequate professional liability and malpractice insurance. The provision shall also require the provider or health care facility to notify the health insuring corporation not more than ten days after the provider's or health care facility's receipt of notice of any reduction or cancellation of such coverage.

(8) A provision requiring the provider or health care facility to observe, protect, and promote the rights of enrollees as patients;

(9) A provision requiring the provider or health care facility to provide health care services without discrimination on the basis of a patient's participation in the health care plan, age, sex, ethnicity, religion, sexual preference, health status, or disability, and without regard to the source of payments made for health care services rendered to a patient. This requirement shall not apply to circumstances when the provider or health care facility appropriately does not render services due to limitations arising from the provider's or health care facility's lack of training, experience, or skill, or due to licensing restrictions.

(10) A provision containing the specifics of any obligation on the primary care provider to provide, or to arrange for the provision of, covered health care services twenty-four hours per day, seven days per week;

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract; 39991
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(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation; 39993
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(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions. 39999
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This division does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, ~~or to the coverage of participants of the children's buy in program,~~ or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services. 40002
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(D)(1) No health insuring corporation contract with a provider or health care facility shall contain any of the following: 40013
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(a) A provision that directly or indirectly offers an inducement to the provider or health care facility to reduce or limit medically necessary health care services to a covered enrollee; 40016
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(b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the 40020
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health insuring corporation's decision to deny or limit benefits 40022
to the enrollee; 40023

(c) A provision that limits or otherwise restricts the 40024
provider's or health care facility's ethical and legal 40025
responsibility to fully advise enrollees about their medical 40026
condition and about medically appropriate treatment options; 40027

(d) A provision that penalizes a provider or health care 40028
facility for principally advocating for medically necessary health 40029
care services; 40030

(e) A provision that penalizes a provider or health care 40031
facility for providing information or testimony to a legislative 40032
or regulatory body or agency. This shall not be construed to 40033
prohibit a health insuring corporation from penalizing a provider 40034
or health care facility that provides information or testimony 40035
that is libelous or slanderous or that discloses trade secrets 40036
which the provider or health care facility has no privilege or 40037
permission to disclose. 40038

(f) A provision that violates Chapter 3963. of the Revised 40039
Code. 40040

(2) Nothing in this division shall be construed to prohibit a 40041
health insuring corporation from doing either of the following: 40042

(a) Making a determination not to reimburse or pay for a 40043
particular medical treatment or other health care service; 40044

(b) Enforcing reasonable peer review or utilization review 40045
protocols, or determining whether a particular provider or health 40046
care facility has complied with these protocols. 40047

(E) Any contract between a health insuring corporation and an 40048
intermediary organization shall clearly specify that the health 40049
insuring corporation must approve or disapprove the participation 40050
of any provider or health care facility with which the 40051

intermediary organization contracts. 40052

(F) If an intermediary organization that is not a health 40053
delivery network contracting solely with self-insured employers 40054
subcontracts with a provider or health care facility, the 40055
subcontract with the provider or health care facility shall do all 40056
of the following: 40057

(1) Contain the provisions required by divisions (C) and (G) 40058
of this section, as made applicable to an intermediary 40059
organization, without the inclusion of inducements or penalties 40060
described in division (D) of this section; 40061

(2) Acknowledge that the health insuring corporation is a 40062
third-party beneficiary to the agreement; 40063

(3) Acknowledge the health insuring corporation's role in 40064
approving the participation of the provider or health care 40065
facility, pursuant to division (E) of this section. 40066

(G) Any provider contract or contract with a health care 40067
facility shall clearly specify the health insuring corporation's 40068
statutory responsibility to monitor and oversee the offering of 40069
covered health care services to its enrollees. 40070

(H)(1) A health insuring corporation shall maintain its 40071
provider contracts and its contracts with health care facilities 40072
at one or more of its places of business in this state, and shall 40073
provide copies of these contracts to facilitate regulatory review 40074
upon written notice by the superintendent of insurance. 40075

(2) Any contract with an intermediary organization that 40076
accepts compensation shall include provisions requiring the 40077
intermediary organization to provide the superintendent with 40078
regulatory access to all books, records, financial information, 40079
and documents related to the provision of health care services to 40080
subscribers and enrollees under the contract. The contract shall 40081
require the intermediary organization to maintain such books, 40082

records, financial information, and documents at its principal 40083
place of business in this state and to preserve them for at least 40084
three years in a manner that facilitates regulatory review. 40085

(I)(1) A health insuring corporation shall notify its 40086
affected enrollees of the termination of a contract for the 40087
provision of health care services between the health insuring 40088
corporation and a primary care physician or hospital, by mail, 40089
within thirty days after the termination of the contract. 40090

(a) Notice shall be given to subscribers of the termination 40091
of a contract with a primary care physician if the subscriber, or 40092
a dependent covered under the subscriber's health care coverage, 40093
has received health care services from the primary care physician 40094
within the previous twelve months or if the subscriber or 40095
dependent has selected the physician as the subscriber's or 40096
dependent's primary care physician within the previous twelve 40097
months. 40098

(b) Notice shall be given to subscribers of the termination 40099
of a contract with a hospital if the subscriber, or a dependent 40100
covered under the subscriber's health care coverage, has received 40101
health care services from that hospital within the previous twelve 40102
months. 40103

(2) The health insuring corporation shall pay, in accordance 40104
with the terms of the contract, for all covered health care 40105
services rendered to an enrollee by a primary care physician or 40106
hospital between the date of the termination of the contract and 40107
five days after the notification of the contract termination is 40108
mailed to a subscriber at the subscriber's last known address. 40109

(J) Divisions (A) and (B) of this section do not apply to any 40110
health insuring corporation that, on June 4, 1997, holds a 40111
certificate of authority or license to operate under Chapter 1740. 40112
of the Revised Code. 40113

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1751.15. (A) Each health insuring corporation shall accept individuals for open enrollment coverage as provided in sections 3923.58 and 3923.581 of the Revised Code. A health insuring corporation may reinsure coverage of any individual acquired under those sections with the open enrollment reinsurance program in accordance with division (G) of section 3924.11 of the Revised Code. Fixed periodic prepayment rates charged for coverage reinsured by the program shall be established in accordance with section 3924.12 of the Revised Code.

(B) This section does not apply to any of the following:

(1) Any health insuring corporation that offers only supplemental health care services or specialty health care services;

(2) Any health insuring corporation that offers plans only through medicare, or medicaid, ~~or the children's buy-in program~~ and that has no other commercial enrollment;

(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;

(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.

Sec. 1751.17. (A) As used in this section, "nongroup contract" means a contract issued by a health insuring corporation to an individual who makes direct application for coverage under the contract and who, if required by the health insuring

corporation, submits to medical underwriting. "Nongroup contract" 40144
does not include group conversion coverage, coverage obtained 40145
through open enrollment, or coverage issued on the basis of 40146
membership in a group. 40147

(B) Except as provided in division (C) of this section, every 40148
nongroup contract that is issued by a health insuring corporation 40149
and that makes available basic health care services shall provide 40150
an option for conversion to a contract issued on a direct-payment 40151
basis to an enrollee covered by the nongroup contract. The option 40152
for conversion shall be available: 40153

(1) Upon the death of the subscriber, to the surviving spouse 40154
with respect to the spouse or dependents who were then covered by 40155
the nongroup contract; 40156

(2) Upon the divorce, dissolution, or annulment of the 40157
marriage of the subscriber, to the divorced spouse, or, in the 40158
event of annulment, to the former spouse of the subscriber; 40159

(3) To a child solely with respect to the child, upon the 40160
child's attaining the limiting age of coverage under the nongroup 40161
contract while covered as a dependent under the contract. 40162

(C) The direct payment contract offered pursuant to division 40163
(B) of this section shall not be made available to an enrollee if 40164
any of the following applies: 40165

(1) The enrollee is, or is eligible to be, covered for 40166
benefits at least comparable to the nongroup contract under any of 40167
the following: 40168

(a) Medicaid; 40169

(b) ~~The children's buy-in program;~~ 40170

~~(c)~~ Medicare; 40171

~~(d)~~ (c) Any act of congress or law under this or any other 40172
state of the United States providing coverage at least comparable 40173

to the benefits offered under division (C)(1)(a), or (b), ~~or (c)~~ 40174
of this section. 40175

(2) The nongroup contract under which the enrollee was 40176
covered was terminated due to nonpayment of a premium rate. 40177

(3) The enrollee is eligible for group coverage provided by, 40178
or available through, an employer or association and the group 40179
coverage provides benefits comparable to the benefits provided 40180
under a direct payment contract. 40181

(D) The direct payment contract offered pursuant to division 40182
(B) of this section shall provide benefits that are at least 40183
comparable to the benefits provided by the nongroup contract under 40184
which the enrollee was covered at the time of the occurrence of 40185
any of the events set forth in division (B) of this section. The 40186
coverage provided under the direct payment contract shall be 40187
continuous, provided that the enrollee makes the required premium 40188
rate payment within the thirty-day period immediately following 40189
the occurrence of the event, and may be terminated for nonpayment 40190
of any required premium rate payment. 40191

(E) The evidence of coverage of every nongroup contract shall 40192
contain notice that an option for conversion to a contract issued 40193
on a direct-payment basis is available, in accordance with this 40194
section, to any enrollee covered by the contract. 40195

(F) Benefits otherwise payable to an enrollee under a direct 40196
payment contract shall be reduced by the amount of any benefits 40197
available to the enrollee under any applicable group health 40198
insuring corporation contract or group sickness and accident 40199
insurance policy. 40200

(G) Nothing in this section shall be construed as requiring a 40201
health insuring corporation to offer nongroup contracts. 40202

(H) This section does not apply to any nongroup contract 40203
offering only supplemental health care services or specialty 40204

health care services. 40205

Sec. 1751.20. (A) No health insuring corporation, or agent, 40206
employee, or representative of a health insuring corporation, 40207
shall use any advertisement or solicitation document, or shall 40208
engage in any activity, that is unfair, untrue, misleading, or 40209
deceptive. 40210

(B) No health insuring corporation shall use a name that is 40211
deceptively similar to the name or description of any insurance or 40212
surety corporation doing business in this state. 40213

(C) All solicitation documents, advertisements, evidences of 40214
coverage, and enrollee identification cards used by a health 40215
insuring corporation shall contain the health insuring 40216
corporation's name. The use of a trade name, an insurance group 40217
designation, the name of a parent company, the name of a division 40218
of an affiliated insurance company, a service mark, a slogan, a 40219
symbol, or other device, without the name of the health insuring 40220
corporation as stated in its articles of incorporation, shall not 40221
satisfy this requirement if the usage would have the capacity and 40222
tendency to mislead or deceive persons as to the true identity of 40223
the health insuring corporation. 40224

(D) No solicitation document or advertisement used by a 40225
health insuring corporation shall contain any words, symbols, or 40226
physical materials that are so similar in content, phraseology, 40227
shape, color, or other characteristic to those used by an agency 40228
of the federal government or this state, that prospective 40229
enrollees may be led to believe that the solicitation document or 40230
advertisement is connected with an agency of the federal 40231
government or this state. 40232

(E) A health insuring corporation that provides basic health 40233
care services may use the phrase "health maintenance organization" 40234
or the abbreviation "HMO" in its marketing name, advertising, 40235

solicitation documents, or marketing literature, or in reference 40236
to the phrase "doing business as" or the abbreviation "DBA." 40237

(F) This section does not apply to the coverage of 40238
beneficiaries enrolled in medicare pursuant to a medicare risk 40239
contract or medicare cost contract, or to the coverage of 40240
beneficiaries enrolled in the federal employee health benefits 40241
program pursuant to 5 U.S.C.A. 8905, or to the coverage of 40242
medicaid recipients, ~~or to the coverage of participants of the~~ 40243
~~children's buy-in program,~~ or to the coverage of beneficiaries 40244
under any federal health care program regulated by a federal 40245
regulatory body, or to the coverage of beneficiaries under any 40246
contract covering officers or employees of the state that has been 40247
entered into by the department of administrative services. 40248

Sec. 1751.31. (A) Any changes in a health insuring 40249
corporation's solicitation document shall be filed with the 40250
superintendent of insurance. The superintendent, within sixty days 40251
of filing, may disapprove any solicitation document or amendment 40252
to it on any of the grounds stated in this section. Such 40253
disapproval shall be effected by written notice to the health 40254
insuring corporation. The notice shall state the grounds for 40255
disapproval and shall be issued in accordance with Chapter 119. of 40256
the Revised Code. 40257

(B) The solicitation document shall contain all information 40258
necessary to enable a consumer to make an informed choice as to 40259
whether or not to enroll in the health insuring corporation. The 40260
information shall include a specific description of the health 40261
care services to be available and the approximate number and type 40262
of full-time equivalent medical practitioners. The information 40263
shall be presented in the solicitation document in a manner that 40264
is clear, concise, and intelligible to prospective applicants in 40265
the proposed service area. 40266

(C) Every potential applicant whose subscription to a health care plan is solicited shall receive, at or before the time of solicitation, a solicitation document approved by the superintendent.

(D) Notwithstanding division (A) of this section, a health insuring corporation may use a solicitation document that the corporation uses in connection with policies for medicare beneficiaries pursuant to a medicare risk contract or medicare cost contract, or for policies for beneficiaries of the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies for medicaid recipients, or for policies for beneficiaries of any other federal health care program regulated by a federal regulatory body, ~~or for policies for participants of the children's buy in program,~~ or for policies for beneficiaries of contracts covering officers or employees of the state entered into by the department of administrative services, if both of the following apply:

(1) The solicitation document has been approved by the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(2) The solicitation document is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(E) No health insuring corporation, or its agents or representatives, shall use monetary or other valuable consideration, engage in misleading or deceptive practices, or make untrue, misleading, or deceptive representations to induce enrollment. Nothing in this division shall prohibit incentive

forms of remuneration such as commission sales programs for the 40299
health insuring corporation's employees and agents. 40300

(F) Any person obligated for any part of a premium rate in 40301
connection with an enrollment agreement, in addition to any right 40302
otherwise available to revoke an offer, may cancel such agreement 40303
within seventy-two hours after having signed the agreement or 40304
offer to enroll. Cancellation occurs when written notice of the 40305
cancellation is given to the health insuring corporation or its 40306
agents or other representatives. A notice of cancellation mailed 40307
to the health insuring corporation shall be considered to have 40308
been filed on its postmark date. 40309

(G) Nothing in this section shall prohibit healthy lifestyle 40310
programs. 40311

Sec. 1751.34. (A) Each health insuring corporation and each 40312
applicant for a certificate of authority under this chapter shall 40313
be subject to examination by the superintendent of insurance in 40314
accordance with section 3901.07 of the Revised Code. Section 40315
3901.07 of the Revised Code shall govern every aspect of the 40316
examination, including the circumstances under and frequency with 40317
which it is conducted, the authority of the superintendent and any 40318
examiner or other person appointed by the superintendent, the 40319
liability for the assessment of expenses incurred in conducting 40320
the examination, and the remittance of the assessment to the 40321
superintendent's examination fund. 40322

(B) The superintendent shall make an examination concerning 40323
the matters subject to the superintendent's consideration in 40324
section 1751.04 of the Revised Code as often as the superintendent 40325
considers it necessary for the protection of the interests of the 40326
people of this state. The expenses of such examinations shall be 40327
assessed against the health insuring corporation being examined in 40328
the manner in which expenses of examinations are assessed against 40329

an insurance company under section 3901.07 of the Revised Code. 40330
Nothing in this division requires the superintendent to make an 40331
examination of any of the following: 40332

(1) A health insuring corporation that covers solely medicaid 40333
recipients; 40334

(2) A health insuring corporation that covers solely medicare 40335
beneficiaries; 40336

(3) A health insuring corporation that covers solely medicaid 40337
recipients and medicare beneficiaries; 40338

~~(4) A health insuring corporation that covers solely 40339
participants of the children's buy in program; 40340~~

~~(5) A health insuring corporation that covers solely medicaid 40341
recipients and participants of the children's buy in program; 40342~~

~~(6) A health insuring corporation that covers solely medicaid 40343
recipients, medicare beneficiaries, and participants of the 40344
children's buy in program. 40345~~

(C) An examination, pursuant to section 3901.07 of the 40346
Revised Code, of an insurance company holding a certificate of 40347
authority under this chapter to organize and operate a health 40348
insuring corporation shall include an examination of the health 40349
insuring corporation pursuant to this section and the examination 40350
shall satisfy the requirements of divisions (A) and (B) of this 40351
section. 40352

(D) The superintendent may conduct market conduct 40353
examinations pursuant to section 3901.011 of the Revised Code of 40354
any health insuring corporation as often as the superintendent 40355
considers it necessary for the protection of the interests of 40356
subscribers and enrollees. The expenses of such market conduct 40357
examinations shall be assessed against the health insuring 40358
corporation being examined. All costs, assessments, or fines 40359

collected under this division shall be paid into the state 40360
treasury to the credit of the department of insurance operating 40361
fund. 40362

Sec. 1751.60. (A) Except as provided for in divisions (E) and 40363
(F) of this section, every provider or health care facility that 40364
contracts with a health insuring corporation to provide health 40365
care services to the health insuring corporation's enrollees or 40366
subscribers shall seek compensation for covered services solely 40367
from the health insuring corporation and not, under any 40368
circumstances, from the enrollees or subscribers, except for 40369
approved copayments and deductibles. 40370

(B) No subscriber or enrollee of a health insuring 40371
corporation is liable to any contracting provider or health care 40372
facility for the cost of any covered health care services, if the 40373
subscriber or enrollee has acted in accordance with the evidence 40374
of coverage. 40375

(C) Except as provided for in divisions (E) and (F) of this 40376
section, every contract between a health insuring corporation and 40377
provider or health care facility shall contain a provision 40378
approved by the superintendent of insurance requiring the provider 40379
or health care facility to seek compensation solely from the 40380
health insuring corporation and not, under any circumstances, from 40381
the subscriber or enrollee, except for approved copayments and 40382
deductibles. 40383

(D) Nothing in this section shall be construed as preventing 40384
a provider or health care facility from billing the enrollee or 40385
subscriber of a health insuring corporation for noncovered 40386
services. 40387

(E) Upon application by a health insuring corporation and a 40388
provider or health care facility, the superintendent may waive the 40389
requirements of divisions (A) and (C) of this section when, in 40390

addition to the reserve requirements contained in section 1751.28 40391
of the Revised Code, the health insuring corporation provides 40392
sufficient assurances to the superintendent that the provider or 40393
health care facility has been provided with financial guarantees. 40394
No waiver of the requirements of divisions (A) and (C) of this 40395
section is effective as to enrollees or subscribers for whom the 40396
health insuring corporation is compensated under a provider 40397
agreement or risk contract entered into pursuant to Chapter 5111. 40398
or 5115. of the Revised Code ~~or under the children's buy in~~ 40399
~~program.~~ 40400

(F) The requirements of divisions (A) to (C) of this section 40401
apply only to health care services provided to an enrollee or 40402
subscriber prior to the effective date of a termination of a 40403
contract between the health insuring corporation and the provider 40404
or health care facility. 40405

Sec. 1761.04. (A) The licensing and operation of a credit 40406
union share guaranty corporation is subject to the regulation of 40407
the superintendent of insurance pursuant to Chapters 3901., 3903., 40408
3905., 3925., 3927., 3929., 3937., 3941., and 3999. of the Revised 40409
Code to the extent such laws are otherwise applicable and are not 40410
in conflict with this chapter. 40411

(B) A credit union share guaranty corporation shall pay, by 40412
the fifteenth day of April of each year, to the superintendent of 40413
credit unions, an annual fee of one-half of one per cent of its 40414
guarantee fund as shown by the corporation's last annual financial 40415
report, but in no event shall such payment exceed five twenty-five 40416
thousand dollars in any calendar year. 40417

(C) In addition to the specific powers and duties given the 40418
superintendent of insurance and the superintendent of credit 40419
unions under this chapter, the superintendents may independently, 40420
pursuant to Chapter 119. of the Revised Code, adopt, amend, and 40421

rescind such rules as are necessary to implement the requirements 40422
of this chapter. 40423

Sec. 1776.83. (A) A limited liability partnership and a 40424
foreign limited liability partnership authorized to transact 40425
business in this state shall file a biennial report in the office 40426
of the secretary of state. The report shall contain all of the 40427
following: 40428

(1) The name of the limited liability partnership and the 40429
state or other jurisdiction under whose laws the foreign limited 40430
liability partnership is formed; 40431

(2) The street address of the partnership's chief executive 40432
office and, if the partnership's chief executive office is not in 40433
this state, the street address of any office of the partnership in 40434
this state; 40435

(3) If the partnership does not have an office in this state, 40436
the name and street address of the partnership's current agent for 40437
service of process. 40438

(B) A partnership shall file a biennial report between the 40439
first day of April and the first day of July of each odd-numbered 40440
year that follows the calendar year in which the partnership files 40441
a statement of qualification or a foreign partnership becomes 40442
authorized to transact business in this state. 40443

(C) The secretary of state may revoke the statement of 40444
qualification of any partnership that fails to file a biennial 40445
report when due or pay the required filing fee. To revoke a 40446
statement, the secretary of state shall provide the partnership at 40447
least sixty days' written notice of the intent to revoke, mailed 40448
to the partnership at its chief executive office set forth in the 40449
last filed statement of qualification or biennial report or sent 40450
by electronic mail to the last electronic mail address provided to 40451

the secretary of state. The notice shall specify the report that 40452
the partnership failed to file, the unpaid fee, and the effective 40453
date of the revocation. The revocation is not effective if the 40454
partnership files the report and pays the fee before the effective 40455
date of the revocation. 40456

(D) A revocation under division (C) of this section affects 40457
only a partnership's status as a limited liability partnership and 40458
is not an event of dissolution of the partnership. 40459

(E) A partnership whose statement of qualification is revoked 40460
may apply to the secretary of state for reinstatement within two 40461
years after the effective date of the revocation. The application 40462
for reinstatement shall state the name of the partnership, the 40463
effective date of the revocation, and that the ground for 40464
revocation either did not exist or has been corrected. 40465

(F) A reinstatement under division (E) of this section 40466
relates back to and takes effect as of the effective date of the 40467
revocation, and the partnership's status as a limited liability 40468
partnership continues as if the revocation had never occurred. 40469

Sec. 1785.06. A professional association, within thirty days 40470
after the thirtieth day of June in each even-numbered year, shall 40471
furnish a statement to the secretary of state showing the names 40472
and post-office addresses of all of the shareholders in the 40473
association and certifying that all of the shareholders are duly 40474
licensed, certificated, or otherwise legally authorized to render 40475
within this state the same professional service for which the 40476
association was organized or, in the case of a combination of 40477
professional services described in division (B) of section 1785.01 40478
of the Revised Code, to render within this state any of the 40479
applicable types of professional services for which the 40480
association was organized. This statement shall be made on a form 40481
that the secretary of state shall prescribe, shall be signed by an 40482

officer of the association, and shall be filed in the office of 40483
the secretary of state. 40484

If any professional association fails to file the biennial 40485
statement within the time required by this section, the secretary 40486
of state shall give notice of the failure by ~~certified~~ ordinary or 40487
electronic mail, ~~return receipt requested,~~ to the last known 40488
physical or electronic address of the association or its agent. If 40489
the biennial statement is not filed within thirty days after the 40490
mailing of the notice, the secretary of state, upon the expiration 40491
of that period, shall cancel the association's articles of 40492
incorporation, give notice of the cancellation to the association 40493
by ordinary or electronic mail sent to the last known physical or 40494
electronic address of the association or its agent, and make a 40495
notation of the cancellation on the records of the secretary of 40496
state. 40497

A professional association whose articles have been canceled 40498
pursuant to this section may be reinstated by filing an 40499
application for reinstatement and the required biennial statement 40500
or statements and by paying the reinstatement fee specified in 40501
division (Q) of section 111.16 of the Revised Code. The rights, 40502
privileges, and franchises of a professional association whose 40503
articles have been reinstated are subject to section 1701.922 of 40504
the Revised Code. The secretary of state shall inform the tax 40505
commissioner of all cancellations and reinstatements under this 40506
section. 40507

Sec. 1901.02. (A) The municipal courts established by section 40508
1901.01 of the Revised Code have jurisdiction within the corporate 40509
limits of their respective municipal corporations, or, for the 40510
Clermont county municipal court, the Columbiana county municipal 40511
court, and, effective January 1, 2008, the Erie county municipal 40512
court, within the municipal corporation or unincorporated 40513

territory in which they are established, and are courts of record. 40514
Each of the courts shall be styled 40515
"..... municipal court," inserting 40516
the name of the municipal corporation, except the following 40517
courts, which shall be styled as set forth below: 40518

(1) The municipal court established in Chesapeake that shall 40519
be styled and known as the "Lawrence county municipal court"; 40520

(2) The municipal court established in Cincinnati that shall 40521
be styled and known as the "Hamilton county municipal court"; 40522

(3) The municipal court established in Ravenna that shall be 40523
styled and known as the "Portage county municipal court"; 40524

(4) The municipal court established in Athens that shall be 40525
styled and known as the "Athens county municipal court"; 40526

(5) The municipal court established in Columbus that shall be 40527
styled and known as the "Franklin county municipal court"; 40528

(6) The municipal court established in London that shall be 40529
styled and known as the "Madison county municipal court"; 40530

(7) The municipal court established in Newark that shall be 40531
styled and known as the "Licking county municipal court"; 40532

(8) The municipal court established in Wooster that shall be 40533
styled and known as the "Wayne county municipal court"; 40534

(9) The municipal court established in Wapakoneta that shall 40535
be styled and known as the "Auglaize county municipal court"; 40536

(10) The municipal court established in Troy that shall be 40537
styled and known as the "Miami county municipal court"; 40538

(11) The municipal court established in Bucyrus that shall be 40539
styled and known as the "Crawford county municipal court"; 40540

(12) The municipal court established in Logan that shall be 40541
styled and known as the "Hocking county municipal court"; 40542

- (13) The municipal court established in Urbana that shall be 40543
styled and known as the "Champaign county municipal court"; 40544
- (14) The municipal court established in Jackson that shall be 40545
styled and known as the "Jackson county municipal court"; 40546
- (15) The municipal court established in Springfield that 40547
shall be styled and known as the "Clark county municipal court"; 40548
- (16) The municipal court established in Kenton that shall be 40549
styled and known as the "Hardin county municipal court"; 40550
- (17) The municipal court established within Clermont county 40551
in Batavia or in any other municipal corporation or unincorporated 40552
territory within Clermont county that is selected by the 40553
legislative authority of that court that shall be styled and known 40554
as the "Clermont county municipal court"; 40555
- (18) The municipal court established in Wilmington that, 40556
beginning July 1, 1992, shall be styled and known as the "Clinton 40557
county municipal court"; 40558
- (19) The municipal court established in Port Clinton that 40559
shall be styled and known as "the Ottawa county municipal court"; 40560
- (20) The municipal court established in Lancaster that, 40561
beginning January 2, 2000, shall be styled and known as the 40562
"Fairfield county municipal court"; 40563
- (21) The municipal court established within Columbiana county 40564
in Lisbon or in any other municipal corporation or unincorporated 40565
territory selected pursuant to division (I) of section 1901.021 of 40566
the Revised Code, that shall be styled and known as the 40567
"Columbiana county municipal court"; 40568
- (22) The municipal court established in Georgetown that, 40569
beginning February 9, 2003, shall be styled and known as the 40570
"Brown county municipal court"; 40571
- (23) The municipal court established in Mount Gilead that, 40572

beginning January 1, 2003, shall be styled and known as the 40573
"Morrow county municipal court"; 40574

(24) The municipal court established in Greenville that, 40575
beginning January 1, 2005, shall be styled and known as the "Darke 40576
county municipal court"; 40577

(25) The municipal court established in Millersburg that, 40578
beginning January 1, 2007, shall be styled and known as the 40579
"Holmes county municipal court"; 40580

(26) The municipal court established in Carrollton that, 40581
beginning January 1, 2007, shall be styled and known as the 40582
"Carroll county municipal court"; 40583

(27) The municipal court established within Erie county in 40584
Milan or established in any other municipal corporation or 40585
unincorporated territory that is within Erie county, is within the 40586
territorial jurisdiction of that court, and is selected by the 40587
legislative authority of that court that, beginning January 1, 40588
2008, shall be styled and known as the "Erie county municipal 40589
court"; 40590

(28) The municipal court established in Ottawa that, 40591
beginning January 1, 2011, shall be styled and known as the 40592
"Putnam county municipal court"; 40593

(29) The municipal court established within Montgomery county 40594
in any municipal corporation or unincorporated territory within 40595
Montgomery county, except the municipal corporations of 40596
Centerville, Clayton, Dayton, Englewood, Germantown, Kettering, 40597
Miamisburg, Moraine, Oakwood, Union, Vandalia, and West Carrollton 40598
and Butler, German, Harrison, Miami, and Washington townships, 40599
that is selected by the legislative authority of that court and 40600
that, beginning July 1, 2010, shall be styled and known as the 40601
"Montgomery county municipal court." 40602

(B) In addition to the jurisdiction set forth in division (A) 40603

of this section, the municipal courts established by section 40604
1901.01 of the Revised Code have jurisdiction as follows: 40605

The Akron municipal court has jurisdiction within Bath, 40606
Richfield, and Springfield townships, and within the municipal 40607
corporations of Fairlawn, Lakemore, and Mogadore, in Summit 40608
county. 40609

The Alliance municipal court has jurisdiction within 40610
Lexington, Marlboro, Paris, and Washington townships in Stark 40611
county. 40612

The Ashland municipal court has jurisdiction within Ashland 40613
county. 40614

The Ashtabula municipal court has jurisdiction within 40615
Ashtabula, Plymouth, and Saybrook townships in Ashtabula county. 40616

The Athens county municipal court has jurisdiction within 40617
Athens county. 40618

The Auglaize county municipal court has jurisdiction within 40619
Auglaize county. 40620

The Avon Lake municipal court has jurisdiction within the 40621
municipal corporations of Avon and Sheffield in Lorain county. 40622

The Barberton municipal court has jurisdiction within 40623
Coventry, Franklin, and Green townships, within all of Copley 40624
township except within the municipal corporation of Fairlawn, and 40625
within the municipal corporations of Clinton and Norton, in Summit 40626
county. 40627

The Bedford municipal court has jurisdiction within the 40628
municipal corporations of Bedford Heights, Oakwood, Glenwillow, 40629
Solon, Bentleyville, Chagrin Falls, Moreland Hills, Orange, 40630
Warrensville Heights, North Randall, and Woodmere, and within 40631
Warrensville and Chagrin Falls townships, in Cuyahoga county. 40632

The Bellefontaine municipal court has jurisdiction within 40633

Logan county.	40634
The Bellevue municipal court has jurisdiction within Lyme and Sherman townships in Huron county and within York township in Sandusky county.	40635 40636 40637
The Berea municipal court has jurisdiction within the municipal corporations of Strongsville, Middleburgh Heights, Brook Park, Westview, and Olmsted Falls, and within Olmsted township, in Cuyahoga county.	40638 40639 40640 40641
The Bowling Green municipal court has jurisdiction within the municipal corporations of Bairdstown, Bloomdale, Bradner, Custar, Cygnet, Grand Rapids, Haskins, Hoytville, Jerry City, Milton Center, North Baltimore, Pemberville, Portage, Rising Sun, Tontogany, Wayne, <u>West Millgrove</u> , and Weston, and within Bloom, Center, Freedom, Grand Rapids, Henry, Jackson, Liberty, Middleton, Milton, Montgomery, Plain, Portage, Washington, Webster, and Weston townships in Wood county.	40642 40643 40644 40645 40646 40647 40648 40649
Beginning February 9, 2003, the Brown county municipal court has jurisdiction within Brown county.	40650 40651
The Bryan municipal court has jurisdiction within Williams county.	40652 40653
The Cambridge municipal court has jurisdiction within Guernsey county.	40654 40655
The Campbell municipal court has jurisdiction within Coitsville township in Mahoning county.	40656 40657
The Canton municipal court has jurisdiction within Canton, Lake, Nimishillen, Osnaburg, Pike, Plain, and Sandy townships in Stark county.	40658 40659 40660
The Carroll county municipal court has jurisdiction within Carroll county.	40661 40662
The Celina municipal court has jurisdiction within Mercer	40663

county.	40664
The Champaign county municipal court has jurisdiction within	40665
Champaign county.	40666
The Chardon municipal court has jurisdiction within Geauga	40667
county.	40668
The Chillicothe municipal court has jurisdiction within Ross	40669
county.	40670
The Circleville municipal court has jurisdiction within	40671
Pickaway county.	40672
The Clark county municipal court has jurisdiction within	40673
Clark county.	40674
The Clermont county municipal court has jurisdiction within	40675
Clermont county.	40676
The Cleveland municipal court has jurisdiction within the	40677
municipal corporation of Bratenahl in Cuyahoga county.	40678
Beginning July 1, 1992, the Clinton county municipal court	40679
has jurisdiction within Clinton county.	40680
The Columbiana county municipal court has jurisdiction within	40681
all of Columbiana county except within the municipal corporation	40682
of East Liverpool and except within Liverpool and St. Clair	40683
townships.	40684
The Coshocton municipal court has jurisdiction within	40685
Coshocton county.	40686
The Crawford county municipal court has jurisdiction within	40687
Crawford county.	40688
Until December 31, 2008, the Cuyahoga Falls municipal court	40689
has jurisdiction within Boston, Hudson, Northfield Center,	40690
Sagamore Hills, and Twinsburg townships, and within the municipal	40691
corporations of Boston Heights, Hudson, Munroe Falls, Northfield,	40692

Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, 40693
and Macedonia, in Summit county. 40694

Beginning January 1, 2005, the Darke county municipal court 40695
has jurisdiction within Darke county except within the municipal 40696
corporation of Bradford. 40697

The Defiance municipal court has jurisdiction within Defiance 40698
county. 40699

The Delaware municipal court has jurisdiction within Delaware 40700
county. 40701

The East Liverpool municipal court has jurisdiction within 40702
Liverpool and St. Clair townships in Columbiana county. 40703

The Eaton municipal court has jurisdiction within Preble 40704
county. 40705

The Elyria municipal court has jurisdiction within the 40706
municipal corporations of Grafton, LaGrange, and North Ridgeville, 40707
and within Elyria, Carlisle, Eaton, Columbia, Grafton, and 40708
LaGrange townships, in Lorain county. 40709

Beginning January 1, 2008, the Erie county municipal court 40710
has jurisdiction within Erie county except within the townships of 40711
Florence, Huron, Perkins, and Vermilion and the municipal 40712
corporations of Bay View, Castalia, Huron, Sandusky, and 40713
Vermilion. 40714

The Fairborn municipal court has jurisdiction within the 40715
municipal corporation of Beaver creek and within Bath and 40716
Beaver creek townships in Greene county. 40717

Beginning January 2, 2000, the Fairfield county municipal 40718
court has jurisdiction within Fairfield county. 40719

The Findlay municipal court has jurisdiction within all of 40720
Hancock county except within Washington township. 40721

The Fostoria municipal court has jurisdiction within Loudon 40722

and Jackson townships in Seneca county, within Washington township 40723
in Hancock county, and within Perry township, except within the 40724
municipal corporation of West Millgrove, in Wood county. 40725

The Franklin municipal court has jurisdiction within Franklin 40726
township in Warren county. 40727

The Franklin county municipal court has jurisdiction within 40728
Franklin county. 40729

The Fremont municipal court has jurisdiction within Ballville 40730
and Sandusky townships in Sandusky county. 40731

The Gallipolis municipal court has jurisdiction within Gallia 40732
county. 40733

The Garfield Heights municipal court has jurisdiction within 40734
the municipal corporations of Maple Heights, Walton Hills, Valley 40735
View, Cuyahoga Heights, Newburgh Heights, Independence, and 40736
Brecksville in Cuyahoga county. 40737

The Girard municipal court has jurisdiction within Liberty, 40738
Vienna, and Hubbard townships in Trumbull county. 40739

The Hamilton municipal court has jurisdiction within Ross and 40740
St. Clair townships in Butler county. 40741

The Hamilton county municipal court has jurisdiction within 40742
Hamilton county. 40743

The Hardin county municipal court has jurisdiction within 40744
Hardin county. 40745

The Hillsboro municipal court has jurisdiction within all of 40746
Highland county except within Madison township. 40747

The Hocking county municipal court has jurisdiction within 40748
Hocking county. 40749

The Holmes county municipal court has jurisdiction within 40750
Holmes county. 40751

The Huron municipal court has jurisdiction within all of 40752
Huron township in Erie county except within the municipal 40753
corporation of Sandusky. 40754

The Ironton municipal court has jurisdiction within Aid, 40755
Decatur, Elizabeth, Hamilton, Lawrence, Upper, and Washington 40756
townships in Lawrence county. 40757

The Jackson county municipal court has jurisdiction within 40758
Jackson county. 40759

The Kettering municipal court has jurisdiction within the 40760
municipal corporations of Centerville and Moraine, and within 40761
Washington township, in Montgomery county. 40762

Until January 2, 2000, the Lancaster municipal court has 40763
jurisdiction within Fairfield county. 40764

The Lawrence county municipal court has jurisdiction within 40765
the townships of Fayette, Mason, Perry, Rome, Symmes, Union, and 40766
Windsor in Lawrence county. 40767

The Lebanon municipal court has jurisdiction within 40768
Turtlecreek township in Warren county. 40769

The Licking county municipal court has jurisdiction within 40770
Licking county. 40771

The Lima municipal court has jurisdiction within Allen 40772
county. 40773

The Lorain municipal court has jurisdiction within the 40774
municipal corporation of Sheffield Lake, and within Sheffield 40775
township, in Lorain county. 40776

The Lyndhurst municipal court has jurisdiction within the 40777
municipal corporations of Mayfield Heights, Gates Mills, Mayfield, 40778
Highland Heights, and Richmond Heights in Cuyahoga county. 40779

The Madison county municipal court has jurisdiction within 40780
Madison county. 40781

The Mansfield municipal court has jurisdiction within 40782
Madison, Springfield, Sandusky, Franklin, Weller, Mifflin, Troy, 40783
Washington, Monroe, Perry, Jefferson, and Worthington townships, 40784
and within sections 35-36-31 and 32 of Butler township, in 40785
Richland county. 40786

The Marietta municipal court has jurisdiction within 40787
Washington county. 40788

The Marion municipal court has jurisdiction within Marion 40789
county. 40790

The Marysville municipal court has jurisdiction within Union 40791
county. 40792

The Mason municipal court has jurisdiction within Deerfield 40793
township in Warren county. 40794

The Massillon municipal court has jurisdiction within 40795
Bethlehem, Perry, Sugar Creek, Tuscarawas, Lawrence, and Jackson 40796
townships in Stark county. 40797

The Maumee municipal court has jurisdiction within the 40798
municipal corporations of Waterville and Whitehouse, within 40799
Waterville and Providence townships, and within those portions of 40800
Springfield, Monclova, and Swanton townships lying south of the 40801
northerly boundary line of the Ohio turnpike, in Lucas county. 40802

The Medina municipal court has jurisdiction within the 40803
municipal corporations of Briarwood Beach, Brunswick, 40804
Chippewa-on-the-Lake, and Spencer and within the townships of 40805
Brunswick Hills, Chatham, Granger, Hinckley, Lafayette, 40806
Litchfield, Liverpool, Medina, Montville, Spencer, and York 40807
townships, in Medina county. 40808

The Mentor municipal court has jurisdiction within the 40809
municipal corporation of Mentor-on-the-Lake in Lake county. 40810

The Miami county municipal court has jurisdiction within 40811

Miami county and within the part of the municipal corporation of 40812
Bradford that is located in Darke county. 40813

The Miamisburg municipal court has jurisdiction within the 40814
municipal corporations of Germantown and West Carrollton, and 40815
within German and Miami townships in Montgomery county. 40816

The Middletown municipal court has jurisdiction within 40817
Madison township, and within all of Lemon township, except within 40818
the municipal corporation of Monroe, in Butler county. 40819

Beginning July 1, 2010, the Montgomery county municipal court 40820
has jurisdiction within all of Montgomery county except for the 40821
municipal corporations of Centerville, Clayton, Dayton, Englewood, 40822
Germantown, Kettering, Miamisburg, Moraine, Oakwood, Union, 40823
Vandalia, and West Carrollton and Butler, German, Harrison, Miami, 40824
and Washington townships. 40825

Beginning January 1, 2003, the Morrow county municipal court 40826
has jurisdiction within Morrow county. 40827

The Mount Vernon municipal court has jurisdiction within Knox 40828
county. 40829

The Napoleon municipal court has jurisdiction within Henry 40830
county. 40831

The New Philadelphia municipal court has jurisdiction within 40832
the municipal corporation of Dover, and within Auburn, Bucks, 40833
Fairfield, Goshen, Jefferson, Warren, York, Dover, Franklin, 40834
Lawrence, Sandy, Sugarcreek, and Wayne townships in Tuscarawas 40835
county. 40836

The Newton Falls municipal court has jurisdiction within 40837
Bristol, Bloomfield, Lordstown, Newton, Braceville, Southington, 40838
Farmington, and Mesopotamia townships in Trumbull county. 40839

The Niles municipal court has jurisdiction within the 40840
municipal corporation of McDonald, and within Weathersfield 40841

township in Trumbull county. 40842

The Norwalk municipal court has jurisdiction within all of 40843
Huron county except within the municipal corporation of Bellevue 40844
and except within Lyme and Sherman townships. 40845

The Oberlin municipal court has jurisdiction within the 40846
municipal corporations of Amherst, Kipton, Rochester, South 40847
Amherst, and Wellington, and within Henrietta, Russia, Camden, 40848
Pittsfield, Brighton, Wellington, Penfield, Rochester, and 40849
Huntington townships, and within all of Amherst township except 40850
within the municipal corporation of Lorain, in Lorain county. 40851

The Oregon municipal court has jurisdiction within the 40852
municipal corporation of Harbor View, and within Jerusalem 40853
township, in Lucas county, and north within Maumee Bay and Lake 40854
Erie to the boundary line between Ohio and Michigan between the 40855
easterly boundary of the court and the easterly boundary of the 40856
Toledo municipal court. 40857

The Ottawa county municipal court has jurisdiction within 40858
Ottawa county. 40859

The Painesville municipal court has jurisdiction within 40860
Painesville, Perry, Leroy, Concord, and Madison townships in Lake 40861
county. 40862

The Parma municipal court has jurisdiction within the 40863
municipal corporations of Parma Heights, Brooklyn, Linndale, North 40864
Royalton, Broadview Heights, Seven Hills, and Brooklyn Heights in 40865
Cuyahoga county. 40866

The Perrysburg municipal court has jurisdiction within the 40867
municipal corporations of Luckey, Millbury, Northwood, Rossford, 40868
and Walbridge, and within Perrysburg, Lake, and Troy townships, in 40869
Wood county. 40870

The Portage county municipal court has jurisdiction within 40871

Portage county.	40872
The Portsmouth municipal court has jurisdiction within Scioto county.	40873 40874
The Putnam county municipal court has jurisdiction within Putnam county.	40875 40876
The Rocky River municipal court has jurisdiction within the municipal corporations of Bay Village, Westlake, Fairview Park, and North Olmsted, and within Riveredge township, in Cuyahoga county.	40877 40878 40879 40880
The Sandusky municipal court has jurisdiction within the municipal corporations of Castalia and Bay View, and within Perkins township, in Erie county.	40881 40882 40883
The Shaker Heights municipal court has jurisdiction within the municipal corporations of University Heights, Beachwood, Pepper Pike, and Hunting Valley in Cuyahoga county.	40884 40885 40886
The Shelby municipal court has jurisdiction within Sharon, Jackson, Cass, Plymouth, and Blooming Grove townships, and within all of Butler township except sections 35-36-31 and 32, in Richland county.	40887 40888 40889 40890
The Sidney municipal court has jurisdiction within Shelby county.	40891 40892
Beginning January 1, 2009, the Stow municipal court has jurisdiction within Boston, Hudson, Northfield Center, Sagamore Hills, and Twinsburg townships, and within the municipal corporations of Boston Heights, Cuyahoga Falls, Hudson, Munroe Falls, Northfield, Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit county.	40893 40894 40895 40896 40897 40898
The Struthers municipal court has jurisdiction within the municipal corporations of Lowellville, New Middleton, and Poland, and within Poland and Springfield townships in Mahoning county.	40899 40900 40901

The Sylvania municipal court has jurisdiction within the 40902
municipal corporations of Berkey and Holland, and within Sylvania, 40903
Richfield, Spencer, and Harding townships, and within those 40904
portions of Swanton, Monclova, and Springfield townships lying 40905
north of the northerly boundary line of the Ohio turnpike, in 40906
Lucas county. 40907

The Tiffin municipal court has jurisdiction within Adams, Big 40908
Spring, Bloom, Clinton, Eden, Hopewell, Liberty, Pleasant, Reed, 40909
Scipio, Seneca, Thompson, and Venice townships in Seneca county. 40910

The Toledo municipal court has jurisdiction within Washington 40911
township, and within the municipal corporation of Ottawa Hills, in 40912
Lucas county. 40913

The Upper Sandusky municipal court has jurisdiction within 40914
Wyandot county. 40915

The Vandalia municipal court has jurisdiction within the 40916
municipal corporations of Clayton, Englewood, and Union, and 40917
within Butler, Harrison, and Randolph townships, in Montgomery 40918
county. 40919

The Van Wert municipal court has jurisdiction within Van Wert 40920
county. 40921

The Vermilion municipal court has jurisdiction within the 40922
townships of Vermilion and Florence in Erie county and within all 40923
of Brownhelm township except within the municipal corporation of 40924
Lorain, in Lorain county. 40925

The Wadsworth municipal court has jurisdiction within the 40926
municipal corporations of Gloria Glens Park, Lodi, Seville, and 40927
Westfield Center, and within Guilford, Harrisville, Homer, Sharon, 40928
Wadsworth, and Westfield townships in Medina county. 40929

The Warren municipal court has jurisdiction within Warren and 40930
Champion townships, and within all of Howland township except 40931

within the municipal corporation of Niles, in Trumbull county. 40932

The Washington Court House municipal court has jurisdiction 40933
within Fayette county. 40934

The Wayne county municipal court has jurisdiction within 40935
Wayne county. 40936

The Willoughby municipal court has jurisdiction within the 40937
municipal corporations of Eastlake, Wickliffe, Willowick, 40938
Willoughby Hills, Kirtland, Kirtland Hills, Waite Hill, 40939
Timberlake, and Lakeline, and within Kirtland township, in Lake 40940
county. 40941

Through June 30, 1992, the Wilmington municipal court has 40942
jurisdiction within Clinton county. 40943

The Xenia municipal court has jurisdiction within 40944
Caesarcreek, Cedarville, Jefferson, Miami, New Jasper, Ross, 40945
Silvercreek, Spring Valley, Sugarcreek, and Xenia townships in 40946
Greene county. 40947

(C) As used in this section: 40948

(1) "Within a township" includes all land, including, but not 40949
limited to, any part of any municipal corporation, that is 40950
physically located within the territorial boundaries of that 40951
township, whether or not that land or municipal corporation is 40952
governmentally a part of the township. 40953

(2) "Within a municipal corporation" includes all land within 40954
the territorial boundaries of the municipal corporation and any 40955
townships that are coextensive with the municipal corporation. 40956

Sec. 1901.06. A municipal judge during the judge's term of 40957
office shall be a qualified elector and a resident of the 40958
territory of the court to which the judge is elected or appointed. 40959
A municipal judge shall have been admitted to the practice of law 40960
in this state and shall have been, for a total of at least six 40961

years preceding appointment or the commencement of the judge's 40962
term, engaged in the practice of law ~~in this state~~ or served as a 40963
judge of a court of record in any jurisdiction in the United 40964
States, or both. At least two of the years of practice or service 40965
that qualify a judge shall have been in this state. 40966

Except as provided in section 1901.08 of the Revised Code, 40967
the first election of any newly created office of a municipal 40968
judge shall be held at the next regular municipal election 40969
occurring not less than one hundred days after the creation of the 40970
office. Except as otherwise provided in division (G) of section 40971
1901.01 of the Revised Code, the institution of a new municipal 40972
court shall take place on the first day of January next after the 40973
first election for the court. 40974

Sec. 1901.18. (A) Except as otherwise provided in this 40975
division or section 1901.181 of the Revised Code, subject to the 40976
monetary jurisdiction of municipal courts as set forth in section 40977
1901.17 of the Revised Code, a municipal court has original 40978
jurisdiction within its territory in all of the following actions 40979
or proceedings and to perform all of the following functions: 40980

(1) In any civil action, of whatever nature or remedy, of 40981
which judges of county courts have jurisdiction; 40982

(2) In any action or proceeding at law for the recovery of 40983
money or personal property of which the court of common pleas has 40984
jurisdiction; 40985

(3) In any action at law based on contract, to determine, 40986
preserve, and enforce all legal and equitable rights involved in 40987
the contract, to decree an accounting, reformation, or 40988
cancellation of the contract, and to hear and determine all legal 40989
and equitable remedies necessary or proper for a complete 40990
determination of the rights of the parties to the contract; 40991

(4) In any action or proceeding for the sale of personal 40992
property under chattel mortgage, lien, encumbrance, or other 40993
charge, for the foreclosure and marshalling of liens on personal 40994
property of that nature, and for the rendering of personal 40995
judgment in the action or proceeding; 40996

(5) In any action or proceeding to enforce the collection of 40997
its own judgments or the judgments rendered by any court within 40998
the territory to which the municipal court has succeeded, and to 40999
subject the interest of a judgment debtor in personal property to 41000
satisfy judgments enforceable by the municipal court; 41001

(6) In any action or proceeding in the nature of 41002
interpleader; 41003

(7) In any action of replevin; 41004

(8) In any action of forcible entry and detainer; 41005

(9) In any action concerning the issuance and enforcement of 41006
temporary protection orders pursuant to section 2919.26 of the 41007
Revised Code or protection orders pursuant to section 2903.213 of 41008
the Revised Code or the enforcement of protection orders issued by 41009
courts of another state, as defined in section 2919.27 of the 41010
Revised Code; 41011

(10) If the municipal court has a housing or environmental 41012
division, in any action over which the division is given 41013
jurisdiction by section 1901.181 of the Revised Code, provided 41014
that, except as specified in division (B) of that section, no 41015
judge of the court other than the judge of the division shall hear 41016
or determine any action over which the division has jurisdiction; 41017

(11) In any action brought pursuant to division (I) of 41018
section ~~3733.11~~ 4781.40 of the Revised Code, if the residential 41019
premises that are the subject of the action are located within the 41020
territorial jurisdiction of the court; 41021

(12) In any civil action as described in division (B)(1) of 41022
section 3767.41 of the Revised Code that relates to a public 41023
nuisance, and, to the extent any provision of this chapter 41024
conflicts or is inconsistent with a provision of that section, the 41025
provision of that section shall control in the civil action. 41026

(B) The Cleveland municipal court also shall have 41027
jurisdiction within its territory in all of the following actions 41028
or proceedings and to perform all of the following functions: 41029

(1) In all actions and proceedings for the sale of real 41030
property under lien of a judgment of the municipal court or a lien 41031
for machinery, material, or fuel furnished or labor performed, 41032
irrespective of amount, and, in those actions and proceedings, the 41033
court may proceed to foreclose and marshal all liens and all 41034
vested or contingent rights, to appoint a receiver, and to render 41035
personal judgment irrespective of amount in favor of any party. 41036

(2) In all actions for the foreclosure of a mortgage on real 41037
property given to secure the payment of money or the enforcement 41038
of a specific lien for money or other encumbrance or charge on 41039
real property, when the amount claimed by the plaintiff does not 41040
exceed fifteen thousand dollars and the real property is situated 41041
within the territory, and, in those actions, the court may proceed 41042
to foreclose all liens and all vested and contingent rights and 41043
may proceed to render judgments and make findings and orders 41044
between the parties in the same manner and to the same extent as 41045
in similar actions in the court of common pleas. 41046

(3) In all actions for the recovery of real property situated 41047
within the territory to the same extent as courts of common pleas 41048
have jurisdiction; 41049

(4) In all actions for injunction to prevent or terminate 41050
violations of the ordinances and regulations of the city of 41051
Cleveland enacted or promulgated under the police power of the 41052

city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 41053
Constitution, over which the court of common pleas has or may have 41054
jurisdiction, and, in those actions, the court may proceed to 41055
render judgments and make findings and orders in the same manner 41056
and to the same extent as in similar actions in the court of 41057
common pleas. 41058

Sec. 1901.261. (A)(1) A municipal court may determine that 41059
for the efficient operation of the court additional funds are 41060
required to computerize the court, to make available computerized 41061
legal research services, or to do both. Upon making a 41062
determination that additional funds are required for either or 41063
both of those purposes, the court shall include in its schedule of 41064
fees and costs under section 1901.26 of the Revised Code one 41065
additional fee not to exceed three dollars on the filing of each 41066
cause of action or appeal equivalent to one described in division 41067
(A), (Q), or (U) of section 2303.20 of the Revised Code and shall 41068
direct the clerk of the court to charge the fee. 41069

(2) All fees collected under this section shall be paid to 41070
the county treasurer if the court is a county-operated municipal 41071
court or to the city treasurer if the court is not a 41072
county-operated municipal court. The treasurer shall place the 41073
funds from the fees in a separate fund to be disbursed upon an 41074
order of the court, subject to an appropriation by the board of 41075
county commissioners if the court is a county-operated municipal 41076
court or by the legislative authority of the municipal corporation 41077
if the court is not a county-operated municipal court, in an 41078
amount not greater than the actual cost to the court of 41079
computerizing the court, procuring and maintaining computerized 41080
legal research services, or both. 41081

(3) If the court determines that the funds in the fund 41082
described in division (A)(2) of this section are more than 41083

sufficient to satisfy the purpose for which the additional fee 41084
described in division (A)(1) of this section was imposed, the 41085
court may declare a surplus in the fund and, subject to an 41086
appropriation by the board of county commissioners if the court is 41087
a county-operated municipal court or by the legislative authority 41088
of the municipal corporation if the court is not a county-operated 41089
municipal court, expend those surplus funds for other appropriate 41090
technological expenses of the court. 41091

(B)(1) A municipal court may determine that, for the 41092
efficient operation of the court, additional funds are required to 41093
computerize the office of the clerk of the court and, upon that 41094
determination, may include in its schedule of fees and costs under 41095
section 1901.26 of the Revised Code an additional fee not to 41096
exceed ten dollars on the filing of each cause of action or 41097
appeal, on the filing, docketing, and endorsing of each 41098
certificate of judgment, or on the docketing and indexing of each 41099
aid in execution or petition to vacate, revive, or modify a 41100
judgment that is equivalent to one described in division (A), (P), 41101
(Q), (T), or (U) of section 2303.20 of the Revised Code. Subject 41102
to division (B)(2) of this section, all moneys collected under 41103
division (B)(1) of this section shall be paid to the county 41104
treasurer if the court is a county-operated municipal court or to 41105
the city treasurer if the court is not a county-operated municipal 41106
court. The treasurer shall place the funds from the fees in a 41107
separate fund to be disbursed, upon an order of the municipal 41108
court and subject to an appropriation by the board of county 41109
commissioners if the court is a county-operated municipal court or 41110
by the legislative authority of the municipal corporation if the 41111
court is not a county-operated municipal court, in an amount no 41112
greater than the actual cost to the court of procuring and 41113
maintaining computer systems for the office of the clerk of the 41114
municipal court. 41115

(2) If a municipal court makes the determination described in 41116
division (B)(1) of this section, the board of county commissioners 41117
of the county if the court is a county-operated municipal court or 41118
the legislative authority of the municipal corporation if the 41119
court is not a county-operated municipal court, may issue one or 41120
more general obligation bonds for the purpose of procuring and 41121
maintaining the computer systems for the office of the clerk of 41122
the municipal court. In addition to the purposes stated in 41123
division (B)(1) of this section for which the moneys collected 41124
under that division may be expended, the moneys additionally may 41125
be expended to pay debt charges and financing costs related to any 41126
general obligation bonds issued pursuant to division (B)(2) of 41127
this section as they become due. General obligation bonds issued 41128
pursuant to division (B)(2) of this section are Chapter 133. 41129
securities. 41130

Sec. 1901.262. (A) A municipal court may establish by rule 41131
procedures for the resolution of disputes between parties. Any 41132
procedures so adopted shall include, but are not limited to, 41133
mediation. If the court establishes any procedures under this 41134
division, the court may include in the court's schedule of fees 41135
and costs under section 1901.26 of the Revised Code a reasonable 41136
fee, that is to be collected on the filing of each civil or 41137
criminal action or proceeding, and that is to be used to implement 41138
the procedures, and the court shall direct the clerk of the court 41139
to charge the fee. 41140

(B) All fees collected under division (A) of this section 41141
shall be paid to the county treasurer if the court is a 41142
county-operated municipal court or to the city treasurer if the 41143
court is not a county-operated municipal court. The treasurer 41144
shall place the funds from the fees in a separate fund to be 41145
disbursed upon an order of the court, subject to an appropriation 41146
by the board of county commissioners if the court is a 41147

county-operated municipal court or by the legislative authority of 41148
the municipal corporation if the court is not a county-operated 41149
municipal court. 41150

(C) If the court determines that the amount of the moneys in 41151
the fund described in division (B) of this section is more than 41152
the amount sufficient to satisfy the purpose for which the 41153
additional fee described in division (A) of this section was 41154
imposed, the court may declare a surplus in the fund and, subject 41155
to an appropriation by the board of county commissioners if the 41156
court is a county-operated municipal court or by the legislative 41157
authority of the municipal corporation if the court is not a 41158
county-operated municipal court, expend the surplus moneys for 41159
other appropriate expenses of the court. 41160

Sec. 1901.41. (A) Notwithstanding ~~section~~ sections 149.381 41161
and 149.39 of the Revised Code and subject to division (E) of this 41162
section, each municipal court, by rule, may order the destruction 41163
or other disposition of the files of cases that have been finally 41164
disposed of by the court for at least five years as follows: 41165

(1) If a case has been finally disposed of for at least five 41166
years, but less than fifteen years prior to the adoption of the 41167
rule of court for destruction or other disposition of the files, 41168
the court may order the files destroyed or otherwise disposed of 41169
only if the court first complies with division (B)(1) of this 41170
section; 41171

(2) If a case has been finally disposed of for fifteen years 41172
or more prior to the adoption of the rule of court for destruction 41173
or other disposition of the files, the court may order the files 41174
destroyed or otherwise disposed of without having copied or 41175
reproduced the files prior to their destruction. 41176

(B)(1) Except as otherwise provided in this division, all 41177
files destroyed or otherwise disposed of under division (A)(1) of 41178

this section shall be copied or reproduced prior to their 41179
destruction or disposition in the manner and according to the 41180
procedure prescribed in section 9.01 of the Revised Code. The 41181
copies or reproductions of the files made pursuant to section 9.01 41182
of the Revised Code shall be retained and preserved by the court 41183
for a period of ten years after the destruction of the original 41184
files in accordance with this section, after which the copies or 41185
reproductions themselves may be destroyed or otherwise disposed 41186
of. 41187

Files destroyed or otherwise disposed of under division 41188
(A)(1) of this section that are solely concerned with criminal 41189
prosecutions for minor misdemeanor offenses or that are concerned 41190
solely with minor misdemeanor traffic prosecutions do not have to 41191
be copied or reproduced in any manner or under any procedure prior 41192
to their destruction or disposition as provided in this section. 41193

(2) Files destroyed or otherwise disposed of under division 41194
(A)(2) of this section do not have to be copied or reproduced in 41195
any manner or under any procedure prior to their destruction or 41196
disposition. 41197

(C) Nothing in this section permits or shall be construed as 41198
permitting the destruction or other disposition of the files in 41199
the Cleveland municipal court of cases involving the following 41200
actions and proceedings: 41201

(1) The sale of real property in an action to foreclose and 41202
marshal all liens on the real property; 41203

(2) The sale of real property in an action to foreclose a 41204
mortgage on the real property; 41205

(3) The determination of rights in the title to real property 41206
either in the form of a creditor's bill or in any other action 41207
intended to determine or adjudicate the right, title, and interest 41208
of a person or persons in the ownership of a parcel or parcels of 41209

real property or any interest therein. 41210

(D) All dockets, indexes, journals, and cash books of the 41211
court shall be retained and preserved by the court for at least 41212
twenty-five years unless they are reproduced in the manner and 41213
according to the procedure prescribed in section 9.01 of the 41214
Revised Code, in which case the reproductions shall be retained 41215
and preserved by the court at least until the expiration of the 41216
twenty-five year period for which the originals would have had to 41217
have been retained. Court dockets, indexes, journals, and cash 41218
books, and all other court records also shall be subject to 41219
destruction or other disposition under section ~~149.39~~ 149.381 of 41220
the Revised Code. 41221

(E) Notwithstanding ~~section~~ sections 149.381 and 149.39 of 41222
the Revised Code, each clerk of a municipal court shall retain 41223
documentation regarding each criminal conviction and plea of 41224
guilty involving a case that is or was before the court. The 41225
documentation shall be in a form that is admissible as evidence in 41226
a criminal proceeding as evidence of a prior conviction or that is 41227
readily convertible to or producible in a form that is admissible 41228
as evidence in a criminal proceeding as evidence of a prior 41229
conviction and may be retained in any form authorized by section 41230
9.01 of the Revised Code. The clerk shall retain this 41231
documentation for a period of fifty years after the entry of 41232
judgment in the case, except that documentation regarding cases 41233
solely concerned with minor misdemeanor offenses or minor 41234
misdemeanor traffic offenses shall be retained as provided in 41235
divisions (A) and (B) of this section, and documentation regarding 41236
other misdemeanor traffic offenses shall be retained for a period 41237
of twenty-five years after the entry of judgment in the case. This 41238
section shall apply to records currently retained and to records 41239
created on or after September 23, 2004. 41240

Sec. 1905.01. (A) In Georgetown in Brown county, in Mount 41241
Gilead in Morrow county, and in all other municipal corporations 41242
having a population of more than one hundred fifty, other than 41243
Batavia in Clermont county, not being the site of a municipal 41244
court nor a place where a judge of the Auglaize county, Crawford 41245
county, Jackson county, Miami county, Montgomery county, Portage 41246
county, or Wayne county municipal court sits as required pursuant 41247
to section 1901.021 of the Revised Code or by designation of the 41248
judges pursuant to section 1901.021 of the Revised Code, the mayor 41249
of the municipal corporation has jurisdiction, except as provided 41250
in divisions (B), (C), and (E) of this section and subject to the 41251
limitation contained in section 1905.03 and the limitation 41252
contained in section 1905.031 of the Revised Code, to hear and 41253
determine any prosecution for the violation of an ordinance of the 41254
municipal corporation, to hear and determine any case involving a 41255
violation of a vehicle parking or standing ordinance of the 41256
municipal corporation unless the violation is required to be 41257
handled by a parking violations bureau or joint parking violations 41258
bureau pursuant to Chapter 4521. of the Revised Code, and to hear 41259
and determine all criminal causes involving any moving traffic 41260
violation occurring on a state highway located within the 41261
boundaries of the municipal corporation, subject to the 41262
limitations of sections 2937.08 and 2938.04 of the Revised Code. 41263

(B)(1) In Georgetown in Brown county, in Mount Gilead in 41264
Morrow county, and in all other municipal corporations having a 41265
population of more than one hundred fifty, other than Batavia in 41266
Clermont county, not being the site of a municipal court nor a 41267
place where a judge of a court listed in division (A) of this 41268
section sits as required pursuant to section 1901.021 of the 41269
Revised Code or by designation of the judges pursuant to section 41270
1901.021 of the Revised Code, the mayor of the municipal 41271
corporation has jurisdiction, subject to the limitation contained 41272

in section 1905.03 of the Revised Code, to hear and determine 41273
prosecutions involving a violation of an ordinance of the 41274
municipal corporation relating to operating a vehicle while under 41275
the influence of alcohol, a drug of abuse, or a combination of 41276
them or relating to operating a vehicle with a prohibited 41277
concentration of alcohol, a controlled substance, or a metabolite 41278
of a controlled substance in the whole blood, blood serum or 41279
plasma, breath, or urine, and to hear and determine criminal 41280
causes involving a violation of section 4511.19 of the Revised 41281
Code that occur on a state highway located within the boundaries 41282
of the municipal corporation, subject to the limitations of 41283
sections 2937.08 and 2938.04 of the Revised Code, only if the 41284
person charged with the violation, within six years of the date of 41285
the violation charged, has not been convicted of or pleaded guilty 41286
to any of the following: 41287

(a) A violation of an ordinance of any municipal corporation 41288
relating to operating a vehicle while under the influence of 41289
alcohol, a drug of abuse, or a combination of them or relating to 41290
operating a vehicle with a prohibited concentration of alcohol, a 41291
controlled substance, or a metabolite of a controlled substance in 41292
the whole blood, blood serum or plasma, breath, or urine; 41293

(b) A violation of section 4511.19 of the Revised Code; 41294

(c) A violation of any ordinance of any municipal corporation 41295
or of any section of the Revised Code that regulates the operation 41296
of vehicles, streetcars, and trackless trolleys upon the highways 41297
or streets, to which all of the following apply: 41298

(i) The person, in the case in which the conviction was 41299
obtained or the plea of guilty was entered, had been charged with 41300
a violation of an ordinance of a type described in division 41301
(B)(1)(a) of this section, or with a violation of section 4511.19 41302
of the Revised Code; 41303

(ii) The charge of the violation described in division 41304
(B)(1)(c)(i) of this section was dismissed or reduced; 41305

(iii) The violation of which the person was convicted or to 41306
which the person pleaded guilty arose out of the same facts and 41307
circumstances and the same act as did the charge that was 41308
dismissed or reduced. 41309

(d) A violation of a statute of the United States or of any 41310
other state or a municipal ordinance of a municipal corporation 41311
located in any other state that is substantially similar to 41312
section 4511.19 of the Revised Code. 41313

(2) The mayor of a municipal corporation does not have 41314
jurisdiction to hear and determine any prosecution or criminal 41315
cause involving a violation described in division (B)(1)(a) or (b) 41316
of this section, regardless of where the violation occurred, if 41317
the person charged with the violation, within six years of the 41318
violation charged, has been convicted of or pleaded guilty to any 41319
violation listed in division (B)(1)(a), (b), (c), or (d) of this 41320
section. 41321

If the mayor of a municipal corporation, in hearing a 41322
prosecution involving a violation of an ordinance of the municipal 41323
corporation the mayor serves relating to operating a vehicle while 41324
under the influence of alcohol, a drug of abuse, or a combination 41325
of them or relating to operating a vehicle with a prohibited 41326
concentration of alcohol, a controlled substance, or a metabolite 41327
of a controlled substance in the whole blood, blood serum or 41328
plasma, breath, or urine, or in hearing a criminal cause involving 41329
a violation of section 4511.19 of the Revised Code, determines 41330
that the person charged, within six years of the violation 41331
charged, has been convicted of or pleaded guilty to any violation 41332
listed in division (B)(1)(a), (b), (c), or (d) of this section, 41333
the mayor immediately shall transfer the case to the county court 41334
or municipal court with jurisdiction over the violation charged, 41335

in accordance with section 1905.032 of the Revised Code. 41336

(C)(1) In Georgetown in Brown county, in Mount Gilead in 41337
Morrow county, and in all other municipal corporations having a 41338
population of more than one hundred fifty, other than Batavia in 41339
Clermont county, not being the site of a municipal court and not 41340
being a place where a judge of a court listed in division (A) of 41341
this section sits as required pursuant to section 1901.021 of the 41342
Revised Code or by designation of the judges pursuant to section 41343
1901.021 of the Revised Code, the mayor of the municipal 41344
corporation, subject to sections 1901.031, 2937.08, and 2938.04 of 41345
the Revised Code, has jurisdiction to hear and determine 41346
prosecutions involving a violation of a municipal ordinance that 41347
is substantially equivalent to division (A) of section 4510.14 or 41348
section 4510.16 of the Revised Code and to hear and determine 41349
criminal causes that involve a moving traffic violation, that 41350
involve a violation of division (A) of section 4510.14 or section 41351
4510.16 of the Revised Code, and that occur on a state highway 41352
located within the boundaries of the municipal corporation only if 41353
all of the following apply regarding the violation and the person 41354
charged: 41355

(a) Regarding a violation of section 4510.16 of the Revised 41356
Code or a violation of a municipal ordinance that is substantially 41357
equivalent to that division, the person charged with the 41358
violation, within six years of the date of the violation charged, 41359
has not been convicted of or pleaded guilty to any of the 41360
following: 41361

(i) A violation of section 4510.16 of the Revised Code; 41362

(ii) A violation of a municipal ordinance that is 41363
substantially equivalent to section 4510.16 of the Revised Code; 41364

(iii) A violation of any municipal ordinance or section of 41365
the Revised Code that regulates the operation of vehicles, 41366

streetcars, and trackless trolleys upon the highways or streets, 41367
in a case in which, after a charge against the person of a 41368
violation of a type described in division (C)(1)(a)(i) or (ii) of 41369
this section was dismissed or reduced, the person is convicted of 41370
or pleads guilty to a violation that arose out of the same facts 41371
and circumstances and the same act as did the charge that was 41372
dismissed or reduced. 41373

(b) Regarding a violation of division (A) of section 4510.14 41374
of the Revised Code or a violation of a municipal ordinance that 41375
is substantially equivalent to that division, the person charged 41376
with the violation, within six years of the date of the violation 41377
charged, has not been convicted of or pleaded guilty to any of the 41378
following: 41379

(i) A violation of division (A) of section 4510.14 of the 41380
Revised Code; 41381

(ii) A violation of a municipal ordinance that is 41382
substantially equivalent to division (A) of section 4510.14 of the 41383
Revised Code; 41384

(iii) A violation of any municipal ordinance or section of 41385
the Revised Code that regulates the operation of vehicles, 41386
streetcars, and trackless trolleys upon the highways or streets in 41387
a case in which, after a charge against the person of a violation 41388
of a type described in division (C)(1)(b)(i) or (ii) of this 41389
section was dismissed or reduced, the person is convicted of or 41390
pleads guilty to a violation that arose out of the same facts and 41391
circumstances and the same act as did the charge that was 41392
dismissed or reduced. 41393

(2) The mayor of a municipal corporation does not have 41394
jurisdiction to hear and determine any prosecution or criminal 41395
cause involving a violation described in division (C)(1)(a)(i) or 41396
(ii) of this section if the person charged with the violation, 41397

within six years of the violation charged, has been convicted of 41398
or pleaded guilty to any violation listed in division 41399
(C)(1)(a)(i), (ii), or (iii) of this section and does not have 41400
jurisdiction to hear and determine any prosecution or criminal 41401
cause involving a violation described in division (C)(1)(b)(i) or 41402
(ii) of this section if the person charged with the violation, 41403
within six years of the violation charged, has been convicted of 41404
or pleaded guilty to any violation listed in division 41405
(C)(1)(b)(i), (ii), or (iii) of this section. 41406

(3) If the mayor of a municipal corporation, in hearing a 41407
prosecution involving a violation of an ordinance of the municipal 41408
corporation the mayor serves that is substantially equivalent to 41409
division (A) of section 4510.14 or section 4510.16 of the Revised 41410
Code or a violation of division (A) of section 4510.14 or section 41411
4510.16 of the Revised Code, determines that, under division 41412
(C)(2) of this section, mayors do not have jurisdiction of the 41413
prosecution, the mayor immediately shall transfer the case to the 41414
county court or municipal court with jurisdiction over the 41415
violation in accordance with section 1905.032 of the Revised Code. 41416

(D) If the mayor of a municipal corporation has jurisdiction 41417
pursuant to division (B)(1) of this section to hear and determine 41418
a prosecution or criminal cause involving a violation described in 41419
division (B)(1)(a) or (b) of this section, the authority of the 41420
mayor to hear or determine the prosecution or cause is subject to 41421
the limitation contained in division (C) of section 1905.03 of the 41422
Revised Code. If the mayor of a municipal corporation has 41423
jurisdiction pursuant to division (A) or (C) of this section to 41424
hear and determine a prosecution or criminal cause involving a 41425
violation other than a violation described in division (B)(1)(a) 41426
or (b) of this section, the authority of the mayor to hear or 41427
determine the prosecution or cause is subject to the limitation 41428
contained in division (C) of section 1905.031 of the Revised Code. 41429

(E)(1) The mayor of a municipal corporation does not have 41430
jurisdiction to hear and determine any prosecution or criminal 41431
cause involving any of the following: 41432

(a) A violation of section 2919.25 or 2919.27 of the Revised 41433
Code; 41434

(b) A violation of section 2903.11, 2903.12, 2903.13, 41435
2903.211, or 2911.211 of the Revised Code that involves a person 41436
who was a family or household member of the defendant at the time 41437
of the violation; 41438

(c) A violation of a municipal ordinance that is 41439
substantially equivalent to an offense described in division 41440
(E)(1)(a) or (b) of this section and that involves a person who 41441
was a family or household member of the defendant at the time of 41442
the violation. 41443

(2) The mayor of a municipal corporation does not have 41444
jurisdiction to hear and determine a motion filed pursuant to 41445
section 2919.26 of the Revised Code or filed pursuant to a 41446
municipal ordinance that is substantially equivalent to that 41447
section or to issue a protection order pursuant to that section or 41448
a substantially equivalent municipal ordinance. 41449

(3) As used in this section, "family or household member" has 41450
the same meaning as in section 2919.25 of the Revised Code. 41451

(F) In keeping a docket and files, the mayor, and a mayor's 41452
court magistrate appointed under section 1905.05 of the Revised 41453
Code, shall be governed by the laws pertaining to county courts. 41454

Sec. 1907.13. A county court judge, at the time of filing a 41455
nominating petition for the office or at the time of appointment 41456
to the office and during the judge's term of office, shall be a 41457
qualified elector and a resident of the county court district in 41458
which the judge is elected or appointed. A county court judge does 41459

not have to be a resident of an area of separate jurisdiction in 41460
the county court district to which the judge may be assigned 41461
pursuant to section 1907.15 of the Revised Code. Every county 41462
court judge shall have been admitted to the practice of law in 41463
this state and shall have been engaged, for a total of at least 41464
six years preceding the judge's appointment or the commencement of 41465
the judge's term, in the practice of law in ~~this state~~ any 41466
jurisdiction in the United States, except that the six-year 41467
practice requirement does not apply to a county court judge who is 41468
holding office on ~~the effective date of this amendment~~ July 2, 41469
2010, and who subsequently is a candidate for that office. At 41470
least two of the years of practice that qualify a judge shall have 41471
been in this state. 41472

Judges shall be elected by the electors of the county court 41473
district at the general election in even-numbered years as set 41474
forth in section 1907.11 of the Revised Code for a term of six 41475
years commencing on the first day of January following the 41476
election for the county court or on the dates specified in section 41477
1907.11 of the Revised Code for particular county court judges. 41478
Their successors shall be elected in even-numbered years every six 41479
years. 41480

All candidates for county court judge shall be nominated by 41481
petition. The nominating petition shall be in the general form and 41482
signed and verified as prescribed by section 3513.261 of the 41483
Revised Code and shall be signed by the lesser of fifty qualified 41484
electors of the county court district or a number of qualified 41485
electors of the county court district not less than one per cent 41486
of the number of electors who voted for governor at the most 41487
recent regular state election in the district. A nominating 41488
petition shall not be accepted for filing or filed if it appears 41489
on its face to contain signatures aggregating in number more than 41490
twice the minimum aggregate number of signatures required by this 41491

section. A nominating petition shall be filed with the board of 41492
elections not later than four p.m. of the ninetieth day before the 41493
day of the general election. 41494

Sec. 1907.261. (A)(1) A county court may determine that for 41495
the efficient operation of the court additional funds are required 41496
to computerize the court, to make available computerized legal 41497
research services, or to do both. Upon making a determination that 41498
additional funds are required for either or both of those 41499
purposes, the court shall include in its schedule of fees and 41500
costs under section 1907.24 of the Revised Code one additional fee 41501
not to exceed three dollars on the filing of each cause of action 41502
or appeal equivalent to one described in division (A), (Q), or (U) 41503
of section 2303.20 of the Revised Code and shall direct the clerk 41504
of the court to charge the fee. 41505

(2) All fees collected under this section shall be paid to 41506
the county treasurer. The treasurer shall place the funds from the 41507
fees in a separate fund to be disbursed upon an order of the 41508
court, subject to an appropriation by the board of county 41509
commissioners, in an amount not greater than the actual cost to 41510
the court of computerizing the court, procuring and maintaining 41511
computerized legal research services, or both. 41512

(3) If the court determines that the funds in the fund 41513
described in division (A)(2) of this section are more than 41514
sufficient to satisfy the purpose for which the additional fee 41515
described in division (A)(1) of this section was imposed, the 41516
court may declare a surplus in the fund and, subject to an 41517
appropriation by the board of county commissioners, expend those 41518
surplus funds for other appropriate technological expenses of the 41519
court. 41520

(B)(1) A county court may determine that, for the efficient 41521
operation of the court, additional funds are required to 41522

computerize the office of the clerk of the court and, upon that 41523
determination, may include in its schedule of fees and costs under 41524
section 1907.24 of the Revised Code an additional fee not to 41525
exceed ten dollars on the filing of each cause of action or 41526
appeal, on the filing, docketing, and endorsing of each 41527
certificate of judgment, or on the docketing and indexing of each 41528
aid in execution or petition to vacate, revive, or modify a 41529
judgment that is equivalent to one described in division (A), (P), 41530
(Q), (T), or (U) of section 2303.20 of the Revised Code. Subject 41531
to division (B)(2) of this section, all moneys collected under 41532
division (B)(1) of this section shall be paid to the county 41533
treasurer. The treasurer shall place the funds from the fees in a 41534
separate fund to be disbursed, upon an order of the county court 41535
and subject to an appropriation by the board of county 41536
commissioners, in an amount no greater than the actual cost to the 41537
court of procuring and maintaining computer systems for the office 41538
of the clerk of the county court. 41539

(2) If a county court makes the determination described in 41540
division (B)(1) of this section, the board of county commissioners 41541
of that county may issue one or more general obligation bonds for 41542
the purpose of procuring and maintaining the computer systems for 41543
the office of the clerk of the county court. In addition to the 41544
purposes stated in division (B)(1) of this section for which the 41545
moneys collected under that division may be expended, the moneys 41546
additionally may be expended to pay debt charges and financing 41547
costs related to any general obligation bonds issued pursuant to 41548
division (B)(2) of this section as they become due. General 41549
obligation bonds issued pursuant to division (B)(2) of this 41550
section are Chapter 133. securities. 41551

Sec. 1907.262. (A) A county court may establish by rule 41552
procedures for the resolution of disputes between parties. Any 41553
procedures so adopted shall include, but are not limited to, 41554

mediation. If the court establishes any procedures under this 41555
division, the court may include in the court's schedule of fees 41556
and costs under section 1907.24 of the Revised Code a reasonable 41557
fee, that is to be collected on the filing of each civil or 41558
criminal action or proceeding, and that is to be used to implement 41559
the procedures, and the court shall direct the clerk of the court 41560
to charge the fee. 41561

(B) All fees collected under division (A) of this section 41562
shall be paid to the county treasurer. The treasurer shall place 41563
the funds from the fees in a separate fund to be disbursed upon an 41564
order of the court, subject to an appropriation by the board of 41565
county commissioners. 41566

(C) If the court determines that the amount of the moneys in 41567
the fund described in division (B) of this section is more than 41568
the amount sufficient to satisfy the purpose for which the 41569
additional fee described in division (A) of this section was 41570
imposed, the court may declare a surplus in the fund and, subject 41571
to an appropriation by the board of county commissioners, expend 41572
the surplus moneys for other appropriate expenses of the court. 41573

Sec. 1907.53. (A)(1) Each judge of a county court may appoint 41574
a bailiff on a full-time or part-time basis. The bailiff shall 41575
receive compensation as prescribed by the appointing judge, and 41576
the compensation is payable in semimonthly installments from the 41577
treasury of the county or other authorized fund. Before entering 41578
upon the duties of the office, a bailiff shall take an oath to 41579
faithfully perform those duties and shall give a bond of not less 41580
than three thousand dollars, as the appointing judge prescribes, 41581
conditioned on the faithful performance of the duties as bailiff. 41582

(2) The board of county commissioners may purchase motor 41584
vehicles for the use of the bailiff that the court determines 41585

necessary to perform the duties of the office. The board, upon 41586
approval by the court, shall pay all expenses, maintenance, and 41587
upkeep of the vehicles from the county treasury or other 41588
authorized fund. Any allowances, costs, and expenses for the 41589
operation of private motor vehicles by the bailiffs for official 41590
duties, including the cost of oil, gasoline, and maintenance, 41591
shall be prescribed by the court and subject to the approval of 41592
the board and shall be paid from the county treasury or other 41593
authorized fund. 41594

(B)(1) In a county court district in which no bailiff is 41595
appointed pursuant to division (A)(1) of this section, every 41596
deputy sheriff of the county, every police officer of a municipal 41597
corporation within the jurisdiction of the court, every member of 41598
a township or joint ~~township~~ police district police force, and 41599
every police constable of a township within the county court 41600
district is ex officio a bailiff of the court in and for the 41601
county, municipal corporation, or township within which the deputy 41602
sheriff, police officer, police force member, or police constable 41603
is commissioned and shall perform, in respect to cases within that 41604
jurisdiction and without additional compensation, any duties that 41605
are required by a judge of the court or by the clerk of the court. 41606

(2) At the request of a county court judge, a deputy sheriff 41607
or constable shall attend the county court while a trial is in 41608
progress. 41609

(C)(1) A bailiff and an ex officio bailiff shall perform for 41610
the county court services similar to those performed by the 41611
sheriff for the court of common pleas and shall perform any other 41612
duties that are required by rule of court. 41613

(2) The bailiff may administer oaths to witnesses and jurors 41614
and receive verdicts in the same manner and form and to the same 41615
extent as the clerk or deputy clerks of the county court. The 41616
bailiff may approve all undertakings and bonds given in actions of 41617

replevin and all redelivery bonds in attachments. 41618

(D) Bailiffs and deputy bailiffs are in the unclassified 41619
civil service. 41620

Sec. 1909.11. A county court judge has jurisdiction in any 41621
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 41622
of the Revised Code if the residential premises that are the 41623
subject of the action are located within the territorial 41624
jurisdiction of the judge's county court district. 41625

Sec. 1923.01. (A) As provided in this chapter, any judge of a 41626
county or municipal court or a court of common pleas, within the 41627
judge's proper area of jurisdiction, may inquire about persons who 41628
make unlawful and forcible entry into lands or tenements and 41629
detain them, and about persons who make a lawful and peaceable 41630
entry into lands or tenements and hold them unlawfully and by 41631
force. If, upon the inquiry, it is found that an unlawful and 41632
forcible entry has been made and the lands or tenements are 41633
detained, or that, after a lawful entry, lands or tenements are 41634
held unlawfully and by force, a judge shall cause the plaintiff in 41635
an action under this chapter to have restitution of the lands or 41636
tenements. 41637

(B) An action shall be brought under this chapter within two 41638
years after the cause of action accrues. 41639

(C) As used in this chapter: 41640

(1) "Tenant" means a person who is entitled under a rental 41641
agreement to the use or occupancy of premises, other than premises 41642
located in a manufactured home park, to the exclusion of others, 41643
except that as used in division (A)(6) of section 1923.02 and 41644
section 1923.051 of the Revised Code, "tenant" includes a 41645
manufactured home park resident. 41646

(2) "Landlord" means the owner, lessor, or sublessor of 41647

premises, or the agent or person the landlord authorizes to manage 41648
premises or to receive rent from a tenant under a rental 41649
agreement, except, if required by the facts of the action to which 41650
the term is applied, "landlord" means a park operator. 41651

(3) "Resident" has the same meaning as in section ~~3733.01~~ 41652
4781.01 of the Revised Code. 41653

(4) "Residential premises" has the same meaning as in section 41654
5321.01 of the Revised Code, except, if required by the facts of 41655
the action to which the term is applied, "residential premises" 41656
has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised 41657
Code. 41658

(5) "Rental agreement" means any agreement or lease, written 41659
or oral, that establishes or modifies the terms, conditions, 41660
rules, or other provisions concerning the use or occupancy of 41661
premises by one of the parties to the agreement or lease, except 41662
that "rental agreement," as used in division (A)(13) of section 41663
1923.02 of the Revised Code and where the context requires as used 41664
in this chapter, means a rental agreement as defined in division 41665
(D) of section 5322.01 of the Revised Code. 41666

(6) "Controlled substance" has the same meaning as in section 41667
3719.01 of the Revised Code. 41668

(7) "School premises" has the same meaning as in section 41669
2925.01 of the Revised Code. 41670

(8) "Sexually oriented offense" and "child-victim oriented 41671
offense" have the same meanings as in section 2950.01 of the 41672
Revised Code. 41673

(9) "Recreational vehicle" and "mobile home" have the same 41674
meanings as in section 4501.01 of the Revised Code. 41675

(10) "Manufactured home" has the same meaning as in section 41676
3781.06 of the Revised Code. 41677

(11) "Manufactured home park" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code and also means any tract of land upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and the owner of the tract of land.

(12) "Park operator" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code and also means a landlord of premises upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and a landlord who is not licensed as a manufactured home park operator pursuant to Chapter ~~3733.~~ 4781. of the Revised Code.

(13) "Personal property" means tangible personal property other than a manufactured home, mobile home, or recreational vehicle that is the subject of an action under this chapter.

(14) "Preschool or child day-care center premises" has the same meaning as in section 2950.034 of the Revised Code.

Sec. 1923.02. (A) Proceedings under this chapter may be had as follows:

(1) Against tenants or manufactured home park residents holding over their terms;

(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section;

(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of

which the sale was made; 41708

(4) In sales by executors, administrators, or guardians, and 41709
on partition, when any of the parties to the complaint were in 41710
possession at the commencement of the action, after the sales, so 41711
made on execution or otherwise, have been examined by the proper 41712
court and adjudged legal; 41713

(5) When the defendant is an occupier of lands or tenements, 41714
without color of title, and the complainant has the right of 41715
possession to them; 41716

(6) In any other case of the unlawful and forcible detention 41717
of lands or tenements. For purposes of this division, in addition 41718
to any other type of unlawful and forcible detention of lands or 41719
tenements, such a detention may be determined to exist when both 41720
of the following apply: 41721

(a) A tenant fails to vacate residential premises within 41722
three days after both of the following occur: 41723

(i) The tenant's landlord has actual knowledge of or has 41724
reasonable cause to believe that the tenant, any person in the 41725
tenant's household, or any person on the premises with the consent 41726
of the tenant previously has or presently is engaged in a 41727
violation of Chapter 2925. or 3719. of the Revised Code, or of a 41728
municipal ordinance that is substantially similar to any section 41729
in either of those chapters, which involves a controlled substance 41730
and which occurred in, is occurring in, or otherwise was or is 41731
connected with the premises, whether or not the tenant or other 41732
person has been charged with, has pleaded guilty to or been 41733
convicted of, or has been determined to be a delinquent child for 41734
an act that, if committed by an adult, would be a violation as 41735
described in this division. For purposes of this division, a 41736
landlord has "actual knowledge of or has reasonable cause to 41737
believe" that a tenant, any person in the tenant's household, or 41738

any person on the premises with the consent of the tenant 41739
previously has or presently is engaged in a violation as described 41740
in this division if a search warrant was issued pursuant to 41741
Criminal Rule 41 or Chapter 2933. of the Revised Code; the 41742
affidavit presented to obtain the warrant named or described the 41743
tenant or person as the individual to be searched and particularly 41744
described the tenant's premises as the place to be searched, named 41745
or described one or more controlled substances to be searched for 41746
and seized, stated substantially the offense under Chapter 2925. 41747
or 3719. of the Revised Code or the substantially similar 41748
municipal ordinance that occurred in, is occurring in, or 41749
otherwise was or is connected with the tenant's premises, and 41750
states the factual basis for the affiant's belief that the 41751
controlled substances are located on the tenant's premises; the 41752
warrant was properly executed by a law enforcement officer and any 41753
controlled substance described in the affidavit was found by that 41754
officer during the search and seizure; and, subsequent to the 41755
search and seizure, the landlord was informed by that or another 41756
law enforcement officer of the fact that the tenant or person has 41757
or presently is engaged in a violation as described in this 41758
division and it occurred in, is occurring in, or otherwise was or 41759
is connected with the tenant's premises. 41760

(ii) The landlord gives the tenant the notice required by 41761
division (C) of section 5321.17 of the Revised Code. 41762

(b) The court determines, by a preponderance of the evidence, 41763
that the tenant, any person in the tenant's household, or any 41764
person on the premises with the consent of the tenant previously 41765
has or presently is engaged in a violation as described in 41766
division (A)(6)(a)(i) of this section. 41767

(7) In cases arising out of Chapter 5313. of the Revised 41768
Code. In those cases, the court has the authority to declare a 41769
forfeiture of the vendee's rights under a land installment 41770

contract and to grant any other claims arising out of the 41771
contract. 41772

(8) Against tenants who have breached an obligation that is 41773
imposed by section 5321.05 of the Revised Code, other than the 41774
obligation specified in division (A)(9) of that section, and that 41775
materially affects health and safety. Prior to the commencement of 41776
an action under this division, notice shall be given to the tenant 41777
and compliance secured with section 5321.11 of the Revised Code. 41778

(9) Against tenants who have breached an obligation imposed 41779
upon them by a written rental agreement; 41780

(10) Against manufactured home park residents who have 41781
defaulted in the payment of rent or breached the terms of a rental 41782
agreement with a park operator. Nothing in this division precludes 41783
the commencement of an action under division (A)(12) of this 41784
section when the additional circumstances described in that 41785
division apply. 41786

(11) Against manufactured home park residents who have 41787
committed two material violations of the rules of the manufactured 41788
home park, of the ~~public health council~~ manufactured homes 41789
commission, or of applicable state and local health and safety 41790
codes and who have been notified of the violations in compliance 41791
with section ~~3733.13~~ 4781.45 of the Revised Code; 41792

(12) Against a manufactured home park resident, or the estate 41793
of a manufactured home park resident, who as a result of death or 41794
otherwise has been absent from the manufactured home park for a 41795
period of thirty consecutive days prior to the commencement of an 41796
action under this division and whose manufactured home or mobile 41797
home, or recreational vehicle that is parked in the manufactured 41798
home park, has been left unoccupied for that thirty-day period, 41799
without notice to the park operator and without payment of rent 41800
due under the rental agreement with the park operator; 41801

(13) Against occupants of self-service storage facilities, as 41802
defined in division (A) of section 5322.01 of the Revised Code, 41803
who have breached the terms of a rental agreement or violated 41804
section 5322.04 of the Revised Code; 41805

(14) Against any resident or occupant who, pursuant to a 41806
rental agreement, resides in or occupies residential premises 41807
located within one thousand feet of any school premises or 41808
preschool or child day-care center premises and to whom both of 41809
the following apply: 41810

(a) The resident's or occupant's name appears on the state 41811
registry of sex offenders and child-victim offenders maintained 41812
under section 2950.13 of the Revised Code. 41813

(b) The state registry of sex offenders and child-victim 41814
offenders indicates that the resident or occupant was convicted of 41815
or pleaded guilty to a sexually oriented offense or a child-victim 41816
oriented offense in a criminal prosecution and was not sentenced 41817
to a serious youthful offender dispositional sentence for that 41818
offense. 41819

(15) Against any tenant who permits any person to occupy 41820
residential premises located within one thousand feet of any 41821
school premises or preschool or child day-care center premises if 41822
both of the following apply to the person: 41823

(a) The person's name appears on the state registry of sex 41824
offenders and child-victim offenders maintained under section 41825
2950.13 of the Revised Code. 41826

(b) The state registry of sex offenders and child-victim 41827
offenders indicates that the person was convicted of or pleaded 41828
guilty to a sexually oriented offense or a child-victim oriented 41829
offense in a criminal prosecution and was not sentenced to a 41830
serious youthful offender dispositional sentence for that offense. 41831

(B) If a tenant or manufactured home park resident holding 41832

under an oral tenancy is in default in the payment of rent, the 41833
tenant or resident forfeits the right of occupancy, and the 41834
landlord may, at the landlord's option, terminate the tenancy by 41835
notifying the tenant or resident, as provided in section 1923.04 41836
of the Revised Code, to leave the premises, for the restitution of 41837
which an action may then be brought under this chapter. 41838

(C)(1) If a tenant or any other person with the tenant's 41839
permission resides in or occupies residential premises that are 41840
located within one thousand feet of any school premises and is a 41841
resident or occupant of the type described in division (A)(14) of 41842
this section or a person of the type described in division (A)(15) 41843
of this section, the landlord for those residential premises, upon 41844
discovery that the tenant or other person is a resident, occupant, 41845
or person of that nature, may terminate the rental agreement or 41846
tenancy for those residential premises by notifying the tenant and 41847
all other occupants, as provided in section 1923.04 of the Revised 41848
Code, to leave the premises. 41849

(2) If a landlord is authorized to terminate a rental 41850
agreement or tenancy pursuant to division (C)(1) of this section 41851
but does not so terminate the rental agreement or tenancy, the 41852
landlord is not liable in a tort or other civil action in damages 41853
for any injury, death, or loss to person or property that 41854
allegedly result from that decision. 41855

(D) This chapter does not apply to a student tenant as 41856
defined by division (H) of section 5321.01 of the Revised Code 41857
when the college or university proceeds to terminate a rental 41858
agreement pursuant to section 5321.031 of the Revised Code. 41859

Sec. 1923.061. (A) Any defense in an action under this 41860
chapter may be asserted at trial. 41861

(B) In an action for possession of residential premises based 41862
upon nonpayment of the rent or in an action for rent when the 41863

tenant or manufactured home park resident is in possession, the 41864
tenant or resident may counterclaim for any amount ~~he~~ the tenant 41865
or resident may recover under the rental agreement or under 41866
Chapter ~~3733-~~ 4781. or 5321. of the Revised Code. In that event, 41867
the court from time to time may order the tenant or resident to 41868
pay into court all or part of the past due rent and rent becoming 41869
due during the pendency of the action. After trial and judgment, 41870
the party to whom a net judgment is owed shall be paid first from 41871
the money paid into court, and any balance shall be satisfied as 41872
any other judgment. If no rent remains due after application of 41873
this division, judgment shall be entered for the tenant or 41874
resident in the action for possession. If the tenant or resident 41875
has paid into court an amount greater than that necessary to 41876
satisfy a judgment obtained by the landlord, the balance shall be 41877
returned by the court to the tenant or resident. 41878

Sec. 1923.15. During any proceeding involving residential 41879
premises under this chapter, the court may order an appropriate 41880
governmental agency to inspect the residential premises. If the 41881
agency determines and the court finds conditions which constitute 41882
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 41883
Code, and if the premises have been vacated or are to be restored 41884
to the landlord, the court may issue an order forbidding the 41885
re-rental of the property until such conditions are corrected. If 41886
the agency determines and the court finds such conditions, and if 41887
the court finds that the tenant or manufactured home park resident 41888
may remain in possession, the court may order such conditions 41889
corrected. If such conditions have been caused by the tenant or 41890
resident, the court may award damages to the landlord equal to the 41891
reasonable cost of correcting such conditions. 41892

Sec. 2105.09. (A) The county auditor, unless ~~he~~ the auditor 41893
acts pursuant to division (C) of this section, shall take 41894

possession of real property escheated to the state that is located 41895
in ~~his~~ the auditor's county and outside the incorporated area of a 41896
city. The auditor shall take possession in the name of the state 41897
and sell the property at public auction, at the county seat of the 41898
county, to the highest bidder, after having given thirty days' 41899
notice of the intended sale in a newspaper ~~published within of~~ 41900
general circulation in the county or as provided in section 7.16 41901
of the Revised Code. 41902

On the application of the auditor, the court of common pleas 41903
shall appoint three disinterested freeholders of the county to 41904
appraise the real property. The freeholders shall be governed by 41905
the same rule as appraisers in sheriffs' or administrators' sales. 41906
The auditor shall sell the property at not less than two thirds of 41907
its appraised value and may sell it for cash, or for one-third 41908
cash and the balance in equal annual payments, the deferred 41909
payments to be amply secured. Upon payment of the whole 41910
consideration, the auditor shall execute a deed to the purchaser, 41911
in the name and on behalf of the state. The proceeds of the sale 41912
shall be paid by the auditor to the county treasurer. 41913

If there is a regularly organized agricultural society within 41914
the county, the treasurer shall pay the greater of six hundred 41915
dollars or five per cent of the proceeds, in any case, to the 41916
society. The excess of the proceeds, or the whole thereof if there 41917
is no regularly organized agricultural society within the county, 41918
shall be distributed as follows: 41919

(1) Twenty-five per cent shall be paid equally to the 41920
townships of the county; 41921

(2) Seventy per cent shall be paid into the state treasury to 41922
the credit of the agro Ohio fund created under section 901.04 of 41923
the Revised Code; 41924

(3) Five per cent shall be credited to the county general 41925

fund for such lawful purposes as the board of county commissioners provides. 41926
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(B) The legislative authority of a city within which are 41928
lands escheated to the state, unless it acts pursuant to division 41929
(C) of this section, shall take possession of the lands for the 41930
city, and the title to the lands shall vest in the city. The city 41931
shall use the premises primarily for health, welfare, or 41932
recreational purposes, or may lease them at such prices and for 41933
such purposes as it considers proper. With the approval of the tax 41934
commissioner, the city may sell the lands or any undivided 41935
interest in the lands, in the same manner as is provided in the 41936
sale of land not needed for any municipal purposes; provided, that 41937
the net proceeds from the rent or sale of the premises shall be 41938
devoted to health, welfare, or recreational purposes. 41939

(C) As an alternative to the procedure prescribed in 41940
divisions (A) and (B) of this section, the county auditor, or if 41941
the real property is located within the incorporated area of a 41942
city, the legislative authority of that city by an affirmative 41943
vote of at least a majority of its members, may request the 41944
probate court to direct the administrator or executor of the 41945
estate that contains the escheated property to commence an action 41946
in the probate court for authority to sell the real property in 41947
the manner provided in Chapter 2127. of the Revised Code. The 41948
proceeds from the sale of real property that is located outside 41949
the incorporated area of a city shall be distributed by the court 41950
in the same manner as the proceeds are distributed under division 41951
(A) of this section. The proceeds from the sale of real property 41952
that is located within the incorporated area of a city shall be 41953
distributed by the court in the same manner as the proceeds are 41954
distributed under division (B) of this section. 41955

Sec. 2151.011. (A) As used in the Revised Code: 41956

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.	41987 41988
(B) As used in this chapter:	41989
(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.	41990 41991 41992 41993 41994 41995
(2) "Adult" means an individual who is eighteen years of age or older.	41996 41997
(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.	41998 41999 42000 42001
(4) <u>"Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.</u>	42002 42003 42004 42005 42006 42007
(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.	42008 42009 42010
(5) (6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of	42011 42012 42013 42014 42015 42016 42017

age. 42018

~~(6)~~(7) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code. 42019
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~~(7)~~(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education. 42026
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~~(8)~~(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code. 42034
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~~(9)~~(10) "Commit" means to vest custody as ordered by the court. 42036
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~~(10)~~(11) "Counseling" includes both of the following: 42038

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child. 42039
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(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional 42044
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counseling. 42049

~~(11)~~(12) "Custodian" means a person who has legal custody of 42050
a child or a public children services agency or private child 42051
placing agency that has permanent, temporary, or legal custody of 42052
a child. 42053

~~(12)~~(13) "Delinquent child" has the same meaning as in 42054
section 2152.02 of the Revised Code. 42055

~~(13)~~(14) "Detention" means the temporary care of children 42056
pending court adjudication or disposition, or execution of a court 42057
order, in a public or private facility designed to physically 42058
restrict the movement and activities of children. 42059

~~(14)~~(15) "Developmental disability" has the same meaning as 42060
in section 5123.01 of the Revised Code. 42061

~~(15)~~(16) "Differential response approach" means an approach 42062
that a public children services agency may use to respond to 42063
accepted reports of child abuse or neglect with either an 42064
alternative response or a traditional response. 42065

(17) "Foster caregiver" has the same meaning as in section 42066
5103.02 of the Revised Code. 42067

~~(16)~~(18) "Guardian" means a person, association, or 42068
corporation that is granted authority by a probate court pursuant 42069
to Chapter 2111. of the Revised Code to exercise parental rights 42070
over a child to the extent provided in the court's order and 42071
subject to the residual parental rights of the child's parents. 42072

~~(17)~~(19) "Habitual truant" means any child of compulsory 42073
school age who is absent without legitimate excuse for absence 42074
from the public school the child is supposed to attend for five or 42075
more consecutive school days, seven or more school days in one 42076
school month, or twelve or more school days in a school year. 42077

~~(18)~~(20) "Juvenile traffic offender" has the same meaning as 42078

in section 2152.02 of the Revised Code. 42079

~~(19)~~(21) "Legal custody" means a legal status that vests in 42080
the custodian the right to have physical care and control of the 42081
child and to determine where and with whom the child shall live, 42082
and the right and duty to protect, train, and discipline the child 42083
and to provide the child with food, shelter, education, and 42084
medical care, all subject to any residual parental rights, 42085
privileges, and responsibilities. An individual granted legal 42086
custody shall exercise the rights and responsibilities personally 42087
unless otherwise authorized by any section of the Revised Code or 42088
by the court. 42089

~~(20)~~(22) A "legitimate excuse for absence from the public 42090
school the child is supposed to attend" includes, but is not 42091
limited to, any of the following: 42092

(a) The fact that the child in question has enrolled in and 42093
is attending another public or nonpublic school in this or another 42094
state; 42095

(b) The fact that the child in question is excused from 42096
attendance at school for any of the reasons specified in section 42097
3321.04 of the Revised Code; 42098

(c) The fact that the child in question has received an age 42099
and schooling certificate in accordance with section 3331.01 of 42100
the Revised Code. 42101

~~(21)~~(23) "Mental illness" and "mentally ill person subject to 42102
hospitalization by court order" have the same meanings as in 42103
section 5122.01 of the Revised Code. 42104

~~(22)~~(24) "Mental injury" means any behavioral, cognitive, 42105
emotional, or mental disorder in a child caused by an act or 42106
omission that is described in section 2919.22 of the Revised Code 42107
and is committed by the parent or other person responsible for the 42108
child's care. 42109

~~(23)~~(25) "Mentally retarded person" has the same meaning as 42110
in section 5123.01 of the Revised Code. 42111

~~(24)~~(26) "Nonsecure care, supervision, or training" means 42112
care, supervision, or training of a child in a facility that does 42113
not confine or prevent movement of the child within the facility 42114
or from the facility. 42115

~~(25)~~(27) "Of compulsory school age" has the same meaning as 42116
in section 3321.01 of the Revised Code. 42117

~~(26)~~(28) "Organization" means any institution, public, 42118
semipublic, or private, and any private association, society, or 42119
agency located or operating in the state, incorporated or 42120
unincorporated, having among its functions the furnishing of 42121
protective services or care for children, or the placement of 42122
children in certified foster homes or elsewhere. 42123

~~(27)~~(29) "Out-of-home care" means detention facilities, 42124
shelter facilities, certified children's crisis care facilities, 42125
certified foster homes, placement in a prospective adoptive home 42126
prior to the issuance of a final decree of adoption, 42127
organizations, certified organizations, child day-care centers, 42128
type A family day-care homes, child care provided by type B family 42129
day-care home providers and by in-home aides, group home 42130
providers, group homes, institutions, state institutions, 42131
residential facilities, residential care facilities, residential 42132
camps, day camps, public schools, chartered nonpublic schools, 42133
educational service centers, hospitals, and medical clinics that 42134
are responsible for the care, physical custody, or control of 42135
children. 42136

~~(28)~~(30) "Out-of-home care child abuse" means any of the 42137
following when committed by a person responsible for the care of a 42138
child in out-of-home care: 42139

(a) Engaging in sexual activity with a child in the person's 42140

care;	42141
(b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;	42142 42143 42144
(c) Use of restraint procedures on a child that cause injury or pain;	42145 42146
(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;	42147 42148 42149
(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.	42150 42151 42152 42153 42154
(29) (31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:	42155 42156 42157
(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	42158 42159 42160
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	42161 42162 42163 42164
(c) Failure to develop a process for all of the following:	42165
(i) Administration of prescription drugs or psychotropic drugs for the child;	42166 42167
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	42168 42169
(iii) Reporting to the licensed physician who prescribed the	42170

drug all unfavorable or dangerous side effects from the use of the drug. 42171
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(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child; 42173
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(e) Confinement of the child to a locked room without monitoring by staff; 42176
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(f) Failure to provide ongoing security for all prescription and nonprescription medication; 42178
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(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child. 42180
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~~(30)~~(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations. 42183
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~~(31)~~(33) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency. 42189
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~~(32)~~(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies. 42194
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~~(33)~~(35) "Person responsible for a child's care in out-of-home care" means any of the following: 42197
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(a) Any foster caregiver, in-home aide, or provider; 42199

(b) Any administrator, employee, or agent of any of the 42200

following: a public or private detention facility; shelter 42201
facility; certified children's crisis care facility; organization; 42202
certified organization; child day-care center; type A family 42203
day-care home; certified type B family day-care home; group home; 42204
institution; state institution; residential facility; residential 42205
care facility; residential camp; day camp; school district; 42206
community school; chartered nonpublic school; educational service 42207
center; hospital; or medical clinic; 42208

(c) Any person who supervises or coaches children as part of 42209
an extracurricular activity sponsored by a school district, public 42210
school, or chartered nonpublic school; 42211

(d) Any other person who performs a similar function with 42212
respect to, or has a similar relationship to, children. 42213

~~(34)~~(36) "Physically impaired" means having one or more of 42214
the following conditions that substantially limit one or more of 42215
an individual's major life activities, including self-care, 42216
receptive and expressive language, learning, mobility, and 42217
self-direction: 42218

(a) A substantial impairment of vision, speech, or hearing; 42219

(b) A congenital orthopedic impairment; 42220

(c) An orthopedic impairment caused by disease, rheumatic 42221
fever or any other similar chronic or acute health problem, or 42222
amputation or another similar cause. 42223

~~(35)~~(37) "Placement for adoption" means the arrangement by a 42224
public children services agency or a private child placing agency 42225
with a person for the care and adoption by that person of a child 42226
of whom the agency has permanent custody. 42227

~~(36)~~(38) "Placement in foster care" means the arrangement by 42228
a public children services agency or a private child placing 42229
agency for the out-of-home care of a child of whom the agency has 42230

temporary custody or permanent custody. 42231

~~(37)~~(39) "Planned permanent living arrangement" means an 42232
order of a juvenile court pursuant to which both of the following 42233
apply: 42234

(a) The court gives legal custody of a child to a public 42235
children services agency or a private child placing agency without 42236
the termination of parental rights. 42237

(b) The order permits the agency to make an appropriate 42238
placement of the child and to enter into a written agreement with 42239
a foster care provider or with another person or agency with whom 42240
the child is placed. 42241

~~(38)~~(40) "Practice of social work" and "practice of 42242
professional counseling" have the same meanings as in section 42243
4757.01 of the Revised Code. 42244

~~(39)~~(41) "Sanction, service, or condition" means a sanction, 42245
service, or condition created by court order following an 42246
adjudication that a child is an unruly child that is described in 42247
division (A)(4) of section 2152.19 of the Revised Code. 42248

~~(40)~~(42) "Protective supervision" means an order of 42249
disposition pursuant to which the court permits an abused, 42250
neglected, dependent, or unruly child to remain in the custody of 42251
the child's parents, guardian, or custodian and stay in the 42252
child's home, subject to any conditions and limitations upon the 42253
child, the child's parents, guardian, or custodian, or any other 42254
person that the court prescribes, including supervision as 42255
directed by the court for the protection of the child. 42256

~~(41)~~(43) "Psychiatrist" has the same meaning as in section 42257
5122.01 of the Revised Code. 42258

~~(42)~~(44) "Psychologist" has the same meaning as in section 42259
4732.01 of the Revised Code. 42260

~~(43)~~(45) "Residential camp" means a program in which the 42261
care, physical custody, or control of children is accepted 42262
overnight for recreational or recreational and educational 42263
purposes. 42264

~~(44)~~(46) "Residential care facility" means an institution, 42265
residence, or facility that is licensed by the department of 42266
mental health under section 5119.22 of the Revised Code and that 42267
provides care for a child. 42268

~~(45)~~(47) "Residential facility" means a home or facility that 42269
is licensed by the department of developmental disabilities under 42270
section 5123.19 of the Revised Code and in which a child with a 42271
developmental disability resides. 42272

~~(46)~~(48) "Residual parental rights, privileges, and 42273
responsibilities" means those rights, privileges, and 42274
responsibilities remaining with the natural parent after the 42275
transfer of legal custody of the child, including, but not 42276
necessarily limited to, the privilege of reasonable visitation, 42277
consent to adoption, the privilege to determine the child's 42278
religious affiliation, and the responsibility for support. 42279

~~(47)~~(49) "School day" means the school day established by the 42280
state board of education pursuant to section 3313.48 of the 42281
Revised Code. 42282

~~(48)~~(50) "School month" and "school year" have the same 42283
meanings as in section 3313.62 of the Revised Code. 42284

~~(49)~~(51) "Secure correctional facility" means a facility 42285
under the direction of the department of youth services that is 42286
designed to physically restrict the movement and activities of 42287
children and used for the placement of children after adjudication 42288
and disposition. 42289

~~(50)~~(52) "Sexual activity" has the same meaning as in section 42290
2907.01 of the Revised Code. 42291

~~(51)~~(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

~~(52)~~(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

~~(53)~~(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

Sec. 2151.3515. As used in sections 2151.3515 to 2151.3530 of the Revised Code:

(A) "Deserted child" means a child whose parent has voluntarily delivered the child to an emergency medical service worker, peace officer, or hospital employee without expressing an intent to return for the child.

(B) "Emergency medical service organization," "emergency medical technician-basic," "emergency medical technician-intermediate," "first responder," and "paramedic" have

the same meanings as in section 4765.01 of the Revised Code. 42322

(C) "Emergency medical service worker" means a first 42323
responder, emergency medical technician-basic, emergency medical 42324
technician-intermediate, or paramedic. 42325

(D) "Hospital" has the same meaning as in section 3727.01 of 42326
the Revised Code. 42327

(E) "Hospital employee" means any of the following persons: 42328

(1) A physician who has been granted privileges to practice 42329
at the hospital; 42330

(2) A nurse, physician assistant, or nursing assistant 42331
employed by the hospital; 42332

(3) An authorized person employed by the hospital who is 42333
acting under the direction of a physician described in division 42334
(E)(1) of this section. 42335

(F) "Law enforcement agency" means an organization or entity 42336
made up of peace officers. 42337

(G) "Nurse" means a person who is licensed under Chapter 42338
4723. of the Revised Code to practice as a registered nurse or 42339
licensed practical nurse. 42340

(H) "Nursing assistant" means a person designated by a 42341
hospital as a nurse aide or nursing assistant whose job is to aid 42342
nurses, physicians, and physician assistants in the performance of 42343
their duties. 42344

(I) "Peace officer" means a sheriff, deputy sheriff, 42345
constable, police officer of a township or joint ~~township~~ police 42346
district, marshal, deputy marshal, municipal police officer, or a 42347
state highway patrol trooper. 42348

(J) "Physician" and "physician assistant" have the same 42349
meanings as in section 4730.01 of the Revised Code. 42350

Sec. 2151.412. (A) Each public children services agency and 42351
private child placing agency shall prepare and maintain a case 42352
plan for any child to whom the agency is providing services and to 42353
whom any of the following applies: 42354

(1) The agency filed a complaint pursuant to section 2151.27 42355
of the Revised Code alleging that the child is an abused, 42356
neglected, or dependent child; 42357

(2) The agency has temporary or permanent custody of the 42358
child; 42359

(3) The child is living at home subject to an order for 42360
protective supervision; 42361

(4) The child is in a planned permanent living arrangement. 42362

Except as provided by division (A)(2) of section 5103.153 of 42363
the Revised Code, a private child placing agency providing 42364
services to a child who is the subject of a voluntary permanent 42365
custody surrender agreement entered into under division (B)(2) of 42366
section 5103.15 of the Revised Code is not required to prepare and 42367
maintain a case plan for that child. 42368

(B) Each public children services agency shall prepare and 42369
maintain a case plan or a family service plan for any child for 42370
whom the agency is providing in-home services pursuant to an 42371
alternative response. 42372

(C)(1) The director of job and family services shall adopt 42373
rules pursuant to Chapter 119. of the Revised Code setting forth 42374
the content and format of case plans required by division (A) of 42375
this section and establishing procedures for developing, 42376
implementing, and changing the case plans. The rules shall at a 42377
minimum comply with the requirements of Title IV-E of the "Social 42378
Security Act," 94 Stat. 501, 42 U.S.C. 671 (1980), as amended. 42379

(2) The director of job and family services shall adopt rules 42380

pursuant to Chapter 119. of the Revised Code requiring public 42381
children services agencies and private child placing agencies to 42382
maintain case plans for children and their families who are 42383
receiving services in their homes from the agencies and for whom 42384
case plans are not required by division (A) of this section. The 42385
rules for public children services agencies shall include the 42386
requirements for case plans or family service plans maintained for 42387
children and their families who are receiving services in their 42388
homes from public children services agencies pursuant to an 42389
alternative response. The agencies shall maintain case plans and 42390
family service plans as required by those rules; however, the case 42391
plans and family service plans shall not be subject to any other 42392
provision of this section except as specifically required by the 42393
rules. 42394

~~(C)~~(D) Each public children services agency and private child 42395
placing agency that is required by division (A) of this section to 42396
maintain a case plan shall file the case plan with the court prior 42397
to the child's adjudicatory hearing but no later than thirty days 42398
after the earlier of the date on which the complaint in the case 42399
was filed or the child was first placed into shelter care. If the 42400
agency does not have sufficient information prior to the 42401
adjudicatory hearing to complete any part of the case plan, the 42402
agency shall specify in the case plan the additional information 42403
necessary to complete each part of the case plan and the steps 42404
that will be taken to obtain that information. All parts of the 42405
case plan shall be completed by the earlier of thirty days after 42406
the adjudicatory hearing or the date of the dispositional hearing 42407
for the child. 42408

~~(D)~~(E) Any agency that is required by division (A) of this 42409
section to prepare a case plan shall attempt to obtain an 42410
agreement among all parties, including, but not limited to, the 42411
parents, guardian, or custodian of the child and the guardian ad 42412

litem of the child regarding the content of the case plan. If all 42413
parties agree to the content of the case plan and the court 42414
approves it, the court shall journalize it as part of its 42415
dispositional order. If the agency cannot obtain an agreement upon 42416
the contents of the case plan or the court does not approve it, 42417
the parties shall present evidence on the contents of the case 42418
plan at the dispositional hearing. The court, based upon the 42419
evidence presented at the dispositional hearing and the best 42420
interest of the child, shall determine the contents of the case 42421
plan and journalize it as part of the dispositional order for the 42422
child. 42423

~~(E)~~(F)(1) All parties, including the parents, guardian, or 42424
custodian of the child, are bound by the terms of the journalized 42425
case plan. A party that fails to comply with the terms of the 42426
journalized case plan may be held in contempt of court. 42427

(2) Any party may propose a change to a substantive part of 42428
the case plan, including, but not limited to, the child's 42429
placement and the visitation rights of any party. A party 42430
proposing a change to the case plan shall file the proposed change 42431
with the court and give notice of the proposed change in writing 42432
before the end of the day after the day of filing it to all 42433
parties and the child's guardian ad litem. All parties and the 42434
guardian ad litem shall have seven days from the date the notice 42435
is sent to object to and request a hearing on the proposed change. 42436

(a) If it receives a timely request for a hearing, the court 42437
shall schedule a hearing pursuant to section 2151.417 of the 42438
Revised Code to be held no later than thirty days after the 42439
request is received by the court. The court shall give notice of 42440
the date, time, and location of the hearing to all parties and the 42441
guardian ad litem. The agency may implement the proposed change 42442
after the hearing, if the court approves it. The agency shall not 42443
implement the proposed change unless it is approved by the court. 42444

(b) If it does not receive a timely request for a hearing, 42445
the court may approve the proposed change without a hearing. If 42446
the court approves the proposed change without a hearing, it shall 42447
journalize the case plan with the change not later than fourteen 42448
days after the change is filed with the court. If the court does 42449
not approve the proposed change to the case plan, it shall 42450
schedule a hearing to be held pursuant to section 2151.417 of the 42451
Revised Code no later than thirty days after the expiration of the 42452
fourteen-day time period and give notice of the date, time, and 42453
location of the hearing to all parties and the guardian ad litem 42454
of the child. If, despite the requirements of division ~~(E)~~(F)(2) 42455
of this section, the court neither approves and journalizes the 42456
proposed change nor conducts a hearing, the agency may implement 42457
the proposed change not earlier than fifteen days after it is 42458
submitted to the court. 42459

(3) If an agency has reasonable cause to believe that a child 42460
is suffering from illness or injury and is not receiving proper 42461
care and that an appropriate change in the child's case plan is 42462
necessary to prevent immediate or threatened physical or emotional 42463
harm, to believe that a child is in immediate danger from the 42464
child's surroundings and that an immediate change in the child's 42465
case plan is necessary to prevent immediate or threatened physical 42466
or emotional harm to the child, or to believe that a parent, 42467
guardian, custodian, or other member of the child's household has 42468
abused or neglected the child and that the child is in danger of 42469
immediate or threatened physical or emotional harm from that 42470
person unless the agency makes an appropriate change in the 42471
child's case plan, it may implement the change without prior 42472
agreement or a court hearing and, before the end of the next day 42473
after the change is made, give all parties, the guardian ad litem 42474
of the child, and the court notice of the change. Before the end 42475
of the third day after implementing the change in the case plan, 42476
the agency shall file a statement of the change with the court and 42477

give notice of the filing accompanied by a copy of the statement 42478
to all parties and the guardian ad litem. All parties and the 42479
guardian ad litem shall have ten days from the date the notice is 42480
sent to object to and request a hearing on the change. 42481

(a) If it receives a timely request for a hearing, the court 42482
shall schedule a hearing pursuant to section 2151.417 of the 42483
Revised Code to be held no later than thirty days after the 42484
request is received by the court. The court shall give notice of 42485
the date, time, and location of the hearing to all parties and the 42486
guardian ad litem. The agency shall continue to administer the 42487
case plan with the change after the hearing, if the court approves 42488
the change. If the court does not approve the change, the court 42489
shall make appropriate changes to the case plan and shall 42490
journalize the case plan. 42491

(b) If it does not receive a timely request for a hearing, 42492
the court may approve the change without a hearing. If the court 42493
approves the change without a hearing, it shall journalize the 42494
case plan with the change within fourteen days after receipt of 42495
the change. If the court does not approve the change to the case 42496
plan, it shall schedule a hearing under section 2151.417 of the 42497
Revised Code to be held no later than thirty days after the 42498
expiration of the fourteen-day time period and give notice of the 42499
date, time, and location of the hearing to all parties and the 42500
guardian ad litem of the child. 42501

~~(F)~~(G)(1) All case plans for children in temporary custody 42502
shall have the following general goals: 42503

(a) Consistent with the best interest and special needs of 42504
the child, to achieve a safe out-of-home placement in the least 42505
restrictive, most family-like setting available and in close 42506
proximity to the home from which the child was removed or the home 42507
in which the child will be permanently placed; 42508

(b) To eliminate with all due speed the need for the 42509
out-of-home placement so that the child can safely return home. 42510

(2) The director of job and family services shall adopt rules 42511
pursuant to Chapter 119. of the Revised Code setting forth the 42512
general goals of case plans for children subject to dispositional 42513
orders for protective supervision, a planned permanent living 42514
arrangement, or permanent custody. 42515

~~(G)~~(H) In the agency's development of a case plan and the 42516
court's review of the case plan, the child's health and safety 42517
shall be the paramount concern. The agency and the court shall be 42518
guided by the following general priorities: 42519

(1) A child who is residing with or can be placed with the 42520
child's parents within a reasonable time should remain in their 42521
legal custody even if an order of protective supervision is 42522
required for a reasonable period of time; 42523

(2) If both parents of the child have abandoned the child, 42524
have relinquished custody of the child, have become incapable of 42525
supporting or caring for the child even with reasonable 42526
assistance, or have a detrimental effect on the health, safety, 42527
and best interest of the child, the child should be placed in the 42528
legal custody of a suitable member of the child's extended family; 42529

(3) If a child described in division ~~(G)~~(H)(2) of this 42530
section has no suitable member of the child's extended family to 42531
accept legal custody, the child should be placed in the legal 42532
custody of a suitable nonrelative who shall be made a party to the 42533
proceedings after being given legal custody of the child; 42534

(4) If the child has no suitable member of the child's 42535
extended family to accept legal custody of the child and no 42536
suitable nonrelative is available to accept legal custody of the 42537
child and, if the child temporarily cannot or should not be placed 42538
with the child's parents, guardian, or custodian, the child should 42539

be placed in the temporary custody of a public children services 42540
agency or a private child placing agency; 42541

(5) If the child cannot be placed with either of the child's 42542
parents within a reasonable period of time or should not be placed 42543
with either, if no suitable member of the child's extended family 42544
or suitable nonrelative is available to accept legal custody of 42545
the child, and if the agency has a reasonable expectation of 42546
placing the child for adoption, the child should be committed to 42547
the permanent custody of the public children services agency or 42548
private child placing agency; 42549

(6) If the child is to be placed for adoption or foster care, 42550
the placement shall not be delayed or denied on the basis of the 42551
child's or adoptive or foster family's race, color, or national 42552
origin. 42553

~~(H)~~(I) The case plan for a child in temporary custody shall 42554
include at a minimum the following requirements if the child is or 42555
has been the victim of abuse or neglect or if the child witnessed 42556
the commission in the child's household of abuse or neglect 42557
against a sibling of the child, a parent of the child, or any 42558
other person in the child's household: 42559

(1) A requirement that the child's parents, guardian, or 42560
custodian participate in mandatory counseling; 42561

(2) A requirement that the child's parents, guardian, or 42562
custodian participate in any supportive services that are required 42563
by or provided pursuant to the child's case plan. 42564

~~(I)~~(J) A case plan may include, as a supplement, a plan for 42565
locating a permanent family placement. The supplement shall not be 42566
considered part of the case plan for purposes of division ~~(D)~~(E) 42567
of this section. 42568

Sec. 2151.421. (A)(1)(a) No person described in division 42569

(A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual

treatment through prayer in accordance with the tenets of a 42603
well-recognized religion; employee of a county department of job 42604
and family services who is a professional and who works with 42605
children and families; superintendent, board member, or employee 42606
of a county board of developmental disabilities; investigative 42607
agent contracted with by a county board of developmental 42608
disabilities; employee of the department of developmental 42609
disabilities; employee of a facility or home that provides respite 42610
care in accordance with section 5123.171 of the Revised Code; 42611
employee of a home health agency; employee of an entity that 42612
provides homemaker services; a person performing the duties of an 42613
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 42614
or third party employed by a public children services agency to 42615
assist in providing child or family related services. 42616

(2) Except as provided in division (A)(3) of this section, an 42617
attorney or a physician is not required to make a report pursuant 42618
to division (A)(1) of this section concerning any communication 42619
the attorney or physician receives from a client or patient in an 42620
attorney-client or physician-patient relationship, if, in 42621
accordance with division (A) or (B) of section 2317.02 of the 42622
Revised Code, the attorney or physician could not testify with 42623
respect to that communication in a civil or criminal proceeding. 42624

(3) The client or patient in an attorney-client or 42625
physician-patient relationship described in division (A)(2) of 42626
this section is deemed to have waived any testimonial privilege 42627
under division (A) or (B) of section 2317.02 of the Revised Code 42628
with respect to any communication the attorney or physician 42629
receives from the client or patient in that attorney-client or 42630
physician-patient relationship, and the attorney or physician 42631
shall make a report pursuant to division (A)(1) of this section 42632
with respect to that communication, if all of the following apply: 42633

(a) The client or patient, at the time of the communication, 42634

is either a child under eighteen years of age or a mentally 42635
retarded, developmentally disabled, or physically impaired person 42636
under twenty-one years of age. 42637

(b) The attorney or physician knows, or has reasonable cause 42638
to suspect based on facts that would cause a reasonable person in 42639
similar position to suspect, as a result of the communication or 42640
any observations made during that communication, that the client 42641
or patient has suffered or faces a threat of suffering any 42642
physical or mental wound, injury, disability, or condition of a 42643
nature that reasonably indicates abuse or neglect of the client or 42644
patient. 42645

(c) The abuse or neglect does not arise out of the client's 42646
or patient's attempt to have an abortion without the notification 42647
of her parents, guardian, or custodian in accordance with section 42648
2151.85 of the Revised Code. 42649

(4)(a) No cleric and no person, other than a volunteer, 42650
designated by any church, religious society, or faith acting as a 42651
leader, official, or delegate on behalf of the church, religious 42652
society, or faith who is acting in an official or professional 42653
capacity, who knows, or has reasonable cause to believe based on 42654
facts that would cause a reasonable person in a similar position 42655
to believe, that a child under eighteen years of age or a mentally 42656
retarded, developmentally disabled, or physically impaired child 42657
under twenty-one years of age has suffered or faces a threat of 42658
suffering any physical or mental wound, injury, disability, or 42659
condition of a nature that reasonably indicates abuse or neglect 42660
of the child, and who knows, or has reasonable cause to believe 42661
based on facts that would cause a reasonable person in a similar 42662
position to believe, that another cleric or another person, other 42663
than a volunteer, designated by a church, religious society, or 42664
faith acting as a leader, official, or delegate on behalf of the 42665
church, religious society, or faith caused, or poses the threat of 42666

causing, the wound, injury, disability, or condition that 42667
reasonably indicates abuse or neglect shall fail to immediately 42668
report that knowledge or reasonable cause to believe to the entity 42669
or persons specified in this division. Except as provided in 42670
section 5120.173 of the Revised Code, the person making the report 42671
shall make it to the public children services agency or a 42672
municipal or county peace officer in the county in which the child 42673
resides or in which the abuse or neglect is occurring or has 42674
occurred. In the circumstances described in section 5120.173 of 42675
the Revised Code, the person making the report shall make it to 42676
the entity specified in that section. 42677

(b) Except as provided in division (A)(4)(c) of this section, 42678
a cleric is not required to make a report pursuant to division 42679
(A)(4)(a) of this section concerning any communication the cleric 42680
receives from a penitent in a cleric-penitent relationship, if, in 42681
accordance with division (C) of section 2317.02 of the Revised 42682
Code, the cleric could not testify with respect to that 42683
communication in a civil or criminal proceeding. 42684

(c) The penitent in a cleric-penitent relationship described 42685
in division (A)(4)(b) of this section is deemed to have waived any 42686
testimonial privilege under division (C) of section 2317.02 of the 42687
Revised Code with respect to any communication the cleric receives 42688
from the penitent in that cleric-penitent relationship, and the 42689
cleric shall make a report pursuant to division (A)(4)(a) of this 42690
section with respect to that communication, if all of the 42691
following apply: 42692

(i) The penitent, at the time of the communication, is either 42693
a child under eighteen years of age or a mentally retarded, 42694
developmentally disabled, or physically impaired person under 42695
twenty-one years of age. 42696

(ii) The cleric knows, or has reasonable cause to believe 42697
based on facts that would cause a reasonable person in a similar 42698

position to believe, as a result of the communication or any 42699
observations made during that communication, the penitent has 42700
suffered or faces a threat of suffering any physical or mental 42701
wound, injury, disability, or condition of a nature that 42702
reasonably indicates abuse or neglect of the penitent. 42703

(iii) The abuse or neglect does not arise out of the 42704
penitent's attempt to have an abortion performed upon a child 42705
under eighteen years of age or upon a mentally retarded, 42706
developmentally disabled, or physically impaired person under 42707
twenty-one years of age without the notification of her parents, 42708
guardian, or custodian in accordance with section 2151.85 of the 42709
Revised Code. 42710

(d) Divisions (A)(4)(a) and (c) of this section do not apply 42711
in a cleric-penitent relationship when the disclosure of any 42712
communication the cleric receives from the penitent is in 42713
violation of the sacred trust. 42714

(e) As used in divisions (A)(1) and (4) of this section, 42715
"cleric" and "sacred trust" have the same meanings as in section 42716
2317.02 of the Revised Code. 42717

(B) Anyone who knows, or has reasonable cause to suspect 42718
based on facts that would cause a reasonable person in similar 42719
circumstances to suspect, that a child under eighteen years of age 42720
or a mentally retarded, developmentally disabled, or physically 42721
impaired person under twenty-one years of age has suffered or 42722
faces a threat of suffering any physical or mental wound, injury, 42723
disability, or other condition of a nature that reasonably 42724
indicates abuse or neglect of the child may report or cause 42725
reports to be made of that knowledge or reasonable cause to 42726
suspect to the entity or persons specified in this division. 42727
Except as provided in section 5120.173 of the Revised Code, a 42728
person making a report or causing a report to be made under this 42729
division shall make it or cause it to be made to the public 42730

children services agency or to a municipal or county peace 42731
officer. In the circumstances described in section 5120.173 of the 42732
Revised Code, a person making a report or causing a report to be 42733
made under this division shall make it or cause it to be made to 42734
the entity specified in that section. 42735

(C) Any report made pursuant to division (A) or (B) of this 42736
section shall be made forthwith either by telephone or in person 42737
and shall be followed by a written report, if requested by the 42738
receiving agency or officer. The written report shall contain: 42739

(1) The names and addresses of the child and the child's 42740
parents or the person or persons having custody of the child, if 42741
known; 42742

(2) The child's age and the nature and extent of the child's 42743
injuries, abuse, or neglect that is known or reasonably suspected 42744
or believed, as applicable, to have occurred or of the threat of 42745
injury, abuse, or neglect that is known or reasonably suspected or 42746
believed, as applicable, to exist, including any evidence of 42747
previous injuries, abuse, or neglect; 42748

(3) Any other information that might be helpful in 42749
establishing the cause of the injury, abuse, or neglect that is 42750
known or reasonably suspected or believed, as applicable, to have 42751
occurred or of the threat of injury, abuse, or neglect that is 42752
known or reasonably suspected or believed, as applicable, to 42753
exist. 42754

Any person, who is required by division (A) of this section 42755
to report child abuse or child neglect that is known or reasonably 42756
suspected or believed to have occurred, may take or cause to be 42757
taken color photographs of areas of trauma visible on a child and, 42758
if medically indicated, cause to be performed radiological 42759
examinations of the child. 42760

(D) As used in this division, "children's advocacy center" 42761

and "sexual abuse of a child" have the same meanings as in section 42762
2151.425 of the Revised Code. 42763

(1) When a municipal or county peace officer receives a 42764
report concerning the possible abuse or neglect of a child or the 42765
possible threat of abuse or neglect of a child, upon receipt of 42766
the report, the municipal or county peace officer who receives the 42767
report shall refer the report to the appropriate public children 42768
services agency. 42769

(2) When a public children services agency receives a report 42770
pursuant to this division or division (A) or (B) of this section, 42771
upon receipt of the report, the public children services agency 42772
shall do both of the following: 42773

(a) Comply with section 2151.422 of the Revised Code; 42774

(b) If the county served by the agency is also served by a 42775
children's advocacy center and the report alleges sexual abuse of 42776
a child or another type of abuse of a child that is specified in 42777
the memorandum of understanding that creates the center as being 42778
within the center's jurisdiction, comply regarding the report with 42779
the protocol and procedures for referrals and investigations, with 42780
the coordinating activities, and with the authority or 42781
responsibility for performing or providing functions, activities, 42782
and services stipulated in the interagency agreement entered into 42783
under section 2151.428 of the Revised Code relative to that 42784
center. 42785

(E) No township, municipal, or county peace officer shall 42786
remove a child about whom a report is made pursuant to this 42787
section from the child's parents, stepparents, or guardian or any 42788
other persons having custody of the child without consultation 42789
with the public children services agency, unless, in the judgment 42790
of the officer, and, if the report was made by physician, the 42791
physician, immediate removal is considered essential to protect 42792

the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (H)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any

person. The public children services agency shall report each case 42825
to the uniform statewide automated child welfare information 42826
system that the department of job and family services shall 42827
maintain in accordance with section 5101.13 of the Revised Code. 42828
The public children services agency shall submit a report of its 42829
investigation, in writing, to the law enforcement agency. 42830

(2) The public children services agency shall make any 42831
recommendations to the county prosecuting attorney or city 42832
director of law that it considers necessary to protect any 42833
children that are brought to its attention. 42834

(G)(1)(a) Except as provided in division (H)(3) of this 42835
section, anyone or any hospital, institution, school, health 42836
department, or agency participating in the making of reports under 42837
division (A) of this section, anyone or any hospital, institution, 42838
school, health department, or agency participating in good faith 42839
in the making of reports under division (B) of this section, and 42840
anyone participating in good faith in a judicial proceeding 42841
resulting from the reports, shall be immune from any civil or 42842
criminal liability for injury, death, or loss to person or 42843
property that otherwise might be incurred or imposed as a result 42844
of the making of the reports or the participation in the judicial 42845
proceeding. 42846

(b) Notwithstanding section 4731.22 of the Revised Code, the 42847
physician-patient privilege shall not be a ground for excluding 42848
evidence regarding a child's injuries, abuse, or neglect, or the 42849
cause of the injuries, abuse, or neglect in any judicial 42850
proceeding resulting from a report submitted pursuant to this 42851
section. 42852

(2) In any civil or criminal action or proceeding in which it 42853
is alleged and proved that participation in the making of a report 42854
under this section was not in good faith or participation in a 42855
judicial proceeding resulting from a report made under this 42856

section was not in good faith, the court shall award the 42857
prevailing party reasonable attorney's fees and costs and, if a 42858
civil action or proceeding is voluntarily dismissed, may award 42859
reasonable attorney's fees and costs to the party against whom the 42860
civil action or proceeding is brought. 42861

(H)(1) Except as provided in divisions (H)(4) and (N) of this 42862
section, a report made under this section is confidential. The 42863
information provided in a report made pursuant to this section and 42864
the name of the person who made the report shall not be released 42865
for use, and shall not be used, as evidence in any civil action or 42866
proceeding brought against the person who made the report. Nothing 42867
in this division shall preclude the use of reports of other 42868
incidents of known or suspected abuse or neglect in a civil action 42869
or proceeding brought pursuant to division (M) of this section 42870
against a person who is alleged to have violated division (A)(1) 42871
of this section, provided that any information in a report that 42872
would identify the child who is the subject of the report or the 42873
maker of the report, if the maker of the report is not the 42874
defendant or an agent or employee of the defendant, has been 42875
redacted. In a criminal proceeding, the report is admissible in 42876
evidence in accordance with the Rules of Evidence and is subject 42877
to discovery in accordance with the Rules of Criminal Procedure. 42878

(2) No person shall permit or encourage the unauthorized 42879
dissemination of the contents of any report made under this 42880
section. 42881

(3) A person who knowingly makes or causes another person to 42882
make a false report under division (B) of this section that 42883
alleges that any person has committed an act or omission that 42884
resulted in a child being an abused child or a neglected child is 42885
guilty of a violation of section 2921.14 of the Revised Code. 42886

(4) If a report is made pursuant to division (A) or (B) of 42887
this section and the child who is the subject of the report dies 42888

for any reason at any time after the report is made, but before 42889
the child attains eighteen years of age, the public children 42890
services agency or municipal or county peace officer to which the 42891
report was made or referred, on the request of the child fatality 42892
review board, shall submit a summary sheet of information 42893
providing a summary of the report to the review board of the 42894
county in which the deceased child resided at the time of death. 42895
On the request of the review board, the agency or peace officer 42896
may, at its discretion, make the report available to the review 42897
board. If the county served by the public children services agency 42898
is also served by a children's advocacy center and the report of 42899
alleged sexual abuse of a child or another type of abuse of a 42900
child is specified in the memorandum of understanding that creates 42901
the center as being within the center's jurisdiction, the agency 42902
or center shall perform the duties and functions specified in this 42903
division in accordance with the interagency agreement entered into 42904
under section 2151.428 of the Revised Code relative to that 42905
advocacy center. 42906

(5) A public children services agency shall advise a person 42907
alleged to have inflicted abuse or neglect on a child who is the 42908
subject of a report made pursuant to this section, including a 42909
report alleging sexual abuse of a child or another type of abuse 42910
of a child referred to a children's advocacy center pursuant to an 42911
interagency agreement entered into under section 2151.428 of the 42912
Revised Code, in writing of the disposition of the investigation. 42913
The agency shall not provide to the person any information that 42914
identifies the person who made the report, statements of 42915
witnesses, or police or other investigative reports. 42916

(I) Any report that is required by this section, other than a 42917
report that is made to the state highway patrol as described in 42918
section 5120.173 of the Revised Code, shall result in protective 42919
services and emergency supportive services being made available by 42920

the public children services agency on behalf of the children 42921
about whom the report is made, in an effort to prevent further 42922
neglect or abuse, to enhance their welfare, and, whenever 42923
possible, to preserve the family unit intact. The agency required 42924
to provide the services shall be the agency conducting the 42925
investigation of the report pursuant to section 2151.422 of the 42926
Revised Code. 42927

(J)(1) Each public children services agency shall prepare a 42928
memorandum of understanding that is signed by all of the 42929
following: 42930

(a) If there is only one juvenile judge in the county, the 42931
juvenile judge of the county or the juvenile judge's 42932
representative; 42933

(b) If there is more than one juvenile judge in the county, a 42934
juvenile judge or the juvenile judges' representative selected by 42935
the juvenile judges or, if they are unable to do so for any 42936
reason, the juvenile judge who is senior in point of service or 42937
the senior juvenile judge's representative; 42938

(c) The county peace officer; 42939

(d) All chief municipal peace officers within the county; 42940

(e) Other law enforcement officers handling child abuse and 42941
neglect cases in the county; 42942

(f) The prosecuting attorney of the county; 42943

(g) If the public children services agency is not the county 42944
department of job and family services, the county department of 42945
job and family services; 42946

(h) The county humane society; 42947

(i) If the public children services agency participated in 42948
the execution of a memorandum of understanding under section 42949
2151.426 of the Revised Code establishing a children's advocacy 42950

center, each participating member of the children's advocacy center established by the memorandum. 42951
42952

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. 42953
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(3) A memorandum of understanding shall include all of the following: 42972
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(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect; 42974
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(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or 42976
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neglected. 42983

(4) If a public children services agency participated in the 42984
execution of a memorandum of understanding under section 2151.426 42985
of the Revised Code establishing a children's advocacy center, the 42986
agency shall incorporate the contents of that memorandum in the 42987
memorandum prepared pursuant to this section. 42988

(5) The clerk of the court of common pleas in the county may 42989
sign the memorandum of understanding prepared under division 42990
(J)(1) of this section. If the clerk signs the memorandum of 42991
understanding, the clerk shall execute all relevant 42992
responsibilities as required of officials specified in the 42993
memorandum. 42994

(K)(1) Except as provided in division (K)(4) of this section, 42995
a person who is required to make a report pursuant to division (A) 42996
of this section may make a reasonable number of requests of the 42997
public children services agency that receives or is referred the 42998
report, or of the children's advocacy center that is referred the 42999
report if the report is referred to a children's advocacy center 43000
pursuant to an interagency agreement entered into under section 43001
2151.428 of the Revised Code, to be provided with the following 43002
information: 43003

(a) Whether the agency or center has initiated an 43004
investigation of the report; 43005

(b) Whether the agency or center is continuing to investigate 43006
the report; 43007

(c) Whether the agency or center is otherwise involved with 43008
the child who is the subject of the report; 43009

(d) The general status of the health and safety of the child 43010
who is the subject of the report; 43011

(e) Whether the report has resulted in the filing of a 43012

complaint in juvenile court or of criminal charges in another 43013
court. 43014

(2) A person may request the information specified in 43015
division (K)(1) of this section only if, at the time the report is 43016
made, the person's name, address, and telephone number are 43017
provided to the person who receives the report. 43018

When a municipal or county peace officer or employee of a 43019
public children services agency receives a report pursuant to 43020
division (A) or (B) of this section the recipient of the report 43021
shall inform the person of the right to request the information 43022
described in division (K)(1) of this section. The recipient of the 43023
report shall include in the initial child abuse or child neglect 43024
report that the person making the report was so informed and, if 43025
provided at the time of the making of the report, shall include 43026
the person's name, address, and telephone number in the report. 43027

Each request is subject to verification of the identity of 43028
the person making the report. If that person's identity is 43029
verified, the agency shall provide the person with the information 43030
described in division (K)(1) of this section a reasonable number 43031
of times, except that the agency shall not disclose any 43032
confidential information regarding the child who is the subject of 43033
the report other than the information described in those 43034
divisions. 43035

(3) A request made pursuant to division (K)(1) of this 43036
section is not a substitute for any report required to be made 43037
pursuant to division (A) of this section. 43038

(4) If an agency other than the agency that received or was 43039
referred the report is conducting the investigation of the report 43040
pursuant to section 2151.422 of the Revised Code, the agency 43041
conducting the investigation shall comply with the requirements of 43042
division (K) of this section. 43043

(L) The director of job and family services shall adopt rules 43044
in accordance with Chapter 119. of the Revised Code to implement 43045
this section. The department of job and family services may enter 43046
into a plan of cooperation with any other governmental entity to 43047
aid in ensuring that children are protected from abuse and 43048
neglect. The department shall make recommendations to the attorney 43049
general that the department determines are necessary to protect 43050
children from child abuse and child neglect. 43051

(M) Whoever violates division (A) of this section is liable 43052
for compensatory and exemplary damages to the child who would have 43053
been the subject of the report that was not made. A person who 43054
brings a civil action or proceeding pursuant to this division 43055
against a person who is alleged to have violated division (A)(1) 43056
of this section may use in the action or proceeding reports of 43057
other incidents of known or suspected abuse or neglect, provided 43058
that any information in a report that would identify the child who 43059
is the subject of the report or the maker of the report, if the 43060
maker is not the defendant or an agent or employee of the 43061
defendant, has been redacted. 43062

(N)(1) As used in this division: 43063

(a) "Out-of-home care" includes a nonchartered nonpublic 43064
school if the alleged child abuse or child neglect, or alleged 43065
threat of child abuse or child neglect, described in a report 43066
received by a public children services agency allegedly occurred 43067
in or involved the nonchartered nonpublic school and the alleged 43068
perpetrator named in the report holds a certificate, permit, or 43069
license issued by the state board of education under section 43070
3301.071 or Chapter 3319. of the Revised Code. 43071

(b) "Administrator, director, or other chief administrative 43072
officer" means the superintendent of the school district if the 43073
out-of-home care entity subject to a report made pursuant to this 43074
section is a school operated by the district. 43075

(2) No later than the end of the day following the day on 43076
which a public children services agency receives a report of 43077
alleged child abuse or child neglect, or a report of an alleged 43078
threat of child abuse or child neglect, that allegedly occurred in 43079
or involved an out-of-home care entity, the agency shall provide 43080
written notice of the allegations contained in and the person 43081
named as the alleged perpetrator in the report to the 43082
administrator, director, or other chief administrative officer of 43083
the out-of-home care entity that is the subject of the report 43084
unless the administrator, director, or other chief administrative 43085
officer is named as an alleged perpetrator in the report. If the 43086
administrator, director, or other chief administrative officer of 43087
an out-of-home care entity is named as an alleged perpetrator in a 43088
report of alleged child abuse or child neglect, or a report of an 43089
alleged threat of child abuse or child neglect, that allegedly 43090
occurred in or involved the out-of-home care entity, the agency 43091
shall provide the written notice to the owner or governing board 43092
of the out-of-home care entity that is the subject of the report. 43093
The agency shall not provide witness statements or police or other 43094
investigative reports. 43095

(3) No later than three days after the day on which a public 43096
children services agency that conducted the investigation as 43097
determined pursuant to section 2151.422 of the Revised Code makes 43098
a disposition of an investigation involving a report of alleged 43099
child abuse or child neglect, or a report of an alleged threat of 43100
child abuse or child neglect, that allegedly occurred in or 43101
involved an out-of-home care entity, the agency shall send written 43102
notice of the disposition of the investigation to the 43103
administrator, director, or other chief administrative officer and 43104
the owner or governing board of the out-of-home care entity. The 43105
agency shall not provide witness statements or police or other 43106
investigative reports. 43107

(O) As used in this section, "investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.

Sec. 2151.424. (A) If a child has been placed in a certified foster home or is in the custody of a relative of the child, other than a parent of the child, a court, prior to conducting any hearing pursuant to division ~~(E)~~(F)(2) or (3) of section 2151.412 or section 2151.28, 2151.33, 2151.35, 2151.414, 2151.415, 2151.416, or 2151.417 of the Revised Code with respect to the child, shall notify the foster caregiver or relative of the date, time, and place of the hearing. At the hearing, the foster caregiver or relative shall have the right to present evidence.

(B) If a public children services agency or private child placing agency has permanent custody of a child and a petition to adopt the child has been filed under Chapter 3107. of the Revised Code, the agency, prior to conducting a review under section 2151.416 of the Revised Code, or a court, prior to conducting a hearing under division ~~(E)~~(F)(2) or (3) of section 2151.412 or section 2151.416 or 2151.417 of the Revised Code, shall notify the prospective adoptive parent of the date, time, and place of the review or hearing. At the review or hearing, the prospective adoptive parent shall have the right to present evidence.

(C) The notice and the opportunity to present evidence do not make the foster caregiver, relative, or prospective adoptive parent a party in the action or proceeding pursuant to which the review or hearing is conducted.

Sec. 2151.429. (A) The differential response approach, as defined in section 2151.011 of the Revised Code, pursued by a public children services agency shall include two response

pathways, the traditional response pathway and the alternative response pathway. The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the procedures and criteria for public children services agencies to assign and reassign response pathways. 43138
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(B) The agency shall use the traditional response for the following types of accepted reports: 43143
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(1) Physical abuse resulting in serious injury or that creates a serious and immediate risk to a child's health and safety. 43145
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(2) Sexual abuse. 43148

(3) Child fatality. 43149

(4) Reports requiring a specialized assessment as identified by rule adopted by the department. 43150
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(5) Reports requiring a third party investigative procedure as identified by rule adopted by the department. 43152
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(C) For all other child abuse and neglect reports, an alternative response shall be the preferred response, whenever appropriate and in accordance with rules adopted by the department. 43154
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Sec. 2151.541. (A)(1) The juvenile judge may determine that, 43158
for the efficient operation of the juvenile court, additional 43159
funds are required to computerize the court, to make available 43160
computerized legal research services, or both. Upon making a 43161
determination that additional funds are required for either or 43162
both of those purposes, the judge shall do one of the following: 43163

(a) If ~~he~~ the judge is clerk of the court, charge one 43164
additional fee not to exceed three dollars on the filing of each 43165
cause of action or appeal under division (A), (Q), or (U) of 43166

section 2303.20 of the Revised Code; 43167

(b) If the clerk of the court of common pleas serves as the 43168
clerk of the juvenile court pursuant to section 2151.12 of the 43169
Revised Code, authorize and direct the clerk to charge one 43170
additional fee not to exceed three dollars on the filing of each 43171
cause of action or appeal under division (A), (Q), or (U) of 43172
section 2303.20 of the Revised Code. 43173

(2) All moneys collected under division (A)(1) of this 43174
section shall be paid to the county treasurer. The treasurer shall 43175
place the moneys from the fees in a separate fund to be disbursed, 43176
upon an order of the juvenile judge, subject to an appropriation 43177
by the board of county commissioners, in an amount no greater than 43178
the actual cost to the court of procuring and maintaining 43179
computerization of the court, computerized legal research 43180
services, or both. 43181

(3) If the court determines that the funds in the fund 43182
described in division (A)(2) of this section are more than 43183
sufficient to satisfy the purpose for which the additional fee 43184
described in division (A)(1) of this section was imposed, the 43185
court may declare a surplus in the fund and, subject to an 43186
appropriation by the board of county commissioners, expend those 43187
surplus funds for other appropriate technological expenses of the 43188
court. 43189

(B)(1) If the juvenile judge is the clerk of the juvenile 43190
court, ~~he~~ the judge may determine that, for the efficient 43191
operation of ~~his~~ the juvenile court, additional funds are required 43192
to computerize the clerk's office and, upon that determination, 43193
may charge an additional fee, not to exceed ten dollars, on the 43194
filing of each cause of action or appeal, on the filing, 43195
docketing, and endorsing of each certificate of judgment, or on 43196
the docketing and indexing of each aid in execution or petition to 43197
vacate, revive, or modify a judgment under divisions (A), (P), 43198

(Q), (T), and (U) of section 2303.20 of the Revised Code. Subject 43199
to division (B)(2) of this section, all moneys collected under 43200
this division shall be paid to the county treasurer to be 43201
disbursed, upon an order of the juvenile judge and subject to 43202
appropriation by the board of county commissioners, in an amount 43203
no greater than the actual cost to the juvenile court of procuring 43204
and maintaining computer systems for the clerk's office. 43205

(2) If the juvenile judge makes the determination described 43206
in division (B)(1) of this section, the board of county 43207
commissioners may issue one or more general obligation bonds for 43208
the purpose of procuring and maintaining the computer systems for 43209
the office of the clerk of the juvenile court. In addition to the 43210
purposes stated in division (B)(1) of this section for which the 43211
moneys collected under that division may be expended, the moneys 43212
additionally may be expended to pay debt charges on and financing 43213
costs related to any general obligation bonds issued pursuant to 43214
this division as they become due. General obligation bonds issued 43215
pursuant to this division are Chapter 133. securities. 43216

Sec. 2152.72. (A) This section applies only to a child who is 43217
or previously has been adjudicated a delinquent child for an act 43218
to which any of the following applies: 43219

(1) The act is a violation of section 2903.01, 2903.02, 43220
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2907.02, 2907.03, or 43221
2907.05 of the Revised Code. 43222

(2) The act is a violation of section 2923.01 of the Revised 43223
Code and involved an attempt to commit aggravated murder or 43224
murder. 43225

(3) The act would be a felony if committed by an adult, and 43226
the court determined that the child, if an adult, would be guilty 43227
of a specification found in section 2941.141, 2941.144, or 43228
2941.145 of the Revised Code or in another section of the Revised 43229

Code that relates to the possession or use of a firearm during the 43230
commission of the act for which the child was adjudicated a 43231
delinquent child. 43232

(4) The act would be an offense of violence that is a felony 43233
if committed by an adult, and the court determined that the child, 43234
if an adult, would be guilty of a specification found in section 43235
2941.1411 of the Revised Code or in another section of the Revised 43236
Code that relates to the wearing or carrying of body armor during 43237
the commission of the act for which the child was adjudicated a 43238
delinquent child. 43239

(B)(1) Except as provided in division (E) of this section, a 43240
public children services agency, private child placing agency, 43241
private noncustodial agency, or court, the department of youth 43242
services, or another private or government entity shall not place 43243
a child in a certified foster home or for adoption until it 43244
provides the foster caregivers or prospective adoptive parents 43245
with all of the following: 43246

(a) A written report describing the child's social history; 43247

(b) A written report describing all the acts committed by the 43248
child the entity knows of that resulted in the child being 43249
adjudicated a delinquent child and the disposition made by the 43250
court, unless the records pertaining to the acts have been sealed 43251
pursuant to section 2151.356 of the Revised Code; 43252

(c) A written report describing any other violent act 43253
committed by the child of which the entity is aware; 43254

(d) The substantial and material conclusions and 43255
recommendations of any psychiatric or psychological examination 43256
conducted on the child or, if no psychological or psychiatric 43257
examination of the child is available, the substantial and 43258
material conclusions and recommendations of an examination to 43259
detect mental and emotional disorders conducted in compliance with 43260

the requirements of Chapter 4757. of the Revised Code by an 43261
independent social worker, social worker, professional clinical 43262
counselor, or professional counselor licensed under that chapter. 43263
The entity shall not provide any part of a psychological, 43264
psychiatric, or mental and emotional disorder examination to the 43265
foster caregivers or prospective adoptive parents other than the 43266
substantial and material conclusions. 43267

(2) Notwithstanding sections 2151.356 to 2151.358 of the 43268
Revised Code, if records of an adjudication that a child is a 43269
delinquent child have been sealed pursuant to those sections and 43270
an entity knows the records have been sealed, the entity shall 43271
provide the foster caregivers or prospective adoptive parents a 43272
written statement that the records of a prior adjudication have 43273
been sealed. 43274

(C)(1) The entity that places the child in a certified foster 43275
home or for adoption shall conduct a psychological examination of 43276
the child unless either of the following applies: 43277

(a) An entity is not required to conduct the examination if 43278
an examination was conducted no more than one year prior to the 43279
child's placement, and division (C)(1)(b) of this section does not 43280
apply. 43281

(b) An entity is not required to conduct the examination if a 43282
foster caregiver seeks to adopt the foster caregiver's foster 43283
child, and an examination was conducted no more than two years 43284
prior to the date the foster caregiver seeks to adopt the child. 43285

(2) No later than sixty days after placing the child, the 43286
entity shall provide the foster caregiver or prospective adoptive 43287
parents a written report detailing the substantial and material 43288
conclusions and recommendations of the examination conducted 43289
pursuant to this division. 43290

(D)(1) Except as provided in divisions (D)(2) and (3) of this 43291

section, the expenses of conducting the examinations and preparing 43292
the reports and assessment required by division (B) or (C) of this 43293
section shall be paid by the entity that places the child in the 43294
certified foster home or for adoption. 43295

(2) When a juvenile court grants temporary or permanent 43296
custody of a child pursuant to any section of the Revised Code, 43297
including section 2151.33, 2151.353, 2151.354, or 2152.19 of the 43298
Revised Code, to a public children services agency or private 43299
child placing agency, the court shall provide the agency the 43300
information described in division (B) of this section, pay the 43301
expenses of preparing that information, and, if a new examination 43302
is required to be conducted, pay the expenses of conducting the 43303
examination described in division (C) of this section. On receipt 43304
of the information described in division (B) of this section, the 43305
agency shall provide to the court written acknowledgment that the 43306
agency received the information. The court shall keep the 43307
acknowledgment and provide a copy to the agency. On the motion of 43308
the agency, the court may terminate the order granting temporary 43309
or permanent custody of the child to that agency, if the court 43310
does not provide the information described in division (B) of this 43311
section. 43312

(3) If one of the following entities is placing a child in a 43313
certified foster home or for adoption with the assistance of or by 43314
contracting with a public children services agency, private child 43315
placing agency, or a private noncustodial agency, the entity shall 43316
provide the agency with the information described in division (B) 43317
of this section, pay the expenses of preparing that information, 43318
and, if a new examination is required to be conducted, pay the 43319
expenses of conducting the examination described in division (C) 43320
of this section: 43321

(a) The department of youth services if the placement is 43322
pursuant to any section of the Revised Code including section 43323

2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised Code; 43324
43325

(b) A juvenile court with temporary or permanent custody of a child pursuant to section 2151.354 or 2152.19 of the Revised Code; 43326
43327

(c) A public children services agency or private child placing agency with temporary or permanent custody of the child. 43328
43329

The agency receiving the information described in division (B) of this section shall provide the entity described in division (D)(3)(a) to (c) of this section that sent the information written acknowledgment that the agency received the information and provided it to the foster caregivers or prospective adoptive parents. The entity shall keep the acknowledgment and provide a copy to the agency. An entity that places a child in a certified foster home or for adoption with the assistance of or by contracting with an agency remains responsible to provide the information described in division (B) of this section to the foster caregivers or prospective adoptive parents unless the entity receives written acknowledgment that the agency provided the information. 43330
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(E) If a child is placed in a certified foster home as a result of an emergency removal of the child from home pursuant to division (D) of section 2151.31 of the Revised Code, an emergency change in the child's case plan pursuant to division ~~(E)~~(F)(3) of section 2151.412 of the Revised Code, or an emergency placement by the department of youth services pursuant to this chapter or Chapter 5139. of the Revised Code, the entity that places the child in the certified foster home shall provide the information described in division (B) of this section no later than ninety-six hours after the child is placed in the certified foster home. 43343
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(F) On receipt of the information described in divisions (B) and (C) of this section, the foster caregiver or prospective 43353
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adoptive parents shall provide to the entity that places the child 43355
in the foster caregiver's or prospective adoptive parents' home a 43356
written acknowledgment that the foster caregiver or prospective 43357
adoptive parents received the information. The entity shall keep 43358
the acknowledgment and provide a copy to the foster caregiver or 43359
prospective adoptive parents. 43360

(G) No person employed by an entity subject to this section 43361
and made responsible by that entity for the child's placement in a 43362
certified foster home or for adoption shall fail to provide the 43363
foster caregivers or prospective adoptive parents with the 43364
information required by divisions (B) and (C) of this section. 43365

(H) It is not a violation of any duty of confidentiality 43366
provided for in the Revised Code or a code of professional 43367
responsibility for a person or government entity to provide the 43368
substantial and material conclusions and recommendations of a 43369
psychiatric or psychological examination, or an examination to 43370
detect mental and emotional disorders, in accordance with division 43371
(B)(1)(d) or (C) of this section. 43372

(I) As used in this section: 43373

(1) "Body armor" has the same meaning as in section 2941.1411 43374
of the Revised Code. 43375

(2) "Firearm" has the same meaning as in section 2923.11 of 43376
the Revised Code. 43377

Sec. 2301.01. There shall be a court of common pleas in each 43378
county held by one or more judges, each of whom has been admitted 43379
to practice as an attorney at law in this state and has, for a 43380
total of at least six years preceding the judge's appointment or 43381
commencement of the judge's term, engaged in the practice of law 43382
~~in this state~~ or served as a judge of a court of record in any 43383
jurisdiction in the United States, or both, resides in ~~said~~ the 43384

county, and is elected by the electors therein. At least two of 43385
the years of practice or service that qualify a judge shall have 43386
been in this state. Each judge shall be elected for six years at 43387
the general election immediately preceding the year in which the 43388
term, as provided in sections 2301.02 and 2301.03 of the Revised 43389
Code, commences, and the judge's successor shall be elected at the 43390
general election immediately preceding the expiration of ~~such~~ that 43391
term. 43392

Sec. 2301.031. (A)(1) The domestic relations judges of a 43393
domestic relations division created by section 2301.03 of the 43394
Revised Code may determine that, for the efficient operation of 43395
their division, additional funds are required to computerize the 43396
division, to make available computerized legal research services, 43397
or both. Upon making a determination that additional funds are 43398
required for either or both of those purposes, the judges shall do 43399
one of the following: 43400

(a) Authorize and direct the clerk or a deputy clerk of the 43401
division to charge one additional fee not to exceed three dollars 43402
on the filing of each cause of action or appeal under division 43403
(A), (Q), or (U) of section 2303.20 of the Revised Code; 43404

(b) If the clerk of the court of common pleas serves as the 43405
clerk of the division, authorize and direct the clerk of the court 43406
of common pleas to charge one additional fee not to exceed three 43407
dollars on the filing of each cause of action or appeal under 43408
division (A), (Q), or (U) of section 2303.20 of the Revised Code. 43409

(2) All moneys collected under division (A)(1) of this 43410
section shall be paid to the county treasurer. The treasurer shall 43411
place the moneys from the fees in a separate fund to be disbursed, 43412
upon an order of the domestic relations judges, subject to an 43413
appropriation by the board of county commissioners, in an amount 43414
no greater than the actual cost to the division of procuring and 43415

maintaining computerization of the court, computerized legal 43416
research services, or both. 43417

(3) If the court determines that the funds in the fund 43418
described in division (A)(2) of this section are more than 43419
sufficient to satisfy the purpose for which the additional fee 43420
described in division (A)(1) of this section was imposed, the 43421
court may declare a surplus in the fund and, subject to an 43422
appropriation by the board of county commissioners, expend those 43423
surplus funds for other appropriate technological expenses of the 43424
court. 43425

(B)(1) If the clerk of the court of common pleas is not 43426
serving as the clerk of a juvenile or domestic relations division 43427
created by section 2301.03 of the Revised Code, the juvenile or 43428
domestic relations judges may determine that, for the efficient 43429
operation of their division, additional funds are required to 43430
computerize the office of the clerk of their division and, upon 43431
that determination, may authorize and direct the clerk or a deputy 43432
clerk of their division to charge an additional fee, not to exceed 43433
ten dollars, on the filing of each cause of action or appeal, on 43434
the filing, docketing, and endorsing of each certificate of 43435
judgment, or on the docketing and indexing of each aid in 43436
execution or petition to vacate, revive, or modify a judgment 43437
under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of 43438
the Revised Code. Subject to division (B)(2) of this section, all 43439
moneys collected under this division shall be paid to the county 43440
treasurer to be disbursed, upon an order of the juvenile or 43441
domestic relations judges and subject to appropriation by the 43442
board of county commissioners, in an amount no greater than the 43443
actual cost to the juvenile or domestic relations division of 43444
procuring and maintaining computer systems for the clerk's office. 43445

(2) If juvenile or domestic relations judges make the 43446
determination described in division (B)(1) of this section, the 43447

board of county commissioners may issue one or more general 43448
obligation bonds for the purpose of procuring and maintaining the 43449
computer systems for the office of the clerk of the juvenile or 43450
domestic relations division. In addition to the purposes stated in 43451
division (B)(1) of this section for which the moneys collected 43452
under that division may be expended, the moneys additionally may 43453
be expended to pay debt charges on and financing costs related to 43454
any general obligation bonds issued pursuant to this division as 43455
they become due. General obligation bonds issued pursuant to this 43456
division are Chapter 133. securities. 43457

Sec. 2303.201. (A)(1) The court of common pleas of any county 43458
may determine that for the efficient operation of the court 43459
additional funds are required to computerize the court, to make 43460
available computerized legal research services, or to do both. 43461
Upon making a determination that additional funds are required for 43462
either or both of those purposes, the court shall authorize and 43463
direct the clerk of the court of common pleas to charge one 43464
additional fee, not to exceed three dollars, on the filing of each 43465
cause of action or appeal under divisions (A), (Q), and (U) of 43466
section 2303.20 of the Revised Code. 43467

(2) All fees collected under division (A)(1) of this section 43468
shall be paid to the county treasurer. The treasurer shall place 43469
the funds from the fees in a separate fund to be disbursed, upon 43470
an order of the court, subject to an appropriation by the board of 43471
county commissioners, in an amount not greater than the actual 43472
cost to the court of procuring and maintaining computerization of 43473
the court, computerized legal research services, or both. 43474

(3) If the court determines that the funds in the fund 43475
described in division (A)(2) of this section are more than 43476
sufficient to satisfy the purpose for which the additional fee 43477
described in division (A)(1) of this section was imposed, the 43478

court may declare a surplus in the fund and, subject to an 43479
appropriation by the board of county commissioners, expend those 43480
surplus funds for other appropriate technological expenses of the 43481
court. 43482

(B)(1) The court of common pleas of any county may determine 43483
that, for the efficient operation of the court, additional funds 43484
are required to computerize the office of the clerk of the court 43485
of common pleas and, upon that determination, authorize and direct 43486
the clerk of the court of common pleas to charge an additional 43487
fee, not to exceed ten dollars, on the filing of each cause of 43488
action or appeal, on the filing, docketing, and endorsing of each 43489
certificate of judgment, or on the docketing and indexing of each 43490
aid in execution or petition to vacate, revive, or modify a 43491
judgment under divisions (A), (P), (Q), (T), and (U) of section 43492
2303.20 of the Revised Code. Subject to division (B)(2) of this 43493
section, all moneys collected under division (B)(1) of this 43494
section shall be paid to the county treasurer to be disbursed, 43495
upon an order of the court of common pleas and subject to 43496
appropriation by the board of county commissioners, in an amount 43497
no greater than the actual cost to the court of procuring and 43498
maintaining computer systems for the office of the clerk of the 43499
court of common pleas. 43500

(2) If the court of common pleas of a county makes the 43501
determination described in division (B)(1) of this section, the 43502
board of county commissioners of that county may issue one or more 43503
general obligation bonds for the purpose of procuring and 43504
maintaining the computer systems for the office of the clerk of 43505
the court of common pleas. In addition to the purposes stated in 43506
division (B)(1) of this section for which the moneys collected 43507
under that division may be expended, the moneys additionally may 43508
be expended to pay debt charges on and financing costs related to 43509
any general obligation bonds issued pursuant to division (B)(2) of 43510

this section as they become due. General obligation bonds issued 43511
pursuant to division (B)(2) of this section are Chapter 133. 43512
securities. 43513

(C) The court of common pleas shall collect the sum of 43514
twenty-six dollars as additional filing fees in each new civil 43515
action or proceeding for the charitable public purpose of 43516
providing financial assistance to legal aid societies that operate 43517
within the state and to support the office of the state public 43518
defender. This division does not apply to proceedings concerning 43519
annulments, dissolutions of marriage, divorces, legal separation, 43520
spousal support, marital property or separate property 43521
distribution, support, or other domestic relations matters; to a 43522
juvenile division of a court of common pleas; to a probate 43523
division of a court of common pleas, except that the additional 43524
filing fees shall apply to name change, guardianship, adoption, 43525
and decedents' estate proceedings; or to an execution on a 43526
judgment, proceeding in aid of execution, or other post-judgment 43527
proceeding arising out of a civil action. The filing fees required 43528
to be collected under this division shall be in addition to any 43529
other filing fees imposed in the action or proceeding and shall be 43530
collected at the time of the filing of the action or proceeding. 43531
The court shall not waive the payment of the additional filing 43532
fees in a new civil action or proceeding unless the court waives 43533
the advanced payment of all filing fees in the action or 43534
proceeding. All such moneys collected during a month except for an 43535
amount equal to up to one per cent of those moneys retained to 43536
cover administrative costs shall be transmitted on or before the 43537
twentieth day of the following month by the clerk of the court to 43538
the treasurer of state in a manner prescribed by the treasurer of 43539
state or by the Ohio legal assistance foundation. The treasurer of 43540
state shall deposit four per cent of the funds collected under 43541
this division to the credit of the civil case filing fee fund 43542
established under section 120.07 of the Revised Code and 43543

ninety-six per cent of the funds collected under this division to 43544
the credit of the legal aid fund established under section 120.52 43545
of the Revised Code. 43546

The court may retain up to one per cent of the moneys it 43547
collects under this division to cover administrative costs, 43548
including the hiring of any additional personnel necessary to 43549
implement this division. If the court fails to transmit to the 43550
treasurer of state the moneys the court collects under this 43551
division in a manner prescribed by the treasurer of state or by 43552
the Ohio legal assistance foundation, the court shall forfeit the 43553
moneys the court retains under this division to cover 43554
administrative costs, including the hiring of any additional 43555
personnel necessary to implement this division, and shall transmit 43556
to the treasurer of state all moneys collected under this 43557
division, including the forfeited amount retained for 43558
administrative costs, for deposit in the legal aid fund. 43559

(D) On and after the thirtieth day after December 9, 1994, 43560
the court of common pleas shall collect the sum of thirty-two 43561
dollars as additional filing fees in each new action or proceeding 43562
for annulment, divorce, or dissolution of marriage for the purpose 43563
of funding shelters for victims of domestic violence pursuant to 43564
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 43565
required to be collected under this division shall be in addition 43566
to any other filing fees imposed in the action or proceeding and 43567
shall be collected at the time of the filing of the action or 43568
proceeding. The court shall not waive the payment of the 43569
additional filing fees in a new action or proceeding for 43570
annulment, divorce, or dissolution of marriage unless the court 43571
waives the advanced payment of all filing fees in the action or 43572
proceeding. On or before the twentieth day of each month, all 43573
moneys collected during the immediately preceding month pursuant 43574
to this division shall be deposited by the clerk of the court into 43575

the county treasury in the special fund used for deposit of 43576
additional marriage license fees as described in section 3113.34 43577
of the Revised Code. Upon their deposit into the fund, the moneys 43578
shall be retained in the fund and expended only as described in 43579
section 3113.34 of the Revised Code. 43580

(E)(1) The court of common pleas may determine that, for the 43581
efficient operation of the court, additional funds are necessary 43582
to acquire and pay for special projects of the court, including, 43583
but not limited to, the acquisition of additional facilities or 43584
the rehabilitation of existing facilities, the acquisition of 43585
equipment, the hiring and training of staff, community service 43586
programs, mediation or dispute resolution services, the employment 43587
of magistrates, the training and education of judges, acting 43588
judges, and magistrates, and other related services. Upon that 43589
determination, the court by rule may charge a fee, in addition to 43590
all other court costs, on the filing of each criminal cause, civil 43591
action or proceeding, or judgment by confession. 43592

If the court of common pleas offers a special program or 43593
service in cases of a specific type, the court by rule may assess 43594
an additional charge in a case of that type, over and above court 43595
costs, to cover the special program or service. The court shall 43596
adjust the special assessment periodically, but not retroactively, 43597
so that the amount assessed in those cases does not exceed the 43598
actual cost of providing the service or program. 43599

All moneys collected under division (E) of this section shall 43600
be paid to the county treasurer for deposit into either a general 43601
special projects fund or a fund established for a specific special 43602
project. Moneys from a fund of that nature shall be disbursed upon 43603
an order of the court, subject to an appropriation by the board of 43604
county commissioners, in an amount no greater than the actual cost 43605
to the court of a project. If a specific fund is terminated 43606
because of the discontinuance of a program or service established 43607

under division (E) of this section, the court may order, subject 43608
to an appropriation by the board of county commissioners, that 43609
moneys remaining in the fund be transferred to an account 43610
established under this division for a similar purpose. 43611

(2) As used in division (E) of this section: 43612

(a) "Criminal cause" means a charge alleging the violation of 43613
a statute or ordinance, or subsection of a statute or ordinance, 43614
that requires a separate finding of fact or a separate plea before 43615
disposition and of which the defendant may be found guilty, 43616
whether filed as part of a multiple charge on a single summons, 43617
citation, or complaint or as a separate charge on a single 43618
summons, citation, or complaint. "Criminal cause" does not include 43619
separate violations of the same statute or ordinance, or 43620
subsection of the same statute or ordinance, unless each charge is 43621
filed on a separate summons, citation, or complaint. 43622

(b) "Civil action or proceeding" means any civil litigation 43623
that must be determined by judgment entry. 43624

Sec. 2305.01. Except as otherwise provided by this section or 43625
section 2305.03 of the Revised Code, the court of common pleas has 43626
original jurisdiction in all civil cases in which the sum or 43627
matter in dispute exceeds the exclusive original jurisdiction of 43628
county courts and appellate jurisdiction from the decisions of 43629
boards of county commissioners. The court of common pleas shall 43630
not have jurisdiction, in any tort action to which the amounts 43631
apply, to award punitive or exemplary damages that exceed the 43632
amounts set forth in section 2315.21 of the Revised Code. The 43633
court of common pleas shall not have jurisdiction in any tort 43634
action to which the limits apply to enter judgment on an award of 43635
compensatory damages for noneconomic loss in excess of the limits 43636
set forth in section 2315.18 of the Revised Code. 43637

The court of common pleas may on its own motion transfer for 43638

trial any action in the court to any municipal court in the county 43639
having concurrent jurisdiction of the subject matter of, and the 43640
parties to, the action, if the amount sought by the plaintiff does 43641
not exceed one thousand dollars and if the judge or presiding 43642
judge of the municipal court concurs in the proposed transfer. 43643
Upon the issuance of an order of transfer, the clerk of courts 43644
shall remove to the designated municipal court the entire case 43645
file. Any untaxed portion of the common pleas deposit for court 43646
costs shall be remitted to the municipal court by the clerk of 43647
courts to be applied in accordance with section 1901.26 of the 43648
Revised Code, and the costs taxed by the municipal court shall be 43649
added to any costs taxed in the common pleas court. 43650

The court of common pleas has jurisdiction in any action 43651
brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the 43652
Revised Code if the residential premises that are the subject of 43653
the action are located within the territorial jurisdiction of the 43654
court. 43655

The courts of common pleas of Adams, Athens, Belmont, Brown, 43656
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 43657
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 43658
beyond the north or northwest shore of the Ohio river extending to 43659
the opposite shore line, between the extended boundary lines of 43660
any adjacent counties or adjacent state. Each of those courts of 43661
common pleas has concurrent jurisdiction on the Ohio river with 43662
any adjacent court of common pleas that borders on that river and 43663
with any court of Kentucky or of West Virginia that borders on the 43664
Ohio river and that has jurisdiction on the Ohio river under the 43665
law of Kentucky or the law of West Virginia, whichever is 43666
applicable, or under federal law. 43667

Sec. 2305.232. (A) No person who gives aid or advice in an 43668
emergency situation relating to the prevention of an imminent 43669

release of hazardous material, to the clean-up or disposal of 43670
hazardous material that has been released, or to the related 43671
mitigation of the effects of a release of hazardous material, nor 43672
the public or private employer of such a person, is liable in 43673
civil damages as a result of the aid or advice if all of the 43674
following apply: 43675

(1) The aid or advice was given at the request of: 43676

(a) A sheriff, the chief of police or other chief officer of 43677
the law enforcement agency of a municipal corporation, the chief 43678
of police of a township police district or joint police district, 43679
the chief of a fire department, the state fire marshal, the 43680
director of environmental protection, the chairperson of the 43681
public utilities commission, the superintendent of the state 43682
highway patrol, the executive director of the emergency management 43683
agency, the chief executive of a municipal corporation, ~~or~~ the 43684
authorized representative of any such official, or the legislative 43685
authority of a township or county; or 43686

(b) The owner or manufacturer of the hazardous material, an 43687
association of manufacturers of the hazardous material, or a 43688
hazardous material mutual aid group. 43689

(2) The person giving the aid or advice acted without 43690
anticipating remuneration for self or the person's employer from 43691
the governmental official, authority, or agency that requested the 43692
aid or advice; 43693

(3) The person giving the aid or advice was specially 43694
qualified by training or experience to give the aid or advice; 43695

(4) Neither the person giving the aid or advice nor the 43696
public or private employer of the person giving the aid or advice 43697
was responsible for causing the release or threat of release nor 43698
would otherwise be liable for damages caused by the release; 43699

(5) The person giving the aid or advice did not engage in 43700

willful, wanton, or reckless misconduct or grossly negligent 43701
conduct in giving the aid or advice; 43702

(6) The person giving the aid or advice notified the 43703
emergency response section of the environmental protection agency 43704
prior to giving the aid or advice. 43705

(B) The immunity conferred by this section does not limit the 43706
liability of any person whose action caused or contributed to the 43707
release of hazardous material. That person is liable for any 43708
enhancement of damages caused by the person giving aid or advice 43709
under this section unless the enhancement of damages was caused by 43710
the willful, wanton, or reckless misconduct or grossly negligent 43711
conduct of the person giving aid or advice. 43712

(C) This section does not apply to any person rendering care, 43713
assistance, or advice in response to a discharge of oil when that 43714
person's immunity from liability is subject to determination under 43715
section 2305.39 of the Revised Code. 43716

(D) As used in this section: 43717

(1) "Hazardous material" means any material designated as 43718
such under the "Hazardous Materials Transportation Act," 88 Stat. 43719
2156 (1975), 49 U.S.C.A. 1803, as amended. 43720

(2) "Mutual aid group" means any group formed at the federal, 43721
state, regional, or local level whose members agree to respond to 43722
incidents involving hazardous material whether or not they 43723
shipped, transported, manufactured, or were at all connected with 43724
the hazardous material involved in a particular incident. 43725

(3) "Discharge" and "oil" have the same meanings as in 43726
section 2305.39 of the Revised Code. 43727

Sec. 2317.02. The following persons shall not testify in 43728
certain respects: 43729

(A)(1) An attorney, concerning a communication made to the 43730

attorney by a client in that relation or the attorney's advice to 43731
a client, except that the attorney may testify by express consent 43732
of the client or, if the client is deceased, by the express 43733
consent of the surviving spouse or the executor or administrator 43734
of the estate of the deceased client. However, if the client 43735
voluntarily testifies or is deemed by section 2151.421 of the 43736
Revised Code to have waived any testimonial privilege under this 43737
division, the attorney may be compelled to testify on the same 43738
subject. 43739

The testimonial privilege established under this division 43740
does not apply concerning a communication between a client who has 43741
since died and the deceased client's attorney if the communication 43742
is relevant to a dispute between parties who claim through that 43743
deceased client, regardless of whether the claims are by testate 43744
or intestate succession or by inter vivos transaction, and the 43745
dispute addresses the competency of the deceased client when the 43746
deceased client executed a document that is the basis of the 43747
dispute or whether the deceased client was a victim of fraud, 43748
undue influence, or duress when the deceased client executed a 43749
document that is the basis of the dispute. 43750

(2) An attorney, concerning a communication made to the 43751
attorney by a client in that relationship or the attorney's advice 43752
to a client, except that if the client is an insurance company, 43753
the attorney may be compelled to testify, subject to an in camera 43754
inspection by a court, about communications made by the client to 43755
the attorney or by the attorney to the client that are related to 43756
the attorney's aiding or furthering an ongoing or future 43757
commission of bad faith by the client, if the party seeking 43758
disclosure of the communications has made a prima facie showing of 43759
bad faith, fraud, or criminal misconduct by the client. 43760

(B)(1) A physician or a dentist concerning a communication 43761
made to the physician or dentist by a patient in that relation or 43762

the physician's or dentist's advice to a patient, except as 43763
otherwise provided in this division, division (B)(2), and division 43764
(B)(3) of this section, and except that, if the patient is deemed 43765
by section 2151.421 of the Revised Code to have waived any 43766
testimonial privilege under this division, the physician may be 43767
compelled to testify on the same subject. 43768

The testimonial privilege established under this division 43769
does not apply, and a physician or dentist may testify or may be 43770
compelled to testify, in any of the following circumstances: 43771

(a) In any civil action, in accordance with the discovery 43772
provisions of the Rules of Civil Procedure in connection with a 43773
civil action, or in connection with a claim under Chapter 4123. of 43774
the Revised Code, under any of the following circumstances: 43775

(i) If the patient or the guardian or other legal 43776
representative of the patient gives express consent; 43777

(ii) If the patient is deceased, the spouse of the patient or 43778
the executor or administrator of the patient's estate gives 43779
express consent; 43780

(iii) If a medical claim, dental claim, chiropractic claim, 43781
or optometric claim, as defined in section 2305.113 of the Revised 43782
Code, an action for wrongful death, any other type of civil 43783
action, or a claim under Chapter 4123. of the Revised Code is 43784
filed by the patient, the personal representative of the estate of 43785
the patient if deceased, or the patient's guardian or other legal 43786
representative. 43787

(b) In any civil action concerning court-ordered treatment or 43788
services received by a patient, if the court-ordered treatment or 43789
services were ordered as part of a case plan journalized under 43790
section 2151.412 of the Revised Code or the court-ordered 43791
treatment or services are necessary or relevant to dependency, 43792
neglect, or abuse or temporary or permanent custody proceedings 43793

under Chapter 2151. of the Revised Code. 43794

(c) In any criminal action concerning any test or the results 43795
of any test that determines the presence or concentration of 43796
alcohol, a drug of abuse, a combination of them, a controlled 43797
substance, or a metabolite of a controlled substance in the 43798
patient's whole blood, blood serum or plasma, breath, urine, or 43799
other bodily substance at any time relevant to the criminal 43800
offense in question. 43801

(d) In any criminal action against a physician or dentist. In 43802
such an action, the testimonial privilege established under this 43803
division does not prohibit the admission into evidence, in 43804
accordance with the Rules of Evidence, of a patient's medical or 43805
dental records or other communications between a patient and the 43806
physician or dentist that are related to the action and obtained 43807
by subpoena, search warrant, or other lawful means. A court that 43808
permits or compels a physician or dentist to testify in such an 43809
action or permits the introduction into evidence of patient 43810
records or other communications in such an action shall require 43811
that appropriate measures be taken to ensure that the 43812
confidentiality of any patient named or otherwise identified in 43813
the records is maintained. Measures to ensure confidentiality that 43814
may be taken by the court include sealing its records or deleting 43815
specific information from its records. 43816

(e)(i) If the communication was between a patient who has 43817
since died and the deceased patient's physician or dentist, the 43818
communication is relevant to a dispute between parties who claim 43819
through that deceased patient, regardless of whether the claims 43820
are by testate or intestate succession or by inter vivos 43821
transaction, and the dispute addresses the competency of the 43822
deceased patient when the deceased patient executed a document 43823
that is the basis of the dispute or whether the deceased patient 43824
was a victim of fraud, undue influence, or duress when the 43825

deceased patient executed a document that is the basis of the 43826
dispute. 43827

(ii) If neither the spouse of a patient nor the executor or 43828
administrator of that patient's estate gives consent under 43829
division (B)(1)(a)(ii) of this section, testimony or the 43830
disclosure of the patient's medical records by a physician, 43831
dentist, or other health care provider under division (B)(1)(e)(i) 43832
of this section is a permitted use or disclosure of protected 43833
health information, as defined in 45 C.F.R. 160.103, and an 43834
authorization or opportunity to be heard shall not be required. 43835

(iii) Division (B)(1)(e)(i) of this section does not require 43836
a mental health professional to disclose psychotherapy notes, as 43837
defined in 45 C.F.R. 164.501. 43838

(iv) An interested person who objects to testimony or 43839
disclosure under division (B)(1)(e)(i) of this section may seek a 43840
protective order pursuant to Civil Rule 26. 43841

(v) A person to whom protected health information is 43842
disclosed under division (B)(1)(e)(i) of this section shall not 43843
use or disclose the protected health information for any purpose 43844
other than the litigation or proceeding for which the information 43845
was requested and shall return the protected health information to 43846
the covered entity or destroy the protected health information, 43847
including all copies made, at the conclusion of the litigation or 43848
proceeding. 43849

(2)(a) If any law enforcement officer submits a written 43850
statement to a health care provider that states that an official 43851
criminal investigation has begun regarding a specified person or 43852
that a criminal action or proceeding has been commenced against a 43853
specified person, that requests the provider to supply to the 43854
officer copies of any records the provider possesses that pertain 43855
to any test or the results of any test administered to the 43856

specified person to determine the presence or concentration of 43857
alcohol, a drug of abuse, a combination of them, a controlled 43858
substance, or a metabolite of a controlled substance in the 43859
person's whole blood, blood serum or plasma, breath, or urine at 43860
any time relevant to the criminal offense in question, and that 43861
conforms to section 2317.022 of the Revised Code, the provider, 43862
except to the extent specifically prohibited by any law of this 43863
state or of the United States, shall supply to the officer a copy 43864
of any of the requested records the provider possesses. If the 43865
health care provider does not possess any of the requested 43866
records, the provider shall give the officer a written statement 43867
that indicates that the provider does not possess any of the 43868
requested records. 43869

(b) If a health care provider possesses any records of the 43870
type described in division (B)(2)(a) of this section regarding the 43871
person in question at any time relevant to the criminal offense in 43872
question, in lieu of personally testifying as to the results of 43873
the test in question, the custodian of the records may submit a 43874
certified copy of the records, and, upon its submission, the 43875
certified copy is qualified as authentic evidence and may be 43876
admitted as evidence in accordance with the Rules of Evidence. 43877
Division (A) of section 2317.422 of the Revised Code does not 43878
apply to any certified copy of records submitted in accordance 43879
with this division. Nothing in this division shall be construed to 43880
limit the right of any party to call as a witness the person who 43881
administered the test to which the records pertain, the person 43882
under whose supervision the test was administered, the custodian 43883
of the records, the person who made the records, or the person 43884
under whose supervision the records were made. 43885

(3)(a) If the testimonial privilege described in division 43886
(B)(1) of this section does not apply as provided in division 43887
(B)(1)(a)(iii) of this section, a physician or dentist may be 43888

compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(c) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any

information, in any manner, concerning any facts, opinions, or 43921
statements necessary to enable a physician or dentist to diagnose, 43922
treat, prescribe, or act for a patient. A "communication" may 43923
include, but is not limited to, any medical or dental, office, or 43924
hospital communication such as a record, chart, letter, 43925
memorandum, laboratory test and results, x-ray, photograph, 43926
financial statement, diagnosis, or prognosis. 43927

(b) As used in division (B)(2) of this section, "health care 43928
provider" means a hospital, ambulatory care facility, long-term 43929
care facility, pharmacy, emergency facility, or health care 43930
practitioner. 43931

(c) As used in division (B)(5)(b) of this section: 43932

(i) "Ambulatory care facility" means a facility that provides 43933
medical, diagnostic, or surgical treatment to patients who do not 43934
require hospitalization, including a dialysis center, ambulatory 43935
surgical facility, cardiac catheterization facility, diagnostic 43936
imaging center, extracorporeal shock wave lithotripsy center, home 43937
health agency, inpatient hospice, birthing center, radiation 43938
therapy center, emergency facility, and an urgent care center. 43939
"Ambulatory health care facility" does not include the private 43940
office of a physician or dentist, whether the office is for an 43941
individual or group practice. 43942

(ii) "Emergency facility" means a hospital emergency 43943
department or any other facility that provides emergency medical 43944
services. 43945

(iii) "Health care practitioner" has the same meaning as in 43946
section 4769.01 of the Revised Code. 43947

(iv) "Hospital" has the same meaning as in section 3727.01 of 43948
the Revised Code. 43949

(v) "Long-term care facility" means a nursing home, 43950
residential care facility, or home for the aging, as those terms 43951

are defined in section 3721.01 of the Revised Code; an adult care 43952
facility, as defined in section ~~3722.01~~ 5119.70 of the Revised 43953
Code; a nursing facility or intermediate care facility for the 43954
mentally retarded, as those terms are defined in section 5111.20 43955
of the Revised Code; a facility or portion of a facility certified 43956
as a skilled nursing facility under Title XVIII of the "Social 43957
Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 43958

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 43959
the Revised Code. 43960

(d) As used in divisions (B)(1) and (2) of this section, 43961
"drug of abuse" has the same meaning as in section 4506.01 of the 43962
Revised Code. 43963

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section 43964
apply to doctors of medicine, doctors of osteopathic medicine, 43965
doctors of podiatry, and dentists. 43966

(7) Nothing in divisions (B)(1) to (6) of this section 43967
affects, or shall be construed as affecting, the immunity from 43968
civil liability conferred by section 307.628 of the Revised Code 43969
or the immunity from civil liability conferred by section 2305.33 43970
of the Revised Code upon physicians who report an employee's use 43971
of a drug of abuse, or a condition of an employee other than one 43972
involving the use of a drug of abuse, to the employer of the 43973
employee in accordance with division (B) of that section. As used 43974
in division (B)(7) of this section, "employee," "employer," and 43975
"physician" have the same meanings as in section 2305.33 of the 43976
Revised Code. 43977

(C)(1) A cleric, when the cleric remains accountable to the 43978
authority of that cleric's church, denomination, or sect, 43979
concerning a confession made, or any information confidentially 43980
communicated, to the cleric for a religious counseling purpose in 43981
the cleric's professional character. The cleric may testify by 43982

express consent of the person making the communication, except 43983
when the disclosure of the information is in violation of a sacred 43984
trust and except that, if the person voluntarily testifies or is 43985
deemed by division (A)(4)(c) of section 2151.421 of the Revised 43986
Code to have waived any testimonial privilege under this division, 43987
the cleric may be compelled to testify on the same subject except 43988
when disclosure of the information is in violation of a sacred 43989
trust. 43990

(2) As used in division (C) of this section: 43991

(a) "Cleric" means a member of the clergy, rabbi, priest, 43992
Christian Science practitioner, or regularly ordained, accredited, 43993
or licensed minister of an established and legally cognizable 43994
church, denomination, or sect. 43995

(b) "Sacred trust" means a confession or confidential 43996
communication made to a cleric in the cleric's ecclesiastical 43997
capacity in the course of discipline enjoined by the church to 43998
which the cleric belongs, including, but not limited to, the 43999
Catholic Church, if both of the following apply: 44000

(i) The confession or confidential communication was made 44001
directly to the cleric. 44002

(ii) The confession or confidential communication was made in 44003
the manner and context that places the cleric specifically and 44004
strictly under a level of confidentiality that is considered 44005
inviolable by canon law or church doctrine. 44006

(D) Husband or wife, concerning any communication made by one 44007
to the other, or an act done by either in the presence of the 44008
other, during coverture, unless the communication was made, or act 44009
done, in the known presence or hearing of a third person competent 44010
to be a witness; and such rule is the same if the marital relation 44011
has ceased to exist; 44012

(E) A person who assigns a claim or interest, concerning any 44013

matter in respect to which the person would not, if a party, be 44014
permitted to testify; 44015

(F) A person who, if a party, would be restricted under 44016
section 2317.03 of the Revised Code, when the property or thing is 44017
sold or transferred by an executor, administrator, guardian, 44018
trustee, heir, devisee, or legatee, shall be restricted in the 44019
same manner in any action or proceeding concerning the property or 44020
thing. 44021

(G)(1) A school guidance counselor who holds a valid educator 44022
license from the state board of education as provided for in 44023
section 3319.22 of the Revised Code, a person licensed under 44024
Chapter 4757. of the Revised Code as a professional clinical 44025
counselor, professional counselor, social worker, independent 44026
social worker, marriage and family therapist or independent 44027
marriage and family therapist, or registered under Chapter 4757. 44028
of the Revised Code as a social work assistant concerning a 44029
confidential communication received from a client in that relation 44030
or the person's advice to a client unless any of the following 44031
applies: 44032

(a) The communication or advice indicates clear and present 44033
danger to the client or other persons. For the purposes of this 44034
division, cases in which there are indications of present or past 44035
child abuse or neglect of the client constitute a clear and 44036
present danger. 44037

(b) The client gives express consent to the testimony. 44038

(c) If the client is deceased, the surviving spouse or the 44039
executor or administrator of the estate of the deceased client 44040
gives express consent. 44041

(d) The client voluntarily testifies, in which case the 44042
school guidance counselor or person licensed or registered under 44043
Chapter 4757. of the Revised Code may be compelled to testify on 44044

the same subject. 44045

(e) The court in camera determines that the information 44046
communicated by the client is not germane to the counselor-client, 44047
marriage and family therapist-client, or social worker-client 44048
relationship. 44049

(f) A court, in an action brought against a school, its 44050
administration, or any of its personnel by the client, rules after 44051
an in-camera inspection that the testimony of the school guidance 44052
counselor is relevant to that action. 44053

(g) The testimony is sought in a civil action and concerns 44054
court-ordered treatment or services received by a patient as part 44055
of a case plan journalized under section 2151.412 of the Revised 44056
Code or the court-ordered treatment or services are necessary or 44057
relevant to dependency, neglect, or abuse or temporary or 44058
permanent custody proceedings under Chapter 2151. of the Revised 44059
Code. 44060

(2) Nothing in division (G)(1) of this section shall relieve 44061
a school guidance counselor or a person licensed or registered 44062
under Chapter 4757. of the Revised Code from the requirement to 44063
report information concerning child abuse or neglect under section 44064
2151.421 of the Revised Code. 44065

(H) A mediator acting under a mediation order issued under 44066
division (A) of section 3109.052 of the Revised Code or otherwise 44067
issued in any proceeding for divorce, dissolution, legal 44068
separation, annulment, or the allocation of parental rights and 44069
responsibilities for the care of children, in any action or 44070
proceeding, other than a criminal, delinquency, child abuse, child 44071
neglect, or dependent child action or proceeding, that is brought 44072
by or against either parent who takes part in mediation in 44073
accordance with the order and that pertains to the mediation 44074
process, to any information discussed or presented in the 44075

mediation process, to the allocation of parental rights and 44076
responsibilities for the care of the parents' children, or to the 44077
awarding of parenting time rights in relation to their children; 44078

(I) A communications assistant, acting within the scope of 44079
the communication assistant's authority, when providing 44080
telecommunications relay service pursuant to section 4931.06 of 44081
the Revised Code or Title II of the "Communications Act of 1934," 44082
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 44083
made through a telecommunications relay service. Nothing in this 44084
section shall limit the obligation of a communications assistant 44085
to divulge information or testify when mandated by federal law or 44086
regulation or pursuant to subpoena in a criminal proceeding. 44087

Nothing in this section shall limit any immunity or privilege 44088
granted under federal law or regulation. 44089

(J)(1) A chiropractor in a civil proceeding concerning a 44090
communication made to the chiropractor by a patient in that 44091
relation or the chiropractor's advice to a patient, except as 44092
otherwise provided in this division. The testimonial privilege 44093
established under this division does not apply, and a chiropractor 44094
may testify or may be compelled to testify, in any civil action, 44095
in accordance with the discovery provisions of the Rules of Civil 44096
Procedure in connection with a civil action, or in connection with 44097
a claim under Chapter 4123. of the Revised Code, under any of the 44098
following circumstances: 44099

(a) If the patient or the guardian or other legal 44100
representative of the patient gives express consent. 44101

(b) If the patient is deceased, the spouse of the patient or 44102
the executor or administrator of the patient's estate gives 44103
express consent. 44104

(c) If a medical claim, dental claim, chiropractic claim, or 44105
optometric claim, as defined in section 2305.113 of the Revised 44106

Code, an action for wrongful death, any other type of civil 44107
action, or a claim under Chapter 4123. of the Revised Code is 44108
filed by the patient, the personal representative of the estate of 44109
the patient if deceased, or the patient's guardian or other legal 44110
representative. 44111

(2) If the testimonial privilege described in division (J)(1) 44112
of this section does not apply as provided in division (J)(1)(c) 44113
of this section, a chiropractor may be compelled to testify or to 44114
submit to discovery under the Rules of Civil Procedure only as to 44115
a communication made to the chiropractor by the patient in 44116
question in that relation, or the chiropractor's advice to the 44117
patient in question, that related causally or historically to 44118
physical or mental injuries that are relevant to issues in the 44119
medical claim, dental claim, chiropractic claim, or optometric 44120
claim, action for wrongful death, other civil action, or claim 44121
under Chapter 4123. of the Revised Code. 44122

(3) The testimonial privilege established under this division 44123
does not apply, and a chiropractor may testify or be compelled to 44124
testify, in any criminal action or administrative proceeding. 44125

(4) As used in this division, "communication" means 44126
acquiring, recording, or transmitting any information, in any 44127
manner, concerning any facts, opinions, or statements necessary to 44128
enable a chiropractor to diagnose, treat, or act for a patient. A 44129
communication may include, but is not limited to, any 44130
chiropractic, office, or hospital communication such as a record, 44131
chart, letter, memorandum, laboratory test and results, x-ray, 44132
photograph, financial statement, diagnosis, or prognosis. 44133

(K)(1) Except as provided under division (K)(2) of this 44134
section, a critical incident stress management team member 44135
concerning a communication received from an individual who 44136
receives crisis response services from the team member, or the 44137
team member's advice to the individual, during a debriefing 44138

session. 44139

(2) The testimonial privilege established under division 44140
(K)(1) of this section does not apply if any of the following are 44141
true: 44142

(a) The communication or advice indicates clear and present 44143
danger to the individual who receives crisis response services or 44144
to other persons. For purposes of this division, cases in which 44145
there are indications of present or past child abuse or neglect of 44146
the individual constitute a clear and present danger. 44147

(b) The individual who received crisis response services 44148
gives express consent to the testimony. 44149

(c) If the individual who received crisis response services 44150
is deceased, the surviving spouse or the executor or administrator 44151
of the estate of the deceased individual gives express consent. 44152

(d) The individual who received crisis response services 44153
voluntarily testifies, in which case the team member may be 44154
compelled to testify on the same subject. 44155

(e) The court in camera determines that the information 44156
communicated by the individual who received crisis response 44157
services is not germane to the relationship between the individual 44158
and the team member. 44159

(f) The communication or advice pertains or is related to any 44160
criminal act. 44161

(3) As used in division (K) of this section: 44162

(a) "Crisis response services" means consultation, risk 44163
assessment, referral, and on-site crisis intervention services 44164
provided by a critical incident stress management team to 44165
individuals affected by crisis or disaster. 44166

(b) "Critical incident stress management team member" or 44167
"team member" means an individual specially trained to provide 44168

crisis response services as a member of an organized community or 44169
local crisis response team that holds membership in the Ohio 44170
critical incident stress management network. 44171

(c) "Debriefing session" means a session at which crisis 44172
response services are rendered by a critical incident stress 44173
management team member during or after a crisis or disaster. 44174

(L)(1) Subject to division (L)(2) of this section and except 44175
as provided in division (L)(3) of this section, an employee 44176
assistance professional, concerning a communication made to the 44177
employee assistance professional by a client in the employee 44178
assistance professional's official capacity as an employee 44179
assistance professional. 44180

(2) Division (L)(1) of this section applies to an employee 44181
assistance professional who meets either or both of the following 44182
requirements: 44183

(a) Is certified by the employee assistance certification 44184
commission to engage in the employee assistance profession; 44185

(b) Has education, training, and experience in all of the 44186
following: 44187

(i) Providing workplace-based services designed to address 44188
employer and employee productivity issues; 44189

(ii) Providing assistance to employees and employees' 44190
dependents in identifying and finding the means to resolve 44191
personal problems that affect the employees or the employees' 44192
performance; 44193

(iii) Identifying and resolving productivity problems 44194
associated with an employee's concerns about any of the following 44195
matters: health, marriage, family, finances, substance abuse or 44196
other addiction, workplace, law, and emotional issues; 44197

(iv) Selecting and evaluating available community resources; 44198

(v) Making appropriate referrals;	44199
(vi) Local and national employee assistance agreements;	44200
(vii) Client confidentiality.	44201
(3) Division (L)(1) of this section does not apply to any of the following:	44202 44203
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	44204 44205 44206 44207
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	44208 44209 44210
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	44211 44212 44213
(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;	44214 44215 44216
(e) A civil or criminal malpractice action brought against the employee assistance professional;	44217 44218
(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;	44219 44220 44221
(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.	44222 44223
Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section	44224 44225 44226 44227

3721.01 of the Revised Code, and adult care facilities required to 44228
be licensed pursuant to Chapter ~~3722~~. 5119. of the Revised Code, 44229
in lieu of the testimony in open court of their custodian, person 44230
who made them, or person under whose supervision they were made, 44231
may be qualified as authentic evidence if any such person endorses 44232
thereon the person's verified certification identifying such 44233
records, giving the mode and time of their preparation, and 44234
stating that they were prepared in the usual course of the 44235
business of the institution. Such records, copies, or photographs 44236
may not be qualified by certification as provided in this section 44237
unless the party intending to offer them delivers a copy of them, 44238
or of their relevant portions, to the attorney of record for each 44239
adverse party not less than five days before trial. Nothing in 44240
this section shall be construed to limit the right of any party to 44241
call the custodian, person who made such records, or person under 44242
whose supervision they were made, as a witness. 44243

(B) Division (A) of this section does not apply to any 44244
certified copy of the results of any test given to determine the 44245
presence or concentration of alcohol, a drug of abuse, a 44246
combination of them, a controlled substance, or a metabolite of a 44247
controlled substance in a patient's whole blood, blood serum or 44248
plasma, breath, or urine at any time relevant to a criminal 44249
offense that is submitted in a criminal action or proceeding in 44250
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 44251
of the Revised Code. 44252

Sec. 2329.26. (A) Lands and tenements taken in execution 44253
shall not be sold until all of the following occur: 44254

(1)(a) Except as otherwise provided in division (A)(1)(b) of 44255
this section, the judgment creditor who seeks the sale of the 44256
lands and tenements or the judgment creditor's attorney does both 44257
of the following: 44258

(i) Causes a written notice of the date, time, and place of the sale to be served in accordance with divisions (A) and (B) of Civil Rule 5 upon the judgment debtor and upon each other party to the action in which the judgment giving rise to the execution was rendered;

(ii) At least seven calendar days prior to the date of the sale, files with the clerk of the court that rendered the judgment giving rise to the execution a copy of the written notice described in division (A)(1)(a)(i) of this section with proof of service endorsed on the copy in the form described in division (D) of Civil Rule 5.

(b) Service of the written notice described in division (A)(1)(a)(i) of this section is not required to be made upon any party who is in default for failure to appear in the action in which the judgment giving rise to the execution was rendered.

(2) The officer taking the lands and tenements gives public notice of the date, time, and place of the sale once a week for at least three consecutive weeks before the day of sale by advertisement in a newspaper ~~published in and~~ of general circulation in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The court ordering the sale may designate in the order of sale the newspaper in which this public notice shall be published, ~~and this public notice is subject to division (A) of section 2329.27 of the Revised Code.~~

(3) The officer taking the lands and tenements shall collect the purchaser's information required by section 2329.271 of the Revised Code.

(B) A sale of lands and tenements taken in execution may be set aside in accordance with division (A) or (B) of section 2329.27 of the Revised Code.

Sec. 2335.05. In all cases or proceedings not specified in 44290
sections 2335.06 and 2335.08 of the Revised Code, except as 44291
otherwise provided in section 2335.061 of the Revised Code, each 44292
person subpoenaed as a witness shall be allowed one dollar for 44293
each day's attendance and the mileage allowed in courts of record. 44294
~~When~~ If not subpoenaed each person called upon to testify in a 44295
case or proceeding shall receive twenty-five cents. Such fee shall 44296
be taxed in the bill of costs, and if incurred in a state or 44297
ordinance case, or in a proceeding before a public officer, board, 44298
or commission, the fee shall be paid out of the proper public 44299
treasury, upon the certificate of the court, officer, board, or 44300
commission conducting the proceeding. 44301

Sec. 2335.06. ~~Each~~ (A) Except as otherwise provided in 44302
section 2335.061 of the Revised Code, each witness in civil cases 44303
shall receive the following fees: 44304

~~(A)(1)~~ Twelve dollars for each full day's attendance and six 44305
dollars for each half day's attendance at a court of record, 44306
mayor's court, or before a person authorized to take depositions, 44307
to be taxed in the bill of costs. Each witness shall also receive 44308
reimbursement for each mile necessarily traveled to and from the 44309
witness's place of residence to the place of giving testimony, to 44310
be taxed in the bill of costs. The board of county commissioners 44311
of each county shall set the reimbursement rate for each mile 44312
necessarily traveled by a witness in a civil case in the common 44313
pleas court, any division of the common pleas court, a county 44314
court, or a county-operated municipal court. The rate shall not 44315
exceed fifty and one-half cents for each mile. 44316

~~(B)(2)~~ For attending a coroner's inquest, the same fees and 44317
mileage provided by division (A)(1) of this section, payable from 44318
the county treasury on the certificate of the coroner. 44319

~~(C)~~(B) As used in this section, "full day's attendance" means 44320
a day on which a witness is required or requested to be present at 44321
proceedings before and after twelve noon regardless of whether the 44322
witness actually testifies; "half day's attendance" means a day on 44323
which a witness is required or requested to be present at 44324
proceedings either before or after twelve noon, but not both, 44325
regardless of whether the witness actually testifies. 44326

Sec. 2335.061. (A) As used in this section: 44327

(1) "Coroner" has the same meaning as in section 313.01 of 44328
the Revised Code, and includes the following: 44329

(a) The coroner of a county other than a county in which the 44330
death occurred or the dead human body was found if the coroner of 44331
that other county performed services for the county in which the 44332
death occurred or the dead human body was found; 44333

(b) A medical examiner appointed by the governing authority 44334
of a county to perform the duties of a coroner set forth in 44335
Chapter 313. of the Revised Code. 44336

(2) "Deposition fee" means the amount derived by multiplying 44337
the hourly rate by the number of hours a coroner or deputy coroner 44338
spent preparing for and giving expert testimony at a deposition in 44339
a civil action pursuant to this section. 44340

(3) "Deputy coroner" means a pathologist serving as a deputy 44341
coroner. 44342

(4) "Expert testimony" means testimony given by a coroner or 44343
deputy coroner as an expert witness pursuant to this section and 44344
the Rules of Evidence. 44345

(5) "Fact testimony" means testimony given by a coroner or 44346
deputy coroner regarding the performance of the duties of the 44347
coroner as set forth in Chapter 313. of the Revised Code. "Fact 44348
testimony" does not include expert testimony. 44349

(6) "Hourly rate" means the compensation established in sections 325.15 and 325.18 of the Revised Code for a coroner without a private practice of medicine at the class 8 level for calendar year 2001 and thereafter, divided by two thousand eighty.

(7) "Testimonial fee" means the amount derived by multiplying the hourly rate by six and multiplying the product by the number of hours that a coroner or deputy coroner spent preparing for and giving expert testimony at a trial or hearing in a civil action pursuant to this section.

(B)(1) A party may subpoena a coroner or deputy coroner to give expert testimony at a trial, hearing, or deposition in a civil action only upon filing with the court a notice that includes all of the following:

(a) The name of the coroner or deputy coroner whose testimony is sought;

(b) A brief statement of the issues upon which the party seeks expert testimony from the coroner or deputy coroner;

(c) An acknowledgment by the party that the giving of expert testimony by the coroner or deputy coroner at the trial, hearing, or deposition is governed by this section and that the party will comply with all of the requirements of this section;

(d) A statement of the obligations of the coroner or deputy coroner under division (C) of this section.

(2) The notice under division (B)(1) of this section shall be served together with the subpoena.

(C) A party that obtains the expert testimony of a coroner or deputy coroner at a trial, hearing, or deposition in a civil action pursuant to division (B) or (D) of this section shall pay to the treasury of the county in which the coroner or deputy coroner holds office or is appointed or employed a testimonial fee

or deposition fee, whichever is applicable, within thirty days 44380
after receiving the statement described in this division. Upon the 44381
conclusion of the coroner's or deputy coroner's expert testimony, 44382
the coroner or deputy coroner shall file a statement with the 44383
court on behalf of the county in which the coroner or deputy 44384
coroner holds office or is appointed or employed showing the fee 44385
due and how the coroner or deputy coroner calculated the fee. The 44386
coroner or deputy coroner shall serve a copy of the statement on 44387
each of the parties. 44388

(D) For good cause shown, the court may permit a coroner or 44389
deputy coroner who has not been served with a subpoena under 44390
division (B) of this section to give expert testimony at a trial, 44391
hearing, or deposition in a civil action. Unless good cause is 44392
shown, the failure of a party to file with the court the notice 44393
described in division (B)(1) of this section prohibits the party 44394
from having a coroner or deputy coroner subpoenaed to give expert 44395
testimony at a trial, hearing, or deposition in a civil action or 44396
from otherwise calling the coroner or a deputy coroner to give 44397
expert testimony at a trial, hearing, or deposition in a civil 44398
action. 44399

(E) In the event of a dispute as to the contents of the 44400
notice filed by a party under division (B) of this section or as 44401
to the nature of the testimony sought from or given by a coroner 44402
or a deputy coroner at a trial, hearing, or deposition in a civil 44403
action, the court shall determine whether the testimony sought 44404
from or given by the coroner or deputy coroner is expert testimony 44405
or fact testimony. In making this determination, the court shall 44406
consider all of the following: 44407

(1) The definitions of "expert testimony" and "fact 44408
testimony" set forth in this section; 44409

(2) All applicable rules of evidence; 44410

(3) Any other information that the court considers relevant. 44411

(F) Nothing in this section shall be construed to alter, 44412
amend, or supersede the requirements of the Rules of Civil 44413
Procedure or the Rules of Evidence. 44414

Sec. 2501.02. Each judge of a court of appeals shall have 44415
been admitted to practice as an attorney at law in this state and 44416
have, for a total of six years preceding the judge's appointment 44417
or commencement of the judge's term, engaged in the practice of 44418
law ~~in this state~~ or served as a judge of a court of record in any 44419
jurisdiction in the United States, or both. At least two of the 44420
years of practice or service that qualify a judge shall have been 44421
in this state. One judge shall be chosen in each court of appeals 44422
district every two years, and shall hold office for six years, 44423
beginning on the ninth day of February next after the judge's 44424
election. 44425

In addition to the original jurisdiction conferred by Section 44426
3 of Article IV, Ohio Constitution, the court shall have 44427
jurisdiction upon an appeal upon questions of law to review, 44428
affirm, modify, set aside, or reverse judgments or final orders of 44429
courts of record inferior to the court of appeals within the 44430
district, including the finding, order, or judgment of a juvenile 44431
court that a child is delinquent, neglected, abused, or dependent, 44432
for prejudicial error committed by such lower court. 44433

The court, on good cause shown, may issue writs of 44434
supersedeas in any case, and all other writs, not specially 44435
provided for or prohibited by statute, necessary to enforce the 44436
administration of justice. 44437

Sec. 2503.01. The supreme court shall consist of a chief 44438
justice and six justices, each of whom has been admitted to 44439
practice as an attorney at law in this state and has, for a total 44440

of at least six years preceding ~~his~~ appointment or commencement of 44441
~~his~~ the justice's term, engaged in the practice of law ~~in this~~ 44442
~~state~~ or served as a judge of a court of record in any 44443
jurisdiction of the United States, or both. At least two of the 44444
years of practice or service that qualify a justice shall have 44445
been in this state. 44446

Sec. 2744.05. Notwithstanding any other provisions of the 44447
Revised Code or rules of a court to the contrary, in an action 44448
against a political subdivision to recover damages for injury, 44449
death, or loss to person or property caused by an act or omission 44450
in connection with a governmental or proprietary function: 44451

(A) Punitive or exemplary damages shall not be awarded. 44452

(B)(1) If a claimant receives or is entitled to receive 44453
benefits for injuries or loss allegedly incurred from a policy or 44454
policies of insurance or any other source, the benefits shall be 44455
disclosed to the court, and the amount of the benefits shall be 44456
deducted from any award against a political subdivision recovered 44457
by that claimant. No insurer or other person is entitled to bring 44458
an action under a subrogation provision in an insurance or other 44459
contract against a political subdivision with respect to those 44460
benefits. 44461

The amount of the benefits shall be deducted from an award 44462
against a political subdivision under division (B)(1) of this 44463
section regardless of whether the claimant may be under an 44464
obligation to pay back the benefits upon recovery, in whole or in 44465
part, for the claim. A claimant whose benefits have been deducted 44466
from an award under division (B)(1) of this section is not 44467
considered fully compensated and shall not be required to 44468
reimburse a subrogated claim for benefits deducted from an award 44469
pursuant to division (B)(1) of this section. 44470

(2) Nothing in division (B)(1) of this section shall be 44471

construed to do either of the following: 44472

(a) Limit the rights of a beneficiary under a life insurance 44473
policy or the rights of sureties under fidelity or surety bonds; 44474

(b) Prohibit the department of job and family services from 44475
recovering from the political subdivision, pursuant to section 44476
5101.58 of the Revised Code, the cost of medical assistance 44477
benefits provided under ~~sections 5101.5211 to 5101.5216~~ or Chapter 44478
5107.7 or 5111. of the Revised Code. 44479

(C)(1) There shall not be any limitation on compensatory 44480
damages that represent the actual loss of the person who is 44481
awarded the damages. However, except in wrongful death actions 44482
brought pursuant to Chapter 2125. of the Revised Code, damages 44483
that arise from the same cause of action, transaction or 44484
occurrence, or series of transactions or occurrences and that do 44485
not represent the actual loss of the person who is awarded the 44486
damages shall not exceed two hundred fifty thousand dollars in 44487
favor of any one person. The limitation on damages that do not 44488
represent the actual loss of the person who is awarded the damages 44489
provided in this division does not apply to court costs that are 44490
awarded to a plaintiff, or to interest on a judgment rendered in 44491
favor of a plaintiff, in an action against a political 44492
subdivision. 44493

(2) As used in this division, "the actual loss of the person 44494
who is awarded the damages" includes all of the following: 44495

(a) All wages, salaries, or other compensation lost by the 44496
person injured as a result of the injury, including wages, 44497
salaries, or other compensation lost as of the date of a judgment 44498
and future expected lost earnings of the person injured; 44499

(b) All expenditures of the person injured or another person 44500
on behalf of the person injured for medical care or treatment, for 44501
rehabilitation services, or for other care, treatment, services, 44502

products, or accommodations that were necessary because of the 44503
injury; 44504

(c) All expenditures to be incurred in the future, as 44505
determined by the court, by the person injured or another person 44506
on behalf of the person injured for medical care or treatment, for 44507
rehabilitation services, or for other care, treatment, services, 44508
products, or accommodations that will be necessary because of the 44509
injury; 44510

(d) All expenditures of a person whose property was injured 44511
or destroyed or of another person on behalf of the person whose 44512
property was injured or destroyed in order to repair or replace 44513
the property that was injured or destroyed; 44514

(e) All expenditures of the person injured or of the person 44515
whose property was injured or destroyed or of another person on 44516
behalf of the person injured or of the person whose property was 44517
injured or destroyed in relation to the actual preparation or 44518
presentation of the claim involved; 44519

(f) Any other expenditures of the person injured or of the 44520
person whose property was injured or destroyed or of another 44521
person on behalf of the person injured or of the person whose 44522
property was injured or destroyed that the court determines 44523
represent an actual loss experienced because of the personal or 44524
property injury or property loss. 44525

"The actual loss of the person who is awarded the damages" 44526
does not include any fees paid or owed to an attorney for any 44527
services rendered in relation to a personal or property injury or 44528
property loss, and does not include any damages awarded for pain 44529
and suffering, for the loss of society, consortium, companionship, 44530
care, assistance, attention, protection, advice, guidance, 44531
counsel, instruction, training, or education of the person 44532
injured, for mental anguish, or for any other intangible loss. 44533

Sec. 2901.01. (A) As used in the Revised Code:	44534
(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.	44535 44536
(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.	44537 44538
(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.	44539 44540 44541
(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.	44542 44543 44544 44545 44546
(5) "Serious physical harm to persons" means any of the following:	44547 44548
(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;	44549 44550 44551
(b) Any physical harm that carries a substantial risk of death;	44552 44553
(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;	44554 44555 44556
(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;	44557 44558 44559
(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.	44560 44561 44562

(6) "Serious physical harm to property" means any physical 44563
harm to property that does either of the following: 44564

(a) Results in substantial loss to the value of the property 44565
or requires a substantial amount of time, effort, or money to 44566
repair or replace; 44567

(b) Temporarily prevents the use or enjoyment of the property 44568
or substantially interferes with its use or enjoyment for an 44569
extended period of time. 44570

(7) "Risk" means a significant possibility, as contrasted 44571
with a remote possibility, that a certain result may occur or that 44572
certain circumstances may exist. 44573

(8) "Substantial risk" means a strong possibility, as 44574
contrasted with a remote or significant possibility, that a 44575
certain result may occur or that certain circumstances may exist. 44576

(9) "Offense of violence" means any of the following: 44577

(a) A violation of section 2903.01, 2903.02, 2903.03, 44578
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 44579
2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 44580
2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 44581
2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 44582
2921.34, or 2923.161, of division (A)(1), (2), or (3) of section 44583
2911.12, or of division (B)(1), (2), (3), or (4) of section 44584
2919.22 of the Revised Code or felonious sexual penetration in 44585
violation of former section 2907.12 of the Revised Code; 44586

(b) A violation of an existing or former municipal ordinance 44587
or law of this or any other state or the United States, 44588
substantially equivalent to any section, division, or offense 44589
listed in division (A)(9)(a) of this section; 44590

(c) An offense, other than a traffic offense, under an 44591
existing or former municipal ordinance or law of this or any other 44592

state or the United States, committed purposely or knowingly, and 44593
involving physical harm to persons or a risk of serious physical 44594
harm to persons; 44595

(d) A conspiracy or attempt to commit, or complicity in 44596
committing, any offense under division (A)(9)(a), (b), or (c) of 44597
this section. 44598

(10)(a) "Property" means any property, real or personal, 44599
tangible or intangible, and any interest or license in that 44600
property. "Property" includes, but is not limited to, cable 44601
television service, other telecommunications service, 44602
telecommunications devices, information service, computers, data, 44603
computer software, financial instruments associated with 44604
computers, other documents associated with computers, or copies of 44605
the documents, whether in machine or human readable form, trade 44606
secrets, trademarks, copyrights, patents, and property protected 44607
by a trademark, copyright, or patent. "Financial instruments 44608
associated with computers" include, but are not limited to, 44609
checks, drafts, warrants, money orders, notes of indebtedness, 44610
certificates of deposit, letters of credit, bills of credit or 44611
debit cards, financial transaction authorization mechanisms, 44612
marketable securities, or any computer system representations of 44613
any of them. 44614

(b) As used in division (A)(10) of this section, "trade 44615
secret" has the same meaning as in section 1333.61 of the Revised 44616
Code, and "telecommunications service" and "information service" 44617
have the same meanings as in section 2913.01 of the Revised Code. 44618

(c) As used in divisions (A)(10) and (13) of this section, 44619
"cable television service," "computer," "computer software," 44620
"computer system," "computer network," "data," and 44621
"telecommunications device" have the same meanings as in section 44622
2913.01 of the Revised Code. 44623

- (11) "Law enforcement officer" means any of the following: 44624
- (a) A sheriff, deputy sheriff, constable, police officer of a 44625
township or joint ~~township~~ police district, marshal, deputy 44626
marshal, municipal police officer, member of a police force 44627
employed by a metropolitan housing authority under division (D) of 44628
section 3735.31 of the Revised Code, or state highway patrol 44629
trooper; 44630
- (b) An officer, agent, or employee of the state or any of its 44631
agencies, instrumentalities, or political subdivisions, upon whom, 44632
by statute, a duty to conserve the peace or to enforce all or 44633
certain laws is imposed and the authority to arrest violators is 44634
conferred, within the limits of that statutory duty and authority; 44635
- (c) A mayor, in the mayor's capacity as chief conservator of 44636
the peace within the mayor's municipal corporation; 44637
- (d) A member of an auxiliary police force organized by 44638
county, township, or municipal law enforcement authorities, within 44639
the scope of the member's appointment or commission; 44640
- (e) A person lawfully called pursuant to section 311.07 of 44641
the Revised Code to aid a sheriff in keeping the peace, for the 44642
purposes and during the time when the person is called; 44643
- (f) A person appointed by a mayor pursuant to section 737.01 44644
of the Revised Code as a special patrolling officer during riot or 44645
emergency, for the purposes and during the time when the person is 44646
appointed; 44647
- (g) A member of the organized militia of this state or the 44648
armed forces of the United States, lawfully called to duty to aid 44649
civil authorities in keeping the peace or protect against domestic 44650
violence; 44651
- (h) A prosecuting attorney, assistant prosecuting attorney, 44652
secret service officer, or municipal prosecutor; 44653

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;	44654 44655
(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;	44656 44657 44658
(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;	44659 44660
(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;	44661 44662 44663 44664
(m) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.	44665 44666 44667 44668 44669 44670 44671 44672 44673
(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.	44674 44675 44676 44677
(13) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:	44678 44679 44680 44681 44682 44683
(a) Any controlled substance, as defined in section 3719.01	44684

of the Revised Code, or any device or paraphernalia; 44685

(b) Any unlawful gambling device or paraphernalia; 44686

(c) Any dangerous ordnance or obscene material. 44687

(14) A person is "not guilty by reason of insanity" relative 44688
to a charge of an offense only if the person proves, in the manner 44689
specified in section 2901.05 of the Revised Code, that at the time 44690
of the commission of the offense, the person did not know, as a 44691
result of a severe mental disease or defect, the wrongfulness of 44692
the person's acts. 44693

(B)(1)(a) Subject to division (B)(2) of this section, as used 44694
in any section contained in Title XXIX of the Revised Code that 44695
sets forth a criminal offense, "person" includes all of the 44696
following: 44697

(i) An individual, corporation, business trust, estate, 44698
trust, partnership, and association; 44699

(ii) An unborn human who is viable. 44700

(b) As used in any section contained in Title XXIX of the 44701
Revised Code that does not set forth a criminal offense, "person" 44702
includes an individual, corporation, business trust, estate, 44703
trust, partnership, and association. 44704

(c) As used in division (B)(1)(a) of this section: 44705

(i) "Unborn human" means an individual organism of the 44706
species *Homo sapiens* from fertilization until live birth. 44707

(ii) "Viable" means the stage of development of a human fetus 44708
at which there is a realistic possibility of maintaining and 44709
nourishing of a life outside the womb with or without temporary 44710
artificial life-sustaining support. 44711

(2) Notwithstanding division (B)(1)(a) of this section, in no 44712
case shall the portion of the definition of the term "person" that 44713
is set forth in division (B)(1)(a)(ii) of this section be applied 44714

or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 or 5111.20 of

the Revised Code; 44776

(2) Any "residential facility" as defined in section 5123.19 44777
of the Revised Code; 44778

(3) Any institution or facility operated or provided by the 44779
department of mental health or by the department of developmental 44780
disabilities pursuant to sections 5119.02 and 5123.03 of the 44781
Revised Code; 44782

(4) Any "residential facility" as defined in section 5119.22 44783
of the Revised Code; 44784

(5) Any unit of any hospital, as defined in section 3701.01 44785
of the Revised Code, that provides the same services as a nursing 44786
home, as defined in section 3721.01 of the Revised Code; 44787

(6) Any institution, residence, or facility that provides, 44788
for a period of more than twenty-four hours, whether for a 44789
consideration or not, accommodations to one individual or two 44790
unrelated individuals who are dependent upon the services of 44791
others; 44792

(7) Any "adult care facility" as defined in section ~~3722.01~~ 44793
5119.70 of the Revised Code; 44794

(8) Any adult foster home certified ~~by the department of~~ 44795
~~aging or its designee~~ under section ~~173.36~~ 5119.692 of the Revised 44796
Code. 44797

(B) "Abuse" means knowingly causing physical harm or 44798
recklessly causing serious physical harm to a person by physical 44799
contact with the person or by the inappropriate use of a physical 44800
or chemical restraint, medication, or isolation on the person. 44801

(C)(1) "Gross neglect" means knowingly failing to provide a 44802
person with any treatment, care, goods, or service that is 44803
necessary to maintain the health or safety of the person when the 44804
failure results in physical harm or serious physical harm to the 44805

person. 44806

(2) "Neglect" means recklessly failing to provide a person 44807
with any treatment, care, goods, or service that is necessary to 44808
maintain the health or safety of the person when the failure 44809
results in serious physical harm to the person. 44810

(D) "Inappropriate use of a physical or chemical restraint, 44811
medication, or isolation" means the use of physical or chemical 44812
restraint, medication, or isolation as punishment, for staff 44813
convenience, excessively, as a substitute for treatment, or in 44814
quantities that preclude habilitation and treatment. 44815

Sec. 2907.15. (A) As used in this section: 44816

(1) "Public retirement system" means the public employees 44817
retirement system, state teachers retirement system, school 44818
employees retirement system, Ohio police and fire pension fund, 44819
state highway patrol retirement system, or a municipal retirement 44820
system of a municipal corporation of this state. 44821

(2) "Government deferred compensation program" means such a 44822
program offered by the Ohio public employees deferred compensation 44823
board; a municipal corporation; ~~or~~ a governmental unit, as defined 44824
in section 148.06 of the Revised Code, or a program styled as a 44825
supplemental employee deferral plan offered by the treasurer of 44826
state. 44827

(3) "Deferred compensation program participant" means a 44828
"participating employee" or "continuing member," as defined in 44829
section 148.01 of the Revised Code, or any other public employee 44830
who has funds in a government deferred compensation program. 44831

(4) "Alternative retirement plan" means an alternative 44832
retirement plan provided pursuant to Chapter 3305. of the Revised 44833
Code. 44834

(5) "Prosecutor" has the same meaning as in section 2935.01 44835

of the Revised Code. 44836

In any case in which a sentencing court orders restitution to 44837
the victim under section 2929.18 or 2929.28 of the Revised Code 44838
for a violation of section 2907.02, 2907.03, 2907.04, or 2907.05 44839
of the Revised Code and in which the offender is a government 44840
deferred compensation program participant, is an electing 44841
employee, as defined in section 3305.01 of the Revised Code, or is 44842
a member of, or receiving a pension, benefit, or allowance, other 44843
than a survivorship benefit, from, a public retirement system and 44844
committed the offense against a child, student, patient, or other 44845
person with whom the offender had contact in the context of the 44846
offender's public employment, at the request of the victim the 44847
prosecutor shall file a motion with the sentencing court 44848
specifying the government deferred compensation program, 44849
alternative retirement plan, or public retirement system and 44850
requesting that the court issue an order requiring the government 44851
deferred compensation program, alternative retirement plan, or 44852
public retirement system to withhold the amount required as 44853
restitution from one or more of the following: any payment to be 44854
made from a government deferred compensation program, any payment 44855
or benefit under an alternative retirement plan, or under a 44856
pension, annuity, allowance, or any other benefit, other than a 44857
survivorship benefit, that has been or is in the future granted to 44858
the offender; from any payment of accumulated employee 44859
contributions standing to the offender's credit with the 44860
government deferred compensation program, alternative retirement 44861
plan, or public retirement system; or from any payment of any 44862
other amounts to be paid to the offender pursuant to section 44863
113.42 or Chapter 145., 148., 742., 3307., 3309., or 5505. of the 44864
Revised Code on withdrawal of contributions. The motion may be 44865
filed at any time subsequent to the conviction of the offender or 44866
entry of a guilty plea. On the filing of the motion, the clerk of 44867
the court in which the motion is filed shall notify the offender 44868

and the government deferred compensation program, alternative 44869
retirement plan, or public retirement system, in writing, of all 44870
of the following: that the motion was filed; that the offender 44871
will be granted a hearing on the issuance of the requested order 44872
if the offender files a written request for a hearing with the 44873
clerk prior to the expiration of thirty days after the offender 44874
receives the notice; that, if a hearing is requested, the court 44875
will schedule a hearing as soon as possible and notify the 44876
offender and the government deferred compensation program, 44877
alternative retirement plan, or public retirement system of the 44878
date, time, and place of the hearing; that, if a hearing is 44879
conducted, it will be limited to a consideration of whether the 44880
offender can show good cause why the order should not be issued; 44881
that, if a hearing is conducted, the court will not issue the 44882
order if the court determines, based on evidence presented at the 44883
hearing by the offender, that there is good cause for the order 44884
not to be issued; that the court will issue the order if a hearing 44885
is not requested or if a hearing is conducted but the court does 44886
not determine, based on evidence presented at the hearing by the 44887
offender, that there is good cause for the order not to be issued; 44888
and that, if the order is issued, the government deferred 44889
compensation program, alternative retirement plan, or public 44890
retirement system specified in the motion will be required to 44891
withhold the amount required as restitution from payments to the 44892
offender. 44893

(B) In any case in which a motion requesting the issuance of 44894
a withholding order as described in division (A) of this section 44895
is filed, the offender may receive a hearing on the motion by 44896
delivering a written request for a hearing to the court prior to 44897
the expiration of thirty days after the offender's receipt of the 44898
notice provided pursuant to division (A) of this section. If the 44899
offender requests a hearing within the prescribed time, the court 44900
shall schedule a hearing as soon as possible after the request is 44901

made and notify the offender and the government deferred 44902
compensation program, alternative retirement plan, or public 44903
retirement system of the date, time, and place of the hearing. A 44904
hearing scheduled under this division shall be limited to a 44905
consideration of whether there is good cause, based on evidence 44906
presented by the offender, for the requested order not to be 44907
issued. If the court determines, based on evidence presented by 44908
the offender, that there is good cause for the order not to be 44909
issued, the court shall deny the motion and shall not issue the 44910
order. Good cause for not issuing the order includes a 44911
determination by the court that the order would severely impact 44912
the offender's ability to support the offender's dependents. 44913

If the offender does not request a hearing within the 44914
prescribed time or the court conducts a hearing but does not 44915
determine, based on evidence presented by the offender, that there 44916
is good cause for the order not to be issued, the court shall 44917
order the government deferred compensation program, alternative 44918
retirement plan, or public retirement system to withhold the 44919
amount required as restitution from one or more of the following: 44920
any payments to be made from a government deferred compensation 44921
program, any payment or benefit under an alternative retirement 44922
plan, or under a pension, annuity, allowance, or under any other 44923
benefit, other than a survivorship benefit, that has been or is in 44924
the future granted to the offender; from any payment of 44925
accumulated employee contributions standing to the offender's 44926
credit with the government deferred compensation program, 44927
alternative retirement plan, or public retirement system; or from 44928
any payment of any other amounts to be paid to the offender upon 44929
withdrawal of contributions pursuant to Chapter 145., 148., 742., 44930
3307., 3309., or 5505. of the Revised Code and to continue the 44931
withholding for that purpose, in accordance with the order, out of 44932
each payment to be made on or after the date of issuance of the 44933
order, until further order of the court. On receipt of an order 44934

issued under this division, the government deferred compensation 44935
program, alternative retirement plan, or public retirement system 44936
shall withhold the amount required as restitution, in accordance 44937
with the order, from any such payments and immediately forward the 44938
amount withheld to the clerk of the court in which the order was 44939
issued for payment to the person to whom restitution is to be 44940
made. The order shall not apply to any portion of payments made 44941
from a government deferred compensation program, alternative 44942
retirement plan, or public retirement system to a person other 44943
than the offender pursuant to a previously issued domestic court 44944
order. 44945

(C) Service of a notice required by division (A) or (B) of 44946
this section shall be effected in the same manner as provided in 44947
the Rules of Civil Procedure for the service of process. 44948

(D) Upon the filing of charges under section 2907.02, 44949
2907.03, 2907.04, or 2907.05 of the Revised Code against a person 44950
who is a deferred compensation program participant, an electing 44951
employee participating in an alternative retirement plan, or a 44952
member of, or receiving a pension benefit, or allowance, other 44953
than a survivorship benefit, from a public retirement system for 44954
an offense against a child, student, patient, or other person with 44955
whom the offender had contact in the context of the offender's 44956
public employment, the prosecutor shall send written notice that 44957
charges have been filed against that person to the appropriate 44958
government deferred compensation program, alternative retirement 44959
plan, or public retirement system. The notice shall specifically 44960
identify the person charged. 44961

Sec. 2915.01. As used in this chapter: 44962

(A) "Bookmaking" means the business of receiving or paying 44963
off bets. 44964

(B) "Bet" means the hazarding of anything of value upon the 44965

result of an event, undertaking, or contingency, but does not 44966
include a bona fide business risk. 44967

(C) "Scheme of chance" means a slot machine, lottery, numbers 44968
game, pool conducted for profit, or other scheme in which a 44969
participant gives a valuable consideration for a chance to win a 44970
prize, but does not include bingo, a skill-based amusement 44971
machine, or a pool not conducted for profit. 44972

(D) "Game of chance" means poker, craps, roulette, or other 44973
game in which a player gives anything of value in the hope of 44974
gain, the outcome of which is determined largely by chance, but 44975
does not include bingo. 44976

(E) "Game of chance conducted for profit" means any game of 44977
chance designed to produce income for the person who conducts or 44978
operates the game of chance, but does not include bingo. 44979

(F) "Gambling device" means any of the following: 44980

(1) A book, totalizer, or other equipment for recording bets; 44981

(2) A ticket, token, or other device representing a chance, 44982
share, or interest in a scheme of chance or evidencing a bet; 44983

(3) A deck of cards, dice, gaming table, roulette wheel, slot 44984
machine, or other apparatus designed for use in connection with a 44985
game of chance; 44986

(4) Any equipment, device, apparatus, or paraphernalia 44987
specially designed for gambling purposes; 44988

(5) Bingo supplies sold or otherwise provided, or used, in 44989
violation of this chapter. 44990

(G) "Gambling offense" means any of the following: 44991

(1) A violation of section 2915.02, 2915.03, 2915.04, 44992
2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 44993
2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code; 44994

(2) A violation of an existing or former municipal ordinance 44995
or law of this or any other state or the United States 44996
substantially equivalent to any section listed in division (G)(1) 44997
of this section or a violation of section 2915.06 of the Revised 44998
Code as it existed prior to July 1, 1996; 44999

(3) An offense under an existing or former municipal 45000
ordinance or law of this or any other state or the United States, 45001
of which gambling is an element; 45002

(4) A conspiracy or attempt to commit, or complicity in 45003
committing, any offense under division (G)(1), (2), or (3) of this 45004
section. 45005

(H) Except as otherwise provided in this chapter, "charitable 45006
organization" means any tax exempt religious, educational, 45007
veteran's, fraternal, sporting, service, nonprofit medical, 45008
volunteer rescue service, volunteer firefighter's, senior 45009
citizen's, historic railroad educational, youth athletic, amateur 45010
athletic, or youth athletic park organization. An organization is 45011
tax exempt if the organization is, and has received from the 45012
internal revenue service a determination letter that currently is 45013
in effect stating that the organization is, exempt from federal 45014
income taxation under subsection 501(a) and described in 45015
subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 45016
501(c)(19) of the Internal Revenue Code, or if the organization is 45017
a sporting organization that is exempt from federal income 45018
taxation under subsection 501(a) and is described in subsection 45019
501(c)(7) of the Internal Revenue Code. To qualify as a charitable 45020
organization, an organization, except a volunteer rescue service 45021
or volunteer firefighter's organization, shall have been in 45022
continuous existence as such in this state for a period of two 45023
years immediately preceding either the making of an application 45024
for a bingo license under section 2915.08 of the Revised Code or 45025
the conducting of any game of chance as provided in division (D) 45026

of section 2915.02 of the Revised Code. A charitable organization 45027
that is exempt from federal income taxation under subsection 45028
501(a) and described in subsection 501(c)(3) of the Internal 45029
Revenue Code and that is created by a veteran's organization, a 45030
fraternal organization, or a sporting organization does not have 45031
to have been in continuous existence as such in this state for a 45032
period of two years immediately preceding either the making of an 45033
application for a bingo license under section 2915.08 of the 45034
Revised Code or the conducting of any game of chance as provided 45035
in division (D) of section 2915.02 of the Revised Code. 45036

(I) "Religious organization" means any church, body of 45037
communicants, or group that is not organized or operated for 45038
profit and that gathers in common membership for regular worship 45039
and religious observances. 45040

(J) "Educational organization" means any organization within 45041
this state that is not organized for profit, the primary purpose 45042
of which is to educate and develop the capabilities of individuals 45043
through instruction by means of operating or contributing to the 45044
support of a school, academy, college, or university. 45045

(K) "Veteran's organization" means any individual post or 45046
state headquarters of a national veteran's association or an 45047
auxiliary unit of any individual post of a national veteran's 45048
association, which post, state headquarters, or auxiliary unit is 45049
incorporated as a nonprofit corporation and either has received a 45050
letter from the state headquarters of the national veteran's 45051
association indicating that the individual post or auxiliary unit 45052
is in good standing with the national veteran's association or has 45053
received a letter from the national veteran's association 45054
indicating that the state headquarters is in good standing with 45055
the national veteran's association. As used in this division, 45056
"national veteran's association" means any veteran's association 45057
that has been in continuous existence as such for a period of at 45058

least five years and either is incorporated by an act of the 45059
United States congress or has a national dues-paying membership of 45060
at least five thousand persons. 45061

(L) "Volunteer firefighter's organization" means any 45062
organization of volunteer firefighters, as defined in section 45063
146.01 of the Revised Code, that is organized and operated 45064
exclusively to provide financial support for a volunteer fire 45065
department or a volunteer fire company and that is recognized or 45066
ratified by a county, municipal corporation, or township. 45067

(M) "Fraternal organization" means any society, order, state 45068
headquarters, or association within this state, except a college 45069
or high school fraternity, that is not organized for profit, that 45070
is a branch, lodge, or chapter of a national or state 45071
organization, that exists exclusively for the common business or 45072
sodality of its members. 45073

(N) "Volunteer rescue service organization" means any 45074
organization of volunteers organized to function as an emergency 45075
medical service organization, as defined in section 4765.01 of the 45076
Revised Code. 45077

(O) "Service organization" means either of the following: 45078

(1) Any organization, not organized for profit, that is 45079
organized and operated exclusively to provide, or to contribute to 45080
the support of organizations or institutions organized and 45081
operated exclusively to provide, medical and therapeutic services 45082
for persons who are crippled, born with birth defects, or have any 45083
other mental or physical defect or those organized and operated 45084
exclusively to protect, or to contribute to the support of 45085
organizations or institutions organized and operated exclusively 45086
to protect, animals from inhumane treatment or provide immediate 45087
shelter to victims of domestic violence; 45088

(2) Any organization that is described in subsection 45089

509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 45090
and is either a governmental unit or an organization that is tax 45091
exempt under subsection 501(a) and described in subsection 45092
501(c)(3) of the Internal Revenue Code and that is an 45093
organization, not organized for profit, that is organized and 45094
operated primarily to provide, or to contribute to the support of 45095
organizations or institutions organized and operated primarily to 45096
provide, medical and therapeutic services for persons who are 45097
crippled, born with birth defects, or have any other mental or 45098
physical defect. 45099

(P) "Nonprofit medical organization" means either of the 45100
following: 45101

(1) Any organization that has been incorporated as a 45102
nonprofit corporation for at least five years and that has 45103
continuously operated and will be operated exclusively to provide, 45104
or to contribute to the support of organizations or institutions 45105
organized and operated exclusively to provide, hospital, medical, 45106
research, or therapeutic services for the public; 45107

(2) Any organization that is described and qualified under 45108
subsection 501(c)(3) of the Internal Revenue Code, that has been 45109
incorporated as a nonprofit corporation for at least five years, 45110
and that has continuously operated and will be operated primarily 45111
to provide, or to contribute to the support of organizations or 45112
institutions organized and operated primarily to provide, 45113
hospital, medical, research, or therapeutic services for the 45114
public. 45115

(Q) "Senior citizen's organization" means any private 45116
organization, not organized for profit, that is organized and 45117
operated exclusively to provide recreational or social services 45118
for persons who are fifty-five years of age or older and that is 45119
described and qualified under subsection 501(c)(3) of the Internal 45120
Revenue Code. 45121

(R) "Charitable bingo game" means any bingo game described in 45122
division (S)(1) or (2) of this section that is conducted by a 45123
charitable organization that has obtained a license pursuant to 45124
section 2915.08 of the Revised Code and the proceeds of which are 45125
used for a charitable purpose. 45126

(S) "Bingo" means either of the following: 45127

(1) A game with all of the following characteristics: 45128

(a) The participants use bingo cards or sheets, including 45129
paper formats and electronic representation or image formats, that 45130
are divided into twenty-five spaces arranged in five horizontal 45131
and five vertical rows of spaces, with each space, except the 45132
central space, being designated by a combination of a letter and a 45133
number and with the central space being designated as a free 45134
space. 45135

(b) The participants cover the spaces on the bingo cards or 45136
sheets that correspond to combinations of letters and numbers that 45137
are announced by a bingo game operator. 45138

(c) A bingo game operator announces combinations of letters 45139
and numbers that appear on objects that a bingo game operator 45140
selects by chance, either manually or mechanically, from a 45141
receptacle that contains seventy-five objects at the beginning of 45142
each game, each object marked by a different combination of a 45143
letter and a number that corresponds to one of the seventy-five 45144
possible combinations of a letter and a number that can appear on 45145
the bingo cards or sheets. 45146

(d) The winner of the bingo game includes any participant who 45147
properly announces during the interval between the announcements 45148
of letters and numbers as described in division (S)(1)(c) of this 45149
section, that a predetermined and preannounced pattern of spaces 45150
has been covered on a bingo card or sheet being used by the 45151
participant. 45152

(2) Instant bingo, punch boards, and raffles.	45153
(T) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance.	45154 45155 45156
(U) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.	45157 45158 45159 45160 45161 45162 45163 45164 45165 45166 45167 45168
(V) "Participant" means any person who plays bingo.	45169
(W) "Bingo session" means a period that includes both of the following:	45170 45171
(1) Not to exceed five continuous hours for the conduct of one or more games described in division (S)(1) of this section, instant bingo, and seal cards;	45172 45173 45174
(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (W)(1) of this section.	45175 45176 45177
(X) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide	45178 45179 45180 45181 45182 45183

auxiliary unit or society of a charitable organization conducting 45184
bingo, provided all of the following apply: 45185

(1) The auxiliary unit or society has been in existence as a 45186
bona fide auxiliary unit or society of the charitable organization 45187
for at least two years prior to conducting bingo. 45188

(2) The person who purchases the food or beverage receives 45189
nothing of value except the food or beverage and items customarily 45190
received with the purchase of that food or beverage. 45191

(3) The food and beverages are sold at customary and 45192
reasonable prices. 45193

(Y) "Security personnel" includes any person who either is a 45194
sheriff, deputy sheriff, marshal, deputy marshal, township 45195
constable, or member of an organized police department of a 45196
municipal corporation or has successfully completed a peace 45197
officer's training course pursuant to sections 109.71 to 109.79 of 45198
the Revised Code and who is hired to provide security for the 45199
premises on which bingo is conducted. 45200

(Z) "Charitable purpose" means that the net profit of bingo, 45201
other than instant bingo, is used by, or is given, donated, or 45202
otherwise transferred to, any of the following: 45203

(1) Any organization that is described in subsection 45204
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 45205
and is either a governmental unit or an organization that is tax 45206
exempt under subsection 501(a) and described in subsection 45207
501(c)(3) of the Internal Revenue Code; 45208

(2) A veteran's organization that is a post, chapter, or 45209
organization of veterans, or an auxiliary unit or society of, or a 45210
trust or foundation for, any such post, chapter, or organization 45211
organized in the United States or any of its possessions, at least 45212
seventy-five per cent of the members of which are veterans and 45213
substantially all of the other members of which are individuals 45214

who are spouses, widows, or widowers of veterans, or such 45215
individuals, provided that no part of the net earnings of such 45216
post, chapter, or organization inures to the benefit of any 45217
private shareholder or individual, and further provided that the 45218
net profit is used by the post, chapter, or organization for the 45219
charitable purposes set forth in division (B)(12) of section 45220
5739.02 of the Revised Code, is used for awarding scholarships to 45221
or for attendance at an institution mentioned in division (B)(12) 45222
of section 5739.02 of the Revised Code, is donated to a 45223
governmental agency, or is used for nonprofit youth activities, 45224
the purchase of United States or Ohio flags that are donated to 45225
schools, youth groups, or other bona fide nonprofit organizations, 45226
promotion of patriotism, or disaster relief; 45227

(3) A fraternal organization that has been in continuous 45228
existence in this state for fifteen years and that uses the net 45229
profit exclusively for religious, charitable, scientific, 45230
literary, or educational purposes, or for the prevention of 45231
cruelty to children or animals, if contributions for such use 45232
would qualify as a deductible charitable contribution under 45233
subsection 170 of the Internal Revenue Code; 45234

(4) A volunteer firefighter's organization that uses the net 45235
profit for the purposes set forth in division (L) of this section. 45236

(AA) "Internal Revenue Code" means the "Internal Revenue Code 45237
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter 45238
amended. 45239

(BB) "Youth athletic organization" means any organization, 45240
not organized for profit, that is organized and operated 45241
exclusively to provide financial support to, or to operate, 45242
athletic activities for persons who are twenty-one years of age or 45243
younger by means of sponsoring, organizing, operating, or 45244
contributing to the support of an athletic team, club, league, or 45245
association. 45246

(CC) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least one hundred days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (CC)(1) of this section.

(DD) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373.

(EE) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided,

and used, in accordance with this chapter. For purposes of this 45278
chapter, "bingo supplies" are not to be considered equipment used 45279
to conduct a bingo game. 45280

(FF) "Instant bingo" means a form of bingo that uses folded 45281
or banded tickets or paper cards with perforated break-open tabs, 45282
a face of which is covered or otherwise hidden from view to 45283
conceal a number, letter, or symbol, or set of numbers, letters, 45284
or symbols, some of which have been designated in advance as prize 45285
winners. "Instant bingo" includes seal cards. "Instant bingo" does 45286
not include any device that is activated by the insertion of a 45287
coin, currency, token, or an equivalent, and that contains as one 45288
of its components a video display monitor that is capable of 45289
displaying numbers, letters, symbols, or characters in winning or 45290
losing combinations. 45291

(GG) "Seal card" means a form of instant bingo that uses 45292
instant bingo tickets in conjunction with a board or placard that 45293
contains one or more seals that, when removed or opened, reveal 45294
predesignated winning numbers, letters, or symbols. 45295

(HH) "Raffle" means a form of bingo in which the one or more 45296
prizes are won by one or more persons who have purchased a raffle 45297
ticket. The one or more winners of the raffle are determined by 45298
drawing a ticket stub or other detachable section from a 45299
receptacle containing ticket stubs or detachable sections 45300
corresponding to all tickets sold for the raffle. "Raffle" does 45301
not include the drawing of a ticket stub or other detachable 45302
section of a ticket purchased to attend a professional sporting 45303
event if both of the following apply: 45304

(1) The ticket stub or other detachable section is used to 45305
select the winner of a free prize given away at the professional 45306
sporting event; and 45307

(2) The cost of the ticket is the same as the cost of a 45308

ticket to the professional sporting event on days when no free prize is given away. 45309
45310

(II) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number. 45311
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45319

(JJ) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards. 45320
45321

(KK) "Net profit" means gross profit minus expenses. 45322

(LL) "Expenses" means the reasonable amount of gross profit actually expended for all of the following: 45323
45324

(1) The purchase or lease of bingo supplies; 45325

(2) The annual license fee required under section 2915.08 of the Revised Code; 45326
45327

(3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code; 45328
45329

(4) Audits and accounting services; 45330

(5) Safes; 45331

(6) Cash registers; 45332

(7) Hiring security personnel; 45333

(8) Advertising bingo; 45334

(9) Renting premises in which to conduct a bingo session; 45335

(10) Tables and chairs; 45336

(11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;	45337 45338 45339 45340
(12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;	45341 45342
(13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.	45343 45344 45345 45346
(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.	45347 45348 45349
(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	45350 45351 45352 45353
(OO) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	45354 45355 45356 45357
(PP) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:	45358 45359
(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;	45360 45361 45362
(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.	45363 45364 45365
(QQ) "Manufacturer" means any person who assembles completed	45366

bingo supplies from raw materials, other items, or subparts or who 45367
modifies, converts, adds to, or removes parts from bingo supplies 45368
to further their promotion or sale. 45369

(RR) "Gross annual revenues" means the annual gross receipts 45370
derived from the conduct of bingo described in division (S)(1) of 45371
this section plus the annual net profit derived from the conduct 45372
of bingo described in division (S)(2) of this section. 45373

(SS) "Instant bingo ticket dispenser" means a mechanical 45374
device that dispenses an instant bingo ticket or card as the sole 45375
item of value dispensed and that has the following 45376
characteristics: 45377

(1) It is activated upon the insertion of United States 45378
currency. 45379

(2) It performs no gaming functions. 45380

(3) It does not contain a video display monitor or generate 45381
noise. 45382

(4) It is not capable of displaying any numbers, letters, 45383
symbols, or characters in winning or losing combinations. 45384

(5) It does not simulate or display rolling or spinning 45385
reels. 45386

(6) It is incapable of determining whether a dispensed bingo 45387
ticket or card is a winning or nonwinning ticket or card and 45388
requires a winning ticket or card to be paid by a bingo game 45389
operator. 45390

(7) It may provide accounting and security features to aid in 45391
accounting for the instant bingo tickets or cards it dispenses. 45392

(8) It is not part of an electronic network and is not 45393
interactive. 45394

(TT)(1) "Electronic bingo aid" means an electronic device 45395
used by a participant to monitor bingo cards or sheets purchased 45396

at the time and place of a bingo session and that does all of the following: 45397
45398

(a) It provides a means for a participant to input numbers and letters announced by a bingo caller. 45399
45400

(b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device. 45401
45402
45403

(c) It identifies a winning bingo pattern. 45404

(2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play. 45405
45406
45407

(UU) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number. 45408
45409

(VV)(1) "Slot machine" means either of the following: 45410

(a) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain; 45411
45412
45413
45414

(b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance. 45415
45416
45417
45418

(2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser. 45419
45420

(WW) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies. 45421
45422
45423
45424

(XX) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under 45425
45426

subsection 501(a) and described in subsection 501(c)(3) of the 45427
Internal Revenue Code and is a charitable organization as defined 45428
in this section. A "charitable instant bingo organization" does 45429
not include a charitable organization that is exempt from federal 45430
income taxation under subsection 501(a) and described in 45431
subsection 501(c)(3) of the Internal Revenue Code and that is 45432
created by a veteran's organization, a fraternal organization, or 45433
a sporting organization in regards to bingo conducted or assisted 45434
by a veteran's organization, a fraternal organization, or a 45435
sporting organization pursuant to section 2915.13 of the Revised 45436
Code. 45437

(YY) "Game flare" means the board or placard that accompanies 45438
each deal of instant bingo tickets and that has printed on or 45439
affixed to it the following information for the game: 45440

(1) The name of the game; 45441

(2) The manufacturer's name or distinctive logo; 45442

(3) The form number; 45443

(4) The ticket count; 45444

(5) The prize structure, including the number of winning 45445
instant bingo tickets by denomination and the respective winning 45446
symbol or number combinations for the winning instant bingo 45447
tickets; 45448

(6) The cost per play; 45449

(7) The serial number of the game. 45450

(ZZ) "Historic railroad educational organization" means an 45451
organization that is exempt from federal income taxation under 45452
subsection 501(a) and described in subsection 501(c)(3) of the 45453
Internal Revenue Code, that owns in fee simple the tracks and the 45454
right_of_way of a historic railroad that the organization restores 45455
or maintains and on which the organization provides excursions as 45456

part of a program to promote tourism and educate visitors 45457
regarding the role of railroad transportation in Ohio history, and 45458
that received as donations from a charitable organization that 45459
holds a license to conduct bingo under this chapter an amount 45460
equal to at least fifty per cent of that licensed charitable 45461
organization's net proceeds from the conduct of bingo during each 45462
of the five years preceding June 30, 2003. "Historic railroad" 45463
means all or a portion of the tracks and right-of-way of a 45464
railroad that was owned and operated by a for-profit common 45465
carrier in this state at any time prior to January 1, 1950. 45466

(AAA)(1) "Skill-based amusement machine" means a mechanical, 45467
video, digital, or electronic device that rewards the player or 45468
players, if at all, only with merchandise prizes or with 45469
redeemable vouchers redeemable only for merchandise prizes, 45470
provided that with respect to rewards for playing the game all of 45471
the following apply: 45472

(a) The wholesale value of a merchandise prize awarded as a 45473
result of the single play of a machine does not exceed ten 45474
dollars; 45475

(b) Redeemable vouchers awarded for any single play of a 45476
machine are not redeemable for a merchandise prize with a 45477
wholesale value of more than ten dollars; 45478

(c) Redeemable vouchers are not redeemable for a merchandise 45479
prize that has a wholesale value of more than ten dollars times 45480
the fewest number of single plays necessary to accrue the 45481
redeemable vouchers required to obtain that prize; and 45482

(d) Any redeemable vouchers or merchandise prizes are 45483
distributed at the site of the skill-based amusement machine at 45484
the time of play. 45485

A card for the purchase of gasoline is a redeemable voucher 45486
for purposes of division (AAA)(1) of this section even if the 45487

skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

(2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:

(a) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.

(b) Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;

(c) The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.

(d) The success of any player is or may be determined by a chance event that cannot be altered by player actions.

(e) The ability of any player to succeed at the game is determined by game features not visible or known to the player.

(f) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(3) All of the following apply to any machine that is operated as described in division (AAA)(1) of this section:

(a) As used in this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded

redeemable vouchers or merchandise prizes based on the results of 45518
play. 45519

(b) Advance play for a single game, play, contest, 45520
competition, or tournament participation may be purchased. The 45521
cost of the contest, competition, or tournament participation may 45522
be greater than a single noncontest, competition, or tournament 45523
play. 45524

(c) To the extent that the machine is used in a contest, 45525
competition, or tournament, that contest, competition, or 45526
tournament has a defined starting and ending date and is open to 45527
participants in competition for scoring and ranking results toward 45528
the awarding of redeemable vouchers or merchandise prizes that are 45529
stated prior to the start of the contest, competition, or 45530
tournament. 45531

(4) For purposes of division (AAA)(1) of this section, the 45532
mere presence of a device, such as a pin-setting, ball-releasing, 45533
or scoring mechanism, that does not contribute to or affect the 45534
outcome of the play of the game does not make the device a 45535
skill-based amusement machine. 45536

(BBB) "Merchandise prize" means any item of value, but shall 45537
not include any of the following: 45538

(1) Cash, gift cards, or any equivalent thereof; 45539

(2) Plays on games of chance, state lottery tickets, bingo, 45540
or instant bingo; 45541

(3) Firearms, tobacco, or alcoholic beverages; or 45542

(4) A redeemable voucher that is redeemable for any of the 45543
items listed in division (BBB)(1), (2), or (3) of this section. 45544

(CCC) "Redeemable voucher" means any ticket, token, coupon, 45545
receipt, or other noncash representation of value. 45546

(DDD) "Pool not conducted for profit" means a scheme in which 45547

a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

(EEE) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the Ohio league of sportsmen, and that has been in continuous existence in this state for a period of three years.

(FFF) "Community action agency" has the same meaning as in section 122.66 of the Revised Code.

Sec. 2917.40. (A) As used in this section:

(1) "Live entertainment performance" means any live speech; any live musical performance, including a concert; any live dramatic performance; any live variety show; and any other live performance with respect to which the primary intent of the audience can be construed to be viewing the performers. A "live entertainment performance" does not include any form of entertainment with respect to which the person purchasing a ticket routinely participates in amusements as well as views performers.

(2) "Restricted entertainment area" means any wholly or partially enclosed area, whether indoors or outdoors, that has limited access through established entrances, or established ~~turnstiles~~ turnstiles or similar devices.

(3) "Concert" means a musical performance of which the primary component is a presentation by persons singing or playing musical instruments, that is intended by its sponsors mainly, but not necessarily exclusively, for the listening enjoyment of the audience, and that is held in a facility. A "concert" does not

include any performance in which music is a part of the 45578
presentation and the primary component of which is acting, 45579
dancing, a motion picture, a demonstration of skills or talent 45580
other than singing or playing an instrument, an athletic event, an 45581
exhibition, or a speech. 45582

(4) "Facility" means any structure that has a roof or partial 45583
roof and that has walls that wholly surround the area on all 45584
sides, including, but not limited to, a stadium, hall, arena, 45585
armory, auditorium, ballroom, exhibition hall, convention center, 45586
or music hall. 45587

(5) "Person" includes, in addition to an individual or entity 45588
specified in division (C) of section 1.59 of the Revised Code, any 45589
governmental entity. 45590

(B)(1) No person shall sell, offer to sell, or offer in 45591
return for a donation any ticket that is not numbered and that 45592
does not correspond to a specific seat for admission to either of 45593
the following: 45594

(a) A live entertainment performance that is not exempted 45595
under division (D) of this section, that is held in a restricted 45596
entertainment area, and for which more than eight thousand tickets 45597
are offered to the public; 45598

(b) A concert that is not exempted under division (D) of this 45599
section and for which more than three thousand tickets are offered 45600
to the public. 45601

(2) No person shall advertise any live entertainment 45602
performance as described in division (B)(1)(a) of this section or 45603
any concert as described in division (B)(1)(b) of this section, 45604
unless the advertisement contains the words "Reserved Seats Only." 45605

(C) Unless exempted by division (D)(1) of this section, no 45606
person who owns or operates any restricted entertainment area 45607
shall fail to open, maintain, and properly staff at least the 45608

number of entrances designated under division (E) of this section 45609
for a minimum of ninety minutes prior to the scheduled start of 45610
any live entertainment performance that is held in the restricted 45611
entertainment area and for which more than three thousand tickets 45612
are sold, offered for sale, or offered in return for a donation. 45613

(D)(1) A live entertainment performance, other than a 45614
concert, is exempted from the provisions of divisions (B) and (C) 45615
of this section if both of the following apply: 45616

(a) The restricted entertainment area in which the 45617
performance is held has at least eight entrances or, if both 45618
entrances and separate admission ~~turnstiles~~ turnstiles or similar 45619
devices are used, has at least eight ~~turnstiles~~ turnstiles or 45620
similar devices; 45621

(b) The eight entrances or, if applicable, the eight 45622
~~turnstiles~~ turnstiles or similar devices are opened, maintained, 45623
and properly staffed at least one hour prior to the scheduled 45624
start of the performance. 45625

(2)(a) The chief of the police department of a township 45626
police district or joint police district in the case of a facility 45627
located within the district, the officer responsible for public 45628
safety within a municipal corporation in the case of a facility 45629
located within the municipal corporation, or the county sheriff in 45630
the case of a facility located outside the boundaries of a 45631
township or joint police district or municipal corporation may, 45632
upon application of the sponsor of a concert covered by division 45633
(B) of this section, exempt the concert from the provisions of 45634
that division if the official finds that the health, safety, and 45635
welfare of the participants and spectators would not be 45636
substantially affected by failure to comply with the provisions of 45637
that division. 45638

In determining whether to grant an exemption, the official 45639

shall consider the following factors: 45640

(i) The size and design of the facility in which the concert 45641
is scheduled; 45642

(ii) The size, age, and anticipated conduct of the crowd 45643
expected to attend the concert; 45644

(iii) The ability of the sponsor to manage and control the 45645
expected crowd. 45646

If the sponsor of any concert desires to obtain an exemption 45647
under this division, the sponsor shall apply to the appropriate 45648
official on a form prescribed by that official. The official shall 45649
issue an order that grants or denies the exemption within five 45650
days after receipt of the application. The sponsor may appeal any 45651
order that denies an exemption to the court of common pleas of the 45652
county in which the facility is located. 45653

(b) If an official grants an exemption under division 45654
(D)(2)(a) of this section, the official shall designate an on-duty 45655
law enforcement officer to be present at the concert. The 45656
designated officer has authority to issue orders to all security 45657
personnel at the concert to protect the health, safety, and 45658
welfare of the participants and spectators. 45659

(3) Notwithstanding division (D)(2) of this section, in the 45660
case of a concert held in a facility located on the campus of an 45661
educational institution covered by section 3345.04 of the Revised 45662
Code, a state university law enforcement officer appointed 45663
pursuant to sections 3345.04 and 3345.21 of the Revised Code shall 45664
do both of the following: 45665

(a) Exercise the authority to grant exemptions provided by 45666
division (D)(2)(a) of this section in lieu of an official 45667
designated in that division; 45668

(b) If the officer grants an exemption under division 45669

(D)(3)(a) of this section, designate an on-duty state university law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety, and welfare of the participants and spectators.

(E)(1) Unless a live entertainment performance is exempted by division (D)(1) of this section, the chief of the police department of a township police district or joint police district in the case of a restricted entertainment area located within the district, the officer responsible for public safety within a municipal corporation in the case of a restricted entertainment area located within the municipal corporation, or the county sheriff in the case of a restricted entertainment area located outside the boundaries of a township or joint police district or municipal corporation shall designate, for purposes of division (C) of this section, the minimum number of entrances required to be opened, maintained, and staffed at each live entertainment performance so as to permit crowd control and reduce congestion at the entrances. The designation shall be based on such factors as the size and nature of the crowd expected to attend the live entertainment performance, the length of time prior to the live entertainment performance that crowds are expected to congregate at the entrances, and the amount of security provided at the restricted entertainment area.

(2) Notwithstanding division (E)(1) of this section, a state university law enforcement officer appointed pursuant to sections 3345.04 and 3345.21 of the Revised Code shall designate the number of entrances required to be opened, maintained, and staffed in the case of a live entertainment performance that is held at a restricted entertainment area located on the campus of an educational institution covered by section 3345.04 of the Revised Code.

(F) No person shall enter into any contract for a live entertainment performance, that does not permit or require compliance with this section.

(G)(1) This section does not apply to a live entertainment performance held in a restricted entertainment area if one admission ticket entitles the holder to view or participate in three or more different games, rides, activities, or live entertainment performances occurring simultaneously at different sites within the restricted entertainment area and if the initial admittance entrance to the restricted entertainment area, for which the ticket is required, is separate from the entrance to any specific live entertainment performance and an additional ticket is not required for admission to the particular live entertainment performance.

(2) This section does not apply to a symphony orchestra performance, a ballet performance, horse races, dances, or fairs.

(H) This section does not prohibit the legislative authority of any municipal corporation from imposing additional requirements, not in conflict with this section, for the promotion or holding of live entertainment performances.

(I) Whoever violates division (B), (C), or (F) of this section is guilty of a misdemeanor of the first degree. If any individual suffers physical harm to ~~his~~ the individual's person as a result of a violation of this section, the sentencing court shall consider this factor in favor of imposing a term of imprisonment upon the offender.

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a violation of section 2919.27 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant if the court determines that either of the following criteria

apply: 45733

(i) If the alleged violation is a violation of a protection 45734
order issued or consent agreement approved pursuant to section 45735
2919.26 or 3113.31 of the Revised Code, that the violation 45736
allegedly involves conduct by the defendant that caused physical 45737
harm to the person or property of a family or household member 45738
covered by the order or agreement, or conduct by the defendant 45739
that caused a family or household member to believe that the 45740
defendant would cause physical harm to that member or that 45741
member's property. 45742

(ii) If the alleged violation is a violation of a protection 45743
order issued pursuant to section 2903.213 or 2903.214 of the 45744
Revised Code or a protection order issued by a court of another 45745
state, that the violation allegedly involves conduct by the 45746
defendant that caused physical harm to the person or property of 45747
the person covered by the order, or conduct by the defendant that 45748
caused the person covered by the order to believe that the 45749
defendant would cause physical harm to that person or that 45750
person's property. 45751

(b) If a defendant is charged with a violation of section 45752
2903.211 of the Revised Code or of a municipal ordinance that is 45753
substantially similar to that section, the court may order an 45754
evaluation of the mental condition of the defendant. 45755

(2) An evaluation ordered under division (A)(1) of this 45756
section shall be completed no later than thirty days from the date 45757
the order is entered pursuant to that division. In that order, the 45758
court shall do either of the following: 45759

(a) Order that the evaluation of the mental condition of the 45760
defendant be preceded by an examination conducted either by a 45761
forensic center that is designated by the department of mental 45762
health to conduct examinations and make evaluations of defendants 45763

charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances in the area in which the court is located, or by any other program or facility that is designated by the department of mental health or the department of developmental disabilities to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances, and that is operated by either department or is certified by either department as being in compliance with the standards established under division ~~(I)~~(H) of section 5119.01 of the Revised Code or division (C) of section 5123.04 of the Revised Code.

(b) Designate a center, program, or facility other than one designated by the department of mental health or the department of developmental disabilities, as described in division (A)(2)(a) of this section, to conduct the evaluation and preceding examination of the mental condition of the defendant.

Whether the court acts pursuant to division (A)(2)(a) or (b) of this section, the court may designate examiners other than the personnel of the center, program, facility, or department involved to make the evaluation and preceding examination of the mental condition of the defendant.

(B) If the court considers that additional evaluations of the mental condition of a defendant are necessary following the evaluation authorized by division (A) of this section, the court may order up to two additional similar evaluations. These evaluations shall be completed no later than thirty days from the date the applicable court order is entered. If more than one evaluation of the mental condition of the defendant is ordered under this division, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations and preceding examinations.

(C)(1) The court may order a defendant who has been released on bail to submit to an examination under division (A) or (B) of this section. The examination shall be conducted either at the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility. Additionally, the examination shall be conducted at the times established by the examiners involved. If such a defendant refuses to submit to an examination or a complete examination as required by the court or the center, program, facility, or examiners involved, the court may amend the conditions of the bail of the defendant and order the sheriff to take the defendant into custody and deliver the defendant to the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, to the premises of the center, program, or facility, for purposes of the examination.

(2) A defendant who has not been released on bail shall be examined at the detention facility in which the defendant is confined or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility.

(D) The examiner of the mental condition of a defendant under division (A) or (B) of this section shall file a written report with the court within thirty days after the entry of an order for the evaluation of the mental condition of the defendant. The report shall contain the findings of the examiner; the facts in reasonable detail on which the findings are based; the opinion of the examiner as to the mental condition of the defendant; the opinion of the examiner as to whether the defendant represents a substantial risk of physical harm to other persons as manifested

by evidence of recent homicidal or other violent behavior, 45828
evidence of recent threats that placed other persons in reasonable 45829
fear of violent behavior and serious physical harm, or evidence of 45830
present dangerousness; and the opinion of the examiner as to the 45831
types of treatment or counseling that the defendant needs. The 45832
court shall provide copies of the report to the prosecutor and 45833
defense counsel. 45834

(E) The costs of any evaluation and preceding examination of 45835
a defendant that is ordered pursuant to division (A) or (B) of 45836
this section shall be taxed as court costs in the criminal case. 45837

(F) If the examiner considers it necessary in order to make 45838
an accurate evaluation of the mental condition of a defendant, an 45839
examiner under division (A) or (B) of this section may request any 45840
family or household member of the defendant to provide the 45841
examiner with information. A family or household member may, but 45842
is not required to, provide information to the examiner upon 45843
receipt of the request. 45844

(G) As used in this section: 45845

(1) "Bail" includes a recognizance. 45846

(2) "Examiner" means a psychiatrist, a licensed independent 45847
social worker who is employed by a forensic center that is 45848
certified as being in compliance with the standards established 45849
under division ~~(I)~~(H) of section 5119.01 or division (C) of 45850
section 5123.04 of the Revised Code, a licensed professional 45851
clinical counselor who is employed at a forensic center that is 45852
certified as being in compliance with such standards, or a 45853
licensed clinical psychologist, except that in order to be an 45854
examiner, a licensed clinical psychologist shall meet the criteria 45855
of division (I)(1) of section 5122.01 of the Revised Code or be 45856
employed to conduct examinations by the department of mental 45857
health or by a forensic center certified as being in compliance 45858

with the standards established under division ~~(I)~~(H) of section 45859
5119.01 or division (C) of section 5123.04 of the Revised Code 45860
that is designated by the department of mental health. 45861

(3) "Family or household member" has the same meaning as in 45862
section 2919.25 of the Revised Code. 45863

(4) "Prosecutor" has the same meaning as in section 2935.01 45864
of the Revised Code. 45865

(5) "Psychiatrist" and "licensed clinical psychologist" have 45866
the same meanings as in section 5122.01 of the Revised Code. 45867

(6) "Protection order issued by a court of another state" has 45868
the same meaning as in section 2919.27 of the Revised Code. 45869

Sec. 2921.41. (A) No public official or party official shall 45870
commit any theft offense, as defined in division (K) of section 45871
2913.01 of the Revised Code, when either of the following applies: 45872

(1) The offender uses the offender's office in aid of 45873
committing the offense or permits or assents to its use in aid of 45874
committing the offense; 45875

(2) The property or service involved is owned by this state, 45876
any other state, the United States, a county, a municipal 45877
corporation, a township, or any political subdivision, department, 45878
or agency of any of them, is owned by a political party, or is 45879
part of a political campaign fund. 45880

(B) Whoever violates this section is guilty of theft in 45881
office. Except as otherwise provided in this division, theft in 45882
office is a felony of the fifth degree. If the value of property 45883
or services stolen is five hundred dollars or more and is less 45884
than five thousand dollars, theft in office is a felony of the 45885
fourth degree. If the value of property or services stolen is five 45886
thousand dollars or more, theft in office is a felony of the third 45887
degree. 45888

(C)(1) A public official or party official who pleads guilty to theft in office and whose plea is accepted by the court or a public official or party official against whom a verdict or finding of guilt for committing theft in office is returned is forever disqualified from holding any public office, employment, or position of trust in this state.

(2)(a) A court that imposes sentence for a violation of this section based on conduct described in division (A)(2) of this section shall require the public official or party official who is convicted of or pleads guilty to the offense to make restitution for all of the property or the service that is the subject of the offense, in addition to the term of imprisonment and any fine imposed. A court that imposes sentence for a violation of this section based on conduct described in division (A)(1) of this section and that determines at trial that this state or a political subdivision of this state if the offender is a public official, or a political party in the United States or this state if the offender is a party official, suffered actual loss as a result of the offense shall require the offender to make restitution to the state, political subdivision, or political party for all of the actual loss experienced, in addition to the term of imprisonment and any fine imposed.

(b)(i) In any case in which a sentencing court is required to order restitution under division (C)(2)(a) of this section and in which the offender, at the time of the commission of the offense or at any other time, was a member of the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, or the state highway patrol retirement system; was an electing employee, as defined in section 3305.01 of the Revised Code, participating in an alternative retirement plan provided pursuant to Chapter 3305. of the Revised Code; was a participating

employee or continuing member, as defined in section 148.01 of the Revised Code, in a deferred compensation program offered by the Ohio public employees deferred compensation board; was an officer or employee of a municipal corporation who was a participant in a deferred compensation program offered by that municipal corporation; was an officer or employee of a government unit, as defined in section 148.06 of the Revised Code, who was a participant in a deferred compensation program offered by that government unit, was a participant in a deferred compensation program styled as a supplemental employee deferral plan offered by the treasurer of state, or was a participating employee, continuing member, or participant in any deferred compensation program described in this division and a member of a retirement system specified in this division or a retirement system of a municipal corporation, the entity to which restitution is to be made may file a motion with the sentencing court specifying any retirement system, any provider as defined in section 3305.01 of the Revised Code, and any deferred compensation program of which the offender was a member, electing employee, participating employee, continuing member, or participant and requesting the court to issue an order requiring the specified retirement system, the specified provider under the alternative retirement plan, or the specified deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, to withhold the amount required as restitution from any payment that is to be made under a pension, annuity, or allowance, under an option in the alternative retirement plan, under a participant account, as defined in section 148.01 of the Revised Code, or under any other type of benefit, other than a survivorship benefit, that has been or is in the future granted to the offender, from any payment of accumulated employee contributions standing to the offender's credit with that retirement system, that provider of the option under the alternative retirement plan,

or that deferred compensation program, or, if more than one is 45954
specified in the motion, the applicable combination of these, and 45955
from any payment of any other amounts to be paid to the offender 45956
upon the offender's withdrawal of the offender's contributions 45957
pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of 45958
the Revised Code. A motion described in this division may be filed 45959
at any time subsequent to the conviction of the offender or entry 45960
of a guilty plea. Upon the filing of the motion, the clerk of the 45961
court in which the motion is filed shall notify the offender, the 45962
specified retirement system, the specified provider under the 45963
alternative retirement plan, or the specified deferred 45964
compensation program, or, if more than one is specified in the 45965
motion, the applicable combination of these, in writing, of all of 45966
the following: that the motion was filed; that the offender will 45967
be granted a hearing on the issuance of the requested order if the 45968
offender files a written request for a hearing with the clerk 45969
prior to the expiration of thirty days after the offender receives 45970
the notice; that, if a hearing is requested, the court will 45971
schedule a hearing as soon as possible and notify the offender, 45972
any specified retirement system, any specified provider under an 45973
alternative retirement plan, and any specified deferred 45974
compensation program of the date, time, and place of the hearing; 45975
that, if a hearing is conducted, it will be limited only to a 45976
consideration of whether the offender can show good cause why the 45977
requested order should not be issued; that, if a hearing is 45978
conducted, the court will not issue the requested order if the 45979
court determines, based on evidence presented at the hearing by 45980
the offender, that there is good cause for the requested order not 45981
to be issued; that the court will issue the requested order if a 45982
hearing is not requested or if a hearing is conducted but the 45983
court does not determine, based on evidence presented at the 45984
hearing by the offender, that there is good cause for the 45985
requested order not to be issued; and that, if the requested order 45986

is issued, any retirement system, any provider under an 45987
alternative retirement plan, and any deferred compensation program 45988
specified in the motion will be required to withhold the amount 45989
required as restitution from payments to the offender. 45990

(ii) In any case in which a sentencing court is required to 45991
order restitution under division (C)(2)(a) of this section and in 45992
which a motion requesting the issuance of a withholding order as 45993
described in division (C)(2)(b)(i) of this section is filed, the 45994
offender may receive a hearing on the motion by delivering a 45995
written request for a hearing to the court prior to the expiration 45996
of thirty days after the offender's receipt of the notice provided 45997
pursuant to division (C)(2)(b)(i) of this section. If a request 45998
for a hearing is made by the offender within the prescribed time, 45999
the court shall schedule a hearing as soon as possible after the 46000
request is made and shall notify the offender, the specified 46001
retirement system, the specified provider under the alternative 46002
retirement plan, or the specified deferred compensation program, 46003
or, if more than one is specified in the motion, the applicable 46004
combination of these, of the date, time, and place of the hearing. 46005
A hearing scheduled under this division shall be limited to a 46006
consideration of whether there is good cause, based on evidence 46007
presented by the offender, for the requested order not to be 46008
issued. If the court determines, based on evidence presented by 46009
the offender, that there is good cause for the order not to be 46010
issued, the court shall deny the motion and shall not issue the 46011
requested order. If the offender does not request a hearing within 46012
the prescribed time or if the court conducts a hearing but does 46013
not determine, based on evidence presented by the offender, that 46014
there is good cause for the order not to be issued, the court 46015
shall order the specified retirement system, the specified 46016
provider under the alternative retirement plan, or the specified 46017
deferred compensation program, or, if more than one is specified 46018
in the motion, the applicable combination of these, to withhold 46019

the amount required as restitution under division (C)(2)(a) of 46020
this section from any payments to be made under a pension, 46021
annuity, or allowance, under a participant account, as defined in 46022
section 148.01 of the Revised Code, under an option in the 46023
alternative retirement plan, or under any other type of benefit, 46024
other than a survivorship benefit, that has been or is in the 46025
future granted to the offender, from any payment of accumulated 46026
employee contributions standing to the offender's credit with that 46027
retirement system, that provider under the alternative retirement 46028
plan, or that deferred compensation program, or, if more than one 46029
is specified in the motion, the applicable combination of these, 46030
and from any payment of any other amounts to be paid to the 46031
offender upon the offender's withdrawal of the offender's 46032
contributions pursuant to Chapter 145., 148., 742., 3307., 3309., 46033
or 5505. of the Revised Code, and to continue the withholding for 46034
that purpose, in accordance with the order, out of each payment to 46035
be made on or after the date of issuance of the order, until 46036
further order of the court. Upon receipt of an order issued under 46037
this division, the public employees retirement system, the Ohio 46038
police and fire pension fund, the state teachers retirement 46039
system, the school employees retirement system, the state highway 46040
patrol retirement system, a municipal corporation retirement 46041
system, the provider under the alternative retirement plan, and 46042
the deferred compensation program offered by the Ohio public 46043
employees deferred compensation board, treasurer of state, a 46044
municipal corporation, or a government unit, as defined in section 46045
148.06 of the Revised Code, whichever are applicable, shall 46046
withhold the amount required as restitution, in accordance with 46047
the order, from any such payments and immediately shall forward 46048
the amount withheld to the clerk of the court in which the order 46049
was issued for payment to the entity to which restitution is to be 46050
made. 46051

(iii) Service of a notice required by division (C)(2)(b)(i) 46052

or (ii) of this section shall be effected in the same manner as 46053
provided in the Rules of Civil Procedure for the service of 46054
process. 46055

(D) Upon the filing of charges against a person under this 46056
section, the prosecutor, as defined in section 2935.01 of the 46057
Revised Code, who is assigned the case shall send written notice 46058
that charges have been filed against that person to the public 46059
employees retirement system, the Ohio police and fire pension 46060
fund, the state teachers retirement system, the school employees 46061
retirement system, the state highway patrol retirement system, the 46062
provider under an alternative retirement plan, any municipal 46063
corporation retirement system in this state, and the deferred 46064
compensation program offered by the Ohio public employees deferred 46065
compensation board, treasurer of state, a municipal corporation, 46066
or a government unit, as defined in section 148.06 of the Revised 46067
Code. The written notice shall specifically identify the person 46068
charged. 46069

Sec. 2925.03. (A) No person shall knowingly do any of the 46070
following: 46071

(1) Sell or offer to sell a controlled substance; 46072

(2) Prepare for shipment, ship, transport, deliver, prepare 46073
for distribution, or distribute a controlled substance, when the 46074
offender knows or has reasonable cause to believe that the 46075
controlled substance is intended for sale or resale by the 46076
offender or another person. 46077

(B) This section does not apply to any of the following: 46078

(1) Manufacturers, licensed health professionals authorized 46079
to prescribe drugs, pharmacists, owners of pharmacies, and other 46080
persons whose conduct is in accordance with Chapters 3719., 4715., 46081
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 46082

(2) If the offense involves an anabolic steroid, any person 46083
who is conducting or participating in a research project involving 46084
the use of an anabolic steroid if the project has been approved by 46085
the United States food and drug administration; 46086

(3) Any person who sells, offers for sale, prescribes, 46087
dispenses, or administers for livestock or other nonhuman species 46088
an anabolic steroid that is expressly intended for administration 46089
through implants to livestock or other nonhuman species and 46090
approved for that purpose under the "Federal Food, Drug, and 46091
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 46092
and is sold, offered for sale, prescribed, dispensed, or 46093
administered for that purpose in accordance with that act. 46094

(C) Whoever violates division (A) of this section is guilty 46095
of one of the following: 46096

(1) If the drug involved in the violation is any compound, 46097
mixture, preparation, or substance included in schedule I or 46098
schedule II, with the exception of marihuana, formaldehyde, 46099
cocaine, L.S.D., heroin, and hashish, whoever violates division 46100
(A) of this section is guilty of aggravated trafficking in drugs. 46101
The penalty for the offense shall be determined as follows: 46102

(a) Except as otherwise provided in division (C)(1)(b), (c), 46103
(d), (e), or (f) of this section, aggravated trafficking in drugs 46104
is a felony of the fourth degree, and division (C) of section 46105
2929.13 of the Revised Code applies in determining whether to 46106
impose a prison term on the offender. 46107

(b) Except as otherwise provided in division (C)(1)(c), (d), 46108
(e), or (f) of this section, if the offense was committed in the 46109
vicinity of a school or in the vicinity of a juvenile, aggravated 46110
trafficking in drugs is a felony of the third degree, and division 46111
(C) of section 2929.13 of the Revised Code applies in determining 46112
whether to impose a prison term on the offender. 46113

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the

vicinity of a juvenile, aggravated trafficking in drugs is a 46146
felony of the first degree, the offender is a major drug offender, 46147
and the court shall impose as a mandatory prison term the maximum 46148
prison term prescribed for a felony of the first degree and may 46149
impose an additional prison term prescribed for a major drug 46150
offender under division (D)(3)(b) of section 2929.14 of the 46151
Revised Code. 46152

(2) If the drug involved in the violation is any compound, 46153
mixture, preparation, or substance included in schedule III, IV, 46154
or V, whoever violates division (A) of this section is guilty of 46155
trafficking in drugs. The penalty for the offense shall be 46156
determined as follows: 46157

(a) Except as otherwise provided in division (C)(2)(b), (c), 46158
(d), or (e) of this section, trafficking in drugs is a felony of 46159
the fifth degree, and division (C) of section 2929.13 of the 46160
Revised Code applies in determining whether to impose a prison 46161
term on the offender. 46162

(b) Except as otherwise provided in division (C)(2)(c), (d), 46163
or (e) of this section, if the offense was committed in the 46164
vicinity of a school or in the vicinity of a juvenile, trafficking 46165
in drugs is a felony of the fourth degree, and division (C) of 46166
section 2929.13 of the Revised Code applies in determining whether 46167
to impose a prison term on the offender. 46168

(c) Except as otherwise provided in this division, if the 46169
amount of the drug involved equals or exceeds the bulk amount but 46170
is less than five times the bulk amount, trafficking in drugs is a 46171
felony of the fourth degree, and there is a presumption for a 46172
prison term for the offense. If the amount of the drug involved is 46173
within that range and if the offense was committed in the vicinity 46174
of a school or in the vicinity of a juvenile, trafficking in drugs 46175
is a felony of the third degree, and there is a presumption for a 46176
prison term for the offense. 46177

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty times the bulk amount, trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds fifty times the bulk amount and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), or (g) of this section, trafficking in marihuana is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), or (g) of this section, if the offense was committed in

the vicinity of a school or in the vicinity of a juvenile, 46210
trafficking in marihuana is a felony of the fourth degree, and 46211
division (C) of section 2929.13 of the Revised Code applies in 46212
determining whether to impose a prison term on the offender. 46213

(c) Except as otherwise provided in this division, if the 46214
amount of the drug involved equals or exceeds two hundred grams 46215
but is less than one thousand grams, trafficking in marihuana is a 46216
felony of the fourth degree, and division (C) of section 2929.13 46217
of the Revised Code applies in determining whether to impose a 46218
prison term on the offender. If the amount of the drug involved is 46219
within that range and if the offense was committed in the vicinity 46220
of a school or in the vicinity of a juvenile, trafficking in 46221
marihuana is a felony of the third degree, and division (C) of 46222
section 2929.13 of the Revised Code applies in determining whether 46223
to impose a prison term on the offender. 46224

(d) Except as otherwise provided in this division, if the 46225
amount of the drug involved equals or exceeds one thousand grams 46226
but is less than five thousand grams, trafficking in marihuana is 46227
a felony of the third degree, and division (C) of section 2929.13 46228
of the Revised Code applies in determining whether to impose a 46229
prison term on the offender. If the amount of the drug involved is 46230
within that range and if the offense was committed in the vicinity 46231
of a school or in the vicinity of a juvenile, trafficking in 46232
marihuana is a felony of the second degree, and there is a 46233
presumption that a prison term shall be imposed for the offense. 46234

(e) Except as otherwise provided in this division, if the 46235
amount of the drug involved equals or exceeds five thousand grams 46236
but is less than twenty thousand grams, trafficking in marihuana 46237
is a felony of the third degree, and there is a presumption that a 46238
prison term shall be imposed for the offense. If the amount of the 46239
drug involved is within that range and if the offense was 46240
committed in the vicinity of a school or in the vicinity of a 46241

juvenile, trafficking in marihuana is a felony of the second 46242
degree, and there is a presumption that a prison term shall be 46243
imposed for the offense. 46244

(f) Except as otherwise provided in this division, if the 46245
amount of the drug involved equals or exceeds twenty thousand 46246
grams, trafficking in marihuana is a felony of the second degree, 46247
and the court shall impose as a mandatory prison term the maximum 46248
prison term prescribed for a felony of the second degree. If the 46249
amount of the drug involved equals or exceeds twenty thousand 46250
grams and if the offense was committed in the vicinity of a school 46251
or in the vicinity of a juvenile, trafficking in marihuana is a 46252
felony of the first degree, and the court shall impose as a 46253
mandatory prison term the maximum prison term prescribed for a 46254
felony of the first degree. 46255

(g) Except as otherwise provided in this division, if the 46256
offense involves a gift of twenty grams or less of marihuana, 46257
trafficking in marihuana is a minor misdemeanor upon a first 46258
offense and a misdemeanor of the third degree upon a subsequent 46259
offense. If the offense involves a gift of twenty grams or less of 46260
marihuana and if the offense was committed in the vicinity of a 46261
school or in the vicinity of a juvenile, trafficking in marihuana 46262
is a misdemeanor of the third degree. 46263

(4) If the drug involved in the violation is cocaine or a 46264
compound, mixture, preparation, or substance containing cocaine, 46265
whoever violates division (A) of this section is guilty of 46266
trafficking in cocaine. The penalty for the offense shall be 46267
determined as follows: 46268

(a) Except as otherwise provided in division (C)(4)(b), (c), 46269
(d), (e), (f), or (g) of this section, trafficking in cocaine is a 46270
felony of the fifth degree, and division (C) of section 2929.13 of 46271
the Revised Code applies in determining whether to impose a prison 46272
term on the offender. 46273

(b) Except as otherwise provided in division (C)(4)(c), (d), 46274
(e), (f), or (g) of this section, if the offense was committed in 46275
the vicinity of a school or in the vicinity of a juvenile, 46276
trafficking in cocaine is a felony of the fourth degree, and 46277
division (C) of section 2929.13 of the Revised Code applies in 46278
determining whether to impose a prison term on the offender. 46279

(c) Except as otherwise provided in this division, if the 46280
amount of the drug involved equals or exceeds five grams but is 46281
less than ten grams of cocaine that is not crack cocaine or equals 46282
or exceeds one gram but is less than five grams of crack cocaine, 46283
trafficking in cocaine is a felony of the fourth degree, and there 46284
is a presumption for a prison term for the offense. If the amount 46285
of the drug involved is within one of those ranges and if the 46286
offense was committed in the vicinity of a school or in the 46287
vicinity of a juvenile, trafficking in cocaine is a felony of the 46288
third degree, and there is a presumption for a prison term for the 46289
offense. 46290

(d) Except as otherwise provided in this division, if the 46291
amount of the drug involved equals or exceeds ten grams but is 46292
less than one hundred grams of cocaine that is not crack cocaine 46293
or equals or exceeds five grams but is less than ten grams of 46294
crack cocaine, trafficking in cocaine is a felony of the third 46295
degree, and the court shall impose as a mandatory prison term one 46296
of the prison terms prescribed for a felony of the third degree. 46297
If the amount of the drug involved is within one of those ranges 46298
and if the offense was committed in the vicinity of a school or in 46299
the vicinity of a juvenile, trafficking in cocaine is a felony of 46300
the second degree, and the court shall impose as a mandatory 46301
prison term one of the prison terms prescribed for a felony of the 46302
second degree. 46303

(e) Except as otherwise provided in this division, if the 46304
amount of the drug involved equals or exceeds one hundred grams 46305

but is less than five hundred grams of cocaine that is not crack 46306
cocaine or equals or exceeds ten grams but is less than 46307
twenty-five grams of crack cocaine, trafficking in cocaine is a 46308
felony of the second degree, and the court shall impose as a 46309
mandatory prison term one of the prison terms prescribed for a 46310
felony of the second degree. If the amount of the drug involved is 46311
within one of those ranges and if the offense was committed in the 46312
vicinity of a school or in the vicinity of a juvenile, trafficking 46313
in cocaine is a felony of the first degree, and the court shall 46314
impose as a mandatory prison term one of the prison terms 46315
prescribed for a felony of the first degree. 46316

(f) If the amount of the drug involved equals or exceeds five 46317
hundred grams but is less than one thousand grams of cocaine that 46318
is not crack cocaine or equals or exceeds twenty-five grams but is 46319
less than one hundred grams of crack cocaine and regardless of 46320
whether the offense was committed in the vicinity of a school or 46321
in the vicinity of a juvenile, trafficking in cocaine is a felony 46322
of the first degree, and the court shall impose as a mandatory 46323
prison term one of the prison terms prescribed for a felony of the 46324
first degree. 46325

(g) If the amount of the drug involved equals or exceeds one 46326
thousand grams of cocaine that is not crack cocaine or equals or 46327
exceeds one hundred grams of crack cocaine and regardless of 46328
whether the offense was committed in the vicinity of a school or 46329
in the vicinity of a juvenile, trafficking in cocaine is a felony 46330
of the first degree, the offender is a major drug offender, and 46331
the court shall impose as a mandatory prison term the maximum 46332
prison term prescribed for a felony of the first degree and may 46333
impose an additional mandatory prison term prescribed for a major 46334
drug offender under division (D)(3)(b) of section 2929.14 of the 46335
Revised Code. 46336

(5) If the drug involved in the violation is L.S.D. or a 46337

compound, mixture, preparation, or substance containing L.S.D., 46338
whoever violates division (A) of this section is guilty of 46339
trafficking in L.S.D. The penalty for the offense shall be 46340
determined as follows: 46341

(a) Except as otherwise provided in division (C)(5)(b), (c), 46342
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 46343
felony of the fifth degree, and division (C) of section 2929.13 of 46344
the Revised Code applies in determining whether to impose a prison 46345
term on the offender. 46346

(b) Except as otherwise provided in division (C)(5)(c), (d), 46347
(e), (f), or (g) of this section, if the offense was committed in 46348
the vicinity of a school or in the vicinity of a juvenile, 46349
trafficking in L.S.D. is a felony of the fourth degree, and 46350
division (C) of section 2929.13 of the Revised Code applies in 46351
determining whether to impose a prison term on the offender. 46352

(c) Except as otherwise provided in this division, if the 46353
amount of the drug involved equals or exceeds ten unit doses but 46354
is less than fifty unit doses of L.S.D. in a solid form or equals 46355
or exceeds one gram but is less than five grams of L.S.D. in a 46356
liquid concentrate, liquid extract, or liquid distillate form, 46357
trafficking in L.S.D. is a felony of the fourth degree, and there 46358
is a presumption for a prison term for the offense. If the amount 46359
of the drug involved is within that range and if the offense was 46360
committed in the vicinity of a school or in the vicinity of a 46361
juvenile, trafficking in L.S.D. is a felony of the third degree, 46362
and there is a presumption for a prison term for the offense. 46363

(d) Except as otherwise provided in this division, if the 46364
amount of the drug involved equals or exceeds fifty unit doses but 46365
is less than two hundred fifty unit doses of L.S.D. in a solid 46366
form or equals or exceeds five grams but is less than twenty-five 46367
grams of L.S.D. in a liquid concentrate, liquid extract, or liquid 46368
distillate form, trafficking in L.S.D. is a felony of the third 46369

degree, and the court shall impose as a mandatory prison term one 46370
of the prison terms prescribed for a felony of the third degree. 46371
If the amount of the drug involved is within that range and if the 46372
offense was committed in the vicinity of a school or in the 46373
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 46374
second degree, and the court shall impose as a mandatory prison 46375
term one of the prison terms prescribed for a felony of the second 46376
degree. 46377

(e) Except as otherwise provided in this division, if the 46378
amount of the drug involved equals or exceeds two hundred fifty 46379
unit doses but is less than one thousand unit doses of L.S.D. in a 46380
solid form or equals or exceeds twenty-five grams but is less than 46381
one hundred grams of L.S.D. in a liquid concentrate, liquid 46382
extract, or liquid distillate form, trafficking in L.S.D. is a 46383
felony of the second degree, and the court shall impose as a 46384
mandatory prison term one of the prison terms prescribed for a 46385
felony of the second degree. If the amount of the drug involved is 46386
within that range and if the offense was committed in the vicinity 46387
of a school or in the vicinity of a juvenile, trafficking in 46388
L.S.D. is a felony of the first degree, and the court shall impose 46389
as a mandatory prison term one of the prison terms prescribed for 46390
a felony of the first degree. 46391

(f) If the amount of the drug involved equals or exceeds one 46392
thousand unit doses but is less than five thousand unit doses of 46393
L.S.D. in a solid form or equals or exceeds one hundred grams but 46394
is less than five hundred grams of L.S.D. in a liquid concentrate, 46395
liquid extract, or liquid distillate form and regardless of 46396
whether the offense was committed in the vicinity of a school or 46397
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 46398
of the first degree, and the court shall impose as a mandatory 46399
prison term one of the prison terms prescribed for a felony of the 46400
first degree. 46401

(g) If the amount of the drug involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the

fourth degree, and there is a presumption for a prison term for 46434
the offense. If the amount of the drug involved is within that 46435
range and if the offense was committed in the vicinity of a school 46436
or in the vicinity of a juvenile, trafficking in heroin is a 46437
felony of the third degree, and there is a presumption for a 46438
prison term for the offense. 46439

(d) Except as otherwise provided in this division, if the 46440
amount of the drug involved equals or exceeds fifty unit doses but 46441
is less than one hundred unit doses or equals or exceeds five 46442
grams but is less than ten grams, trafficking in heroin is a 46443
felony of the third degree, and there is a presumption for a 46444
prison term for the offense. If the amount of the drug involved is 46445
within that range and if the offense was committed in the vicinity 46446
of a school or in the vicinity of a juvenile, trafficking in 46447
heroin is a felony of the second degree, and there is a 46448
presumption for a prison term for the offense. 46449

(e) Except as otherwise provided in this division, if the 46450
amount of the drug involved equals or exceeds one hundred unit 46451
doses but is less than five hundred unit doses or equals or 46452
exceeds ten grams but is less than fifty grams, trafficking in 46453
heroin is a felony of the second degree, and the court shall 46454
impose as a mandatory prison term one of the prison terms 46455
prescribed for a felony of the second degree. If the amount of the 46456
drug involved is within that range and if the offense was 46457
committed in the vicinity of a school or in the vicinity of a 46458
juvenile, trafficking in heroin is a felony of the first degree, 46459
and the court shall impose as a mandatory prison term one of the 46460
prison terms prescribed for a felony of the first degree. 46461

(f) If the amount of the drug involved equals or exceeds five 46462
hundred unit doses but is less than two thousand five hundred unit 46463
doses or equals or exceeds fifty grams but is less than two 46464
hundred fifty grams and regardless of whether the offense was 46465

committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds two thousand five hundred unit doses or equals or exceeds two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree and may impose an additional mandatory prison term prescribed for a major drug offender under division (D)(3)(b) of section 2929.14 of the Revised Code.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of trafficking in hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), or (f) of this section, trafficking in hashish is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(7)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the

amount of the drug involved equals or exceeds ten grams but is 46497
less than fifty grams of hashish in a solid form or equals or 46498
exceeds two grams but is less than ten grams of hashish in a 46499
liquid concentrate, liquid extract, or liquid distillate form, 46500
trafficking in hashish is a felony of the fourth degree, and 46501
division (C) of section 2929.13 of the Revised Code applies in 46502
determining whether to impose a prison term on the offender. If 46503
the amount of the drug involved is within that range and if the 46504
offense was committed in the vicinity of a school or in the 46505
vicinity of a juvenile, trafficking in hashish is a felony of the 46506
third degree, and division (C) of section 2929.13 of the Revised 46507
Code applies in determining whether to impose a prison term on the 46508
offender. 46509

(d) Except as otherwise provided in this division, if the 46510
amount of the drug involved equals or exceeds fifty grams but is 46511
less than two hundred fifty grams of hashish in a solid form or 46512
equals or exceeds ten grams but is less than fifty grams of 46513
hashish in a liquid concentrate, liquid extract, or liquid 46514
distillate form, trafficking in hashish is a felony of the third 46515
degree, and division (C) of section 2929.13 of the Revised Code 46516
applies in determining whether to impose a prison term on the 46517
offender. If the amount of the drug involved is within that range 46518
and if the offense was committed in the vicinity of a school or in 46519
the vicinity of a juvenile, trafficking in hashish is a felony of 46520
the second degree, and there is a presumption that a prison term 46521
shall be imposed for the offense. 46522

(e) Except as otherwise provided in this division, if the 46523
amount of the drug involved equals or exceeds two hundred fifty 46524
grams but is less than one thousand grams of hashish in a solid 46525
form or equals or exceeds fifty grams but is less than two hundred 46526
grams of hashish in a liquid concentrate, liquid extract, or 46527
liquid distillate form, trafficking in hashish is a felony of the 46528

third degree, and there is a presumption that a prison term shall 46529
be imposed for the offense. If the amount of the drug involved is 46530
within that range and if the offense was committed in the vicinity 46531
of a school or in the vicinity of a juvenile, trafficking in 46532
hashish is a felony of the second degree, and there is a 46533
presumption that a prison term shall be imposed for the offense. 46534

(f) Except as otherwise provided in this division, if the 46535
amount of the drug involved equals or exceeds one thousand grams 46536
of hashish in a solid form or equals or exceeds two hundred grams 46537
of hashish in a liquid concentrate, liquid extract, or liquid 46538
distillate form, trafficking in hashish is a felony of the second 46539
degree, and the court shall impose as a mandatory prison term the 46540
maximum prison term prescribed for a felony of the second degree. 46541
If the amount of the drug involved is within that range and if the 46542
offense was committed in the vicinity of a school or in the 46543
vicinity of a juvenile, trafficking in hashish is a felony of the 46544
first degree, and the court shall impose as a mandatory prison 46545
term the maximum prison term prescribed for a felony of the first 46546
degree. 46547

(8) If the drug involved in the violation is formaldehyde, 46548
whoever violates division (A) of this section is guilty of 46549
trafficking in formaldehyde. The penalty for the offense shall be 46550
determined as follows: 46551

(a) Except as otherwise provided in this division, if the 46552
amount of the drug involved is more than twenty grams of 46553
formaldehyde, in liquid concentrate, liquid extract, or liquid 46554
distillate form, trafficking in formaldehyde is a felony of the 46555
fourth degree, and division (C) of section 2929.13 of the Revised 46556
Code applies in determining whether to impose a prison term on the 46557
offender. If the offense was committed in the vicinity of a school 46558
or in the vicinity of a juvenile, trafficking in formaldehyde is a 46559
felony of the third degree, and division (C) of section 2929.13 of 46560

the Revised Code applies in determining whether to impose a prison term on the offender. 46561
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(b) If the amount of the drug involved is twenty grams or less of formaldehyde, in liquid concentrate, liquid extract, or liquid distillate form, trafficking in formaldehyde is a minor misdemeanor on the first offense and a misdemeanor of the third degree upon a subsequent offense. 46563
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(D) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender: 46568
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(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. Except as otherwise provided in division (H)(1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. If a person is charged with a violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the clerk of the court shall pay the forfeited bail pursuant to divisions (D)(1) and (F) of this section, as if the forfeited bail was a fine imposed for a violation of this section. If any amount of the forfeited bail remains after that payment and if a fine is imposed under division (H)(1) of this section, the clerk of the court shall pay the remaining amount of the forfeited bail pursuant to 46576
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divisions (H)(2) and (3) of this section, as if that remaining amount was a fine imposed under division (H)(1) of this section.

(2) The court shall suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section.

(3) If the offender is a professionally licensed person, the court immediately shall comply with section 2925.38 of the Revised Code.

(E) When a person is charged with the sale of or offer to sell a bulk amount or a multiple of a bulk amount of a controlled substance, the jury, or the court trying the accused, shall determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is returned, shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance involved, and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is the requisite amount, or that the amount of the controlled substance involved is less than the requisite amount.

(F)(1) Notwithstanding any contrary provision of section 3719.21 of the Revised Code and except as provided in division (H) of this section, the clerk of the court shall pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a mandatory fine so imposed to a law

enforcement agency unless the agency has adopted a written 46625
internal control policy under division (F)(2) of this section that 46626
addresses the use of the fine moneys that it receives. Each agency 46627
shall use the mandatory fines so paid to subsidize the agency's 46628
law enforcement efforts that pertain to drug offenses, in 46629
accordance with the written internal control policy adopted by the 46630
recipient agency under division (F)(2) of this section. 46631

(2)(a) Prior to receiving any fine moneys under division 46632
(F)(1) of this section or division (B) of section 2925.42 of the 46633
Revised Code, a law enforcement agency shall adopt a written 46634
internal control policy that addresses the agency's use and 46635
disposition of all fine moneys so received and that provides for 46636
the keeping of detailed financial records of the receipts of those 46637
fine moneys, the general types of expenditures made out of those 46638
fine moneys, and the specific amount of each general type of 46639
expenditure. The policy shall not provide for or permit the 46640
identification of any specific expenditure that is made in an 46641
ongoing investigation. All financial records of the receipts of 46642
those fine moneys, the general types of expenditures made out of 46643
those fine moneys, and the specific amount of each general type of 46644
expenditure by an agency are public records open for inspection 46645
under section 149.43 of the Revised Code. Additionally, a written 46646
internal control policy adopted under this division is such a 46647
public record, and the agency that adopted it shall comply with 46648
it. 46649

(b) Each law enforcement agency that receives in any calendar 46650
year any fine moneys under division (F)(1) of this section or 46651
division (B) of section 2925.42 of the Revised Code shall prepare 46652
a report covering the calendar year that cumulates all of the 46653
information contained in all of the public financial records kept 46654
by the agency pursuant to division (F)(2)(a) of this section for 46655
that calendar year, and shall send a copy of the cumulative 46656

report, no later than the first day of March in the calendar year 46657
following the calendar year covered by the report, to the attorney 46658
general. Each report received by the attorney general is a public 46659
record open for inspection under section 149.43 of the Revised 46660
Code. Not later than the fifteenth day of April in the calendar 46661
year in which the reports are received, the attorney general shall 46662
send to the president of the senate and the speaker of the house 46663
of representatives a written notification that does all of the 46664
following: 46665

(i) Indicates that the attorney general has received from law 46666
enforcement agencies reports of the type described in this 46667
division that cover the previous calendar year and indicates that 46668
the reports were received under this division; 46669

(ii) Indicates that the reports are open for inspection under 46670
section 149.43 of the Revised Code; 46671

(iii) Indicates that the attorney general will provide a copy 46672
of any or all of the reports to the president of the senate or the 46673
speaker of the house of representatives upon request. 46674

(3) As used in division (F) of this section: 46675

(a) "Law enforcement agencies" includes, but is not limited 46676
to, the state board of pharmacy and the office of a prosecutor. 46677

(b) "Prosecutor" has the same meaning as in section 2935.01 46678
of the Revised Code. 46679

(G) When required under division (D)(2) of this section or 46680
any other provision of this chapter, the court shall suspend for 46681
not less than six months or more than five years the driver's or 46682
commercial driver's license or permit of any person who is 46683
convicted of or pleads guilty to any violation of this section or 46684
any other specified provision of this chapter. If an offender's 46685
driver's or commercial driver's license or permit is suspended 46686
pursuant to this division, the offender, at any time after the 46687

expiration of two years from the day on which the offender's 46688
sentence was imposed or from the day on which the offender finally 46689
was released from a prison term under the sentence, whichever is 46690
later, may file a motion with the sentencing court requesting 46691
termination of the suspension; upon the filing of such a motion 46692
and the court's finding of good cause for the termination, the 46693
court may terminate the suspension. 46694

(H)(1) In addition to any prison term authorized or required 46695
by division (C) of this section and sections 2929.13 and 2929.14 46696
of the Revised Code, in addition to any other penalty or sanction 46697
imposed for the offense under this section or sections 2929.11 to 46698
2929.18 of the Revised Code, and in addition to the forfeiture of 46699
property in connection with the offense as prescribed in Chapter 46700
2981. of the Revised Code, the court that sentences an offender 46701
who is convicted of or pleads guilty to a violation of division 46702
(A) of this section may impose upon the offender an additional 46703
fine specified for the offense in division (B)(4) of section 46704
2929.18 of the Revised Code. A fine imposed under division (H)(1) 46705
of this section is not subject to division (F) of this section and 46706
shall be used solely for the support of one or more eligible 46707
alcohol and drug addiction programs in accordance with divisions 46708
(H)(2) and (3) of this section. 46709

(2) The court that imposes a fine under division (H)(1) of 46710
this section shall specify in the judgment that imposes the fine 46711
one or more eligible alcohol and drug addiction programs for the 46712
support of which the fine money is to be used. No alcohol and drug 46713
addiction program shall receive or use money paid or collected in 46714
satisfaction of a fine imposed under division (H)(1) of this 46715
section unless the program is specified in the judgment that 46716
imposes the fine. No alcohol and drug addiction program shall be 46717
specified in the judgment unless the program is an eligible 46718
alcohol and drug addiction program and, except as otherwise 46719

provided in division (H)(2) of this section, unless the program is 46720
located in the county in which the court that imposes the fine is 46721
located or in a county that is immediately contiguous to the 46722
county in which that court is located. If no eligible alcohol and 46723
drug addiction program is located in any of those counties, the 46724
judgment may specify an eligible alcohol and drug addiction 46725
program that is located anywhere within this state. 46726

(3) Notwithstanding any contrary provision of section 3719.21 46727
of the Revised Code, the clerk of the court shall pay any fine 46728
imposed under division (H)(1) of this section to the eligible 46729
alcohol and drug addiction program specified pursuant to division 46730
(H)(2) of this section in the judgment. The eligible alcohol and 46731
drug addiction program that receives the fine moneys shall use the 46732
moneys only for the alcohol and drug addiction services identified 46733
in the application for certification under section 3793.06 of the 46734
Revised Code or in the application for a license under section 46735
3793.11 of the Revised Code filed with the department of alcohol 46736
and drug addiction services by the alcohol and drug addiction 46737
program specified in the judgment. 46738

(4) Each alcohol and drug addiction program that receives in 46739
a calendar year any fine moneys under division (H)(3) of this 46740
section shall file an annual report covering that calendar year 46741
with the court of common pleas and the board of county 46742
commissioners of the county in which the program is located, with 46743
the court of common pleas and the board of county commissioners of 46744
each county from which the program received the moneys if that 46745
county is different from the county in which the program is 46746
located, and with the attorney general. The alcohol and drug 46747
addiction program shall file the report no later than the first 46748
day of March in the calendar year following the calendar year in 46749
which the program received the fine moneys. The report shall 46750
include statistics on the number of persons served by the alcohol 46751

and drug addiction program, identify the types of alcohol and drug 46752
addiction services provided to those persons, and include a 46753
specific accounting of the purposes for which the fine moneys 46754
received were used. No information contained in the report shall 46755
identify, or enable a person to determine the identity of, any 46756
person served by the alcohol and drug addiction program. Each 46757
report received by a court of common pleas, a board of county 46758
commissioners, or the attorney general is a public record open for 46759
inspection under section 149.43 of the Revised Code. 46760

(5) As used in divisions (H)(1) to (5) of this section: 46761

(a) "Alcohol and drug addiction program" and "alcohol and 46762
drug addiction services" have the same meanings as in section 46763
3793.01 of the Revised Code. 46764

(b) "Eligible alcohol and drug addiction program" means an 46765
alcohol and drug addiction program that is certified under section 46766
3793.06 of the Revised Code or licensed under section 3793.11 of 46767
the Revised Code by the department of alcohol and drug addiction 46768
services. 46769

(I) As used in this section, "drug" includes any substance 46770
that is represented to be a drug. 46771

Sec. 2929.71. (A) As used in this section: 46772

(1) "Agency" means any law enforcement agency, other public 46773
agency, or public official involved in the investigation or 46774
prosecution of the offender or in the investigation of the fire or 46775
explosion in an aggravated arson, arson, or criminal damaging or 46776
endangering case. An "agency" includes, but is not limited to, a 46777
sheriff's office, a municipal corporation, township, or township 46778
or joint police district police department, the office of a 46779
prosecuting attorney, city director of law, village solicitor, or 46780
similar chief legal officer of a municipal corporation, the fire 46781

marshal's office, a municipal corporation, township, or township 46782
fire district fire department, the office of a fire prevention 46783
officer, and any state, county, or municipal corporation crime 46784
laboratory. 46785

(2) "Assets" includes all forms of real or personal property. 46786

(3) "Itemized statement" means the statement of costs 46787
described in division (B) of this section. 46788

(4) "Offender" means the person who has been convicted of or 46789
pleaded guilty to committing, attempting to commit, or complicity 46790
in committing a violation of section 2909.02 or 2909.03 of the 46791
Revised Code, or, when the means used are fire or explosion, 46792
division (A)(2) of section 2909.06 of the Revised Code. 46793

(5) "Costs" means the reasonable value of the time spent by 46794
an officer or employee of an agency on the aggravated arson, 46795
arson, or criminal damaging or endangering case, any moneys spent 46796
by the agency on that case, and the reasonable fair market value 46797
of resources used or expended by the agency on that case. 46798

(B) Prior to the sentencing of an offender, the court shall 46799
enter an order that directs agencies that wish to be reimbursed by 46800
the offender for the costs they incurred in the investigation or 46801
prosecution of the offender or in the investigation of the fire or 46802
explosion involved in the case, to file with the court within a 46803
specified time an itemized statement of those costs. The order 46804
also shall require that a copy of the itemized statement be given 46805
to the offender or offender's attorney within the specified time. 46806
Only itemized statements so filed and given shall be considered at 46807
the hearing described in division (C) of this section. 46808

(C) The court shall set a date for a hearing on all the 46809
itemized statements filed with it and given to the offender or the 46810
offender's attorney in accordance with division (B) of this 46811
section. The hearing shall be held prior to the sentencing of the 46812

offender, but may be held on the same day as the sentencing. 46813
Notice of the hearing date shall be given to the offender or the 46814
offender's attorney and to the agencies whose itemized statements 46815
are involved. At the hearing, each agency has the burden of 46816
establishing by a preponderance of the evidence that the costs set 46817
forth in its itemized statement were incurred in the investigation 46818
or prosecution of the offender or in the investigation of the fire 46819
or explosion involved in the case, and of establishing by a 46820
preponderance of the evidence that the offender has assets 46821
available for the reimbursement of all or a portion of the costs. 46822

The offender may cross-examine all witnesses and examine all 46823
documentation presented by the agencies at the hearing, and the 46824
offender may present at the hearing witnesses and documentation 46825
the offender has obtained without a subpoena or a subpoena duces 46826
tecum or, in the case of documentation, that belongs to the 46827
offender. The offender also may issue subpoenas and subpoenas 46828
duces tecum for, and present and examine at the hearing, witnesses 46829
and documentation, subject to the following applying to the 46830
witnesses or documentation subpoenaed: 46831

(1) The testimony of witnesses subpoenaed or documentation 46832
subpoenaed is material to the preparation or presentation by the 46833
offender of the offender's defense to the claims of the agencies 46834
for a reimbursement of costs; 46835

(2) If witnesses to be subpoenaed are personnel of an agency 46836
or documentation to be subpoenaed belongs to an agency, the 46837
personnel or documentation may be subpoenaed only if the agency 46838
involved has indicated, pursuant to this division, that it intends 46839
to present the personnel as witnesses or use the documentation at 46840
the hearing. The offender shall submit, in writing, a request to 46841
an agency as described in this division to ascertain whether the 46842
agency intends to present various personnel as witnesses or to use 46843
particular documentation. The request shall indicate that the 46844

offender is considering issuing subpoenas to personnel of the 46845
agency who are specifically named or identified by title or 46846
position, or for documentation of the agency that is specifically 46847
described or generally identified, and shall request the agency to 46848
indicate, in writing, whether it intends to present such personnel 46849
as witnesses or to use such documentation at the hearing. The 46850
agency shall promptly reply to the request of the offender. An 46851
agency is prohibited from presenting personnel as witnesses or 46852
from using documentation at the hearing if it indicates to the 46853
offender it does not intend to do so in response to a request of 46854
the offender under this division, or if it fails to reply or 46855
promptly reply to such a request. 46856

(D) Following the hearing, the court shall determine which of 46857
the agencies established by a preponderance of the evidence that 46858
costs set forth in their itemized statements were incurred as 46859
described in division (C) of this section and that the offender 46860
has assets available for reimbursement purposes. The court also 46861
shall determine whether the offender has assets available to 46862
reimburse all such agencies, in whole or in part, for their 46863
established costs, and if it determines that the assets are 46864
available, it shall order the offender, as part of the offender's 46865
sentence, to reimburse the agencies from the offender's assets for 46866
all or a specified portion of their established costs. 46867

Sec. 2935.01. As used in this chapter: 46868

(A) "Magistrate" has the same meaning as in section 2931.01 46869
of the Revised Code. 46870

(B) "Peace officer" includes, except as provided in section 46871
2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; 46872
deputy marshal; member of the organized police department of any 46873
municipal corporation, including a member of the organized police 46874
department of a municipal corporation in an adjoining state 46875

serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; enforcement agent of the department of public safety designated under section 5502.14 of the Revised Code; employee of the department of taxation to whom investigation powers have been delegated under section 5743.45 of the Revised Code; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code; individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code; veterans' home police officer appointed under section 5907.02 of the Revised Code; special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; police constable of any township; police officer of a township or joint ~~township~~ police district; a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation

as provided in Parts 1542. and 1544. of Title 49 of the Code of 46909
Federal Regulations, as amended; the house of representatives 46910
sergeant at arms if the house of representatives sergeant at arms 46911
has arrest authority pursuant to division (E)(1) of section 46912
101.311 of the Revised Code; and an assistant house of 46913
representatives sergeant at arms; officer or employee of the 46914
bureau of criminal identification and investigation established 46915
pursuant to section 109.51 of the Revised Code who has been 46916
awarded a certificate by the executive director of the Ohio peace 46917
officer training commission attesting to the officer's or 46918
employee's satisfactory completion of an approved state, county, 46919
municipal, or department of natural resources peace officer basic 46920
training program and who is providing assistance upon request to a 46921
law enforcement officer or emergency assistance to a peace officer 46922
pursuant to section 109.54 or 109.541 of the Revised Code; a state 46923
fire marshal law enforcement officer described in division (A)(23) 46924
of section 109.71 of the Revised Code; and, for the purpose of 46925
arrests within those areas, for the purposes of Chapter 5503. of 46926
the Revised Code, and the filing of and service of process 46927
relating to those offenses witnessed or investigated by them, the 46928
superintendent and troopers of the state highway patrol. 46929

(C) "Prosecutor" includes the county prosecuting attorney and 46930
any assistant prosecutor designated to assist the county 46931
prosecuting attorney, and, in the case of courts inferior to 46932
courts of common pleas, includes the village solicitor, city 46933
director of law, or similar chief legal officer of a municipal 46934
corporation, any such officer's assistants, or any attorney 46935
designated by the prosecuting attorney of the county to appear for 46936
the prosecution of a given case. 46937

(D) "Offense," except where the context specifically 46938
indicates otherwise, includes felonies, misdemeanors, and 46939
violations of ordinances of municipal corporations and other 46940

public bodies authorized by law to adopt penal regulations. 46941

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 46942
deputy marshal, municipal police officer, township constable, 46943
police officer of a township or joint ~~township~~ police district, 46944
member of a police force employed by a metropolitan housing 46945
authority under division (D) of section 3735.31 of the Revised 46946
Code, member of a police force employed by a regional transit 46947
authority under division (Y) of section 306.35 of the Revised 46948
Code, state university law enforcement officer appointed under 46949
section 3345.04 of the Revised Code, veterans' home police officer 46950
appointed under section 5907.02 of the Revised Code, special 46951
police officer employed by a port authority under section 4582.04 46952
or 4582.28 of the Revised Code, or a special police officer 46953
employed by a municipal corporation at a municipal airport, or 46954
other municipal air navigation facility, that has scheduled 46955
operations, as defined in section 119.3 of Title 14 of the Code of 46956
Federal Regulations, 14 C.F.R. 119.3, as amended, and that is 46957
required to be under a security program and is governed by 46958
aviation security rules of the transportation security 46959
administration of the United States department of transportation 46960
as provided in Parts 1542. and 1544. of Title 49 of the Code of 46961
Federal Regulations, as amended, shall arrest and detain, until a 46962
warrant can be obtained, a person found violating, within the 46963
limits of the political subdivision, metropolitan housing 46964
authority housing project, regional transit authority facilities 46965
or areas of a municipal corporation that have been agreed to by a 46966
regional transit authority and a municipal corporation located 46967
within its territorial jurisdiction, college, university, 46968
veterans' home operated under Chapter 5907. of the Revised Code, 46969
port authority, or municipal airport or other municipal air 46970
navigation facility, in which the peace officer is appointed, 46971
employed, or elected, a law of this state, an ordinance of a 46972

municipal corporation, or a resolution of a township. 46973

(2) A peace officer of the department of natural resources, a 46974
state fire marshal law enforcement officer described in division 46975
(A)(23) of section 109.71 of the Revised Code, or an individual 46976
designated to perform law enforcement duties under section 46977
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 46978
detain, until a warrant can be obtained, a person found violating, 46979
within the limits of the peace officer's, state fire marshal law 46980
enforcement officer's, or individual's territorial jurisdiction, a 46981
law of this state. 46982

(3) The house sergeant at arms, if the house sergeant at arms 46983
has arrest authority pursuant to division (E)(1) of section 46984
101.311 of the Revised Code, and an assistant house sergeant at 46985
arms shall arrest and detain, until a warrant can be obtained, a 46986
person found violating, within the limits of the sergeant at 46987
arms's or assistant sergeant at arms's territorial jurisdiction 46988
specified in division (D)(1)(a) of section 101.311 of the Revised 46989
Code or while providing security pursuant to division (D)(1)(f) of 46990
section 101.311 of the Revised Code, a law of this state, an 46991
ordinance of a municipal corporation, or a resolution of a 46992
township. 46993

(B)(1) When there is reasonable ground to believe that an 46994
offense of violence, the offense of criminal child enticement as 46995
defined in section 2905.05 of the Revised Code, the offense of 46996
public indecency as defined in section 2907.09 of the Revised 46997
Code, the offense of domestic violence as defined in section 46998
2919.25 of the Revised Code, the offense of violating a protection 46999
order as defined in section 2919.27 of the Revised Code, the 47000
offense of menacing by stalking as defined in section 2903.211 of 47001
the Revised Code, the offense of aggravated trespass as defined in 47002
section 2911.211 of the Revised Code, a theft offense as defined 47003
in section 2913.01 of the Revised Code, or a felony drug abuse 47004

offense as defined in section 2925.01 of the Revised Code, has 47005
been committed within the limits of the political subdivision, 47006
metropolitan housing authority housing project, regional transit 47007
authority facilities or those areas of a municipal corporation 47008
that have been agreed to by a regional transit authority and a 47009
municipal corporation located within its territorial jurisdiction, 47010
college, university, veterans' home operated under Chapter 5907. 47011
of the Revised Code, port authority, or municipal airport or other 47012
municipal air navigation facility, in which the peace officer is 47013
appointed, employed, or elected or within the limits of the 47014
territorial jurisdiction of the peace officer, a peace officer 47015
described in division (A) of this section may arrest and detain 47016
until a warrant can be obtained any person who the peace officer 47017
has reasonable cause to believe is guilty of the violation. 47018

(2) For purposes of division (B)(1) of this section, the 47019
execution of any of the following constitutes reasonable ground to 47020
believe that the offense alleged in the statement was committed 47021
and reasonable cause to believe that the person alleged in the 47022
statement to have committed the offense is guilty of the 47023
violation: 47024

(a) A written statement by a person alleging that an alleged 47025
offender has committed the offense of menacing by stalking or 47026
aggravated trespass; 47027

(b) A written statement by the administrator of the 47028
interstate compact on mental health appointed under section 47029
5119.51 of the Revised Code alleging that a person who had been 47030
hospitalized, institutionalized, or confined in any facility under 47031
an order made pursuant to or under authority of section 2945.37, 47032
2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the 47033
Revised Code has escaped from the facility, from confinement in a 47034
vehicle for transportation to or from the facility, or from 47035
supervision by an employee of the facility that is incidental to 47036

hospitalization, institutionalization, or confinement in the 47037
facility and that occurs outside of the facility, in violation of 47038
section 2921.34 of the Revised Code; 47039

(c) A written statement by the administrator of any facility 47040
in which a person has been hospitalized, institutionalized, or 47041
confined under an order made pursuant to or under authority of 47042
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 47043
2945.402 of the Revised Code alleging that the person has escaped 47044
from the facility, from confinement in a vehicle for 47045
transportation to or from the facility, or from supervision by an 47046
employee of the facility that is incidental to hospitalization, 47047
institutionalization, or confinement in the facility and that 47048
occurs outside of the facility, in violation of section 2921.34 of 47049
the Revised Code. 47050

(3)(a) For purposes of division (B)(1) of this section, a 47051
peace officer described in division (A) of this section has 47052
reasonable grounds to believe that the offense of domestic 47053
violence or the offense of violating a protection order has been 47054
committed and reasonable cause to believe that a particular person 47055
is guilty of committing the offense if any of the following 47056
occurs: 47057

(i) A person executes a written statement alleging that the 47058
person in question has committed the offense of domestic violence 47059
or the offense of violating a protection order against the person 47060
who executes the statement or against a child of the person who 47061
executes the statement. 47062

(ii) No written statement of the type described in division 47063
(B)(3)(a)(i) of this section is executed, but the peace officer, 47064
based upon the peace officer's own knowledge and observation of 47065
the facts and circumstances of the alleged incident of the offense 47066
of domestic violence or the alleged incident of the offense of 47067
violating a protection order or based upon any other information, 47068

including, but not limited to, any reasonably trustworthy 47069
information given to the peace officer by the alleged victim of 47070
the alleged incident of the offense or any witness of the alleged 47071
incident of the offense, concludes that there are reasonable 47072
grounds to believe that the offense of domestic violence or the 47073
offense of violating a protection order has been committed and 47074
reasonable cause to believe that the person in question is guilty 47075
of committing the offense. 47076

(iii) No written statement of the type described in division 47077
(B)(3)(a)(i) of this section is executed, but the peace officer 47078
witnessed the person in question commit the offense of domestic 47079
violence or the offense of violating a protection order. 47080

(b) If pursuant to division (B)(3)(a) of this section a peace 47081
officer has reasonable grounds to believe that the offense of 47082
domestic violence or the offense of violating a protection order 47083
has been committed and reasonable cause to believe that a 47084
particular person is guilty of committing the offense, it is the 47085
preferred course of action in this state that the officer arrest 47086
and detain that person pursuant to division (B)(1) of this section 47087
until a warrant can be obtained. 47088

If pursuant to division (B)(3)(a) of this section a peace 47089
officer has reasonable grounds to believe that the offense of 47090
domestic violence or the offense of violating a protection order 47091
has been committed and reasonable cause to believe that family or 47092
household members have committed the offense against each other, 47093
it is the preferred course of action in this state that the 47094
officer, pursuant to division (B)(1) of this section, arrest and 47095
detain until a warrant can be obtained the family or household 47096
member who committed the offense and whom the officer has 47097
reasonable cause to believe is the primary physical aggressor. 47098
There is no preferred course of action in this state regarding any 47099
other family or household member who committed the offense and 47100

whom the officer does not have reasonable cause to believe is the 47101
primary physical aggressor, but, pursuant to division (B)(1) of 47102
this section, the peace officer may arrest and detain until a 47103
warrant can be obtained any other family or household member who 47104
committed the offense and whom the officer does not have 47105
reasonable cause to believe is the primary physical aggressor. 47106

(c) If a peace officer described in division (A) of this 47107
section does not arrest and detain a person whom the officer has 47108
reasonable cause to believe committed the offense of domestic 47109
violence or the offense of violating a protection order when it is 47110
the preferred course of action in this state pursuant to division 47111
(B)(3)(b) of this section that the officer arrest that person, the 47112
officer shall articulate in the written report of the incident 47113
required by section 2935.032 of the Revised Code a clear statement 47114
of the officer's reasons for not arresting and detaining that 47115
person until a warrant can be obtained. 47116

(d) In determining for purposes of division (B)(3)(b) of this 47117
section which family or household member is the primary physical 47118
aggressor in a situation in which family or household members have 47119
committed the offense of domestic violence or the offense of 47120
violating a protection order against each other, a peace officer 47121
described in division (A) of this section, in addition to any 47122
other relevant circumstances, should consider all of the 47123
following: 47124

(i) Any history of domestic violence or of any other violent 47125
acts by either person involved in the alleged offense that the 47126
officer reasonably can ascertain; 47127

(ii) If violence is alleged, whether the alleged violence was 47128
caused by a person acting in self-defense; 47129

(iii) Each person's fear of physical harm, if any, resulting 47130
from the other person's threatened use of force against any person 47131

or resulting from the other person's use or history of the use of 47132
force against any person, and the reasonableness of that fear; 47133

(iv) The comparative severity of any injuries suffered by the 47134
persons involved in the alleged offense. 47135

(e)(i) A peace officer described in division (A) of this 47136
section shall not require, as a prerequisite to arresting or 47137
charging a person who has committed the offense of domestic 47138
violence or the offense of violating a protection order, that the 47139
victim of the offense specifically consent to the filing of 47140
charges against the person who has committed the offense or sign a 47141
complaint against the person who has committed the offense. 47142

(ii) If a person is arrested for or charged with committing 47143
the offense of domestic violence or the offense of violating a 47144
protection order and if the victim of the offense does not 47145
cooperate with the involved law enforcement or prosecuting 47146
authorities in the prosecution of the offense or, subsequent to 47147
the arrest or the filing of the charges, informs the involved law 47148
enforcement or prosecuting authorities that the victim does not 47149
wish the prosecution of the offense to continue or wishes to drop 47150
charges against the alleged offender relative to the offense, the 47151
involved prosecuting authorities, in determining whether to 47152
continue with the prosecution of the offense or whether to dismiss 47153
charges against the alleged offender relative to the offense and 47154
notwithstanding the victim's failure to cooperate or the victim's 47155
wishes, shall consider all facts and circumstances that are 47156
relevant to the offense, including, but not limited to, the 47157
statements and observations of the peace officers who responded to 47158
the incident that resulted in the arrest or filing of the charges 47159
and of all witnesses to that incident. 47160

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 47161
this section whether to arrest a person pursuant to division 47162
(B)(1) of this section, a peace officer described in division (A) 47163

of this section shall not consider as a factor any possible 47164
shortage of cell space at the detention facility to which the 47165
person will be taken subsequent to the person's arrest or any 47166
possibility that the person's arrest might cause, contribute to, 47167
or exacerbate overcrowding at that detention facility or at any 47168
other detention facility. 47169

(g) If a peace officer described in division (A) of this 47170
section intends pursuant to divisions (B)(3)(a) to (g) of this 47171
section to arrest a person pursuant to division (B)(1) of this 47172
section and if the officer is unable to do so because the person 47173
is not present, the officer promptly shall seek a warrant for the 47174
arrest of the person. 47175

(h) If a peace officer described in division (A) of this 47176
section responds to a report of an alleged incident of the offense 47177
of domestic violence or an alleged incident of the offense of 47178
violating a protection order and if the circumstances of the 47179
incident involved the use or threatened use of a deadly weapon or 47180
any person involved in the incident brandished a deadly weapon 47181
during or in relation to the incident, the deadly weapon that was 47182
used, threatened to be used, or brandished constitutes contraband, 47183
and, to the extent possible, the officer shall seize the deadly 47184
weapon as contraband pursuant to Chapter 2981. of the Revised 47185
Code. Upon the seizure of a deadly weapon pursuant to division 47186
(B)(3)(h) of this section, section 2981.12 of the Revised Code 47187
shall apply regarding the treatment and disposition of the deadly 47188
weapon. For purposes of that section, the "underlying criminal 47189
offense" that was the basis of the seizure of a deadly weapon 47190
under division (B)(3)(h) of this section and to which the deadly 47191
weapon had a relationship is any of the following that is 47192
applicable: 47193

(i) The alleged incident of the offense of domestic violence 47194
or the alleged incident of the offense of violating a protection 47195

order to which the officer who seized the deadly weapon responded; 47196

(ii) Any offense that arose out of the same facts and 47197
circumstances as the report of the alleged incident of the offense 47198
of domestic violence or the alleged incident of the offense of 47199
violating a protection order to which the officer who seized the 47200
deadly weapon responded. 47201

(4) If, in the circumstances described in divisions (B)(3)(a) 47202
to (g) of this section, a peace officer described in division (A) 47203
of this section arrests and detains a person pursuant to division 47204
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 47205
this section, a peace officer described in division (A) of this 47206
section seizes a deadly weapon, the officer, to the extent 47207
described in and in accordance with section 9.86 or 2744.03 of the 47208
Revised Code, is immune in any civil action for damages for 47209
injury, death, or loss to person or property that arises from or 47210
is related to the arrest and detention or the seizure. 47211

(C) When there is reasonable ground to believe that a 47212
violation of division (A)(1), (2), (3), (4), or (5) of section 47213
4506.15 or a violation of section 4511.19 of the Revised Code has 47214
been committed by a person operating a motor vehicle subject to 47215
regulation by the public utilities commission of Ohio under Title 47216
XLIX of the Revised Code, a peace officer with authority to 47217
enforce that provision of law may stop or detain the person whom 47218
the officer has reasonable cause to believe was operating the 47219
motor vehicle in violation of the division or section and, after 47220
investigating the circumstances surrounding the operation of the 47221
vehicle, may arrest and detain the person. 47222

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 47223
municipal police officer, member of a police force employed by a 47224
metropolitan housing authority under division (D) of section 47225
3735.31 of the Revised Code, member of a police force employed by 47226
a regional transit authority under division (Y) of section 306.35 47227

of the Revised Code, special police officer employed by a port 47228
authority under section 4582.04 or 4582.28 of the Revised Code, 47229
special police officer employed by a municipal corporation at a 47230
municipal airport or other municipal air navigation facility 47231
described in division (A) of this section, township constable, 47232
police officer of a township or joint ~~township~~ police district, 47233
state university law enforcement officer appointed under section 47234
3345.04 of the Revised Code, peace officer of the department of 47235
natural resources, individual designated to perform law 47236
enforcement duties under section 511.232, 1545.13, or 6101.75 of 47237
the Revised Code, the house sergeant at arms if the house sergeant 47238
at arms has arrest authority pursuant to division (E)(1) of 47239
section 101.311 of the Revised Code, or an assistant house 47240
sergeant at arms is authorized by division (A) or (B) of this 47241
section to arrest and detain, within the limits of the political 47242
subdivision, metropolitan housing authority housing project, 47243
regional transit authority facilities or those areas of a 47244
municipal corporation that have been agreed to by a regional 47245
transit authority and a municipal corporation located within its 47246
territorial jurisdiction, port authority, municipal airport or 47247
other municipal air navigation facility, college, or university in 47248
which the officer is appointed, employed, or elected or within the 47249
limits of the territorial jurisdiction of the peace officer, a 47250
person until a warrant can be obtained, the peace officer, outside 47251
the limits of that territory, may pursue, arrest, and detain that 47252
person until a warrant can be obtained if all of the following 47253
apply: 47254

(1) The pursuit takes place without unreasonable delay after 47255
the offense is committed; 47256

(2) The pursuit is initiated within the limits of the 47257
political subdivision, metropolitan housing authority housing 47258
project, regional transit authority facilities or those areas of a 47259

municipal corporation that have been agreed to by a regional 47260
transit authority and a municipal corporation located within its 47261
territorial jurisdiction, port authority, municipal airport or 47262
other municipal air navigation facility, college, or university in 47263
which the peace officer is appointed, employed, or elected or 47264
within the limits of the territorial jurisdiction of the peace 47265
officer; 47266

(3) The offense involved is a felony, a misdemeanor of the 47267
first degree or a substantially equivalent municipal ordinance, a 47268
misdemeanor of the second degree or a substantially equivalent 47269
municipal ordinance, or any offense for which points are 47270
chargeable pursuant to section 4510.036 of the Revised Code. 47271

(E) In addition to the authority granted under division (A) 47272
or (B) of this section: 47273

(1) A sheriff or deputy sheriff may arrest and detain, until 47274
a warrant can be obtained, any person found violating section 47275
4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 47276
4549.62, or Chapter 4511. or 4513. of the Revised Code on the 47277
portion of any street or highway that is located immediately 47278
adjacent to the boundaries of the county in which the sheriff or 47279
deputy sheriff is elected or appointed. 47280

(2) A member of the police force of a township police 47281
district created under section 505.48 of the Revised Code, a 47282
member of the police force of a joint ~~township~~ police district 47283
created under section ~~505.481~~ 505.482 of the Revised Code, or a 47284
township constable appointed in accordance with section 509.01 of 47285
the Revised Code, who has received a certificate from the Ohio 47286
peace officer training commission under section 109.75 of the 47287
Revised Code, may arrest and detain, until a warrant can be 47288
obtained, any person found violating any section or chapter of the 47289
Revised Code listed in division (E)(1) of this section, other than 47290
sections 4513.33 and 4513.34 of the Revised Code, on the portion 47291

of any street or highway that is located immediately adjacent to 47292
the boundaries of the township police district or joint ~~township~~ 47293
police district, in the case of a member of a township police 47294
district or joint ~~township~~ police district police force, or the 47295
unincorporated territory of the township, in the case of a 47296
township constable. However, if the population of the township 47297
that created the township police district served by the member's 47298
police force, or the townships and municipal corporations that 47299
created the joint ~~township~~ police district served by the member's 47300
police force, or the township that is served by the township 47301
constable, is sixty thousand or less, the member of the township 47302
police district or joint police district police force or the 47303
township constable may not make an arrest under division (E)(2) of 47304
this section on a state highway that is included as part of the 47305
interstate system. 47306

(3) A police officer or village marshal appointed, elected, 47307
or employed by a municipal corporation may arrest and detain, 47308
until a warrant can be obtained, any person found violating any 47309
section or chapter of the Revised Code listed in division (E)(1) 47310
of this section on the portion of any street or highway that is 47311
located immediately adjacent to the boundaries of the municipal 47312
corporation in which the police officer or village marshal is 47313
appointed, elected, or employed. 47314

(4) A peace officer of the department of natural resources, a 47315
state fire marshal law enforcement officer described in division 47316
(A)(23) of section 109.71 of the Revised Code, or an individual 47317
designated to perform law enforcement duties under section 47318
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 47319
detain, until a warrant can be obtained, any person found 47320
violating any section or chapter of the Revised Code listed in 47321
division (E)(1) of this section, other than sections 4513.33 and 47322
4513.34 of the Revised Code, on the portion of any street or 47323

highway that is located immediately adjacent to the boundaries of 47324
the lands and waters that constitute the territorial jurisdiction 47325
of the peace officer or state fire marshal law enforcement 47326
officer. 47327

(F)(1) A department of mental health special police officer 47328
or a department of developmental disabilities special police 47329
officer may arrest without a warrant and detain until a warrant 47330
can be obtained any person found committing on the premises of any 47331
institution under the jurisdiction of the particular department a 47332
misdemeanor under a law of the state. 47333

A department of mental health special police officer or a 47334
department of developmental disabilities special police officer 47335
may arrest without a warrant and detain until a warrant can be 47336
obtained any person who has been hospitalized, institutionalized, 47337
or confined in an institution under the jurisdiction of the 47338
particular department pursuant to or under authority of section 47339
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 47340
2945.402 of the Revised Code and who is found committing on the 47341
premises of any institution under the jurisdiction of the 47342
particular department a violation of section 2921.34 of the 47343
Revised Code that involves an escape from the premises of the 47344
institution. 47345

(2)(a) If a department of mental health special police 47346
officer or a department of developmental disabilities special 47347
police officer finds any person who has been hospitalized, 47348
institutionalized, or confined in an institution under the 47349
jurisdiction of the particular department pursuant to or under 47350
authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 47351
2945.401, or 2945.402 of the Revised Code committing a violation 47352
of section 2921.34 of the Revised Code that involves an escape 47353
from the premises of the institution, or if there is reasonable 47354
ground to believe that a violation of section 2921.34 of the 47355

Revised Code has been committed that involves an escape from the 47356
premises of an institution under the jurisdiction of the 47357
department of mental health or the department of developmental 47358
disabilities and if a department of mental health special police 47359
officer or a department of developmental disabilities special 47360
police officer has reasonable cause to believe that a particular 47361
person who has been hospitalized, institutionalized, or confined 47362
in the institution pursuant to or under authority of section 47363
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 47364
2945.402 of the Revised Code is guilty of the violation, the 47365
special police officer, outside of the premises of the 47366
institution, may pursue, arrest, and detain that person for that 47367
violation of section 2921.34 of the Revised Code, until a warrant 47368
can be obtained, if both of the following apply: 47369

(i) The pursuit takes place without unreasonable delay after 47370
the offense is committed; 47371

(ii) The pursuit is initiated within the premises of the 47372
institution from which the violation of section 2921.34 of the 47373
Revised Code occurred. 47374

(b) For purposes of division (F)(2)(a) of this section, the 47375
execution of a written statement by the administrator of the 47376
institution in which a person had been hospitalized, 47377
institutionalized, or confined pursuant to or under authority of 47378
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 47379
2945.402 of the Revised Code alleging that the person has escaped 47380
from the premises of the institution in violation of section 47381
2921.34 of the Revised Code constitutes reasonable ground to 47382
believe that the violation was committed and reasonable cause to 47383
believe that the person alleged in the statement to have committed 47384
the offense is guilty of the violation. 47385

(G) As used in this section: 47386

(1) A "department of mental health special police officer" 47387
means a special police officer of the department of mental health 47388
designated under section 5119.14 of the Revised Code who is 47389
certified by the Ohio peace officer training commission under 47390
section 109.77 of the Revised Code as having successfully 47391
completed an approved peace officer basic training program. 47392

(2) A "department of developmental disabilities special 47393
police officer" means a special police officer of the department 47394
of developmental disabilities designated under section 5123.13 of 47395
the Revised Code who is certified by the Ohio peace officer 47396
training council under section 109.77 of the Revised Code as 47397
having successfully completed an approved peace officer basic 47398
training program. 47399

(3) "Deadly weapon" has the same meaning as in section 47400
2923.11 of the Revised Code. 47401

(4) "Family or household member" has the same meaning as in 47402
section 2919.25 of the Revised Code. 47403

(5) "Street" or "highway" has the same meaning as in section 47404
4511.01 of the Revised Code. 47405

(6) "Interstate system" has the same meaning as in section 47406
5516.01 of the Revised Code. 47407

(7) "Peace officer of the department of natural resources" 47408
means an employee of the department of natural resources who is a 47409
natural resources law enforcement staff officer designated 47410
pursuant to section 1501.013 of the Revised Code, a forest officer 47411
designated pursuant to section 1503.29 of the Revised Code, a 47412
preserve officer designated pursuant to section 1517.10 of the 47413
Revised Code, a wildlife officer designated pursuant to section 47414
1531.13 of the Revised Code, a park officer designated pursuant to 47415
section 1541.10 of the Revised Code, or a state watercraft officer 47416
designated pursuant to section 1547.521 of the Revised Code. 47417

(8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.

Sec. 2945.371. (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.

(C) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. If a defendant who has been released on bail or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of mental health or the department of

developmental disabilities where the defendant may be held for 47449
evaluation for a reasonable period of time not to exceed twenty 47450
days. 47451

(D) A defendant who has not been released on bail or 47452
recognizance may be evaluated at the defendant's place of 47453
detention. Upon the request of the examiner, the court may order 47454
the sheriff to transport the defendant to a program or facility 47455
operated or certified by the department of mental health or the 47456
department of developmental disabilities, where the defendant may 47457
be held for evaluation for a reasonable period of time not to 47458
exceed twenty days, and to return the defendant to the place of 47459
detention after the evaluation. A municipal court may make an 47460
order under this division only upon the request of a certified 47461
forensic center examiner. 47462

(E) If a court orders the evaluation to determine a 47463
defendant's mental condition at the time of the offense charged, 47464
the court shall inform the examiner of the offense with which the 47465
defendant is charged. 47466

(F) In conducting an evaluation of a defendant's mental 47467
condition at the time of the offense charged, the examiner shall 47468
consider all relevant evidence. If the offense charged involves 47469
the use of force against another person, the relevant evidence to 47470
be considered includes, but is not limited to, any evidence that 47471
the defendant suffered, at the time of the commission of the 47472
offense, from the "battered woman syndrome." 47473

(G) The examiner shall file a written report with the court 47474
within thirty days after entry of a court order for evaluation, 47475
and the court shall provide copies of the report to the prosecutor 47476
and defense counsel. The report shall include all of the 47477
following: 47478

(1) The examiner's findings; 47479

(2) The facts in reasonable detail on which the findings are based; 47480
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(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable: 47482
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47484

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense; 47485
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(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, whether the defendant presently is mentally ill or mentally retarded and, if the examiner's opinion is that the defendant presently is mentally retarded, whether the defendant appears to be a mentally retarded person subject to institutionalization by court order; 47488
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(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment; 47496
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(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or mentally retarded, the examiner's recommendation as to the least restrictive ~~treatment~~ placement or commitment alternative, consistent with the defendant's treatment needs for restoration to 47504
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competency and with the safety of the community; 47511

(e) If the defendant is charged with a misdemeanor offense 47512
that is not an offense of violence and the examiner's opinion is 47513
that the defendant is incapable of understanding the nature and 47514
objective of the proceedings against the defendant or of assisting 47515
in the defendant's defense and that the defendant is presently 47516
mentally ill or mentally retarded, the examiner's recommendation 47517
as to whether the defendant is amenable to engagement in mental 47518
health treatment or developmental disability services. 47519

(4) If the evaluation was ordered to determine the 47520
defendant's mental condition at the time of the offense charged, 47521
the examiner's findings as to whether the defendant, at the time 47522
of the offense charged, did not know, as a result of a severe 47523
mental disease or defect, the wrongfulness of the defendant's acts 47524
charged. 47525

(H) If the examiner's report filed under division (G) of this 47526
section indicates that in the examiner's opinion the defendant is 47527
incapable of understanding the nature and objective of the 47528
proceedings against the defendant or of assisting in the 47529
defendant's defense and that in the examiner's opinion the 47530
defendant appears to be a mentally retarded person subject to 47531
institutionalization by court order, the court shall order the 47532
defendant to undergo a separate mental retardation evaluation 47533
conducted by a psychologist designated by the director of 47534
developmental disabilities. Divisions (C) to (F) of this section 47535
apply in relation to a separate mental retardation evaluation 47536
conducted under this division. The psychologist appointed under 47537
this division to conduct the separate mental retardation 47538
evaluation shall file a written report with the court within 47539
thirty days after the entry of the court order requiring the 47540
separate mental retardation evaluation, and the court shall 47541
provide copies of the report to the prosecutor and defense 47542

counsel. The report shall include all of the information described 47543
in divisions (G)(1) to (4) of this section. If the court orders a 47544
separate mental retardation evaluation of a defendant under this 47545
division, the court shall not conduct a hearing under divisions 47546
(B) to (H) of section 2945.37 of the Revised Code regarding that 47547
defendant until a report of the separate mental retardation 47548
evaluation conducted under this division has been filed. Upon the 47549
filing of that report, the court shall conduct the hearing within 47550
the period of time specified in division (C) of section 2945.37 of 47551
the Revised Code. 47552

(I) An examiner appointed under divisions (A) and (B) of this 47553
section or under division (H) of this section to evaluate a 47554
defendant to determine the defendant's competence to stand trial 47555
also may be appointed to evaluate a defendant who has entered a 47556
plea of not guilty by reason of insanity, but an examiner of that 47557
nature shall prepare separate reports on the issue of competence 47558
to stand trial and the defense of not guilty by reason of 47559
insanity. 47560

(J) No statement that a defendant makes in an evaluation or 47561
hearing under divisions (A) to (H) of this section relating to the 47562
defendant's competence to stand trial or to the defendant's mental 47563
condition at the time of the offense charged shall be used against 47564
the defendant on the issue of guilt in any criminal action or 47565
proceeding, but, in a criminal action or proceeding, the 47566
prosecutor or defense counsel may call as a witness any person who 47567
evaluated the defendant or prepared a report pursuant to a 47568
referral under this section. Neither the appointment nor the 47569
testimony of an examiner appointed under this section precludes 47570
the prosecutor or defense counsel from calling other witnesses or 47571
presenting other evidence on competency or insanity issues. 47572

(K) Persons appointed as examiners under divisions (A) and 47573
(B) of this section or under division (H) of this section shall be 47574

paid a reasonable amount for their services and expenses, as 47575
certified by the court. The certified amount shall be paid by the 47576
county in the case of county courts and courts of common pleas and 47577
by the legislative authority, as defined in section 1901.03 of the 47578
Revised Code, in the case of municipal courts. 47579

Sec. 2945.38. (A) If the issue of a defendant's competence to 47580
stand trial is raised and if the court, upon conducting the 47581
hearing provided for in section 2945.37 of the Revised Code, finds 47582
that the defendant is competent to stand trial, the defendant 47583
shall be proceeded against as provided by law. If the court finds 47584
the defendant competent to stand trial and the defendant is 47585
receiving psychotropic drugs or other medication, the court may 47586
authorize the continued administration of the drugs or medication 47587
or other appropriate treatment in order to maintain the 47588
defendant's competence to stand trial, unless the defendant's 47589
attending physician advises the court against continuation of the 47590
drugs, other medication, or treatment. 47591

(B)(1)(a) If, after taking into consideration all relevant 47592
reports, information, and other evidence, the court finds that the 47593
defendant is incompetent to stand trial and that there is a 47594
substantial probability that the defendant will become competent 47595
to stand trial within one year if the defendant is provided with a 47596
course of treatment, the court shall order the defendant to 47597
undergo treatment. If the defendant has been charged with a felony 47598
offense and if, after taking into consideration all relevant 47599
reports, information, and other evidence, the court finds that the 47600
defendant is incompetent to stand trial, but the court is unable 47601
at that time to determine whether there is a substantial 47602
probability that the defendant will become competent to stand 47603
trial within one year if the defendant is provided with a course 47604
of treatment, the court shall order continuing evaluation and 47605
treatment of the defendant for a period not to exceed four months 47606

to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, shall be committed to the department of mental health for treatment or continuing evaluation and treatment shall occur at a hospital, facility, or agency, as determined to be clinically appropriate by the department of mental health and, if determined to require treatment or continuing evaluation and treatment for a developmental disability, shall receive treatment or continuing evaluation and treatment at an institution or facility operated by the department of ~~mental health or the department of~~ developmental disabilities, at a facility certified by ~~either of those departments~~ the department of developmental disabilities as being qualified to treat ~~mental illness or~~ mental retardation, at a public or private community mental ~~health or mental~~ retardation facility, or by a ~~psychiatrist or another mental health or mental~~ retardation professional. The order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital ~~or~~ facility, or agency where the defendant is placed by the department of mental health, or to the managing officer of the institution, the director of the program facility, or the person to which the defendant is committed, copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial

risk of harm to any person. 47640

In committing the defendant to the department of mental 47641
health, the court shall consider the extent to which the person is 47642
a danger to the person and to others, the need for security, and 47643
the type of crime involved and, if the court finds that 47644
restrictions on the defendant's freedom of movement are necessary, 47645
shall specify the least restrictive limitations on the person's 47646
freedom of movement determined to be necessary to protect public 47647
safety. In determining ~~placement~~ commitment alternatives for 47648
defendants determined to require treatment or continuing 47649
evaluation and treatment for developmental disabilities, the court 47650
shall consider the extent to which the person is a danger to the 47651
person and to others, the need for security, and the type of crime 47652
involved and shall order the least restrictive alternative 47653
available that is consistent with public safety and treatment 47654
goals. In weighing these factors, the court shall give preference 47655
to protecting public safety. 47656

(c) If the defendant is found incompetent to stand trial, if 47657
the chief clinical officer of the hospital ~~or~~, facility, or agency 47658
where the defendant is placed, or the managing officer of the 47659
institution, the director of the ~~program~~ facility, or the person 47660
to which the defendant is committed for treatment or continuing 47661
evaluation and treatment under division (B)(1)(b) of this section 47662
determines that medication is necessary to restore the defendant's 47663
competency to stand trial, and if the defendant lacks the capacity 47664
to give informed consent or refuses medication, the chief clinical 47665
officer of the hospital, facility, or agency where the defendant 47666
is placed, or the managing officer of the institution, the 47667
director of the facility, or the person to which the defendant is 47668
committed for treatment or continuing evaluation and treatment may 47669
petition the court for authorization for the involuntary 47670
administration of medication. The court shall hold a hearing on 47671

the petition within five days of the filing of the petition if the 47672
petition was filed in a municipal court or a county court 47673
regarding an incompetent defendant charged with a misdemeanor or 47674
within ten days of the filing of the petition if the petition was 47675
filed in a court of common pleas regarding an incompetent 47676
defendant charged with a felony offense. Following the hearing, 47677
the court may authorize the involuntary administration of 47678
medication or may dismiss the petition. 47679

(d) If the defendant is charged with a misdemeanor offense 47680
that is not an offense of violence, the prosecutor may hold the 47681
charges in abeyance while the defendant engages in mental health 47682
treatment or developmental disability services. 47683

(2) If the court finds that the defendant is incompetent to 47684
stand trial and that, even if the defendant is provided with a 47685
course of treatment, there is not a substantial probability that 47686
the defendant will become competent to stand trial within one 47687
year, the court shall order the discharge of the defendant, unless 47688
upon motion of the prosecutor or on its own motion, the court 47689
either seeks to retain jurisdiction over the defendant pursuant to 47690
section 2945.39 of the Revised Code or files an affidavit in the 47691
probate court for the civil commitment of the defendant pursuant 47692
to Chapter 5122. or 5123. of the Revised Code alleging that the 47693
defendant is a mentally ill person subject to hospitalization by 47694
court order or a mentally retarded person subject to 47695
institutionalization by court order. If an affidavit is filed in 47696
the probate court, the trial court shall send to the probate court 47697
copies of all written reports of the defendant's mental condition 47698
that were prepared pursuant to section 2945.371 of the Revised 47699
Code. 47700

The trial court may issue the temporary order of detention 47701
that a probate court may issue under section 5122.11 or 5123.71 of 47702
the Revised Code, to remain in effect until the probable cause or 47703

initial hearing in the probate court. Further proceedings in the 47704
probate court are civil proceedings governed by Chapter 5122. or 47705
5123. of the Revised Code. 47706

(C) No defendant shall be required to undergo treatment, 47707
including any continuing evaluation and treatment, under division 47708
(B)(1) of this section for longer than whichever of the following 47709
periods is applicable: 47710

(1) One year, if the most serious offense with which the 47711
defendant is charged is one of the following offenses: 47712

(a) Aggravated murder, murder, or an offense of violence for 47713
which a sentence of death or life imprisonment may be imposed; 47714

(b) An offense of violence that is a felony of the first or 47715
second degree; 47716

(c) A conspiracy to commit, an attempt to commit, or 47717
complicity in the commission of an offense described in division 47718
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 47719
complicity is a felony of the first or second degree. 47720

(2) Six months, if the most serious offense with which the 47721
defendant is charged is a felony other than a felony described in 47722
division (C)(1) of this section; 47723

(3) Sixty days, if the most serious offense with which the 47724
defendant is charged is a misdemeanor of the first or second 47725
degree; 47726

(4) Thirty days, if the most serious offense with which the 47727
defendant is charged is a misdemeanor of the third or fourth 47728
degree, a minor misdemeanor, or an unclassified misdemeanor. 47729

(D) Any defendant who is committed pursuant to this section 47730
shall not voluntarily admit the defendant or be voluntarily 47731
admitted to a hospital or institution pursuant to section 5122.02, 47732
5122.15, 5123.69, or 5123.76 of the Revised Code. 47733

(E) Except as otherwise provided in this division, a 47734
defendant who is charged with an offense and is committed by the 47735
court under this section to ~~a hospital~~ the department of mental 47736
health with restrictions on the defendant's freedom of movement or 47737
other is committed to an institution ~~by the court under this~~ 47738
~~section~~ or facility for the treatment of developmental 47739
disabilities shall not be granted unsupervised on-grounds 47740
movement, supervised off-grounds movement, or nonsecured status 47741
except in accordance with the court order. The court may grant a 47742
defendant supervised off-grounds movement to obtain medical 47743
treatment or specialized habilitation treatment services if the 47744
person who supervises the treatment or the continuing evaluation 47745
and treatment of the defendant ordered under division (B)(1)(a) of 47746
this section informs the court that the treatment or continuing 47747
evaluation and treatment cannot be provided at the hospital or 47748
facility where the defendant is placed by the department of mental 47749
health or the institution or facility to which the defendant is 47750
committed. The chief clinical officer of the hospital or facility 47751
where the defendant is placed by the department of mental health 47752
or the managing officer of the institution or director of the 47753
facility to which the defendant is committed, or a designee of 47754
~~either~~ any of those persons, may grant a defendant movement to a 47755
medical facility for an emergency medical situation with 47756
appropriate supervision to ensure the safety of the defendant, 47757
staff, and community during that emergency medical situation. The 47758
chief clinical officer of the hospital or facility where the 47759
defendant is placed by the department of mental health or the 47760
managing officer of the institution or director of the facility to 47761
which the defendant is committed shall notify the court within 47762
twenty-four hours of the defendant's movement to the medical 47763
facility for an emergency medical situation under this division. 47764

(F) The person who supervises the treatment or continuing 47765
evaluation and treatment of a defendant ordered to undergo 47766

treatment or continuing evaluation and treatment under division 47767
(B)(1)(a) of this section shall file a written report with the 47768
court at the following times: 47769

(1) Whenever the person believes the defendant is capable of 47770
understanding the nature and objective of the proceedings against 47771
the defendant and of assisting in the defendant's defense; 47772

(2) For a felony offense, fourteen days before expiration of 47773
the maximum time for treatment as specified in division (C) of 47774
this section and fourteen days before the expiration of the 47775
maximum time for continuing evaluation and treatment as specified 47776
in division (B)(1)(a) of this section, and, for a misdemeanor 47777
offense, ten days before the expiration of the maximum time for 47778
treatment, as specified in division (C) of this section; 47779

(3) At a minimum, after each six months of treatment; 47780

(4) Whenever the person who supervises the treatment or 47781
continuing evaluation and treatment of a defendant ordered under 47782
division (B)(1)(a) of this section believes that there is not a 47783
substantial probability that the defendant will become capable of 47784
understanding the nature and objective of the proceedings against 47785
the defendant or of assisting in the defendant's defense even if 47786
the defendant is provided with a course of treatment. 47787

(G) A report under division (F) of this section shall contain 47788
the examiner's findings, the facts in reasonable detail on which 47789
the findings are based, and the examiner's opinion as to the 47790
defendant's capability of understanding the nature and objective 47791
of the proceedings against the defendant and of assisting in the 47792
defendant's defense. If, in the examiner's opinion, the defendant 47793
remains incapable of understanding the nature and objective of the 47794
proceedings against the defendant and of assisting in the 47795
defendant's defense and there is a substantial probability that 47796
the defendant will become capable of understanding the nature and 47797

objective of the proceedings against the defendant and of 47798
assisting in the defendant's defense if the defendant is provided 47799
with a course of treatment, if in the examiner's opinion the 47800
defendant remains mentally ill or mentally retarded, and if the 47801
maximum time for treatment as specified in division (C) of this 47802
section has not expired, the report also shall contain the 47803
examiner's recommendation as to the least restrictive ~~treatment~~ 47804
placement or commitment alternative that is consistent with the 47805
defendant's treatment needs for restoration to competency and with 47806
the safety of the community. The court shall provide copies of the 47807
report to the prosecutor and defense counsel. 47808

(H) If a defendant is committed pursuant to division (B)(1) 47809
of this section, within ten days after the treating physician of 47810
the defendant or the examiner of the defendant who is employed or 47811
retained by the treating facility advises that there is not a 47812
substantial probability that the defendant will become capable of 47813
understanding the nature and objective of the proceedings against 47814
the defendant or of assisting in the defendant's defense even if 47815
the defendant is provided with a course of treatment, within ten 47816
days after the expiration of the maximum time for treatment as 47817
specified in division (C) of this section, within ten days after 47818
the expiration of the maximum time for continuing evaluation and 47819
treatment as specified in division (B)(1)(a) of this section, 47820
within thirty days after a defendant's request for a hearing that 47821
is made after six months of treatment, or within thirty days after 47822
being advised by the treating physician or examiner that the 47823
defendant is competent to stand trial, whichever is the earliest, 47824
the court shall conduct another hearing to determine if the 47825
defendant is competent to stand trial and shall do whichever of 47826
the following is applicable: 47827

(1) If the court finds that the defendant is competent to 47828
stand trial, the defendant shall be proceeded against as provided 47829

by law. 47830

(2) If the court finds that the defendant is incompetent to 47831
stand trial, but that there is a substantial probability that the 47832
defendant will become competent to stand trial if the defendant is 47833
provided with a course of treatment, and the maximum time for 47834
treatment as specified in division (C) of this section has not 47835
expired, the court, after consideration of the examiner's 47836
recommendation, shall order that treatment be continued, may 47837
change the ~~facility or program at which the treatment is to be~~ 47838
~~continued~~ least restrictive limitations on the defendant's freedom 47839
of movement, and, if applicable, shall specify whether the 47840
treatment for developmental disabilities is to be continued at the 47841
same or a different facility or ~~program~~ institution. 47842

(3) If the court finds that the defendant is incompetent to 47843
stand trial, if the defendant is charged with an offense listed in 47844
division (C)(1) of this section, and if the court finds that there 47845
is not a substantial probability that the defendant will become 47846
competent to stand trial even if the defendant is provided with a 47847
course of treatment, or if the maximum time for treatment relative 47848
to that offense as specified in division (C) of this section has 47849
expired, further proceedings shall be as provided in sections 47850
2945.39, 2945.401, and 2945.402 of the Revised Code. 47851

(4) If the court finds that the defendant is incompetent to 47852
stand trial, if the most serious offense with which the defendant 47853
is charged is a misdemeanor or a felony other than a felony listed 47854
in division (C)(1) of this section, and if the court finds that 47855
there is not a substantial probability that the defendant will 47856
become competent to stand trial even if the defendant is provided 47857
with a course of treatment, or if the maximum time for treatment 47858
relative to that offense as specified in division (C) of this 47859
section has expired, the court shall dismiss the indictment, 47860
information, or complaint against the defendant. A dismissal under 47861

this division is not a bar to further prosecution based on the 47862
same conduct. The court shall discharge the defendant unless the 47863
court or prosecutor files an affidavit in probate court for civil 47864
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 47865
If an affidavit for civil commitment is filed, the court may 47866
detain the defendant for ten days pending civil commitment. All of 47867
the following provisions apply to persons charged with a 47868
misdemeanor or a felony other than a felony listed in division 47869
(C)(1) of this section who are committed by the probate court 47870
subsequent to the court's or prosecutor's filing of an affidavit 47871
for civil commitment under authority of this division: 47872

(a) The chief clinical officer of the entity, hospital, or 47873
facility, the managing officer of the institution, ~~the director of~~ 47874
~~the program~~, or the person to which the defendant is committed or 47875
admitted shall do all of the following: 47876

(i) Notify the prosecutor, in writing, of the discharge of 47877
the defendant, send the notice at least ten days prior to the 47878
discharge unless the discharge is by the probate court, and state 47879
in the notice the date on which the defendant will be discharged; 47880

(ii) Notify the prosecutor, in writing, when the defendant is 47881
absent without leave or is granted unsupervised, off-grounds 47882
movement, and send this notice promptly after the discovery of the 47883
absence without leave or prior to the granting of the 47884
unsupervised, off-grounds movement, whichever is applicable; 47885

(iii) Notify the prosecutor, in writing, of the change of the 47886
defendant's commitment or admission to voluntary status, send the 47887
notice promptly upon learning of the change to voluntary status, 47888
and state in the notice the date on which the defendant was 47889
committed or admitted on a voluntary status. 47890

(b) Upon receiving notice that the defendant will be granted 47891
unsupervised, off-grounds movement, the prosecutor either shall 47892

re-indict the defendant or promptly notify the court that the 47893
prosecutor does not intend to prosecute the charges against the 47894
defendant. 47895

(I) If a defendant is convicted of a crime and sentenced to a 47896
jail or workhouse, the defendant's sentence shall be reduced by 47897
the total number of days the defendant is confined for evaluation 47898
to determine the defendant's competence to stand trial or 47899
treatment under this section and sections 2945.37 and 2945.371 of 47900
the Revised Code or by the total number of days the defendant is 47901
confined for evaluation to determine the defendant's mental 47902
condition at the time of the offense charged. 47903

Sec. 2945.39. (A) If a defendant who is charged with an 47904
offense described in division (C)(1) of section 2945.38 of the 47905
Revised Code is found incompetent to stand trial, after the 47906
expiration of the maximum time for treatment as specified in 47907
division (C) of that section or after the court finds that there 47908
is not a substantial probability that the defendant will become 47909
competent to stand trial even if the defendant is provided with a 47910
course of treatment, one of the following applies: 47911

(1) The court or the prosecutor may file an affidavit in 47912
probate court for civil commitment of the defendant in the manner 47913
provided in Chapter 5122. or 5123. of the Revised Code. If the 47914
court or prosecutor files an affidavit for civil commitment, the 47915
court may detain the defendant for ten days pending civil 47916
commitment. If the probate court commits the defendant subsequent 47917
to the court's or prosecutor's filing of an affidavit for civil 47918
commitment, the chief clinical officer of the entity, hospital, or 47919
facility, the managing officer of the institution, ~~the director of~~ 47920
~~the program~~, or the person to which the defendant is committed or 47921
admitted shall send to the prosecutor the notices described in 47922
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 47923

Code within the periods of time and under the circumstances 47924
specified in those divisions. 47925

(2) On the motion of the prosecutor or on its own motion, the 47926
court may retain jurisdiction over the defendant if, at a hearing, 47927
the court finds both of the following by clear and convincing 47928
evidence: 47929

(a) The defendant committed the offense with which the 47930
defendant is charged. 47931

(b) The defendant is a mentally ill person subject to 47932
hospitalization by court order or a mentally retarded person 47933
subject to institutionalization by court order. 47934

(B) In making its determination under division (A)(2) of this 47935
section as to whether to retain jurisdiction over the defendant, 47936
the court may consider all relevant evidence, including, but not 47937
limited to, any relevant psychiatric, psychological, or medical 47938
testimony or reports, the acts constituting the offense charged, 47939
and any history of the defendant that is relevant to the 47940
defendant's ability to conform to the law. 47941

(C) If the court conducts a hearing as described in division 47942
(A)(2) of this section and if the court does not make both 47943
findings described in divisions (A)(2)(a) and (b) of this section 47944
by clear and convincing evidence, the court shall dismiss the 47945
indictment, information, or complaint against the defendant. Upon 47946
the dismissal, the court shall discharge the defendant unless the 47947
court or prosecutor files an affidavit in probate court for civil 47948
commitment of the defendant pursuant to Chapter 5122. or 5123. of 47949
the Revised Code. If the court or prosecutor files an affidavit 47950
for civil commitment, the court may order that the defendant be 47951
detained for up to ten days pending the civil commitment. If the 47952
probate court commits the defendant subsequent to the court's or 47953
prosecutor's filing of an affidavit for civil commitment, the 47954

chief clinical officer of the entity, hospital, or facility, the 47955
managing officer of the institution, ~~the director of the program,~~ 47956
or the person to which the defendant is committed or admitted 47957
shall send to the prosecutor the notices described in divisions 47958
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 47959
within the periods of time and under the circumstances specified 47960
in those divisions. A dismissal of charges under this division is 47961
not a bar to further criminal proceedings based on the same 47962
conduct. 47963

(D)(1) If the court conducts a hearing as described in 47964
division (A)(2) of this section and if the court makes the 47965
findings described in divisions (A)(2)(a) and (b) of this section 47966
by clear and convincing evidence, the court shall commit the 47967
defendant, if determined to require mental health treatment, to a 47968
~~hospital operated by~~ the department of mental health for treatment 47969
at a hospital, facility, or agency as determined clinically 47970
appropriate by the department of mental health or, if determined 47971
to require treatment for developmental disabilities, to a facility 47972
operated by the department of developmental disabilities, or 47973
another ~~medical or psychiatric~~ facility, as appropriate. In 47974
committing the defendant to the department of mental health, the 47975
court shall specify the least restrictive limitations on the 47976
defendant's freedom of movement determined to be necessary to 47977
protect public safety. In determining the place and nature of the 47978
commitment to a facility operated by the department of 47979
developmental disabilities or another facility for treatment of 47980
developmental disabilities, the court shall order the least 47981
restrictive commitment alternative available that is consistent 47982
with public safety and the welfare of the defendant. In weighing 47983
these factors, the court shall give preference to protecting 47984
public safety. 47985

(2) If a court makes a commitment of a defendant under 47986

division (D)(1) of this section, the prosecutor shall send to the 47987
hospital, facility, or agency where the defendant is placed by the 47988
department of mental health or to the defendant's place of 47989
commitment all reports of the defendant's current mental condition 47990
and, except as otherwise provided in this division, any other 47991
relevant information, including, but not limited to, a transcript 47992
of the hearing held pursuant to division (A)(2) of this section, 47993
copies of relevant police reports, and copies of any prior arrest 47994
and conviction records that pertain to the defendant and that the 47995
prosecutor possesses. The prosecutor shall send the reports of the 47996
defendant's current mental condition in every case of commitment, 47997
and, unless the prosecutor determines that the release of any of 47998
the other relevant information to unauthorized persons would 47999
interfere with the effective prosecution of any person or would 48000
create a substantial risk of harm to any person, the prosecutor 48001
also shall send the other relevant information. ~~Upon admission of~~ 48002
~~a defendant committed under division (D)(1) of this section, the~~ 48003
~~place of commitment shall send to the board of alcohol, drug~~ 48004
~~addiction, and mental health services or the community mental~~ 48005
~~health board serving the county in which the charges against the~~ 48006
~~defendant were filed a copy of all reports of the defendant's~~ 48007
~~current mental condition and a copy of the other relevant~~ 48008
~~information provided by the prosecutor under this division,~~ 48009
~~including, if provided, a transcript of the hearing held pursuant~~ 48010
~~to division (A)(2) of this section, the relevant police reports,~~ 48011
~~and the prior arrest and conviction records that pertain to the~~ 48012
~~defendant and that the prosecutor possesses.~~ 48013

(3) If a court makes a commitment under division (D)(1) of 48014
this section, all further proceedings shall be in accordance with 48015
sections 2945.401 and 2945.402 of the Revised Code. 48016

Sec. 2945.40. (A) If a person is found not guilty by reason 48017
of insanity, the verdict shall state that finding, and the trial 48018

court shall conduct a full hearing to determine whether the person 48019
is a mentally ill person subject to hospitalization by court order 48020
or a mentally retarded person subject to institutionalization by 48021
court order. Prior to the hearing, if the trial judge believes 48022
that there is probable cause that the person found not guilty by 48023
reason of insanity is a mentally ill person subject to 48024
hospitalization by court order or mentally retarded person subject 48025
to institutionalization by court order, the trial judge may issue 48026
a temporary order of detention for that person to remain in effect 48027
for ten court days or until the hearing, whichever occurs first. 48028

Any person detained pursuant to a temporary order of 48029
detention issued under this division shall be held in a suitable 48030
facility, taking into consideration the place and type of 48031
confinement prior to and during trial. 48032

(B) The court shall hold the hearing under division (A) of 48033
this section to determine whether the person found not guilty by 48034
reason of insanity is a mentally ill person subject to 48035
hospitalization by court order or a mentally retarded person 48036
subject to institutionalization by court order within ten court 48037
days after the finding of not guilty by reason of insanity. 48038
Failure to conduct the hearing within the ten-day period shall 48039
cause the immediate discharge of the respondent, unless the judge 48040
grants a continuance for not longer than ten court days for good 48041
cause shown or for any period of time upon motion of the 48042
respondent. 48043

(C) If a person is found not guilty by reason of insanity, 48044
the person has the right to attend all hearings conducted pursuant 48045
to sections 2945.37 to 2945.402 of the Revised Code. At any 48046
hearing conducted pursuant to one of those sections, the court 48047
shall inform the person that the person has all of the following 48048
rights: 48049

(1) The right to be represented by counsel and to have that 48050

counsel provided at public expense if the person is indigent, with 48051
the counsel to be appointed by the court under Chapter 120. of the 48052
Revised Code or under the authority recognized in division (C) of 48053
section 120.06, division (E) of section 120.16, division (E) of 48054
section 120.26, or section 2941.51 of the Revised Code; 48055

(2) The right to have independent expert evaluation and to 48056
have that independent expert evaluation provided at public expense 48057
if the person is indigent; 48058

(3) The right to subpoena witnesses and documents, to present 48059
evidence on the person's behalf, and to cross-examine witnesses 48060
against the person; 48061

(4) The right to testify in the person's own behalf and to 48062
not be compelled to testify; 48063

(5) The right to have copies of any relevant medical or 48064
mental health document in the custody of the state or of any place 48065
of commitment other than a document for which the court finds that 48066
the release to the person of information contained in the document 48067
would create a substantial risk of harm to any person. 48068

(D) The hearing under division (A) of this section shall be 48069
open to the public, and the court shall conduct the hearing in 48070
accordance with the Rules of Civil Procedure. The court shall make 48071
and maintain a full transcript and record of the hearing 48072
proceedings. The court may consider all relevant evidence, 48073
including, but not limited to, any relevant psychiatric, 48074
psychological, or medical testimony or reports, the acts 48075
constituting the offense in relation to which the person was found 48076
not guilty by reason of insanity, and any history of the person 48077
that is relevant to the person's ability to conform to the law. 48078

(E) Upon completion of the hearing under division (A) of this 48079
section, if the court finds there is not clear and convincing 48080
evidence that the person is a mentally ill person subject to 48081

hospitalization by court order or a mentally retarded person 48082
subject to institutionalization by court order, the court shall 48083
discharge the person, unless a detainer has been placed upon the 48084
person by the department of rehabilitation and correction, in 48085
which case the person shall be returned to that department. 48086

(F) If, at the hearing under division (A) of this section, 48087
the court finds by clear and convincing evidence that the person 48088
is a mentally ill person subject to hospitalization by court order 48089
~~or, the court shall commit the person to the department of mental~~ 48090
health for placement in a hospital, facility, or agency as 48091
determined clinically appropriate by the department of mental 48092
health. If, at the hearing under division (A) of this section, the 48093
court finds by clear and convincing evidence that the person is a 48094
mentally retarded person subject to institutionalization by court 48095
order, it shall commit the person to a ~~hospital operated by the~~ 48096
~~department of mental health, a~~ facility operated by the department 48097
of developmental disabilities, ~~or another medical or psychiatric~~ 48098
facility, as appropriate, ~~and further.~~ Further proceedings shall 48099
be in accordance with sections 2945.401 and 2945.402 of the 48100
Revised Code. In committing the person to the department of mental 48101
health, the court shall specify the least restrictive limitations 48102
to the defendant's freedom of movement determined to be necessary 48103
to protect public safety. In determining the place and nature of 48104
the commitment of a mentally retarded person subject to 48105
institutionalization by court order, the court shall order the 48106
least restrictive commitment alternative available that is 48107
consistent with public safety and the welfare of the person. In 48108
weighing these factors, the court shall give preference to 48109
protecting public safety. 48110

(G) If a court makes a commitment of a person under division 48111
(F) of this section, the prosecutor shall send to the hospital, 48112
facility, or agency where the person is placed by the department 48113

~~of mental health or to the defendant's place of commitment all 48114
reports of the person's current mental condition, and, except as 48115
otherwise provided in this division, any other relevant 48116
information, including, but not limited to, a transcript of the 48117
hearing held pursuant to division (A) of this section, copies of 48118
relevant police reports, and copies of any prior arrest and 48119
conviction records that pertain to the person and that the 48120
prosecutor possesses. The prosecutor shall send the reports of the 48121
person's current mental condition in every case of commitment, 48122
and, unless the prosecutor determines that the release of any of 48123
the other relevant information to unauthorized persons would 48124
interfere with the effective prosecution of any person or would 48125
create a substantial risk of harm to any person, the prosecutor 48126
also shall send the other relevant information. ~~Upon admission of 48127
a person committed under division (F) of this section, the place 48128
of commitment shall send to the board of alcohol, drug addiction, 48129
and mental health services or the community mental health board 48130
serving the county in which the charges against the person were 48131
filed a copy of all reports of the person's current mental 48132
condition and a copy of the other relevant information provided by 48133
the prosecutor under this division, including, if provided, a 48134
transcript of the hearing held pursuant to division (A) of this 48135
section, the relevant police reports, and the prior arrest and 48136
conviction records that pertain to the person and that the 48137
prosecutor possesses.~~ 48138~~

(H) A person who is committed pursuant to this section shall 48139
not voluntarily admit the person or be voluntarily admitted to a 48140
hospital or institution pursuant to section 5122.02, 5122.15, 48141
5123.69, or 5123.76 of the Revised Code. 48142

Sec. 2945.401. (A) A defendant found incompetent to stand 48143
trial and committed pursuant to section 2945.39 of the Revised 48144
Code or a person found not guilty by reason of insanity and 48145

committed pursuant to section 2945.40 of the Revised Code shall 48146
remain subject to the jurisdiction of the trial court pursuant to 48147
that commitment, and to the provisions of this section, until the 48148
final termination of the commitment as described in division 48149
(J)(1) of this section. If the jurisdiction is terminated under 48150
this division because of the final termination of the commitment 48151
resulting from the expiration of the maximum prison term or term 48152
of imprisonment described in division (J)(1)(b) of this section, 48153
the court or prosecutor may file an affidavit for the civil 48154
commitment of the defendant or person pursuant to Chapter 5122. or 48155
5123. of the Revised Code. 48156

(B) A hearing conducted under any provision of sections 48157
2945.37 to 2945.402 of the Revised Code shall not be conducted in 48158
accordance with Chapters 5122. and 5123. of the Revised Code. Any 48159
person who is committed pursuant to section 2945.39 or 2945.40 of 48160
the Revised Code shall not voluntarily admit the person or be 48161
voluntarily admitted to a hospital or institution pursuant to 48162
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 48163
All other provisions of Chapters 5122. and 5123. of the Revised 48164
Code regarding hospitalization or institutionalization shall apply 48165
to the extent they are not in conflict with this chapter. A 48166
commitment under section 2945.39 or 2945.40 of the Revised Code 48167
shall not be terminated and the conditions of the commitment shall 48168
not be changed except as otherwise provided in division (D)(2) of 48169
this section with respect to a mentally retarded person subject to 48170
institutionalization by court order or except by order of the 48171
trial court. 48172

(C) The ~~hospital, department of mental health or the~~ 48173
institution or facility, or program to which a defendant or person 48174
has been committed under section 2945.39 or 2945.40 of the Revised 48175
Code shall report in writing to the trial court, at the times 48176
specified in this division, as to whether the defendant or person 48177

remains a mentally ill person subject to hospitalization by court 48178
order or a mentally retarded person subject to 48179
institutionalization by court order and, in the case of a 48180
defendant committed under section 2945.39 of the Revised Code, as 48181
to whether the defendant remains incompetent to stand trial. The 48182
~~hospital department, institution, or facility, or program~~ shall 48183
make the reports after the initial six months of treatment and 48184
every two years after the initial report is made. The trial court 48185
shall provide copies of the reports to the prosecutor and to the 48186
counsel for the defendant or person. Within thirty days after its 48187
receipt pursuant to this division of a report from ~~a hospital the~~ 48188
department, institution, or facility, or program, the trial court 48189
shall hold a hearing on the continued commitment of the defendant 48190
or person or on any changes in the conditions of the commitment of 48191
the defendant or person. The defendant or person may request a 48192
change in the conditions of confinement, and the trial court shall 48193
conduct a hearing on that request if six months or more have 48194
elapsed since the most recent hearing was conducted under this 48195
section. 48196

(D)(1) Except as otherwise provided in division (D)(2) of 48197
this section, when a defendant or person has been committed under 48198
section 2945.39 or 2945.40 of the Revised Code, at any time after 48199
evaluating the risks to public safety and the welfare of the 48200
defendant or person, the ~~chief clinical officer~~ designee of the 48201
department of mental health or the managing officer of the 48202
institution or director of the ~~hospital, facility, or program~~ to 48203
which the defendant or person is committed may recommend a 48204
termination of the defendant's or person's commitment or a change 48205
in the conditions of the defendant's or person's commitment. 48206

Except as otherwise provided in division (D)(2) of this 48207
section, if the ~~chief clinical officer~~ designee of the department 48208
of mental health recommends on-grounds unsupervised movement, 48209

off-grounds supervised movement, or nonsecured status for the 48210
defendant or person or termination of the defendant's or person's 48211
commitment, the following provisions apply: 48212

(a) If the ~~chief clinical officer~~ department's designee 48213
recommends on-grounds unsupervised movement or off-grounds 48214
supervised movement, the ~~chief clinical officer~~ department's 48215
designee shall file with the trial court an application for 48216
approval of the movement and shall send a copy of the application 48217
to the prosecutor. Within fifteen days after receiving the 48218
application, the prosecutor may request a hearing on the 48219
application and, if a hearing is requested, shall so inform the 48220
~~chief clinical officer~~ department's designee. If the prosecutor 48221
does not request a hearing within the fifteen-day period, the 48222
trial court shall approve the application by entering its order 48223
approving the requested movement or, within five days after the 48224
expiration of the fifteen-day period, shall set a date for a 48225
hearing on the application. If the prosecutor requests a hearing 48226
on the application within the fifteen-day period, the trial court 48227
shall hold a hearing on the application within thirty days after 48228
the hearing is requested. If the trial court, within five days 48229
after the expiration of the fifteen-day period, sets a date for a 48230
hearing on the application, the trial court shall hold the hearing 48231
within thirty days after setting the hearing date. At least 48232
fifteen days before any hearing is held under this division, the 48233
trial court shall give the prosecutor written notice of the date, 48234
time, and place of the hearing. At the conclusion of each hearing 48235
conducted under this division, the trial court either shall 48236
approve or disapprove the application and shall enter its order 48237
accordingly. 48238

(b) If the ~~chief clinical officer~~ department's designee 48239
recommends termination of the defendant's or person's commitment 48240
at any time or if the ~~chief clinical officer~~ department's designee 48241

recommends the first of any nonsecured status for the defendant or 48242
person, the ~~chief clinical officer~~ department's designee shall 48243
send written notice of this recommendation to the trial court and 48244
to the local forensic center. The local forensic center shall 48245
evaluate the committed defendant or person and, within thirty days 48246
after its receipt of the written notice, shall submit to the trial 48247
court and the ~~chief clinical officer~~ department's designee a 48248
written report of the evaluation. The trial court shall provide a 48249
copy of the ~~chief clinical officer's~~ department's designee's 48250
written notice and of the local forensic center's written report 48251
to the prosecutor and to the counsel for the defendant or person. 48252
Upon the local forensic center's submission of the report to the 48253
trial court and the ~~chief clinical officer~~ department's designee, 48254
all of the following apply: 48255

(i) If the forensic center disagrees with the recommendation 48256
of the ~~chief clinical officer~~ department's designee, it shall 48257
inform the ~~chief clinical officer~~ department's designee and the 48258
trial court of its decision and the reasons for the decision. The 48259
~~chief clinical officer~~ department's designee, after consideration 48260
of the forensic center's decision, shall either withdraw, proceed 48261
with, or modify and proceed with the recommendation. If the ~~chief~~ 48262
~~clinical officer~~ department's designee proceeds with, or modifies 48263
and proceeds with, the recommendation, the ~~chief clinical officer~~ 48264
department's designee shall proceed in accordance with division 48265
(D)(1)(b)(iii) of this section. 48266

(ii) If the forensic center agrees with the recommendation of 48267
the ~~chief clinical officer~~ department's designee, it shall inform 48268
the ~~chief clinical officer~~ department's designee and the trial 48269
court of its decision and the reasons for the decision, and the 48270
~~chief clinical officer~~ department's designee shall proceed in 48271
accordance with division (D)(1)(b)(iii) of this section. 48272

(iii) If the forensic center disagrees with the 48273

recommendation of the ~~chief clinical officer~~ department's designee 48274
and the ~~chief clinical officer~~ department's designee proceeds 48275
with, or modifies and proceeds with, the recommendation or if the 48276
forensic center agrees with the recommendation of the ~~chief~~ 48277
~~clinical officer~~ department's designee, the ~~chief clinical officer~~ 48278
department's designee shall work with ~~the board~~ community mental 48279
health agencies, programs, facilities, or boards of alcohol, drug 48280
addiction, and mental health services ~~or community mental health~~ 48281
~~board serving the area, as appropriate,~~ to develop a plan to 48282
implement the recommendation. If the defendant or person is on 48283
medication, the plan shall include, but shall not be limited to, a 48284
system to monitor the defendant's or person's compliance with the 48285
prescribed medication treatment plan. The system shall include a 48286
schedule that clearly states when the defendant or person shall 48287
report for a medication compliance check. The medication 48288
compliance checks shall be based upon the effective duration of 48289
the prescribed medication, taking into account the route by which 48290
it is taken, and shall be scheduled at intervals sufficiently 48291
close together to detect a potential increase in mental illness 48292
symptoms that the medication is intended to prevent. 48293

48294
The ~~chief clinical officer, after consultation with the board~~ 48295
~~of alcohol, drug addiction, and mental health services or the~~ 48296
~~community mental health board serving the area,~~ department's 48297
designee shall send the recommendation and plan developed under 48298
division (D)(1)(b)(iii) of this section, in writing, to the trial 48299
court, the prosecutor and the counsel for the committed defendant 48300
or person. The trial court shall conduct a hearing on the 48301
recommendation and plan developed under division (D)(1)(b)(iii) of 48302
this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this 48303
section apply regarding the hearing. 48304

(c) If the ~~chief clinical officer's~~ department's designee's 48305

recommendation is for nonsecured status or termination of 48306
commitment, the prosecutor may obtain an independent expert 48307
evaluation of the defendant's or person's mental condition, and 48308
the trial court may continue the hearing on the recommendation for 48309
a period of not more than thirty days to permit time for the 48310
evaluation. 48311

The prosecutor may introduce the evaluation report or present 48312
other evidence at the hearing in accordance with the Rules of 48313
Evidence. 48314

(d) The trial court shall schedule the hearing on a ~~chief~~ 48315
~~clinical officer's~~ department's designee's recommendation for 48316
nonsecured status or termination of commitment and shall give 48317
reasonable notice to the prosecutor and the counsel for the 48318
defendant or person. Unless continued for independent evaluation 48319
at the prosecutor's request or for other good cause, the hearing 48320
shall be held within thirty days after the trial court's receipt 48321
of the recommendation and plan. 48322

(2)(a) Division (D)(1) of this section does not apply to 48323
on-grounds unsupervised movement of a defendant or person who has 48324
been committed under section 2945.39 or 2945.40 of the Revised 48325
Code, who is a mentally retarded person subject to 48326
institutionalization by court order, and who is being provided 48327
residential habilitation, care, and treatment in a facility 48328
operated by the department of developmental disabilities. 48329

(b) If, pursuant to section 2945.39 of the Revised Code, the 48330
trial court commits a defendant who is found incompetent to stand 48331
trial and who is a mentally retarded person subject to 48332
institutionalization by court order, if the defendant is being 48333
provided residential habilitation, care, and treatment in a 48334
facility operated by the department of developmental disabilities, 48335
if an individual who is conducting a survey for the department of 48336
health to determine the facility's compliance with the 48337

certification requirements of the medicaid program under Chapter 48338
5111. of the Revised Code and Title XIX of the "Social Security 48339
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 48340
defendant's receipt of the residential habilitation, care, and 48341
treatment in the facility as being inappropriate under the 48342
certification requirements, if the defendant's receipt of the 48343
residential habilitation, care, and treatment in the facility 48344
potentially jeopardizes the facility's continued receipt of 48345
federal medicaid moneys, and if as a result of the citation the 48346
chief clinical officer of the facility determines that the 48347
conditions of the defendant's commitment should be changed, the 48348
department of developmental disabilities may cause the defendant 48349
to be removed from the particular facility and, after evaluating 48350
the risks to public safety and the welfare of the defendant and 48351
after determining whether another type of placement is consistent 48352
with the certification requirements, may place the defendant in 48353
another facility that the department selects as an appropriate 48354
facility for the defendant's continued receipt of residential 48355
habilitation, care, and treatment and that is a no less secure 48356
setting than the facility in which the defendant had been placed 48357
at the time of the citation. Within three days after the 48358
defendant's removal and alternative placement under the 48359
circumstances described in division (D)(2)(b) of this section, the 48360
department of developmental disabilities shall notify the trial 48361
court and the prosecutor in writing of the removal and alternative 48362
placement. 48363

The trial court shall set a date for a hearing on the removal 48364
and alternative placement, and the hearing shall be held within 48365
twenty-one days after the trial court's receipt of the notice from 48366
the department of developmental disabilities. At least ten days 48367
before the hearing is held, the trial court shall give the 48368
prosecutor, the department of developmental disabilities, and the 48369
counsel for the defendant written notice of the date, time, and 48370

place of the hearing. At the hearing, the trial court shall 48371
consider the citation issued by the individual who conducted the 48372
survey for the department of health to be prima-facie evidence of 48373
the fact that the defendant's commitment to the particular 48374
facility was inappropriate under the certification requirements of 48375
the medicaid program under Chapter 5111. of the Revised Code and 48376
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 48377
U.S.C.A. 301, as amended, and potentially jeopardizes the 48378
particular facility's continued receipt of federal medicaid 48379
moneys. At the conclusion of the hearing, the trial court may 48380
approve or disapprove the defendant's removal and alternative 48381
placement. If the trial court approves the defendant's removal and 48382
alternative placement, the department of developmental 48383
disabilities may continue the defendant's alternative placement. 48384
If the trial court disapproves the defendant's removal and 48385
alternative placement, it shall enter an order modifying the 48386
defendant's removal and alternative placement, but that order 48387
shall not require the department of developmental disabilities to 48388
replace the defendant for purposes of continued residential 48389
habilitation, care, and treatment in the facility associated with 48390
the citation issued by the individual who conducted the survey for 48391
the department of health. 48392

(E) In making a determination under this section regarding 48393
nonsecured status or termination of commitment, the trial court 48394
shall consider all relevant factors, including, but not limited 48395
to, all of the following: 48396

(1) Whether, in the trial court's view, the defendant or 48397
person currently represents a substantial risk of physical harm to 48398
the defendant or person or others; 48399

(2) Psychiatric and medical testimony as to the current 48400
mental and physical condition of the defendant or person; 48401

(3) Whether the defendant or person has insight into the 48402

dependant's or person's condition so that the defendant or person 48403
will continue treatment as prescribed or seek professional 48404
assistance as needed; 48405

(4) The grounds upon which the state relies for the proposed 48406
commitment; 48407

(5) Any past history that is relevant to establish the 48408
defendant's or person's degree of conformity to the laws, rules, 48409
regulations, and values of society; 48410

(6) If there is evidence that the defendant's or person's 48411
mental illness is in a state of remission, the medically suggested 48412
cause and degree of the remission and the probability that the 48413
defendant or person will continue treatment to maintain the 48414
remissive state of the defendant's or person's illness should the 48415
defendant's or person's commitment conditions be altered. 48416

(F) At any hearing held pursuant to division (C) or (D)(1) or 48417
(2) of this section, the defendant or the person shall have all 48418
the rights of a defendant or person at a commitment hearing as 48419
described in section 2945.40 of the Revised Code. 48420

(G) In a hearing held pursuant to division (C) or (D)(1) of 48421
this section, the prosecutor has the burden of proof as follows: 48422

(1) For a recommendation of termination of commitment, to 48423
show by clear and convincing evidence that the defendant or person 48424
remains a mentally ill person subject to hospitalization by court 48425
order or a mentally retarded person subject to 48426
institutionalization by court order; 48427

(2) For a recommendation for a change in the conditions of 48428
the commitment to a less restrictive status, to show by clear and 48429
convincing evidence that the proposed change represents a threat 48430
to public safety or a threat to the safety of any person. 48431

(H) In a hearing held pursuant to division (C) or (D)(1) or 48432

(2) of this section, the prosecutor shall represent the state or the public interest. 48433
48434

(I) At the conclusion of a hearing conducted under division 48435
(D)(1) of this section regarding a recommendation from the ~~chief~~ 48436
~~clinical officer~~ designee of the department of mental health, 48437
managing officer of the institution, or director of a hospital, 48438
~~program, or facility,~~ the trial court may approve, disapprove, or 48439
modify the recommendation and shall enter an order accordingly. 48440

(J)(1) A defendant or person who has been committed pursuant 48441
to section 2945.39 or 2945.40 of the Revised Code continues to be 48442
under the jurisdiction of the trial court until the final 48443
termination of the commitment. For purposes of division (J) of 48444
this section, the final termination of a commitment occurs upon 48445
the earlier of one of the following: 48446

(a) The defendant or person no longer is a mentally ill 48447
person subject to hospitalization by court order or a mentally 48448
retarded person subject to institutionalization by court order, as 48449
determined by the trial court; 48450

(b) The expiration of the maximum prison term or term of 48451
imprisonment that the defendant or person could have received if 48452
the defendant or person had been convicted of the most serious 48453
offense with which the defendant or person is charged or in 48454
relation to which the defendant or person was found not guilty by 48455
reason of insanity; 48456

(c) The trial court enters an order terminating the 48457
commitment under the circumstances described in division 48458
(J)(2)(a)(ii) of this section. 48459

(2)(a) If a defendant is found incompetent to stand trial and 48460
committed pursuant to section 2945.39 of the Revised Code, if 48461
neither of the circumstances described in divisions (J)(1)(a) and 48462
(b) of this section applies to that defendant, and if a report 48463

filed with the trial court pursuant to division (C) of this 48464
section indicates that the defendant presently is competent to 48465
stand trial or if, at any other time during the period of the 48466
defendant's commitment, the prosecutor, the counsel for the 48467
defendant, or the ~~chief clinical officer~~ designee of the 48468
department of mental health or the managing officer of the 48469
institution or director of the ~~hospital, facility, or program~~ to 48470
which the defendant is committed files an application with the 48471
trial court alleging that the defendant presently is competent to 48472
stand trial and requesting a hearing on the competency issue or 48473
the trial court otherwise has reasonable cause to believe that the 48474
defendant presently is competent to stand trial and determines on 48475
its own motion to hold a hearing on the competency issue, the 48476
trial court shall schedule a hearing on the competency of the 48477
defendant to stand trial, shall give the prosecutor, the counsel 48478
for the defendant, and the ~~chief clinical officer~~ department's 48479
designee or the managing officer of the institution or the 48480
director of the facility to which the defendant is committed 48481
notice of the date, time, and place of the hearing at least 48482
fifteen days before the hearing, and shall conduct the hearing 48483
within thirty days of the filing of the application or of its own 48484
motion. If, at the conclusion of the hearing, the trial court 48485
determines that the defendant presently is capable of 48486
understanding the nature and objective of the proceedings against 48487
the defendant and of assisting in the defendant's defense, the 48488
trial court shall order that the defendant is competent to stand 48489
trial and shall be proceeded against as provided by law with 48490
respect to the applicable offenses described in division (C)(1) of 48491
section 2945.38 of the Revised Code and shall enter whichever of 48492
the following additional orders is appropriate: 48493

(i) If the trial court determines that the defendant remains 48494
a mentally ill person subject to hospitalization by court order or 48495
a mentally retarded person subject to institutionalization by 48496

court order, the trial court shall order that the defendant's 48497
commitment to the ~~hospital, department of mental health or to an~~ 48498
~~institution or facility, or program for the treatment of~~ 48499
~~developmental disabilities~~ be continued during the pendency of the 48500
trial on the applicable offenses described in division (C)(1) of 48501
section 2945.38 of the Revised Code. 48502

(ii) If the trial court determines that the defendant no 48503
longer is a mentally ill person subject to hospitalization by 48504
court order or a mentally retarded person subject to 48505
institutionalization by court order, the trial court shall order 48506
that the defendant's commitment to the ~~hospital, department of~~ 48507
~~mental health or to an institution or facility, or program for the~~ 48508
~~treatment of developmental disabilities~~ shall not be continued 48509
during the pendency of the trial on the applicable offenses 48510
described in division (C)(1) of section 2945.38 of the Revised 48511
Code. This order shall be a final termination of the commitment 48512
for purposes of division (J)(1)(c) of this section. 48513

(b) If, at the conclusion of the hearing described in 48514
division (J)(2)(a) of this section, the trial court determines 48515
that the defendant remains incapable of understanding the nature 48516
and objective of the proceedings against the defendant or of 48517
assisting in the defendant's defense, the trial court shall order 48518
that the defendant continues to be incompetent to stand trial, 48519
that the defendant's commitment to the ~~hospital, department of~~ 48520
~~mental health or to an institution or facility, or program for the~~ 48521
~~treatment of developmental disabilities~~ shall be continued, and 48522
that the defendant remains subject to the jurisdiction of the 48523
trial court pursuant to that commitment, and to the provisions of 48524
this section, until the final termination of the commitment as 48525
described in division (J)(1) of this section. 48526

Sec. 2945.402. (A) In approving a conditional release, the 48527

trial court may set any conditions on the release with respect to 48528
the treatment, evaluation, counseling, or control of the defendant 48529
or person that the court considers necessary to protect the public 48530
safety and the welfare of the defendant or person. The trial court 48531
may revoke a defendant's or person's conditional release and order 48532
~~rehospitalization~~ reinstatement of the previous placement or 48533
reinstitutionalization at any time the conditions of the release 48534
have not been satisfied, provided that the revocation shall be in 48535
accordance with this section. 48536

(B) A conditional release is a commitment. The hearings on 48537
continued commitment as described in section 2945.401 of the 48538
Revised Code apply to a defendant or person on conditional 48539
release. 48540

(C) A person, agency, or facility that is assigned to monitor 48541
a defendant or person on conditional release immediately shall 48542
notify the trial court on learning that the defendant or person 48543
being monitored has violated the terms of the conditional release. 48544
Upon learning of any violation of the terms of the conditional 48545
release, the trial court may issue a temporary order of detention 48546
or, if necessary, an arrest warrant for the defendant or person. 48547
Within ten court days after the defendant's or person's detention 48548
or arrest, the trial court shall conduct a hearing to determine 48549
whether the conditional release should be modified or terminated. 48550
At the hearing, the defendant or person shall have the same rights 48551
as are described in division (C) of section 2945.40 of the Revised 48552
Code. The trial court may order a continuance of the ten-court-day 48553
period for no longer than ten days for good cause shown or for any 48554
period on motion of the defendant or person. If the trial court 48555
fails to conduct the hearing within the ten-court-day period and 48556
does not order a continuance in accordance with this division, the 48557
defendant or person shall be restored to the prior conditional 48558
release status. 48559

(D) The trial court shall give all parties reasonable notice of a hearing conducted under this section. At the hearing, the prosecutor shall present the case demonstrating that the defendant or person violated the terms of the conditional release. If the court finds by a preponderance of the evidence that the defendant or person violated the terms of the conditional release, the court may continue, modify, or terminate the conditional release and shall enter its order accordingly.

Sec. 2949.14. Upon conviction of a nonindigent person for a felony, the clerk of the court of common pleas shall make and certify under ~~his~~ the clerk's hand and seal of the court, a complete itemized bill of the costs made in such prosecution, including the sum paid by the board of county commissioners, certified by the county auditor, for the arrest and return of the person on the requisition of the governor, or on the request of the governor to the president of the United States, or on the return of the fugitive by a designated agent pursuant to a waiver of extradition except in cases of parole violation. ~~Such bill of costs shall be presented by such clerk to the prosecuting attorney, who shall examine each item therein charged and certify to it if correct and legal. Upon certification by the prosecuting attorney, the~~ The clerk shall attempt to collect the costs from the person convicted.

Sec. 2953.08. (A) In addition to any other right to appeal and except as provided in division (D) of this section, a defendant who is convicted of or pleads guilty to a felony may appeal as a matter of right the sentence imposed upon the defendant on one of the following grounds:

(1) The sentence consisted of or included the maximum prison term allowed for the offense by division (A) of section 2929.14 or section 2929.142 of the Revised Code, the sentence was not imposed

pursuant to division (D)(3)(b) of section 2929.14 of the Revised Code, the maximum prison term was not required for the offense pursuant to Chapter 2925. or any other provision of the Revised Code, and the court imposed the sentence under one of the following circumstances:

(a) The sentence was imposed for only one offense.

(b) The sentence was imposed for two or more offenses arising out of a single incident, and the court imposed the maximum prison term for the offense of the highest degree.

(2) The sentence consisted of or included a prison term, the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, and the court did not specify at sentencing that it found one or more factors specified in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised Code to apply relative to the defendant. If the court specifies that it found one or more of those factors to apply relative to the defendant, the defendant is not entitled under this division to appeal as a matter of right the sentence imposed upon the offender.

(3) The person was convicted of or pleaded guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, was adjudicated a sexually violent predator in relation to that offense, and was sentenced pursuant to division (A)(3) of section 2971.03 of the Revised Code, if the minimum term of the indefinite term imposed pursuant to division (A)(3) of section 2971.03 of the Revised Code is the longest term available for the offense from among the range of terms listed in section 2929.14 of the Revised Code. As used in this division, "designated homicide, assault, or kidnapping offense" and "violent sex

offense" have the same meanings as in section 2971.01 of the Revised Code. As used in this division, "adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.

(4) The sentence is contrary to law.

(5) The sentence consisted of an additional prison term of ten years imposed pursuant to division (D)(2)(a) of section 2929.14 of the Revised Code.

(6) The sentence consisted of an additional prison term of ten years imposed pursuant to division (D)(3)(b) of section 2929.14 of the Revised Code.

(B) In addition to any other right to appeal and except as provided in division (D) of this section, a prosecuting attorney, a city director of law, village solicitor, or similar chief legal officer of a municipal corporation, or the attorney general, if one of those persons prosecuted the case, may appeal as a matter of right a sentence imposed upon a defendant who is convicted of or pleads guilty to a felony or, in the circumstances described in division (B)(3) of this section the modification of a sentence imposed upon such a defendant, on any of the following grounds:

(1) The sentence did not include a prison term despite a presumption favoring a prison term for the offense for which it was imposed, as set forth in section 2929.13 or Chapter 2925. of the Revised Code.

(2) The sentence is contrary to law.

(3) The sentence is a modification under section 2929.20 of the Revised Code of a sentence that was imposed for a felony of the first or second degree.

(C)(1) In addition to the right to appeal a sentence granted 48653
under division (A) or (B) of this section, a defendant who is 48654
convicted of or pleads guilty to a felony may seek leave to appeal 48655
a sentence imposed upon the defendant on the basis that the 48656
sentencing judge has imposed consecutive sentences under division 48657
(E)(3) or (4) of section 2929.14 of the Revised Code and that the 48658
consecutive sentences exceed the maximum prison term allowed by 48659
division (A) of that section for the most serious offense of which 48660
the defendant was convicted. Upon the filing of a motion under 48661
this division, the court of appeals may grant leave to appeal the 48662
sentence if the court determines that the allegation included as 48663
the basis of the motion is true. 48664

(2) A defendant may seek leave to appeal an additional 48665
sentence imposed upon the defendant pursuant to division (D)(2)(a) 48666
or (b) of section 2929.14 of the Revised Code if the additional 48667
sentence is for a definite prison term that is longer than five 48668
years. 48669

(D)(1) A sentence imposed upon a defendant is not subject to 48670
review under this section if the sentence is authorized by law, 48671
has been recommended jointly by the defendant and the prosecution 48672
in the case, and is imposed by a sentencing judge. 48673

(2) Except as provided in division (C)(2) of this section, a 48674
sentence imposed upon a defendant is not subject to review under 48675
this section if the sentence is imposed pursuant to division 48676
(D)(2)(b) of section 2929.14 of the Revised Code. Except as 48677
otherwise provided in this division, a defendant retains all 48678
rights to appeal as provided under this chapter or any other 48679
provision of the Revised Code. A defendant has the right to appeal 48680
under this chapter or any other provision of the Revised Code the 48681
court's application of division (D)(2)(c) of section 2929.14 of 48682
the Revised Code. 48683

(3) A sentence imposed for aggravated murder or murder 48684

pursuant to sections 2929.02 to 2929.06 of the Revised Code is not 48685
subject to review under this section. 48686

(E) A defendant, prosecuting attorney, city director of law, 48687
village solicitor, or chief municipal legal officer shall file an 48688
appeal of a sentence under this section to a court of appeals 48689
within the time limits specified in Rule 4(B) of the Rules of 48690
Appellate Procedure, provided that if the appeal is pursuant to 48691
division (B)(3) of this section, the time limits specified in that 48692
rule shall not commence running until the court grants the motion 48693
that makes the sentence modification in question. A sentence 48694
appeal under this section shall be consolidated with any other 48695
appeal in the case. If no other appeal is filed, the court of 48696
appeals may review only the portions of the trial record that 48697
pertain to sentencing. 48698

(F) On the appeal of a sentence under this section, the 48699
record to be reviewed shall include all of the following, as 48700
applicable: 48701

(1) Any presentence, psychiatric, or other investigative 48702
report that was submitted to the court in writing before the 48703
sentence was imposed. An appellate court that reviews a 48704
presentence investigation report prepared pursuant to section 48705
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 48706
connection with the appeal of a sentence under this section shall 48707
comply with division (D)(3) of section 2951.03 of the Revised Code 48708
when the appellate court is not using the presentence 48709
investigation report, and the appellate court's use of a 48710
presentence investigation report of that nature in connection with 48711
the appeal of a sentence under this section does not affect the 48712
otherwise confidential character of the contents of that report as 48713
described in division (D)(1) of section 2951.03 of the Revised 48714
Code and does not cause that report to become a public record, as 48715
defined in section 149.43 of the Revised Code, following the 48716

appellate court's use of the report. 48717

(2) The trial record in the case in which the sentence was 48718
imposed; 48719

(3) Any oral or written statements made to or by the court at 48720
the sentencing hearing at which the sentence was imposed; 48721

(4) Any written findings that the court was required to make 48722
in connection with the modification of the sentence pursuant to a 48723
judicial release under division (I) of section 2929.20 of the 48724
Revised Code. 48725

(G)(1) If the sentencing court was required to make the 48726
findings required by division (B) or (D) of section 2929.13, 48727
division (D)(2)(e) or (E)(4) of section 2929.14, or division (I) 48728
of section 2929.20 of the Revised Code relative to the imposition 48729
or modification of the sentence, and if the sentencing court 48730
failed to state the required findings on the record, the court 48731
hearing an appeal under division (A), (B), or (C) of this section 48732
shall remand the case to the sentencing court and instruct the 48733
sentencing court to state, on the record, the required findings. 48734

(2) The court hearing an appeal under division (A), (B), or 48735
(C) of this section shall review the record, including the 48736
findings underlying the sentence or modification given by the 48737
sentencing court. 48738

The appellate court may increase, reduce, or otherwise modify 48739
a sentence that is appealed under this section or may vacate the 48740
sentence and remand the matter to the sentencing court for 48741
resentencing. The appellate court's standard for review is not 48742
whether the sentencing court abused its discretion. The appellate 48743
court may take any action authorized by this division if it 48744
clearly and convincingly finds either of the following: 48745

(a) That the record does not support the sentencing court's 48746
findings under division (B) or (D) of section 2929.13, division 48747

(D)(2)(e) or (E)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

(H) A judgment or final order of a court of appeals under this section may be appealed, by leave of court, to the supreme court.

(I)(1) There is hereby established the felony sentence appeal cost oversight committee, consisting of eight members. One member shall be the chief justice of the supreme court or a representative of the court designated by the chief justice, one member shall be a member of the senate appointed by the president of the senate, one member shall be a member of the house of representatives appointed by the speaker of the house of representatives, one member shall be the director of budget and management or a representative of the office of budget and management designated by the director, one member shall be a judge of a court of appeals, court of common pleas, municipal court, or county court appointed by the chief justice of the supreme court, one member shall be the state public defender or a representative of the office of the state public defender designated by the state public defender, one member shall be a prosecuting attorney appointed by the Ohio prosecuting attorneys association, and one member shall be a county commissioner appointed by the county commissioners association of Ohio. No more than three of the appointed members of the committee may be members of the same political party.

The president of the senate, the speaker of the house of representatives, the chief justice of the supreme court, the Ohio prosecuting attorneys association, and the county commissioners association of Ohio shall make the initial appointments to the committee of the appointed members no later than ninety days after July 1, 1996. Of those initial appointments to the committee, the

members appointed by the speaker of the house of representatives 48780
and the Ohio prosecuting attorneys association shall serve a term 48781
ending two years after July 1, 1996, the member appointed by the 48782
chief justice of the supreme court shall serve a term ending three 48783
years after July 1, 1996, and the members appointed by the 48784
president of the senate and the county commissioners association 48785
of Ohio shall serve terms ending four years after July 1, 1996. 48786
Thereafter, terms of office of the appointed members shall be for 48787
four years, with each term ending on the same day of the same 48788
month as did the term that it succeeds. Members may be 48789
reappointed. Vacancies shall be filled in the same manner provided 48790
for original appointments. A member appointed to fill a vacancy 48791
occurring prior to the expiration of the term for which that 48792
member's predecessor was appointed shall hold office as a member 48793
for the remainder of the predecessor's term. An appointed member 48794
shall continue in office subsequent to the expiration date of that 48795
member's term until that member's successor takes office or until 48796
a period of sixty days has elapsed, whichever occurs first. 48797

If the chief justice of the supreme court, the director of 48798
the office of budget and management, or the state public defender 48799
serves as a member of the committee, that person's term of office 48800
as a member shall continue for as long as that person holds office 48801
as chief justice, director of the office of budget and management, 48802
or state public defender. If the chief justice of the supreme 48803
court designates a representative of the court to serve as a 48804
member, the director of budget and management designates a 48805
representative of the office of budget and management to serve as 48806
a member, or the state public defender designates a representative 48807
of the office of the state public defender to serve as a member, 48808
the person so designated shall serve as a member of the commission 48809
for as long as the official who made the designation holds office 48810
as chief justice, director of the office of budget and management, 48811
or state public defender or until that official revokes the 48812

designation. 48813

The chief justice of the supreme court or the representative 48814
of the supreme court appointed by the chief justice shall serve as 48815
chairperson of the committee. The committee shall meet within two 48816
weeks after all appointed members have been appointed and shall 48817
organize as necessary. Thereafter, the committee shall meet at 48818
least once every six months or more often upon the call of the 48819
chairperson or the written request of three or more members, 48820
provided that the committee shall not meet unless moneys have been 48821
appropriated to the judiciary budget administered by the supreme 48822
court specifically for the purpose of providing financial 48823
assistance to counties under division (I)(2) of this section and 48824
the moneys so appropriated then are available for that purpose. 48825

The members of the committee shall serve without 48826
compensation, but, if moneys have been appropriated to the 48827
judiciary budget administered by the supreme court specifically 48828
for the purpose of providing financial assistance to counties 48829
under division (I)(2) of this section, each member shall be 48830
reimbursed out of the moneys so appropriated that then are 48831
available for actual and necessary expenses incurred in the 48832
performance of official duties as a committee member. 48833

(2) ~~The state criminal sentencing commission periodically~~ 48834
~~shall provide to the felony sentence appeal cost oversight~~ 48835
~~committee all data the commission collects pursuant to division~~ 48836
~~(A)(5) of section 181.25 of the Revised Code. Upon receipt of the~~ 48837
~~data from the state criminal sentencing commission, the felony~~ 48838
sentence appeal cost oversight committee periodically shall review 48839
~~the data;~~ determine whether any money has been appropriated to the 48840
judiciary budget administered by the supreme court specifically 48841
for the purpose of providing state financial assistance to 48842
counties in accordance with this division for the increase in 48843
expenses the counties experience as a result of the felony 48844

sentence appeal provisions set forth in this section or as a 48845
result of a postconviction relief proceeding brought under 48846
division (A)(2) of section 2953.21 of the Revised Code or an 48847
appeal of a judgment in that proceeding; if it determines that any 48848
money has been so appropriated, determine the total amount of 48849
moneys that have been so appropriated specifically for that 48850
purpose and that then are available for that purpose; and develop 48851
a recommended method of distributing those moneys to the counties. 48852
The committee shall send a copy of its recommendation to the 48853
supreme court. Upon receipt of the committee's recommendation, the 48854
supreme court shall distribute to the counties, based upon that 48855
recommendation, the moneys that have been so appropriated 48856
specifically for the purpose of providing state financial 48857
assistance to counties under this division and that then are 48858
available for that purpose. 48859

Sec. 2981.11. (A)(1) Any property that has been lost, 48860
abandoned, stolen, seized pursuant to a search warrant, or 48861
otherwise lawfully seized or forfeited and that is in the custody 48862
of a law enforcement agency shall be kept safely by the agency, 48863
pending the time it no longer is needed as evidence or for another 48864
lawful purpose, and shall be disposed of pursuant to sections 48865
2981.12 and 2981.13 of the Revised Code. 48866

(2) This chapter does not apply to the custody and disposal 48867
of any of the following: 48868

(a) Vehicles subject to forfeiture under Title XLV of the 48869
Revised Code, except as provided in division (A)(6) of section 48870
2981.12 of the Revised Code; 48871

(b) Abandoned junk motor vehicles or other property of 48872
negligible value; 48873

(c) Property held by a department of rehabilitation and 48874
correction institution that is unclaimed, that does not have an 48875

identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value; 48876
48877

(d) Animals taken, and devices used in unlawfully taking animals, under section 1531.20 of the Revised Code; 48878
48879

(e) Controlled substances sold by a peace officer in the performance of the officer's official duties under section 3719.141 of the Revised Code; 48880
48881
48882

(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code; 48883
48884

(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program. 48885
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(B)(1) Each law enforcement agency that has custody of any property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following: 48893
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(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired; 48897
48898
48899

(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following: 48900
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48902

(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The 48903
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record shall not identify or enable identification of the 48906
individual officer who seized any item of property. 48907

(ii) The general types of expenditures made with amounts that 48908
are gained from the sale of the property and that are retained by 48909
the agency, including the specific amount expended on each general 48910
type of expenditure, except that the policy shall not provide for 48911
or permit the identification of any specific expenditure that is 48912
made in an ongoing investigation. 48913

(c) Complies with section 2981.13 of the Revised Code if the 48914
agency has a law enforcement trust fund or similar fund created 48915
under that section. 48916

(2) Each law enforcement agency that during any calendar year 48917
has any seized or forfeited property covered by this section in 48918
its custody, including amounts distributed under section 2981.13 48919
of the Revised Code to its law enforcement trust fund or a similar 48920
fund created for the state highway patrol, department of public 48921
safety, department of taxation, or state board of pharmacy, shall 48922
prepare a report covering the calendar year that cumulates all of 48923
the information contained in all of the public records kept by the 48924
agency pursuant to this section for that calendar year. The agency 48925
shall send a copy of the cumulative report to the attorney general 48926
not later than the first day of March in the calendar year 48927
following the calendar year covered by the report. 48928

(3) The records kept under the internal control policy shall 48929
be open to public inspection during the agency's regular business 48930
hours. The policy adopted under this section and each report 48931
received by the attorney general is a public record open for 48932
inspection under section 149.43 of the Revised Code. 48933

(4) Not later than the fifteenth day of April in each 48934
calendar year in which reports are sent to the attorney general 48935
under division (B)(2) of this section, the attorney general shall 48936

send to the president of the senate and the speaker of the house 48937
of representatives a written notice that indicates that the 48938
attorney general received reports that cover the previous calendar 48939
year, that the reports are open for inspection under section 48940
149.43 of the Revised Code, and that the attorney general will 48941
provide a copy of any or all of the reports to the president of 48942
the senate or the speaker of the house of representatives upon 48943
request. 48944

(C) A law enforcement agency with custody of property to be 48945
disposed of under section 2981.12 or 2981.13 of the Revised Code 48946
shall make a reasonable effort to locate persons entitled to 48947
possession of the property, to notify them of when and where it 48948
may be claimed, and to return the property to them at the earliest 48949
possible time. In the absence of evidence identifying persons 48950
entitled to possession, it is sufficient notice to advertise in a 48951
newspaper of general circulation in the county and to briefly 48952
describe the nature of the property in custody and inviting 48953
persons to view and establish their right to it. 48954

(D) As used in sections 2981.11 to 2981.13 of the Revised 48955
Code: 48956

(1) "Citizens' reward program" has the same meaning as in 48957
section 9.92 of the Revised Code. 48958

(2) "Law enforcement agency" includes correctional 48959
institutions. 48960

(3) "Township law enforcement agency" means an organized 48961
police department of a township, a township police district, a 48962
joint ~~township~~ police district, or the office of a township 48963
constable. 48964

Sec. 2981.13. (A) Except as otherwise provided in this 48965
section, property ordered forfeited as contraband, proceeds, or an 48966

instrumentality pursuant to this chapter shall be disposed of, 48967
used, or sold pursuant to section 2981.12 of the Revised Code. If 48968
the property is to be sold under that section, the prosecutor 48969
shall cause notice of the proposed sale to be given in accordance 48970
with law. 48971

(B) If the contraband or instrumentality forfeited under this 48972
chapter is sold, any moneys acquired from a sale and any proceeds 48973
forfeited under this chapter shall be applied in the following 48974
order: 48975

(1) First, to pay costs incurred in the seizure, storage, 48976
maintenance, security, and sale of the property and in the 48977
forfeiture proceeding; 48978

(2) Second, in a criminal forfeiture case, to satisfy any 48979
restitution ordered to the victim of the offense or, in a civil 48980
forfeiture case, to satisfy any recovery ordered for the person 48981
harméd, unless paid from other assets; 48982

(3) Third, to pay the balance due on any security interest 48983
preserved under this chapter; 48984

(4) Fourth, apply the remaining amounts as follows: 48985

(a) If the forfeiture was ordered by a juvenile court, ten 48986
per cent to one or more certified alcohol and drug addiction 48987
treatment programs as provided in division (D) of section 2981.12 48988
of the Revised Code; 48989

(b) If the forfeiture was ordered in a juvenile court, ninety 48990
per cent, and if the forfeiture was ordered in a court other than 48991
a juvenile court, one hundred per cent to the law enforcement 48992
trust fund of the prosecutor and to the following fund supporting 48993
the law enforcement agency that substantially conducted the 48994
investigation: the law enforcement trust fund of the county 48995
sheriff, municipal corporation, township, or park district created 48996
under section 511.18 or 1545.01 of the Revised Code; the state 48997

highway patrol contraband, forfeiture, and other fund; the 48998
department of public safety investigative unit contraband, 48999
forfeiture, and other fund; the department of taxation enforcement 49000
fund; the board of pharmacy drug law enforcement fund created by 49001
division (B)(1) of section 4729.65 of the Revised Code; the 49002
medicaid fraud investigation and prosecution fund; or the 49003
treasurer of state for deposit into the peace officer training 49004
commission fund if any other state law enforcement agency 49005
substantially conducted the investigation. In the case of property 49006
forfeited for medicaid fraud, any remaining amount shall be used 49007
by the attorney general to investigate and prosecute medicaid 49008
fraud offenses. 49009

If the prosecutor declines to accept any of the remaining 49010
amounts, the amounts shall be applied to the fund of the agency 49011
that substantially conducted the investigation. 49012

(c) If more than one law enforcement agency is substantially 49013
involved in the seizure of property forfeited under this chapter, 49014
the court ordering the forfeiture shall equitably divide the 49015
amounts, after calculating any distribution to the law enforcement 49016
trust fund of the prosecutor pursuant to division (B)(4) of this 49017
section, among the entities that the court determines were 49018
substantially involved in the seizure. 49019

(C)(1) A law enforcement trust fund shall be established by 49020
the prosecutor of each county who intends to receive any remaining 49021
amounts pursuant to this section, by the sheriff of each county, 49022
by the legislative authority of each municipal corporation, by the 49023
board of township trustees of each township that has a township 49024
police department, township or joint police district police force, 49025
or office of the constable, and by the board of park commissioners 49026
of each park district created pursuant to section 511.18 or 49027
1545.01 of the Revised Code that has a park district police force 49028
or law enforcement department, for the purposes of this section. 49029

There is hereby created in the state treasury the state 49030
highway patrol contraband, forfeiture, and other fund, the 49031
department of public safety investigative unit contraband, 49032
forfeiture, and other fund, the medicaid fraud investigation and 49033
prosecution fund, the department of taxation enforcement fund, and 49034
the peace officer training commission fund, for the purposes of 49035
this section. 49036

Amounts distributed to any municipal corporation, township, 49037
or park district law enforcement trust fund shall be allocated 49038
from the fund by the legislative authority only to the police 49039
department of the municipal corporation, by the board of township 49040
trustees only to the township police department, township police 49041
district police force, or office of the constable, by the joint 49042
police district board only to the joint police district, and by 49043
the board of park commissioners only to the park district police 49044
force or law enforcement department. 49045

(2)(a) No amounts shall be allocated to a fund created under 49046
this section or used by an agency unless the agency has adopted a 49047
written internal control policy that addresses the use of moneys 49048
received from the appropriate fund. The appropriate fund shall be 49049
expended only in accordance with that policy and, subject to the 49050
requirements specified in this section, only for the following 49051
purposes: 49052

(i) To pay the costs of protracted or complex investigations 49053
or prosecutions; 49054

(ii) To provide reasonable technical training or expertise; 49055

(iii) To provide matching funds to obtain federal grants to 49056
aid law enforcement, in the support of DARE programs or other 49057
programs designed to educate adults or children with respect to 49058
the dangers associated with the use of drugs of abuse; 49059

(iv) To pay the costs of emergency action taken under section 49060

3745.13 of the Revised Code relative to the operation of an 49061
illegal methamphetamine laboratory if the forfeited property or 49062
money involved was that of a person responsible for the operation 49063
of the laboratory; 49064

(v) For other law enforcement purposes that the 49065
superintendent of the state highway patrol, department of public 49066
safety, prosecutor, county sheriff, legislative authority, 49067
department of taxation, board of township trustees, or board of 49068
park commissioners determines to be appropriate. 49069

(b) The board of pharmacy drug law enforcement fund shall be 49070
expended only in accordance with the written internal control 49071
policy so adopted by the board and only in accordance with section 49072
4729.65 of the Revised Code, except that it also may be expended 49073
to pay the costs of emergency action taken under section 3745.13 49074
of the Revised Code relative to the operation of an illegal 49075
methamphetamine laboratory if the forfeited property or money 49076
involved was that of a person responsible for the operation of the 49077
laboratory. 49078

(c) The state highway patrol contraband, forfeiture, and 49079
other fund, the department of public safety investigative unit 49080
contraband, forfeiture, and other fund, the department of taxation 49081
enforcement fund, the board of pharmacy drug law enforcement fund, 49082
and a law enforcement trust fund shall not be used to meet the 49083
operating costs of the state highway patrol, of the investigative 49084
unit of the department of public safety, of the state board of 49085
pharmacy, of any political subdivision, or of any office of a 49086
prosecutor or county sheriff that are unrelated to law 49087
enforcement. 49088

(d) Forfeited moneys that are paid into the state treasury to 49089
be deposited into the peace officer training commission fund shall 49090
be used by the commission only to pay the costs of peace officer 49091
training. 49092

(3) Any of the following offices or agencies that receive 49093
amounts under this section during any calendar year shall file a 49094
report with the specified entity, not later than the thirty-first 49095
day of January of the next calendar year, verifying that the 49096
moneys were expended only for the purposes authorized by this 49097
section or other relevant statute and specifying the amounts 49098
expended for each authorized purpose: 49099

(a) Any sheriff or prosecutor shall file the report with the 49100
county auditor. 49101

(b) Any municipal corporation police department shall file 49102
the report with the legislative authority of the municipal 49103
corporation. 49104

(c) Any township police department, township or joint police 49105
district police force, or office of the constable shall file the 49106
report with the board of township trustees of the township. 49107

(d) Any park district police force or law enforcement 49108
department shall file the report with the board of park 49109
commissioners of the park district. 49110

(e) The superintendent of the state highway patrol and the 49111
tax commissioner shall file the report with the attorney general. 49112

(f) The executive director of the state board of pharmacy 49113
shall file the report with the attorney general, verifying that 49114
cash and forfeited proceeds paid into the board of pharmacy drug 49115
law enforcement fund were used only in accordance with section 49116
4729.65 of the Revised Code. 49117

(g) The peace officer training commission shall file a report 49118
with the attorney general, verifying that cash and forfeited 49119
proceeds paid into the peace officer training commission fund 49120
pursuant to this section during the prior calendar year were used 49121
by the commission during the prior calendar year only to pay the 49122
costs of peace officer training. 49123

(D) The written internal control policy of a county sheriff, 49124
prosecutor, municipal corporation police department, township 49125
police department, township or joint police district police force, 49126
office of the constable, or park district police force or law 49127
enforcement department shall provide that at least ten per cent of 49128
the first one hundred thousand dollars of amounts deposited during 49129
each calendar year in the agency's law enforcement trust fund 49130
under this section, and at least twenty per cent of the amounts 49131
exceeding one hundred thousand dollars that are so deposited, 49132
shall be used in connection with community preventive education 49133
programs. The manner of use shall be determined by the sheriff, 49134
prosecutor, department, police force, or office of the constable 49135
after receiving and considering advice on appropriate community 49136
preventive education programs from the county's board of alcohol, 49137
drug addiction, and mental health services, from the county's 49138
alcohol and drug addiction services board, or through appropriate 49139
community dialogue. 49140

The financial records kept under the internal control policy 49141
shall specify the amount deposited during each calendar year in 49142
the portion of that amount that was used pursuant to this 49143
division, and the programs in connection with which the portion of 49144
that amount was so used. 49145

As used in this division, "community preventive education 49146
programs" include, but are not limited to, DARE programs and other 49147
programs designed to educate adults or children with respect to 49148
the dangers associated with using drugs of abuse. 49149

(E) Upon the sale, under this section or section 2981.12 of 49150
the Revised Code, of any property that is required by law to be 49151
titled or registered, the state shall issue an appropriate 49152
certificate of title or registration to the purchaser. If the 49153
state is vested with title and elects to retain property that is 49154
required to be titled or registered under law, the state shall 49155

issue an appropriate certificate of title or registration. 49156

(F) Any failure of a law enforcement officer or agency, 49157
prosecutor, court, or the attorney general to comply with this 49158
section in relation to any property seized does not affect the 49159
validity of the seizure and shall not be considered to be the 49160
basis for suppressing any evidence resulting from the seizure, 49161
provided the seizure itself was lawful. 49162

Sec. 3109.16. (A) The children's trust fund board, upon the 49163
recommendation of the director of job and family services, shall 49164
approve the employment of an executive director who will 49165
administer the programs of the board. ~~The~~ 49166

(B) The department of job and family services shall provide 49167
budgetary, procurement, accounting, and other related management 49168
functions for the board and may adopt rules in accordance with 49169
Chapter 119. of the Revised Code for these purposes. An amount not 49170
to exceed three per cent of the total amount of fees deposited in 49171
the children's trust fund in each fiscal year may be used for 49172
costs directly related to these administrative functions of the 49173
department. Each fiscal year, the board shall approve a budget for 49174
administrative expenditures for the next fiscal year. 49175

(C) The board may request that the department adopt rules the 49176
board considers necessary for the purpose of carrying out the 49177
board's responsibilities under this section, and the department 49178
may adopt those rules. The department may, after consultation with 49179
the board and the executive director, adopt any other rules to 49180
assist the board in carrying out its responsibilities under this 49181
section. In either case, the rules shall be adopted under Chapter 49182
119. of the Revised Code. 49183

(D) The board shall meet at least quarterly at the call of 49184
the chairperson to conduct its official business. All business 49185
transactions of the board shall be conducted in public meetings. 49186

Eight members of the board constitute a quorum. A majority of the board members is required to adopt the state plan for the allocation of funds from the children's trust fund. A majority of the quorum is required to make all other decisions of the board.

The (E) With respect to funding, all of the following apply:

(1) The board may apply for and accept federal and other funds for the purpose of funding child abuse and child neglect prevention programs. In addition, the

(2) The board may solicit and accept gifts, money, and other donations from any public or private source, including individuals, philanthropic foundations or organizations, corporations, or corporation endowments. The

(3) The board may develop private-public partnerships to support the mission of the children's trust fund.

(4) The acceptance and use of federal and other funds shall not entail any commitment or pledge of state funds, nor obligate the general assembly to continue the programs or activities for which the federal and other funds are made available. All

(5) All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title IV-D of the "Social Security

Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the
alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the
birth of the child and if the action is contested, all
proceedings, except service of process and the taking of
depositions to perpetuate testimony, may be stayed until after the
birth.

(D) A recipient of public assistance or of services under
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42
U.S.C.A. 651, as amended, shall cooperate with the child support
enforcement agency of the county in which a child resides to
obtain an administrative determination pursuant to sections
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court
determination pursuant to sections 3111.01 to 3111.18 of the
Revised Code, of the existence or nonexistence of a parent and
child relationship between the father and the child. If the
recipient fails to cooperate, the agency may commence an action to
determine the existence or nonexistence of a parent and child
relationship between the father and the child pursuant to sections
3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means all of
the following:

(1) Medicaid under Chapter 5111. of the Revised Code;

(2) Ohio works first under Chapter 5107. of the Revised Code;

(3) Disability financial assistance under Chapter 5115. of
the Revised Code;

~~(4) Children's buy in program under sections 5101.5211 to
5101.5216 of the Revised Code.~~

Sec. 3113.06. No father, or mother when she is charged with 49246
the maintenance, of a child under eighteen years of age, or a 49247
mentally or physically handicapped child under age twenty-one, who 49248
is legally a ward of a public children services agency or is the 49249
recipient of aid pursuant to ~~sections 5101.5211 to 5101.5216~~ or 49250
Chapter 5107. or 5115. of the Revised Code, shall neglect or 49251
refuse to pay such agency the reasonable cost of maintaining such 49252
child when such father or mother is able to do so by reason of 49253
property, labor, or earnings. 49254

An offense under this section shall be held committed in the 49255
county in which the agency is located. The agency shall file 49256
charges against any parent who violates this section, unless the 49257
agency files charges under section 2919.21 of the Revised Code, or 49258
unless charges of nonsupport are filed by a relative or guardian 49259
of the child, or unless an action to enforce support is brought 49260
under Chapter 3115. of the Revised Code. 49261

Sec. 3119.54. A party to a child support order issued in 49262
accordance with section 3119.30 of the Revised Code shall notify 49263
any physician, hospital, or other provider of medical services 49264
that provides medical services to the child who is the subject of 49265
the child support order of the number of any health insurance or 49266
health care policy, contract, or plan that covers the child if the 49267
child is eligible for medical assistance under ~~sections 5101.5211~~ 49268
~~to 5101.5216~~ or Chapter 5111. of the Revised Code. The party shall 49269
include in the notice the name and address of the insurer. Any 49270
physician, hospital, or other provider of medical services for 49271
which medical assistance is available under ~~sections 5101.5211 to~~ 49272
~~5101.5216~~ or Chapter 5111. of the Revised Code who is notified 49273
under this section of the existence of a health insurance or 49274
health care policy, contract, or plan with coverage for children 49275
who are eligible for medical assistance shall first bill the 49276

insurer for any services provided for those children. If the 49277
insurer fails to pay all or any part of a claim filed under this 49278
section and the services for which the claim is filed are covered 49279
by ~~sections 5101.5211 to 5101.5216~~ or Chapter 5111. of the Revised 49280
Code, the physician, hospital, or other medical services provider 49281
shall bill the remaining unpaid costs of the services in 49282
accordance with ~~sections 5101.5211 to 5101.5216~~ or Chapter 5111. 49283
of the Revised Code. 49284

Sec. 3121.48. The office of child support shall ~~maintain~~ 49285
administer a ~~separate account~~ fund for the deposit of support 49286
payments it receives as trustee for remittance to the persons 49287
entitled to receive the support payments. The fund shall be in the 49288
custody of the treasurer of state, but shall not be part of the 49289
state treasury. 49290

Sec. 3123.44. (A) Notice shall be sent to an individual 49291
described in section 3123.42 of the Revised Code in compliance 49292
with section 3121.23 of the Revised Code. The notice shall specify 49293
that a court or child support enforcement agency has determined 49294
the individual to be in default under a child support order or 49295
that the individual is an obligor who has failed to comply with a 49296
subpoena or warrant issued by a court or agency with respect to a 49297
proceeding to enforce a child support order, that a notice 49298
containing the individual's name and social security number or 49299
other identification number may be sent to every board that has 49300
authority to issue or has issued the individual a license, and 49301
that, if the board receives that notice and determines that the 49302
individual is the individual named in that notice and the board 49303
has not received notice under section 3123.45 or 3123.46 of the 49304
Revised Code, all of the following will occur: 49305

~~(A)~~(1) The board will not issue any license to the individual 49306

or renew any license of the individual. 49307

~~(B)~~(2) The board will suspend any license of the individual 49308
if it determines that the individual is the individual named in 49309
the notice sent to the board under section 3123.43 of the Revised 49310
Code. 49311

~~(C)~~(3) If the individual is the individual named in the 49312
notice, the board will not issue any license to the individual, 49313
and will not reinstate a suspended license, until the board 49314
receives a notice under section 3123.45 or 3123.46 of the Revised 49315
Code. 49316

(B) If an agency makes the determination described in 49317
division (A) of section 3123.42 of the Revised Code, it shall not 49318
send the notice described in division (A) of this section unless 49319
both of the following are the case: 49320

(1) At least ninety days have elapsed since the final and 49321
enforceable determination of default; 49322

(2) In the preceding ninety days, the obligor has failed to 49323
pay at least fifty per cent of the arrearage through means other 49324
than those described in sections 3123.81 to 3123.85 of the Revised 49325
Code. 49326

(C) The department of job and family services shall adopt 49327
rules pursuant to section 3123.63 of the Revised Code establishing 49328
a uniform pre-suspension notice form that shall be used by 49329
agencies that send notice as required by this section. 49330

Sec. 3123.45. A child support enforcement agency that sent a 49331
notice to a board of an individual's default under a child support 49332
order shall send to each board to which the agency sent the notice 49333
a further notice that the individual is not in default if it 49334
determines that the individual is not in default or any of the 49335
following occurs: 49336

(A) The individual makes full payment to the office of child support in the department of job and family services or, pursuant to sections 3125.27 to 3125.30 of the Revised Code, the child support enforcement agency of the arrearage that was the basis for the court or agency determination that the individual was in default.

(B) ~~An~~ The individual has presented to the agency sufficient evidence of current employment or of an account in a financial institution, the agency has confirmed the individual's employment or the existence of the account, and an appropriate withholding or deduction notice ~~or other appropriate order~~ described in section 3121.03, ~~3121.04, 3121.05, 3121.06, or 3121.12~~ of the Revised Code has been issued to collect current support and any arrearage due under the child support order that was in default, ~~and the individual is complying with the notice or order.~~

(C) ~~A new child support order has been issued or the child support order that was in default, has been modified to collect current support and any arrearage due under the child support order that was in default, and the individual is complying with the new or modified child support order~~ The individual presents evidence to the agency sufficient to establish that the individual is unable to work due to circumstances beyond the individual's control.

The agency shall send the notice under this section not later than seven days after the agency determines the individual is not in default or that any of the circumstances specified in this section has occurred.

Sec. 3123.55. (A) Notice shall be sent to the individual described in section ~~3123.54~~ 3123.53 of the Revised Code in compliance with section 3121.23 of the Revised Code. The notice shall specify that a court or child support enforcement agency has

determined the individual to be in default under a child support 49368
order or that the individual is an obligor under a child support 49369
order who has failed to comply with a subpoena or warrant issued 49370
by a court or agency with respect to a proceeding to enforce a 49371
child support order, that a notice containing the individual's 49372
name and social security number or other identification number may 49373
be sent to the registrar of motor vehicles, and that, if the 49374
registrar receives that notice and determines that the individual 49375
is the individual named in that notice and the registrar has not 49376
received notice under section 3123.56 or 3123.57 of the Revised 49377
Code, all of the following will occur: 49378

~~(A)~~(1) The registrar and all deputy registrars will be 49379
prohibited from issuing to the individual a driver's or commercial 49380
driver's license, motorcycle operator's license or endorsement, or 49381
temporary instruction permit or commercial driver's temporary 49382
instruction permit. 49383

~~(B)~~(2) The registrar and all deputy registrars will be 49384
prohibited from renewing for the individual a driver's or 49385
commercial driver's license, motorcycle operator's license or 49386
endorsement, or commercial driver's temporary instruction permit. 49387

~~(C)~~(3) If the individual holds a driver's or commercial 49388
driver's license, motorcycle operator's license or endorsement, or 49389
temporary instruction permit or commercial driver's temporary 49390
instruction permit, the registrar will impose a class F suspension 49391
under division (B)(6) of section 4510.02 of the Revised Code if 49392
the registrar determines that the individual is the individual 49393
named in the notice sent pursuant to section 3123.54 of the 49394
Revised Code. 49395

~~(D)~~(4) If the individual is the individual named in the 49396
notice, the individual will not be issued or have renewed any 49397
license, endorsement, or permit, and no suspension will be lifted 49398
with respect to any license, endorsement, or permit listed in this 49399

section until the registrar receives a notice under section 49400
3123.56 or 3123.57 of the Revised Code. 49401

(B) If an agency makes the determination described in 49402
division (A) of section 3123.53 of the Revised Code, it shall not 49403
send the notice described in division (A) of this section unless 49404
both of the following are the case: 49405

(1) At least ninety days have elapsed since the final and 49406
enforceable determination of default; 49407

(2) In the preceding ninety days, the obligor has failed to 49408
pay at least fifty per cent of the arrearage through means other 49409
than those described in sections 3123.81 to 3123.85 of the Revised 49410
Code. 49411

(C) The department of job and family services shall adopt 49412
rules pursuant to section 3123.63 of the Revised Code establishing 49413
a uniform pre-suspension notice form that shall be used by 49414
agencies that send notice as required by this section. 49415

Sec. 3123.56. A child support enforcement agency that sent a 49416
notice under section 3123.54 of the Revised Code of an 49417
individual's default under a child support order shall send to the 49418
registrar of motor vehicles a notice that the individual is not in 49419
default if it determines that the individual is not in default or 49420
any of the following occurs: 49421

(A) The individual makes full payment to the office of child 49422
support or, pursuant to sections 3125.27 to 3125.30 of the Revised 49423
Code, to the child support enforcement agency of the arrearage 49424
that was the basis for the court or agency determination that the 49425
individual was in default. 49426

(B) ~~An~~ The individual has presented to the agency sufficient 49427
evidence of current employment or of an account in a financial 49428
institution, the agency has confirmed the individual's employment 49429

~~or the existence of the account, and an appropriate withholding or deduction notice or other appropriate order described in section 3121.03, 3121.04, 3121.05, 3121.06, or 3121.12 of the Revised Code has been issued to collect current support and any arrearage due under the child support order that was in default, and the individual is complying with the notice or order.~~

~~(C) A new child support order has been issued or the child support order that was in default has been modified to collect current support and any arrearage due under the child support order that was in default, and the individual is complying with the new or modified child support order~~ The individual presents evidence to the agency sufficient to establish that the individual is unable to work due to circumstances beyond the individual's control.

The agency shall send the notice under this section not later than seven days after it determines the individual is not in default or that any of the circumstances specified in this section has occurred.

Sec. 3123.58. (A) On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall determine whether the individual named in the notice holds or has applied for a driver's license or commercial driver's license, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit. If the registrar determines that the individual holds or has applied for a license, permit, or endorsement and the individual is the individual named in the notice and does not receive a notice pursuant to section 3123.56 or 3123.57 of the Revised Code, the registrar immediately shall provide notice of the determination to each deputy registrar. The registrar or a deputy registrar may not issue to the individual a driver's or

commercial driver's license, motorcycle operator's license or 49461
endorsement, or temporary instruction permit or commercial 49462
driver's temporary instruction permit and may not renew for the 49463
individual a driver's or commercial driver's license, motorcycle 49464
operator's license or endorsement, or commercial driver's 49465
temporary instruction permit. The registrar or a deputy registrar 49466
also shall impose a class F suspension of the license, permit, or 49467
endorsement held by the individual under division (B)(6) of 49468
section 4510.02 of the Revised Code. 49469

~~(B) Prior to the date specified in section 3123.52 of the 49470
Revised Code, the registrar of motor vehicles or a deputy 49471
registrar shall do only the following with respect to an 49472
individual if the registrar makes the determination required under 49473
division (A) of this section and no notice is received concerning 49474
the individual under section 3123.56 or 3123.57 of the Revised 49475
Code: 49476~~

~~(1) Refuse to issue or renew the individual's commercial 49477
driver's license or commercial driver's temporary instruction 49478
permit; 49479~~

~~(2) Impose a class F suspension under division (B)(6) of 49480
section 4510.02 of the Revised Code on the individual with respect 49481
to the license or permit held by the individual. 49482~~

Sec. 3123.59. Not later than seven days after receipt of a 49483
notice pursuant to section 3123.56 or 3123.57 of the Revised Code, 49484
the registrar of motor vehicles shall notify each deputy registrar 49485
of the notice. The registrar and each deputy registrar shall then, 49486
if the individual otherwise is eligible for the license, permit, 49487
or endorsement and wants the license, permit, or endorsement, 49488
issue a license, permit, or endorsement to, or renew a license, 49489
permit, or endorsement of, the individual, or, if the registrar 49490
imposed a class F suspension of the individual's license, permit, 49491

or endorsement pursuant to division (A) of section 3123.58 of the Revised Code, remove the suspension. ~~On and after the date specified in section 3123.52 of the Revised Code, the registrar or a deputy registrar shall remove, after receipt of a notice under section 3123.56 or 3123.57 of the Revised Code, a class F suspension imposed on an individual with respect to a license or permit pursuant to division (B) of section 3123.58 of the Revised Code.~~ The registrar or a deputy registrar may charge a fee of not more than twenty-five dollars for issuing or renewing or removing the suspension of a license, permit, or endorsement pursuant to this section. The fees collected by the registrar pursuant to this section shall be paid into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

Sec. 3123.591. A child support enforcement agency may, pursuant to rules adopted under section 3123.63 of the Revised Code, direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor vehicles any reference to the suspension of an individual's license, permit, or endorsement imposed under section 3123.58 of the Revised Code.

Sec. 3123.63. The director of job and family services may shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 3123.41 to 3123.50, ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60, and 3123.62 of the Revised Code. The rules shall include both of the following:

(A) Requirements concerning the contents of, and the conditions for issuance of, a notice required by section 3123.44 or 3123.55 of the Revised Code. The rules shall require the contents of the notice to include information about the effect of a license suspension and appropriate steps that an individual can take to avoid license suspension.

(B) Requirements concerning the authority of a child support enforcement agency to direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor vehicles any reference to the suspension of an individual's license, permit, or endorsement imposed under section 3123.58 of the Revised Code.

Sec. 3301.07. The state board of education shall exercise under the acts of the general assembly general supervision of the system of public education in the state. In addition to the powers otherwise imposed on the state board under the provisions of law, the board shall have the powers described in this section.

(A) The state board shall exercise policy forming, planning, and evaluative functions for the public schools of the state except as otherwise provided by law.

(B)(1) The state board shall exercise leadership in the improvement of public education in this state, and administer the educational policies of this state relating to public schools, and relating to instruction and instructional material, building and equipment, transportation of pupils, administrative responsibilities of school officials and personnel, and finance and organization of school districts, educational service centers, and territory. Consultative and advisory services in such matters shall be provided by the board to school districts and educational service centers of this state.

(2) The state board also shall develop a standard of financial reporting which shall be used by each school district board of education and educational service center governing board to make its financial information and annual budgets for each school building under its control available to the public in a format understandable by the average citizen. The format shall show, among other things, at the district and educational service

center level or at the school building level, as determined 49553
appropriate by the department of education, revenue by source; 49554
expenditures for salaries, wages, and benefits of employees, 49555
showing such amounts separately for classroom teachers, other 49556
employees required to hold licenses issued pursuant to sections 49557
3319.22 to 3319.31 of the Revised Code, and all other employees; 49558
expenditures other than for personnel, by category, including 49559
utilities, textbooks and other educational materials, equipment, 49560
permanent improvements, pupil transportation, extracurricular 49561
athletics, and other extracurricular activities; and per pupil 49562
expenditures. 49563

(C) The state board shall administer and supervise the 49564
allocation and distribution of all state and federal funds for 49565
public school education under the provisions of law, and may 49566
prescribe such systems of accounting as are necessary and proper 49567
to this function. It may require county auditors and treasurers, 49568
boards of education, educational service center governing boards, 49569
treasurers of such boards, teachers, and other school officers and 49570
employees, or other public officers or employees, to file with it 49571
such reports as it may prescribe relating to such funds, or to the 49572
management and condition of such funds. 49573

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, 49574
XLVII, and LI of the Revised Code a reference is made to standards 49575
prescribed under this section or division (D) of this section, 49576
that reference shall be construed to refer to the standards 49577
prescribed under division (D)(2) of this section, unless the 49578
context specifically indicates a different meaning or intent. 49579

(2) The state board shall formulate and prescribe minimum 49580
standards to be applied to all elementary and secondary schools in 49581
this state for the purpose of requiring a general education of 49582
high quality. Such standards shall provide adequately for: the 49583
licensing of teachers, administrators, and other professional 49584

personnel and their assignment according to training and 49585
qualifications; efficient and effective instructional materials 49586
and equipment, including library facilities; the proper 49587
organization, administration, and supervision of each school, 49588
including regulations for preparing all necessary records and 49589
reports and the preparation of a statement of policies and 49590
objectives for each school; buildings, grounds, health and 49591
sanitary facilities and services; admission of pupils, and such 49592
requirements for their promotion from grade to grade as will 49593
assure that they are capable and prepared for the level of study 49594
to which they are certified; requirements for graduation; and such 49595
other factors as the board finds necessary. 49596

In the formulation and administration of such standards for 49597
nonpublic schools the board shall also consider the particular 49598
needs, methods and objectives of those schools, provided they do 49599
not conflict with the provision of a general education of a high 49600
quality and provided that regular procedures shall be followed for 49601
promotion from grade to grade of pupils who have met the 49602
educational requirements prescribed. 49603

In the formulation and administration of such standards as 49604
they relate to instructional materials and equipment in public 49605
schools, including library materials, the board shall require that 49606
the material and equipment be aligned with and promote skills 49607
expected under the statewide academic standards adopted under 49608
section 3301.079 of the Revised Code. 49609

(3) In addition to the minimum standards required by division 49610
(D)(2) of this section, the state board ~~shall~~ may formulate and 49611
prescribe the following additional minimum operating standards for 49612
school districts: 49613

(a) Standards for the effective and efficient organization, 49614
administration, and supervision of each school district so that it 49615
becomes a thinking and learning organization according to 49616

principles of systems design and collaborative professional 49617
learning communities research as defined by the superintendent of 49618
public instruction, including a focus on the personalized and 49619
individualized needs of each student; a shared responsibility 49620
among school boards, administrators, faculty, and staff to develop 49621
a common vision, mission, and set of guiding principles; a shared 49622
responsibility among school boards, administrators, faculty, and 49623
staff to engage in a process of collective inquiry, action 49624
orientation, and experimentation to ensure the academic success of 49625
all students; commitment to teaching and learning strategies that 49626
utilize technological tools and emphasize inter-disciplinary, 49627
real-world, project-based, and technology-oriented learning 49628
experiences to meet the individual needs of every student; 49629
commitment to high expectations for every student and commitment 49630
to closing the achievement gap so that all students achieve core 49631
knowledge and skills in accordance with the statewide academic 49632
standards adopted under section 3301.079 of the Revised Code; 49633
commitment to the use of assessments to diagnose the needs of each 49634
student; effective connections and relationships with families and 49635
others that support student success; and commitment to the use of 49636
positive behavior intervention supports throughout a district to 49637
ensure a safe and secure learning environment for all students; 49638

(b) Standards for the establishment of business advisory 49639
councils under section 3313.82 of the Revised Code; 49640

(c) Standards for school district ~~organizational units, as~~ 49641
~~defined in sections 3306.02 and 3306.04 of the Revised Code,~~ 49642
buildings that may require: 49643

(i) The effective and efficient organization, administration, 49644
and supervision of each school district ~~organizational unit~~ 49645
building so that it becomes a thinking and learning organization 49646
according to principles of systems design and collaborative 49647
professional learning communities research as defined by the state 49648

superintendent, including a focus on the personalized and 49649
individualized needs of each student; a shared responsibility 49650
among ~~organizational unit~~ building administrators, faculty, and 49651
staff to develop a common vision, mission, and set of guiding 49652
principles; a shared responsibility among ~~organizational unit~~ 49653
building administrators, faculty, and staff to engage in a process 49654
of collective inquiry, action orientation, and experimentation to 49655
ensure the academic success of all students; commitment to job 49656
embedded professional development and professional mentoring and 49657
coaching; established periods of time for teachers to pursue 49658
planning time for the development of lesson plans, professional 49659
development, and shared learning; commitment to effective 49660
management strategies that allow administrators reasonable access 49661
to classrooms for observation and professional development 49662
experiences; commitment to teaching and learning strategies that 49663
utilize technological tools and emphasize inter-disciplinary, 49664
real-world, project-based, and technology-oriented learning 49665
experiences to meet the individual needs of every student; 49666
commitment to high expectations for every student and commitment 49667
to closing the achievement gap so that all students achieve core 49668
knowledge and skills in accordance with the statewide academic 49669
standards adopted under section 3301.079 of the Revised Code; 49670
commitment to the use of assessments to diagnose the needs of each 49671
student; effective connections and relationships with families and 49672
others that support student success; commitment to the use of 49673
positive behavior intervention supports throughout the 49674
~~organizational unit~~ building to ensure a safe and secure learning 49675
environment for all students; 49676

(ii) A school ~~organizational unit~~ building leadership team to 49677
coordinate positive behavior intervention supports, learning 49678
environments, thinking and learning systems, collaborative 49679
planning, planning time, student academic interventions, student 49680
extended learning opportunities, and other activities identified 49681

by the team and approved by the district board of education. The 49682
team shall include the building principal, representatives from 49683
each collective bargaining unit, ~~the building lead~~ a classroom 49684
teacher, parents, business representatives, and others that 49685
support student success. 49686

(E) The state board may require as part of the health 49687
curriculum information developed under section 2108.34 of the 49688
Revised Code promoting the donation of anatomical gifts pursuant 49689
to Chapter 2108. of the Revised Code and may provide the 49690
information to high schools, educational service centers, and 49691
joint vocational school district boards of education; 49692

(F) The state board shall prepare and submit annually to the 49693
governor and the general assembly a report on the status, needs, 49694
and major problems of the public schools of the state, with 49695
recommendations for necessary legislative action and a ten-year 49696
projection of the state's public and nonpublic school enrollment, 49697
by year and by grade level. 49698

(G) The state board shall prepare and submit to the director 49699
of budget and management the biennial budgetary requests of the 49700
state board of education, for its agencies and for the public 49701
schools of the state. 49702

(H) The state board shall cooperate with federal, state, and 49703
local agencies concerned with the health and welfare of children 49704
and youth of the state. 49705

(I) The state board shall require such reports from school 49706
districts and educational service centers, school officers, and 49707
employees as are necessary and desirable. The superintendents and 49708
treasurers of school districts and educational service centers 49709
shall certify as to the accuracy of all reports required by law or 49710
state board or state department of education rules to be submitted 49711
by the district or educational service center and which contain 49712

information necessary for calculation of state funding. Any 49713
superintendent who knowingly falsifies such report shall be 49714
subject to license revocation pursuant to section 3319.31 of the 49715
Revised Code. 49716

(J) In accordance with Chapter 119. of the Revised Code, the 49717
state board shall adopt procedures, standards, and guidelines for 49718
the education of children with disabilities pursuant to Chapter 49719
3323. of the Revised Code, including procedures, standards, and 49720
guidelines governing programs and services operated by county 49721
boards of developmental disabilities pursuant to section 3323.09 49722
of the Revised Code. 49723

(K) For the purpose of encouraging the development of special 49724
programs of education for academically gifted children, the state 49725
board shall employ competent persons to analyze and publish data, 49726
promote research, advise and counsel with boards of education, and 49727
encourage the training of teachers in the special instruction of 49728
gifted children. The board may provide financial assistance out of 49729
any funds appropriated for this purpose to boards of education and 49730
educational service center governing boards for developing and 49731
conducting programs of education for academically gifted children. 49732

(L) The state board shall require that all public schools 49733
emphasize and encourage, within existing units of study, the 49734
teaching of energy and resource conservation as recommended to 49735
each district board of education by leading business persons 49736
involved in energy production and conservation, beginning in the 49737
primary grades. 49738

(M) The state board shall formulate and prescribe minimum 49739
standards requiring the use of phonics as a technique in the 49740
teaching of reading in grades kindergarten through three. In 49741
addition, the state board shall provide in-service training 49742
programs for teachers on the use of phonics as a technique in the 49743
teaching of reading in grades kindergarten through three. 49744

(N) The state board may adopt rules necessary for carrying out any function imposed on it by law, and may provide rules as are necessary for its government and the government of its employees, and may delegate to the superintendent of public instruction the management and administration of any function imposed on it by law. It may provide for the appointment of board members to serve on temporary committees established by the board for such purposes as are necessary. Permanent or standing committees shall not be created.

(O) Upon application from the board of education of a school district, the superintendent of public instruction may issue a waiver exempting the district from compliance with the standards adopted under divisions (B)(2) and (D) of this section, as they relate to the operation of a school operated by the district. The state board shall adopt standards for the approval or disapproval of waivers under this division. The state superintendent shall consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with the state board's standards. For each waiver granted, the state superintendent shall specify the period of time during which the waiver is in effect, which shall not exceed five years. A district board may apply to renew a waiver.

Sec. 3301.071. (A)(1) In the case of nontax-supported schools, standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification, without further educational requirements, of any administrator, supervisor, or teacher who has attended and received a bachelor's degree from a college or university accredited by a national or regional association in the United States except that, at the discretion of the state board of education, this requirement may be met by having an equivalent degree from a foreign college or university of comparable

standing. 49777

(2) In the case of nonchartered, nontax-supported schools, 49778
the standards for teacher certification prescribed under section 49779
3301.07 of the Revised Code shall provide for certification, 49780
without further educational requirements, of any administrator, 49781
supervisor, or teacher who has attended and received a diploma 49782
from a "bible college" or "bible institute" described in division 49783
(E) of section 1713.02 of the Revised Code. 49784

(3) A certificate issued under division (A)(3) of this 49785
section shall be valid only for teaching foreign language, music, 49786
religion, computer technology, or fine arts. 49787

Notwithstanding division (A)(1) of this section, the 49788
standards for teacher certification prescribed under section 49789
3301.07 of the Revised Code shall provide for certification of a 49790
person as a teacher upon receipt by the state board of an 49791
affidavit signed by the chief administrative officer of a 49792
chartered nonpublic school seeking to employ the person, stating 49793
that the person meets one of the following conditions: 49794

(a) The person has specialized knowledge, skills, or 49795
expertise that qualifies the person to provide instruction. 49796

(b) The person has provided to the chief administrative 49797
officer evidence of at least three years of teaching experience in 49798
a public or nonpublic school. 49799

(c) The person has provided to the chief administrative 49800
officer evidence of completion of a teacher training program named 49801
in the affidavit. 49802

(B) Each person applying for a certificate under this section 49803
for purposes of serving in a nonpublic school chartered by the 49804
state board under section 3301.16 of the Revised Code shall pay a 49805
fee in the amount established under division (A) of section 49806

3319.51 of the Revised Code. Any fees received under this division 49807
shall be paid into the state treasury to the credit of the state 49808
board of education certification fund established under division 49809
(B) of section 3319.51 of the Revised Code. 49810

(C) A person applying for or holding any certificate pursuant 49811
to this section for purposes of serving in a nonpublic school 49812
chartered by the state board is subject to sections 3123.41 to 49813
3123.50 of the Revised Code and any applicable rules adopted under 49814
section 3123.63 of the Revised Code and sections 3319.31 and 49815
3319.311 of the Revised Code. 49816

(D) Divisions (B) and (C) of this section and sections 49817
3319.291, 3319.31, and 3319.311 of the Revised Code do not apply 49818
to any administrators, supervisors, or teachers in nonchartered, 49819
nontax-supported schools. 49820

Sec. 3301.079. (A)(1) Not later than June 30, 2010, and ~~at~~ 49821
~~least once every five years~~ periodically thereafter, the state 49822
board of education shall adopt statewide academic standards with 49823
emphasis on coherence, focus, and rigor for each of grades 49824
kindergarten through twelve in English language arts, mathematics, 49825
science, and social studies. 49826

The standards shall specify the following: 49827

(a) The core academic content and skills that students are 49828
expected to know and be able to do at each grade level that will 49829
allow each student to be prepared for postsecondary instruction 49830
and the workplace for success in the twenty-first century; 49831

~~(b) The development of skill sets as they relate to 49832
creativity and innovation, critical thinking and problem solving,
and communication and collaboration;~~ 49833
49834

~~(c) The development of skill sets that promote information, 49835
media, and technological literacy;~~ 49836

~~(d) The development of skill sets that promote personal management, productivity and accountability, and leadership and responsibility;~~ 49837
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~~(e)~~(c) Interdisciplinary, project-based, real-world learning opportunities. 49840
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(2) After completing the standards required by division (A)(1) of this section, the state board shall adopt standards and model curricula for instruction in ~~computer literacy~~ technology, financial literacy and entrepreneurship, fine arts, and foreign language for grades kindergarten through twelve. The standards shall meet the same requirements prescribed in divisions (A)(1)(a) to ~~(e)~~(c) of this section. 49842
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(3) The state board shall adopt the most recent standards developed by the national association for sport and physical education for physical education in grades kindergarten through twelve or shall adopt its own standards for physical education in those grades and revise and update them periodically. 49849
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The department shall employ a full-time physical education coordinator to provide guidance and technical assistance to districts, community schools, and STEM schools in implementing the physical education standards adopted under this division. The superintendent of public instruction shall determine that the person employed as coordinator is qualified for the position, as demonstrated by possessing an adequate combination of education, license, and experience. 49854
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(4) When academic standards have been completed for any subject area required by this section, the state board shall inform all school districts, all community schools established under Chapter 3314. of the Revised Code, all STEM schools established under Chapter 3326. of the Revised Code, and all nonpublic schools required to administer the assessments 49862
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prescribed by sections 3301.0710 and 3301.0712 of the Revised Code 49868
of the content of those standards. 49869

(B) Not later than March 31, 2011, the state board shall 49870
adopt a model curriculum for instruction in each subject area for 49871
which updated academic standards are required by division (A)(1) 49872
of this section and for each of grades kindergarten through twelve 49873
that is sufficient to meet the needs of students in every 49874
community. The model curriculum shall be aligned with the 49875
standards, to ensure that the academic content and skills 49876
specified for each grade level are taught to students, and shall 49877
demonstrate vertical articulation and emphasize coherence, focus, 49878
and rigor. When any model curriculum has been completed, the state 49879
board shall inform all school districts, community schools, and 49880
STEM schools of the content of that model curriculum. 49881

All school districts, community schools, and STEM schools may 49882
utilize the state standards and the model curriculum established 49883
by the state board, together with other relevant resources, 49884
examples, or models to ensure that students have the opportunity 49885
to attain the academic standards. Upon request, the department of 49886
education shall provide technical assistance to any district, 49887
community school, or STEM school in implementing the model 49888
curriculum. 49889

Nothing in this section requires any school district to 49890
utilize all or any part of a model curriculum developed under this 49891
division. 49892

(C) The state board shall develop achievement assessments 49893
aligned with the academic standards and model curriculum for each 49894
of the subject areas and grade levels required by divisions (A)(1) 49895
and (B)(1) of section 3301.0710 of the Revised Code. 49896

When any achievement assessment has been completed, the state 49897
board shall inform all school districts, community schools, STEM 49898

schools, and nonpublic schools required to administer the 49899
assessment of its completion, and the department of education 49900
shall make the achievement assessment available to the districts 49901
and schools. 49902

(D)(1) The state board shall adopt a diagnostic assessment 49903
aligned with the academic standards and model curriculum for each 49904
of grades kindergarten through two in English language arts and 49905
mathematics and for grade three in English language arts. The 49906
diagnostic assessment shall be designed to measure student 49907
comprehension of academic content and mastery of related skills 49908
for the relevant subject area and grade level. Any diagnostic 49909
assessment shall not include components to identify gifted 49910
students. Blank copies of diagnostic assessments shall be public 49911
records. 49912

(2) When each diagnostic assessment has been completed, the 49913
state board shall inform all school districts of its completion 49914
and the department of education shall make the diagnostic 49915
assessment available to the districts at no cost to the district. 49916
School districts shall administer the diagnostic assessment 49917
pursuant to section 3301.0715 of the Revised Code beginning the 49918
first school year following the development of the assessment. 49919

(E) The state board shall not adopt a diagnostic or 49920
achievement assessment for any grade level or subject area other 49921
than those specified in this section. 49922

(F) Whenever the state board or the department of education 49923
consults with persons for the purpose of drafting or reviewing any 49924
standards, diagnostic assessments, achievement assessments, or 49925
model curriculum required under this section, the state board or 49926
the department shall first consult with parents of students in 49927
kindergarten through twelfth grade and with active Ohio classroom 49928
teachers, other school personnel, and administrators with 49929
expertise in the appropriate subject area. Whenever practicable, 49930

the state board and department shall consult with teachers 49931
recognized as outstanding in their fields. 49932

If the department contracts with more than one outside entity 49933
for the development of the achievement assessments required by 49934
this section, the department shall ensure the interchangeability 49935
of those assessments. 49936

(G) The fairness sensitivity review committee, established by 49937
rule of the state board of education, shall not allow any question 49938
on any achievement or diagnostic assessment developed under this 49939
section or any proficiency test prescribed by former section 49940
3301.0710 of the Revised Code, as it existed prior to September 49941
11, 2001, to include, be written to promote, or inquire as to 49942
individual moral or social values or beliefs. The decision of the 49943
committee shall be final. This section does not create a private 49944
cause of action. 49945

(H) Not later than forty-five days prior to the initial 49946
deadline established under division (A)(1) of this section and the 49947
deadline established under division (B) of this section, the 49948
superintendent of public instruction shall present the academic 49949
standards or model curricula, as applicable, to the respective 49950
committees of the house of representatives and senate that 49951
consider education legislation. 49952

(I) As used in this section: 49953

(1) "Coherence" means a reflection of the structure of the 49954
discipline being taught. 49955

(2) "Focus" means limiting the number of items included in a 49956
curriculum to allow for deeper exploration of the subject matter. 49957

(3) "Rigor" means more challenging and demanding when 49958
compared to international standards. 49959

(4) "Vertical articulation" means key academic concepts and 49960

skills associated with mastery in particular content areas should 49961
be articulated and reinforced in a developmentally appropriate 49962
manner at each grade level so that over time students acquire a 49963
depth of knowledge and understanding in the core academic 49964
disciplines. 49965

Sec. 3301.0710. The state board of education shall adopt 49966
rules establishing a statewide program to assess student 49967
achievement. The state board shall ensure that all assessments 49968
administered under the program are aligned with the academic 49969
standards and model curricula adopted by the state board and are 49970
created with input from Ohio parents, Ohio classroom teachers, 49971
Ohio school administrators, and other Ohio school personnel 49972
pursuant to section 3301.079 of the Revised Code. 49973

The assessment program shall be designed to ensure that 49974
students who receive a high school diploma demonstrate at least 49975
high school levels of achievement in English language arts, 49976
mathematics, science, and social studies, ~~and other skills~~ 49977
~~necessary in the twenty-first century.~~ 49978

(A)(1) The state board shall prescribe all of the following: 49979

(a) Two statewide achievement assessments, one each designed 49980
to measure the level of English language arts and mathematics 49981
skill expected at the end of third grade; 49982

(b) Two statewide achievement assessments, one each designed 49983
to measure the level of English language arts and mathematics 49984
skill expected at the end of fourth grade; 49985

(c) Four statewide achievement assessments, one each designed 49986
to measure the level of English language arts, mathematics, 49987
science, and social studies skill expected at the end of fifth 49988
grade; 49989

(d) Two statewide achievement assessments, one each designed 49990

to measure the level of English language arts and mathematics skill expected at the end of sixth grade;	49991 49992
(e) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of seventh grade;	49993 49994 49995
(f) Four statewide achievement assessments, one each designed to measure the level of English language arts, mathematics, science, and social studies skill expected at the end of eighth grade.	49996 49997 49998 49999
(2) The state board shall determine and designate at least three ranges of scores on each of the achievement assessments described in divisions (A)(1) and (B)(1) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:	50000 50001 50002 50003 50004 50005
(a) An advanced level of skill;	50006
(b) A proficient level of skill;	50007
(c) A limited level of skill.	50008
(B)(1) The assessments prescribed under division (B)(1) of this section shall collectively be known as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement assessments, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade. The state board shall designate a score in at least the range designated under division (A)(2)(b) of this section on each such assessment that shall be deemed to be a passing score on the assessment as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code until the assessment system prescribed by section 3301.0712 of the Revised Code is implemented in accordance with rules adopted by the state	50009 50010 50011 50012 50013 50014 50015 50016 50017 50018 50019 50020 50021

board under division ~~(E)~~(D) of that section. 50022

(2) The state board shall prescribe an assessment system in 50023
accordance with section 3301.0712 of the Revised Code that shall 50024
replace the Ohio graduation tests in the manner prescribed by 50025
rules adopted by the state board under division ~~(E)~~(D) of that 50026
section. 50027

(3) The state board may enter into a reciprocal agreement 50028
with the appropriate body or agency of any other state that has 50029
similar statewide achievement assessment requirements for 50030
receiving high school diplomas, under which any student who has 50031
met an achievement assessment requirement of one state is 50032
recognized as having met the similar requirement of the other 50033
state for purposes of receiving a high school diploma. For 50034
purposes of this section and sections 3301.0711 and 3313.61 of the 50035
Revised Code, any student enrolled in any public high school in 50036
this state who has met an achievement assessment requirement 50037
specified in a reciprocal agreement entered into under this 50038
division shall be deemed to have attained at least the applicable 50039
score designated under this division on each assessment required 50040
by division (B)(1) or (2) of this section that is specified in the 50041
agreement. 50042

(C) The superintendent of public instruction shall designate 50043
dates and times for the administration of the assessments 50044
prescribed by divisions (A) and (B) of this section. 50045

In prescribing administration dates pursuant to this 50046
division, the superintendent shall designate the dates in such a 50047
way as to allow a reasonable length of time between the 50048
administration of assessments prescribed under this section and 50049
any administration of the national assessment of educational 50050
progress given to students in the same grade level pursuant to 50051
section 3301.27 of the Revised Code or federal law. 50052

(D) The state board shall prescribe a practice version of 50053
each Ohio graduation test described in division (B)(1) of this 50054
section that is of comparable length to the actual test. 50055

(E) Any committee established by the department of education 50056
for the purpose of making recommendations to the state board 50057
regarding the state board's designation of scores on the 50058
assessments described by this section shall inform the state board 50059
of the probable percentage of students who would score in each of 50060
the ranges established under division (A)(2) of this section on 50061
the assessments if the committee's recommendations are adopted by 50062
the state board. To the extent possible, these percentages shall 50063
be disaggregated by gender, major racial and ethnic groups, 50064
limited English proficient students, economically disadvantaged 50065
students, students with disabilities, and migrant students. 50066

If the state board intends to make any change to the 50067
committee's recommendations, the state board shall explain the 50068
intended change to the Ohio accountability task force established 50069
by section 3302.021 of the Revised Code. The task force shall 50070
recommend whether the state board should proceed to adopt the 50071
intended change. Nothing in this division shall require the state 50072
board to designate assessment scores based upon the 50073
recommendations of the task force. 50074

Sec. 3301.0711. (A) The department of education shall: 50075

(1) Annually furnish to, grade, and score all assessments 50076
required by divisions (A)(1) and (B)(1) of section 3301.0710 of 50077
the Revised Code to be administered by city, local, exempted 50078
village, and joint vocational school districts, except that each 50079
district shall score any assessment administered pursuant to 50080
division (B)(10) of this section. Each assessment so furnished 50081
shall include the data verification code of the student to whom 50082
the assessment will be administered, as assigned pursuant to 50083

division (D)(2) of section 3301.0714 of the Revised Code. In 50084
furnishing the practice versions of Ohio graduation tests 50085
prescribed by division (D) of section 3301.0710 of the Revised 50086
Code, the department shall make the tests available on its web 50087
site for reproduction by districts. In awarding contracts for 50088
grading assessments, the department shall give preference to 50089
Ohio-based entities employing Ohio residents. 50090

(2) Adopt rules for the ethical use of assessments and 50091
prescribing the manner in which the assessments prescribed by 50092
section 3301.0710 of the Revised Code shall be administered to 50093
students. 50094

(B) Except as provided in divisions (C) and (J) of this 50095
section, the board of education of each city, local, and exempted 50096
village school district shall, in accordance with rules adopted 50097
under division (A) of this section: 50098

(1) Administer the English language arts assessments 50099
prescribed under division (A)(1)(a) of section 3301.0710 of the 50100
Revised Code twice annually to all students in the third grade who 50101
have not attained the score designated for that assessment under 50102
division (A)(2)(b) of section 3301.0710 of the Revised Code. 50103

(2) Administer the mathematics assessment prescribed under 50104
division (A)(1)(a) of section 3301.0710 of the Revised Code at 50105
least once annually to all students in the third grade. 50106

(3) Administer the assessments prescribed under division 50107
(A)(1)(b) of section 3301.0710 of the Revised Code at least once 50108
annually to all students in the fourth grade. 50109

(4) Administer the assessments prescribed under division 50110
(A)(1)(c) of section 3301.0710 of the Revised Code at least once 50111
annually to all students in the fifth grade. 50112

(5) Administer the assessments prescribed under division 50113
(A)(1)(d) of section 3301.0710 of the Revised Code at least once 50114

annually to all students in the sixth grade. 50115

(6) Administer the assessments prescribed under division 50116
(A)(1)(e) of section 3301.0710 of the Revised Code at least once 50117
annually to all students in the seventh grade. 50118

(7) Administer the assessments prescribed under division 50119
(A)(1)(f) of section 3301.0710 of the Revised Code at least once 50120
annually to all students in the eighth grade. 50121

(8) Except as provided in division (B)(9) of this section, 50122
administer any assessment prescribed under division (B)(1) of 50123
section 3301.0710 of the Revised Code as follows: 50124

(a) At least once annually to all tenth grade students and at 50125
least twice annually to all students in eleventh or twelfth grade 50126
who have not yet attained the score on that assessment designated 50127
under that division; 50128

(b) To any person who has successfully completed the 50129
curriculum in any high school or the individualized education 50130
program developed for the person by any high school pursuant to 50131
section 3323.08 of the Revised Code but has not received a high 50132
school diploma and who requests to take such assessment, at any 50133
time such assessment is administered in the district. 50134

(9) In lieu of the board of education of any city, local, or 50135
exempted village school district in which the student is also 50136
enrolled, the board of a joint vocational school district shall 50137
administer any assessment prescribed under division (B)(1) of 50138
section 3301.0710 of the Revised Code at least twice annually to 50139
any student enrolled in the joint vocational school district who 50140
has not yet attained the score on that assessment designated under 50141
that division. A board of a joint vocational school district may 50142
also administer such an assessment to any student described in 50143
division (B)(8)(b) of this section. 50144

(10) If the district has been declared to be under an 50145

academic watch or in a state of academic emergency pursuant to 50146
section 3302.03 of the Revised Code or has a three-year average 50147
graduation rate of not more than seventy-five per cent, administer 50148
each assessment prescribed by division (D) of section 3301.0710 of 50149
the Revised Code in September to all ninth grade students, 50150
beginning in the school year that starts July 1, 2005. 50151

Except as provided in section 3313.614 of the Revised Code 50152
for administration of an assessment to a person who has fulfilled 50153
the curriculum requirement for a high school diploma but has not 50154
passed one or more of the required assessments, the assessments 50155
prescribed under division (B)(1) of section 3301.0710 of the 50156
Revised Code and the practice assessments prescribed under 50157
division (D) of that section and required to be administered under 50158
divisions (B)(8), (9), and (10) of this section shall not be 50159
administered after the assessment system prescribed by division 50160
(B)(2) of section 3301.0710 and section 3301.0712 of the Revised 50161
Code is implemented under rule of the state board adopted under 50162
division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code. 50163

(11) Administer the assessments prescribed by division (B)(2) 50164
of section 3301.0710 and section 3301.0712 of the Revised Code in 50165
accordance with the timeline and plan for implementation of those 50166
assessments prescribed by rule of the state board adopted under 50167
division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code. 50168

(C)(1)(a) ~~Any~~ In the case of a student receiving special 50169
education services under Chapter 3323. of the Revised Code, the 50170
individualized education program developed for the student under 50171
that chapter shall specify the manner in which the student will 50172
participate in the assessments administered under this section. 50173
The individualized education program may be excused excuse the 50174
student from taking any particular assessment required to be 50175
administered under this section if ~~the individualized education~~ 50176
~~program developed for the student pursuant to section 3323.08 of~~ 50177

~~the Revised Code excuses the student from taking that assessment~~ 50178
~~and it~~ instead specifies an alternate assessment method approved 50179
by the department of education as conforming to requirements of 50180
federal law for receipt of federal funds for disadvantaged pupils. 50181
To the extent possible, the individualized education program shall 50182
not excuse the student from taking an assessment unless no 50183
reasonable accommodation can be made to enable the student to take 50184
the assessment. 50185

(b) Any alternate assessment approved by the department for a 50186
student under this division shall produce measurable results 50187
comparable to those produced by the assessment it replaces in 50188
order to allow for the student's results to be included in the 50189
data compiled for a school district or building under section 50190
3302.03 of the Revised Code. 50191

(c) Any student enrolled in a chartered nonpublic school who 50192
has been identified, based on an evaluation conducted in 50193
accordance with section 3323.03 of the Revised Code or section 504 50194
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 50195
794, as amended, as a child with a disability shall be excused 50196
from taking any particular assessment required to be administered 50197
under this section if a plan developed for the student pursuant to 50198
rules adopted by the state board excuses the student from taking 50199
that assessment. In the case of any student so excused from taking 50200
an assessment, the chartered nonpublic school shall not prohibit 50201
the student from taking the assessment. 50202

(2) A district board may, for medical reasons or other good 50203
cause, excuse a student from taking an assessment administered 50204
under this section on the date scheduled, but that assessment 50205
shall be administered to the excused student not later than nine 50206
days following the scheduled date. The district board shall 50207
annually report the number of students who have not taken one or 50208
more of the assessments required by this section to the state 50209

board of education not later than the thirtieth day of June. 50210

(3) As used in this division, "limited English proficient 50211
student" has the same meaning as in 20 U.S.C. 7801. 50212

No school district board shall excuse any limited English 50213
proficient student from taking any particular assessment required 50214
to be administered under this section, except that any limited 50215
English proficient student who has been enrolled in United States 50216
schools for less than one full school year shall not be required 50217
to take any reading, writing, or English language arts assessment. 50218
However, no board shall prohibit a limited English proficient 50219
student who is not required to take an assessment under this 50220
division from taking the assessment. A board may permit any 50221
limited English proficient student to take an assessment required 50222
to be administered under this section with appropriate 50223
accommodations, as determined by the department. For each limited 50224
English proficient student, each school district shall annually 50225
assess that student's progress in learning English, in accordance 50226
with procedures approved by the department. 50227

The governing authority of a chartered nonpublic school may 50228
excuse a limited English proficient student from taking any 50229
assessment administered under this section. However, no governing 50230
authority shall prohibit a limited English proficient student from 50231
taking the assessment. 50232

(D)(1) In the school year next succeeding the school year in 50233
which the assessments prescribed by division (A)(1) or (B)(1) of 50234
section 3301.0710 of the Revised Code or former division (A)(1), 50235
(A)(2), or (B) of section 3301.0710 of the Revised Code as it 50236
existed prior to September 11, 2001, are administered to any 50237
student, the board of education of any school district in which 50238
the student is enrolled in that year shall provide to the student 50239
intervention services commensurate with the student's performance, 50240
including any intensive intervention required under section 50241

3313.608 of the Revised Code, in any skill in which the student 50242
failed to demonstrate at least a score at the proficient level on 50243
the assessment. 50244

(2) Following any administration of the assessments 50245
prescribed by division (D) of section 3301.0710 of the Revised 50246
Code to ninth grade students, each school district that has a 50247
three-year average graduation rate of not more than seventy-five 50248
per cent shall determine for each high school in the district 50249
whether the school shall be required to provide intervention 50250
services to any students who took the assessments. In determining 50251
which high schools shall provide intervention services based on 50252
the resources available, the district shall consider each school's 50253
graduation rate and scores on the practice assessments. The 50254
district also shall consider the scores received by ninth grade 50255
students on the English language arts and mathematics assessments 50256
prescribed under division (A)(1)(f) of section 3301.0710 of the 50257
Revised Code in the eighth grade in determining which high schools 50258
shall provide intervention services. 50259

Each high school selected to provide intervention services 50260
under this division shall provide intervention services to any 50261
student whose results indicate that the student is failing to make 50262
satisfactory progress toward being able to attain scores at the 50263
proficient level on the Ohio graduation tests. Intervention 50264
services shall be provided in any skill in which a student 50265
demonstrates unsatisfactory progress and shall be commensurate 50266
with the student's performance. Schools shall provide the 50267
intervention services prior to the end of the school year, during 50268
the summer following the ninth grade, in the next succeeding 50269
school year, or at any combination of those times. 50270

(E) Except as provided in section 3313.608 of the Revised 50271
Code and division (M) of this section, no school district board of 50272
education shall utilize any student's failure to attain a 50273

specified score on an assessment administered under this section 50274
as a factor in any decision to deny the student promotion to a 50275
higher grade level. However, a district board may choose not to 50276
promote to the next grade level any student who does not take an 50277
assessment administered under this section or make up an 50278
assessment as provided by division (C)(2) of this section and who 50279
is not exempt from the requirement to take the assessment under 50280
division (C)(3) of this section. 50281

(F) No person shall be charged a fee for taking any 50282
assessment administered under this section. 50283

(G)(1) Each school district board shall designate one 50284
location for the collection of assessments administered in the 50285
spring under division (B)(1) of this section and those 50286
administered under divisions (B)(2) to (7) of this section. Each 50287
district board shall submit the assessments to the entity with 50288
which the department contracts for the scoring of the assessments 50289
as follows: 50290

(a) If the district's total enrollment in grades kindergarten 50291
through twelve during the first full school week of October was 50292
less than two thousand five hundred, not later than the Friday 50293
after all of the assessments have been administered; 50294

(b) If the district's total enrollment in grades kindergarten 50295
through twelve during the first full school week of October was 50296
two thousand five hundred or more, but less than seven thousand, 50297
not later than the Monday after all of the assessments have been 50298
administered; 50299

(c) If the district's total enrollment in grades kindergarten 50300
through twelve during the first full school week of October was 50301
seven thousand or more, not later than the Tuesday after all of 50302
the assessments have been administered. 50303

However, any assessment that a student takes during the 50304

make-up period described in division (C)(2) of this section shall 50305
be submitted not later than the Friday following the day the 50306
student takes the assessment. 50307

(2) The department or an entity with which the department 50308
contracts for the scoring of the assessment shall send to each 50309
school district board a list of the individual scores of all 50310
persons taking an assessment prescribed by division (A)(1) or 50311
(B)(1) of section 3301.0710 of the Revised Code within sixty days 50312
after its administration, but in no case shall the scores be 50313
returned later than the fifteenth day of June following the 50314
administration. For assessments administered under this section by 50315
a joint vocational school district, the department or entity shall 50316
also send to each city, local, or exempted village school district 50317
a list of the individual scores of any students of such city, 50318
local, or exempted village school district who are attending 50319
school in the joint vocational school district. 50320

(H) Individual scores on any assessments administered under 50321
this section shall be released by a district board only in 50322
accordance with section 3319.321 of the Revised Code and the rules 50323
adopted under division (A) of this section. No district board or 50324
its employees shall utilize individual or aggregate results in any 50325
manner that conflicts with rules for the ethical use of 50326
assessments adopted pursuant to division (A) of this section. 50327

(I) Except as provided in division (G) of this section, the 50328
department or an entity with which the department contracts for 50329
the scoring of the assessment shall not release any individual 50330
scores on any assessment administered under this section. The 50331
state board of education shall adopt rules to ensure the 50332
protection of student confidentiality at all times. The rules may 50333
require the use of the data verification codes assigned to 50334
students pursuant to division (D)(2) of section 3301.0714 of the 50335
Revised Code to protect the confidentiality of student scores. 50336

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any assessment prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any assessment of students pursuant to such an agreement shall be in lieu of any assessment of such students or persons pursuant to this section.

(K)(1) As a condition of compliance with section 3313.612 of the Revised Code, each chartered nonpublic school that educates students in grades nine through twelve shall administer the assessments prescribed by divisions (B)(1) and (2) of section 3301.0710 of the Revised Code. Any chartered nonpublic school may participate in the assessment program by administering any of the assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The chief administrator of the school shall specify which assessments the school will administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which assessments are administered and shall include a pledge that the nonpublic school will administer the specified assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each chartered nonpublic school that participates under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code. Each superintendent shall administer the assessments in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least

the proficient range on the mathematics assessment described by 50400
division (A)(1)(a) of section 3301.0710 of the Revised Code or on 50401
an assessment described by division (A)(1)(b), (c), (d), (e), or 50402
(f) of section 3301.0710 of the Revised Code as a factor in 50403
retaining that student in the current grade level. 50404

(N)(1) In the manner specified in divisions (N)(3) and (4) of 50405
this section, the assessments required by division (A)(1) of 50406
section 3301.0710 of the Revised Code shall become public records 50407
pursuant to section 149.43 of the Revised Code on the first day of 50408
July following the school year that the assessments were 50409
administered. 50410

(2) The department may field test proposed questions with 50411
samples of students to determine the validity, reliability, or 50412
appropriateness of questions for possible inclusion in a future 50413
year's assessment. The department also may use anchor questions on 50414
assessments to ensure that different versions of the same 50415
assessment are of comparable difficulty. 50416

Field test questions and anchor questions shall not be 50417
considered in computing scores for individual students. Field test 50418
questions and anchor questions may be included as part of the 50419
administration of any assessment required by division (A)(1) or 50420
(B)(1) of section 3301.0710 of the Revised Code. 50421

(3) Any field test question or anchor question administered 50422
under division (N)(2) of this section shall not be a public 50423
record. Such field test questions and anchor questions shall be 50424
redacted from any assessments which are released as a public 50425
record pursuant to division (N)(1) of this section. 50426

(4) This division applies to the assessments prescribed by 50427
division (A) of section 3301.0710 of the Revised Code. 50428

(a) The first administration of each assessment, as specified 50429
in former section 3301.0712 of the Revised Code, shall be a public 50430

record. 50431

(b) For subsequent administrations of each assessment prior to the 2011-2012 school year, not less than forty per cent of the questions on the assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future assessment and those questions shall not be public records and shall be redacted from the assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the statewide academic standard adopted by the state board of education under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The preceding sentence does not apply to field test questions that are redacted under division (N)(3) of this section. 50432
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(c) The administrations of each assessment in the 2011-2012 school year and later shall not be a public record. 50446
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(5) Each assessment prescribed by division (B)(1) of section 3301.0710 of the Revised Code shall not be a public record. 50448
50449

(0) As used in this section: 50450

(1) "Three-year average" means the average of the most recent consecutive three school years of data. 50451
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(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country. 50453
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(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for 50458
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reasons other than dropout are subtracted from the calculation. If 50462
a student who was a dropout in any previous year returns to the 50463
same school district, that student shall be entered into the 50464
calculation as if the student had entered ninth grade four years 50465
before the graduation year of the graduating class that the 50466
student joins. 50467

Sec. 3301.0712. (A) The state board of education, the 50468
superintendent of public instruction, and the chancellor of the 50469
Ohio board of regents shall develop a system of college and work 50470
ready assessments as described in divisions (B)(1) ~~to (3)~~ and (2) 50471
of this section to assess whether each student upon graduating 50472
from high school is ready to enter college or the workforce. The 50473
system shall replace the Ohio graduation tests prescribed in 50474
division (B)(1) of section 3301.0710 of the Revised Code as a 50475
measure of student academic performance and a prerequisite for 50476
eligibility for a high school diploma in the manner prescribed by 50477
rule of the state board adopted under division ~~(E)~~(D) of this 50478
section. 50479

(B) The college and work ready assessment system shall 50480
consist of the following: 50481

(1) A nationally standardized assessment that measures 50482
~~competencies in science, mathematics, and English language arts~~ 50483
college and career readiness selected jointly by the state 50484
superintendent and the chancellor. 50485

(2) A series of end-of-course examinations in the areas of 50486
science, mathematics, English language arts, and social studies 50487
selected jointly by the state superintendent and the chancellor in 50488
consultation with faculty in the appropriate subject areas at 50489
institutions of higher education of the university system of Ohio. 50490
For each subject area, the state superintendent and chancellor 50491
shall select multiple assessments that school districts, public 50492

schools, and chartered nonpublic schools may use as end-of-course 50493
examinations. Those assessments shall include nationally 50494
recognized subject area assessments, such as advanced placement 50495
examinations, SAT subject tests, international baccalaureate 50496
examinations, and other assessments of college and work readiness. 50497

~~(3) A senior project completed by a student or a group of~~ 50498
~~students. The purpose of the senior project is to assess the~~ 50499
~~student's:~~ 50500

~~(a) Mastery of core knowledge in a subject area chosen by the~~ 50501
~~student;~~ 50502

~~(b) Written and verbal communication skills;~~ 50503

~~(c) Critical thinking and problem-solving skills;~~ 50504

~~(d) Real world and interdisciplinary learning;~~ 50505

~~(e) Creative and innovative thinking;~~ 50506

~~(f) Acquired technology, information, and media skills;~~ 50507

~~(g) Personal management skills such as self direction, time~~ 50508
~~management, work ethic, enthusiasm, and the desire to produce a~~ 50509
~~high quality product.~~ 50510

~~The state superintendent and the chancellor jointly shall~~ 50511
~~develop standards for the senior project for students~~ 50512
~~participating in dual enrollment programs.~~ 50513

~~(C)(1) The state superintendent and the chancellor jointly~~ 50514
~~shall designate the scoring rubrics and the required overall~~ 50515
~~composite score for the assessment system to assess whether each~~ 50516
~~student is college or work ready.~~ 50517

~~(2) Each senior project shall be judged by the student's high~~ 50518
~~school in accordance with rubrics designated by the state~~ 50519
~~superintendent and the chancellor.~~ 50520

~~(D) Not later than thirty days after the state board adopts~~ 50521

the model curricula required by division (B) of section 3301.079 50522
of the Revised Code, the state board shall convene a group of 50523
national experts, state experts, and local practitioners to 50524
provide advice, guidance, and recommendations for the alignment of 50525
standards and model curricula to the assessments and in the design 50526
of the end-of-course examinations ~~and scoring rubrics~~ prescribed 50527
by this section. 50528

~~(E)~~(D) Upon completion of the development of the assessment 50529
system, the state board shall adopt rules prescribing all of the 50530
following: 50531

(1) A timeline and plan for implementation of the assessment 50532
system, including a phased implementation if the state board 50533
determines such a phase-in is warranted; 50534

(2) The date after which a person entering ninth grade shall 50535
~~attain at least the composite score for~~ meet the requirements of 50536
the entire assessment system as a prerequisite for a high school 50537
diploma under ~~sections~~ section 3313.61, 3313.612, or 3325.08 of 50538
the Revised Code; 50539

(3) The date after which a person shall ~~attain at least the~~ 50540
~~composite score for~~ meet the requirements of the entire assessment 50541
system as a prerequisite for a diploma of adult education under 50542
section 3313.611 of the Revised Code; 50543

(4) Whether and the extent to which a person may be excused 50544
from a social studies end-of-course examination under division (H) 50545
of section 3313.61 and division (B)(2) of section 3313.612 of the 50546
Revised Code; 50547

(5) The date after which a person who has fulfilled the 50548
curriculum requirement for a diploma but has not passed one or 50549
more of the required assessments at the time the person fulfilled 50550
the curriculum requirement shall ~~attain at least the composite~~ 50551
~~score for~~ meet the requirements of the entire assessment system as 50552

a prerequisite for a high school diploma under division (B) of 50553
section 3313.614 of the Revised Code; 50554

(6) The extent to which the assessment system applies to 50555
students enrolled in a dropout recovery and prevention program for 50556
purposes of division (F) of section 3313.603 and section 3314.36 50557
of the Revised Code. 50558

No rule adopted under this division shall be effective 50559
earlier than one year after the date the rule is filed in final 50560
form pursuant to Chapter 119. of the Revised Code. 50561

~~(F)~~(E) Not later than forty-five days prior to the state 50562
board's adoption of a resolution directing the department of 50563
education to file the rules prescribed by division ~~(E)~~(D) of this 50564
section in final form under section 119.04 of the Revised Code, 50565
the superintendent of public instruction shall present the 50566
assessment system developed under this section to the respective 50567
committees of the house of representatives and senate that 50568
consider education legislation. 50569

Sec. 3301.0714. (A) The state board of education shall adopt 50570
rules for a statewide education management information system. The 50571
rules shall require the state board to establish guidelines for 50572
the establishment and maintenance of the system in accordance with 50573
this section and the rules adopted under this section. The 50574
guidelines shall include: 50575

(1) Standards identifying and defining the types of data in 50576
the system in accordance with divisions (B) and (C) of this 50577
section; 50578

(2) Procedures for annually collecting and reporting the data 50579
to the state board in accordance with division (D) of this 50580
section; 50581

(3) Procedures for annually compiling the data in accordance 50582

with division (G) of this section; 50583

(4) Procedures for annually reporting the data to the public 50584
in accordance with division (H) of this section. 50585

(B) The guidelines adopted under this section shall require 50586
the data maintained in the education management information system 50587
to include at least the following: 50588

(1) Student participation and performance data, for each 50589
grade in each school district as a whole and for each grade in 50590
each school building in each school district, that includes: 50591

(a) The numbers of students receiving each category of 50592
instructional service offered by the school district, such as 50593
regular education instruction, vocational education instruction, 50594
specialized instruction programs or enrichment instruction that is 50595
part of the educational curriculum, instruction for gifted 50596
students, instruction for students with disabilities, and remedial 50597
instruction. The guidelines shall require instructional services 50598
under this division to be divided into discrete categories if an 50599
instructional service is limited to a specific subject, a specific 50600
type of student, or both, such as regular instructional services 50601
in mathematics, remedial reading instructional services, 50602
instructional services specifically for students gifted in 50603
mathematics or some other subject area, or instructional services 50604
for students with a specific type of disability. The categories of 50605
instructional services required by the guidelines under this 50606
division shall be the same as the categories of instructional 50607
services used in determining cost units pursuant to division 50608
(C)(3) of this section. 50609

(b) The numbers of students receiving support or 50610
extracurricular services for each of the support services or 50611
extracurricular programs offered by the school district, such as 50612
counseling services, health services, and extracurricular sports 50613

and fine arts programs. The categories of services required by the	50614
guidelines under this division shall be the same as the categories	50615
of services used in determining cost units pursuant to division	50616
(C)(4)(a) of this section.	50617
(c) Average student grades in each subject in grades nine	50618
through twelve;	50619
(d) Academic achievement levels as assessed under sections	50620
3301.0710, 3301.0711, and 3301.0712 of the Revised Code;	50621
(e) The number of students designated as having a disabling	50622
condition pursuant to division (C)(1) of section 3301.0711 of the	50623
Revised Code;	50624
(f) The numbers of students reported to the state board	50625
pursuant to division (C)(2) of section 3301.0711 of the Revised	50626
Code;	50627
(g) Attendance rates and the average daily attendance for the	50628
year. For purposes of this division, a student shall be counted as	50629
present for any field trip that is approved by the school	50630
administration.	50631
(h) Expulsion rates;	50632
(i) Suspension rates;	50633
(j) Dropout rates;	50634
(k) Rates of retention in grade;	50635
(l) For pupils in grades nine through twelve, the average	50636
number of carnegie units, as calculated in accordance with state	50637
board of education rules;	50638
(m) Graduation rates, to be calculated in a manner specified	50639
by the department of education that reflects the rate at which	50640
students who were in the ninth grade three years prior to the	50641
current year complete school and that is consistent with	50642
nationally accepted reporting requirements;	50643

(n) Results of diagnostic assessments administered to 50644
kindergarten students as required under section 3301.0715 of the 50645
Revised Code to permit a comparison of the academic readiness of 50646
kindergarten students. However, no district shall be required to 50647
report to the department the results of any diagnostic assessment 50648
administered to a kindergarten student if the parent of that 50649
student requests the district not to report those results. 50650

(2) Personnel and classroom enrollment data for each school 50651
district, including: 50652

(a) The total numbers of licensed employees and nonlicensed 50653
employees and the numbers of full-time equivalent licensed 50654
employees and nonlicensed employees providing each category of 50655
instructional service, instructional support service, and 50656
administrative support service used pursuant to division (C)(3) of 50657
this section. The guidelines adopted under this section shall 50658
require these categories of data to be maintained for the school 50659
district as a whole and, wherever applicable, for each grade in 50660
the school district as a whole, for each school building as a 50661
whole, and for each grade in each school building. 50662

(b) The total number of employees and the number of full-time 50663
equivalent employees providing each category of service used 50664
pursuant to divisions (C)(4)(a) and (b) of this section, and the 50665
total numbers of licensed employees and nonlicensed employees and 50666
the numbers of full-time equivalent licensed employees and 50667
nonlicensed employees providing each category used pursuant to 50668
division (C)(4)(c) of this section. The guidelines adopted under 50669
this section shall require these categories of data to be 50670
maintained for the school district as a whole and, wherever 50671
applicable, for each grade in the school district as a whole, for 50672
each school building as a whole, and for each grade in each school 50673
building. 50674

(c) The total number of regular classroom teachers teaching 50675

classes of regular education and the average number of pupils 50676
enrolled in each such class, in each of grades kindergarten 50677
through five in the district as a whole and in each school 50678
building in the school district. 50679

(d) The number of lead teachers employed by each school 50680
district and each school building. 50681

(3)(a) Student demographic data for each school district, 50682
including information regarding the gender ratio of the school 50683
district's pupils, the racial make-up of the school district's 50684
pupils, the number of limited English proficient students in the 50685
district, and an appropriate measure of the number of the school 50686
district's pupils who reside in economically disadvantaged 50687
households. The demographic data shall be collected in a manner to 50688
allow correlation with data collected under division (B)(1) of 50689
this section. Categories for data collected pursuant to division 50690
(B)(3) of this section shall conform, where appropriate, to 50691
standard practices of agencies of the federal government. 50692

(b) With respect to each student entering kindergarten, 50693
whether the student previously participated in a public preschool 50694
program, a private preschool program, or a head start program, and 50695
the number of years the student participated in each of these 50696
programs. 50697

(4) Any data required to be collected pursuant to federal 50698
law. 50699

(C) The education management information system shall include 50700
cost accounting data for each district as a whole and for each 50701
school building in each school district. The guidelines adopted 50702
under this section shall require the cost data for each school 50703
district to be maintained in a system of mutually exclusive cost 50704
units and shall require all of the costs of each school district 50705
to be divided among the cost units. The guidelines shall require 50706

the system of mutually exclusive cost units to include at least 50707
the following: 50708

(1) Administrative costs for the school district as a whole. 50709
The guidelines shall require the cost units under this division 50710
(C)(1) to be designed so that each of them may be compiled and 50711
reported in terms of average expenditure per pupil in formula ADM 50712
in the school district, as determined pursuant to section 3317.03 50713
of the Revised Code. 50714

(2) Administrative costs for each school building in the 50715
school district. The guidelines shall require the cost units under 50716
this division (C)(2) to be designed so that each of them may be 50717
compiled and reported in terms of average expenditure per 50718
full-time equivalent pupil receiving instructional or support 50719
services in each building. 50720

(3) Instructional services costs for each category of 50721
instructional service provided directly to students and required 50722
by guidelines adopted pursuant to division (B)(1)(a) of this 50723
section. The guidelines shall require the cost units under 50724
division (C)(3) of this section to be designed so that each of 50725
them may be compiled and reported in terms of average expenditure 50726
per pupil receiving the service in the school district as a whole 50727
and average expenditure per pupil receiving the service in each 50728
building in the school district and in terms of a total cost for 50729
each category of service and, as a breakdown of the total cost, a 50730
cost for each of the following components: 50731

(a) The cost of each instructional services category required 50732
by guidelines adopted under division (B)(1)(a) of this section 50733
that is provided directly to students by a classroom teacher; 50734

(b) The cost of the instructional support services, such as 50735
services provided by a speech-language pathologist, classroom 50736
aide, multimedia aide, or librarian, provided directly to students 50737

in conjunction with each instructional services category; 50738

(c) The cost of the administrative support services related 50739
to each instructional services category, such as the cost of 50740
personnel that develop the curriculum for the instructional 50741
services category and the cost of personnel supervising or 50742
coordinating the delivery of the instructional services category. 50743

(4) Support or extracurricular services costs for each 50744
category of service directly provided to students and required by 50745
guidelines adopted pursuant to division (B)(1)(b) of this section. 50746
The guidelines shall require the cost units under division (C)(4) 50747
of this section to be designed so that each of them may be 50748
compiled and reported in terms of average expenditure per pupil 50749
receiving the service in the school district as a whole and 50750
average expenditure per pupil receiving the service in each 50751
building in the school district and in terms of a total cost for 50752
each category of service and, as a breakdown of the total cost, a 50753
cost for each of the following components: 50754

(a) The cost of each support or extracurricular services 50755
category required by guidelines adopted under division (B)(1)(b) 50756
of this section that is provided directly to students by a 50757
licensed employee, such as services provided by a guidance 50758
counselor or any services provided by a licensed employee under a 50759
supplemental contract; 50760

(b) The cost of each such services category provided directly 50761
to students by a nonlicensed employee, such as janitorial 50762
services, cafeteria services, or services of a sports trainer; 50763

(c) The cost of the administrative services related to each 50764
services category in division (C)(4)(a) or (b) of this section, 50765
such as the cost of any licensed or nonlicensed employees that 50766
develop, supervise, coordinate, or otherwise are involved in 50767
administering or aiding the delivery of each services category. 50768

(D)(1) The guidelines adopted under this section shall 50769
require school districts to collect information about individual 50770
students, staff members, or both in connection with any data 50771
required by division (B) or (C) of this section or other reporting 50772
requirements established in the Revised Code. The guidelines may 50773
also require school districts to report information about 50774
individual staff members in connection with any data required by 50775
division (B) or (C) of this section or other reporting 50776
requirements established in the Revised Code. The guidelines shall 50777
not authorize school districts to request social security numbers 50778
of individual students. The guidelines shall prohibit the 50779
reporting under this section of a student's name, address, and 50780
social security number to the state board of education or the 50781
department of education. The guidelines shall also prohibit the 50782
reporting under this section of any personally identifiable 50783
information about any student, except for the purpose of assigning 50784
the data verification code required by division (D)(2) of this 50785
section, to any other person unless such person is employed by the 50786
school district or the information technology center operated 50787
under section 3301.075 of the Revised Code and is authorized by 50788
the district or technology center to have access to such 50789
information or is employed by an entity with which the department 50790
contracts for the scoring of assessments administered under 50791
section 3301.0711 of the Revised Code. The guidelines may require 50792
school districts to provide the social security numbers of 50793
individual staff members. 50794

(2) The guidelines shall provide for each school district or 50795
community school to assign a data verification code that is unique 50796
on a statewide basis over time to each student whose initial Ohio 50797
enrollment is in that district or school and to report all 50798
required individual student data for that student utilizing such 50799
code. The guidelines shall also provide for assigning data 50800
verification codes to all students enrolled in districts or 50801

community schools on the effective date of the guidelines 50802
established under this section. 50803

Individual student data shall be reported to the department 50804
through the information technology centers utilizing the code but, 50805
except as provided in sections 3310.11, 3310.42, 3313.978, 50806
3310.63, and 3317.20 of the Revised Code, at no time shall the 50807
state board or the department have access to information that 50808
would enable any data verification code to be matched to 50809
personally identifiable student data. 50810

Each school district shall ensure that the data verification 50811
code is included in the student's records reported to any 50812
subsequent school district, community school, or state institution 50813
of higher education, as defined in section 3345.011 of the Revised 50814
Code, in which the student enrolls. Any such subsequent district 50815
or school shall utilize the same identifier in its reporting of 50816
data under this section. 50817

The director of health shall request and receive, pursuant to 50818
sections 3301.0723 and 3701.62 of the Revised Code, a data 50819
verification code for a child who is receiving services under 50820
division (A)(2) of section 3701.61 of the Revised Code. 50821

(E) The guidelines adopted under this section may require 50822
school districts to collect and report data, information, or 50823
reports other than that described in divisions (A), (B), and (C) 50824
of this section for the purpose of complying with other reporting 50825
requirements established in the Revised Code. The other data, 50826
information, or reports may be maintained in the education 50827
management information system but are not required to be compiled 50828
as part of the profile formats required under division (G) of this 50829
section or the annual statewide report required under division (H) 50830
of this section. 50831

(F) Beginning with the school year that begins July 1, 1991, 50832

the board of education of each school district shall annually 50833
collect and report to the state board, in accordance with the 50834
guidelines established by the board, the data required pursuant to 50835
this section. A school district may collect and report these data 50836
notwithstanding section 2151.357 or 3319.321 of the Revised Code. 50837

(G) The state board shall, in accordance with the procedures 50838
it adopts, annually compile the data reported by each school 50839
district pursuant to division (D) of this section. The state board 50840
shall design formats for profiling each school district as a whole 50841
and each school building within each district and shall compile 50842
the data in accordance with these formats. These profile formats 50843
shall: 50844

(1) Include all of the data gathered under this section in a 50845
manner that facilitates comparison among school districts and 50846
among school buildings within each school district; 50847

(2) Present the data on academic achievement levels as 50848
assessed by the testing of student achievement maintained pursuant 50849
to division (B)(1)(d) of this section. 50850

(H)(1) The state board shall, in accordance with the 50851
procedures it adopts, annually prepare a statewide report for all 50852
school districts and the general public that includes the profile 50853
of each of the school districts developed pursuant to division (G) 50854
of this section. Copies of the report shall be sent to each school 50855
district. 50856

(2) The state board shall, in accordance with the procedures 50857
it adopts, annually prepare an individual report for each school 50858
district and the general public that includes the profiles of each 50859
of the school buildings in that school district developed pursuant 50860
to division (G) of this section. Copies of the report shall be 50861
sent to the superintendent of the district and to each member of 50862
the district board of education. 50863

(3) Copies of the reports received from the state board under 50864
divisions (H)(1) and (2) of this section shall be made available 50865
to the general public at each school district's offices. Each 50866
district board of education shall make copies of each report 50867
available to any person upon request and payment of a reasonable 50868
fee for the cost of reproducing the report. The board shall 50869
annually publish in a newspaper of general circulation in the 50870
school district, at least twice during the two weeks prior to the 50871
week in which the reports will first be available, a notice 50872
containing the address where the reports are available and the 50873
date on which the reports will be available. 50874

(I) Any data that is collected or maintained pursuant to this 50875
section and that identifies an individual pupil is not a public 50876
record for the purposes of section 149.43 of the Revised Code. 50877

(J) As used in this section: 50878

(1) "School district" means any city, local, exempted 50879
village, or joint vocational school district and, in accordance 50880
with section 3314.17 of the Revised Code, any community school. As 50881
used in division (L) of this section, "school district" also 50882
includes any educational service center or other educational 50883
entity required to submit data using the system established under 50884
this section. 50885

(2) "Cost" means any expenditure for operating expenses made 50886
by a school district excluding any expenditures for debt 50887
retirement except for payments made to any commercial lending 50888
institution for any loan approved pursuant to section 3313.483 of 50889
the Revised Code. 50890

(K) Any person who removes data from the information system 50891
established under this section for the purpose of releasing it to 50892
any person not entitled under law to have access to such 50893
information is subject to section 2913.42 of the Revised Code 50894

prohibiting tampering with data. 50895

(L)(1) In accordance with division (L)(2) of this section and 50896
the rules adopted under division (L)(10) of this section, the 50897
department of education may sanction any school district that 50898
reports incomplete or inaccurate data, reports data that does not 50899
conform to data requirements and descriptions published by the 50900
department, fails to report data in a timely manner, or otherwise 50901
does not make a good faith effort to report data as required by 50902
this section. 50903

(2) If the department decides to sanction a school district 50904
under this division, the department shall take the following 50905
sequential actions: 50906

(a) Notify the district in writing that the department has 50907
determined that data has not been reported as required under this 50908
section and require the district to review its data submission and 50909
submit corrected data by a deadline established by the department. 50910
The department also may require the district to develop a 50911
corrective action plan, which shall include provisions for the 50912
district to provide mandatory staff training on data reporting 50913
procedures. 50914

(b) Withhold up to ten per cent of the total amount of state 50915
funds due to the district for the current fiscal year and, if not 50916
previously required under division (L)(2)(a) of this section, 50917
require the district to develop a corrective action plan in 50918
accordance with that division; 50919

(c) Withhold an additional amount of up to twenty per cent of 50920
the total amount of state funds due to the district for the 50921
current fiscal year; 50922

(d) Direct department staff or an outside entity to 50923
investigate the district's data reporting practices and make 50924
recommendations for subsequent actions. The recommendations may 50925

include one or more of the following actions:	50926
(i) Arrange for an audit of the district's data reporting practices by department staff or an outside entity;	50927 50928
(ii) Conduct a site visit and evaluation of the district;	50929
(iii) Withhold an additional amount of up to thirty per cent of the total amount of state funds due to the district for the current fiscal year;	50930 50931 50932
(iv) Continue monitoring the district's data reporting;	50933
(v) Assign department staff to supervise the district's data management system;	50934 50935
(vi) Conduct an investigation to determine whether to suspend or revoke the license of any district employee in accordance with division (N) of this section;	50936 50937 50938
(vii) If the district is issued a report card under section 3302.03 of the Revised Code, indicate on the report card that the district has been sanctioned for failing to report data as required by this section;	50939 50940 50941 50942
(viii) If the district is issued a report card under section 3302.03 of the Revised Code and incomplete or inaccurate data submitted by the district likely caused the district to receive a higher performance rating than it deserved under that section, issue a revised report card for the district;	50943 50944 50945 50946 50947
(ix) Any other action designed to correct the district's data reporting problems.	50948 50949
(3) Any time the department takes an action against a school district under division (L)(2) of this section, the department shall make a report of the circumstances that prompted the action. The department shall send a copy of the report to the district superintendent or chief administrator and maintain a copy of the report in its files.	50950 50951 50952 50953 50954 50955

(4) If any action taken under division (L)(2) of this section resolves a school district's data reporting problems to the department's satisfaction, the department shall not take any further actions described by that division. If the department withheld funds from the district under that division, the department may release those funds to the district, except that if the department withheld funding under division (L)(2)(c) of this section, the department shall not release the funds withheld under division (L)(2)(b) of this section and, if the department withheld funding under division (L)(2)(d) of this section, the department shall not release the funds withheld under division (L)(2)(b) or (c) of this section.

(5) Notwithstanding anything in this section to the contrary, the department may use its own staff or an outside entity to conduct an audit of a school district's data reporting practices any time the department has reason to believe the district has not made a good faith effort to report data as required by this section. If any audit conducted by an outside entity under division (L)(2)(d)(i) or (5) of this section confirms that a district has not made a good faith effort to report data as required by this section, the district shall reimburse the department for the full cost of the audit. The department may withhold state funds due to the district for this purpose.

(6) Prior to issuing a revised report card for a school district under division (L)(2)(d)(viii) of this section, the department may hold a hearing to provide the district with an opportunity to demonstrate that it made a good faith effort to report data as required by this section. The hearing shall be conducted by a referee appointed by the department. Based on the information provided in the hearing, the referee shall recommend whether the department should issue a revised report card for the district. If the referee affirms the department's contention that

the district did not make a good faith effort to report data as 50988
required by this section, the district shall bear the full cost of 50989
conducting the hearing and of issuing any revised report card. 50990

(7) If the department determines that any inaccurate data 50991
reported under this section caused a school district to receive 50992
excess state funds in any fiscal year, the district shall 50993
reimburse the department an amount equal to the excess funds, in 50994
accordance with a payment schedule determined by the department. 50995
The department may withhold state funds due to the district for 50996
this purpose. 50997

(8) Any school district that has funds withheld under 50998
division (L)(2) of this section may appeal the withholding in 50999
accordance with Chapter 119. of the Revised Code. 51000

(9) In all cases of a disagreement between the department and 51001
a school district regarding the appropriateness of an action taken 51002
under division (L)(2) of this section, the burden of proof shall 51003
be on the district to demonstrate that it made a good faith effort 51004
to report data as required by this section. 51005

(10) The state board of education shall adopt rules under 51006
Chapter 119. of the Revised Code to implement division (L) of this 51007
section. 51008

(M) No information technology center or school district shall 51009
acquire, change, or update its student administration software 51010
package to manage and report data required to be reported to the 51011
department unless it converts to a student software package that 51012
is certified by the department. 51013

(N) The state board of education, in accordance with sections 51014
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 51015
license as defined under division (A) of section 3319.31 of the 51016
Revised Code that has been issued to any school district employee 51017
found to have willfully reported erroneous, inaccurate, or 51018

incomplete data to the education management information system. 51019

(O) No person shall release or maintain any information about 51020
any student in violation of this section. Whoever violates this 51021
division is guilty of a misdemeanor of the fourth degree. 51022

(P) The department shall disaggregate the data collected 51023
under division (B)(1)(n) of this section according to the race and 51024
socioeconomic status of the students assessed. No data collected 51025
under that division shall be included on the report cards required 51026
by section 3302.03 of the Revised Code. 51027

(Q) If the department cannot compile any of the information 51028
required by division (C)(5) of section 3302.03 of the Revised Code 51029
based upon the data collected under this section, the department 51030
shall develop a plan and a reasonable timeline for the collection 51031
of any data necessary to comply with that division. 51032

Sec. 3301.16. Pursuant to standards prescribed by the state 51033
board of education as provided in division (D) of section 3301.07 51034
of the Revised Code, the state board shall classify and charter 51035
school districts and individual schools within each district 51036
except that no charter shall be granted to a nonpublic school 51037
unless the school complies with section 3313.612 of the Revised 51038
Code. 51039

In the course of considering the charter of a new school 51040
district created under section 3311.26 or 3311.38 of the Revised 51041
Code, the state board shall require the party proposing creation 51042
of the district to submit to the board a map, certified by the 51043
county auditor of the county in which the proposed new district is 51044
located, showing the boundaries of the proposed new district. In 51045
the case of a proposed new district located in more than one 51046
county, the map shall be certified by the county auditor of each 51047
county in which the proposed district is located. 51048

The state board shall revoke the charter of any school 51049
district or school which fails to meet the standards for 51050
elementary and high schools as prescribed by the board. The state 51051
board shall also revoke the charter of any nonpublic school that 51052
does not comply with section 3313.612 of the Revised Code. The 51053
~~state board may revoke the charter of any school district that~~ 51054
~~fails to meet the operating standards established under division~~ 51055
~~(D)(3) of section 3301.07 of the Revised Code.~~ 51056

In the issuance and revocation of school district or school 51057
charters, the state board shall be governed by the provisions of 51058
Chapter 119. of the Revised Code. 51059

No school district, or individual school operated by a school 51060
district, shall operate without a charter issued by the state 51061
board under this section. 51062

In case a school district charter is revoked pursuant to this 51063
section, the state board may dissolve the school district and 51064
transfer its territory to one or more adjacent districts. An 51065
equitable division of the funds, property, and indebtedness of the 51066
school district shall be made by the state board among the 51067
receiving districts. The board of education of a receiving 51068
district shall accept such territory pursuant to the order of the 51069
state board. Prior to dissolving the school district, the state 51070
board shall notify the appropriate educational service center 51071
governing board and all adjacent school district boards of 51072
education of its intention to do so. Boards so notified may make 51073
recommendations to the state board regarding the proposed 51074
dissolution and subsequent transfer of territory. Except as 51075
provided in section 3301.161 of the Revised Code, the transfer 51076
ordered by the state board shall become effective on the date 51077
specified by the state board, but the date shall be at least 51078
thirty days following the date of issuance of the order. 51079

A high school is one of higher grade than an elementary 51080

school, in which instruction and training are given in accordance 51081
with sections 3301.07 and 3313.60 of the Revised Code and which 51082
also offers other subjects of study more advanced than those 51083
taught in the elementary schools and such other subjects as may be 51084
approved by the state board of education. 51085

An elementary school is one in which instruction and training 51086
are given in accordance with sections 3301.07 and 3313.60 of the 51087
Revised Code and which offers such other subjects as may be 51088
approved by the state board of education. In districts wherein a 51089
junior high school is maintained, the elementary schools in that 51090
district may be considered to include only the work of the first 51091
six school years inclusive, plus the kindergarten year. 51092

~~A high school or an elementary school may consist of less 51093
than one or more than one organizational unit, as defined in 51094
sections 3306.02 and 3306.04 of the Revised Code. 51095~~

Sec. 3301.162. (A) If the governing authority of a chartered 51096
nonpublic school intends to close the school, the governing 51097
authority shall notify all of the following of that intent prior 51098
to closing the school: 51099

(1) The department of education; 51100

(2) The school district that receives auxiliary services 51101
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 51102
Code on behalf of the students enrolled in the school; 51103

(3) The accrediting association that most recently accredited 51104
the school for purposes of chartering the school in accordance 51105
with the rules of the state board of education, if applicable. 51106

The notice shall include the school year and, if possible, 51107
the actual date the school will close. 51108

(B) The chief administrator of each chartered nonpublic 51109
school that closes shall deposit the school's records with either: 51110

(1) The accrediting association that most recently accredited 51111
the school for purposes of chartering the school in accordance 51112
with the rules of the state board, if applicable; 51113

(2) The school district that received auxiliary services 51114
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 51115
Code on behalf of the students enrolled in the school. 51116

The school district that receives the records may charge for 51117
and receive a one-time reimbursement from auxiliary services 51118
funding under division ~~(I)~~(E) of section 3317.024 of the Revised 51119
Code for costs the district incurred to store the records. 51120

Sec. 3301.70. (A) The state board of education is the 51121
designated state agency responsible for the coordination and 51122
administration of sections 110 to 118 of the "National and 51123
Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C. 51124
12401 to 12431, as amended. With the assistance of the Ohio 51125
~~community~~ commission on service council and volunteerism created 51126
in section 121.40 of the Revised Code, the state board shall 51127
coordinate with other state agencies to apply for funding under 51128
the act when appropriate. 51129

(B) With the assistance of the Ohio ~~community~~ commission on 51130
~~service council and volunteerism~~, the state board of education 51131
shall develop a plan to assist school districts in the 51132
implementation of section 3313.605 of the Revised Code and other 51133
community service activities of school districts. The state board 51134
shall encourage the development of school district programs 51135
meeting the requirements for funding under the National and 51136
Community Service Act of 1990. The plan shall include the 51137
investigation of funding from all available sources for school 51138
community service education programs, including funds available 51139
under the National and Community Service Act of 1990, and the 51140
provision of technical assistance to school districts for the 51141

implementation of community service education programs. The plan 51142
shall also provide for technical assistance to be given to school 51143
boards to assist in obtaining funds for community service 51144
education programs from any source. 51145

(C) With the assistance of the Ohio ~~community~~ commission on 51146
service ~~council~~ and volunteerism, the state board of education 51147
shall do all of the following: 51148

(1) Disseminate information about school district community 51149
service education programs to other school districts and to 51150
statewide organizations involved with or promoting volunteerism; 51151

(2) Recruit additional school districts to develop community 51152
service education programs; 51153

(3) Identify or develop model community service programs, 51154
teacher training courses, and community service curricula and 51155
teaching materials for possible use by school districts in their 51156
programs. 51157

Sec. 3301.81. (A) As used in this division: 51158

(1) "Qualifying school" means either of the following: 51159

(a) A school operated by a challenged school district; 51160

(b) A community school that provides or proposes to provide 51161
classroom-based instruction at a site located within a challenged 51162
school district or a school district adjacent to a challenged 51163
school district. 51164

(2) "Challenged school district" has the same meaning as in 51165
section 3314.02 of the Revised Code. 51166

(B)(1) Not later than sixty days after the effective date of 51167
this section, the department of education shall issue a request 51168
for proposals from qualifying schools that wish to operate as a 51169
hybrid school in accordance with this section to provide students 51170

with a combination of technology-based instruction, including internet- or computer-based instruction, and classroom-based instruction. Each proposal submitted to the department shall contain the following information: 51171
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(a) A description of the proposed hybrid nature of the school's instructional program; 51175
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(b) An academic accountability plan, which shall include a commitment that the school will evaluate student performance at least three times a year and publish the results of each evaluation; 51177
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(c) Any other information requested by the department. 51181

(2) The department shall develop a rigorous process for the evaluation of submitted proposals. As part of this process, if the department receives more than five proposals, the department shall select finalists from among the qualified responders. The finalists shall be required to make a public presentation to a panel of experts selected by the department on the merits of the school's plan and the likelihood of student success under the plan. 51182
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(3) Within one hundred eighty days following the issuance of the request for proposals, the department shall select up to five schools from among the qualified responders. The selected schools may begin operating as a hybrid school in the next school year commencing after the approval of the school's proposal. If any of the selected schools is a community school established on or after the effective date of this section, the contract adopted under section 3314.03 of the Revised Code shall conform with the provisions of the school's proposal as approved by the department. If any of the selected schools is a community school established prior to the effective date of this section, the governing authority and sponsor of the school shall amend the contract 51190
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adopted under section 3314.03 of the Revised Code prior to the 51202
first date of July of the school year in which the school will 51203
begin operating as a hybrid school to conform with the provisions 51204
of the school's proposal as approved by the department. 51205

(4) In the third school year after the schools selected under 51206
division (B)(3) of this section commence operations as hybrid 51207
schools, the department shall conduct a study of the academic 51208
performance of students attending the hybrid schools and determine 51209
any best practices utilized by the schools. The department shall 51210
issue a report on the results of this study to the governor, the 51211
president of the senate, and the speaker of the house of 51212
representatives. 51213

At the conclusion of the study, the department may issue a 51214
second request for proposals and select up to five additional 51215
schools that may operate as hybrid schools in accordance with this 51216
section. The department may modify the request for proposals or 51217
evaluation process from those previously used based on the results 51218
of the study conducted pursuant to this division. 51219

(C)(1) The board of education of each school district 51220
operating a hybrid school, or the governing authority of each 51221
community school operating as a hybrid school, shall require each 51222
student enrolled in the school to do both of the following: 51223

(a) Attend a designated site maintained by the board of 51224
education or governing authority to receive traditional 51225
classroom-based instruction that does not rely primarily on the 51226
use of computers or other electronic, digital, or wireless 51227
technology for the percentage of required instructional time 51228
determined under division (C)(2) of this section; 51229

(b) For the period of time the student does not attend the 51230
site maintained by the board of education or governing authority, 51231
work primarily from the student's residence on assignments in 51232

nonclassroom-based learning opportunities provided via a 51233
technology-based instructional method. 51234

(2) Before the beginning of each school year, the education 51235
team of each student enrolled in a hybrid school shall determine 51236
the percentage of the required instructional time that should be 51237
devoted to traditional classroom-based instruction and 51238
technology-based instruction to best meet the student's 51239
educational needs. As used in this division, "education team" 51240
includes, but is not limited to, the chief administrative officer 51241
or principal of the school, the student, the student's parent or 51242
guardian, and any teacher requested by the chief administrative 51243
officer or principal, student, or parent or guardian. 51244

(D) In the case of a community school operating as a hybrid 51245
school, the designated site maintained by the school's governing 51246
authority for the provision of classroom-based instruction shall 51247
be located in a challenged school district or an adjacent school 51248
district. However, the challenged school district shall be 51249
considered the school district in which the school is located for 51250
all purposes of Chapter 3314. of the Revised Code, including 51251
adopting an admission policy under division (A)(19) of section 51252
3314.03 of the Revised Code. 51253

(E) Except as provided in section 3314.091 of the Revised 51254
Code, the board of education of each city, local, and exempted 51255
village school district shall provide for its district's native 51256
students, in accordance with section 3327.01 of the Revised Code, 51257
transportation to and from a community school operating as a 51258
hybrid school pursuant to this section on each weekday the 51259
students are required to attend school at that site. 51260

As used in this division, "native student" has the same 51261
meaning as in section 3314.09 of the Revised Code. 51262

(F) A community school operating as a hybrid school pursuant 51263

to this section is not an internet- or computer-based community school for purposes of Chapter 3314. of the Revised Code. 51264
Nevertheless, except as otherwise provided in this section, a hybrid community school shall comply with all requirements of that chapter, including any provisions that apply solely to an internet- or computer-based community school. 51265
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Sec. 3302.02. Not later than one year after the adoption of 51270
rules under division ~~(E)~~(D) of section 3301.0712 of the Revised 51271
Code and at least every sixth year thereafter, upon 51272
recommendations of the superintendent of public instruction, the 51273
state board of education shall establish performance indicators 51274
for the report cards required by division (C) of section 3302.03 51275
of the Revised Code. In establishing these indicators, the 51276
superintendent shall consider inclusion of student performance on 51277
assessments prescribed under section 3301.0710 or 3301.0712 of the 51278
Revised Code, rates of student improvement on such assessments, 51279
student attendance, the breadth of coursework available within the 51280
district, and other indicators of student success. Not later than 51281
December 31, 2011, the state board, upon recommendation of the 51282
superintendent, shall establish a performance indicator reflecting 51283
the level of services provided to, and the performance of, 51284
students identified as gifted under Chapter 3324. of the Revised 51285
Code. 51286

The superintendent shall inform the Ohio accountability task 51287
force established under section 3302.021 of the Revised Code of 51288
the performance indicators the superintendent establishes under 51289
this section and the rationale for choosing each indicator and for 51290
determining how a school district or building meets that 51291
indicator. 51292

The superintendent shall not establish any performance 51293
indicator for passage of the third or fourth grade English 51294

language arts assessment that is solely based on the assessment 51295
given in the fall for the purpose of determining whether students 51296
have met the reading guarantee provisions of section 3313.608 of 51297
the Revised Code. 51298

Sec. 3302.031. In addition to the report cards required under 51299
section 3302.03 of the Revised Code, the department of education 51300
shall annually prepare the following reports for each school 51301
district and make a copy of each report available to the 51302
superintendent of each district: 51303

(A) A funding and expenditure accountability report which 51304
shall consist of the amount of state aid payments the school 51305
district will receive during the fiscal year under ~~Chapters 3306-~~ 51306
~~and Chapter~~ 3317. of the Revised Code and any other fiscal data 51307
the department determines is necessary to inform the public about 51308
the financial status of the district; 51309

(B) A school safety and discipline report which shall consist 51310
of statistical information regarding student safety and discipline 51311
in each school building, including the number of suspensions and 51312
expulsions disaggregated according to race and gender; 51313

(C) A student equity report which shall consist of at least a 51314
description of the status of teacher qualifications, library and 51315
media resources, textbooks, classroom materials and supplies, and 51316
technology resources for each district. To the extent possible, 51317
the information included in the report required under this 51318
division shall be disaggregated according to grade level, race, 51319
gender, disability, and scores attained on assessments required 51320
under section 3301.0710 of the Revised Code. 51321

(D) A school enrollment report which shall consist of 51322
information about the composition of classes within each district 51323
by grade and subject disaggregated according to race, gender, and 51324
scores attained on assessments required under section 3301.0710 of 51325

the Revised Code; 51326

(E) A student retention report which shall consist of the 51327
number of students retained in their respective grade levels in 51328
the district disaggregated by grade level, subject area, race, 51329
gender, and disability; 51330

(F) A school district performance report which shall describe 51331
for the district and each building within the district the extent 51332
to which the district or building meets each of the applicable 51333
performance indicators established under section 3302.02 of the 51334
Revised Code, the number of performance indicators that have been 51335
achieved, and the performance index score. In calculating the 51336
rates of achievement on the performance indicators and the 51337
performance index scores for each report, the department shall 51338
exclude all students with disabilities. 51339

Sec. 3302.042. (A) This section shall operate as a pilot 51340
project that applies to any school that has been ranked according 51341
to performance index score under section 3302.21 of the Revised 51342
Code in the lowest five per cent of performance index scores of 51343
all schools of all city, exempted village, and local school 51344
districts statewide for three or more consecutive school years and 51345
is operated by the Columbus city school district. 51346

(B) Except as provided in division (D) of this section, if 51347
the parents or guardians of at least fifty per cent of the 51348
students enrolled in a school to which this section applies, or if 51349
the parents or guardians of at least fifty per cent of the total 51350
number of students enrolled in that school and the schools of 51351
lower grade levels whose students typically matriculate into that 51352
school, sign and file with the school district treasurer a 51353
petition requesting the district board of education to implement 51354
one of the following reforms in the school, and if the validity 51355
and sufficiency of the petition is certified in accordance with 51356

division (C) of this section, the board shall implement the 51357
requested reform in the next school year: 51358

(1) Reopen the school as a community school under Chapter 51359
3314. of the Revised Code; 51360

(2) Replace at least seventy per cent of the school's 51361
personnel who are related to the school's poor academic 51362
performance or, at the request of the petitioners, retain not more 51363
than thirty per cent of the personnel; 51364

(3) Contract with another school district or a nonprofit or 51365
for-profit entity with a demonstrated record of effectiveness to 51366
operate the school; 51367

(4) Turn operation of the school over to the department; 51368

(5) Any other major restructuring of the school that makes 51369
fundamental reforms in the school's staffing or governance. 51370

(C) Not later than thirty days after receipt of a petition 51371
under division (B) of this section, the district treasurer shall 51372
verify the validity and sufficiency of the signatures on the 51373
petition and certify to the district board whether the petition 51374
contains the necessary number of valid signatures to require the 51375
board to implement the reform requested by the petitioners. If the 51376
treasurer certifies to the district board that the petition does 51377
not contain the necessary number of valid signatures, any person 51378
who signed the petition may file an appeal with the county auditor 51379
within ten days after the certification. Not later than thirty 51380
days after the filing of an appeal, the county auditor shall 51381
conduct an independent verification of the validity and 51382
sufficiency of the signatures on the petition and certify to the 51383
district board whether the petition contains the necessary number 51384
of valid signatures to require the board to implement the 51385
requested reform. If the treasurer or county auditor certifies 51386
that the petition contains the necessary number of valid 51387

signatures, the district board shall notify the superintendent of 51388
public instruction and the state board of education of the 51389
certification. 51390

(D) The district board shall not implement the reform 51391
requested by the petitioners in any of the following 51392
circumstances: 51393

(1) The district board has determined that the request is for 51394
reasons other than improving student academic achievement or 51395
student safety. 51396

(2) The state superintendent has determined that 51397
implementation of the requested reform would not comply with the 51398
model of differentiated accountability described in section 51399
3302.041 of the Revised Code. 51400

(3) The petitioners have requested the district board to 51401
implement the reform described in division (B)(4) of this section 51402
and the department has not agreed to take over the school's 51403
operation. 51404

(4) When all of the following have occurred: 51405

(a) After a public hearing on the matter, the district board 51406
issued a written statement explaining the reasons that it is 51407
unable to implement the requested reform and agreeing to implement 51408
one of the other reforms described in division (B) of this 51409
section. 51410

(b) The district board submitted its written statement to the 51411
state superintendent and the state board along with evidence 51412
showing how the alternative reform the district board has agreed 51413
to implement will enable the school to improve its academic 51414
performance. 51415

(c) Both the state superintendent and the state board have 51416
approved implementation of the alternative reform. 51417

(E) Beginning not later than six months after the first 51418
petition under this section has been resolved, the department of 51419
education shall annually evaluate the pilot program and submit a 51420
report to the general assembly under section 101.68 of the Revised 51421
Code. Such reports shall contain its recommendations to the 51422
general assembly with respect to the continuation of the pilot 51423
program, its expansion to other school districts, or the enactment 51424
of further legislation establishing the program statewide under 51425
permanent law. 51426

Sec. 3302.05. The state board of education shall adopt rules 51427
freeing school districts declared to be excellent under division 51428
(B)(1) or effective under division (B)(2) of section 3302.03 of 51429
the Revised Code from specified state mandates. Any mandates 51430
included in the rules shall be only those statutes or rules 51431
pertaining to state education requirements. The rules shall not 51432
exempt districts ~~from any standard or requirement of section~~ 51433
~~3306.09 of the Revised Code or~~ from any operating standard adopted 51434
under division (D)(3) of section 3301.07 of the Revised Code. 51435

Sec. 3302.06. (A) Any school of a city, exempted village, or 51436
local school district may apply to the district board of education 51437
to be designated as an innovation school. Each application shall 51438
include an innovation plan that contains the following: 51439

(1) A statement of the school's mission and an explanation of 51440
how the designation would enhance the school's ability to fulfill 51441
its mission; 51442

(2) A description of the innovations the school would 51443
implement; 51444

(3) An explanation of how implementation of the innovations 51445
described in division (A)(2) of this section would affect the 51446
school's programs and policies, including any of the following 51447

<u>that apply:</u>	51448
<u>(a) The school's educational program;</u>	51449
<u>(b) The length of the school day and the school year;</u>	51450
<u>(c) The school's student promotion policy;</u>	51451
<u>(d) The school's plan for the assessment of students;</u>	51452
<u>(e) The school's budget;</u>	51453
<u>(f) The school's staffing levels.</u>	51454
<u>(4) A description of the improvements in student academic performance that the school expects to achieve by implementing the innovations described in division (A)(2) of this section;</u>	51455
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<u>(5) An estimate of the cost savings and increased efficiencies, if any, that the school expects to achieve by implementing the innovations described in division (A)(2) of this section;</u>	51458
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<u>(6) A description of any laws in Title XXXIII of the Revised Code, rules adopted by the state board of education, or requirements enacted by the district board that would need to be waived to implement the innovations described in division (A)(2) of this section;</u>	51462
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<u>(7) A description of any provisions of a collective bargaining agreement covering personnel of the school that would need to be waived to implement the innovations described in division (A)(2) of this section;</u>	51467
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<u>(8) Evidence that a majority of the administrators assigned to the school and a majority of the teachers assigned to the school consent to seeking the designation and a statement of the level of support for seeking the designation demonstrated by other staff working in the school, students enrolled in the school and their parents, and members of the community in which the school is located.</u>	51471
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(B) Two or more schools of the district may apply to the district board to be designated as an innovation school zone, if the schools share common interests based on factors such as geographical proximity or similar educational programs or if the schools serve the same classes of students as they advance to higher grade levels. Each application shall include an innovation plan that contains the information prescribed by divisions (A)(1) to (8) of this section for each participating school and the following additional information: 51478
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(1) A description of how innovations in the participating schools would be integrated to achieve results that would be less likely to be achieved by each participating school alone; 51487
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(2) An estimate of any economies of scale that would be realized by implementing innovations jointly. 51490
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Sec. 3302.061. (A) A school district board of education shall review each application received under section 3302.06 of the Revised Code and, within sixty days after receipt of the application, shall approve or disapprove the application. In reviewing applications, the board shall give preference to applications that propose innovations in one or more of the following areas: 51492
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(1) Curriculum; 51499

(2) Student assessments, other than the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code; 51500
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(3) Class scheduling; 51503

(4) Accountability measures, including innovations that expand the number and variety of measures used in order to collect more complete data about student academic performance. For this purpose, schools may consider use of measures such as 51504
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end-of-course examinations, portfolios of student work, nationally or internationally normed assessments, the percentage of students enrolling in post-secondary education, or the percentage of students simultaneously obtaining a high school diploma and an associate's degree or certification to work in an industry or career field. 51508
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(5) Provision of student services, including services for students who are disabled, identified as gifted under Chapter 3324. of the Revised Code, limited English proficient, at risk of academic failure or dropping out, or at risk of suspension or expulsion; 51514
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(6) Provision of health, counseling, or other social services to students; 51519
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(7) Preparation of students for transition to higher education or the workforce; 51521
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(8) Teacher recruitment, employment, and evaluation; 51523

(9) Compensation for school personnel; 51524

(10) Professional development; 51525

(11) School governance and the roles and responsibilities of principals; 51526
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(12) Use of financial or other resources. 51528

(B)(1) If the board approves an application seeking designation as an innovation school, it shall so designate the school that submitted the application. If the board approves an application seeking designation as an innovation school zone, it shall so designate the participating schools that submitted the application. 51529
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(2) If the board disapproves an application, it shall provide a written explanation of the basis for its decision to the school or schools that submitted the application. The school or schools 51535
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may reapply for designation as an innovation school or innovation school zone at any time. 51538
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(C) The board may approve an application that allows an innovation school or a school participating in an innovation school zone to determine the compensation of board employees working in the school, but the total compensation for all such employees shall not exceed the financial resources allocated to the school by the board. The school shall not be required to comply with the salary schedule adopted by the board under section 3317.14 of the Revised Code. The board may approve an application that allows an innovation school or a school participating in an innovation school zone to remove board employees from the school, but no employee shall be terminated except as provided in section 3319.081 or 3319.16 of the Revised Code. 51540
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(D) The board may do either of the following at any time: 51552

(1) Designate a school as an innovation school by creating an innovation plan for that school and offering the school an opportunity to participate in the plan's creation; 51553
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(2) Designate as an innovation school zone two or more schools that share common interests based on factors such as geographical proximity or similar educational programs or that serve the same classes of students as they advance to higher grade levels, by creating an innovation plan for those schools and offering the schools an opportunity to participate in the plan's creation. 51556
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Sec. 3302.062. (A) If a school district board of education approves an application under division (B)(1) of section 3302.061 of the Revised Code or designates an innovation school or innovation school zone under division (D) of that section, the district board shall apply to the state board of education for designation as a school district of innovation by submitting to 51563
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the state board the innovation plan included in the approved 51569
application or created by the district board. 51570

Within sixty days after receipt of the application, the state 51571
board shall designate the district as a school district of 51572
innovation, unless the state board determines that the submitted 51573
innovation plan is not financially feasible or will likely result 51574
in decreased academic achievement. If the state board so 51575
determines, it shall provide a written explanation of the basis 51576
for its determination to the district board. If the district is 51577
not designated as a school district of innovation, the district 51578
board shall not implement the innovation plan. However, the 51579
district board may reapply for designation as a school district of 51580
innovation at any time. 51581

(B) A district board may request the state board to make a 51582
preliminary review of an innovation plan prior to the district 51583
board's formal application for designation as a school district of 51584
innovation. In that case, the state board shall review the 51585
innovation plan and, within sixty days after the request, 51586
recommend to the district board any changes or additions that the 51587
state board believes will improve the plan, which may include 51588
further innovations or measures to increase the likelihood that 51589
the innovations will result in higher academic achievement. The 51590
district board may revise the innovation plan prior to making 51591
formal application for designation as a school district of 51592
innovation. 51593

Sec. 3302.063. (A) Except as provided in division (B) of this 51594
section, upon designation of a school district of innovation under 51595
section 3302.062 of the Revised Code, the state board of education 51596
shall waive any laws in Title XXXIII of the Revised Code or rules 51597
adopted by the state board that are specified in the innovation 51598
plan submitted by the district board of education as needing to be 51599

waived to implement the plan. The waiver shall apply only to the 51600
school or schools participating in the innovation plan and shall 51601
not apply to the district as a whole, unless each of the 51602
district's schools is a participating school. The waiver shall 51603
cease to apply to a school if the school's designation as an 51604
innovation school is revoked or the innovation school zone in 51605
which the school participates has its designation revoked under 51606
section 3302.065 of the Revised Code, or if the school is removed 51607
from an innovation school zone under that section or section 51608
3302.064 of the Revised Code. 51609

(B) The state board shall not waive any law or rule regarding 51610
the following: 51611

(1) Funding for school districts under Chapter 3317. of the 51612
Revised Code; 51613

(2) The requirements of Chapters 3323. and 3324. of the 51614
Revised Code for the provision of services to students with 51615
disabilities and gifted students; 51616

(3) Requirements related to the provision of career-technical 51617
education that are necessary to comply with federal law or 51618
maintenance of effort provisions; 51619

(4) Administration of the assessments prescribed by sections 51620
3301.0710, 3301.0712, and 3301.0715 of the Revised Code; 51621

(5) Requirements related to the issuance of report cards and 51622
the assignment of performance ratings under section 3302.03 of the 51623
Revised Code; 51624

(6) Implementation of the model of differentiated 51625
accountability under section 3302.041 of the Revised Code; 51626

(7) Requirements for the reporting of data to the department 51627
of education; 51628

(8) Criminal records checks of school employees; 51629

(9) The requirements of Chapters 3307. and 3309. regarding 51630
the retirement systems for teachers and school employees. 51631

(C) If a district board's revisions to an innovation plan 51632
under section 3302.066 of the Revised Code require a waiver of 51633
additional laws or state board rules, the state board shall grant 51634
a waiver from those laws or rules upon evidence that 51635
administrators and teachers have consented to the revisions as 51636
required by that section. 51637

Sec. 3302.064. (A) Each collective bargaining agreement 51638
entered into by a school district board of education under Chapter 51639
4117. of the Revised Code on or after the effective date of this 51640
section shall allow for the waiver of any provision of the 51641
agreement specified in the innovation plan approved or created 51642
under section 3302.061 of the Revised Code as needing to be waived 51643
to implement the plan, in the event the district is designated as 51644
a school district of innovation. 51645

(B)(1) In the case of an innovation school, waiver of the 51646
provisions specified in the innovation plan shall be contingent 51647
upon at least sixty per cent of the members of the bargaining unit 51648
covered by the collective bargaining agreement who work in the 51649
school voting, by secret ballot, to approve the waiver. 51650

(2) In the case of an innovation school zone, waiver of the 51651
provisions specified in the innovation plan shall be contingent 51652
upon, in each participating school, at least sixty per cent of the 51653
members of the bargaining unit covered by the collective 51654
bargaining agreement who work in that school voting, by secret 51655
ballot, to approve the waiver. If at least sixty per cent of the 51656
members of the bargaining unit in a participating school do not 51657
vote to approve the waiver, the board may revise the innovation 51658
plan to remove that school from the innovation school zone. 51659

(3) If a board's revisions to an innovation plan under 51660

section 3302.066 of the Revised Code require a waiver of 51661
additional provisions of the collective bargaining agreement, that 51662
waiver shall be contingent upon approval under division (B)(1) or 51663
(2) of this section in the same manner as the initial waiver. 51664

(C) A waiver approved under division (B) of this section 51665
shall continue to apply relative to any substantially similar 51666
provision of a collective bargaining agreement entered into after 51667
the approval of the waiver. 51668

(D) A waiver approved under division (B) of this section 51669
shall cease to apply to a school if the school's designation as an 51670
innovation school is revoked or the innovation school zone in 51671
which the school participates has its designation revoked under 51672
section 3302.065 of the Revised Code, or if the school is removed 51673
from an innovation school zone under that section. 51674

(E) An employee working in an innovation school or a school 51675
participating in an innovation school zone who is a member of a 51676
bargaining unit that approves a waiver under division (B) of this 51677
section may request the board to transfer the employee to another 51678
school of the district. The board shall make every reasonable 51679
effort to accommodate the employee's request. 51680

Sec. 3302.065. Not later than three years after obtaining 51681
designation as a school district of innovation under section 51682
3302.062 of the Revised Code, and every three years thereafter, 51683
the district board of education shall review the performance of 51684
the innovation school or innovation school zone and determine if 51685
it is achieving, or making sufficient progress toward achieving, 51686
the improvements in student academic performance that were 51687
described in its innovation plan. If the board finds that an 51688
innovation school is not achieving, or not making sufficient 51689
progress toward achieving, those improvements in student academic 51690
performance, the board may revoke the designation as an innovation 51691

school. If the board finds that a school participating in an 51692
innovation school zone is not achieving, or not making sufficient 51693
progress toward achieving, those improvements in student academic 51694
performance, the board may remove that school from the innovation 51695
school zone or may revoke the designation of all participating 51696
schools as an innovation school zone. 51697

Sec. 3302.066. A school district board of education may 51698
revise an innovation plan approved or created under section 51699
3302.061 of the Revised Code, in collaboration with the school or 51700
schools participating in the plan, to further improve student 51701
academic performance. The revisions may include identifying 51702
additional laws in Title XXXIII of the Revised Code, rules adopted 51703
by the state board of education, requirements enacted by the 51704
district board, or provisions of a collective bargaining agreement 51705
that need to be waived. Any revisions to an innovation plan shall 51706
require the consent, in each school participating in the plan, of 51707
a majority of the administrators assigned to that school and a 51708
majority of the teachers assigned to that school. 51709

Sec. 3302.067. The board of education of any district 51710
designated as a school district of innovation or any school 51711
participating in an innovation plan may accept, receive, and 51712
expend gifts, grants, or donations from any public or private 51713
entity to support the implementation of the plan. 51714

Sec. 3302.068. Not later than the first day of July each 51715
year, the department of education shall issue, and post on its web 51716
site, a report on school districts of innovation. The report shall 51717
include the following information: 51718

(A) The number of districts designated as school districts of 51719
innovation in the preceding school year and the total number of 51720

<u>school districts of innovation statewide;</u>	51721
<u>(B) The number of innovation schools in each school district of innovation and the number of district students served by the schools, expressed as a total number and as a percentage of the district's total student population;</u>	51722
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<u>(C) The number of innovation school zones in each school district of innovation, the number of schools participating in each zone, and the number of district students served by the participating schools, expressed as a total number and as a percentage of the district's total student population;</u>	51726
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<u>(D) An overview of the innovations implemented in innovation schools and innovation school zones;</u>	51731
	51732
<u>(E) Data on the academic performance of the students enrolled in an innovation school or an innovation school zone in each school district of innovation, including a comparison of the students' academic performance before and after the district's designation as a school district of innovation;</u>	51733
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<u>(F) Recommendations for legislative changes based on the innovations implemented or to enhance the ability of schools and districts to implement innovations.</u>	51738
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Sec. 3302.07. (A) The board of education of any school district, the governing board of any educational service center, or the administrative authority of any chartered nonpublic school may submit to the state board of education an application proposing an innovative education pilot program the implementation of which requires exemptions from specific statutory provisions or rules. If a district or service center board employs teachers under a collective bargaining agreement adopted pursuant to Chapter 4117. of the Revised Code, any application submitted under this division shall include the written consent of the teachers'	51741
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employee representative designated under division (B) of section 51751
4117.04 of the Revised Code. The exemptions requested in the 51752
application shall be limited to any requirement of Title XXXIII of 51753
the Revised Code or of any rule of the state board adopted 51754
pursuant to that title except that the application may not propose 51755
an exemption from any requirement of or rule adopted pursuant to 51756
~~section 3306.09~~, Chapter 3307. or 3309., sections 3319.07 to 51757
3319.21, or Chapter 3323. of the Revised Code. Furthermore, an 51758
exemption from any operating standard adopted under division 51759
(B)(2) or (D)~~(3)~~ of section 3301.07 of the Revised Code shall be 51760
granted only pursuant to a waiver granted by the superintendent of 51761
public instruction under division (O) of that section. 51762

(B) The state board of education shall accept any application 51763
submitted in accordance with division (A) of this section. The 51764
superintendent of public instruction shall approve or disapprove 51765
the application in accordance with standards for approval, which 51766
shall be adopted by the state board. 51767

(C) The superintendent of public instruction shall exempt 51768
each district or service center board or chartered nonpublic 51769
school administrative authority with an application approved under 51770
division (B) of this section for a specified period from the 51771
statutory provisions or rules specified in the approved 51772
application. The period of exemption shall not exceed the period 51773
during which the pilot program proposed in the application is 51774
being implemented and a reasonable period to allow for evaluation 51775
of the effectiveness of the program. 51776

Sec. 3302.12. (A) For any school building that is ranked 51777
according to performance index score under section 3302.21 of the 51778
Revised Code in the lowest five per cent of all school district 51779
buildings statewide for three consecutive years and is declared to 51780
be under an academic watch or in a state of academic emergency 51781

under section 3302.03 of the Revised Code, the district board of education shall do one of the following at the conclusion of the school year in which the building first becomes subject to this division: 51782
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(1) Close the school and direct the district superintendent to reassign the students enrolled in the school to other school buildings that demonstrate higher academic achievement; 51786
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(2) Contract with another school district or a nonprofit or for-profit entity with a demonstrated record of effectiveness to operate the school; 51789
51790
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(3) Replace the principal and all teaching staff of the school and, upon request from the new principal, exempt the school from all requested policies and regulations of the board regarding curriculum and instruction. The board also shall distribute funding to the school in an amount that is at least equal to the product of the per pupil amount of state and local revenues received by the district multiplied by the student population of the school. 51792
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(4) Reopen the school as a conversion community school under Chapter 3314. of the Revised Code. 51800
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(B) If an action taken by the board under division (A) of this section causes the district to no longer maintain all grades kindergarten through twelve, as required by section 3311.29 of the Revised Code, the board shall enter into a contract with another school district pursuant to section 3327.04 of the Revised Code for enrollment of students in the schools of that other district to the extent necessary to comply with the requirement of section 3311.29 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, if the board enters into and maintains a contract under section 3327.04 of the Revised Code, the district shall not be considered to have failed to comply with 51802
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the requirement of section 3311.29 of the Revised Code. If, 51813
however, the district board fails to or is unable to enter into or 51814
maintain such a contract, the state board of education shall take 51815
all necessary actions to dissolve the district as provided in 51816
division (A) of section 3311.29 of the Revised Code. 51817

Sec. 3302.20. (A) The department of education shall develop 51818
standards for determining, from the existing data reported in 51819
accordance with sections 3301.0714 and 3314.17 of the Revised 51820
Code, the amount of annual operating expenditures for classroom 51821
instructional purposes and for nonclassroom purposes for each 51822
city, exempted village, local, and joint vocational school 51823
district, each community school established under Chapter 3314. 51824
that is not an internet- or computer-based community school, each 51825
internet- or computer-based community school, and each STEM school 51826
established under Chapter 3326. of the Revised Code. Not later 51827
than January 1, 2012, the department shall present those standards 51828
to the state board of education for consideration. In developing 51829
the standards, the department shall adapt existing standards used 51830
by professional organizations, research organizations, and other 51831
state governments. 51832

The state board shall consider the proposed standards and 51833
adopt a final set of standards not later than July 1, 2012. 51834

(B)(1) The department shall categorize all city, exempted 51835
village, and local school districts into not less than three nor 51836
more than five groups based primarily on average daily student 51837
enrollment as reported on the most recent report card issued for 51838
each district under section 3302.03 of the Revised Code. 51839

(2) The department shall categorize all joint vocational 51840
school districts into not less than three nor more than five 51841
groups based primarily on average daily membership as reported 51842
under division (D) of section 3317.03 of the Revised Code rounded 51843

to the nearest whole number. 51844

(3) The department shall categorize all community schools that are not internet- or computer-based community schools into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each community school under sections 3302.03 and 3314.012 of the Revised Code. 51845
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(4) The department shall categorize all internet- or computer-based community schools into a single category. 51851
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(5) The department shall categorize all STEM schools into a single category. 51853
51854

(C) Using the standards adopted under division (A) of this section and the data reported under sections 3301.0714 and 3314.17 of the Revised Code, the department shall compute, for fiscal years 2008 through 2012, and annually for each fiscal year thereafter, the following: 51855
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(1) The percentage of each district's, community school's, or STEM school's total operating budget spent for classroom instructional purposes; 51860
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51862

(2) The statewide average percentage for all districts, community schools, and STEM schools combined spent for classroom instructional purposes; 51863
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51865

(3) The average percentage for each of the categories of districts and schools established under division (B) of this section spent for classroom instructional purposes; 51866
51867
51868

(4) The ranking of each district, community school, or STEM school within its respective category established under division (B) of this section according to the following: 51869
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(a) From highest to lowest percentage spent for classroom instructional purposes; 51872
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<u>(b) From lowest to highest percentage spent for noninstructional purposes.</u>	51874
	51875
<u>(D) In its display of rankings within each category under division (C)(4) of this section, the department shall make the following notations:</u>	51876
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<u>(1) Within each category of city, exempted village, and local school districts, the department shall denote each district that is:</u>	51879
	51880
	51881
<u>(a) Among the twenty per cent of all city, exempted village, and local school districts statewide with the lowest total operating expenditures per pupil;</u>	51882
	51883
	51884
<u>(b) Among the twenty per cent of all city, exempted village, and local school districts statewide with the highest performance index scores.</u>	51885
	51886
	51887
<u>(2) Within each category of joint vocational school districts, the department shall denote each district that is:</u>	51888
	51889
<u>(a) Among the twenty per cent of all joint vocational school districts statewide with the lowest total operating expenditures per pupil;</u>	51890
	51891
	51892
<u>(b) Among the twenty per cent of all joint vocational school districts statewide with the highest performance measures required for career-technical education under 20 U.S.C. 2323, as ranked under division (A)(3) of section 3302.21 of the Revised Code.</u>	51893
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<u>(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each school that is:</u>	51897
	51898
	51899
<u>(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;</u>	51900
	51901
<u>(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.</u>	51902
	51903

(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is: 51904
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(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil; 51907
51908

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores. 51909
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(5) Within the category of STEM schools, the department shall denote each school that is: 51911
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(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating expenditures per pupil; 51913
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(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores. 51915
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(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 of the Revised Code the respective information computed for the district or school under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section. 51917
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(F) As used in this section: 51927

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code. 51928
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(2) A school district's, community school's, or STEM school's performance index score rank is its performance index score rank as computed under section 3302.21 of the Revised Code. 51930
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Sec. 3302.21. (A) The department of education shall develop a system to rank order all city, exempted village, local, and joint vocational school districts, community schools established under Chapter 3314., and STEM schools established under Chapter 3326. of the Revised Code according to the following measures:

(1) Performance index score for each school district, community school, and STEM school and for each separate building of a district, community school, or STEM school. For districts, schools, or buildings to which the performance index score does not apply, the superintendent of public instruction shall develop another measure of student academic performance and use that measure to include those buildings in the ranking so that all districts, schools, and buildings may be reliably compared to each other.

(2) Student performance growth from year to year, using the value-added progress dimension, if applicable, and other measures of student performance growth designated by the superintendent of public instruction for subjects and grades not covered by the value-added progress dimension;

(3) Performance measures required for career-technical education under 20 U.S.C. 2323, if applicable. If a school district is a "VEPD" or "lead district" as those terms are defined in section 3317.023 of the Revised Code, the district's ranking shall be based on the performance of career-technical students from that district and all other districts served by that district, and such fact, including the identity of the other districts served by that district, shall be noted on the report required by division (B) of this section.

(4) Current operating expenditures per pupil;

(5) Of total current operating expenditures, percentage spent for classroom instruction as determined under standards adopted by

the state board of education; 51964

(6) Performance of, and opportunities provided to, students identified as gifted using value-added progress dimensions, if applicable, and other relevant measures as designated by the superintendent of public instruction. 51965
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The department shall rank each district, community school, and STEM school annually in accordance with the system developed under this section. 51969
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(B) In addition to the reports required by sections 3302.03 and 3302.031 of the Revised Code, not later than the first day of September each year, the department shall issue a report for each city, exempted village, local, and joint vocational school district, each community school, and each STEM school indicating the district's or school's rank on each measure described in divisions (A)(1) to (5) of this section, including each separate building's rank according to performance index score under division (A)(1) of this section. 51972
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Sec. 3302.22. (A) The governor's effective and efficient schools recognition program is hereby created. Each year, the governor shall recognize, in a manner deemed appropriate by the governor, the top ten per cent of all public schools in this state, including schools of city, exempted village, local, or joint vocational school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code. 51981
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(B) The top ten per cent of schools shall be determined by the department of education according to standards established by the department. The standards shall include, but need not be limited to, both of the following: 51989
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(1) Student performance, as determined by factors including, 51993

but not limited to, performance indicators under section 3302.02 51994
of the Revised Code, report cards issued under section 3302.03 of 51995
the Revised Code, performance index score rankings under section 51996
3302.21 of the Revised Code, and any other statewide or national 51997
assessment or student performance recognition program the 51998
department selects; 51999

(2) Fiscal performance, including cost-effective measures 52000
taken by the school. 52001

Sec. 3302.25. (A) In accordance with standards prescribed by 52002
the state board of education for categorization of school district 52003
expenditures adopted under division (A) of section 3302.20 of the 52004
Revised Code, the department of education annually shall determine 52005
all of the following for the previous fiscal year: 52006

(1) For each school district, the ratio of the district's 52007
operating expenditures for instructional purposes compared to its 52008
operating expenditures for administrative purposes; 52009

(2) For each school district, the per pupil amount of the 52010
district's expenditures for instructional purposes; 52011

(3) For each school district, the per pupil amount of the 52012
district's operating expenditures for administrative purposes; 52013

(4) For each school district, the percentage of the 52014
district's operating expenditures attributable to school district 52015
funds; 52016

(5) The statewide average among all school districts for each 52017
of the items described in divisions (A)(1) to (4) of this section. 52018

(B) The department annually shall submit a report to each 52019
school district indicating the district's information for each of 52020
the items described in divisions (A)(1) to (4) of this section and 52021
the statewide averages described in division (A)(5) of this 52022
section. 52023

(C) Each school district, upon receipt of the report 52024
prescribed by division (B) of this section, shall publish the 52025
information contained in that report in a prominent location on 52026
the district's web site and publish the report in another fashion 52027
so that it is available to all parents of students enrolled in the 52028
district and to taxpayers of the district. 52029

Sec. 3302.30. (A) The superintendent of public instruction 52030
shall establish a pilot project in Columbiana county under which 52031
one or more school districts in that county shall offer a 52032
multiple-track high school curriculum for students with differing 52033
career plans. The superintendent shall solicit and select 52034
districts to participate in the pilot project. Selected districts 52035
shall begin offering their career track curricula not later than 52036
the school year that begins at least six months after the 52037
effective date of this section. No district shall be required to 52038
participate in the pilot project. 52039

The curricula provided under the pilot project at each 52040
participating district shall offer at least three distinct career 52041
tracks, including at least a college preparatory track and a 52042
career-technical track. Each track shall comply with the 52043
curriculum requirements of section 3313.603 of the Revised Code. 52044
The different tracks may be offered at different campuses. Two or 52045
more participating districts may offer some or all of their 52046
respective curriculum tracks through a cooperative agreement 52047
entered into under section 3313.842 of the Revised Code. 52048

The department of education shall provide technical 52049
assistance to participating districts in developing the curriculum 52050
tracks to offer to students under the pilot project. 52051

Part or all of selected curriculum materials or services may 52052
be purchased from other public or private sources. 52053

The state superintendent shall apply for private and other 52054

nonstate funds, and may use other available state funds, to 52055
support the pilot project. If nonstate funds cannot be obtained or 52056
the superintendent of public instruction determines that 52057
sufficient funds are not available to support the pilot project, 52058
implementation of this section may be postponed until such time as 52059
the superintendent determines that sufficient funds are available. 52060

(B) Each participating school district shall report to the 52061
state superintendent data about the operation and results of the 52062
pilot project, as required by the superintendent. 52063

(C) Not later than the thirty-first day of December of the 52064
third school year in which the pilot project is operating, the 52065
state superintendent shall submit a report to the general 52066
assembly, in accordance with section 101.68 of the Revised Code, 52067
containing the superintendent's evaluation of the results of the 52068
pilot project and legislative recommendations whether to continue, 52069
expand, or make changes to the pilot project. 52070

Sec. 3304.181. If the total of all funds available from 52071
nonfederal sources to support the activities of the rehabilitation 52072
services commission does not comply with the expenditure 52073
requirements of 34 C.F.R. 361.60 and 361.62 for those activities 52074
or would cause the state to lose an allotment or fail to receive a 52075
reallotment under 34 C.F.R. 361.65, the commission shall solicit 52076
additional funds from, and enter into agreements for the use of 52077
those funds with, private or public entities, including local 52078
government entities of this state. The commission shall continue 52079
to solicit additional funds and enter into agreements until the 52080
total funding available is sufficient for the commission to 52081
receive federal funds at the maximum amount and in the most 52082
advantageous proportion possible. 52083

Any agreement entered into between the commission and a 52084
private or public entity to provide funds under this section shall 52085

be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the Revised Code.

Sec. 3304.182. Any agreement between the rehabilitation services commission and a private or public entity providing funds under section 3304.181 of the Revised Code may permit the commission to receive a specified percentage of the funds ~~for~~ ~~administration~~, but the percentage shall be not more than thirteen per cent of the total funds available under the agreement. The agreement shall not be for less than six months or be discontinued by the commission without the commission first providing three months notice of intent to discontinue the agreement. The commission may terminate an agreement only for good cause.

Any services provided under an agreement entered into under section 3304.181 of the Revised Code shall be provided by a person or government entity that meets the accreditation standards established in rules adopted by the commission under section 3304.16 of the Revised Code.

Sec. 3305.08. Any payment, benefit, or other right accruing to any electing employee under a contract entered into for purposes of an alternative retirement plan and all moneys, investments, and income of those contracts are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3305.09, and 3305.12 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency law, or other process of law, and shall be unassignable except as specifically provided in this section and sections 3105.171, 3105.65, 3119.80,

3119.81, 3121.02, 3121.03, 3115.32, and 3123.06 of the Revised Code or in any contract the electing employee has entered into for purposes of an alternative retirement plan.

Sec. 3307.20. (A) As used in this section:

(1) "Personal history record" means information maintained by the state teachers retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the state teachers retirement system, or other information the board determines to be confidential.

(2) "Retirant" has the same meaning as in section 3307.50 of the Revised Code.

(B) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal records provided for in section 3307.23 of the Revised Code;

(2) The individual's personal history record;

(3) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations under sections 3307.62, 3307.64, and 3307.66 of the Revised Code are privileged, except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section. 52147
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(D) Any person who is a member or contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year. 52150
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(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following information: 52154
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(1) If a member, former member, retirant, contributor, or former contributor is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record. 52157
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(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section. 52166
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(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person. 52170
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(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 52175
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5101.181 of the Revised Code, the board shall inform the auditor 52178
of state of the name, current or most recent employer address, and 52179
social security number of each member whose name and social 52180
security number are the same as that of a person whose name or 52181
social security number was submitted by the director. The board 52182
and its employees shall, except for purposes of furnishing the 52183
auditor of state with information required by this section, 52184
preserve the confidentiality of recipients of public assistance in 52185
compliance with ~~division (A)~~ of section 5101.181 of the Revised 52186
Code. 52187

(5) The system shall comply with orders issued under section 52188
3105.87 of the Revised Code. 52189

On the written request of an alternate payee, as defined in 52190
section 3105.80 of the Revised Code, the system shall furnish to 52191
the alternate payee information on the amount and status of any 52192
amounts payable to the alternate payee under an order issued under 52193
section 3105.171 or 3105.65 of the Revised Code. 52194

(6) At the request of any person, the board shall make 52195
available to the person copies of all documents, including 52196
resumes, in the board's possession regarding filling a vacancy of 52197
a contributing member or retired teacher member of the board. The 52198
person who made the request shall pay the cost of compiling, 52199
copying, and mailing the documents. The information described in 52200
this division is a public record. 52201

(7) The system shall provide the notice required by section 52202
3307.373 of the Revised Code to the prosecutor assigned to the 52203
case. 52204

(F) A statement that contains information obtained from the 52205
system's records that is signed by an officer of the retirement 52206
system and to which the system's official seal is affixed, or 52207
copies of the system's records to which the signature and seal are 52208

attached, shall be received as true copies of the system's records 52209
in any court or before any officer of this state. 52210

Sec. 3307.31. (A) Payments by boards of education and 52211
governing authorities of community schools to the state teachers 52212
retirement system, as provided in sections 3307.29 and 3307.291 of 52213
the Revised Code, shall be made from the amount allocated under 52214
section 3314.08, ~~Chapter 3306.7~~, or Chapter 3317. of the Revised 52215
Code prior to its distribution to the individual school districts 52216
or community schools. The amount due from each school district or 52217
community school shall be certified by the secretary of the system 52218
to the superintendent of public instruction monthly, or at such 52219
times as may be determined by the state teachers retirement board. 52220

The superintendent shall deduct, from the amount allocated to 52221
each district or community school under section 3314.08, ~~Chapter~~ 52222
~~3306.7~~, or Chapter 3317. of the Revised Code, the entire amounts 52223
due to the system from such district or school upon the 52224
certification to the superintendent by the secretary thereof. 52225

The superintendent shall certify to the director of budget 52226
and management the amounts thus due the system for payment. 52227

(B) Payments to the state teachers retirement system by a 52228
science, technology, engineering, and mathematics school shall be 52229
deducted from the amount allocated under section 3326.33 of the 52230
Revised Code and shall be made in the same manner as payments by 52231
boards of education under this section. 52232

Sec. 3307.41. The right of an individual to a pension, an 52233
annuity, or a retirement allowance itself, the right of an 52234
individual to any optional benefit, or any other right or benefit 52235
accrued or accruing to any individual under this chapter, the 52236
various funds created by section 3307.14 of the Revised Code, and 52237
all moneys, investments, and income from moneys or investments are 52238

exempt from any state tax, except the tax imposed by section 52239
5747.02 of the Revised Code, and are exempt from any county, 52240
municipal, or other local tax, except income taxes imposed 52241
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 52242
Code, and, except as provided in sections 3105.171, 3105.65, 52243
3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3307.37, 52244
3307.372, and 3307.373 of the Revised Code, shall not be subject 52245
to execution, garnishment, attachment, the operation of bankruptcy 52246
or insolvency laws, or any other process of law whatsoever, and 52247
shall be unassignable except as specifically provided in this 52248
chapter or sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 52249
3121.02, 3121.03, and 3123.06 of the Revised Code. 52250

Sec. 3307.64. A disability benefit recipient, notwithstanding 52251
section 3319.13 of the Revised Code, shall retain membership in 52252
the state teachers retirement system and shall be considered on 52253
leave of absence during the first five years following the 52254
effective date of a disability benefit. 52255

The state teachers retirement board shall require any 52256
disability benefit recipient to submit to an annual medical 52257
examination by a physician selected by the board, except that the 52258
board may waive the medical examination if the board's physician 52259
certifies that the recipient's disability is ongoing. If a 52260
disability benefit recipient refuses to submit to a medical 52261
examination, the recipient's disability benefit shall be suspended 52262
until the recipient withdraws the refusal. If the refusal 52263
continues for one year, all the recipient's rights under and to 52264
the disability benefit shall be terminated as of the effective 52265
date of the original suspension. 52266

After the examination, the examiner shall report and certify 52267
to the board whether the disability benefit recipient is no longer 52268
physically and mentally incapable of resuming the service from 52269

which the recipient was found disabled. If the board concurs in a 52270
report by the examining physician that the disability benefit 52271
recipient is no longer incapable, the payment of a disability 52272
benefit shall be terminated not later than the following 52273
thirty-first day of August or upon employment as a teacher prior 52274
thereto. If the leave of absence has not expired, the board shall 52275
so certify to the disability benefit recipient's last employer 52276
before being found disabled that the recipient is no longer 52277
physically and mentally incapable of resuming service that is the 52278
same or similar to that from which the recipient was found 52279
disabled. If the recipient was under contract at the time the 52280
recipient was found disabled, the employer by the first day of the 52281
next succeeding year shall restore the recipient to the 52282
recipient's previous position and salary or to a position and 52283
salary similar thereto, unless the recipient was dismissed or 52284
resigned in lieu of dismissal for dishonesty, misfeasance, 52285
malfeasance, or conviction of a felony. 52286

A disability benefit shall terminate if the disability 52287
benefit recipient becomes employed as a teacher in any public or 52288
private school or institution in this state or elsewhere. An 52289
individual receiving a disability benefit from the system shall be 52290
ineligible for any employment as a teacher and it shall be 52291
unlawful for any employer to employ the individual as a teacher. 52292
If any employer should employ or reemploy the individual prior to 52293
the termination of a disability benefit, the employer shall file 52294
notice of employment with the board designating the date of the 52295
employment. If the individual should be paid both a disability 52296
benefit and also compensation for teaching service for all or any 52297
part of the same month, the secretary of the board shall certify 52298
to the employer or to the superintendent of public instruction the 52299
amount of the disability benefit received by the individual during 52300
the employment, which amount shall be deducted from any amount due 52301
the employing district under ~~Chapters 3306.~~ and Chapter 3317. of 52302

the Revised Code or shall be paid by the employer to the annuity and pension reserve fund. 52303
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Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing. 52305
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The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension. 52312
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A disability benefit also may be terminated by the board at the request of the disability benefit recipient. 52319
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If disability retirement under section 3307.63 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the teachers' savings fund and the employers' trust fund, respectively. If the total disability benefit paid was less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, then the difference shall be transferred from the annuity and pension reserve fund to another fund as required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account. 52321
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If a disability allowance paid under section 3307.631 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 3307.35 of the Revised Code, to this retirement system, the school employees retirement system, or the public employees retirement system, and completes at least two additional years of service credit, the former disability benefit recipient shall receive credit for the period as a disability benefit recipient.

Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by the system are privileged except as follows:

(1) Copies of medical reports or recommendations shall be

made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.

(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former

contributors, or beneficiaries. The costs of compiling, copying, 52395
and mailing the list shall be paid by such person. 52396

(4) Within fourteen days after receiving from the director of 52397
job and family services a list of the names and social security 52398
numbers of recipients of public assistance pursuant to section 52399
5101.181 of the Revised Code, the board shall inform the auditor 52400
of state of the name, current or most recent employer address, and 52401
social security number of each contributor whose name and social 52402
security number are the same as that of a person whose name or 52403
social security number was submitted by the director. The board 52404
and its employees shall, except for purposes of furnishing the 52405
auditor of state with information required by this section, 52406
preserve the confidentiality of recipients of public assistance in 52407
compliance with ~~division (A) of~~ section 5101.181 of the Revised 52408
Code. 52409

(5) The system shall comply with orders issued under section 52410
3105.87 of the Revised Code. 52411

On the written request of an alternate payee, as defined in 52412
section 3105.80 of the Revised Code, the system shall furnish to 52413
the alternate payee information on the amount and status of any 52414
amounts payable to the alternate payee under an order issued under 52415
section 3105.171 or 3105.65 of the Revised Code. 52416

(6) At the request of any person, the board shall make 52417
available to the person copies of all documents, including 52418
resumes, in the board's possession regarding filling a vacancy of 52419
an employee member or retirant member of the board. The person who 52420
made the request shall pay the cost of compiling, copying, and 52421
mailing the documents. The information described in this division 52422
is a public record. 52423

(7) The system shall provide the notice required by section 52424
3309.673 of the Revised Code to the prosecutor assigned to the 52425

case. 52426

(E) A statement that contains information obtained from the 52427
system's records that is signed by an officer of the retirement 52428
system and to which the system's official seal is affixed, or 52429
copies of the system's records to which the signature and seal are 52430
attached, shall be received as true copies of the system's records 52431
in any court or before any officer of this state. 52432

Sec. 3309.41. (A) A disability benefit recipient shall retain 52433
membership status and shall be considered on leave of absence from 52434
employment during the first five years following the effective 52435
date of a disability benefit, notwithstanding any contrary 52436
provisions in Chapter 124. or 3319. of the Revised Code. 52437

(B) The school employees retirement board shall require a 52438
disability benefit recipient to undergo an annual medical 52439
examination, except that the board may waive the medical 52440
examination if the board's physician or physicians certify that 52441
the recipient's disability is ongoing. Should any disability 52442
benefit recipient refuse to submit to a medical examination, the 52443
recipient's disability benefit shall be suspended until withdrawal 52444
of the refusal. Should the refusal continue for one year, all the 52445
recipient's rights in and to the disability benefit shall be 52446
terminated as of the effective date of the original suspension. 52447

(C) On completion of the examination by an examining 52448
physician or physicians selected by the board, the physician or 52449
physicians shall report and certify to the board whether the 52450
disability benefit recipient is no longer physically and mentally 52451
incapable of resuming the service from which the recipient was 52452
found disabled. If the board concurs in the report that the 52453
disability benefit recipient is no longer incapable, the payment 52454
of the disability benefit shall be terminated not later than three 52455
months after the date of the board's concurrence or upon 52456

employment as an employee. If the leave of absence has not 52457
expired, the retirement board shall certify to the disability 52458
benefit recipient's last employer before being found disabled that 52459
the recipient is no longer physically and mentally incapable of 52460
resuming service that is the same or similar to that from which 52461
the recipient was found disabled. The employer shall restore the 52462
recipient to the recipient's previous position and salary or to a 52463
position and salary similar thereto not later than the first day 52464
of the first month following termination of the disability 52465
benefit, unless the recipient was dismissed or resigned in lieu of 52466
dismissal for dishonesty, misfeasance, malfeasance, or conviction 52467
of a felony. 52468

(D) Each disability benefit recipient shall file with the 52469
board an annual statement of earnings, current medical information 52470
on the recipient's condition, and any other information required 52471
in rules adopted by the board. The board may waive the requirement 52472
that a disability benefit recipient file an annual statement of 52473
earnings or current medical information on the recipient's 52474
condition if the board's physician or physicians certify that the 52475
recipient's disability is ongoing. 52476

The board shall annually examine the information submitted by 52477
the recipient. If a disability benefit recipient refuses to file 52478
the statement or information, the disability benefit shall be 52479
suspended until the statement and information are filed. If the 52480
refusal continues for one year, the recipient's right to the 52481
disability benefit shall be terminated as of the effective date of 52482
the original suspension. 52483

(E) If a disability benefit recipient is employed by an 52484
employer covered by this chapter, the recipient's disability 52485
benefit shall cease. 52486

(F) If disability retirement under section 3309.40 of the 52487
Revised Code is terminated for any reason, the annuity and pension 52488

reserves at that time in the annuity and pension reserve fund 52489
shall be transferred to the employees' savings fund and the 52490
employers' trust fund, respectively. If the total disability 52491
benefit paid is less than the amount of the accumulated 52492
contributions of the member transferred into the annuity and 52493
pension reserve fund at the time of the member's disability 52494
retirement, the difference shall be transferred from the annuity 52495
and pension reserve fund to another fund as may be required. In 52496
determining the amount of a member's account following the 52497
termination of disability retirement for any reason, the amount 52498
paid shall be charged against the member's refundable account. 52499

If a disability allowance paid under section 3309.401 of the 52500
Revised Code is terminated for any reason, the reserve on the 52501
allowance at that time in the annuity and pension reserve fund 52502
shall be transferred from that fund to the employers' trust fund. 52503

The board may terminate a disability benefit at the request 52504
of the recipient. 52505

(G) If a disability benefit is terminated and a former 52506
disability benefit recipient again becomes a contributor, other 52507
than as an other system retirant as defined in section 3309.341 of 52508
the Revised Code, to this system, the public employees retirement 52509
system, or the state teachers retirement system, and completes an 52510
additional two years of service credit after the termination of 52511
the disability benefit, the former disability benefit recipient 52512
shall be entitled to full service credit for the period as a 52513
disability benefit recipient. 52514

(H) If any employer employs any member who is receiving a 52515
disability benefit, the employer shall file notice of employment 52516
with the retirement board, designating the date of employment. In 52517
case the notice is not filed, the total amount of the benefit paid 52518
during the period of employment prior to notice shall be paid from 52519
amounts allocated under ~~Chapters 3306. and Chapter~~ 3317. of the 52520

Revised Code prior to its distribution to the school district in 52521
which the disability benefit recipient was so employed. 52522

Sec. 3309.48. Any employee who left the service of an 52523
employer after attaining age sixty-five or over and such employer 52524
had failed or refused to deduct and transmit to the school 52525
employees retirement system the employee contributions as required 52526
by section 3309.47 of the Revised Code during any year for which 52527
membership was compulsory as determined by the school employees 52528
retirement board, shall be granted service credit without cost, 52529
which shall be considered as total service credit for the purposes 52530
of meeting the qualifications for service retirement provided by 52531
the law in effect on and retroactive to the first eligible 52532
retirement date following the date such employment terminated, but 52533
shall not be paid until formal application for such allowance on a 52534
form provided by the retirement board is received in the office of 52535
the retirement system. The total service credit granted under this 52536
section shall not exceed ten years for any such employee. 52537

The liability incurred by the retirement board because of the 52538
service credit granted under this section shall be determined by 52539
the retirement board, the cost of which shall be equal to an 52540
amount that is determined by applying the combined employee and 52541
employer rates of contribution against the compensation of such 52542
employee at the rates of contribution and maximum salary 52543
provisions in effect during such employment for each year for 52544
which credit is granted, together with interest at the rate to be 52545
credited accumulated contributions at retirement, compounded 52546
annually from the first day of the month payment was due the 52547
retirement system to and including the month of deposit, the total 52548
amount of which shall be collected from the employer. Such amounts 52549
shall be certified by the retirement board to the superintendent 52550
of public instruction, who shall deduct the amount due the system 52551
from any funds due the affected school district under ~~Chapters~~ 52552

~~3306.~~ and Chapter 3317. of the Revised Code. The superintendent 52553
shall certify to the director of budget and management the amount 52554
due the system for payment. The total amount paid shall be 52555
deposited into the employers' trust fund, and shall not be 52556
considered as accumulated contributions of the employee in the 52557
event of the employee's death or withdrawal of funds. 52558

Sec. 3309.51. (A) Each employer shall pay annually into the 52559
employers' trust fund, in such monthly or less frequent 52560
installments as the school employees retirement board requires, an 52561
amount certified by the school employees retirement board, which 52562
shall be as required by Chapter 3309. of the Revised Code. 52563

Payments by school district boards of education to the 52564
employers' trust fund of the school employees retirement system 52565
may be made from the amounts allocated under ~~Chapters 3306.~~ and 52566
Chapter 3317. of the Revised Code prior to their distribution to 52567
the individual school districts. The amount due from each school 52568
district may be certified by the secretary of the system to the 52569
superintendent of public instruction monthly, or at such times as 52570
is determined by the school employees retirement board. 52571

Payments by governing authorities of community schools to the 52572
employers' trust fund of the school employees retirement system 52573
shall be made from the amounts allocated under section 3314.08 of 52574
the Revised Code prior to their distribution to the individual 52575
community schools. The amount due from each community school shall 52576
be certified by the secretary of the system to the superintendent 52577
of public instruction monthly, or at such times as determined by 52578
the school employees retirement board. 52579

Payments by a science, technology, engineering, and 52580
mathematics school to the employers' trust fund of the school 52581
employees retirement system shall be made from the amounts 52582
allocated under section 3326.33 of the Revised Code prior to their 52583

distribution to the school. The amount due from a science, 52584
technology, engineering, and mathematics school shall be certified 52585
by the secretary of the school employees retirement system to the 52586
superintendent of public instruction monthly, or at such times as 52587
determined by the school employees retirement board. 52588

(B) The superintendent shall deduct from the amount allocated 52589
to each community school under section 3314.08 of the Revised 52590
Code, to each school district under ~~Chapters 3306.~~ and Chapter 52591
3317. of the Revised Code, or to each science, technology, 52592
engineering, and mathematics school under section 3326.33 of the 52593
Revised Code the entire amounts due to the school employees 52594
retirement system from such school or school district upon the 52595
certification to the superintendent by the secretary thereof. 52596

(C) Where an employer fails or has failed or refuses to make 52597
payments to the employers' trust fund, as provided for under 52598
Chapter 3309. of the Revised Code, the secretary of the school 52599
employees retirement system may certify to the state 52600
superintendent of public instruction, monthly or at such times as 52601
is determined by the school employees retirement board, the amount 52602
due from such employer, and the superintendent shall deduct from 52603
the amount allocated to the employer under section 3314.08 or 52604
3326.33 or Chapter ~~3306.~~ or 3317. of the Revised Code, as 52605
applicable, the entire amounts due to the system from the employer 52606
upon the certification to the superintendent by the secretary of 52607
the school employees retirement system. 52608

(D) The superintendent shall certify to the director of 52609
budget and management the amounts thus due the system for payment. 52610

Sec. 3309.66. The right of an individual to a pension, an 52611
annuity, or a retirement allowance itself, the right of an 52612
individual to any optional benefit, any other right accrued or 52613
accruing to any individual under this chapter, the various funds 52614

created by section 3309.60 of the Revised Code, and all moneys, 52615
investments, and income from moneys and investments are exempt 52616
from any state tax, except the tax imposed by section 5747.02 of 52617
the Revised Code, and are exempt from any county, municipal, or 52618
other local tax, except income taxes imposed pursuant to section 52619
5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except 52620
as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 52621
3119.81, 3121.02, 3121.03, 3123.06, 3309.67, 3309.672, and 52622
3309.673 of the Revised Code, shall not be subject to execution, 52623
garnishment, attachment, the operation of bankruptcy or insolvency 52624
laws, or any other process of law whatsoever, and shall be 52625
unassignable except as specifically provided in this chapter and 52626
in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 52627
3121.03, and 3123.06 of the Revised Code. 52628

Sec. 3310.02. (A) The educational choice scholarship pilot 52629
program is hereby established. Under the program, the department 52630
of education annually shall pay scholarships to attend chartered 52631
nonpublic schools in accordance with section 3310.08 of the 52632
Revised Code for up to ~~fourteen thousand~~ the following number of 52633
eligible students: 52634

(1) Thirty thousand in the 2011-2012 school year; 52635

(2) Sixty thousand in the 2012-2013 school year and 52636
thereafter. ~~if~~ 52637

(B) If the number of students who apply for a scholarship 52638
exceeds ~~fourteen thousand~~ the number of scholarships available 52639
under division (A) of this section for the applicable school year, 52640
the department shall award scholarships in the following order of 52641
priority: 52642

~~(A)~~(1) First, to eligible students who received scholarships 52643
in the prior school year; 52644

~~(B)(2)~~ Second, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in ~~this~~ division (B)(2) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under division ~~(A)~~(B)(1) of this section, the department shall select students described in ~~this~~ division (B)(2) of this section by lot to receive any remaining scholarships.

~~(C)(3)~~ Third, to other eligible students who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in ~~this~~ division (B)(3) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions ~~(A)~~(B)(1) and ~~(B)~~(2) of this section, the department shall select students described in ~~this~~ division (B)(3) of this section by lot to receive any remaining scholarships.

(4) Fourth, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(4) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (3) of this section, the department shall select students described in division (B)(4) of this section by lot to receive any remaining scholarships.

(5) Fifth, to other eligible students who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(5) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (4) of this

section, the department shall select students described in 52677
division (B)(5) of this section by lot to receive any remaining 52678
scholarships. 52679

Sec. 3310.03. ~~(A)~~ A student is an "eligible student" for 52680
purposes of the educational choice scholarship pilot program if 52681
the student's resident district is not a school district in which 52682
the pilot project scholarship program is operating under sections 52683
3313.974 to 3313.979 of the Revised Code and the student satisfies 52684
one of the ~~following~~ conditions in division (A) or (B) of this 52685
section: 52686

(A)(1) The student is enrolled in a school building that is 52687
operated by the student's resident district and to which both of 52688
the following apply: 52689

(a) The building was declared, in at least two of the three 52690
most recent ratings of school buildings published prior to the 52691
first day of July of the school year for which a scholarship is 52692
sought, to be in a state of academic emergency or academic watch 52693
under section 3302.03 of the Revised Code; 52694

(b) The building was not declared to be excellent or 52695
effective under that section in the most recent rating published 52696
prior to the first day of July of the school year for which a 52697
scholarship is sought. 52698

(2) The student is eligible to enroll in kindergarten in the 52699
school year for which a scholarship is sought and otherwise would 52700
be assigned under section 3319.01 of the Revised Code to a school 52701
building described in division (A)(1) of this section. 52702

(3) The student is enrolled in a community school established 52703
under Chapter 3314. of the Revised Code but otherwise would be 52704
assigned under section 3319.01 of the Revised Code to a building 52705
described in division (A)(1) of this section. 52706

(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section in the school year for which the scholarship is sought.

(5) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought, or is enrolled in a community school established under Chapter 3314. of the Revised Code, and all of the following apply to the student's resident district:

(a) The district has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level, respectively, is automatically assigned to a particular school building;

(b) In at least two of the three most recent ratings of school districts published prior to the first day of July of the school year for which a scholarship is sought, the district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code;

(c) The district was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(B)(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was ranked, for at least two of the three most recent rankings published under section 3302.21 of the Revised Code prior to the first day of July of the school year for which a scholarship is sought, in the lowest ten per cent of

school district buildings according to performance index score. 52738

(b) The building was not declared to be excellent or 52739
effective under section 3302.03 of the Revised Code in the most 52740
recent rating published prior to the first day of July of the 52741
school year for which a scholarship is sought. 52742

(2) The student is eligible to enroll in kindergarten in the 52743
school year for which a scholarship is sought and otherwise would 52744
be assigned under section 3319.01 of the Revised Code to a school 52745
building described in division (B)(1) of this section. 52746

(3) The student is enrolled in a community school established 52747
under Chapter 3314. of the Revised Code but otherwise would be 52748
assigned under section 3319.01 of the Revised Code to a building 52749
described in division (B)(1) of this section. 52750

(4) The student is enrolled in a school building that is 52751
operated by the student's resident district or in a community 52752
school established under Chapter 3314. of the Revised Code and 52753
otherwise would be assigned under section 3319.01 of the Revised 52754
Code to a school building described in division (B)(1) of this 52755
section in the school year for which the scholarship is sought. 52756

(C) A student who receives a scholarship under the 52757
educational choice scholarship pilot program remains an eligible 52758
student and may continue to receive scholarships in subsequent 52759
school years until the student completes grade twelve, so long as 52760
all of the following apply: 52761

(1) The student's resident district remains the same, or the 52762
student transfers to a new resident district and otherwise would 52763
be assigned in the new resident district to a school building 52764
described in division (A)(1) or ~~(6)~~(B)(1) of this section; 52765

(2) The student takes each assessment prescribed for the 52766
student's grade level under section 3301.0710 or 3301.0712 of the 52767
Revised Code while enrolled in a chartered nonpublic school; 52768

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

~~(C)~~(D)(1) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(5) of this section. ~~However~~

(2) The department shall cease awarding first-time scholarships pursuant to divisions (B)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (B)(1) of this section.

(3) However, students who have received scholarships in the prior school year remain eligible students pursuant to division ~~(B)~~(C) of this section.

~~(D)~~(E) The state board of education shall adopt rules defining excused absences for purposes of division ~~(B)~~(C)(3) of this section.

Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project

scholarship program is operating under sections 3313.974 to 52800
3313.979 of the Revised Code. The two pilot programs are separate 52801
and distinct. ~~The general assembly has prescribed separate~~ 52802
~~scholarship amounts for the two pilot programs in recognition of~~ 52803
~~their, with~~ differing eligibility criteria. The pilot project 52804
scholarship program operating under sections 3313.974 to 3313.979 52805
of the Revised Code is a district-wide program that may award 52806
scholarships to students who do not attend district schools that 52807
face academic challenges, whereas the educational choice 52808
scholarship pilot program established under sections 3310.01 to 52809
3310.17 of the Revised Code is limited to students of individual 52810
district school buildings that face academic challenges. 52811

Sec. 3310.08. (A) The amount paid for an eligible student 52812
under the educational choice scholarship pilot program shall be 52813
the lesser of the tuition of the chartered nonpublic school in 52814
which the student is enrolled or the maximum amount prescribed in 52815
section 3310.09 of the Revised Code. 52816

(B)(1) The department shall pay to the parent of each 52817
eligible student for whom a scholarship is awarded under the 52818
program, or to the student if at least eighteen years of age, 52819
periodic partial payments of the scholarship. 52820

(2) The department shall proportionately reduce or terminate 52821
the payments for any student who withdraws from a chartered 52822
nonpublic school prior to the end of the school year. 52823

(C)(1) The department shall deduct ~~five thousand two hundred~~ 52824
~~dollars~~ from the payments made to each school district under 52825
~~Chapters 3306. and Chapter 3317.~~ and, if necessary, sections 52826
321.24 and 323.156 of the Revised Code, the amount paid under 52827
division (B) of this section for each eligible student awarded a 52828
scholarship under the ~~educational choice scholarship pilot~~ program 52829

who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. 52830
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~~The amount deducted under division (C)(1) of this section funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code.~~ 52832
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(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student enrolls in the schools of the student's resident district or in a community school, established under Chapter 3314. of the Revised Code, before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section. 52836
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~~(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF 3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following:~~ 52844
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~~(1) The district's state share of the adequacy amount payment, as calculated under section 3306.13 of the Revised Code with the scholarship students included in the district's formula ADM;~~ 52849
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~~(2) What the district's state share of the adequacy amount payment would have been, as calculated under that section if the scholarship students were not included in the district's formula ADM.~~ 52853
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~~This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by the number of eligible students for whom deductions are made under~~ 52857
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~~division (C) of this section.~~ 52861

Sec. 3310.41. (A) As used in this section: 52862

(1) "Alternative public provider" means either of the 52863
following providers that agrees to enroll a child in the 52864
provider's special education program to implement the child's 52865
individualized education program and to which the child's parent 52866
owes fees for the services provided to the child: 52867

(a) A school district that is not the school district in 52868
which the child is entitled to attend school; 52869

(b) A public entity other than a school district. 52870

(2) "Entitled to attend school" means entitled to attend 52871
school in a school district under section 3313.64 or 3313.65 of 52872
the Revised Code. 52873

(3) "Formula ADM" and "category six special education ADM" 52874
have the same meanings as in section 3317.02 of the Revised Code. 52875

(4) "Preschool child with a disability" and "individualized 52876
education program" have the same meanings as in section 3323.01 of 52877
the Revised Code. 52878

(5) "Parent" has the same meaning as in section 3313.64 of 52879
the Revised Code, except that "parent" does not mean a parent 52880
whose custodial rights have been terminated. 52881

(6) "Preschool scholarship ADM" means the number of preschool 52882
children with disabilities reported under division (B)(3)(h) of 52883
section 3317.03 of the Revised Code. 52884

(7) "Qualified special education child" is a child for whom 52885
all of the following conditions apply: 52886

(a) The school district in which the child is entitled to 52887
attend school has identified the child as autistic. A child who 52888
has been identified as having a "pervasive developmental disorder 52889

- not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education to participate in the program established under this section.

(9) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department of education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the state board of education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider. Each scholarship

shall be in an amount not to exceed the lesser of the tuition 52921
charged for the child by the special education program or twenty 52922
thousand dollars. The purpose of the scholarship is to permit the 52923
parent of a qualified special education child the choice to send 52924
the child to a special education program, instead of the one 52925
operated by or for the school district in which the child is 52926
entitled to attend school, to receive the services prescribed in 52927
the child's individualized education program once the 52928
individualized education program is finalized. A The services 52929
provided under the scholarship shall include an educational 52930
component. 52931

A scholarship under this section shall not be awarded to the 52932
parent of a child while the child's individualized education 52933
program is being developed by the school district in which the 52934
child is entitled to attend school, or while any administrative or 52935
judicial mediation or proceedings with respect to the content of 52936
the child's individualized education program are pending. A 52937
scholarship under this section shall not be used for a child to 52938
attend a public special education program that operates under a 52939
contract, compact, or other bilateral agreement between the school 52940
district in which the child is entitled to attend school and 52941
another school district or other public provider, or for a child 52942
to attend a community school established under Chapter 3314. of 52943
the Revised Code. However, nothing in this section or in any rule 52944
adopted by the state board shall prohibit a parent whose child 52945
attends a public special education program under a contract, 52946
compact, or other bilateral agreement, or a parent whose child 52947
attends a community school, from applying for and accepting a 52948
scholarship under this section so that the parent may withdraw the 52949
child from that program or community school and use the 52950
scholarship for the child to attend a special education program 52951
for which the parent is required to pay for services for the 52952
child. A 52953

A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and (B)(10) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district. As prescribed in divisions (B)(3)(h) and (B)(10) of section 3317.03 of the Revised Code, a child who is a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the preschool scholarship ADM and category six special education ADM of the school district in which the child is entitled to attend school and not in the preschool scholarship ADM or category six special education ADM of any other school district.

(2) In each fiscal year, the department shall deduct from the amounts paid to each school district under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM, or preschool scholarship ADM, and in the category six special education ADM of that school district as provided in division (C)(1) of this section. ~~When computing the school district's instructional services support under section 3306.05 of the Revised Code, the department shall add the district's preschool scholarship ADM to the district's formula ADM.~~

The scholarships deducted shall be considered as an approved

special education and related services expense of the school 52986
district. 52987

(3) From time to time, the department shall make a payment to 52988
the parent of each qualified special education child for whom a 52989
scholarship has been awarded under this section. The scholarship 52990
amount shall be proportionately reduced in the case of any such 52991
child who is not enrolled in the special education program for 52992
which a scholarship was awarded under this section for the entire 52993
school year. The department shall make no payments to the parent 52994
of a child while any administrative or judicial mediation or 52995
proceedings with respect to the content of the child's 52996
individualized education program are pending. 52997

(D) A scholarship shall not be paid to a parent for payment 52998
of tuition owed to a nonpublic entity unless that entity is a 52999
registered private provider. The department shall approve entities 53000
that meet the standards established by rule of the state board for 53001
the program established under this section. 53002

(E) The state board shall adopt rules under Chapter 119. of 53003
the Revised Code prescribing procedures necessary to implement 53004
this section, including, but not limited to, procedures and 53005
deadlines for parents to apply for scholarships, standards for 53006
registered private providers, and procedures for approval of 53007
entities as registered private providers. 53008

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of the 53009
Revised Code: 53010

(A) "Alternative public provider" means either of the 53011
following providers that agrees to enroll a child in the 53012
provider's special education program to implement the child's 53013
individualized education program and to which the eligible 53014
applicant owes fees for the services provided to the child: 53015

(1) A school district that is not the school district in which the child is entitled to attend school or the child's school district of residence, if different; 53016
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(2) A public entity other than a school district. 53019

(B) "Child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code. 53020
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(C) "Eligible applicant" means any of the following: 53023

(1) Either of the natural or adoptive parents of a qualified special education child, except as otherwise specified in this division. When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment, or when the natural or adoptive parents of the student are living separate and apart under a legal separation decree, and a court has issued an order allocating the parental rights and responsibilities with respect to the child, "eligible applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated. 53024
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(2) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency; 53036
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(3) The guardian of a qualified special education child, when a court has appointed a guardian for the child; 53040
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(4) The grandparent of a qualified special education child, when the grandparent is the child's attorney in fact under a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when the grandparent has executed a caregiver authorization affidavit under sections 3109.65 to 3109.73 of the 53042
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<u>Revised Code;</u>	53047
<u>(5) The surrogate parent appointed for a qualified special education child pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code;</u>	53048 53049 53050
<u>(6) A qualified special education child, if the child does not have a custodian or guardian and the child is at least eighteen years of age.</u>	53051 53052 53053
<u>(D) "Entitled to attend school" means entitled to attend school in a school district under sections 3313.64 and 3313.65 of the Revised Code.</u>	53054 53055 53056
<u>(E) "Formula ADM" and "formula amount" have the same meanings as in section 3317.02 of the Revised Code.</u>	53057 53058
<u>(F) "Qualified special education child" is a child for whom all of the following conditions apply:</u>	53059 53060
<u>(1) The child is at least five years of age and less than twenty-two years of age.</u>	53061 53062
<u>(2) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has identified the child as a child with a disability.</u>	53063 53064 53065
<u>(3) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has developed an individualized education program under Chapter 3323. of the Revised Code for the child.</u>	53066 53067 53068 53069
<u>(4) The child either:</u>	53070
<u>(a) Was enrolled in the schools of the school district in which the child is entitled to attend school in any grade from kindergarten through twelve in the school year prior to the school year in which a scholarship is first sought for the child;</u>	53071 53072 53073 53074
<u>(b) Is eligible to enter school in any grade kindergarten through twelve in the school district in which the child is</u>	53075 53076

entitled to attend school in the school year in which a 53077
scholarship is first sought for the child. 53078

(5) The department of education has not approved a 53079
scholarship for the child under the educational choice scholarship 53080
pilot program, under sections 3310.01 to 3310.17 of the Revised 53081
Code, or the autism scholarship program, under section 3310.41 of 53082
the Revised Code, for the same school year in which a scholarship 53083
under the Jon Peterson special needs scholarship program is 53084
sought. 53085

(6) The child and the child's parents are in compliance with 53086
the state compulsory attendance law under Chapter 3321. of the 53087
Revised Code. 53088

(G) "Registered private provider" means a nonpublic school or 53089
other nonpublic entity that has been registered by the 53090
superintendent of public instruction under section 3310.58 of the 53091
Revised Code. 53092

(H) "Scholarship" means a scholarship awarded under the Jon 53093
Peterson special needs scholarship program pursuant to sections 53094
3310.51 to 3310.64 of the Revised Code. 53095

(I) "School district of residence" has the same meaning as in 53096
section 3323.01 of the Revised Code. A community school 53097
established under Chapter 3314. of the Revised Code is not a 53098
"school district of residence" for purposes of sections 3310.51 to 53099
3310.64 of the Revised Code. 53100

(J) "School year" has the same meaning as in section 3313.62 53101
of the Revised Code. 53102

(K) "Special education program" means a school or facility 53103
that provides special education and related services to children 53104
with disabilities. 53105

Sec. 3310.52. (A) The Jon Peterson special needs scholarship 53106

program is hereby established. Under the program, subject to 53107
division (B) of this section, the department of education annually 53108
shall pay a scholarship to an eligible applicant for services 53109
provided by an alternative public provider or a registered private 53110
provider for a qualified special education child. The scholarship 53111
shall be used only to pay all or part of the fees for the child to 53112
attend the special education program operated by the alternative 53113
public provider or registered private provider to implement the 53114
child's individualized education program, in lieu of the child's 53115
attending the special education program operated by the school 53116
district in which the child is entitled to attend school, and 53117
other services agreed to by the provider and eligible applicant 53118
that are not included in the individualized education program but 53119
are associated with educating the child. Upon agreement with the 53120
eligible applicant, the alternative public provider or registered 53121
private provider may modify the services provided to the child. 53122

(B) The number of scholarships awarded under the program in 53123
any fiscal year shall not exceed five per cent of the total number 53124
of students residing in the state identified as children with 53125
disabilities during the previous fiscal year. 53126

(C) No scholarship or renewal of a scholarship shall be 53127
awarded to an eligible applicant on behalf of a qualified special 53128
education child for the next school year, unless on or before the 53129
application deadline the eligible applicant completes the 53130
application for the scholarship or renewal, in the manner 53131
prescribed by the department, and notifies the school district in 53132
which the child is entitled to attend school that the eligible 53133
applicant has applied for the scholarship or renewal. 53134

The application deadline for academic terms that begin 53135
between the first day of July and the thirty-first day of December 53136
shall be the fifteenth day of April that precedes the first day of 53137
instruction. The application deadline for academic terms that 53138

begin between the first day of January and the thirtieth day of 53139
June shall be the fifteenth day of November that precedes the 53140
first day of instruction. 53141

Sec. 3310.521. (A) As a condition of receiving payments for a 53142
scholarship, each eligible applicant shall attest to receipt of 53143
the profile prescribed by division (B) of this section. Such 53144
attestation shall be made and submitted to the department of 53145
education in the form and manner as required by the department. 53146

(B) The alternative public provider or registered private 53147
provider that enrolls a qualified special education child shall 53148
submit in writing to the eligible applicant to whom a scholarship 53149
is awarded on behalf of that child a profile of the provider's 53150
special education program, in a form as prescribed by the 53151
department, that shall contain the following: 53152

(1) Methods of instruction that will be utilized by the 53153
provider to provide services to the qualified special education 53154
child; 53155

(2) Qualifications of teachers, instructors, and other 53156
persons who will be engaged by the provider to provide services to 53157
the qualified special education child. 53158

Sec. 3310.53. (A) Except for development of the child's 53159
individualized education program, as specified in division (B) of 53160
this section, the school district in which a qualified special 53161
education child is entitled to attend school and the child's 53162
school district of residence, if different, are not obligated to 53163
provide the child with a free appropriate public education under 53164
Chapter 3323. of the Revised Code for as long as the child 53165
continues to attend the special education program operated by 53166
either an alternative public provider or a registered private 53167
provider for which a scholarship is awarded under the Jon Peterson 53168

special needs scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code. 53169
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(B) Each eligible applicant and each qualified special education child have a continuing right to the development of an individualized education program for the child that complies with Chapter 3323. of the Revised Code, 20 U.S.C. 1400 et seq., and administrative rules or guidelines adopted by the Ohio department of education or the United States department of education. The school district in which a qualified special education child is entitled to attend school, or the child's school district of residence if different, shall develop each individualized education program for the child in accordance with those provisions. 53176
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(C) Each school district shall notify an eligible applicant of the applicant's and qualified special education child's rights under sections 3310.51 to 3310.64 of the Revised Code by providing to each eligible applicant the comparison document prescribed in section 3323.052 of the Revised Code. An eligible applicant's receipt of that document, as acknowledged in a format prescribed by the department of education, shall constitute notice that the eligible applicant has been informed of those rights. Upon receipt of that document, subsequent acceptance of a scholarship constitutes the eligible applicant's informed consent to the provisions of sections 3310.51 to 3310.64 of the Revised Code. 53187
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Sec. 3310.54. A qualified special education child in any of grades kindergarten through twelve for whom a scholarship is 53198
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awarded under the Jon Peterson special needs scholarship program 53200
shall be counted in the formula ADM and category one through six 53201
special education ADM, as appropriate, of the school district in 53202
which the child is entitled to attend school. A qualified special 53203
education child shall not be counted in the formula ADM or 53204
category one through six special education ADM of any other school 53205
district. 53206

Sec. 3310.55. The department of education shall deduct from a 53207
school district's state education aid, as defined in section 53208
3317.02 of the Revised Code, and if necessary, from its payment 53209
under sections 321.24 and 323.156 of the Revised Code, the 53210
aggregate amount of scholarships paid under section 3310.57 of the 53211
Revised Code for qualified special education children included in 53212
the formula ADM and the category one through six special education 53213
ADM of that school district. 53214

Sec. 3310.56. (A) The amount of the scholarship awarded and 53215
paid to an eligible applicant for services for a qualified special 53216
education child under the Jon Peterson special needs scholarship 53217
program in each school year shall be the least of the amounts 53218
prescribed in divisions (A)(1), (2), or (3) of this section, as 53219
follows: 53220

(1) The amount of fees charged for that school year by the 53221
alternative public provider or registered private provider; 53222

(2) The sum of the amounts calculated under divisions 53223
(A)(2)(a) and (b) of this section: 53224

(a) The sum of the formula amount plus the per pupil amount 53225
of the base funding supplements specified in divisions (C)(1) to 53226
(4) of section 3317.012 of the Revised Code for fiscal year 2009; 53227

(b) The formula amount times the following multiple 53228
prescribed for the child's disability: 53229

<u>(i) For a student in category one, 0.2892;</u>	53230
<u>(ii) For a student in category two, 0.3691;</u>	53231
<u>(iii) For a student in category three, 1.7695;</u>	53232
<u>(iv) For a student in category four, 2.3646;</u>	53233
<u>(v) For a student in category five, 3.1129;</u>	53234
<u>(vi) For a student in category six, 4.7342.</u>	53235
<u>Before applying the multiples specified in divisions</u>	53236
<u>(A)(2)(b)(i) to (vi) of this section, they first shall be adjusted</u>	53237
<u>by multiplying them by 0.80.</u>	53238
<u>(3) Twenty thousand dollars.</u>	53239
<u>(B) As used in division (A)(2)(b) of this section, a child</u>	53240
<u>with a disability is in:</u>	53241
<u>(1) "Category one" if the child's primary or only identified</u>	53242
<u>disability is a speech and language disability, as this term is</u>	53243
<u>defined pursuant to Chapter 3323. of the Revised Code;</u>	53244
<u>(2) "Category two" if the child is identified as specific</u>	53245
<u>learning disabled or developmentally disabled, as these terms are</u>	53246
<u>defined pursuant to Chapter 3323. of the Revised Code, or as</u>	53247
<u>having an other health impairment-minor, as defined in section</u>	53248
<u>3317.02 of the Revised Code;</u>	53249
<u>(3) "Category three" if the child is identified as vision</u>	53250
<u>impaired, hearing disabled, or severe behavior disabled, as these</u>	53251
<u>terms are defined pursuant to Chapter 3323. of the Revised Code;</u>	53252
<u>(4) "Category four" if the child is identified as</u>	53253
<u>orthopedically disabled, as this term is defined pursuant to</u>	53254
<u>Chapter 3323. of the Revised Code, or as having an other health</u>	53255
<u>impairment-major, as defined in section 3317.02 of the Revised</u>	53256
<u>Code;</u>	53257
<u>(5) "Category five" if the child is identified as having</u>	53258

multiple disabilities, as this term is defined pursuant to Chapter 3323. of the Revised Code; 53259
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(6) "Category six" if the child is identified as autistic, having traumatic brain injuries, or both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code. 53261
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Sec. 3310.57. The department of education shall make periodic payments to an eligible applicant for services for each qualified special education child for whom a scholarship has been awarded. The total of all payments made to an applicant in each school year shall not exceed the amount calculated for the child under section 3310.56 of the Revised Code. 53265
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The department shall proportionately reduce the scholarship amount in the case of a child who is not enrolled in the special education program of an alternative public provider or a registered private provider for the entire school year. 53271
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In accordance with division (A) of section 3310.62 of the Revised Code, the department shall make no payments to an applicant for a first-time scholarship for a qualified special education child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. 53275
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Sec. 3310.58. No nonpublic school or entity shall receive payments from an eligible applicant for services for a qualified special education child under the Jon Peterson special needs scholarship program until the school or entity registers with the superintendent of public instruction. The superintendent shall register and designate as a registered private provider any nonpublic school or entity that meets the following requirements: 53281
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(A) The school or entity complies with the antidiscrimination 53288

provisions of 42 U.S.C. 2000d, regardless of whether the school or 53289
entity receives federal financial assistance. 53290

(B) If the school or entity is not chartered by the state 53291
board under section 3301.16 of the Revised Code, the school or 53292
entity agrees to comply with sections 3319.39, 3319.391, and 53293
3319.392 of the Revised Code as if it were a school district. 53294

(C) The teaching and nonteaching professionals employed by 53295
the school or entity, or employed by any subcontractors of the 53296
school or entity, hold credentials determined by the state board 53297
to be appropriate for the qualified special education children 53298
enrolled in the special education program it operates. 53299

(D) The school's or entity's educational program shall be 53300
approved by the department of education. 53301

(E) The school or entity meets applicable health and safety 53302
standards established by law. 53303

(F) The school or entity agrees to retain on file 53304
documentation as required by the department of education. 53305

(G) The school or entity agrees to provide a record of the 53306
implementation of the individualized education program for each 53307
qualified special education child enrolled in the school's or 53308
entity's special education program, including evaluation of the 53309
child's progress, to the school district in which the child is 53310
entitled to attend school, in the form and manner prescribed by 53311
the department. 53312

(H) The school or entity agrees that, if it declines to 53313
enroll a particular qualified special education child, it will 53314
notify in writing the eligible applicant of its reasons for 53315
declining to enroll the child. 53316

Sec. 3310.59. The superintendent of public instruction shall 53317
revoke the registration of any school or entity if, after a 53318

hearing, the superintendent determines that the school or entity 53319
is in violation of any provision of section 3310.58 of the Revised 53320
Code. 53321

Sec. 3310.60. A qualified special education child attending a 53322
special education program at an alternative public provider or a 53323
registered private provider with a scholarship shall be entitled 53324
to transportation to and from that program in the manner 53325
prescribed by law for any child with a disability attending a 53326
nonpublic special education program. 53327

Sec. 3310.61. An eligible applicant on behalf of a child who 53328
currently attends a public special education program under a 53329
contract, compact, or other bilateral agreement, or on behalf of a 53330
child who currently attends a community school, shall not be 53331
prohibited from applying for and accepting a scholarship so that 53332
the applicant may withdraw the child from that program or 53333
community school and use the scholarship for the child to attend a 53334
special education program operated by an alternative public 53335
provider or a registered private provider. 53336

Sec. 3310.62. (A) A scholarship under the Jon Peterson 53337
special needs scholarship program shall not be awarded for the 53338
first time to an eligible applicant on behalf of a qualified 53339
special education child while the child's individualized education 53340
program is being developed by the school district in which the 53341
child is entitled to attend school, or by the child's school 53342
district of residence if different, or while any administrative or 53343
judicial mediation or proceedings with respect to the content of 53344
that individualized education program are pending. 53345

(B) Development of individualized education programs 53346
subsequent to the one developed for the child the first time a 53347
scholarship was awarded on behalf of the child and the 53348

prosecuting, by the eligible applicant on behalf of the child, of 53349
administrative or judicial mediation or proceedings with respect 53350
to any of those subsequent individualized education programs do 53351
not affect the applicant's and the child's continued eligibility 53352
for scholarship payments. 53353

(C) In the case of any child for whom a scholarship has been 53354
awarded, if the school district in which the child is entitled to 53355
attend school has agreed to provide some services for the child 53356
under an agreement entered into with the eligible applicant or 53357
with the alternative public provider or registered private 53358
provider implementing the child's individualized education 53359
program, or if the district is required by law to provide some 53360
services for the child, including transportation services under 53361
sections 3310.60 and 3327.01 of the Revised Code, the district 53362
shall not discontinue the services it is providing pending 53363
completion of any administrative proceedings regarding those 53364
services. The prosecuting, by the eligible applicant on behalf of 53365
the child, of administrative proceedings regarding the services 53366
provided by the district does not affect the applicant's and the 53367
child's continued eligibility for scholarship payments. 53368

(D) The department of education shall continue to make 53369
payments to the eligible applicant under section 3310.57 of the 53370
Revised Code while either of the following are pending: 53371

(1) Administrative or judicial mediation or proceedings with 53372
respect to a subsequent individualized education program for the 53373
child referred to in division (B) of this section; 53374

(2) Administrative proceedings regarding services provided by 53375
the district under division (C) of this section. 53376

Sec. 3310.63. (A) Only for the purpose of administering the 53377
Jon Peterson special needs scholarship program, the department of 53378
education may request from any of the following entities the data 53379

verification code assigned under division (D)(2) of section 53380
3301.0714 of the Revised Code to any qualified special education 53381
child for whom a scholarship is sought under the program: 53382

(1) The school district in which the child is entitled to 53383
attend school; 53384

(2) If applicable, the community school in which the child is 53385
enrolled; 53386

(3) The independent contractor engaged to create and maintain 53387
data verification codes. 53388

(B) Upon a request by the department under division (A) of 53389
this section for the data verification code of a qualified special 53390
education child or a request by the eligible applicant for the 53391
child for that code, the school district or community school shall 53392
submit that code to the department or applicant in the manner 53393
specified by the department. If the child has not been assigned a 53394
code, because the child will be entering kindergarten during the 53395
school year for which the scholarship is sought, the district 53396
shall assign a code to that child and submit the code to the 53397
department or applicant by a date specified by the department. If 53398
the district does not assign a code to the child by the specified 53399
date, the department shall assign a code to the child. 53400

The department annually shall submit to each school district 53401
the name and data verification code of each child residing in the 53402
district who is entering kindergarten, who has been awarded a 53403
scholarship under the program, and for whom the department has 53404
assigned a code under this division. 53405

(C) The department shall not release any data verification 53406
code that it receives under this section to any person except as 53407
provided by law. 53408

(D) Any document relative to the Jon Peterson special needs 53409

scholarship program that the department holds in its files that 53410
contains both a qualified special education child's name or other 53411
personally identifiable information and the child's data 53412
verification code shall not be a public record under section 53413
149.43 of the Revised Code. 53414

Sec. 3310.64. The state board of education shall adopt rules 53415
in accordance with Chapter 119. of the Revised Code prescribing 53416
procedures necessary to implement sections 3310.51 to 3310.63 of 53417
the Revised Code including, but not limited to, procedures for 53418
parents to apply for scholarships, standards for registered 53419
private providers, and procedures for registration of private 53420
providers. 53421

Sec. 3311.05. (A) The territory within the territorial limits 53422
of a county, or the territory included in a district formed under 53423
~~either~~ section 3311.053 ~~or 3311.059~~ of the Revised Code, exclusive 53424
of the territory embraced in any city school district or exempted 53425
village school district, and excluding the territory detached 53426
therefrom for school purposes and including the territory attached 53427
thereto for school purposes constitutes an educational service 53428
center. 53429

(B) A county school financing district created under section 53430
3311.50 of the Revised Code is not the school district described 53431
in division (A) of this section or any other school district but 53432
is a taxing district. 53433

Sec. 3311.054. (A) The initial members of any new governing 53434
board of an educational service center established in accordance 53435
with this section shall be all of the members of the governing 53436
boards of the former educational service centers whose territory 53437
comprises the new educational service center. The initial members 53438
of any such governing board shall serve until the first Monday of 53439

January immediately following the first election of governing board members conducted under division (C) of this section.

Notwithstanding section 3313.11 of the Revised Code, that section shall not apply to the filling of any vacancy among the initial members of any governing board established in accordance with this section. Any such vacancy shall be filled for the remainder of the term by a majority vote of all the remaining members of the governing board.

(B) Prior to the next first day of April in an odd-numbered year that occurs at least ninety days after the date on which any new governing board of an educational service center is initially established in accordance with this section, the governing board or, at the governing board's option, an executive committee of the governing board appointed by the governing board shall do both of the following:

(1) Designate the number of elected members comprising all subsequent governing boards of the educational service center, which number shall be an odd number not to exceed nine.

(2) Divide the educational service center into a number of subdistricts equal to the number of governing board members designated under division (B)(1) of this section and number the subdistricts. Each subdistrict shall be as nearly equal in population as possible and shall be composed of adjacent and compact territory. To the extent possible, each subdistrict shall be composed only of territory located in one county. In addition, the subdistricts shall be bounded as far as possible by corporation lines, streets, alleys, avenues, public grounds, canals, watercourses, ward boundaries, voting precinct boundaries, or school district boundaries.

If the new governing board fails to divide the territory of the educational service center in accordance with this division,

the superintendent of public instruction shall establish the 53471
subdistricts within thirty days. 53472

(C) At the next regular municipal election following the 53473
deadline for creation of the subdistricts of an educational 53474
service center under division (B) of this section, an entire new 53475
governing board shall be elected. All members of such governing 53476
board shall be elected from those subdistricts. 53477

(D) Within ninety days after the official announcement of the 53478
results of each successive federal decennial census, each 53479
governing board of an educational service center established in 53480
accordance with this section shall redistrict the educational 53481
service center's territory into a number of subdistricts equal to 53482
the number of board members designated under division (B)(1) of 53483
this section and number the subdistricts. Each such redistricting 53484
shall be done in accordance with the standards for subdistricts in 53485
division (B)(2) of this section. At the next regular municipal 53486
election following the announcement of the results of each such 53487
successive census, all elected governing board members shall again 53488
be elected from the subdistricts most recently created under this 53489
division. 53490

If a governing board fails to redistrict the territory of its 53491
educational service center in accordance with this division, the 53492
superintendent of public instruction shall redistrict the service 53493
center within thirty days. 53494

(E) All members elected pursuant to this section shall take 53495
office on the first Monday of January immediately following the 53496
election. Whenever all elected governing board members are elected 53497
at one election under division (C) or (D) of this section, the 53498
terms of each of the members elected from even-numbered 53499
subdistricts shall be for two years and the terms of each of the 53500
members elected from odd-numbered subdistricts shall be for four 53501
years. Thereafter, successors shall be elected for four-year terms 53502

in the same manner as is provided by law for the election of 53503
members of school boards except that any successor elected at a 53504
regular municipal election immediately preceding any election at 53505
which an entire new governing board is elected shall be elected 53506
for a two-year term. 53507

Sec. 3311.056. After at least one election of board members 53508
has occurred under division (B) of section 3313.053, division (C) 53509
of section 3311.054, or section 3311.057 of the Revised Code, the 53510
elected governing board members of an educational service center 53511
created under division (A) of section 3311.053 of the Revised Code 53512
may by resolution adopt a plan for adding appointed members to 53513
that governing board. A plan may provide for adding to the board a 53514
number of appointed members that is up to one less than the number 53515
of elected members on the board except that the total number of 53516
elected and appointed board members shall be an odd number. A plan 53517
shall provide for the terms of the appointed board members. The 53518
appointed board members in each plan shall be appointed by a 53519
majority vote of the full number of elected members on the board 53520
and vacancies shall be filled as provided in the plan. Each plan 53521
shall specify the qualifications for the appointed board members 53522
of an educational service center ~~and shall at least require~~ 53523
~~appointed board members to be electors residing in the service~~ 53524
~~center. Appointed members may be representative of the client~~ 53525
~~school districts of the service center. As used in this section,~~ 53526
~~"client school district" has the same meaning as in section~~ 53527
~~3317.11 of the Revised Code.~~ 53528

A governing board adopting a plan under this section shall 53529
submit the plan to the state board of education for approval. The 53530
state board may approve or disapprove a plan or make 53531
recommendations for modifications in a plan. A plan shall take 53532
effect thirty days after approval by the state board and, when 53533
effective, appointments to the board shall be made in accordance 53534

with the plan. 53535

The elected members of the governing board of an educational 53536
service center with a plan in effect under this section may adopt, 53537
by unanimous vote of all the elected members, a resolution to 53538
revise or rescind the plan in effect under this section. All 53539
revisions shall comply with the requirements in this section for 53540
appointed board members. A resolution revising or rescinding a 53541
plan shall specify the dates and manner in which the revision or 53542
rescission is to take place. The revision or rescission of a plan 53543
shall be submitted to the state board of education for approval. 53544
The state board may approve or disapprove a revision or rescission 53545
of a plan or make recommendations for modifications. Upon approval 53546
of a revision or rescission by the state board, the revised plan 53547
or rescission of the plan shall go into effect as provided in the 53548
revision or rescission. 53549

Sec. 3311.0510. (A) If all of the local school districts that 53550
make up the territory of an educational service center have 53551
severed from the territory of that service center, upon the 53552
effective date of the severance of the last remaining local school 53553
district to make up the territory of the service center, the 53554
governing board of that service center shall be abolished and such 53555
service center shall be dissolved by order of the superintendent 53556
of public instruction. The superintendent's order shall provide 53557
for the equitable division and disposition of the assets, 53558
property, debts, and obligations of the service center among the 53559
local school districts, of which the territory of the service 53560
center is or previously was made up, and the city and exempted 53561
village school districts with which the service center had 53562
agreements under section 3313.843 of the Revised Code for the 53563
service center's last fiscal year of operation. The 53564
superintendent's order shall provide that the tax duplicate of 53565
each of those school districts shall be bound for and assume the 53566

district's equitable share of the outstanding indebtedness of the 53567
service center. The superintendent's order is final and is not 53568
appealable. 53569

Immediately upon the abolishment of the service center 53570
governing board pursuant to this section, the superintendent of 53571
public instruction shall appoint a qualified individual to 53572
administer the dissolution of the service center and to implement 53573
the terms of the superintendent's dissolution order. 53574

Prior to distributing assets to any school district under 53575
this section, but after paying in full other debts and obligations 53576
of the service center under this section, the superintendent of 53577
public instruction may assess against the remaining assets of the 53578
service center the amount of the costs incurred by the department 53579
of education in performing the superintendent's duties under this 53580
division, including the fees, if any, owed to the individual 53581
appointed to administer the superintendent's dissolution order. 53582
Any excess cost incurred by the department under this division 53583
shall be divided equitably among the local school districts, of 53584
which the territory of the service center is or previously was 53585
made up, and the city and exempted village school districts with 53586
which the service center had agreements under section 3313.843 of 53587
the Revised Code for the service center's last fiscal year of 53588
operation. Each district's share of that excess cost shall be 53589
bound against the tax duplicate of that district. 53590

(B) A final audit of the former service center shall be 53591
performed in accordance with procedures established by the auditor 53592
of state. 53593

(C) The public records of an educational service center that 53594
is dissolved under this section shall be transferred in accordance 53595
with this division. Public records maintained by the service 53596
center in connection with services provided by the service center 53597

to local school districts shall be transferred to each of the 53598
respective local school districts. Public records maintained by 53599
the service center in connection with services provided under an 53600
agreement with a city or exempted village school district pursuant 53601
to section 3313.843 of the Revised Code shall be transferred to 53602
each of the respective city or exempted village school districts. 53603
All other public records maintained by the service center at the 53604
time the service center ceases operations shall be transferred to 53605
the Ohio historical society for analysis and disposition by the 53606
society in its capacity as archives administrator for the state 53607
and its political subdivisions pursuant to division (C) of section 53608
149.30 and section 149.31 of the Revised Code. 53609

Sec. 3311.06. (A) As used in this section: 53610

(1) "Annexation" and "annexed" mean annexation for municipal 53611
purposes under sections 709.02 to 709.37 of the Revised Code. 53612

(2) "Annexed territory" means territory that has been annexed 53613
for municipal purposes to a city served by an urban school 53614
district, but on September 24, 1986, has not been transferred to 53615
the urban school district. 53616

(3) "Urban school district" means a city school district with 53617
an average daily membership for the 1985-1986 school year in 53618
excess of twenty thousand that is the school district of a city 53619
that contains annexed territory. 53620

(4) "Annexation agreement" means an agreement entered into 53621
under division (F) of this section that has been approved by the 53622
state board of education or an agreement entered into prior to 53623
September 24, 1986, that meets the requirements of division (F) of 53624
this section and has been filed with the state board. 53625

(B) The territory included within the boundaries of a city, 53626
local, exempted village, or joint vocational school district shall 53627

be contiguous except where a natural island forms an integral part 53628
of the district, where the state board of education authorizes a 53629
noncontiguous school district, as provided in division (E)(1) of 53630
this section, or where a local school district is created pursuant 53631
to section 3311.26 of the Revised Code from one or more local 53632
school districts, one of which has entered into an agreement under 53633
section 3313.42 of the Revised Code. 53634

(C)(1) When all of the territory of a school district is 53635
annexed to a city or village, such territory thereby becomes a 53636
part of the city school district or the school district of which 53637
the village is a part, and the legal title to school property in 53638
such territory for school purposes shall be vested in the board of 53639
education of the city school district or the school district of 53640
which the village is a part. 53641

(2) When the territory so annexed to a city or village 53642
comprises part but not all of the territory of a school district, 53643
the said territory becomes part of the city school district or the 53644
school district of which the village is a part only upon approval 53645
by the state board of education, unless the district in which the 53646
territory is located is a party to an annexation agreement with 53647
the city school district. 53648

Any urban school district that has not entered into an 53649
annexation agreement with any other school district whose 53650
territory would be affected by any transfer under this division 53651
and that desires to negotiate the terms of transfer with any such 53652
district shall conduct any negotiations under division (F) of this 53653
section as part of entering into an annexation agreement with such 53654
a district. 53655

Any school district, except an urban school district, 53656
desiring state board approval of a transfer under this division 53657
shall make a good faith effort to negotiate the terms of transfer 53658
with any other school district whose territory would be affected 53659

by the transfer. Before the state board may approve any transfer 53660
of territory to a school district, except an urban school 53661
district, under this section, it must receive the following: 53662

(a) A resolution requesting approval of the transfer, passed 53663
by at least one of the school districts whose territory would be 53664
affected by the transfer; 53665

(b) Evidence determined to be sufficient by the state board 53666
to show that good faith negotiations have taken place or that the 53667
district requesting the transfer has made a good faith effort to 53668
hold such negotiations; 53669

(c) If any negotiations took place, a statement signed by all 53670
boards that participated in the negotiations, listing the terms 53671
agreed on and the points on which no agreement could be reached. 53672

(D) The state board of education shall adopt rules governing 53673
negotiations held by any school district except an urban school 53674
district pursuant to division (C)(2) of this section. The rules 53675
shall encourage the realization of the following goals: 53676

(1) A discussion by the negotiating districts of the present 53677
and future educational needs of the pupils in each district; 53678

(2) The educational, financial, and territorial stability of 53679
each district affected by the transfer; 53680

(3) The assurance of appropriate educational programs, 53681
services, and opportunities for all the pupils in each 53682
participating district, and adequate planning for the facilities 53683
needed to provide these programs, services, and opportunities. 53684

Districts involved in negotiations under such rules may agree 53685
to share revenues from the property included in the territory to 53686
be transferred, establish cooperative programs between the 53687
participating districts, and establish mechanisms for the 53688
settlement of any future boundary disputes. 53689

(E)(1) If territory annexed after September 24, 1986, is part of a school district that is a party to an annexation agreement with the urban school district serving the annexing city, the transfer of such territory shall be governed by the agreement. If the agreement does not specify how the territory is to be dealt with, the boards of education of the district in which the territory is located and the urban school district shall negotiate with regard to the transfer of the territory which shall be transferred to the urban school district unless, not later than ninety days after the effective date of municipal annexation, the boards of education of both districts, by resolution adopted by a majority of the members of each board, agree that the territory will not be transferred and so inform the state board of education.

If territory is transferred under this division the transfer shall take effect on the first day of July occurring not sooner than ninety-one days after the effective date of the municipal annexation. Territory transferred under this division need not be contiguous to the district to which it is transferred.

(2) Territory annexed prior to September 24, 1986, by a city served by an urban school district shall not be subject to transfer under this section if the district in which the territory is located is a party to an annexation agreement or becomes a party to such an agreement not later than ninety days after September 24, 1986. If the district does not become a party to an annexation agreement within the ninety-day period, transfer of territory shall be governed by division (C)(2) of this section. If the district subsequently becomes a party to an agreement, territory annexed prior to September 24, 1986, other than territory annexed under division (C)(2) of this section prior to the effective date of the agreement, shall not be subject to transfer under this section.

(F) An urban school district may enter into a comprehensive agreement with one or more school districts under which transfers of territory annexed by the city served by the urban school district after September 24, 1986, shall be governed by the agreement. Such agreement must provide for the establishment of a cooperative education program under section 3313.842 of the Revised Code in which all the parties to the agreement are participants and must be approved by resolution of the majority of the members of each of the boards of education of the school districts that are parties to it. An agreement may provide for interdistrict payments based on local revenue growth resulting from development in any territory annexed by the city served by the urban school district.

An agreement entered into under this division may be altered, modified, or terminated only by agreement, by resolution approved by the majority of the members of each board of education, of all school districts that are parties to the agreement, except that with regard to any provision that affects only the urban school district and one of the other districts that is a party, that district and the urban district may modify or alter the agreement by resolution approved by the majority of the members of the board of that district and the urban district. Alterations, modifications, terminations, and extensions of an agreement entered into under this division do not require approval of the state board of education, but shall be filed with the board after approval and execution by the parties.

If an agreement provides for interdistrict payments, each party to the agreement, except any school district specifically exempted by the agreement, shall agree to make an annual payment to the urban school district with respect to any of its territory that is annexed territory in an amount not to exceed the amount certified for that year under former section 3317.029 of the

Revised Code as that section existed prior to July 1, 1998; except 53754
that such limitation of annual payments to amounts certified under 53755
former section 3317.029 of the Revised Code does not apply to 53756
agreements or extensions of agreements entered into on or after 53757
June 1, 1992, unless such limitation is expressly agreed to by the 53758
parties. The agreement may provide that all or any part of the 53759
payment shall be waived if the urban school district receives its 53760
payment with respect to such annexed territory under former 53761
section 3317.029 of the Revised Code and that all or any part of 53762
such payment may be waived if the urban school district does not 53763
receive its payment with respect to such annexed territory under 53764
such section. 53765

With respect to territory that is transferred to the urban 53766
school district after September 24, 1986, the agreement may 53767
provide for annual payments by the urban school district to the 53768
school district whose territory is transferred to the urban school 53769
district subsequent to annexation by the city served by the urban 53770
school district. 53771

(G) In the event territory is transferred from one school 53772
district to another under this section, an equitable division of 53773
the funds and indebtedness between the districts involved shall be 53774
made under the supervision of the state board of education and 53775
that board's decision shall be final. Such division shall not 53776
include funds payable to or received by a school district under 53777
Chapter ~~3306.~~ or 3317. of the Revised Code or payable to or 53778
received by a school district from the United States or any 53779
department or agency thereof. In the event such transferred 53780
territory includes real property owned by a school district, the 53781
state board of education, as part of such division of funds and 53782
indebtedness, shall determine the true value in money of such real 53783
property and all buildings or other improvements thereon. The 53784
board of education of the school district receiving such territory 53785

shall forthwith pay to the board of education of the school 53786
district losing such territory such true value in money of such 53787
real property, buildings, and improvements less such percentage of 53788
the true value in money of each school building located on such 53789
real property as is represented by the ratio of the total 53790
enrollment in day classes of the pupils residing in the territory 53791
transferred enrolled at such school building in the school year in 53792
which such annexation proceedings were commenced to the total 53793
enrollment in day classes of all pupils residing in the school 53794
district losing such territory enrolled at such school building in 53795
such school year. The school district receiving such payment shall 53796
place the proceeds thereof in its sinking fund or bond retirement 53797
fund. 53798

(H) The state board of education, before approving such 53799
transfer of territory, shall determine that such payment has been 53800
made and shall apportion to the acquiring school district such 53801
percentage of the indebtedness of the school district losing the 53802
territory as is represented by the ratio that the assessed 53803
valuation of the territory transferred bears to the total assessed 53804
valuation of the entire school district losing the territory as of 53805
the effective date of the transfer, provided that in ascertaining 53806
the indebtedness of the school district losing the territory the 53807
state board of education shall disregard such percentage of the 53808
par value of the outstanding and unpaid bonds and notes of said 53809
school district issued for construction or improvement of the 53810
school building or buildings for which payment was made by the 53811
acquiring district as is equal to the percentage by which the true 53812
value in money of such building or buildings was reduced in fixing 53813
the amount of said payment. 53814

(I) No transfer of school district territory or division of 53815
funds and indebtedness incident thereto, pursuant to the 53816
annexation of territory to a city or village shall be completed in 53817

any other manner than that prescribed by this section regardless 53818
of the date of the commencement of such annexation proceedings, 53819
and this section applies to all proceedings for such transfers and 53820
divisions of funds and indebtedness pending or commenced on or 53821
after October 2, 1959. 53822

Sec. 3311.19. (A) The management and control of a joint 53823
vocational school district shall be vested in the joint vocational 53824
school district board of education. Where a joint vocational 53825
school district is composed only of two or more local school 53826
districts located in one county, or when all the participating 53827
districts are in one county and the boards of such participating 53828
districts so choose, the educational service center governing 53829
board of the county in which the joint vocational school district 53830
is located shall serve as the joint vocational school district 53831
board of education. Where a joint vocational school district is 53832
composed of local school districts of more than one county, or of 53833
any combination of city, local, or exempted village school 53834
districts or educational service centers, unless administration by 53835
the educational service center governing board has been chosen by 53836
all the participating districts in one county pursuant to this 53837
section, the board of education of the joint vocational school 53838
district shall be composed of one or more persons who are members 53839
of the boards of education from each of the city or exempted 53840
village school districts or members of the educational service 53841
centers' governing boards affected to be appointed by the boards 53842
of education or governing boards of such school districts and 53843
educational service centers. In such joint vocational school 53844
districts the number and terms of members of the joint vocational 53845
school district board of education and the allocation of a given 53846
number of members to each of the city and exempted village 53847
districts and educational service centers shall be determined in 53848
the plan for such district, provided that each such joint 53849

vocational school district board of education shall be composed of 53850
an odd number of members. 53851

(B) Notwithstanding division (A) of this section, a governing 53852
board of an educational service center that has members of its 53853
governing board serving on a joint vocational school district 53854
board of education may make a request to the joint vocational 53855
district board that the joint vocational school district plan be 53856
revised to provide for one or more members of boards of education 53857
of local school districts that are within the territory of the 53858
educational service district and within the joint vocational 53859
school district to serve in the place of or in addition to its 53860
educational service center governing board members. If agreement 53861
is obtained among a majority of the boards of education and 53862
governing boards that have a member serving on the joint 53863
vocational school district board of education and among a majority 53864
of the local school district boards of education included in the 53865
district and located within the territory of the educational 53866
service center whose board requests the substitution or addition, 53867
the state board of education may revise the joint vocational 53868
school district plan to conform with such agreement. 53869

(C) If the board of education of any school district or 53870
educational service center governing board included within a joint 53871
vocational district that has had its board or governing board 53872
membership revised under division (B) of this section requests the 53873
joint vocational school district board to submit to the state 53874
board of education a revised plan under which one or more joint 53875
vocational board members chosen in accordance with a plan revised 53876
under such division would again be chosen in the manner prescribed 53877
by division (A) of this section, the joint vocational board shall 53878
submit the revised plan to the state board of education, provided 53879
the plan is agreed to by a majority of the boards of education 53880
represented on the joint vocational board, a majority of the local 53881

school district boards included within the joint vocational 53882
district, and each educational service center governing board 53883
affected by such plan. The state board of education may revise the 53884
joint vocational school district plan to conform with the revised 53885
plan. 53886

(D) The vocational schools in such joint vocational school 53887
district shall be available to all youth of school age within the 53888
joint vocational school district subject to the rules adopted by 53889
the joint vocational school district board of education in regard 53890
to the standards requisite to admission. A joint vocational school 53891
district board of education shall have the same powers, duties, 53892
and authority for the management and operation of such joint 53893
vocational school district as is granted by law, except by this 53894
chapter and Chapters 124., ~~3306.7~~, 3317., 3323., and 3331. of the 53895
Revised Code, to a board of education of a city school district, 53896
and shall be subject to all the provisions of law that apply to a 53897
city school district, except such provisions in this chapter and 53898
Chapters 124., ~~3306.7~~, 3317., 3323., and 3331. of the Revised Code. 53899

(E) Where a governing board of an educational service center 53900
has been designated to serve as the joint vocational school 53901
district board of education, the educational service center 53902
superintendent shall be the executive officer for the joint 53903
vocational school district, and the governing board may provide 53904
for additional compensation to be paid to the educational service 53905
center superintendent by the joint vocational school district, but 53906
the educational service center superintendent shall have no 53907
continuing tenure other than that of educational service center 53908
superintendent. The superintendent of schools of a joint 53909
vocational school district shall exercise the duties and authority 53910
vested by law in a superintendent of schools pertaining to the 53911
operation of a school district and the employment and supervision 53912
of its personnel. The joint vocational school district board of 53913

education shall appoint a treasurer of the joint vocational school 53914
district who shall be the fiscal officer for such district and who 53915
shall have all the powers, duties, and authority vested by law in 53916
a treasurer of a board of education. Where a governing board of an 53917
educational service center has been designated to serve as the 53918
joint vocational school district board of education, such board 53919
may appoint the educational service center superintendent as the 53920
treasurer of the joint vocational school district. 53921

(F) Each member of a joint vocational school district board 53922
of education may be paid such compensation as the board provides 53923
by resolution, but it shall not exceed one hundred twenty-five 53924
dollars per member for each meeting attended plus mileage, at the 53925
rate per mile provided by resolution of the board, to and from 53926
meetings of the board. 53927

The board may provide by resolution for the deduction of 53928
amounts payable for benefits under section 3313.202 of the Revised 53929
Code. 53930

Each member of a joint vocational school district board may 53931
be paid such compensation as the board provides by resolution for 53932
attendance at an approved training program, provided that such 53933
compensation shall not exceed sixty dollars per day for attendance 53934
at a training program three hours or fewer in length and one 53935
hundred twenty-five dollars a day for attendance at a training 53936
program longer than three hours in length. However, no board 53937
member shall be compensated for the same training program under 53938
this section and section 3313.12 of the Revised Code. 53939

Sec. 3311.21. (A) In addition to the resolutions authorized 53940
by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of 53941
the Revised Code, the board of education of a joint vocational or 53942
cooperative education school district by a vote of two-thirds of 53943
its full membership may at any time adopt a resolution declaring 53944

the necessity to levy a tax in excess of the ten-mill limitation 53945
for a period not to exceed ten years to provide funds for any one 53946
or more of the following purposes, which may be stated in the 53947
following manner in such resolution, the ballot, and the notice of 53948
election: purchasing a site or enlargement thereof and for the 53949
erection and equipment of buildings; for the purpose of enlarging, 53950
improving, or rebuilding thereof; for the purpose of providing for 53951
the current expenses of the joint vocational or cooperative school 53952
district; or for a continuing period for the purpose of providing 53953
for the current expenses of the joint vocational or cooperative 53954
education school district. The resolution shall specify the amount 53955
of the proposed rate and, if a renewal, whether the levy is to 53956
renew all, or a portion of, the existing levy, and shall specify 53957
the first year in which the levy will be imposed. If the levy 53958
provides for but is not limited to current expenses, the 53959
resolution shall apportion the annual rate of the levy between 53960
current expenses and the other purpose or purposes. Such 53961
apportionment may but need not be the same for each year of the 53962
levy, but the respective portions of the rate actually levied each 53963
year for current expenses and the other purpose or purposes shall 53964
be limited by such apportionment. The portion of any such rate 53965
actually levied for current expenses of a joint vocational or 53966
cooperative education school district shall be used in applying 53967
~~division (A)(1) of section 3306.01 and~~ division (A) of section 53968
3317.01 of the Revised Code. The portion of any such rate not 53969
apportioned to the current expenses of a joint vocational or 53970
cooperative education school district shall be used in applying 53971
division (B) of this section. On the adoption of such resolution, 53972
the joint vocational or cooperative education school district 53973
board of education shall certify the resolution to the board of 53974
elections of the county containing the most populous portion of 53975
the district, which board shall receive resolutions for filing and 53976
send them to the boards of elections of each county in which 53977

territory of the district is located, furnish all ballots for the 53978
election as provided in section 3505.071 of the Revised Code, and 53979
prepare the election notice; and the board of elections of each 53980
county in which the territory of such district is located shall 53981
make the other necessary arrangements for the submission of the 53982
question to the electors of the joint vocational or cooperative 53983
education school district at the next primary or general election 53984
occurring not less than ninety days after the resolution was 53985
received from the joint vocational or cooperative education school 53986
district board of education, or at a special election to be held 53987
at a time designated by the district board of education consistent 53988
with the requirements of section 3501.01 of the Revised Code, 53989
which date shall not be earlier than ninety days after the 53990
adoption and certification of the resolution. 53991

The board of elections of the county or counties in which 53992
territory of the joint vocational or cooperative education school 53993
district is located shall cause to be published in ~~one or more~~ 53994
~~newspapers~~ a newspaper of general circulation in that district an 53995
advertisement of the proposed tax levy question, together with a 53996
statement of the amount of the proposed levy once a week for two 53997
consecutive weeks or as provided in section 7.16 of the Revised 53998
Code, prior to the election at which the question is to appear on 53999
the ballot, ~~and, if,~~ If the board of elections operates and 54000
maintains a web site, the board also shall post ~~a similar~~ the 54001
advertisement on its web site for thirty days prior to that 54002
election. 54003

If a majority of the electors voting on the question of 54004
levying such tax vote in favor of the levy, the joint vocational 54005
or cooperative education school district board of education shall 54006
annually make the levy within the district at the rate specified 54007
in the resolution and ballot or at any lesser rate, and the county 54008
auditor of each affected county shall annually place the levy on 54009

the tax list and duplicate of each school district in the county 54010
having territory in the joint vocational or cooperative education 54011
school district. The taxes realized from the levy shall be 54012
collected at the same time and in the same manner as other taxes 54013
on the duplicate, and the taxes, when collected, shall be paid to 54014
the treasurer of the joint vocational or cooperative education 54015
school district and deposited to a special fund, which shall be 54016
established by the joint vocational or cooperative education 54017
school district board of education for all revenue derived from 54018
any tax levied pursuant to this section and for the proceeds of 54019
anticipation notes which shall be deposited in such fund. After 54020
the approval of the levy, the joint vocational or cooperative 54021
education school district board of education may anticipate a 54022
fraction of the proceeds of the levy and from time to time, during 54023
the life of the levy, but in any year prior to the time when the 54024
tax collection from the levy so anticipated can be made for that 54025
year, issue anticipation notes in an amount not exceeding fifty 54026
per cent of the estimated proceeds of the levy to be collected in 54027
each year up to a period of five years after the date of the 54028
issuance of the notes, less an amount equal to the proceeds of the 54029
levy obligated for each year by the issuance of anticipation 54030
notes, provided that the total amount maturing in any one year 54031
shall not exceed fifty per cent of the anticipated proceeds of the 54032
levy for that year. Each issue of notes shall be sold as provided 54033
in Chapter 133. of the Revised Code, and shall, except for such 54034
limitation that the total amount of such notes maturing in any one 54035
year shall not exceed fifty per cent of the anticipated proceeds 54036
of the levy for that year, mature serially in substantially equal 54037
installments, during each year over a period not to exceed five 54038
years after their issuance. 54039

(B) Prior to the application of section 319.301 of the 54040
Revised Code, the rate of a levy that is limited to, or to the 54041
extent that it is apportioned to, purposes other than current 54042

expenses shall be reduced in the same proportion in which the 54043
district's total valuation increases during the life of the levy 54044
because of additions to such valuation that have resulted from 54045
improvements added to the tax list and duplicate. 54046

(C) The form of ballot cast at an election under division (A) 54047
of this section shall be as prescribed by section 5705.25 of the 54048
Revised Code. 54049

Sec. 3311.213. (A) With the approval of the board of 54050
education of a joint vocational school district ~~which~~ that is in 54051
existence, any school district in the county or counties 54052
comprising the joint vocational school district or any school 54053
district in a county adjacent to a county comprising part of a 54054
joint vocational school district may become a part of the joint 54055
vocational school district. On the adoption of a resolution of 54056
approval by the board of education of the joint vocational school 54057
district, it shall advertise a copy of such resolution in a 54058
newspaper of general circulation in the school district proposing 54059
to become a part of such joint vocational school district once 54060
each week for ~~at least~~ two weeks, or as provided in section 7.16 54061
of the Revised Code, immediately following the date of the 54062
adoption of such resolution. Such resolution shall not become 54063
effective until the later of the sixty-first day after its 54064
adoption or until the board of elections certifies the results of 54065
an election in favor of joining of the school district to the 54066
joint vocational school district if such an election is held under 54067
division (B) of this section. 54068

(B) During the sixty-day period following the date of the 54069
adoption of a resolution to join a school district to a joint 54070
vocational school district under division (A) of this section, the 54071
electors of the school district that proposes joining the joint 54072
vocational school district may petition for a referendum vote on 54073

the resolution. The question whether to approve or disapprove the 54074
resolution shall be submitted to the electors of such school 54075
district if a number of qualified electors equal to twenty per 54076
cent of the number of electors in the school district who voted 54077
for the office of governor at the most recent general election for 54078
that office sign a petition asking that the question of whether 54079
the resolution shall be disapproved be submitted to the electors. 54080
The petition shall be filed with the board of elections of the 54081
county in which the school district is located. If the school 54082
district is located in more than one county, the petition shall be 54083
filed with the board of elections of the county in which the 54084
majority of the territory of the school district is located. The 54085
board shall certify the validity and sufficiency of the signatures 54086
on the petition. 54087

The board of elections shall immediately notify the board of 54088
education of the joint vocational school district and the board of 54089
education of the school district that proposes joining the joint 54090
vocational school district that the petition has been filed. 54091

The effect of the resolution shall be stayed until the board 54092
of elections certifies the validity and sufficiency of the 54093
signatures on the petition. If the board of elections determines 54094
that the petition does not contain a sufficient number of valid 54095
signatures and sixty days have passed since the adoption of the 54096
resolution, the resolution shall become effective. 54097

If the board of elections certifies that the petition 54098
contains a sufficient number of valid signatures, the board shall 54099
submit the question to the qualified electors of the school 54100
district on the day of the next general or primary election held 54101
at least ninety days after but no later than six months after the 54102
board of elections certifies the validity and sufficiency of 54103
signatures on the petition. If there is no general or primary 54104
election held at least ninety days after but no later than six 54105

months after the board of elections certifies the validity and 54106
sufficiency of signatures on the petition, the board shall submit 54107
the question to the electors at a special election to be held on 54108
the next day specified for special elections in division (D) of 54109
section 3501.01 of the Revised Code that occurs at least ninety 54110
days after the board certifies the validity and sufficiency of 54111
signatures on the petition. The election shall be conducted and 54112
canvassed and the results shall be certified in the same manner as 54113
in regular elections for the election of members of a board of 54114
education. 54115

If a majority of the electors voting on the question 54116
disapprove the resolution, the resolution shall not become 54117
effective. 54118

(C) If the resolution becomes effective, the board of 54119
education of the joint vocational school district shall notify the 54120
county auditor of the county in which the school district becoming 54121
a part of the joint vocational school district is located, who 54122
shall thereupon have any outstanding levy for building purposes, 54123
bond retirement, or current expenses in force in the joint 54124
vocational school district spread over the territory of the school 54125
district becoming a part of the joint vocational school district. 54126
On the addition of a city or exempted village school district or 54127
an educational service center to the joint vocational school 54128
district, pursuant to this section, the board of education of such 54129
joint vocational school district shall submit to the state board 54130
of education a proposal to enlarge the membership of such board by 54131
the addition of one or more persons at least one of whom shall be 54132
a member of the board of education or governing board of such 54133
additional school district or educational service center, and the 54134
term of each such additional member. On the addition of a local 54135
school district to the joint vocational school district, pursuant 54136
to this section, the board of education of such joint vocational 54137

school district may submit to the state board of education a 54138
proposal to enlarge the membership of such board by the addition 54139
of one or more persons who are members of the educational service 54140
center governing board of such additional local school district. 54141
On approval by the state board of education additional members 54142
shall be added to such joint vocational school district board of 54143
education. 54144

Sec. 3311.214. (A) With the approval of the state board of 54145
education, the boards of education of any two or more joint 54146
vocational school districts may, by the adoption of identical 54147
resolutions by a majority of the members of each such board, 54148
propose that one new joint vocational school district be created 54149
by adding together all of the territory of each of the districts 54150
and dissolving such districts. A copy of each resolution shall be 54151
filed with the state board of education for its approval or 54152
disapproval. The resolutions shall include a provision that the 54153
board of education of the new district shall be composed of the 54154
members from the same boards of education that composed the 54155
membership of the board of each of the districts to be dissolved, 54156
except that, if an even number of districts are to be dissolved, 54157
one additional member shall be added, who may be from any school 54158
district included in the territory of any of the districts to be 54159
dissolved as designated in the resolutions. The members of the new 54160
board shall have the same terms of office as they had under the 54161
respective plans of the districts adopting the resolutions, except 54162
that, if the new board has an additional member, ~~he~~ the additional 54163
member shall have a term as specified in the resolutions. 54164

If the state board approves the resolutions, the board of 54165
education of each district to be dissolved shall advertise a copy 54166
of the resolution in a newspaper of general circulation in its 54167
district once each week for ~~at least~~ two weeks, or as provided in 54168
section 7.16 of the Revised Code, immediately following the date 54169

the resolutions are approved by the state board. The resolutions 54170
shall become effective on the first day of July next succeeding 54171
the sixtieth day following approval by the state board unless 54172
prior to the expiration of such sixty-day period, qualified 54173
electors residing in one of the districts to be dissolved equal in 54174
number to a majority of the qualified electors of that district 54175
voting at the last general election file with the state board a 54176
petition of remonstrance against creation of the proposed new 54177
district. 54178

(B) When a resolution becomes effective under division (A) of 54179
this section, each district in which a resolution was adopted and 54180
the board of each such district are dissolved. The territory of 54181
each dissolved district becomes a part of the new joint vocational 54182
school district. The net indebtedness of each dissolved district 54183
shall be assumed in full by the new district and the funds and 54184
property of each dissolved district shall become in full the funds 54185
and property of the new district. All existing contracts of each 54186
dissolved board shall be honored by the board of the new district 54187
until their expiration dates. The board of the new district shall 54188
notify the county auditor of each county in which each dissolved 54189
district was located that a resolution has become effective and a 54190
new district has been created and shall certify to each auditor 54191
any changes that might be required in the tax rate as a result of 54192
the creation of the new district. 54193

(C) As used in this section, "net indebtedness" means the 54194
difference between the par value of the outstanding and unpaid 54195
bonds and notes of the school district and the amount held in the 54196
sinking fund and other indebtedness retirement funds for their 54197
redemption. 54198

Sec. 3311.29. (A) Except as provided under division (B) or 54199
(C) of this section, no school district shall be created and no 54200

school district shall exist which does not maintain within such 54201
district public schools consisting of grades kindergarten through 54202
twelve and any such existing school district not maintaining such 54203
schools shall be dissolved and its territory joined with another 54204
school district or districts by order of the state board of 54205
education if no agreement is made among the surrounding districts 54206
voluntarily, which order shall provide an equitable division of 54207
the funds, property, and indebtedness of the dissolved school 54208
district among the districts receiving its territory. The state 54209
board of education may authorize exceptions to school districts 54210
where topography, sparsity of population, and other factors make 54211
compliance impracticable. 54212

The superintendent of public instruction is without authority 54213
to distribute funds under Chapter ~~3306.~~ or 3317. of the Revised 54214
Code to any school district that does not maintain schools with 54215
grades kindergarten through twelve and to which no exception has 54216
been granted by the state board of education. 54217

(B) Division (A) of this section does not apply to any joint 54218
vocational school district or any cooperative education school 54219
district established pursuant to divisions (A) to (C) of section 54220
3311.52 of the Revised Code. 54221

(C)(1)(a) Except as provided in division (C)(3) of this 54222
section, division (A) of this section does not apply to any 54223
cooperative education school district established pursuant to 54224
section 3311.521 of the Revised Code nor to the city, exempted 54225
village, or local school districts that have territory within such 54226
a cooperative education district. 54227

(b) The cooperative district and each city, exempted village, 54228
or local district with territory within the cooperative district 54229
shall maintain the grades that the resolution adopted or amended 54230
pursuant to section 3311.521 of the Revised Code specifies. 54231

(2) Any cooperative education school district described under 54232
division (C)(1) of this section that fails to maintain the grades 54233
it is specified to operate shall be dissolved by order of the 54234
state board of education unless prior to such an order the 54235
cooperative district is dissolved pursuant to section 3311.54 of 54236
the Revised Code. Any such order shall provide for the equitable 54237
adjustment, division, and disposition of the assets, property, 54238
debts, and obligations of the district among each city, local, and 54239
exempted village school district whose territory is in the 54240
cooperative district and shall provide that the tax duplicate of 54241
each city, local, and exempted village school district whose 54242
territory is in the cooperative district shall be bound for and 54243
assume its share of the outstanding indebtedness of the 54244
cooperative district. 54245

(3) If any city, exempted village, or local school district 54246
described under division (C)(1) of this section fails to maintain 54247
the grades it is specified to operate the cooperative district 54248
within which it has territory shall be dissolved in accordance 54249
with division (C)(2) of this section and upon that dissolution any 54250
city, exempted village, or local district failing to maintain 54251
grades kindergarten through twelve shall be subject to the 54252
provisions for dissolution in division (A) of this section. 54253

Sec. 3311.50. (A) As used in this section, "county school 54254
financing district" means a taxing district consisting of the 54255
following territory: 54256

(1) The territory that constitutes the educational service 54257
center on the date that the governing board of that educational 54258
service center adopts a resolution under division (B) of this 54259
section declaring that the territory of the educational service 54260
center is a county school financing district, exclusive of any 54261
territory subsequently withdrawn from the district under division 54262

(D) of this section; 54263

(2) Any territory that has been added to the county school financing district under this section. 54264
54265

A county school financing district may include the territory of a city, local, or exempted village school district whose territory also is included in the territory of one or more other county school financing districts. 54266
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(B) The governing board of any educational service center may, by resolution, declare that the territory of the educational service center is a county school financing district. The resolution shall state the purpose for which the county school financing district is created which may be for any one or more of the following purposes: 54270
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(1) To levy taxes for the provision of special education by the school districts that are a part of the district, including taxes for permanent improvements for special education; 54276
54277
54278

(2) To levy taxes for the provision of specified educational programs and services by the school districts that are a part of the district, as identified in the resolution creating the district, including the levying of taxes for permanent improvements for those programs and services; 54279
54280
54281
54282
54283

(3) To levy taxes for permanent improvements of school districts that are a part of the district. 54284
54285

The governing board of the educational service center that creates a county school financing district shall serve as the taxing authority of the district and may use educational service center governing board employees to perform any of the functions necessary in the performance of its duties as a taxing authority. 54286
54287
54288
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54290
A county school financing district shall not employ any personnel. 54291

With the approval of a majority of the members of the board 54292

of education of each school district within the territory of the 54293
county school financing district, the taxing authority of the 54294
financing district may amend the resolution creating the district 54295
to broaden or narrow the purposes for which it was created. 54296

A governing board of an educational service center may create 54297
more than one county school financing district. If a governing 54298
board of an educational service center creates more than one such 54299
district, it shall clearly distinguish among the districts it 54300
creates by including a designation of each district's purpose in 54301
the district's name. 54302

(C) A majority of the members of a board of education of a 54303
city, local, or exempted village school district may adopt a 54304
resolution requesting that its territory be joined with the 54305
territory of any county school financing district. Copies of the 54306
resolution shall be filed with the state board of education and 54307
the taxing authority of the county school financing district. 54308
Within sixty days of its receipt of such a resolution, the county 54309
school financing district's taxing authority shall vote on the 54310
question of whether to accept the school district's territory as 54311
part of the county school financing district. If a majority of the 54312
members of the taxing authority vote to accept the territory, the 54313
school district's territory shall thereupon become a part of the 54314
county school financing district unless the county school 54315
financing district has in effect a tax imposed under section 54316
5705.211 of the Revised Code. If the county school financing 54317
district has such a tax in effect, the taxing authority shall 54318
certify a copy of its resolution accepting the school district's 54319
territory to the school district's board of education, which may 54320
then adopt a resolution, with the affirmative vote of a majority 54321
of its members, proposing the submission to the electors of the 54322
question of whether the district's territory shall become a part 54323
of the county school financing district and subject to the taxes 54324

imposed by the financing district. The resolution shall set forth 54325
the date on which the question shall be submitted to the electors, 54326
which shall be at a special election held on a date specified in 54327
the resolution, which shall not be earlier than ninety days after 54328
the adoption and certification of the resolution. A copy of the 54329
resolution shall immediately be certified to the board of 54330
elections of the proper county, which shall make arrangements for 54331
the submission of the proposal to the electors of the school 54332
district. The board of the joining district shall publish notice 54333
of the election in ~~one or more newspapers~~ a newspaper of general 54334
circulation in the county once a week for two consecutive weeks, 54335
or as provided in section 7.16 of the Revised Code, prior to the 54336
election. Additionally, if the board of elections operates and 54337
maintains a web site, the board of elections shall post notice of 54338
the election on its web site for thirty days prior to the 54339
election. The question appearing on the ballot shall read: 54340

"Shall the territory within (name of the school 54341
district proposing to join the county school financing district) 54342
..... be added to (name) county school 54343
financing district, and a property tax for the purposes of 54344
..... (here insert purposes) at a rate of taxation 54345
not exceeding (here insert the outstanding tax rate) 54346
..... be in effect for (here insert the number of 54347
years the tax is to be in effect or "a continuing period of time," 54348
as applicable)?" 54349

If the proposal is approved by a majority of the electors 54350
voting on it, the joinder shall take effect on the first day of 54351
July following the date of the election, and the county board of 54352
elections shall notify the county auditor of each county in which 54353
the school district joining its territory to the county school 54354
financing district is located. 54355

(D) The board of any city, local, or exempted village school 54356

district whose territory is part of a county school financing 54357
district may withdraw its territory from the county school 54358
financing district thirty days after submitting to the governing 54359
board that is the taxing authority of the district and the state 54360
board a resolution proclaiming such withdrawal, adopted by a 54361
majority vote of its members, but any county school financing 54362
district tax levied in such territory on the effective date of the 54363
withdrawal shall remain in effect in such territory until such tax 54364
expires or is renewed. No board may adopt a resolution withdrawing 54365
from a county school financing district that would take effect 54366
during the forty-five days preceding the date of an election at 54367
which a levy proposed under section 5705.215 of the Revised Code 54368
is to be voted upon. 54369

(E) A city, local, or exempted village school district does 54370
not lose its separate identity or legal existence by reason of 54371
joining its territory to a county school financing district under 54372
this section and an educational service center does not lose its 54373
separate identity or legal existence by reason of creating a 54374
county school financing district that accepts or loses territory 54375
under this section. 54376

Sec. 3311.52. A cooperative education school district may be 54377
established pursuant to divisions (A) to (C) of this section or 54378
pursuant to section 3311.521 of the Revised Code. 54379

(A) A cooperative education school district may be 54380
established upon the adoption of identical resolutions within a 54381
sixty-day period by a majority of the members of the board of 54382
education of each city, local, and exempted village school 54383
district that is within the territory of a county school financing 54384
district. 54385

A copy of each resolution shall be filed with the governing 54386
board of the educational service center which created the county 54387

school financing district. Upon the filing of the last such 54388
resolution, the educational service center governing board shall 54389
immediately notify each board of education filing such a 54390
resolution of the date on which the last resolution was filed. 54391

Ten days after the date on which the last resolution is filed 54392
with the educational service center governing board or ten days 54393
after the last of any notices required under division (C) of this 54394
section is received by the educational service center governing 54395
board, whichever is later, the county school financing district 54396
shall be dissolved and the new cooperative education school 54397
district and the board of education of the cooperative education 54398
school district shall be established. 54399

On the date that any county school financing district is 54400
dissolved and a cooperative education school district is 54401
established under this section, each of the following shall apply: 54402

(1) The territory of the dissolved district becomes the 54403
territory of the new district. 54404

(2) Any outstanding tax levy in force in the dissolved 54405
district shall be spread over the territory of the new district 54406
and shall remain in force in the new district until the levy 54407
expires or is renewed. 54408

(3) Any funds of the dissolved district shall be paid over in 54409
full to the new district. 54410

(4) Any net indebtedness of the dissolved district shall be 54411
assumed in full by the new district. As used in division (A)(4) of 54412
this section, "net indebtedness" means the difference between the 54413
par value of the outstanding and unpaid bonds and notes of the 54414
dissolved district and the amount held in the sinking fund and 54415
other indebtedness retirement funds for their redemption. 54416

When a county school financing district is dissolved and a 54417
cooperative education school district is established under this 54418

section, the governing board of the educational service center 54419
that created the dissolved district shall give written notice of 54420
this fact to the county auditor and the board of elections of each 54421
county having any territory in the new district. 54422

(B) The resolutions adopted under division (A) of this 54423
section shall include all of the following provisions: 54424

(1) Provision that the governing board of the educational 54425
service center which created the county school financing district 54426
shall be the board of education of the cooperative education 54427
school district, except that provision may be made for the 54428
composition, selection, and terms of office of an alternative 54429
board of education of the cooperative district, which board shall 54430
include at least one member selected from or by the members of the 54431
board of education of each city, local, and exempted village 54432
school district and at least one member selected from or by the 54433
members of the educational service center governing board within 54434
the territory of the cooperative district; 54435

(2) Provision that the treasurer and superintendent of the 54436
educational service center which created the county school 54437
financing district shall be the treasurer and superintendent of 54438
the cooperative education school district, except that provision 54439
may be made for the selection of a treasurer or superintendent of 54440
the cooperative district other than the treasurer or 54441
superintendent of the educational service center, which provision 54442
shall require one of the following: 54443

(a) The selection of one person as both the treasurer and 54444
superintendent of the cooperative district, which provision may 54445
require such person to be the treasurer or superintendent of any 54446
city, local, or exempted village school district or educational 54447
service center within the territory of the cooperative district; 54448

(b) The selection of one person as the treasurer and another 54449

person as the superintendent of the cooperative district, which 54450
provision may require either one or both such persons to be 54451
treasurers or superintendents of any city, local, or exempted 54452
village school districts or educational service center within the 54453
territory of the cooperative district. 54454

(3) A statement of the educational program the board of 54455
education of the cooperative education school district will 54456
conduct, including but not necessarily limited to the type of 54457
educational program, the grade levels proposed for inclusion in 54458
the program, the timetable for commencing operation of the 54459
program, and the facilities proposed to be used or constructed to 54460
be used by the program; 54461

(4) A statement of the annual amount, or the method for 54462
determining that amount, of funds or services or facilities that 54463
each city, local, and exempted village school district within the 54464
territory of the cooperative district is required to pay to or 54465
provide for the use of the board of education of the cooperative 54466
education school district; 54467

(5) Provision for adopting amendments to the provisions of 54468
divisions (B)(2) to (4) of this section. 54469

(C) If the resolutions adopted under division (A) of this 54470
section provide for a board of education of the cooperative 54471
education school district that is not the governing board of the 54472
educational service center that created the county school 54473
financing district, each board of education of each city, local, 54474
or exempted village school district and the governing board of the 54475
educational service center within the territory of the cooperative 54476
district shall, within thirty days after the date on which the 54477
last resolution is filed with the educational service center 54478
governing board under division (A) of this section, select one or 54479
more members of the board of education of the cooperative district 54480
as provided in the resolutions filed with the educational service 54481

center governing board. Each such board shall immediately notify 54482
the educational service center governing board of each such 54483
selection. 54484

(D) Except for the powers and duties in this chapter and 54485
Chapters 124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the 54486
Revised Code, a cooperative education school district established 54487
pursuant to divisions (A) to (C) of this section or pursuant to 54488
section 3311.521 of the Revised Code has all the powers of a city 54489
school district and its board of education has all the powers and 54490
duties of a board of education of a city school district with 54491
respect to the educational program specified in the resolutions 54492
adopted under division (A) of this section. All laws applicable to 54493
a city school district or the board of education or the members of 54494
the board of education of a city school district, except such laws 54495
in this chapter and Chapters 124., ~~3306.~~, 3317., 3318., 3323., and 54496
3331. of the Revised Code, are applicable to a cooperative 54497
education school district and its board. 54498

The treasurer and superintendent of a cooperative education 54499
school district shall have the same respective duties and powers 54500
as a treasurer and superintendent of a city school district, 54501
except for any powers and duties in this chapter and Chapters 54502
124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the Revised Code. 54503

(E) For purposes of this title, any student included in the 54504
formula ADM certified for any city, exempted village, or local 54505
school district under section 3317.03 of the Revised Code by 54506
virtue of being counted, in whole or in part, in the average daily 54507
membership of a cooperative education school district under 54508
division (A)(2)(f) of that section shall be construed to be 54509
enrolled both in that city, exempted village, or local school 54510
district and in that cooperative education school district. This 54511
division shall not be construed to mean that any such individual 54512
student may be counted more than once for purposes of determining 54513

the average daily membership of any one school district. 54514

Sec. 3311.53. (A)(1) The board of education of any city, 54515
local, or exempted village school district that wishes to become 54516
part of a cooperative education school district established 54517
pursuant to divisions (A) to (C) of section 3311.52 of the Revised 54518
Code may adopt a resolution proposing to become a part of the 54519
cooperative education school district. 54520

(2) The board of education of any city, local, or exempted 54521
village school district that is contiguous to a cooperative 54522
education school district established pursuant to section 3311.521 54523
of the Revised Code and that wishes to become part of that 54524
cooperative district may adopt a resolution proposing to become 54525
part of that cooperative district. 54526

(B) If, after the adoption of a resolution in accordance with 54527
division (A) of this section, the board of education of the 54528
cooperative education school district named in that resolution 54529
also adopts a resolution accepting the new district, the board of 54530
the district wishing to become part of the cooperative district 54531
shall advertise a copy of the cooperative district board's 54532
resolution in a newspaper of general circulation in the school 54533
district proposing to become a part of the cooperative education 54534
school district once each week for ~~at least~~ two weeks, or as 54535
provided in section 7.16 of the Revised Code, immediately 54536
following the date of the adoption of the resolution. The 54537
resolution shall become legally effective on the sixtieth day 54538
after its adoption, unless prior to the expiration of that 54539
sixty-day period qualified electors residing in the school 54540
district proposed to become a part of the cooperative education 54541
school district equal in number to a majority of the qualified 54542
electors voting at the last general election file with the board 54543
of education a petition of remonstrance against the transfer. If 54544

the resolution becomes legally effective, both of the following 54545
shall apply: 54546

(1) The resolution that established the cooperative education 54547
school district pursuant to divisions (A) to (C) of section 54548
3311.52 or section 3311.521 of the Revised Code shall be amended 54549
to reflect the addition of the new district to the cooperative 54550
district. 54551

(2) The board of education of the cooperative education 54552
school district shall give written notice of this fact to the 54553
county auditor and the board of elections of each county in which 54554
the school district becoming a part of the cooperative education 54555
school district has territory. Any such county auditor shall 54556
thereupon have any outstanding levy for building purposes, bond 54557
retirement, or current expenses in force in the cooperative 54558
education school district spread over the territory of the school 54559
district becoming a part of the cooperative education school 54560
district. 54561

(C) If the board of education of the cooperative education 54562
school district is not the governing board of an educational 54563
service center, the board of education of the cooperative 54564
education school district shall, on the addition of a city, local, 54565
or exempted village school district to the district pursuant to 54566
this section, submit to the state board of education a proposal to 54567
enlarge the membership of the board. In the case of a cooperative 54568
district established pursuant to divisions (A) to (C) of section 54569
3311.52 of the Revised Code, the proposal shall add one or more 54570
persons to the district's board, at least one of whom shall be a 54571
member of or selected by the board of education of the additional 54572
school district, and shall specify the term of each such 54573
additional member. In the case of a cooperative district 54574
established pursuant to section 3311.521 of the Revised Code, the 54575
proposal shall add two or more persons to the district's board, at 54576

least two of whom shall be a member of or selected by the board of 54577
education of the additional school district, and shall specify the 54578
term of each such additional member. On approval by the state 54579
board of education, the additional members shall be added to the 54580
cooperative education school district board of education. 54581

Sec. 3311.73. (A) No later than ninety days before the 54582
general election held in the first even-numbered year occurring at 54583
least four years after the date it assumed control of the 54584
municipal school district pursuant to division (B) of section 54585
3311.71 of the Revised Code, the board of education appointed 54586
under that division shall notify the board of elections of each 54587
county containing territory of the municipal school district of 54588
the referendum election required by division (B) of this section. 54589

(B) At the general election held in the first even-numbered 54590
year occurring at least four years after the date the new board 54591
assumed control of a municipal school district pursuant to 54592
division (B) of section 3311.71 of the Revised Code, the following 54593
question shall be submitted to the electors residing in the school 54594
district: 54595

"Shall the mayor of (here insert the name of the 54596
applicable municipal corporation) continue to appoint the members 54597
of the board of education of the (here insert the name of 54598
the municipal school district)?" 54599

The board of elections of the county in which the majority of 54600
the school district's territory is located shall make all 54601
necessary arrangements for the submission of the question to the 54602
electors, and the election shall be conducted, canvassed, and 54603
certified in the same manner as regular elections in the district 54604
for the election of county officers, provided that in any such 54605
election in which only part of the electors of a precinct are 54606
qualified to vote, the board of elections may assign voters in 54607

such part to an adjoining precinct. Such an assignment may be made 54608
to an adjoining precinct in another county with the consent and 54609
approval of the board of elections of such other county. Notice of 54610
the election shall be published in a newspaper of general 54611
circulation in the school district once a week for two consecutive 54612
weeks, or as provided in section 7.16 of the Revised Code, prior 54613
to the election, ~~and, if.~~ If the board of elections operates and 54614
maintains a web site, the board of elections shall post notice of 54615
the election on its web site for thirty days prior to the 54616
election. The notice shall state the question on which the 54617
election is being held. The ballot shall be in the form prescribed 54618
by the secretary of state. Costs of submitting the question to the 54619
electors shall be charged to the municipal school district in 54620
accordance with section 3501.17 of the Revised Code. 54621

(C) If a majority of electors voting on the issue proposed in 54622
division (B) of this section approve the question, the mayor shall 54623
appoint a new board on the immediately following first day of July 54624
pursuant to division (F) of section 3311.71 of the Revised Code. 54625

(D) If a majority of electors voting on the issue proposed in 54626
division (B) of this section disapprove the question, a new 54627
seven-member board of education shall be elected at the next 54628
regular election occurring in November of an odd-numbered year. At 54629
such election, four members shall be elected for terms of four 54630
years and three members shall be elected for terms of two years. 54631
Thereafter, their successors shall be elected in the same manner 54632
and for the same terms as members of boards of education of a city 54633
school district. All members of the board of education of a 54634
municipal school district appointed pursuant to division (B) of 54635
section 3311.71 of the Revised Code shall continue to serve after 54636
the end of the terms to which they were appointed until their 54637
successors are qualified and assume office in accordance with 54638
section 3313.09 of the Revised Code. 54639

Sec. 3311.76. (A) Notwithstanding Chapters 3302., ~~3306.~~, and 3317. of the Revised Code, upon written request of the district chief executive officer the state superintendent of public instruction may exempt a municipal school district from any rules adopted under Title XXXIII of the Revised Code except for any rule adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code, and may authorize a municipal school district to apply funds allocated to the district under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code, except those specifically allocated to purposes other than current expenses, to the payment of debt charges on the district's public obligations. The request must specify the provisions from which the district is seeking exemption or the application requested and the reasons for the request. The state superintendent shall approve the request if the superintendent finds the requested exemption or application is in the best interest of the district's students. The superintendent shall approve or disapprove the request within thirty days and shall notify the district board and the district chief executive officer of approval or reasons for disapproving the request.

(B) In addition to the rights, authority, and duties conferred upon a municipal school district and its board of education in sections 3311.71 to 3311.76 of the Revised Code, a municipal school district and its board shall have all of the rights, authority, and duties conferred upon a city school district and its board by law that are not inconsistent with sections 3311.71 to 3311.76 of the Revised Code.

Sec. 3313.29. The treasurer of each board of education shall keep an account of all school funds of the district. The treasurer shall receive all vouchers for payments and disbursements made to and by the board and preserve such vouchers for a period of ten

years unless copied or reproduced according to the procedure 54671
prescribed in section 9.01 of the Revised Code. Thereafter, such 54672
vouchers may be destroyed by the treasurer upon applying to and 54673
obtaining an order from the school district records commission in 54674
the manner prescribed by section ~~149.41~~ 149.381 of the Revised 54675
Code, except that it shall not be necessary to copy or reproduce 54676
such vouchers before their destruction. The treasurer shall render 54677
a statement to the board and to the superintendent of the school 54678
district, monthly, or more often if required, showing the revenues 54679
and receipts from whatever sources derived, the various 54680
appropriations made by the board, the expenditures and 54681
disbursements therefrom, the purposes thereof, the balances 54682
remaining in each appropriation, and the assets and liabilities of 54683
the school district. At the end of the fiscal year such statement 54684
shall be a complete exhibit of the financial affairs of the school 54685
district which may be published and distributed with the approval 54686
of the board. All monthly and yearly statements as required in 54687
this section shall be available for examination by the public. 54688

On request of the principal or other chief administrator of 54689
any nonpublic school located within the school district's 54690
territory, the treasurer shall provide such principal or 54691
administrator with an account of the moneys received by the 54692
district under division ~~(I)~~(E) of section 3317.024 of the Revised 54693
Code as reported to the district's board in the treasurer's most 54694
recent monthly statement. 54695

Sec. 3313.372. (A) As used in this section, "energy 54696
conservation measure" means an installation or modification of an 54697
installation in, or remodeling of, a building, to reduce energy 54698
consumption. It includes: 54699

(1) Insulation of the building structure and systems within 54700
the building; 54701

(2) Storm windows and doors, multiglazed windows and doors,	54702
heat absorbing or heat reflective glazed and coated window and	54703
door systems, additional glazing, reductions in glass area, and	54704
other window and door system modifications that reduce energy	54705
consumption;	54706
(3) Automatic energy control systems;	54707
(4) Heating, ventilating, or air conditioning system	54708
modifications or replacements;	54709
(5) Caulking and weatherstripping;	54710
(6) Replacement or modification of lighting fixtures to	54711
increase the energy efficiency of the system without increasing	54712
the overall illumination of a facility, unless such increase in	54713
illumination is necessary to conform to the applicable state or	54714
local building code for the proposed lighting system;	54715
(7) Energy recovery systems;	54716
(8) Cogeneration systems that produce steam or forms of	54717
energy such as heat, as well as electricity, for use primarily	54718
within a building or complex of buildings;	54719
(9) Any other modification, installation, or remodeling	54720
approved by the Ohio school facilities commission as an energy	54721
conservation measure.	54722
(B) A board of education of a city, exempted village, local,	54723
or joint vocational school district may enter into an installment	54724
payment contract for the purchase and installation of energy	54725
conservation measures. The provisions of such installment payment	54726
contracts dealing with interest charges and financing terms shall	54727
not be subject to the competitive bidding requirements of section	54728
3313.46 of the Revised Code, and shall be on the following terms:	54729
(1) Not less than one-fifteenth of the costs thereof shall be	54730
paid within two years from the date of purchase.	54731

(2) The remaining balance of the costs thereof shall be paid 54732
within fifteen years from the date of purchase. 54733

An installment payment contract entered into by a board of 54734
education under this section shall require the board to contract 54735
in accordance with division (A) of section 3313.46 of the Revised 54736
Code for the installation, modification, or remodeling of energy 54737
conservation measures unless division (A) of section 3313.46 of 54738
the Revised Code does not apply pursuant to division (B)(3) of 54739
that section. 54740

(C) The board may issue the notes of the school district 54741
signed by the president and the treasurer of the board and 54742
specifying the terms of the purchase and securing the deferred 54743
payments provided in this section, payable at the times provided 54744
and bearing interest at a rate not exceeding the rate determined 54745
as provided in section 9.95 of the Revised Code. The notes may 54746
contain an option for prepayment and shall not be subject to 54747
Chapter 133. of the Revised Code. In the resolution authorizing 54748
the notes, the board may provide, without the vote of the electors 54749
of the district, for annually levying and collecting taxes in 54750
amounts sufficient to pay the interest on and retire the notes, 54751
except that the total net indebtedness of the district without a 54752
vote of the electors incurred under this and all other sections of 54753
the Revised Code, except section 3318.052 of the Revised Code, 54754
shall not exceed one per cent of the district's tax valuation. 54755
Revenues derived from local taxes or otherwise, for the purpose of 54756
conserving energy or for defraying the current operating expenses 54757
of the district, may be applied to the payment of interest and the 54758
retirement of such notes. The notes may be sold at private sale or 54759
given to the contractor under the installment payment contract 54760
authorized by division (B) of this section. 54761

(D) Debt incurred under this section shall not be included in 54762
the calculation of the net indebtedness of a school district under 54763

section 133.06 of the Revised Code. 54764

(E) No school district board shall enter into an installment 54765
payment contract under division (B) of this section unless it 54766
first obtains a report of the costs of the energy conservation 54767
measures and the savings thereof as described under division (G) 54768
of section 133.06 of the Revised Code as a requirement for issuing 54769
energy securities, makes a finding that the amount spent on such 54770
measures is not likely to exceed the amount of money it would save 54771
in energy costs and resultant operational and maintenance costs as 54772
described in that division, except that that finding shall cover 54773
the ensuing fifteen years, and the Ohio school facilities 54774
commission determines that the district board's findings are 54775
reasonable and approves the contract as described in that 54776
division. 54777

The district board shall monitor the savings and maintain a 54778
report of those savings, which shall be available submitted to the 54779
commission in the same manner as required by division (G) of 54780
section 133.06 of the Revised Code in the case of energy 54781
securities. 54782

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 54783
(F), and (G) of this section, when a board of education decides to 54784
dispose of real or personal property that it owns in its corporate 54785
capacity and that exceeds in value ten thousand dollars, it shall 54786
sell the property at public auction, after giving at least thirty 54787
days' notice of the auction by publication in a newspaper of 54788
general circulation in the school district, by publication as 54789
provided in section 7.16 of the Revised Code, or by posting 54790
notices in five of the most public places in the school district 54791
in which the property, if it is real property, is situated, or, if 54792
it is personal property, in the school district of the board of 54793
education that owns the property. The board may offer real 54794

property for sale as an entire tract or in parcels. 54795

(B) When the board of education has offered real or personal 54796
property for sale at public auction at least once pursuant to 54797
division (A) of this section, and the property has not been sold, 54798
the board may sell it at a private sale. Regardless of how it was 54799
offered at public auction, at a private sale, the board shall, as 54800
it considers best, sell real property as an entire tract or in 54801
parcels, and personal property in a single lot or in several lots. 54802

(C) If a board of education decides to dispose of real or 54803
personal property that it owns in its corporate capacity and that 54804
exceeds in value ten thousand dollars, it may sell the property to 54805
the adjutant general; to any subdivision or taxing authority as 54806
respectively defined in divisions (A) and (C) of section 5705.01 54807
of the Revised Code, township park district, board of park 54808
commissioners established under Chapter 755. of the Revised Code, 54809
or park district established under Chapter 1545. of the Revised 54810
Code; to a wholly or partially tax-supported university, 54811
university branch, or college; or to the board of trustees of a 54812
school district library, upon such terms as are agreed upon. The 54813
sale of real or personal property to the board of trustees of a 54814
school district library is limited, in the case of real property, 54815
to a school district library within whose boundaries the real 54816
property is situated, or, in the case of personal property, to a 54817
school district library whose boundaries lie in whole or in part 54818
within the school district of the selling board of education. 54819

(D) When a board of education decides to trade as a part or 54820
an entire consideration, an item of personal property on the 54821
purchase price of an item of similar personal property, it may 54822
trade the same upon such terms as are agreed upon by the parties 54823
to the trade. 54824

(E) The president and the treasurer of the board of education 54825
shall execute and deliver deeds or other necessary instruments of 54826

conveyance to complete any sale or trade under this section. 54827

(F) When a board of education has identified a parcel of real 54828
property that it determines is needed for school purposes, the 54829
board may, upon a majority vote of the members of the board, 54830
acquire that property by exchanging real property that the board 54831
owns in its corporate capacity for the identified real property or 54832
by using real property that the board owns in its corporate 54833
capacity as part or an entire consideration for the purchase price 54834
of the identified real property. Any exchange or acquisition made 54835
pursuant to this division shall be made by a conveyance executed 54836
by the president and the treasurer of the board. 54837

(G)~~(1)~~ When a school district board of education decides to 54838
dispose of real property suitable for use as classroom space, 54839
prior to disposing of that property under divisions (A) to (F) of 54840
this section, it shall first offer that property for sale to the 54841
governing authorities of the start-up community schools 54842
established under Chapter 3314. of the Revised Code located within 54843
the territory of the school district, at a price that is not 54844
higher than the appraised fair market value of that property. If 54845
more than one community school governing authority accepts the 54846
offer made by the school district board, the board shall sell the 54847
property to the governing authority that accepted the offer first 54848
in time. If no community school governing authority accepts the 54849
offer within sixty days after the offer is made by the school 54850
district board, the board may dispose of the property in the 54851
applicable manner prescribed under divisions (A) to (F) of this 54852
section. 54853

~~(2) When a school district board of education has not used 54854
real property suitable for classroom space for academic 54855
instruction, administration, storage, or any other educational 54856
purpose for one full school year and has not adopted a resolution 54857
outlining a plan for using that property for any of those purposes 54858~~

~~within the next three school years, it shall offer that property 54859
for sale to the governing authorities of the start up community 54860
schools established under Chapter 3314. of the Revised Code 54861
located within the territory of the school district, at a price 54862
that is not higher than the appraised fair market value of that 54863
property. If more than one community school governing authority 54864
accepts the offer made by the school district board, the board 54865
shall sell the property to the governing authority that accepted 54866
the offer first in time. 54867~~

(H) When a school district board of education has property 54868
that the board, by resolution, finds is not needed for school 54869
district use, is obsolete, or is unfit for the use for which it 54870
was acquired, the board may donate that property in accordance 54871
with this division if the fair market value of the property is, in 54872
the opinion of the board, two thousand five hundred dollars or 54873
less. 54874

The property may be donated to an eligible nonprofit 54875
organization that is located in this state and is exempt from 54876
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 54877
Before donating any property under this division, the board shall 54878
adopt a resolution expressing its intent to make unneeded, 54879
obsolete, or unfit-for-use school district property available to 54880
these organizations. The resolution shall include guidelines and 54881
procedures the board considers to be necessary to implement the 54882
donation program and shall indicate whether the school district 54883
will conduct the donation program or the board will contract with 54884
a representative to conduct it. If a representative is known when 54885
the resolution is adopted, the resolution shall provide contact 54886
information such as the representative's name, address, and 54887
telephone number. 54888

The resolution shall include within its procedures a 54889
requirement that any nonprofit organization desiring to obtain 54890

donated property under this division shall submit a written notice 54891
to the board or its representative. The written notice shall 54892
include evidence that the organization is a nonprofit organization 54893
that is located in this state and is exempt from federal income 54894
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 54895
the organization's primary purpose; a description of the type or 54896
types of property the organization needs; and the name, address, 54897
and telephone number of a person designated by the organization's 54898
governing board to receive donated property and to serve as its 54899
agent. 54900

After adoption of the resolution, the board shall publish, in 54901
a newspaper of general circulation in the school district or as 54902
provided in section 7.16 of the Revised Code, notice of its intent 54903
to donate unneeded, obsolete, or unfit-for-use school district 54904
property to eligible nonprofit organizations. The notice shall 54905
include a summary of the information provided in the resolution 54906
and shall be published ~~at least~~ twice. The second ~~and any~~ 54907
~~subsequent~~ notice shall be published not less than ten nor more 54908
than twenty days after the previous notice. A similar notice also 54909
shall be posted continually in the board's office, ~~and, if.~~ If the 54910
school district maintains a web site on the internet, the notice 54911
shall be posted continually at that web site. 54912

The board or its representatives shall maintain a list of all 54913
nonprofit organizations that notify the board or its 54914
representative of their desire to obtain donated property under 54915
this division and that the board or its representative determines 54916
to be eligible, in accordance with the requirements set forth in 54917
this section and in the donation program's guidelines and 54918
procedures, to receive donated property. 54919

The board or its representative also shall maintain a list of 54920
all school district property the board finds to be unneeded, 54921
obsolete, or unfit for use and to be available for donation under 54922

this division. The list shall be posted continually in a 54923
conspicuous location in the board's office, and, if the school 54924
district maintains a web site on the internet, the list shall be 54925
posted continually at that web site. An item of property on the 54926
list shall be donated to the eligible nonprofit organization that 54927
first declares to the board or its representative its desire to 54928
obtain the item unless the board previously has established, by 54929
resolution, a list of eligible nonprofit organizations that shall 54930
be given priority with respect to the item's donation. Priority 54931
may be given on the basis that the purposes of a nonprofit 54932
organization have a direct relationship to specific school 54933
district purposes of programs provided or administered by the 54934
board. A resolution giving priority to certain nonprofit 54935
organizations with respect to the donation of an item of property 54936
shall specify the reasons why the organizations are given that 54937
priority. 54938

Members of the board shall consult with the Ohio ethics 54939
commission, and comply with Chapters 102. and 2921. of the Revised 54940
Code, with respect to any donation under this division to a 54941
nonprofit organization of which a board member, any member of a 54942
board member's family, or any business associate of a board member 54943
is a trustee, officer, board member, or employee. 54944

Sec. 3313.411. (A) As used in this section, "unused school 54945
facilities" means any real property that has been used by a school 54946
district for school operations, including, but not limited to, 54947
academic instruction or administration, since July 1, 1998, but 54948
has not been used in that capacity for two years. 54949

(B) On and after the effective date of this section, any 54950
school district board of education shall offer any unused school 54951
facilities it owns in its corporate capacity for lease to the 54952
governing authorities of community schools established under 54953

Chapter 3314. of the Revised Code that are located within the 54954
territory of the school district. If more than one community 54955
school governing authority accepts the offer to lease that 54956
property, the district board shall lease the property to the 54957
governing authority of the community school with the highest 54958
ranking according to performance index score, as defined in 54959
section 3302.01 of the Revised Code. 54960

The price offered by the district board shall be as follows: 54961

(1) For community schools ranked in the top fifty per cent of 54962
all school district buildings, community schools, and STEM schools 54963
statewide, one dollar; 54964

(2) For all other community schools, an amount not higher 54965
than the fair market value of the leasehold in the neighborhood 54966
and community. 54967

If no community school governing authority accepts the offer 54968
to lease the property within sixty days after the offer is made, 54969
the district board may offer the property for lease to any other 54970
entity. 54971

(C) Notwithstanding division (B) of this section, a school 54972
district board may renew any agreement it originally entered into 54973
prior to the effective date of this section to lease real property 54974
to an entity other than a community school. Nothing in this 54975
section shall affect the leasehold arrangements between the 54976
district board and that other entity. 54977

Sec. 3313.46. (A) In addition to any other law governing the 54978
bidding for contracts by the board of education of any school 54979
district, when any such board determines to build, repair, 54980
enlarge, improve, or demolish any school building, the cost of 54981
which will exceed twenty-five thousand dollars, except in cases of 54982
urgent necessity, or for the security and protection of school 54983

property, and except as otherwise provided in division (D) of 54984
section 713.23 and in section 125.04 of the Revised Code, all of 54985
the following shall apply: 54986

(1) The board shall cause to be prepared the plans, 54987
specifications, and related information as required in divisions 54988
(A), ~~(B)(1)~~, (2), and ~~(D)(4)~~ of section 153.01 of the Revised Code 54989
unless the board determines that other information is sufficient 54990
to inform any bidders of the board's requirements. However, if the 54991
board determines that such other information is sufficient for 54992
bidding a project, the board shall not engage in the construction 54993
of any such project involving the practice of professional 54994
engineering, professional surveying, or architecture, for which 54995
plans, specifications, and estimates have not been made by, and 54996
the construction thereof inspected by, a licensed professional 54997
engineer, licensed professional surveyor, or registered architect. 54998

(2) The board shall advertise for bids once each week for a 54999
period of not less than two consecutive weeks, or as provided in 55000
section 7.16 of the Revised Code, in a newspaper of general 55001
circulation in the district before the date specified by the board 55002
for receiving bids. The board may also cause notice to be inserted 55003
in trade papers or other publications designated by it or to be 55004
distributed by electronic means, including posting the notice on 55005
the board's internet web site. If the board posts the notice on 55006
its web site, it may eliminate the second notice otherwise 55007
required to be published in a newspaper of general circulation 55008
within the school district, provided that the first notice 55009
published in such newspaper meets all of the following 55010
requirements: 55011

(a) It is published at least two weeks before the opening of 55012
bids. 55013

(b) It includes a statement that the notice is posted on the 55014
board of education's internet web site. 55015

(c) It includes the internet address of the board's internet web site. 55016
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(d) It includes instructions describing how the notice may be accessed on the board's internet web site. 55018
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(3) Unless the board extends the time for the opening of bids they shall be opened at the time and place specified by the board in the advertisement for the bids. 55020
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(4) Each bid shall contain the name of every person interested therein. Each bid shall meet the requirements of section 153.54 of the Revised Code. 55023
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(5) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the bid, with the price thereof, or may require that bids be submitted without such separation. 55026
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(6) None but the lowest responsible bid shall be accepted. The board may reject all the bids, or accept any bid for both labor and material for such improvement or repair, which is the lowest in the aggregate. In all other respects, the award of contracts for improvement or repair, but not for purchases made under section 3327.08 of the Revised Code, shall be pursuant to section 153.12 of the Revised Code. 55030
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(7) The contract shall be between the board and the bidders. The board shall pay the contract price for the work pursuant to sections 153.13 and 153.14 of the Revised Code. The board shall approve and retain the estimates referred to in section 153.13 of the Revised Code and make them available to the auditor of state upon request. 55037
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(8) When two or more bids are equal, in the whole, or in any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between such bidders. 55043
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(9) When there is reason to believe there is collusion or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected.

(B) Division (A) of this section does not apply to the board of education of any school district in any of the following situations:

(1) The acquisition of educational materials used in teaching.

(2) If the board determines and declares by resolution adopted by two-thirds of all its members that any item is available and can be acquired only from a single source.

(3) If the board declares by resolution adopted by two-thirds of all its members that division (A) of this section does not apply to any installation, modification, or remodeling involved in any energy conservation measure undertaken through an installment payment contract under section 3313.372 of the Revised Code or undertaken pursuant to division (G) of section 133.06 of the Revised Code.

(4) The acquisition of computer software for instructional purposes and computer hardware for instructional purposes pursuant to division (B)(4) of section 3313.37 of the Revised Code.

(C) No resolution adopted pursuant to division (B)(2) or (3) of this section shall have any effect on whether sections 153.12 to 153.14 and 153.54 of the Revised Code apply to the board of education of any school district with regard to any item.

Sec. ~~3314.20~~ 3313.473. This section does not apply to any school district declared to be excellent or effective pursuant to division (B)(1) or (2) of section 3302.03 of the Revised Code.

(A) The state board of education shall adopt rules requiring school districts with a total student count of over five thousand,

as determined pursuant to section 3317.03 of the Revised Code, to 55077
designate one school building to be operated by a site-based 55078
management council. The rules shall specify the composition of the 55079
council and the manner in which members of the council are to be 55080
selected and removed. 55081

(B) The rules adopted under division (A) of this section 55082
shall specify those powers, duties, functions, and 55083
responsibilities that shall be vested in the management council 55084
and that would otherwise be exercised by the district board of 55085
education. The rules shall also establish a mechanism for 55086
resolving any differences between the council and the district 55087
board if there is disagreement as to their respective powers, 55088
duties, functions, and responsibilities. 55089

(C) The board of education of any school district described 55090
by division (A) of this section may, in lieu of complying with the 55091
rules adopted under this section, file with the department of 55092
education an alternative structure for a district site-based 55093
management program in at least one of its school buildings. The 55094
proposal shall specify the composition of the council, which shall 55095
include an equal number of parents and teachers and the building 55096
principal, and the method of selection and removal of the council 55097
members. The proposal shall also clearly delineate the respective 55098
powers, duties, functions, and responsibilities of the district 55099
board and the council. The district's proposal shall comply 55100
substantially with the rules adopted under division (A) of this 55101
section. 55102

Sec. 3313.482. (A) Annually, prior to the first day of 55103
September, the board of education of each city, local, and 55104
exempted village school district shall adopt a resolution 55105
specifying a contingency plan under which the district's students 55106
will make up days on which it was necessary to close schools for 55107

any of the reasons specified in ~~division (A)(2) of section 3306.01~~ 55108
~~and~~ division (B) of section 3317.01 of the Revised Code, if any 55109
such days must be made up in order to comply with the requirements 55110
of sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 of the Revised 55111
Code. The plan shall provide for making up at least five school 55112
days. The plan may provide for making up some or all of the days a 55113
school is closed by increasing the length of other school days in 55114
the manner authorized in division (B) of this section. No 55115
resolution adopted pursuant to this division shall conflict with 55116
any collective bargaining agreement into which a board has entered 55117
pursuant to Chapter 4117. of the Revised Code and that is in 55118
effect in the district. 55119

(B) Notwithstanding anything to the contrary in the 55120
contingency plan it adopts under division (A) of this section, if 55121
a school district closes or evacuates any school building for any 55122
of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ 55123
division (B) of section 3317.01 of the Revised Code, or as a 55124
result of a bomb threat or any other report of an alleged or 55125
impending explosion, and if, as a result of the closing or 55126
evacuation, the school district would be unable to meet the 55127
requirements of sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 55128
of the Revised Code regarding the number of days schools must be 55129
open for instruction or the requirements of the state minimum 55130
standards for the school day that are established by the 55131
department of education regarding the number of hours there must 55132
be in the school day, the school district may increase the length 55133
of one or more other school days for the school that was closed or 55134
evacuated, in increments of one-half hour, to make up the number 55135
of hours or days that the school building in question was so 55136
closed or evacuated for the purpose of satisfying the requirements 55137
of those sections. 55138

A school district that makes up, as described in this 55139

division, all of the hours or days that its school buildings were 55140
closed or evacuated for any of the reasons identified in this 55141
division shall be deemed to have complied with the requirements of 55142
sections ~~3306.01~~, 3313.48, 3313.481, and 3317.01 of the Revised 55143
Code regarding the number of days schools must be open for 55144
instruction and the requirements of the state minimum standards 55145
regarding the number of hours there must be in the school day. 55146

Sec. 3313.533. (A) The board of education of a city, exempted 55147
village, or local school district may adopt a resolution to 55148
establish and maintain an alternative school in accordance with 55149
this section. The resolution shall specify, but not necessarily be 55150
limited to, all of the following: 55151

(1) The purpose of the school, which purpose shall be to 55152
serve students who are on suspension, who are having truancy 55153
problems, who are experiencing academic failure, who have a 55154
history of class disruption, who are exhibiting other academic or 55155
behavioral problems specified in the resolution, or who have been 55156
discharged or released from the custody of the department of youth 55157
services under section 5139.51 of the Revised Code; 55158

(2) The grades served by the school, which may include any of 55159
grades kindergarten through twelve; 55160

(3) A requirement that the school be operated in accordance 55161
with this section. The board of education adopting the resolution 55162
under division (A) of this section shall be the governing board of 55163
the alternative school. The board shall develop and implement a 55164
plan for the school in accordance with the resolution establishing 55165
the school and in accordance with this section. Each plan shall 55166
include, but not necessarily be limited to, all of the following: 55167

(a) Specification of the reasons for which students will be 55168
accepted for assignment to the school and any criteria for 55169
admission that are to be used by the board to approve or 55170

disapprove the assignment of students to the school;	55171
(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;	55172 55173 55174
(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.	55175 55176 55177
(B) Notwithstanding any provision of Title XXXVIII of the Revised Code to the contrary, the alternative school plan may include any of the following:	55178 55179 55180
(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the state board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;	55181 55182 55183 55184 55185 55186 55187
(2) Restrictions on student participation in extracurricular or interscholastic activities;	55188 55189
(3) A requirement that students wear uniforms prescribed by the district board of education.	55190 55191
(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.	55192 55193 55194 55195 55196 55197
(D) An alternative school may be established in all or part of a school building.	55198 55199
(E) If a district board of education elects under this	55200

section, or is required by section 3313.534 of the Revised Code, 55201
to establish an alternative school, the district board may join 55202
with the board of education of one or more other districts to form 55203
a joint alternative school by forming a cooperative education 55204
school district under section 3311.52 or 3311.521 of the Revised 55205
Code, or a joint educational program under section 3313.842 of the 55206
Revised Code. The authority to employ personnel or to contract 55207
with a nonprofit or for profit entity under division (C) of this 55208
section applies to any alternative school program established 55209
under this division. 55210

(F) Any individual employed as a teacher at an alternative 55211
school operated by a nonprofit or for profit entity under this 55212
section shall be licensed and shall be subject to background 55213
checks, as described in section 3319.39 of the Revised Code, in 55214
the same manner as an individual employed by a school district. 55215

(G) Division (G) of this section applies only to any 55216
alternative school that is operated by a nonprofit or for profit 55217
entity under contract with the school district. 55218

(1) In addition to the specifications authorized under 55219
division (B) of this section, any plan adopted under that division 55220
for an alternative school to which division (G) of this section 55221
also applies shall include the following: 55222

(a) A description of the educational program provided at the 55223
alternative school, which shall include: 55224

(i) Provisions for the school to be configured in clusters or 55225
small learning communities; 55226

(ii) Provisions for the incorporation of education technology 55227
into the curriculum; 55228

(iii) Provisions for accelerated learning programs in reading 55229
and mathematics. 55230

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of ~~at least~~ two consecutive weeks, or as

provided in section 7.16 of the Revised Code, prior to the date 55262
specified by the board for receiving proposals. Notices of 55263
requests for proposals shall contain a general description of the 55264
subject of the proposed contract and the location where the 55265
request for proposals may be obtained. The request for proposals 55266
shall include all of the following information: 55267

(a) Instructions and information to respondents concerning 55268
the submission of proposals, including the name and address of the 55269
office where proposals are to be submitted; 55270

(b) Instructions regarding communications, including at least 55271
the names, titles, and telephone numbers of persons to whom 55272
questions concerning a proposal may be directed; 55273

(c) A description of the performance criteria that will be 55274
used to evaluate whether a respondent to which a contract is 55275
awarded is meeting the district's educational standards or the 55276
method by which such performance criteria will be determined; 55277

(d) Factors and criteria to be considered in evaluating 55278
proposals, the relative importance of each factor or criterion, 55279
and a description of the evaluation procedures to be followed; 55280

(e) Any terms or conditions of the proposed contract, 55281
including any requirement for a bond and the amount of such bond; 55282

(f) Documents that may be incorporated by reference into the 55283
request for proposals, provided that the request for proposals 55284
specifies where such documents may be obtained and that such 55285
documents are readily available to all interested parties. 55286

(2) After the date specified for receiving proposals, the 55287
board shall evaluate the submitted proposals and may hold 55288
discussions with any respondent to ensure a complete understanding 55289
of the proposal and the qualifications of such respondent to 55290
execute the proposed contract. Such qualifications shall include, 55291
but are not limited to, all of the following: 55292

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration

the scope, complexity, and nature of the services to be performed 55324
by the respondent under the contract. 55325

(5) Except as provided in division (H)(6) of this section, 55326
the request for proposals, submitted proposals, and related 55327
documents shall become public records under section 149.43 of the 55328
Revised Code after the award of the contract. 55329

(6) Any respondent may request in writing that the board not 55330
disclose confidential or proprietary information or trade secrets 55331
contained in the proposal submitted by the respondent to the 55332
board. Any such request shall be accompanied by an offer of 55333
indemnification from the respondent to the board. The board shall 55334
determine whether to agree to the request and shall inform the 55335
respondent in writing of its decision. If the board agrees to 55336
nondisclosure of specified information in a proposal, such 55337
information shall not become a public record under section 149.43 55338
of the Revised Code. If the respondent withdraws its proposal at 55339
any time prior to the execution of a contract, the proposal shall 55340
not be a public record under section 149.43 of the Revised Code. 55341

(I) Upon a recommendation from the department and in 55342
accordance with section 3301.16 of the Revised Code, the state 55343
board of education may revoke the charter of any alternative 55344
school operated by a school district that violates this section. 55345

Sec. 3313.538. (A) No student who attends school in this 55346
state shall be denied the opportunity to participate in 55347
interscholastic athletics solely because the student's parents do 55348
not reside in this state, if the student resides in this state 55349
with the student's grandparent, uncle, aunt, or sibling who has 55350
legal or temporary custody of the student or is the guardian of 55351
the student. 55352

(B) No school district, school, interscholastic conference, 55353
or organization that regulates interscholastic conferences or 55354

events shall have a rule, bylaw, or other regulation that 55355
conflicts with this section. 55356

(C) As used in this section, "legal custody," "temporary 55357
custody," and "guardian" have the same meanings as in section 55358
2151.011 of the Revised Code. 55359

Sec. 3313.539. (A) As used in this section, "extracurricular 55360
activity" has the same meaning as in section 3313.537 of the 55361
Revised Code. 55362

(B) A student who is receiving home instruction in accordance 55363
with division (A)(2) of section 3321.04 of the Revised Code shall 55364
be afforded the opportunity to participate in any extracurricular 55365
activity offered at the traditional public school that is operated 55366
by the school district in which the student is entitled to attend 55367
school pursuant to section 3313.64 or 3313.65 of the Revised Code 55368
and to which the student otherwise would be assigned. If more than 55369
one such school operated by the school district serves the 55370
student's grade level, as determined by the district 55371
superintendent based on the student's age and academic 55372
performance, the student shall be afforded the opportunity to 55373
participate in any extracurricular activity offered at the school 55374
to which the student would be assigned by the superintendent 55375
pursuant to section 3319.01 of the Revised Code. 55376

(C) In order to participate in an extracurricular activity 55377
under this section, the student shall fulfill the same nonacademic 55378
and financial requirements as any other participant and shall 55379
fulfill either of the following academic requirements: 55380

(1) If the student received home instruction in the preceding 55381
school year, the student shall meet any academic requirements 55382
established by the state board of education for continuation of 55383
home instruction. 55384

(2) If the student did not receive home instruction in the preceding school year, the student's academic performance during the preceding school year shall have met any academic standards for eligibility to participate in the activity established by the school district. 55385
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Any student who commences home instruction after the beginning of a school year and who is, at the time home instruction commences, ineligible to participate in extracurricular activities due to failure to meet academic standards or any other requirements of the district shall not participate in extracurricular activities under this section for the remainder of the school year. 55390
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(D) No school or school district shall impose fees for a student to participate under this section that exceed any fees charged to other students participating in the same extracurricular activity. 55397
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(E) No school district, interscholastic conference, or organization that regulates interscholastic conferences or events shall require a student who is eligible to participate in extracurricular activities under this section to meet eligibility requirements that conflict with this section. 55401
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Sec. 3313.55. The board of education of any school district in which is located a state, district, county, or municipal hospital for children with epilepsy or any public institution, except state institutions for the care and treatment of delinquent, unstable, or socially maladjusted children, shall make provision for the education of all educable children therein; except that in the event another school district within the same county or an adjoining county is the source of sixty per cent or more of the children in said hospital or institution, the board of that school district shall make provision for the education of all 55406
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the children therein. In any case in which a board provides 55416
educational facilities under this section, the board that provides 55417
the facilities shall be entitled to all moneys authorized for the 55418
attendance of pupils as provided in Chapter ~~3306.~~ or 3317. of the 55419
Revised Code, tuition as provided in section 3317.08 of the 55420
Revised Code, and such additional compensation as is provided for 55421
crippled children in sections 3323.01 to 3323.12 of the Revised 55422
Code. Any board that provides the educational facilities for 55423
children in county or municipal institutions established for the 55424
care and treatment of children who are delinquent, unstable, or 55425
socially maladjusted shall not be entitled to any moneys provided 55426
for crippled children in sections 3323.01 to 3323.12 of the 55427
Revised Code. 55428

Sec. 3313.603. (A) As used in this section: 55429

(1) "One unit" means a minimum of one hundred twenty hours of 55430
course instruction, except that for a laboratory course, "one 55431
unit" means a minimum of one hundred fifty hours of course 55432
instruction. 55433

(2) "One-half unit" means a minimum of sixty hours of course 55434
instruction, except that for physical education courses, "one-half 55435
unit" means a minimum of one hundred twenty hours of course 55436
instruction. 55437

(B) Beginning September 15, 2001, except as required in 55438
division (C) of this section and division (C) of section 3313.614 55439
of the Revised Code, the requirements for graduation from every 55440
high school shall include twenty units earned in grades nine 55441
through twelve and shall be distributed as follows: 55442

(1) English language arts, four units; 55443

(2) Health, one-half unit; 55444

(3) Mathematics, three units; 55445

(4) Physical education, one-half unit;	55446
(5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:	55447 55448 55449
(a) Biological sciences, one unit;	55450
(b) Physical sciences, one unit.	55451
(6) Social studies, three units, which shall include both of the following:	55452 55453
(a) American history, one-half unit;	55454
(b) American government, one-half unit.	55455
(7) Elective units, seven units until September 15, 2003, and six units thereafter.	55456 55457
Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or foreign language.	55458 55459 55460
(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:	55461 55462 55463 55464 55465 55466 55467
(1) English language arts, four units;	55468
(2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;	55469 55470 55471
(3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;	55472 55473
(4) Physical education, one-half unit;	55474

(5) Science, three units with inquiry-based laboratory	55475
experience that engages students in asking valid scientific	55476
questions and gathering and analyzing information, which shall	55477
include the following, or their equivalent:	55478
(a) Physical sciences, one unit;	55479
(b) Life sciences, one unit;	55480
(c) Advanced study in one or more of the following sciences,	55481
one unit:	55482
(i) Chemistry, physics, or other physical science;	55483
(ii) Advanced biology or other life science;	55484
(iii) Astronomy, physical geology, or other earth or space	55485
science.	55486
(6) Social studies, three units, which shall include both of	55487
the following:	55488
(a) American history, one-half unit;	55489
(b) American government, one-half unit.	55490
Each school shall integrate the study of economics and	55491
financial literacy, as expressed in the social studies academic	55492
content standards adopted by the state board of education under	55493
division (A)(1) of section 3301.079 of the Revised Code and the	55494
academic content standards for financial literacy and	55495
entrepreneurship adopted under division (A)(2) of that section,	55496
into one or more existing social studies credits required under	55497
division (C)(6) of this section, or into the content of another	55498
class, so that every high school student receives instruction in	55499
those concepts. In developing the curriculum required by this	55500
paragraph, schools shall use available public-private partnerships	55501
and resources and materials that exist in business, industry, and	55502
through the centers for economics education at institutions of	55503
higher education in the state.	55504

(7) Five units consisting of one or any combination of 55505
foreign language, fine arts, business, career-technical education, 55506
family and consumer sciences, technology, agricultural education, 55507
a junior reserve officer training corps (JROTC) program approved 55508
by the congress of the United States under title 10 of the United 55509
States Code, or English language arts, mathematics, science, or 55510
social studies courses not otherwise required under division (C) 55511
of this section. 55512

Ohioans must be prepared to apply increased knowledge and 55513
skills in the workplace and to adapt their knowledge and skills 55514
quickly to meet the rapidly changing conditions of the 55515
twenty-first century. National studies indicate that all high 55516
school graduates need the same academic foundation, regardless of 55517
the opportunities they pursue after graduation. The goal of Ohio's 55518
system of elementary and secondary education is to prepare all 55519
students for and seamlessly connect all students to success in 55520
life beyond high school graduation, regardless of whether the next 55521
step is entering the workforce, beginning an apprenticeship, 55522
engaging in post-secondary training, serving in the military, or 55523
pursuing a college degree. 55524

The Ohio core curriculum is the standard expectation for all 55525
students entering ninth grade for the first time at a public or 55526
chartered nonpublic high school on or after July 1, 2010. A 55527
student may satisfy this expectation through a variety of methods, 55528
including, but not limited to, integrated, applied, 55529
career-technical, and traditional coursework. 55530

Whereas teacher quality is essential for student success in 55531
completing the Ohio core curriculum, the general assembly shall 55532
appropriate funds for strategic initiatives designed to strengthen 55533
schools' capacities to hire and retain highly qualified teachers 55534
in the subject areas required by the curriculum. Such initiatives 55535
are expected to require an investment of \$120,000,000 over five 55536

years. 55537

Stronger coordination between high schools and institutions 55538
of higher education is necessary to prepare students for more 55539
challenging academic endeavors and to lessen the need for academic 55540
remediation in college, thereby reducing the costs of higher 55541
education for Ohio's students, families, and the state. The state 55542
board and the chancellor of the Ohio board of regents shall 55543
develop policies to ensure that only in rare instances will 55544
students who complete the Ohio core curriculum require academic 55545
remediation after high school. 55546

School districts, community schools, and chartered nonpublic 55547
schools shall integrate technology into learning experiences 55548
~~whenever practicable~~ across the curriculum in order to maximize 55549
efficiency, enhance learning, and prepare students for success in 55550
the technology-driven twenty-first century. Districts and schools 55551
~~may~~ shall use distance and web-based course delivery as a method 55552
of providing or augmenting all instruction required under this 55553
division, including laboratory experience in science. Districts 55554
and schools shall ~~whenever practicable~~ utilize technology access 55555
and electronic learning opportunities provided by the eTech Ohio 55556
commission, the Ohio learning network, education technology 55557
centers, public television stations, and other public and private 55558
providers. 55559

(D) Except as provided in division (E) of this section, a 55560
student who enters ninth grade on or after July 1, 2010, and 55561
before July 1, 2014, may qualify for graduation from a public or 55562
chartered nonpublic high school even though the student has not 55563
completed the Ohio core curriculum prescribed in division (C) of 55564
this section if all of the following conditions are satisfied: 55565

(1) After the student has attended high school for two years, 55566
as determined by the school, the student and the student's parent, 55567
guardian, or custodian sign and file with the school a written 55568

statement asserting the parent's, guardian's, or custodian's 55569
consent to the student's graduating without completing the Ohio 55570
core curriculum and acknowledging that one consequence of not 55571
completing the Ohio core curriculum is ineligibility to enroll in 55572
most state universities in Ohio without further coursework. 55573

(2) The student and parent, guardian, or custodian fulfill 55574
any procedural requirements the school stipulates to ensure the 55575
student's and parent's, guardian's, or custodian's informed 55576
consent and to facilitate orderly filing of statements under 55577
division (D)(1) of this section. 55578

(3) The student and the student's parent, guardian, or 55579
custodian and a representative of the student's high school 55580
jointly develop an individual career plan for the student that 55581
specifies the student matriculating to a two-year degree program, 55582
acquiring a business and industry credential, or entering an 55583
apprenticeship. 55584

(4) The student's high school provides counseling and support 55585
for the student related to the plan developed under division 55586
(D)(3) of this section during the remainder of the student's high 55587
school experience. 55588

(5) The student successfully completes, at a minimum, the 55589
curriculum prescribed in division (B) of this section. 55590

The department of education, in collaboration with the 55591
chancellor, shall analyze student performance data to determine if 55592
there are mitigating factors that warrant extending the exception 55593
permitted by division (D) of this section to high school classes 55594
beyond those entering ninth grade before July 1, 2014. The 55595
department shall submit its findings and any recommendations not 55596
later than August 1, 2014, to the speaker and minority leader of 55597
the house of representatives, the president and minority leader of 55598
the senate, the chairpersons and ranking minority members of the 55599

standing committees of the house of representatives and the senate 55600
that consider education legislation, the state board of education, 55601
and the superintendent of public instruction. 55602

(E) Each school district and chartered nonpublic school 55603
retains the authority to require an even more rigorous minimum 55604
curriculum for high school graduation than specified in division 55605
(B) or (C) of this section. A school district board of education, 55606
through the adoption of a resolution, or the governing authority 55607
of a chartered nonpublic school may stipulate any of the 55608
following: 55609

(1) A minimum high school curriculum that requires more than 55610
twenty units of academic credit to graduate; 55611

(2) An exception to the district's or school's minimum high 55612
school curriculum that is comparable to the exception provided in 55613
division (D) of this section but with additional requirements, 55614
which may include a requirement that the student successfully 55615
complete more than the minimum curriculum prescribed in division 55616
(B) of this section; 55617

(3) That no exception comparable to that provided in division 55618
(D) of this section is available. 55619

(F) A student enrolled in a dropout prevention and recovery 55620
program, which program has received a waiver from the department, 55621
may qualify for graduation from high school by successfully 55622
completing a competency-based instructional program administered 55623
by the dropout prevention and recovery program in lieu of 55624
completing the Ohio core curriculum prescribed in division (C) of 55625
this section. The department shall grant a waiver to a dropout 55626
prevention and recovery program, within sixty days after the 55627
program applies for the waiver, if the program meets all of the 55628
following conditions: 55629

(1) The program serves only students not younger than sixteen 55630

years of age and not older than twenty-one years of age. 55631

(2) The program enrolls students who, at the time of their 55632
initial enrollment, either, or both, are at least one grade level 55633
behind their cohort age groups or experience crises that 55634
significantly interfere with their academic progress such that 55635
they are prevented from continuing their traditional programs. 55636

(3) The program requires students to attain at least the 55637
applicable score designated for each of the assessments prescribed 55638
under division (B)(1) of section 3301.0710 of the Revised Code or, 55639
to the extent prescribed by rule of the state board under division 55640
~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, division 55641
(B)(2) of that section. 55642

(4) The program develops an individual career plan for the 55643
student that specifies the student's matriculating to a two-year 55644
degree program, acquiring a business and industry credential, or 55645
entering an apprenticeship. 55646

(5) The program provides counseling and support for the 55647
student related to the plan developed under division (F)(4) of 55648
this section during the remainder of the student's high school 55649
experience. 55650

(6) The program requires the student and the student's 55651
parent, guardian, or custodian to sign and file, in accordance 55652
with procedural requirements stipulated by the program, a written 55653
statement asserting the parent's, guardian's, or custodian's 55654
consent to the student's graduating without completing the Ohio 55655
core curriculum and acknowledging that one consequence of not 55656
completing the Ohio core curriculum is ineligibility to enroll in 55657
most state universities in Ohio without further coursework. 55658

(7) Prior to receiving the waiver, the program has submitted 55659
to the department an instructional plan that demonstrates how the 55660
academic content standards adopted by the state board under 55661

section 3301.079 of the Revised Code will be taught and assessed. 55662

If the department does not act either to grant the waiver or 55663
to reject the program application for the waiver within sixty days 55664
as required under this section, the waiver shall be considered to 55665
be granted. 55666

(G) Every high school may permit students below the ninth 55667
grade to take advanced work. If a high school so permits, it shall 55668
award high school credit for successful completion of the advanced 55669
work and shall count such advanced work toward the graduation 55670
requirements of division (B) or (C) of this section if the 55671
advanced work was both: 55672

(1) Taught by a person who possesses a license or certificate 55673
issued under section 3301.071, 3319.22, or 3319.222 of the Revised 55674
Code that is valid for teaching high school; 55675

(2) Designated by the board of education of the city, local, 55676
or exempted village school district, the board of the cooperative 55677
education school district, or the governing authority of the 55678
chartered nonpublic school as meeting the high school curriculum 55679
requirements. 55680

Each high school shall record on the student's high school 55681
transcript all high school credit awarded under division (G) of 55682
this section. In addition, if the student completed a seventh- or 55683
eighth-grade fine arts course described in division (K) of this 55684
section and the course qualified for high school credit under that 55685
division, the high school shall record that course on the 55686
student's high school transcript. 55687

(H) The department shall make its individual academic career 55688
plan available through its Ohio career information system web site 55689
for districts and schools to use as a tool for communicating with 55690
and providing guidance to students and families in selecting high 55691
school courses. 55692

(I) Units earned in English language arts, mathematics, science, and social studies that are delivered through integrated academic and career-technical instruction are eligible to meet the graduation requirements of division (B) or (C) of this section.

(J) The state board, in consultation with the chancellor, shall adopt a statewide plan implementing methods for students to earn units of high school credit based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. The state board shall adopt the plan not later than March 31, 2009, and commence phasing in the plan during the 2009-2010 school year. The plan shall include a standard method for recording demonstrated proficiency on high school transcripts. Each school district, and community school, ~~and chartered nonpublic school~~ shall comply with the state board's plan adopted under this division and award units of high school credit in accordance with the plan. The state board may adopt existing methods for earning high school credit based on a demonstration of subject area competency as necessary prior to the 2009-2010 school year.

(K) This division does not apply to students who qualify for graduation from high school under division (D) or (F) of this section, or to students pursuing a career-technical instructional track as determined by the school district board of education or the chartered nonpublic school's governing authority. Nevertheless, the general assembly encourages such students to consider enrolling in a fine arts course as an elective.

Beginning with students who enter ninth grade for the first time on or after July 1, 2010, each student enrolled in a public or chartered nonpublic high school shall complete two semesters or the equivalent of fine arts to graduate from high school. The coursework may be completed in any of grades seven to twelve. Each student who completes a fine arts course in grade seven or eight

may elect to count that course toward the five units of electives 55725
required for graduation under division (C)(7) of this section, if 55726
the course satisfied the requirements of division (G) of this 55727
section. In that case, the high school shall award the student 55728
high school credit for the course and count the course toward the 55729
five units required under division (C)(7) of this section. If the 55730
course in grade seven or eight did not satisfy the requirements of 55731
division (G) of this section, the high school shall not award the 55732
student high school credit for the course but shall count the 55733
course toward the two semesters or the equivalent of fine arts 55734
required by this division. 55735

(L) Notwithstanding anything to the contrary in this section, 55736
the board of education of each school district and the governing 55737
authority of each chartered nonpublic school may adopt a policy to 55738
excuse from the high school physical education requirement each 55739
student who, during high school, has participated in 55740
interscholastic athletics, marching band, or cheerleading for at 55741
least two full seasons or in the junior reserve officer training 55742
corps for at least two full school years. If the board or 55743
authority adopts such a policy, the board or authority shall not 55744
require the student to complete any physical education course as a 55745
condition to graduate. However, the student shall be required to 55746
complete one-half unit, consisting of at least sixty hours of 55747
instruction, in another course of study. In the case of a student 55748
who has participated in the junior reserve officer training corps 55749
for at least two full school years, credit received for that 55750
participation may be used to satisfy the requirement to complete 55751
one-half unit in another course of study. 55752

Sec. 3313.61. (A) A diploma shall be granted by the board of 55753
education of any city, exempted village, or local school district 55754
that operates a high school to any person to whom all of the 55755
following apply: 55756

(1) The person has successfully completed the curriculum in 55757
any high school or the individualized education program developed 55758
for the person by any high school pursuant to section 3323.08 of 55759
the Revised Code, or has qualified under division (D) or (F) of 55760
section 3313.603 of the Revised Code, provided that no school 55761
district shall require a student to remain in school for any 55762
specific number of semesters or other terms if the student 55763
completes the required curriculum early; 55764

(2) Subject to section 3313.614 of the Revised Code, the 55765
person has met the assessment requirements of division (A)(2)(a) 55766
or (b) of this section, as applicable. 55767

(a) If the person entered the ninth grade prior to the date 55768
prescribed by rule of the state board of education under division 55769
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person 55770
either: 55771

(i) Has attained at least the applicable scores designated 55772
under division (B)(1) of section 3301.0710 of the Revised Code on 55773
all the assessments required by that division unless the person 55774
was excused from taking any such assessment pursuant to section 55775
3313.532 of the Revised Code or unless division (H) or (L) of this 55776
section applies to the person; 55777

(ii) Has satisfied the alternative conditions prescribed in 55778
section 3313.615 of the Revised Code. 55779

(b) If the person entered the ninth grade on or after the 55780
date prescribed by rule of the state board under division 55781
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has 55782
~~attained on~~ met the requirements of the entire assessment system 55783
prescribed under division (B)(2) of section 3301.0710 of the 55784
Revised Code ~~at least the required passing composite score,~~ 55785
~~designated under division (C)(1) of section 3301.0712 of the~~ 55786
~~Revised Code,~~ except to the extent that the person is excused from 55787

some portion of that assessment system pursuant to section 55788
3313.532 of the Revised Code or division (H) or (L) of this 55789
section. 55790

(3) The person is not eligible to receive an honors diploma 55791
granted pursuant to division (B) of this section. 55792

Except as provided in divisions (C), (E), (J), and (L) of 55793
this section, no diploma shall be granted under this division to 55794
anyone except as provided under this division. 55795

(B) In lieu of a diploma granted under division (A) of this 55796
section, an honors diploma shall be granted, in accordance with 55797
rules of the state board, by any such district board to anyone who 55798
accomplishes all of the following: 55799

(1) Successfully completes the curriculum in any high school 55800
or the individualized education program developed for the person 55801
by any high school pursuant to section 3323.08 of the Revised 55802
Code; 55803

(2) Subject to section 3313.614 of the Revised Code, has met 55804
the assessment requirements of division (B)(2)(a) or (b) of this 55805
section, as applicable. 55806

(a) If the person entered the ninth grade prior to the date 55807
prescribed by rule of the state board of education under division 55808
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person 55809
either: 55810

(i) Has attained at least the applicable scores designated 55811
under division (B)(1) of section 3301.0710 of the Revised Code on 55812
all the assessments required by that division; 55813

(ii) Has satisfied the alternative conditions prescribed in 55814
section 3313.615 of the Revised Code. 55815

(b) If the person entered the ninth grade on or after the 55816
date prescribed by rule of the state board under division 55817

~~(E)(D)(2) of section 3301.0712 of the Revised Code, the person 55818
has attained ~~on~~ met the requirements of the entire assessment 55819
system prescribed under division (B)(2) of section 3301.0710 of 55820
the Revised Code ~~at least the required passing composite score,~~ 55821
~~designated under division (C)(1) of section 3301.0712 of the~~ 55822
~~Revised Code.~~ 55823~~

(3) Has met additional criteria established by the state 55824
board for the granting of such a diploma. 55825

An honors diploma shall not be granted to a student who is 55826
subject to the Ohio core curriculum prescribed in division (C) of 55827
section 3313.603 of the Revised Code but elects the option of 55828
division (D) or (F) of that section. Except as provided in 55829
divisions (C), (E), and (J) of this section, no honors diploma 55830
shall be granted to anyone failing to comply with this division 55831
and no more than one honors diploma shall be granted to any 55832
student under this division. 55833

The state board shall adopt rules prescribing the granting of 55834
honors diplomas under this division. These rules may prescribe the 55835
granting of honors diplomas that recognize a student's achievement 55836
as a whole or that recognize a student's achievement in one or 55837
more specific subjects or both. The rules may prescribe the 55838
granting of an honors diploma recognizing technical expertise for 55839
a career-technical student. In any case, the rules shall designate 55840
two or more criteria for the granting of each type of honors 55841
diploma the board establishes under this division and the number 55842
of such criteria that must be met for the granting of that type of 55843
diploma. The number of such criteria for any type of honors 55844
diploma shall be at least one less than the total number of 55845
criteria designated for that type and no one or more particular 55846
criteria shall be required of all persons who are to be granted 55847
that type of diploma. 55848

(C) Any district board administering any of the assessments 55849

required by section 3301.0710 of the Revised Code to any person 55850
requesting to take such assessment pursuant to division (B)(8)(b) 55851
of section 3301.0711 of the Revised Code shall award a diploma to 55852
such person if the person attains at least the applicable scores 55853
designated under division (B)(1) of section 3301.0710 of the 55854
Revised Code on all the assessments administered and if the person 55855
has previously attained the applicable scores on all the other 55856
assessments required by division (B)(1) of that section or has 55857
been exempted or excused from attaining the applicable score on 55858
any such assessment pursuant to division (H) or (L) of this 55859
section or from taking any such assessment pursuant to section 55860
3313.532 of the Revised Code. 55861

(D) Each diploma awarded under this section shall be signed 55862
by the president and treasurer of the issuing board, the 55863
superintendent of schools, and the principal of the high school. 55864
Each diploma shall bear the date of its issue, be in such form as 55865
the district board prescribes, and be paid for out of the 55866
district's general fund. 55867

(E) A person who is a resident of Ohio and is eligible under 55868
state board of education minimum standards to receive a high 55869
school diploma based in whole or in part on credits earned while 55870
an inmate of a correctional institution operated by the state or 55871
any political subdivision thereof, shall be granted such diploma 55872
by the correctional institution operating the programs in which 55873
such credits were earned, and by the board of education of the 55874
school district in which the inmate resided immediately prior to 55875
the inmate's placement in the institution. The diploma granted by 55876
the correctional institution shall be signed by the director of 55877
the institution, and by the person serving as principal of the 55878
institution's high school and shall bear the date of issue. 55879

(F) Persons who are not residents of Ohio but who are inmates 55880
of correctional institutions operated by the state or any 55881

political subdivision thereof, and who are eligible under state 55882
board of education minimum standards to receive a high school 55883
diploma based in whole or in part on credits earned while an 55884
inmate of the correctional institution, shall be granted a diploma 55885
by the correctional institution offering the program in which the 55886
credits were earned. The diploma granted by the correctional 55887
institution shall be signed by the director of the institution and 55888
by the person serving as principal of the institution's high 55889
school and shall bear the date of issue. 55890

(G) The state board of education shall provide by rule for 55891
the administration of the assessments required by section 55892
3301.0710 of the Revised Code to inmates of correctional 55893
institutions. 55894

(H) Any person to whom all of the following apply shall be 55895
exempted from attaining the applicable score on the assessment in 55896
social studies designated under division (B)(1) of section 55897
3301.0710 of the Revised Code, any social studies end-of-course 55898
examination required under division (B)(2) of that section if such 55899
an exemption is prescribed by rule of the state board under 55900
division ~~(E)~~(D)(4) of section 3301.0712 of the Revised Code, or 55901
the test in citizenship designated under former division (B) of 55902
section 3301.0710 of the Revised Code as it existed prior to 55903
September 11, 2001: 55904

(1) The person is not a citizen of the United States; 55905

(2) The person is not a permanent resident of the United 55906
States; 55907

(3) The person indicates no intention to reside in the United 55908
States after the completion of high school. 55909

(I) Notwithstanding division (D) of section 3311.19 and 55910
division (D) of section 3311.52 of the Revised Code, this section 55911
and section 3311.611 of the Revised Code do not apply to the board 55912

of education of any joint vocational school district or any 55913
cooperative education school district established pursuant to 55914
divisions (A) to (C) of section 3311.52 of the Revised Code. 55915

(J) Upon receipt of a notice under division (D) of section 55916
3325.08 of division (D) of section 3328.25 of the Revised Code 55917
that a student has received a diploma under ~~that~~ either section, 55918
the board of education receiving the notice may grant a high 55919
school diploma under this section to the student, except that such 55920
board shall grant the student a diploma if the student meets the 55921
graduation requirements that the student would otherwise have had 55922
to meet to receive a diploma from the district. The diploma 55923
granted under this section shall be of the same type the notice 55924
indicates the student received under section 3325.08 or 3328.25 of 55925
the Revised Code. 55926

(K) As used in this division, "limited English proficient 55927
student" has the same meaning as in division (C)(3) of section 55928
3301.0711 of the Revised Code. 55929

Notwithstanding division (C)(3) of section 3301.0711 of the 55930
Revised Code, no limited English proficient student who has not 55931
either attained the applicable scores designated under division 55932
(B)(1) of section 3301.0710 of the Revised Code on all the 55933
assessments required by that division, or ~~attained the composite~~ 55934
~~score designated for~~ met the requirements of the assessments 55935
required by division (B)(2) of that section, shall be awarded a 55936
diploma under this section. 55937

(L) Any student described by division (A)(1) of this section 55938
may be awarded a diploma without attaining the applicable scores 55939
designated on the assessments prescribed under division (B) of 55940
section 3301.0710 of the Revised Code provided an individualized 55941
education program specifically exempts the student from attaining 55942
such scores. This division does not negate the requirement for 55943
such a student to take all such assessments or alternate 55944

assessments required by division (C)(1) of section 3301.0711 of 55945
the Revised Code for the purpose of assessing student progress as 55946
required by federal law. 55947

Sec. 3313.611. (A) The state board of education shall adopt, 55948
by rule, standards for awarding high school credit equivalent to 55949
credit for completion of high school academic and vocational 55950
education courses to applicants for diplomas under this section. 55951
The standards may permit high school credit to be granted to an 55952
applicant for any of the following: 55953

(1) Work experiences or experiences as a volunteer; 55954

(2) Completion of academic, vocational, or self-improvement 55955
courses offered to persons over the age of twenty-one by a 55956
chartered public or nonpublic school; 55957

(3) Completion of academic, vocational, or self-improvement 55958
courses offered by an organization, individual, or educational 55959
institution other than a chartered public or nonpublic school; 55960

(4) Other life experiences considered by the board to provide 55961
knowledge and learning experiences comparable to that gained in a 55962
classroom setting. 55963

(B) The board of education of any city, exempted village, or 55964
local school district that operates a high school shall grant a 55965
diploma of adult education to any applicant if all of the 55966
following apply: 55967

(1) The applicant is a resident of the district; 55968

(2) The applicant is over the age of twenty-one and has not 55969
been issued a diploma as provided in section 3313.61 of the 55970
Revised Code; 55971

(3) Subject to section 3313.614 of the Revised Code, the 55972
applicant has met the assessment requirements of division 55973
(B)(3)(a) or (b) of this section, as applicable. 55974

(a) Prior to the date prescribed by rule of the state board 55975
under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised Code, 55976
the applicant either: 55977

(i) Has attained the applicable scores designated under 55978
division (B)(1) of section 3301.0710 of the Revised Code on all of 55979
the assessments required by that division or was excused or 55980
exempted from any such assessment pursuant to section 3313.532 or 55981
was exempted from attaining the applicable score on any such 55982
assessment pursuant to division (H) or (L) of section 3313.61 of 55983
the Revised Code; 55984

(ii) Has satisfied the alternative conditions prescribed in 55985
section 3313.615 of the Revised Code. 55986

(b) On or after the date prescribed by rule of the state 55987
board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised 55988
Code, has ~~attained or met the requirements of~~ the entire 55989
assessment system prescribed under division (B)(2) of section 55990
3301.0710 of the Revised Code ~~at least the required passing~~ 55991
~~composite score, designated under division (C)(1) of section~~ 55992
~~3301.0712 of the Revised Code~~, except and only to the extent that 55993
the applicant is excused from some portion of that assessment 55994
system pursuant to section 3313.532 of the Revised Code or 55995
division (H) or (L) of section 3313.61 of the Revised Code. 55996

(4) The district board determines, in accordance with the 55997
standards adopted under division (A) of this section, that the 55998
applicant has attained sufficient high school credits, including 55999
equivalent credits awarded under such standards, to qualify as 56000
having successfully completed the curriculum required by the 56001
district for graduation. 56002

(C) If a district board determines that an applicant is not 56003
eligible for a diploma under division (B) of this section, it 56004
shall inform the applicant of the reason the applicant is 56005

ineligible and shall provide a list of any courses required for 56006
the diploma for which the applicant has not received credit. An 56007
applicant may reapply for a diploma under this section at any 56008
time. 56009

(D) If a district board awards an adult education diploma 56010
under this section, the president and treasurer of the board and 56011
the superintendent of schools shall sign it. Each diploma shall 56012
bear the date of its issuance, be in such form as the district 56013
board prescribes, and be paid for from the district's general 56014
fund, except that the state board may by rule prescribe standard 56015
language to be included on each diploma. 56016

(E) As used in this division, "limited English proficient 56017
student" has the same meaning as in division (C)(3) of section 56018
3301.0711 of the Revised Code. 56019

Notwithstanding division (C)(3) of section 3301.0711 of the 56020
Revised Code, no limited English proficient student who has not 56021
either attained the applicable scores designated under division 56022
(B)(1) of section 3301.0710 of the Revised Code on all the 56023
assessments required by that division, or ~~attained the composite~~ 56024
~~score designated for~~ has not met the requirements of the 56025
assessments required by division (B)(2) of that section, shall be 56026
awarded a diploma under this section. 56027

Sec. 3313.612. (A) No nonpublic school chartered by the state 56028
board of education shall grant a high school diploma to any person 56029
unless, subject to section 3313.614 of the Revised Code, the 56030
person has met the assessment requirements of division (A)(1) or 56031
(2) of this section, as applicable. 56032

(1) If the person entered the ninth grade prior to the date 56033
prescribed by rule of the state board under division ~~(E)~~(D)(2) of 56034
section 3301.0712 of the Revised Code, the person has attained at 56035
least the applicable scores designated under division (B)(1) of 56036

section 3301.0710 of the Revised Code on all the assessments 56037
required by that division, or has satisfied the alternative 56038
conditions prescribed in section 3313.615 of the Revised Code. 56039

(2) If the person entered the ninth grade on or after the 56040
date prescribed by rule of the state board under division (E)(2) 56041
of section 3301.0712 of the Revised Code, the person has ~~attained~~ 56042
~~or met the requirements of~~ the entire assessment system prescribed 56043
under division (B)(2) of section 3301.0710 of the Revised Code ~~at~~ 56044
~~least the required passing composite score, designated under~~ 56045
~~division (C)(1) of section 3301.0712 of the Revised Code.~~ 56046

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(B) This section does not apply to either of the following: 56048

(1) Any person with regard to any assessment from which the 56049
person was excused pursuant to division (C)(1)(c) of section 56050
3301.0711 of the Revised Code; 56051

(2) Any person with regard to the social studies assessment 56052
under division (B)(1) of section 3301.0710 of the Revised Code, 56053
any social studies end-of-course examination required under 56054
division (B)(2) of that section if such an exemption is prescribed 56055
by rule of the state board of education under division ~~(E)~~(D)(4) 56056
of section 3301.0712 of the Revised Code, or the citizenship test 56057
under former division (B) of section 3301.0710 of the Revised Code 56058
as it existed prior to September 11, 2001, if all of the following 56059
apply: 56060

(a) The person is not a citizen of the United States; 56061

(b) The person is not a permanent resident of the United 56062
States; 56063

(c) The person indicates no intention to reside in the United 56064
States after completion of high school. 56065

(C) As used in this division, "limited English proficient 56066

student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code. 56067
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Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ met the requirements of the assessments ~~required by~~ under division (B)(2) of that section, shall be awarded a diploma under this section. 56069
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Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied: 56077
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(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution. 56080
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(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code. 56083
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(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district. 56086
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(B) This division specifies the assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code. 56090
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(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to 56094
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receiving a diploma. 56097

(2) A person who began ninth grade prior to July 1, 2003, is 56098
not required to pass the Ohio graduation test prescribed under 56099
division (B)(1) of section 3301.0710 or any assessment prescribed 56100
under division (B)(2) of that section in any subject as a 56101
condition to receiving a diploma once the person has passed the 56102
ninth grade proficiency test in the same subject, so long as the 56103
person passed the ninth grade proficiency test prior to September 56104
15, 2008. However, any such person who passes the Ohio graduation 56105
test in any subject prior to passing the ninth grade proficiency 56106
test in the same subject shall be deemed to have passed the ninth 56107
grade proficiency test in that subject as a condition to receiving 56108
a diploma. For this purpose, the ninth grade proficiency test in 56109
citizenship substitutes for the Ohio graduation test in social 56110
studies. If a person began ninth grade prior to July 1, 2003, but 56111
does not pass a ninth grade proficiency test or the Ohio 56112
graduation test in a particular subject before September 15, 2008, 56113
and passage of a test in that subject is a condition for the 56114
person to receive a diploma, the person must pass the Ohio 56115
graduation test instead of the ninth grade proficiency test in 56116
that subject to receive a diploma. 56117

(3) A person who begins ninth grade on or after July 1, 2003, 56118
in a school district, community school, or chartered nonpublic 56119
school is not eligible to receive a diploma based on passage of 56120
ninth grade proficiency tests. Each such person who begins ninth 56121
grade prior to the date prescribed by the state board of education 56122
under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code 56123
must pass Ohio graduation tests to meet the assessment 56124
requirements applicable to that person as a condition to receiving 56125
a diploma. 56126

(4) A person who begins ninth grade on or after the date 56127
prescribed by the state board of education under division 56128

~~(E)~~(D)(5) of section 3301.0712 of the Revised Code is not 56129
eligible to receive a diploma based on passage of the Ohio 56130
graduation tests. Each such person must ~~attain on~~ meet the 56131
requirements of the entire assessment system prescribed under 56132
division (B)(2) of section 3301.0710 of the Revised Code ~~at least~~ 56133
~~the required passing composite score, designated under division~~ 56134
~~(C)(1) of section 3301.0712 of the Revised Code.~~ 56135

(C) This division specifies the curriculum requirement that 56136
shall be completed as a condition toward granting high school 56137
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 56138
of the Revised Code. 56139

(1) A person who is under twenty-two years of age when the 56140
person fulfills the curriculum requirement for a diploma shall 56141
complete the curriculum required by the school district or school 56142
issuing the diploma for the first year that the person originally 56143
enrolled in high school, except for a person who qualifies for 56144
graduation from high school under either division (D) or (F) of 56145
section 3313.603 of the Revised Code. 56146

(2) Once a person fulfills the curriculum requirement for a 56147
diploma, the person is never required, as a condition of receiving 56148
a diploma, to meet any different curriculum requirements that take 56149
effect pending the person's passage of proficiency tests or 56150
achievement tests or assessments, including changes mandated by 56151
section 3313.603 of the Revised Code, the state board, a school 56152
district board of education, or a governing authority of a 56153
community school or chartered nonpublic school. 56154

Sec. 3313.64. (A) As used in this section and in section 56155
3313.65 of the Revised Code: 56156

(1)(a) Except as provided in division (A)(1)(b) of this 56157
section, "parent" means either parent, unless the parents are 56158
separated or divorced or their marriage has been dissolved or 56159

annulled, in which case "parent" means the parent who is the 56160
residential parent and legal custodian of the child. When a child 56161
is in the legal custody of a government agency or a person other 56162
than the child's natural or adoptive parent, "parent" means the 56163
parent with residual parental rights, privileges, and 56164
responsibilities. When a child is in the permanent custody of a 56165
government agency or a person other than the child's natural or 56166
adoptive parent, "parent" means the parent who was divested of 56167
parental rights and responsibilities for the care of the child and 56168
the right to have the child live with the parent and be the legal 56169
custodian of the child and all residual parental rights, 56170
privileges, and responsibilities. 56171

(b) When a child is the subject of a power of attorney 56172
executed under sections 3109.51 to 3109.62 of the Revised Code, 56173
"parent" means the grandparent designated as attorney in fact 56174
under the power of attorney. When a child is the subject of a 56175
caretaker authorization affidavit executed under sections 3109.64 56176
to 3109.73 of the Revised Code, "parent" means the grandparent 56177
that executed the affidavit. 56178

(2) "Legal custody," "permanent custody," and "residual 56179
parental rights, privileges, and responsibilities" have the same 56180
meanings as in section 2151.011 of the Revised Code. 56181

(3) "School district" or "district" means a city, local, or 56182
exempted village school district and excludes any school operated 56183
in an institution maintained by the department of youth services. 56184

(4) Except as used in division (C)(2) of this section, "home" 56185
means a home, institution, foster home, group home, or other 56186
residential facility in this state that receives and cares for 56187
children, to which any of the following applies: 56188

(a) The home is licensed, certified, or approved for such 56189
purpose by the state or is maintained by the department of youth 56190

services.	56191
(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose.	56192 56193 56194
(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.	56195 56196 56197
(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.	56198 56199
(5) "Agency" means all of the following:	56200
(a) A public children services agency;	56201
(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;	56202 56203 56204 56205 56206 56207
(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.	56208 56209 56210 56211
(6) A child is placed for adoption if either of the following occurs:	56212 56213
(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.	56214 56215 56216 56217
(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.	56218 56219 56220

- (7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code. 56221
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- (8) "Child," unless otherwise indicated, includes preschool children with disabilities. 56223
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- (9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code. 56225
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- (B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division. 56229
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- (1) A child shall be admitted to the schools of the school district in which the child's parent resides. 56234
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- (2) A child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies: 56236
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- (a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent. 56240
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- (b) The child resides in a home. 56243
- (c) The child requires special education. 56244
- (3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies: 56245
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(a) The placement for adoption has been terminated.	56251
(b) Another school district is required to admit the child under division (B)(1) of this section.	56252 56253
Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.	56254 56255 56256 56257 56258
(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as provided in divisions (C)(1) to (3) of this section, unless division (C)(4) of this section applies to the child:	56259 56260 56261 56262 56263 56264
(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.	56265 56266 56267 56268 56269 56270 56271
(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:	56272 56273 56274 56275 56276
(a) The district in which the child's parent resided at the time the court removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;	56277 56278 56279 56280
(b) If the parent's residence at the time the court removed	56281

the child from home or placed the child in the legal or permanent 56282
custody of the person or government agency is unknown, tuition 56283
shall be paid by the district in which the child resided at the 56284
time the child was removed from home or placed in legal or 56285
permanent custody, whichever occurred first; 56286

(c) If a school district cannot be established under division 56287
(C)(2)(a) or (b) of this section, tuition shall be paid by the 56288
district determined as required by section 2151.362 of the Revised 56289
Code by the court at the time it vests custody of the child in the 56290
person or government agency; 56291

(d) If at the time the court removed the child from home or 56292
vested legal or permanent custody of the child in the person or 56293
government agency, whichever occurred first, one parent was in a 56294
residential or correctional facility or a juvenile residential 56295
placement and the other parent, if living and not in such a 56296
facility or placement, was not known to reside in this state, 56297
tuition shall be paid by the district determined under division 56298
(D) of section 3313.65 of the Revised Code as the district 56299
required to pay any tuition while the parent was in such facility 56300
or placement; 56301

(e) If the department of education has determined, pursuant 56302
to division (A)(2) of section 2151.362 of the Revised Code, that a 56303
school district other than the one named in the court's initial 56304
order, or in a prior determination of the department, is 56305
responsible to bear the cost of educating the child, the district 56306
so determined shall be responsible for that cost. 56307

(3) If the child is not in the permanent or legal custody of 56308
a government agency or person other than the child's parent and 56309
the child resides in a home, tuition shall be paid by one of the 56310
following: 56311

(a) The school district in which the child's parent resides; 56312

(b) If the child's parent is not a resident of this state, 56313
the home in which the child resides. 56314

(4) Division (C)(4) of this section applies to any child who 56315
is admitted to a school district under division (B)(2) of this 56316
section, resides in a home that is not a foster home or a home 56317
maintained by the department of youth services, receives 56318
educational services at the home in which the child resides 56319
pursuant to a contract between the home and the school district 56320
providing those services, and does not receive special education. 56321

In the case of a child to which division (C)(4) of this 56322
section applies, the total educational cost to be paid for the 56323
child shall be determined by a formula approved by the department 56324
of education, which formula shall be designed to calculate a per 56325
diem cost for the educational services provided to the child for 56326
each day the child is served and shall reflect the total actual 56327
cost incurred in providing those services. The department shall 56328
certify the total educational cost to be paid for the child to 56329
both the school district providing the educational services and, 56330
if different, the school district that is responsible to pay 56331
tuition for the child. The department shall deduct the certified 56332
amount from the state basic aid funds payable under Chapter 3317. 56333
of the Revised Code to the district responsible to pay tuition and 56334
shall pay that amount to the district providing the educational 56335
services to the child. 56336

(D) Tuition required to be paid under divisions (C)(2) and 56337
(3)(a) of this section shall be computed in accordance with 56338
section 3317.08 of the Revised Code. Tuition required to be paid 56339
under division (C)(3)(b) of this section shall be computed in 56340
accordance with section 3317.081 of the Revised Code. If a home 56341
fails to pay the tuition required by division (C)(3)(b) of this 56342
section, the board of education providing the education may 56343
recover in a civil action the tuition and the expenses incurred in 56344

prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the

child's physician certifying that the child's medical condition 56376
may require emergency medical attention. The statement shall be 56377
supported by such other evidence as the board may require. 56378

(4) Any child residing with a person other than the child's 56379
parent is entitled, for a period not to exceed twelve months, to 56380
attend school in the district in which that person resides if the 56381
child's parent files an affidavit with the superintendent of the 56382
district in which the person with whom the child is living resides 56383
stating all of the following: 56384

(a) That the parent is serving outside of the state in the 56385
armed services of the United States; 56386

(b) That the parent intends to reside in the district upon 56387
returning to this state; 56388

(c) The name and address of the person with whom the child is 56389
living while the parent is outside the state. 56390

(5) Any child under the age of twenty-two years who, after 56391
the death of a parent, resides in a school district other than the 56392
district in which the child attended school at the time of the 56393
parent's death is entitled to continue to attend school in the 56394
district in which the child attended school at the time of the 56395
parent's death for the remainder of the school year, subject to 56396
approval of that district board. 56397

(6) A child under the age of twenty-two years who resides 56398
with a parent who is having a new house built in a school district 56399
outside the district where the parent is residing is entitled to 56400
attend school for a period of time in the district where the new 56401
house is being built. In order to be entitled to such attendance, 56402
the parent shall provide the district superintendent with the 56403
following: 56404

(a) A sworn statement explaining the situation, revealing the 56405
location of the house being built, and stating the parent's 56406

intention to reside there upon its completion; 56407

(b) A statement from the builder confirming that a new house 56408
is being built for the parent and that the house is at the 56409
location indicated in the parent's statement. 56410

(7) A child under the age of twenty-two years residing with a 56411
parent who has a contract to purchase a house in a school district 56412
outside the district where the parent is residing and who is 56413
waiting upon the date of closing of the mortgage loan for the 56414
purchase of such house is entitled to attend school for a period 56415
of time in the district where the house is being purchased. In 56416
order to be entitled to such attendance, the parent shall provide 56417
the district superintendent with the following: 56418

(a) A sworn statement explaining the situation, revealing the 56419
location of the house being purchased, and stating the parent's 56420
intent to reside there; 56421

(b) A statement from a real estate broker or bank officer 56422
confirming that the parent has a contract to purchase the house, 56423
that the parent is waiting upon the date of closing of the 56424
mortgage loan, and that the house is at the location indicated in 56425
the parent's statement. 56426

The district superintendent shall establish a period of time 56427
not to exceed ninety days during which the child entitled to 56428
attend school under division (F)(6) or (7) of this section may 56429
attend without tuition obligation. A student attending a school 56430
under division (F)(6) or (7) of this section shall be eligible to 56431
participate in interscholastic athletics under the auspices of 56432
that school, provided the board of education of the school 56433
district where the student's parent resides, by a formal action, 56434
releases the student to participate in interscholastic athletics 56435
at the school where the student is attending, and provided the 56436
student receives any authorization required by a public agency or 56437

private organization of which the school district is a member 56438
exercising authority over interscholastic sports. 56439

(8) A child whose parent is a full-time employee of a city, 56440
local, or exempted village school district, or of an educational 56441
service center, may be admitted to the schools of the district 56442
where the child's parent is employed, or in the case of a child 56443
whose parent is employed by an educational service center, in the 56444
district that serves the location where the parent's job is 56445
primarily located, provided the district board of education 56446
establishes such an admission policy by resolution adopted by a 56447
majority of its members. Any such policy shall take effect on the 56448
first day of the school year and the effective date of any 56449
amendment or repeal may not be prior to the first day of the 56450
subsequent school year. The policy shall be uniformly applied to 56451
all such children and shall provide for the admission of any such 56452
child upon request of the parent. No child may be admitted under 56453
this policy after the first day of classes of any school year. 56454

(9) A child who is with the child's parent under the care of 56455
a shelter for victims of domestic violence, as defined in section 56456
3113.33 of the Revised Code, is entitled to attend school free in 56457
the district in which the child is with the child's parent, and no 56458
other school district shall be required to pay tuition for the 56459
child's attendance in that school district. 56460

The enrollment of a child in a school district under this 56461
division shall not be denied due to a delay in the school 56462
district's receipt of any records required under section 3313.672 56463
of the Revised Code or any other records required for enrollment. 56464
Any days of attendance and any credits earned by a child while 56465
enrolled in a school district under this division shall be 56466
transferred to and accepted by any school district in which the 56467
child subsequently enrolls. The state board of education shall 56468
adopt rules to ensure compliance with this division. 56469

(10) Any child under the age of twenty-two years whose parent
has moved out of the school district after the commencement of
classes in the child's senior year of high school is entitled,
subject to the approval of that district board, to attend school
in the district in which the child attended school at the time of
the parental move for the remainder of the school year and for one
additional semester or equivalent term. A district board may also
adopt a policy specifying extenuating circumstances under which a
student may continue to attend school under division (F)(10) of
this section for an additional period of time in order to
successfully complete the high school curriculum for the
individualized education program developed for the student by the
high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent
of a parent of a child. A child under the age of twenty-two years
who is in the custody of the child's parent, resides with a
grandparent, and does not require special education is entitled to
attend the schools of the district in which the child's
grandparent resides, provided that, prior to such attendance in
any school year, the board of education of the school district in
which the child's grandparent resides and the board of education
of the school district in which the child's parent resides enter
into a written agreement specifying that good cause exists for
such attendance, describing the nature of this good cause, and
consenting to such attendance.

In lieu of a consent form signed by a parent, a board of
education may request the grandparent of a child attending school
in the district in which the grandparent resides pursuant to
division (F)(11) of this section to complete any consent form
required by the district, including any authorization required by
sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised
Code. Upon request, the grandparent shall complete any consent

form required by the district. A school district shall not incur 56502
any liability solely because of its receipt of a consent form from 56503
a grandparent in lieu of a parent. 56504

Division (F)(11) of this section does not create, and shall 56505
not be construed as creating, a new cause of action or substantive 56506
legal right against a school district, a member of a board of 56507
education, or an employee of a school district. This section does 56508
not affect, and shall not be construed as affecting, any 56509
immunities from defenses to tort liability created or recognized 56510
by Chapter 2744. of the Revised Code for a school district, 56511
member, or employee. 56512

(12) A child under the age of twenty-two years is entitled to 56513
attend school in a school district other than the district in 56514
which the child is entitled to attend school under division (B), 56515
(C), or (E) of this section provided that, prior to such 56516
attendance in any school year, both of the following occur: 56517

(a) The superintendent of the district in which the child is 56518
entitled to attend school under division (B), (C), or (E) of this 56519
section contacts the superintendent of another district for 56520
purposes of this division; 56521

(b) The superintendents of both districts enter into a 56522
written agreement that consents to the attendance and specifies 56523
that the purpose of such attendance is to protect the student's 56524
physical or mental well-being or to deal with other extenuating 56525
circumstances deemed appropriate by the superintendents. 56526

While an agreement is in effect under this division for a 56527
student who is not receiving special education under Chapter 3323. 56528
of the Revised Code and notwithstanding Chapter 3327. of the 56529
Revised Code, the board of education of neither school district 56530
involved in the agreement is required to provide transportation 56531
for the student to and from the school where the student attends. 56532

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to

complete a family care plan, as the parent's agent for the care, 56564
custody, and control of the child while the parent is on active 56565
duty as a member of the national guard or a reserve unit of the 56566
armed forces of the United States or because the parent is a 56567
member of the armed forces of the United States and is on a duty 56568
assignment away from the parent's residence. 56569

(b) The military power of attorney or comparable document 56570
includes at least the authority to enroll the child in school. 56571

The entitlement to attend school in the district in which the 56572
parent's agent under the military power of attorney or comparable 56573
document resides applies until the end of the school year in which 56574
the military power of attorney or comparable document expires. 56575

(G) A board of education, after approving admission, may 56576
waive tuition for students who will temporarily reside in the 56577
district and who are either of the following: 56578

(1) Residents or domiciliaries of a foreign nation who 56579
request admission as foreign exchange students; 56580

(2) Residents or domiciliaries of the United States but not 56581
of Ohio who request admission as participants in an exchange 56582
program operated by a student exchange organization. 56583

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 56584
3327.04, and 3327.06 of the Revised Code, a child may attend 56585
school or participate in a special education program in a school 56586
district other than in the district where the child is entitled to 56587
attend school under division (B) of this section. 56588

(I)(1) Notwithstanding anything to the contrary in this 56589
section or section 3313.65 of the Revised Code, a child under 56590
twenty-two years of age may attend school in the school district 56591
in which the child, at the end of the first full week of October 56592
of the school year, was entitled to attend school as otherwise 56593
provided under this section or section 3313.65 of the Revised 56594

Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under 56626
division (I)(1) of this section shall be entitled to 56627
transportation services pursuant to an agreement between the 56628
district and the district in which the child or child's parent has 56629
relocated unless the districts have not entered into such 56630
agreement, in which case the child shall be entitled to 56631
transportation services in the same manner as a pupil attending 56632
school in the district under interdistrict open enrollment as 56633
described in division (H) of section 3313.981 of the Revised Code, 56634
regardless of whether the district has adopted an open enrollment 56635
policy as described in division (B)(1)(b) or (c) of section 56636
3313.98 of the Revised Code. 56637

(J) This division does not apply to a child receiving special 56638
education. 56639

A school district required to pay tuition pursuant to 56640
division (C)(2) or (3) of this section or section 3313.65 of the 56641
Revised Code shall have an amount deducted under division ~~(F)~~(C) 56642
of section 3317.023 of the Revised Code equal to its own tuition 56643
rate for the same period of attendance. A school district entitled 56644
to receive tuition pursuant to division (C)(2) or (3) of this 56645
section or section 3313.65 of the Revised Code shall have an 56646
amount credited under division ~~(F)~~(C) of section 3317.023 of the 56647
Revised Code equal to its own tuition rate for the same period of 56648
attendance. If the tuition rate credited to the district of 56649
attendance exceeds the rate deducted from the district required to 56650
pay tuition, the department of education shall pay the district of 56651
attendance the difference from amounts deducted from all 56652
districts' payments under division ~~(F)~~(C) of section 3317.023 of 56653
the Revised Code but not credited to other school districts under 56654
such division and from appropriations made for such purpose. The 56655
treasurer of each school district shall, by the fifteenth day of 56656
January and July, furnish the superintendent of public instruction 56657

a report of the names of each child who attended the district's schools under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code during the preceding six calendar months, the duration of the attendance of those children, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires.

Upon receipt of the report the superintendent, pursuant to division ~~(F)~~(C) of section 3317.023 of the Revised Code, shall deduct each district's tuition obligations under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code and pay to the district of attendance that amount plus any amount required to be paid by the state.

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides.

(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code.

(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or

temporary duty assignment. However, the district is not 56690
responsible for providing transportation for the child if the 56691
child lives outside of the district as a result of the parent's 56692
active duty status or temporary duty assignment. 56693

Sec. 3313.642. (A) Except as provided in division (B) of this 56694
section and notwithstanding the provisions of sections 3313.48 and 56695
3313.64 of the Revised Code, the board of education of a city, 56696
exempted village, or local school district shall not be required 56697
to furnish, free of charge, to the pupils attending the public 56698
schools any materials used in a course of instruction with the 56699
exception of the necessary textbooks or electronic textbooks 56700
required to be furnished without charge pursuant to section 56701
3329.06 of the Revised Code. The board may, however, make 56702
provision by appropriations transferred from the general fund of 56703
the district or otherwise for furnishing free of charge any 56704
materials used in a course of instruction to such pupils as it 56705
determines are in serious financial need of such materials. 56706

(B) No board of education of a school district shall charge a 56707
fee to a pupil who is eligible for a free lunch under the 56708
"National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, 56709
as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 56710
42 U.S.C. 1771, as amended, for any materials needed to enable the 56711
pupil to participate fully in a course of instruction. The 56712
prohibition in this division against charging a fee does not apply 56713
to any fee charged for any of the following: 56714

(1) Any materials needed to enable a pupil to participate 56715
fully in extracurricular activities or in any pupil enrichment 56716
program that is not a course of instruction; 56717

(2) Any tools, equipment, and materials that are necessary 56718
for workforce-readiness training within a career-technical 56719
education program that, to the extent the tools, equipment, and 56720

materials are not consumed, may be retained by the student upon 56721
course completion. 56722

(C) Boards of education may adopt rules and regulations 56723
prescribing a schedule of fees for materials used in a course of 56724
instruction and prescribing a schedule of charges which may be 56725
imposed upon pupils for the loss, damage, or destruction of school 56726
apparatus, equipment, musical instruments, library material, 56727
textbooks, or electronic textbooks required to be furnished 56728
without charge, and for damage to school buildings, and may 56729
enforce the payment of such fees and charges by withholding the 56730
grades and credits of the pupils concerned. 56731

Sec. 3313.6410. This section applies to any school that is 56732
operated by a school district and in which the enrolled students 56733
work primarily on assignments in nonclassroom-based learning 56734
opportunities provided via an internet- or other computer-based 56735
instructional method. 56736

(A) Any school to which this section applies shall withdraw 56737
from the school any student who, for two consecutive school years, 56738
has failed to participate in the spring administration of any 56739
assessment prescribed under section 3301.0710 or 3301.0712 of the 56740
Revised Code for the student's grade level and was not excused 56741
from the assessment pursuant to division (C)(1) or (3) of section 56742
3301.0711 of the Revised Code, regardless of whether a waiver was 56743
granted for the student under division (E) of section 3317.03 of 56744
the Revised Code. The school shall report any such student's data 56745
verification code, as assigned pursuant to section 3301.0714 of 56746
the Revised Code, to the department of education to be added to 56747
the list maintained by the department under section 3314.26 of the 56748
Revised Code. 56749

(B) No school to which this section applies shall receive any 56750
state funds under Chapter ~~3306~~ or 3317. of the Revised Code for 56751

any enrolled student whose data verification code appears on the 56752
list maintained by the department under section 3314.26 of the 56753
Revised Code. Notwithstanding any provision of the Revised Code to 56754
the contrary, the parent of any such student shall pay tuition to 56755
the school district that operates the school in an amount equal to 56756
the state funds the district otherwise would receive for that 56757
student, as determined by the department. A school to which this 56758
section applies may withdraw any student for whom the parent does 56759
not pay tuition as required by this division. 56760

Sec. 3313.65. (A) As used in this section and section 3313.64 56761
of the Revised Code: 56762

(1) A person is "in a residential facility" if the person is 56763
a resident or a resident patient of an institution, home, or other 56764
residential facility that is: 56765

(a) Licensed as a nursing home, residential care facility, or 56766
home for the aging by the director of health under section 3721.02 56767
of the Revised Code; 56768

(b) Licensed as an adult care facility by the director of 56769
mental health under Chapter 3722. sections 5119.70 to 5119.88 of 56770
the Revised Code; 56771

(c) Maintained as a county home or district home by the board 56772
of county commissioners or a joint board of county commissioners 56773
under Chapter 5155. of the Revised Code; 56774

(d) Operated or administered by a board of alcohol, drug 56775
addiction, and mental health services under section 340.03 or 56776
340.06 of the Revised Code, or provides residential care pursuant 56777
to contracts made under section 340.03 or 340.033 of the Revised 56778
Code; 56779

(e) Maintained as a state institution for the mentally ill 56780
under Chapter 5119. of the Revised Code; 56781

(f) Licensed by the department of mental health under section 56782
5119.20 or 5119.22 of the Revised Code; 56783

(g) Licensed as a residential facility by the department of 56784
developmental disabilities under section 5123.19 of the Revised 56785
Code; 56786

(h) Operated by the veteran's administration or another 56787
agency of the United States government; 56788

(i) ~~The~~ Operated by the Ohio soldiers' and sailors' veterans' 56789
home. 56790

(2) A person is "in a correctional facility" if any of the 56791
following apply: 56792

(a) The person is an Ohio resident and is: 56793

(i) Imprisoned, as defined in section 1.05 of the Revised 56794
Code; 56795

(ii) Serving a term in a community-based correctional 56796
facility or a district community-based correctional facility; 56797

(iii) Required, as a condition of parole, a post-release 56798
control sanction, a community control sanction, transitional 56799
control, or early release from imprisonment, as a condition of 56800
shock parole or shock probation granted under the law in effect 56801
prior to July 1, 1996, or as a condition of a furlough granted 56802
under the version of section 2967.26 of the Revised Code in effect 56803
prior to March 17, 1998, to reside in a halfway house or other 56804
community residential center licensed under section 2967.14 of the 56805
Revised Code or a similar facility designated by the court of 56806
common pleas that established the condition or by the adult parole 56807
authority. 56808

(b) The person is imprisoned in a state correctional 56809
institution of another state or a federal correctional institution 56810
but was an Ohio resident at the time the sentence was imposed for 56811

the crime for which the person is imprisoned. 56812

(3) A person is "in a juvenile residential placement" if the 56813
person is an Ohio resident who is under twenty-one years of age 56814
and has been removed, by the order of a juvenile court, from the 56815
place the person resided at the time the person became subject to 56816
the court's jurisdiction in the matter that resulted in the 56817
person's removal. 56818

(4) "Community control sanction" has the same meaning as in 56819
section 2929.01 of the Revised Code. 56820

(5) "Post-release control sanction" has the same meaning as 56821
in section 2967.01 of the Revised Code. 56822

(B) If the circumstances described in division (C) of this 56823
section apply, the determination of what school district must 56824
admit a child to its schools and what district, if any, is liable 56825
for tuition shall be made in accordance with this section, rather 56826
than section 3313.64 of the Revised Code. 56827

(C) A child who does not reside in the school district in 56828
which the child's parent resides and for whom a tuition obligation 56829
previously has not been established under division (C)(2) of 56830
section 3313.64 of the Revised Code shall be admitted to the 56831
schools of the district in which the child resides if at least one 56832
of the child's parents is in a residential or correctional 56833
facility or a juvenile residential placement and the other parent, 56834
if living and not in such a facility or placement, is not known to 56835
reside in this state. 56836

(D) Regardless of who has custody or care of the child, 56837
whether the child resides in a home, or whether the child receives 56838
special education, if a district admits a child under division (C) 56839
of this section, tuition shall be paid to that district as 56840
follows: 56841

(1) If the child's parent is in a juvenile residential 56842

placement, by the district in which the child's parent resided at 56843
the time the parent became subject to the jurisdiction of the 56844
juvenile court; 56845

(2) If the child's parent is in a correctional facility, by 56846
the district in which the child's parent resided at the time the 56847
sentence was imposed; 56848

(3) If the child's parent is in a residential facility, by 56849
the district in which the parent resided at the time the parent 56850
was admitted to the residential facility, except that if the 56851
parent was transferred from another residential facility, tuition 56852
shall be paid by the district in which the parent resided at the 56853
time the parent was admitted to the facility from which the parent 56854
first was transferred; 56855

(4) In the event of a disagreement as to which school 56856
district is liable for tuition under division (C)(1), (2), or (3) 56857
of this section, the superintendent of public instruction shall 56858
determine which district shall pay tuition. 56859

(E) If a child covered by division (D) of this section 56860
receives special education in accordance with Chapter 3323. of the 56861
Revised Code, the tuition shall be paid in accordance with section 56862
3323.13 or 3323.14 of the Revised Code. Tuition for children who 56863
do not receive special education shall be paid in accordance with 56864
division (J) of section 3313.64 of the Revised Code. 56865

Sec. 3313.75. (A) The board of education of a city, exempted 56866
village, or local school district may authorize the opening of 56867
schoolhouses for any lawful purposes. ~~This~~ 56868

(B) In accordance with this section and section 3313.77 of 56869
the Revised Code, a district board may rent or lease facilities 56870
under its control to any public or nonpublic institution of higher 56871
education for the institution's use in providing evening and 56872

summer classes. 56873

(C) This section does not authorize a board to rent or lease 56874
a schoolhouse when such rental or lease interferes with the public 56875
schools in such district, or for any purpose other than is 56876
authorized by law. 56877

Sec. 3313.816. ~~(A)~~ No public or chartered nonpublic school 56878
shall permit the sale of a la carte beverage items other than the 56879
following during the regular and extended school day: 56880

~~(1)(A)~~ For a school in which the majority of grades offered 56881
are in the range from kindergarten to grade four: 56882

~~(a)(1)~~ Water; 56883

~~(b)(i)~~ Prior to January 1, 2014, eight ounces or less of 56884
low fat or fat free milk, including flavored milk, that contains 56885
not more than one hundred seventy calories per eight ounces; 56886

~~(ii)~~ Beginning January 1, 2014, eight ounces or less of 56887
low fat or fat free milk, including flavored milk, that contains 56888
not more than one hundred fifty calories per eight ounces. 56889

~~(e)(2)~~ Milk; 56890

(3) Eight ounces or less of one hundred per cent fruit juice, 56891
or a one hundred per cent fruit juice and water blend with no 56892
added sweeteners, that contains not more than one hundred sixty 56893
calories per eight ounces. 56894

~~(2)(B)~~ For a school in which the majority of grades offered 56895
are in the range from grade five to grade eight: 56896

~~(a)(1)~~ Water; 56897

~~(b)(i)~~ Prior to January 1, 2014, eight ounces or less of 56898
low fat or fat free milk, including flavored milk, that contains 56899
not more than one hundred seventy calories per eight ounces; 56900

~~(ii)~~ Beginning January 1, 2014, eight ounces or less of 56901

~~low fat or fat free milk, including flavored milk, that contains 56902
not more than one hundred fifty calories per eight ounces. 56903~~

~~(e)(2) Milk; 56904~~

~~(3) Ten ounces or less of one hundred per cent fruit juice, 56905
or a one hundred per cent fruit juice and water blend with no 56906
added sweeteners, that contains not more than one hundred sixty 56907
calories per eight ounces. 56908~~

~~(3)(C) For a school in which the majority of grades offered 56909
are in the range from grade nine to grade twelve: 56910~~

~~(a)(1) Water; 56911~~

~~(b)(i) Prior to January 1, 2014, sixteen ounces or less of 56912
low fat or fat free milk, including flavored milk, that contains 56913
not more than one hundred seventy calories per eight ounces; 56914~~

~~(ii) Beginning January 1, 2014, sixteen ounces or less of 56915
low fat or fat free milk, including flavored milk, that contains 56916
not more than one hundred fifty calories per eight ounces. 56917~~

~~(e)(2) Milk; 56918~~

~~(3) Twelve ounces or less of one hundred per cent fruit 56919
juice, or a one hundred per cent fruit juice and water blend with 56920
no added sweeteners, that contains not more than one hundred sixty 56921
calories per eight ounces; 56922~~

~~(d)(4) Twelve ounces or less of any beverage that contains 56923
not more than sixty-six calories per eight ounces; 56924~~

~~(e)(5) Any size of a beverage that contains not more than ten 56925
calories per eight ounces, which may include caffeinated beverages 56926
and beverages with added sweeteners, carbonation, or artificial 56927
flavoring. 56928~~

~~(B) Each public and chartered nonpublic school shall require 56929
at least fifty per cent of the a la carte beverage items available 56930
for sale from each of the following sources during the regular and 56931~~

~~extended school day to be water or other beverages that contain 56932
not more than ten calories per eight ounces. 56933~~

~~(1) A school food service program; 56934~~

~~(2) A vending machine located on school property that does 56935
not sell only milk or reimbursable meals; 56936~~

~~(3) A store operated by the school, a student association, or 56937
other school-sponsored organization. 56938~~

Sec. 3313.842. (A) The boards of education or governing 56939
authorities of any two or more school districts or community 56940
schools may enter into an agreement for joint or cooperative 56941
establishment and operation of any educational program including 56942
any class, course, or program that may be included in a school 56943
district's or community school's graded course of study and staff 56944
development programs for teaching and nonteaching school 56945
employees. Each school district or community school that is party 56946
to such an agreement may contribute funds of the district or 56947
school in support of the agreement and for the establishment and 56948
operation of any educational program established under the 56949
agreement. The agreement shall designate one of the districts or 56950
community schools as ~~the district~~ responsible for receiving and 56951
disbursing the funds contributed by the ~~districts that are~~ parties 56952
to the agreement. 56953

(B) Notwithstanding sections 3313.48 and 3313.64 of the 56954
Revised Code, any school district that is party to an agreement 56955
for joint or cooperative establishment and operation of an 56956
educational program may charge fees or tuition for students who 56957
participate in the program and are entitled to attend school in 56958
the district under section 3313.64 or 3313.65 of the Revised Code. 56959
Except as otherwise provided in division (H) of section 3321.01 of 56960
the Revised Code, no community school that is party to the 56961
agreement shall charge fees or tuition for students who 56962

participate in the program and are reported by the school under 56963
division (B)(2) of section 3314.08 of the Revised Code. 56964

Sec. 3313.843. (A) Notwithstanding division (D) of section 56965
3311.52 of the Revised Code, this section does not apply to ~~either~~ 56966
~~of the following:~~ 56967

~~(1) Any any cooperative education school district;~~ 56968

~~(2) Any city or exempted village school district with a total 56969
student count of thirteen thousand or more determined pursuant to 56970
section 3317.03 of the Revised Code that has not entered into one 56971
or more agreements pursuant to this section prior to July 1, 1993, 56972
unless the district's total student count did not exceed thirteen 56973
thousand at the time it entered into an initial agreement under 56974
this section. 56975~~

(B)(1) The board of education of a each city ~~or~~, exempted 56976
village, or local school district and with a student count of 56977
sixteen thousand or less, as defined in section 3301.011 of the 56978
Revised Code, shall enter into an agreement with the governing 56979
board of an educational service center ~~may enter into an~~ 56980
~~agreement, through adoption of identical resolutions,~~ under which 56981
the educational service center governing board will provide 56982
services to the ~~city or exempted village school~~ district. 56983

(2) The board of education of a city, exempted village, or 56984
local school district with a student count of more than sixteen 56985
thousand may enter into an agreement with the governing board of 56986
an educational service center, under which the educational service 56987
center governing board will provide services to the district. 56988

(3) Services provided under the an agreement entered into 56989
under division (B)(1) or (2) of this section shall be specified in 56990
the agreement, and may include any one or a combination of the 56991
following: supervisory teachers; in-service and continuing 56992

education programs for ~~city or exempted village school~~ district 56993
personnel; curriculum services ~~as provided to the local school~~ 56994
~~districts under the supervision of the service center governing~~ 56995
~~board~~; research and development programs; academic instruction for 56996
which the governing board employs teachers pursuant to section 56997
3319.02 of the Revised Code; ~~and~~ assistance in the provision of 56998
special accommodations and classes for students with disabilities; 56999
or any other services the district board and service center 57000
governing board agree can be better provided by the service center 57001
and are not provided under an agreement entered into under section 57002
3313.845 of the Revised Code. Services included in the agreement 57003
shall be provided to the ~~city or exempted village~~ district in the 57004
same manner ~~they are provided to local school districts under the~~ 57005
~~governing board's supervision, unless otherwise~~ specified in the 57006
agreement. The ~~city or exempted village~~ district board of 57007
education shall reimburse the educational service center governing 57008
board pursuant to section 3317.11 of the Revised Code. 57009

(C) ~~If an educational service center received funding under~~ 57010
~~division (B) of former section 3317.11 or division (F) of section~~ 57011
~~3317.11 of the Revised Code for an agreement under this section~~ 57012
~~involving a city school district whose total student count was~~ 57013
~~less than thirteen thousand, the service center may continue to~~ 57014
~~receive funding under that division for such an agreement in any~~ 57015
~~subsequent year if the city district's total student count exceeds~~ 57016
~~thirteen thousand. However, only the first thirteen thousand~~ 57017
~~pupils in the formula ADM of such district shall be included in~~ 57018
~~determining the amount of the per pupil subsidy the service center~~ 57019
~~shall receive under division (F) of section 3317.11 of the Revised~~ 57020
~~Code.~~ 57021

(D) Any agreement entered into pursuant to this section shall 57022
be ~~valid only if a copy is~~ filed with the department of education 57023
by the first day of July of the school year for which the 57024

agreement is in effect. 57025

(D)(1) An agreement for services from an educational service center entered into under this section may be terminated by the school district board of education, at its option, by notifying the governing board of the service center by January 1, 2012, or by the first day of January of any odd-numbered year thereafter, that the district board intends to terminate the agreement in that year, and that termination shall be effective on the thirtieth day of June of that year. The failure of a district board to notify an educational service center of its intent to terminate an agreement by the first day of January of an odd-numbered year shall result in renewal of the existing agreement for the following two school years. 57026
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(2) If the school district that terminates an agreement for services under division (D)(1) of this section is also subject to the requirement of division (B)(1) of this section, the district board shall enter into a new agreement with a different educational service center so that the new agreement is effective on the first day of July of that same year. 57038
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Sec. 3313.845. The board of education of a city, exempted village, or local school district and the governing board of an educational service center may enter into an agreement, ~~through adoption of identical resolutions,~~ under which the educational service center will provide services to the school district. 57044
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Services provided under the agreement and the amount to be paid for such services shall be mutually agreed to by the district board of education and the service center governing board, and shall be specified in the agreement. Payment for services specified in the agreement shall be made pursuant to division (D) of section 3317.11 of the Revised Code and shall not include any deduction under division (B), (C), or (F) of that section. Any 57049
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agreement entered into pursuant to this section shall be valid 57056
only if a copy is filed with the department of education by the 57057
first day of the school year for which the agreement is in effect. 57058

The authority granted under this section to the boards of 57059
education of city ~~and~~, ~~exempted village, and local~~ school 57060
districts is in addition to the authority granted to such boards 57061
under section 3313.843 of the Revised Code. ~~No city or exempted~~ 57062
~~village district that is eligible to receive services from an~~ 57063
~~educational service center under section 3313.843 of the Revised~~ 57064
~~Code may receive any of the services described in division (B) of~~ 57065
~~that section pursuant to an agreement entered into with an~~ 57066
~~educational service center under this section.~~ 57067

~~If a local school district enters into an agreement with an~~ 57068
~~educational service center under this section and the district is~~ 57069
~~not located within the territory of the service center, the~~ 57070
~~agreement shall not require the district to receive any~~ 57071
~~supervisory services described in division (B) of section 3317.11~~ 57072
~~of the Revised Code from the service center. The supervisory~~ 57073
~~services described in that section shall be provided to the~~ 57074
~~district by the educational service center of the territory in~~ 57075
~~which the district is located.~~ 57076

Sec. 3313.846. The governing board of an educational service 57077
center may enter into a contract with any political subdivision as 57078
defined in section 2744.01 of the Revised Code, not including 57079
school districts, community schools, or STEM schools contracting 57080
for services under section 3313.843, 3313.844, 3313.845, or 57081
3326.45 of the Revised Code, under which the educational service 57082
center will provide services to the political subdivision. 57083
Services provided under the contract and the amount to be paid for 57084
such services shall be mutually agreed to by the parties and shall 57085
be specified in the contract. The political subdivision shall 57086

directly pay an educational service center for services specified 57087
in the contract. The board of the educational service center shall 57088
file a copy of each contract entered into under this section with 57089
the department of education by the first day the contract is in 57090
effect. 57091

Sec. 3313.88. (A)(1) Prior to the first day of August of each 57092
school year, the board of education of any school district or the 57093
governing authority of any chartered nonpublic school may submit 57094
to the department of education a plan to require students to 57095
access and complete classroom lessons posted on the district's or 57096
nonpublic school's web portal or web site in order to make up days 57097
in that school year on which it is necessary to close schools for 57098
any of the reasons specified in division (B) of section 3317.01 of 57099
the Revised Code in excess of the number of days permitted under 57100
sections 3313.48, 3313.481, and 3317.01 of the Revised Code. 57101

Prior to the first day of August of each school year, the 57103
governing authority of any community school established under 57104
Chapter 3314. that is not an internet- or computer-based community 57105
school, as defined in section 3314.02 of the Revised Code, may 57106
submit to the department a plan to require students to access and 57107
complete classroom lessons posted on the school's web portal or 57108
web site in order to make up days or hours in that school year on 57109
which it is necessary to close the school for any of the reasons 57110
specified in division (L)(4) of section 3314.08 of the Revised 57111
Code so that the school is in compliance with the minimum number 57112
of hours required under Chapter 3314. of the Revised Code. 57113

A plan submitted by a school district board or chartered 57114
nonpublic school governing authority shall provide for making up 57115
any number of days, up to a maximum of three days. A plan 57116
submitted by a community school governing authority shall provide 57117

for making up any number of hours, up to a maximum of the 57118
equivalent of three days. Provided the plan meets all requirements 57119
of this section, the department shall permit the board or 57120
governing authority to implement the plan for the applicable 57121
school year. 57122

(2) Each plan submitted under this section by a school 57123
district board of education shall include the written consent of 57124
the teachers' employee representative designated under division 57125
(B) of section 4117.04 of the Revised Code. 57126

(3) Each plan submitted under this section shall provide for 57127
the following: 57128

(a) Not later than the first day of November of the school 57129
year, each classroom teacher shall develop a sufficient number of 57130
lessons for each course taught by the teacher that school year to 57131
cover the number of make-up days or hours specified in the plan. 57132
The teacher shall designate the order in which the lessons are to 57133
be posted on the district's, community school's, or nonpublic 57134
school's web portal or web site in the event of a school closure. 57135
Teachers may be granted up to one professional development day to 57136
create lesson plans for those lessons. 57137

(b) To the extent possible and necessary, a classroom teacher 57138
shall update or replace, based on current instructional progress, 57139
one or more of the lesson plans developed under division (A)(3)(a) 57140
of this section before they are posted on the web portal or web 57141
site under division (A)(3)(c) of this section or distributed under 57142
division (B) of this section. 57143

(c) As soon as practicable after a school closure, a district 57144
or school employee responsible for web portal or web site 57145
operations shall make the designated lessons available to students 57146
on the district's, community school's, or nonpublic school's 57147
portal or site. A lesson shall be posted for each course that was 57148

scheduled to meet on the day or hours of the closure. 57149

(d) Each student enrolled in a course for which a lesson is posted on the portal or site shall be granted a two-week period from the date of posting to complete the lesson. The student's classroom teacher shall grade the lesson in the same manner as other lessons. The student may receive an incomplete or failing grade if the lesson is not completed on time. 57150
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(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons. 57156
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(B)(1) In addition to posting classroom lessons online under division (A) of this section, the board of education of any school district or governing authority of any community or chartered nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online. 57169
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(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans. 57174
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(3) The board of education of any school district or governing authority of any community or chartered nonpublic school 57178
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that opts to use blizzard bags shall specify in the plan the 57180
method of distribution of blizzard bag lessons, which may include, 57181
but not be limited to, requiring distribution by a specific 57182
deadline or requiring distribution prior to anticipated school 57183
closure as directed by the superintendent of a school district or 57184
the principal, director, chief administrative officer, or the 57185
equivalent, of a school. 57186

(4) Students shall turn in completed lessons in accordance 57187
with division (A)(3)(d) of this section. 57188

(C)(1) No school district that implements a plan in 57189
accordance with this section shall be considered to have failed to 57190
comply with division (B) of section 3317.01 of the Revised Code 57191
with respect to the number of make-up days specified in the plan. 57192

(2) No community school that implements a plan in accordance 57193
with this section shall be considered to have failed to comply 57194
with the minimum number of hours required under Chapter 3314. of 57195
the Revised Code with respect to the number of make-up hours 57196
specified in the plan. 57197

Sec. 3313.911. The state board of education may adopt a 57198
resolution assigning a city, exempted village, or local school 57199
district that is not a part of a joint vocational school district 57200
to membership in a joint vocational school district. A copy of the 57201
resolution shall be certified to the board of education of the 57202
joint vocational school district and the board of education of the 57203
district proposed to be assigned. The board of education of the 57204
joint vocational school district shall advertise a copy of the 57205
resolution in a newspaper of general circulation in the district 57206
proposed to be assigned once each week for ~~at least~~ two weeks, or 57207
as provided in section 7.16 of the Revised Code, immediately 57208
following the certification of the resolution to the board. The 57209
assignment shall take effect on the ninety-first day after the 57210

state board adopts the resolution, unless prior to that date 57211
qualified electors residing in the school district proposed for 57212
assignment, equal in number to ten per cent of the qualified 57213
electors of that district voting at the last general election, 57214
file a petition against the assignment. 57215

The petition of referendum shall be filed with the treasurer 57216
of the board of education of the district proposed to be assigned 57217
to the joint vocational school district. The treasurer shall give 57218
the person presenting the petition a receipt showing the time of 57219
day, date, and purpose of the petition. The treasurer shall cause 57220
the board of elections to determine the sufficiency of signatures 57221
on the petition and if the signatures are found to be sufficient, 57222
shall present the petition to the board of education of the 57223
district. The board of education shall promptly certify the 57224
question to the board of elections for the purpose of having the 57225
question placed on the ballot at the next general, primary, or 57226
special election not earlier than sixty days after the date of the 57227
certification. 57228

Only those qualified electors residing in the district 57229
proposed for assignment to the joint vocational school district 57230
are qualified to vote on the question. If a majority of the 57231
electors voting on the question vote against the assignment, it 57232
shall not take place, and the state board of education shall 57233
require the district to contract with the joint vocational school 57234
district or another school district as authorized by section 57235
3313.91 of the Revised Code. 57236

If a majority of the electors voting on the question do not 57237
vote against the assignment, the assignment shall take immediate 57238
effect, and the board of education of the joint vocational school 57239
district shall notify the county auditor of the county in which 57240
the school district becoming a part of the joint vocational school 57241
district is located to have any outstanding levy of the joint 57242

vocational school district spread over the territory of the school 57243
district that has become a part of the joint vocational school 57244
district. 57245

The assignment of a school district to a joint vocational 57246
school district pursuant to this section is subject to any 57247
agreements made between the board of education of the assigned 57248
school district and the board of education of the joint vocational 57249
school district. Such an agreement may include provisions for a 57250
payment by the assigned school district to the joint vocational 57251
school district of an amount to be contributed toward the cost of 57252
the existing facilities of the joint vocational school district. 57253

On the assignment of a school district to a joint vocational 57254
school district pursuant to this section, the joint vocational 57255
school district's board of education shall submit a proposal to 57256
the state board of education to enlarge or reorganize the 57257
membership of the joint vocational school district's board of 57258
education if expansion or reorganization of the board is necessary 57259
in order to comply with section 3311.19 of the Revised Code. 57260

Sec. 3313.97. Notwithstanding division (D) of section 3311.19 57261
and division (D) of section 3311.52 of the Revised Code, this 57262
section does not apply to any joint vocational or cooperative 57263
education school district. 57264

(A) As used in this section: 57265

(1) "Parent" has the same meaning as in section 3313.64 of 57266
the Revised Code. 57267

(2) "Alternative school" means a school building other than 57268
the one to which a student is assigned by the district 57269
superintendent. 57270

(3) "IEP" has the same meaning as in section 3323.01 of the 57271
Revised Code. 57272

(B) The board of education of each city, local, and exempted village school district shall adopt an open enrollment policy allowing students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code to enroll in an alternative school. Each policy shall provide for the following:

(1) Application procedures, including deadlines for application and for notification of students and principals of alternative schools whenever a student's application is accepted. The policy shall require a student to apply only if the student wishes to attend an alternative school.

(2) The establishment of district capacity limits by grade level, school building, and education program;

(3) A requirement that students enrolled in a school building or living in any attendance area of the school building established by the superintendent or board be given preference over applicants;

(4) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

Each policy may permit a student to permanently transfer to an alternative school so that the student need not reapply annually for permission to attend the alternative school.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting applicants to alternative schools shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disabling conditions, except that a board may require a student receiving services under Chapter 3323. of the Revised Code to attend school

where the services described in the student's IEP are available; 57303

(3) A requirement that the student be proficient in the 57304
English language; 57305

(4) Rejection of any applicant because the student has been 57306
subject to disciplinary proceedings, except that if an applicant 57307
has been suspended or expelled for ten consecutive days or more in 57308
the term for which admission is sought or in the term immediately 57309
preceding the term for which admission is sought, the procedures 57310
may include a provision denying admission of such applicant to an 57311
alternative school. 57312

(D)(1) Notwithstanding Chapter 3327. of the Revised Code, and 57313
except as provided in division (D)(2) of this section, a district 57314
board is not required to provide transportation to a nondisabled 57315
student enrolled in an alternative school unless such student can 57316
be picked up and dropped off at a regular school bus stop 57317
designated in accordance with the board's transportation policy or 57318
unless the board is required to provide additional transportation 57319
to the student in accordance with a court-approved desegregation 57320
plan. 57321

(2) A district board shall provide transportation to any 57322
student described in 20 U.S.C. 6316(b)(1)(F) to the extent 57323
required by division (E) of section 3302.04 of the Revised Code, 57324
except that no district board shall be required to provide 57325
transportation to any such student after the school in which the 57326
student was enrolled immediately prior to enrolling in the 57327
alternative school makes adequate yearly progress, as defined in 57328
section 3302.01 of the Revised Code, for two consecutive school 57329
years. 57330

(E) Each school board shall provide information about the 57331
policy adopted under this section and the application procedures 57332
and deadlines to the parent of each student in the district and to 57333

the general public. 57334

(F) The state board of education shall monitor school 57335
districts to ensure compliance with this section and the 57336
districts' policies. 57337

Sec. 3313.975. As used in this section and in sections 57338
3313.975 to 3313.979 of the Revised Code, "the pilot project 57339
school district" or "the district" means any school district 57340
included in the pilot project scholarship program pursuant to this 57341
section. 57342

(A) The superintendent of public instruction shall establish 57343
a pilot project scholarship program and shall include in such 57344
program any school districts that are or have ever been under 57345
federal court order requiring supervision and operational 57346
management of the district by the state superintendent. The 57347
program shall provide for a number of students residing in any 57348
such district to receive scholarships to attend alternative 57349
schools, and for an equal number of students to receive tutorial 57350
assistance grants while attending public school in any such 57351
district. 57352

(B) The state superintendent shall establish an application 57353
process and deadline for accepting applications from students 57354
residing in the district to participate in the scholarship 57355
program. In the initial year of the program students may only use 57356
a scholarship to attend school in grades kindergarten through 57357
third. 57358

The state superintendent shall award as many scholarships and 57359
tutorial assistance grants as can be funded given the amount 57360
appropriated for the program. In no case, however, shall more than 57361
fifty per cent of all scholarships awarded be used by students who 57362
were enrolled in a nonpublic school during the school year of 57363
application for a scholarship. 57364

(C)(1) The pilot project program shall continue in effect 57365
each year that the general assembly has appropriated sufficient 57366
money to fund scholarships and tutorial assistance grants. In each 57367
year the program continues, ~~no~~ new students may receive 57368
scholarships ~~unless they are enrolled~~ in grades kindergarten to 57369
~~eight~~ twelve. ~~However, any~~ A student who has received a 57370
scholarship ~~the preceding year~~ may continue to receive one until 57371
the student has completed grade ~~ten~~. ~~Beginning in the 2005-2006~~ 57372
~~academic year, a student who previously has received a scholarship~~ 57373
~~may receive a scholarship in grade eleven. Beginning in the~~ 57374
~~2006-2007 academic year, a student who previously has received a~~ 57375
~~scholarship may receive a scholarship in grade twelve.~~ 57376

(2) If the general assembly discontinues the scholarship 57377
program, all students who are attending an alternative school 57378
under the pilot project shall be entitled to continued admittance 57379
to that specific school through all grades that are provided in 57380
such school, under the same conditions as when they were 57381
participating in the pilot project. The state superintendent shall 57382
continue to make scholarship payments in accordance with division 57383
(A) or (B) of section 3313.979 of the Revised Code for students 57384
who remain enrolled in an alternative school under this provision 57385
in any year that funds have been appropriated for this purpose. 57386

If funds are not appropriated, the tuition charged to the 57387
parents of a student who remains enrolled in an alternative school 57388
under this provision shall not be increased beyond the amount 57389
equal to the amount of the scholarship plus any additional amount 57390
charged that student's parent in the most recent year of 57391
attendance as a participant in the pilot project, except that 57392
tuition for all the students enrolled in such school may be 57393
increased by the same percentage. 57394

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 57395
the Revised Code, if the pilot project school district experiences 57396

a decrease in enrollment due to participation in a state-sponsored scholarship program pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered; 57427
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(6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion; 57429
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(7) The school does not provide false or misleading information about the school to parents, students, or the general public; 57432
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(8) For students in grades kindergarten through eight with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5104.46 of the Revised Code, the school agrees not to charge any tuition ~~to low income families receiving ninety per cent of the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code,~~ in excess of ~~ten per cent of~~ the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. ~~The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low income family's provision of in kind contributions or services.~~ 57435
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(9) For students in grades kindergarten through eight with family incomes above two hundred per cent of the federal poverty guidelines, whose scholarship amounts are less than the actual tuition charge of the school, the school agrees not to charge any tuition ~~to low income families receiving a seventy five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code,~~ in excess of the difference between the actual tuition charge of the school and ~~seventy five per cent of~~ the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that 57448
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section. The school shall permit such tuition, at the discretion 57459
of the parent, to be satisfied by the ~~low-income~~ family's 57460
provision of in-kind contributions or services. 57461

(10) The school agrees not to charge any tuition to families 57462
of students in grades nine through twelve receiving a scholarship 57463
in excess of the actual tuition charge of the school less 57464
~~seventy five or ninety per cent of~~ the scholarship amount 57465
established pursuant to division (C)(1) of section 3313.978 of the 57466
Revised Code, ~~as applicable~~, excluding any increase described in 57467
division (C)(2) of that section. 57468

(11) Notwithstanding division (K) of section 3301.0711 of the 57469
Revised Code, the school annually administers the assessments 57470
prescribed by section 3301.0710 of the Revised Code to each 57471
scholarship student enrolled in the school in accordance with 57472
section 3301.0711 of the Revised Code and reports to the 57473
department of education the results of each such assessment 57474
administered to each scholarship student. 57475

(B) The state superintendent shall revoke the registration of 57476
any school if, after a hearing, the superintendent determines that 57477
the school is in violation of any of the provisions of division 57478
(A) of this section. 57479

(C) Any public school located in a school district adjacent 57480
to the pilot project district may receive scholarship payments on 57481
behalf of parents pursuant to section 3313.979 of the Revised Code 57482
if the superintendent of the district in which such public school 57483
is located notifies the state superintendent prior to the first 57484
day of March that the district intends to admit students from the 57485
pilot project district for the ensuing school year pursuant to 57486
section 3327.06 of the Revised Code. 57487

(D) Any parent wishing to purchase tutorial assistance from 57488
any person or governmental entity pursuant to the pilot project 57489

program under sections 3313.974 to 3313.979 of the Revised Code 57490
shall apply to the state superintendent. The state superintendent 57491
shall approve providers who appear to possess the capability of 57492
furnishing the instructional services they are offering to 57493
provide. 57494

Sec. 3313.978. (A) Annually by the first day of November, the 57495
superintendent of public instruction shall notify the pilot 57496
project school district of the number of initial scholarships that 57497
the state superintendent will be awarding in each of grades 57498
kindergarten through ~~eight~~ twelve. 57499

The state superintendent shall provide information about the 57500
scholarship program to all students residing in the district, 57501
shall accept applications from any such students until such date 57502
as shall be established by the state superintendent as a deadline 57503
for applications, and shall establish criteria for the selection 57504
of students to receive scholarships from among all those applying 57505
prior to the deadline, which criteria shall give preference to 57506
students from low-income families. ~~For each student selected, the~~ 57507
~~state superintendent shall also determine whether the student~~ 57508
~~qualifies for seventy five or ninety per cent of the scholarship~~ 57509
~~amount. Students whose family income is at or above two hundred~~ 57510
~~per cent of the maximum income level established by the state~~ 57511
~~superintendent for low income families shall qualify for~~ 57512
~~seventy five per cent of the scholarship amount and students whose~~ 57513
~~family income is below two hundred per cent of that maximum income~~ 57514
~~level shall qualify for ninety per cent of the scholarship amount.~~ 57515
The state superintendent shall notify students of their selection 57516
prior to the fifteenth day of January ~~and whether they qualify for~~ 57517
~~seventy five or ninety per cent of the scholarship amount.~~ 57518

(1) A student receiving a pilot project scholarship may 57519
utilize it at an alternative public school by notifying the 57520

district superintendent, at any time before the beginning of the 57521
school year, of the name of the public school in an adjacent 57522
school district to which the student has been accepted pursuant to 57523
section 3327.06 of the Revised Code. 57524

(2) A student may decide to utilize a pilot project 57525
scholarship at a registered private school in the district if all 57526
of the following conditions are met: 57527

(a) By the fifteenth day of February of the preceding school 57528
year, or at any time prior to the start of the school year, the 57529
parent makes an application on behalf of the student to a 57530
registered private school. 57531

(b) The registered private school notifies the parent and the 57532
state superintendent as follows that the student has been 57533
admitted: 57534

(i) By the fifteenth day of March of the preceding school 57535
year if the student filed an application by the fifteenth day of 57536
February and was admitted by the school pursuant to division (A) 57537
of section 3313.977 of the Revised Code; 57538

(ii) Within one week of the decision to admit the student if 57539
the student is admitted pursuant to division (C) of section 57540
3313.977 of the Revised Code. 57541

(c) The student actually enrolls in the registered private 57542
school to which the student was first admitted or in another 57543
registered private school in the district or in a public school in 57544
an adjacent school district. 57545

(B) The state superintendent shall also award in any school 57546
year tutorial assistance grants to a number of students equal to 57547
the number of students who receive scholarships under division (A) 57548
of this section. Tutorial assistance grants shall be awarded 57549
solely to students who are enrolled in the public schools of the 57550
district in a grade level covered by the pilot project. Tutorial 57551

assistance grants may be used solely to obtain tutorial assistance 57552
from a provider approved pursuant to division (D) of section 57553
3313.976 of the Revised Code. 57554

All students wishing to obtain tutorial assistance grants 57555
shall make application to the state superintendent by the first 57556
day of the school year in which the assistance will be used. The 57557
state superintendent shall award assistance grants in accordance 57558
with criteria the superintendent shall establish. ~~For each student~~ 57559
~~awarded a grant, the state superintendent shall also determine~~ 57560
~~whether the student qualifies for seventy five or ninety per cent~~ 57561
~~of the grant amount and so notify the student. Students whose~~ 57562
~~family income is at or above two hundred per cent of the maximum~~ 57563
~~income level established by the state superintendent for~~ 57564
~~low income families shall qualify for seventy five per cent of the~~ 57565
~~grant amount and students whose family income is below two hundred~~ 57566
~~per cent of that maximum income level shall qualify for ninety per~~ 57567
~~cent of the grant amount.~~ 57568

(C)(1) In the case of basic scholarships for students in 57569
grades kindergarten through eight, the scholarship amount shall 57570
not exceed the lesser of the tuition charges of the alternative 57571
school the scholarship recipient attends or three thousand dollars 57572
before fiscal year 2007 ~~and~~, three thousand four hundred fifty 57573
dollars in fiscal year 2007 through fiscal year 2011, and four 57574
thousand two hundred fifty dollars in fiscal year 2012 and 57575
thereafter. 57576

In the case of basic scholarships for students in grades nine 57577
through twelve, the scholarship amount shall not exceed the lesser 57578
of the tuition charges of the alternative school the scholarship 57579
recipient attends or two thousand seven hundred dollars before 57580
fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in 57581
fiscal year 2007 through fiscal year 2011, and five thousand 57582
dollars in fiscal year 2012 and thereafter. 57583

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed student with a disability and shall further increase such amount in the case of any separately educated student with a disability. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

~~(4) No scholarship or tutorial assistance grant shall be awarded unless the state superintendent determines that twenty five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.~~

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief

administrator of each registered private school located in the 57615
pilot project district and the principal of each public school in 57616
such district shall complete a parental information form and 57617
forward it to the president of the board of education. The 57618
parental information form shall be prescribed by the department of 57619
education and shall provide information about the grade levels 57620
offered, the numbers of students, tuition amounts, achievement 57621
test results, and any sectarian or other organizational 57622
affiliations. 57623

(E)(1) Only for the purpose of administering the pilot 57624
project scholarship program, the department may request from any 57625
of the following entities the data verification code assigned 57626
under division (D)(2) of section 3301.0714 of the Revised Code to 57627
any student who is seeking a scholarship under the program: 57628

(a) The school district in which the student is entitled to 57629
attend school under section 3313.64 or 3313.65 of the Revised 57630
Code; 57631

(b) If applicable, the community school in which the student 57632
is enrolled; 57633

(c) The independent contractor engaged to create and maintain 57634
data verification codes. 57635

(2) Upon a request by the department under division (E)(1) of 57636
this section for the data verification code of a student seeking a 57637
scholarship or a request by the student's parent for that code, 57638
the school district or community school shall submit that code to 57639
the department or parent in the manner specified by the 57640
department. If the student has not been assigned a code, because 57641
the student will be entering kindergarten during the school year 57642
for which the scholarship is sought, the district shall assign a 57643
code to that student and submit the code to the department or 57644
parent by a date specified by the department. If the district does 57645

not assign a code to the student by the specified date, the 57646
department shall assign a code to the student. 57647

The department annually shall submit to each school district 57648
the name and data verification code of each student residing in 57649
the district who is entering kindergarten, who has been awarded a 57650
scholarship under the program, and for whom the department has 57651
assigned a code under this division. 57652

(3) The department shall not release any data verification 57653
code that it receives under division (E) of this section to any 57654
person except as provided by law. 57655

(F) Any document relative to the pilot project scholarship 57656
program that the department holds in its files that contains both 57657
a student's name or other personally identifiable information and 57658
the student's data verification code shall not be a public record 57659
under section 149.43 of the Revised Code. 57660

(G)(1) The department annually shall compile the scores 57661
attained by scholarship students enrolled in registered private 57662
schools on the assessments administered to the students pursuant 57663
to division (A)(11) of section 3313.976 of the Revised Code. The 57664
scores shall be aggregated as follows: 57665

(a) By school district, which shall include all scholarship 57666
students residing in the pilot project school district who are 57667
enrolled in a registered private school and were required to take 57668
an assessment pursuant to division (A)(11) of section 3313.976 of 57669
the Revised Code; 57670

(b) By registered private school, which shall include all 57671
scholarship students enrolled in that school who were required to 57672
take an assessment pursuant to division (A)(11) of section 57673
3313.976 of the Revised Code. 57674

(2) The department shall disaggregate the student performance 57675
data described in division (G)(1) of this section according to the 57676

following categories:	57677
(a) Age;	57678
(b) Race and ethnicity;	57679
(c) Gender;	57680
(d) Students who have participated in the scholarship program for three or more years;	57681 57682
(e) Students who have participated in the scholarship program for more than one year and less than three years;	57683 57684
(f) Students who have participated in the scholarship program for one year or less;	57685 57686
(g) Economically disadvantaged students.	57687
(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.	57688 57689 57690 57691 57692 57693 57694 57695 57696 57697
(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and	57698 57699 57700 57701 57702 57703 57704 57705 57706

socioeconomic status. 57707

Sec. 3313.979. Each scholarship to be used for payments to a 57708
registered private school is payable to the parents of the student 57709
entitled to the scholarship. Each scholarship to be used for 57710
payments to a public school in an adjacent school district is 57711
payable to the school district of attendance by the superintendent 57712
of public instruction. Each grant to be used for payments to an 57713
approved tutorial assistance provider is payable to the approved 57714
tutorial assistance provider. 57715

(A)(1) By the fifteenth day of each month of the school year 57716
that any scholarship students are enrolled in a registered private 57717
school, the chief administrator of that school shall notify the 57718
state superintendent of: 57719

(a) The number of scholarship students who were reported to 57720
the school district as having been admitted by that private school 57721
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 57722
Code and who were still enrolled in the private school as of the 57723
first day of such month, ~~and the numbers of such students who~~ 57724
~~qualify for seventy five and ninety per cent of the scholarship~~ 57725
~~amount;~~ 57726

(b) The number of scholarship students who were reported to 57727
the school district as having been admitted by another private 57728
school pursuant to division (A)(2)(b) of section 3313.978 of the 57729
Revised Code and since the date of admission have transferred to 57730
the school providing the notification under division (A)(1) of 57731
this section, ~~and the numbers of such students who qualify for~~ 57732
~~seventy five and ninety per cent of the scholarship amount.~~ 57733

(2) From time to time, the state superintendent shall make a 57734
payment to the parent of each student entitled to a scholarship. 57735
Each payment shall include for each student reported under 57736
division (A)(1) of this section, ~~a portion of seventy five or~~ 57737

~~ninety per cent, as applicable, of the scholarship amount~~ 57738
specified in divisions (C)(1) and (2) of section 3313.978 of the 57739
Revised Code. This amount shall be proportionately reduced in the 57740
case of any such student who is not enrolled in a registered 57741
private school for the entire school year. 57742

(3) The first payment under this division shall be made by 57743
the last day of November and shall equal one-third of ~~seventy-five~~ 57744
~~or ninety per cent, as applicable, of the estimated total amount~~ 57745
that will be due to the parent for the school year pursuant to 57746
division (A)(2) of this section. 57747

(B) The state superintendent, on behalf of the parents of a 57748
scholarship student enrolled in a public school in an adjacent 57749
school district pursuant to section 3327.06 of the Revised Code, 57750
shall make the tuition payments required by that section to the 57751
school district admitting the student, except that, 57752
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 57753
Revised Code, the total payments in any school year shall not 57754
exceed ~~seventy-five or ninety per cent, as applicable, of the~~ 57755
scholarship amount provided in divisions (C)(1) and (2) of section 57756
3313.978 of the Revised Code. 57757

(C) Whenever an approved provider provides tutorial 57758
assistance to a student, the state superintendent shall pay the 57759
approved provider for such costs upon receipt of a statement 57760
specifying the services provided and the costs of the services, 57761
which statement shall be signed by the provider and verified by 57762
the chief administrator having supervisory control over the 57763
tutoring site. The total payments to any approved provider under 57764
this division for all provider services to any individual student 57765
in any school year shall not exceed ~~seventy-five or ninety per~~ 57766
~~cent, as applicable, of the grant amount provided in division~~ 57767
(C)(3) of section 3313.978 of the Revised Code. 57768

Sec. 3313.981. (A) The state board of education shall adopt 57769
rules requiring all of the following: 57770

(1) The board of education of each city, exempted village, 57771
and local school district to annually report to the department of 57772
education all of the following: 57773

(a) The number of adjacent district or other district 57774
students, as applicable, and adjacent district or other district 57775
joint vocational students, as applicable, enrolled in the district 57776
and the number of native students enrolled in adjacent or other 57777
districts, in accordance with a policy adopted under division (B) 57778
of section 3313.98 of the Revised Code; 57779

(b) Each adjacent district or other district student's or 57780
adjacent district or other district joint vocational student's 57781
date of enrollment in the district; 57782

(c) The full-time equivalent number of adjacent district or 57783
other district students enrolled in vocational education programs 57784
or classes described in division (A) of section 3317.014 of the 57785
Revised Code and the full-time equivalent number of such students 57786
enrolled in vocational education programs or classes described in 57787
division (B) of that section; 57788

(d) Each native student's date of enrollment in an adjacent 57789
or other district. 57790

(2) The board of education of each joint vocational school 57791
district to annually report to the department all of the 57792
following: 57793

(a) The number of adjacent district or other district joint 57794
vocational students, as applicable, enrolled in the district; 57795

(b) The full-time equivalent number of adjacent district or 57796
other district joint vocational students enrolled in vocational 57797
education programs or classes described in division (A) of section 57798

3317.014 of the Revised Code and the full-time equivalent number 57799
of such students enrolled in vocational education programs or 57800
classes described in division (B) of that section; 57801

(c) For each adjacent district or other district joint 57802
vocational student, the city, exempted village, or local school 57803
district in which the student is also enrolled. 57804

(3) Prior to the first full school week in October each year, 57805
the superintendent of each city, local, or exempted village school 57806
district that admits adjacent district or other district students 57807
or adjacent district or other district joint vocational students 57808
in accordance with a policy adopted under division (B) of section 57809
3313.98 of the Revised Code to notify each adjacent or other 57810
district where those students are entitled to attend school under 57811
section 3313.64 or 3313.65 of the Revised Code of the number of 57812
the adjacent or other district's native students who are enrolled 57813
in the superintendent's district under the policy. 57814

The rules shall provide for the method of counting students 57815
who are enrolled for part of a school year in an adjacent or other 57816
district or as an adjacent district or other district joint 57817
vocational student. 57818

(B) From the payments made to a city, exempted village, or 57819
local school district under Chapter ~~3306~~. 3317. of the Revised 57820
Code and, if necessary, from the payments made to the district 57821
under sections 321.24 and 323.156 of the Revised Code, the 57822
department of education shall annually subtract both of the 57823
following: 57824

(1) An amount equal to the number of the district's native 57825
students reported under division (A)(1) of this section who are 57826
enrolled in adjacent or other school districts pursuant to 57827
policies adopted by such districts under division (B) of section 57828
3313.98 of the Revised Code multiplied by the adjusted formula 57829

amount; 57830

(2) The excess costs computed in accordance with division (E) 57831
of this section for any such native students receiving special 57832
education and related services in adjacent or other school 57833
districts or as an adjacent district or other district joint 57834
vocational student; 57835

(3) For the full-time equivalent number of the district's 57836
native students reported under division (A)(1)(c) or (2)(b) of 57837
this section as enrolled in vocational education programs or 57838
classes described in section 3317.014 of the Revised Code, an 57839
amount equal to ~~the formula amount~~ \$5,732 times the applicable 57840
multiple prescribed by that section. 57841

(C) To the payments made to a city, exempted village, or 57842
local school district under Chapter ~~3306-~~ 3317. of the Revised 57843
Code, the department of education shall annually add all of the 57844
following: 57845

(1) An amount equal to the adjusted formula amount multiplied 57846
by the remainder obtained by subtracting the number of adjacent 57847
district or other district joint vocational students from the 57848
number of adjacent district or other district students enrolled in 57849
the district, as reported under division (A)(1) of this section; 57850

(2) The excess costs computed in accordance with division (E) 57851
of this section for any adjacent district or other district 57852
students, except for any adjacent or other district joint 57853
vocational students, receiving special education and related 57854
services in the district; 57855

(3) For the full-time equivalent number of the adjacent or 57856
other district students who are not adjacent district or other 57857
district joint vocational students and are reported under division 57858
(A)(1)(c) of this section as enrolled in vocational education 57859
programs or classes described in section 3317.014 of the Revised 57860

Code, an amount equal to ~~the formula amount~~ \$5,732 times the applicable multiple prescribed by that section;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the adjusted formula amount.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The adjusted formula amount;

(2) An amount equal to the full-time equivalent number of students reported pursuant to division (A)(2)(b) of this section times ~~the formula amount~~ \$5,732 times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the adjusted formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter ~~3306-~~ 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under

division (E)(1) of this section is an adjacent or other district 57891
joint vocational student, the department of education shall add 57892
the amount of such excess costs to the payments made under Chapter 57893
~~3306-~~ 3317. of the Revised Code to the joint vocational school 57894
district enrolling the student. 57895

(F) As provided in division (D)(1)(b) of section 3317.03 of 57896
the Revised Code, no joint vocational school district shall count 57897
any adjacent or other district joint vocational student enrolled 57898
in the district in its formula ADM certified under section 3317.03 57899
of the Revised Code. 57900

(G) No city, exempted village, or local school district shall 57901
receive a payment under division (C) of this section for a 57902
student, and no joint vocational school district shall receive a 57903
payment under division (D) of this section for a student, if for 57904
the same school year that student is counted in the district's 57905
formula ADM certified under section 3317.03 of the Revised Code. 57906

(H) Upon request of a parent, and provided the board offers 57907
transportation to native students of the same grade level and 57908
distance from school under section 3327.01 of the Revised Code, a 57909
city, exempted village, or local school board enrolling an 57910
adjacent or other district student shall provide transportation 57911
for the student within the boundaries of the board's district, 57912
except that the board shall be required to pick up and drop off a 57913
nonhandicapped student only at a regular school bus stop 57914
designated in accordance with the board's transportation policy. 57915
Pursuant to rules of the state board of education, such board may 57916
reimburse the parent from funds received for pupil transportation 57917
under section ~~3306.12~~ 3317.0212 of the Revised Code, or other 57918
provisions of law, for the reasonable cost of transportation from 57919
the student's home to the designated school bus stop if the 57920
student's family has an income below the federal poverty line. 57921

Sec. 3314.012. (A) Within ninety days of September 28, 1999, 57922
the superintendent of public instruction shall appoint 57923
representatives of the department of education, including 57924
employees who work with the education management information 57925
system ~~and employees of the office of community schools~~ 57926
~~established by section 3314.11 of the Revised Code~~, to a committee 57927
to develop report card models for community schools. ~~The director~~ 57928
~~of the legislative office of education oversight shall also~~ 57929
~~appoint representatives to the committee.~~ The committee shall 57930
design model report cards appropriate for the various types of 57931
community schools approved to operate in the state. Sufficient 57932
models shall be developed to reflect the variety of grade levels 57933
served and the missions of the state's community schools. All 57934
models shall include both financial and academic data. The initial 57935
models shall be developed by March 31, 2000. 57936

(B) The department of education shall issue an annual report 57937
card for each community school, regardless of how long the school 57938
has been in operation. The report card shall report the academic 57939
and financial performance of the school utilizing one of the 57940
models developed under division (A) of this section. The report 57941
card shall include all information applicable to school buildings 57942
under division (A) of section 3302.03 of the Revised Code. The 57943
ratings a community school receives under section 3302.03 of the 57944
Revised Code for its first two full school years shall not be 57945
considered toward automatic closure of the school under section 57946
3314.35 of the Revised Code or any other matter that is based on 57947
report card ratings. 57948

(C) Upon receipt of a copy of a contract between a sponsor 57949
and a community school entered into under this chapter, the 57950
department of education shall notify the community school of the 57951
specific model report card that will be used for that school. 57952

(D) Report cards shall be distributed to the parents of all 57953
students in the community school, to the members of the board of 57954
education of the school district in which the community school is 57955
located, and to any person who requests one from the department. 57956

Sec. 3314.015. (A) The department of education shall be 57957
responsible for the oversight of any and all sponsors of the 57958
community schools established under this chapter and shall provide 57959
technical assistance to schools and sponsors in their compliance 57960
with applicable laws and the terms of the contracts entered into 57961
under section 3314.03 of the Revised Code and in the development 57962
and start-up activities of those schools. In carrying out its 57963
duties under this section, the department shall do all of the 57964
following: 57965

(1) In providing technical assistance to proposing parties, 57966
governing authorities, and sponsors, conduct training sessions and 57967
distribute informational materials; 57968

(2) Approve entities to be sponsors of community schools; 57969

(3) Monitor the effectiveness of any and all sponsors in 57970
their oversight of the schools with which they have contracted; 57971

(4) By December thirty-first of each year, issue a report to 57972
the governor, the speaker of the house of representatives, the 57973
president of the senate, and the chairpersons of the house and 57974
senate committees principally responsible for education matters 57975
regarding the effectiveness of academic programs, operations, and 57976
legal compliance and of the financial condition of all community 57977
schools established under this chapter and on the performance of 57978
community school sponsors; 57979

(5) From time to time, make legislative recommendations to 57980
the general assembly designed to enhance the operation and 57981
performance of community schools. 57982

(B)(1) Except as provided in sections 3314.021 and 3314.027 57983
of the Revised Code, no entity listed in division (C)(1) of 57984
section 3314.02 of the Revised Code shall enter into a preliminary 57985
agreement under division (C)(2) of section 3314.02 of the Revised 57986
Code until it has received approval from the department of 57987
education to sponsor community schools under this chapter and has 57988
entered into a written agreement with the department regarding the 57989
manner in which the entity will conduct such sponsorship. The 57990
department shall adopt in accordance with Chapter 119. of the 57991
Revised Code rules containing criteria, procedures, and deadlines 57992
for processing applications for such approval, for oversight of 57993
sponsors, for revocation of the approval of sponsors, and for 57994
entering into written agreements with sponsors. The rules shall 57995
require an entity to submit evidence of the entity's ability and 57996
willingness to comply with the provisions of division (D) of 57997
section 3314.03 of the Revised Code. The rules also shall require 57998
entities approved as sponsors on and after June 30, 2005, to 57999
demonstrate a record of financial responsibility and successful 58000
implementation of educational programs. If an entity seeking 58001
approval on or after June 30, 2005, to sponsor community schools 58002
in this state sponsors or operates schools in another state, at 58003
least one of the schools sponsored or operated by the entity must 58004
be comparable to or better than the performance of Ohio schools in 58005
need of continuous improvement under section 3302.03 of the 58006
Revised Code, as determined by the department. 58007

~~An~~ Subject to section 3314.016 of the Revised Code, an entity 58008
that sponsors community schools may enter into preliminary 58009
agreements and sponsor up to one hundred schools ~~as follows,~~ 58010
provided each school and the contract for sponsorship meets the 58011
requirements of this chapter. 58012

~~(a) An entity that sponsored fifty or fewer schools that were~~ 58013
~~open for operation as of May 1, 2005, may sponsor not more than~~ 58014

~~fifty schools.~~ 58015

~~(b) An entity that sponsored more than fifty but not more than seventy five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.~~ 58016
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~~(c) Until June 30, 2006, an entity that sponsored more than seventy five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy five schools.~~ 58020
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~~Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.~~ 58026
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~~The limit imposed on an entity to which division (B)(1) of this section applies shall be decreased by one for each school sponsored by the entity that permanently closes.~~ 58029
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~~If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code.~~ 58032
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(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of 58041
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the Revised Code complies with the requirements of that division. 58046
Such determination of the department is final. 58047

(3) The department of education shall determine, pursuant to 58048
criteria adopted by rule of the department, if any tax-exempt 58049
entity under section 501(c)(3) of the Internal Revenue Code that 58050
is proposed to be a sponsor of a community school is an 58051
education-oriented entity for purpose of satisfying the condition 58052
prescribed in division (C)(1)(f)(iii) of section 3314.02 of the 58053
Revised Code. Such determination of the department is final. 58054

(C) If at any time the state board of education finds that a 58055
sponsor is not in compliance or is no longer willing to comply 58056
with its contract with any community school or with the 58057
department's rules for sponsorship, the state board or designee 58058
shall conduct a hearing in accordance with Chapter 119. of the 58059
Revised Code on that matter. If after the hearing, the state board 58060
or designee has confirmed the original finding, the department of 58061
education may revoke the sponsor's approval to sponsor community 58062
schools and may assume the sponsorship of any schools with which 58063
the sponsor has contracted until the earlier of the expiration of 58064
two school years or until a new sponsor as described in division 58065
(C)(1) of section 3314.02 of the Revised Code is secured by the 58066
school's governing authority. The department may extend the term 58067
of the contract in the case of a school for which it has assumed 58068
sponsorship under this division as necessary to accommodate the 58069
term of the department's authorization to sponsor the school 58070
specified in this division. 58071

(D) The decision of the department to disapprove an entity 58072
for sponsorship of a community school or to revoke approval for 58073
such sponsorship under division (C) of this section, may be 58074
appealed by the entity in accordance with section 119.12 of the 58075
Revised Code. 58076

(E) The department shall adopt procedures for use by a 58077

community school governing authority and sponsor when the school 58078
permanently closes and ceases operation, which shall include at 58079
least procedures for data reporting to the department, handling of 58080
student records, distribution of assets in accordance with section 58081
3314.074 of the Revised Code, and other matters related to ceasing 58082
operation of the school. 58083

(F) In carrying out its duties under this chapter, the 58084
department shall not impose requirements on community schools or 58085
their sponsors that are not permitted by law or duly adopted 58086
rules. 58087

Sec. 3314.016. This section applies to any entity that 58088
sponsors a community school, regardless of whether section 58089
3314.021 or 3314.027 of the Revised Code exempts the entity from 58090
the requirement to be approved for sponsorship under divisions 58091
(A)(2) and (B)(1) of section 3314.015 of the Revised Code. 58092

(A) An entity that sponsors a community school shall be 58093
permitted to enter into contracts under section 3314.03 of the 58094
Revised Code to sponsor additional community schools only if the 58095
entity meets both of the following criteria: 58096

(1) The entity is in compliance with all provisions of this 58097
chapter requiring sponsors of community schools to report data or 58098
information to the department of education. 58099

(2) The entity has had at least eighty per cent of the 58100
community schools it sponsors ranked, based on performance index 58101
score as defined in section 3302.01 of the Revised Code, in the 58102
highest ninety-five per cent of all public schools statewide for 58103
three consecutive years, beginning with the ranking based on data 58104
from the 2009-2010 school year. 58105

(B) If the governing authority of a community school enters 58106
into a contract with a sponsor prior to the date on which the 58107

sponsor is prohibited from sponsoring additional schools under 58108
division (A) of this section and the school has not opened for 58109
operation as of that date, that contract shall be void and the 58110
school shall not open until the governing authority secures a new 58111
sponsor by entering into a contract with the new sponsor under 58112
section 3314.03 of the Revised Code. 58113

Sec. 3314.02. (A) As used in this chapter: 58114

(1) "Sponsor" means an entity listed in division (C)(1) of 58115
this section, which has been approved by the department of 58116
education to sponsor community schools and with which the 58117
governing authority of the proposed community school enters into a 58118
contract pursuant to this section. 58119

(2) "Pilot project area" means the school districts included 58120
in the territory of the former community school pilot project 58121
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 58122
the 122nd general assembly. 58123

(3) "Challenged school district" means any of the following: 58124

(a) A school district that is part of the pilot project area; 58125

(b) A school district that is either in a state of academic 58126
emergency or in a state of academic watch under section 3302.03 of 58127
the Revised Code; 58128

(c) A big eight school district; 58129

(d) A school district ranked in the lowest five per cent 58130
according to performance index score under section 3302.21 of the 58131
Revised Code. 58132

(4) "Big eight school district" means a school district that 58133
for fiscal year 1997 had both of the following: 58134

(a) A percentage of children residing in the district and 58135
participating in the predecessor of Ohio works first greater than 58136

thirty per cent, as reported pursuant to section 3317.10 of the Revised Code; 58137
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(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code. 58139
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(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code. 58142
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(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998. 58147
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(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities. 58151
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(8) "Operator" means either of the following: 58160

(a) An individual or organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority; 58161
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(b) A nonprofit organization that provides programmatic oversight and support to a community school under a contract with the school's governing authority and that retains the right to terminate its affiliation with the school if the school fails to 58164
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meet the organization's quality standards. 58168

(B) Any person or group of individuals may initially propose 58169
under this division the conversion of all or a portion of a public 58170
school or a building operated by an educational service center to 58171
a community school. The proposal shall be made to the board of 58172
education of the city, local, exempted village, or joint 58173
vocational school district in which the public school is proposed 58174
to be converted or, in the case of the conversion of a building 58175
operated by an educational service center, to the governing board 58176
of the service center. Upon receipt of a proposal, a board may 58177
enter into a preliminary agreement with the person or group 58178
proposing the conversion of the public school or service center 58179
building, indicating the intention of the board to support the 58180
conversion to a community school. A proposing person or group that 58181
has a preliminary agreement under this division may proceed to 58182
finalize plans for the school, establish a governing authority for 58183
the school, and negotiate a contract with the board. Provided the 58184
proposing person or group adheres to the preliminary agreement and 58185
all provisions of this chapter, the board shall negotiate in good 58186
faith to enter into a contract in accordance with section 3314.03 58187
of the Revised Code and division (C) of this section. 58188

(C)(1) Any person or group of individuals may propose under 58189
this division the establishment of a new start-up school to be 58190
located in a challenged school district. The proposal may be made 58191
to any of the following entities: 58192

(a) The board of education of the district in which the 58193
school is proposed to be located; 58194

(b) The board of education of any joint vocational school 58195
district with territory in the county in which is located the 58196
majority of the territory of the district in which the school is 58197
proposed to be located; 58198

(c) The board of education of any other city, local, or 58199
exempted village school district having territory in the same 58200
county where the district in which the school is proposed to be 58201
located has the major portion of its territory; 58202

(d) The governing board of any educational service center, ~~as~~ 58203
~~long as the proposed school will be located in a county within the~~ 58204
~~territory of the service center or in a county contiguous to such~~ 58205
~~county;~~ 58206

(e) A sponsoring authority designated by the board of 58207
trustees of any of the thirteen state universities listed in 58208
section 3345.011 of the Revised Code or the board of trustees 58209
itself as long as a mission of the proposed school to be specified 58210
in the contract under division (A)(2) of section 3314.03 of the 58211
Revised Code and as approved by the department of education under 58212
division (B)(2) of section 3314.015 of the Revised Code will be 58213
the practical demonstration of teaching methods, educational 58214
technology, or other teaching practices that are included in the 58215
curriculum of the university's teacher preparation program 58216
approved by the state board of education; 58217

(f) Any qualified tax-exempt entity under section 501(c)(3) 58218
of the Internal Revenue Code as long as all of the following 58219
conditions are satisfied: 58220

(i) The entity has been in operation for at least five years 58221
prior to applying to be a community school sponsor. 58222

(ii) The entity has assets of at least five hundred thousand 58223
dollars and a demonstrated record of financial responsibility. 58224

(iii) The department of education has determined that the 58225
entity is an education-oriented entity under division (B)(3) of 58226
section 3314.015 of the Revised Code and the entity has a 58227
demonstrated record of successful implementation of educational 58228
programs. 58229

(iv) The entity is not a community school. 58230

Any entity described in division (C)(1) of this section may 58231
enter into a preliminary agreement pursuant to division (C)(2) of 58232
this section with the proposing person or group. 58233

(2) A preliminary agreement indicates the intention of an 58234
entity described in division (C)(1) of this section to sponsor the 58235
community school. A proposing person or group that has such a 58236
preliminary agreement may proceed to finalize plans for the 58237
school, establish a governing authority as described in division 58238
(E) of this section for the school, and negotiate a contract with 58239
the entity. Provided the proposing person or group adheres to the 58240
preliminary agreement and all provisions of this chapter, the 58241
entity shall negotiate in good faith to enter into a contract in 58242
accordance with section 3314.03 of the Revised Code. 58243

(3) A new start-up school that is established in a school 58244
district while that district is either in a state of academic 58245
emergency or in a state of academic watch under section 3302.03 of 58246
the Revised Code or ranked in the lowest five per cent according 58247
to performance index score under section 3302.21 of the Revised 58248
Code may continue in existence once the school district is no 58249
longer in a state of academic emergency or academic watch or 58250
ranked in the lowest five per cent according to performance index 58251
score, provided there is a valid contract between the school and a 58252
sponsor. 58253

(4) A copy of every preliminary agreement entered into under 58254
this division shall be filed with the superintendent of public 58255
instruction. 58256

(D) A majority vote of the board of a sponsoring entity and a 58257
majority vote of the members of the governing authority of a 58258
community school shall be required to adopt a contract and convert 58259
the public school or educational service center building to a 58260

community school or establish the new start-up school. Beginning 58261
September 29, 2005, adoption of the contract shall occur not later 58262
than the fifteenth day of March, and signing of the contract shall 58263
occur not later than the fifteenth day of May, prior to the school 58264
year in which the school will open. The governing authority shall 58265
notify the department of education when the contract has been 58266
signed. Subject to sections ~~3314.013, 3314.014,~~ 3314.016, and 58267
~~3314.017~~ 3314.20 of the Revised Code, an unlimited number of 58268
community schools may be established in any school district 58269
provided that a contract is entered into for each community school 58270
pursuant to this chapter. 58271

(E)(1) As used in this division, "immediate relatives" are 58272
limited to spouses, children, parents, grandparents, siblings, and 58273
in-laws. 58274

Each new start-up community school established under this 58275
chapter shall be under the direction of a governing authority 58276
which shall consist of a board of not less than five individuals. 58277

No person shall serve on the governing authority or operate 58278
the community school under contract with the governing authority 58279
so long as the person owes the state any money or is in a dispute 58280
over whether the person owes the state any money concerning the 58281
operation of a community school that has closed. 58282

(2) No person shall serve on the governing authorities of 58283
more than two start-up community schools at the same time. 58284

(3) No present or former member, or immediate relative of a 58285
present or former member, of the governing authority of any 58286
community school established under this chapter shall be an owner, 58287
employee, or consultant of any ~~nonprofit~~ sponsor or ~~for-profit~~ 58288
operator of a community school, unless at least one year has 58289
elapsed since the conclusion of the person's membership. 58290

(F)(1) A new start-up school that is established prior to 58291

August 15, 2003, in an urban school district that is not also a 58292
big-eight school district may continue to operate after that date 58293
and the contract between the school's governing authority and the 58294
school's sponsor may be renewed, as provided under this chapter, 58295
after that date, but no additional new start-up schools may be 58296
established in such a district unless the district is a challenged 58297
school district as defined in this section as it exists on and 58298
after that date. 58299

(2) A community school that was established prior to June 29, 58300
1999, and is located in a county contiguous to the pilot project 58301
area and in a school district that is not a challenged school 58302
district may continue to operate after that date, provided the 58303
school complies with all provisions of this chapter. The contract 58304
between the school's governing authority and the school's sponsor 58305
may be renewed, but no additional start-up community school may be 58306
established in that district unless the district is a challenged 58307
school district. 58308

~~(3) Any educational service center that, on June 30, 2007,~~ 58309
~~sponsors a community school that is not located in a county within~~ 58310
~~the territory of the service center or in a county contiguous to~~ 58311
~~such county may continue to sponsor that community school on and~~ 58312
~~after June 30, 2007, and may renew its contract with the school.~~ 58313
~~However, the educational service center shall not enter into a~~ 58314
~~contract with any additional community school unless the school is~~ 58315
~~located in a county within the territory of the service center or~~ 58316
~~in a county contiguous to such county.~~ 58317

(G) Notwithstanding anything to the contrary in this section, 58318
a person or group of individuals may propose the establishment of 58319
a new start-up school to be located in a school district that is 58320
not a challenged school district and, upon obtaining a sponsor in 58321
accordance with divisions (C)(1) and (2) of this section, may 58322
proceed to establish the school, if all of the following 58323

conditions are met: 58324

(1) The school will be established as a public benefit corporation in accordance with division (A)(1)(b) of section 3314.03 of the Revised Code; 58325
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(2) At least seventy-five per cent of the school's total enrollment will be children with disabilities, as defined in section 3323.01 of the Revised Code, or at least seventy-five per cent of the school's total enrollment will be children identified as gifted under Chapter 3324. of the Revised Code; 58328
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(3) Either the school district in which the school will be located or the department of education has certified that there is a need in that region for a school serving children with disabilities or a school serving children identified as gifted. 58333
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Sec. 3314.021. (A) This section applies to any entity that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and that satisfies the conditions specified in divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the Revised Code but does not satisfy the condition specified in division (C)(1)(f)(i) of that section. 58337
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(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 of the Revised Code, an entity described in division (A) of this section may do both of the following without obtaining the department of education's initial approval of its sponsorship under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code: 58343
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(1) Succeed the board of trustees of a state university located in the pilot project area or that board's designee as the sponsor of a community school established under this chapter; 58349
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(2) Continue to sponsor that school in conformance with the terms of the contract between the board of trustees or its 58352
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designee and the governing authority of the community school and 58354
renew that contract as provided in division (E) of section 3314.03 58355
of the Revised Code. 58356

(C) The entity that succeeds the board of trustees or the 58357
board's designee as sponsor of a community school under division 58358
(B) of this section also may enter into contracts to sponsor other 58359
community schools located in any challenged school district, 58360
without obtaining the department's initial approval of its 58361
sponsorship of those schools under divisions (A)(2) and (B)(1) of 58362
section 3314.015 of the Revised Code, ~~and not subject to the~~ 58363
~~restriction of division (A)(7) of section 3314.013 of the Revised~~ 58364
~~Code,~~ as long as the contracts conform with and the entity 58365
complies with all other requirements of this chapter. 58366

(D) Regardless of the entity's authority to sponsor community 58367
schools without the initial approval of the department, the entity 58368
is under the continuing oversight of the department in accordance 58369
with rules adopted under section 3314.015 of the Revised Code. 58370

Sec. 3314.023. In order to provide monitoring and technical 58371
assistance, ~~the sponsor of a community school shall be located or~~ 58372
~~have representatives located within fifty miles of the location of~~ 58373
~~the community school, or in the case of an internet or~~ 58374
~~computer based community school, within fifty miles of the~~ 58375
~~school's base of operation. A~~ a representative of the sponsor of a 58376
community school shall meet with the governing authority or 58377
treasurer of the school and shall review the financial and 58378
enrollment records of the school at least once every ~~two months~~ 58379
month. 58380

Not later than one hundred eighty days after the effective 58381
date of this amendment, the state board of education shall adopt 58382
rules under Chapter 119. of the Revised Code that define what 58383
records constitute financial records for purposes of this section. 58384

Sec. 3314.0210. (A) Notwithstanding anything to the contrary 58385
in this chapter, any organization whose membership consists solely 58386
of entities described in divisions (C)(1)(a) to (f) of section 58387
3314.02 of the Revised Code may sponsor community schools, 58388
provided that, in accordance with division (B) of section 3314.015 58389
of the Revised Code, the department of education approves the 58390
organization as a sponsor and the organization enters into a 58391
written agreement with the department regarding the manner in 58392
which the organization will conduct its sponsorship. 58393

(B) An organization approved under division (A) of this 58394
section may do all of the following: 58395

(1) Assume the sponsorship of any community school with which 58396
a member of the organization has entered into a contract under 58397
section 3314.03 of the Revised Code, provided the transfer of the 58398
sponsorship authority takes effect only at the beginning of a 58399
school year and one of the following conditions is met: 58400

(a) If the contract has expired, the governing authority of 58401
the community school enters into a successor contract with the 58402
organization under section 3314.03 of the Revised Code. 58403

(b) If the contract has not expired, both the governing 58404
authority of the community school and the governing body of the 58405
member adopt a resolution consenting to the organization becoming 58406
the school's sponsor prior to the expiration of the contract, and 58407
the governing authority and the organization amend the contract to 58408
reflect the transfer of the school's sponsorship to the 58409
organization. 58410

(2) Enter into a preliminary agreement with a person or group 58411
proposing to convert all or a portion of a building operated by a 58412
school district or educational service center that is a member of 58413
the organization into a community school and, if the district 58414
board of education or service center governing board adopts a 58415

resolution approving the conversion, enter into a contract with 58416
the governing authority of the school under section 3314.03 of the 58417
Revised Code; 58418

(3) Enter into a preliminary agreement with a person or group 58419
proposing the establishment of a new start-up school to be located 58420
in a challenged school district and enter into a contract with the 58421
governing authority of the school under section 3314.03 of the 58422
Revised Code. 58423

(C) An organization approved under division (A) of this 58424
section shall comply with all applicable requirements of this 58425
chapter in the same manner as any other sponsor. 58426

(D) Nothing in this section prohibits a member of an 58427
organization approved under division (A) of this section from 58428
sponsoring a community school on its own in its capacity as an 58429
autonomous entity authorized to sponsor community schools under 58430
section 3314.02 of the Revised Code. 58431

Sec. 3314.03. A copy of every contract entered into under 58432
this section shall be filed with the superintendent of public 58433
instruction. 58434

(A) Each contract entered into between a sponsor and the 58435
governing authority of a community school shall specify the 58436
following: 58437

(1) That the school shall be established as either of the 58438
following: 58439

(a) A nonprofit corporation established under Chapter 1702. 58440
of the Revised Code, if established prior to April 8, 2003; 58441

(b) A public benefit corporation established under Chapter 58442
1702. of the Revised Code, if established after April 8, 2003. 58443

(2) The education program of the school, including the 58444
school's mission, the characteristics of the students the school 58445

is expected to attract, the ages and grades of students, and the focus of the curriculum; 58446
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(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments; 58448
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(4) Performance standards by which the success of the school will be evaluated by the sponsor; 58451
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(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code; 58453
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(6)(a) Dismissal procedures; 58455

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. 58456
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(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves; 58462
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(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code. 58464
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(9) The facilities to be used and their locations; 58470

(10) Qualifications of teachers, including the following: 58471

(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week 58472
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pursuant to section 3319.301 of the Revised Code; 58476

(b) A requirement that each classroom teacher initially hired 58477
by the school on or after July 1, 2013, and employed to provide 58478
instruction in physical education hold a valid license issued 58479
pursuant to section 3319.22 of the Revised Code for teaching 58480
physical education. 58481

(11) That the school will comply with the following 58482
requirements: 58483

(a) The school will provide learning opportunities to a 58484
minimum of twenty-five students for a minimum of nine hundred 58485
twenty hours per school year. 58486

(b) The governing authority will purchase liability 58487
insurance, or otherwise provide for the potential liability of the 58488
school. 58489

(c) The school will be nonsectarian in its programs, 58490
admission policies, employment practices, and all other 58491
operations, and will not be operated by a sectarian school or 58492
religious institution. 58493

(d) The school will comply with sections 9.90, 9.91, 109.65, 58494
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 58495
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 58496
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 58497
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 58498
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 58499
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, ~~3314.817~~ 58500
3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 58501
3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 58502
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 58503
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., 58504
and 4167. of the Revised Code as if it were a school district and 58505
will comply with section 3301.0714 of the Revised Code in the 58506

manner specified in section 3314.17 of the Revised Code. 58507

(e) The school shall comply with Chapter 102. and section 58508
2921.42 of the Revised Code. 58509

(f) The school will comply with sections 3313.61, 3313.611, 58510
and 3313.614 of the Revised Code, except that for students who 58511
enter ninth grade for the first time before July 1, 2010, the 58512
requirement in sections 3313.61 and 3313.611 of the Revised Code 58513
that a person must successfully complete the curriculum in any 58514
high school prior to receiving a high school diploma may be met by 58515
completing the curriculum adopted by the governing authority of 58516
the community school rather than the curriculum specified in Title 58517
XXXIII of the Revised Code or any rules of the state board of 58518
education. Beginning with students who enter ninth grade for the 58519
first time on or after July 1, 2010, the requirement in sections 58520
3313.61 and 3313.611 of the Revised Code that a person must 58521
successfully complete the curriculum of a high school prior to 58522
receiving a high school diploma shall be met by completing the 58523
Ohio core curriculum prescribed in division (C) of section 58524
3313.603 of the Revised Code, unless the person qualifies under 58525
division (D) or (F) of that section. Each school shall comply with 58526
the plan for awarding high school credit based on demonstration of 58527
subject area competency, adopted by the state board of education 58528
under division (J) of section 3313.603 of the Revised Code. 58529

(g) The school governing authority will submit within four 58530
months after the end of each school year a report of its 58531
activities and progress in meeting the goals and standards of 58532
divisions (A)(3) and (4) of this section and its financial status 58533
to the sponsor and the parents of all students enrolled in the 58534
school. 58535

(h) The school, unless it is an internet- or computer-based 58536
community school, will comply with ~~sections 3313.674~~ and section 58537
3313.801 of the Revised Code as if it were a school district. 58538

(12) Arrangements for providing health and other benefits to employees;	58539 58540
(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.	58541 58542 58543 58544
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	58545 58546
(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.	58547 58548 58549 58550 58551 58552 58553 58554 58555 58556 58557 58558
(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;	58559 58560 58561
(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or	58562 58563 58564 58565 58566 58567 58568 58569

any specified group of employees provided the delegation is not 58570
prohibited by a collective bargaining agreement applicable to such 58571
employees; 58572

(18) Provisions establishing procedures for resolving 58573
disputes or differences of opinion between the sponsor and the 58574
governing authority of the community school; 58575

(19) A provision requiring the governing authority to adopt a 58576
policy regarding the admission of students who reside outside the 58577
district in which the school is located. That policy shall comply 58578
with the admissions procedures specified in sections 3314.06 and 58579
3314.061 of the Revised Code and, at the sole discretion of the 58580
authority, shall do one of the following: 58581

(a) Prohibit the enrollment of students who reside outside 58582
the district in which the school is located; 58583

(b) Permit the enrollment of students who reside in districts 58584
adjacent to the district in which the school is located; 58585

(c) Permit the enrollment of students who reside in any other 58586
district in the state. 58587

(20) A provision recognizing the authority of the department 58588
of education to take over the sponsorship of the school in 58589
accordance with the provisions of division (C) of section 3314.015 58590
of the Revised Code; 58591

(21) A provision recognizing the sponsor's authority to 58592
assume the operation of a school under the conditions specified in 58593
division (B) of section 3314.073 of the Revised Code; 58594

(22) A provision recognizing both of the following: 58595

(a) The authority of public health and safety officials to 58596
inspect the facilities of the school and to order the facilities 58597
closed if those officials find that the facilities are not in 58598
compliance with health and safety laws and regulations; 58599

(b) The authority of the department of education as the 58600
community school oversight body to suspend the operation of the 58601
school under section 3314.072 of the Revised Code if the 58602
department has evidence of conditions or violations of law at the 58603
school that pose an imminent danger to the health and safety of 58604
the school's students and employees and the sponsor refuses to 58605
take such action; 58606

(23) A description of the learning opportunities that will be 58607
offered to students including both classroom-based and 58608
non-classroom-based learning opportunities that is in compliance 58609
with criteria for student participation established by the 58610
department under division (L)(2) of section 3314.08 of the Revised 58611
Code; 58612

(24) The school will comply with sections 3302.04 and 58613
3302.041 of the Revised Code, except that any action required to 58614
be taken by a school district pursuant to those sections shall be 58615
taken by the sponsor of the school. However, the sponsor shall not 58616
be required to take any action described in division (F) of 58617
section 3302.04 of the Revised Code. 58618

(25) Beginning in the 2006-2007 school year, the school will 58619
open for operation not later than the thirtieth day of September 58620
each school year, unless the mission of the school as specified 58621
under division (A)(2) of this section is solely to serve dropouts. 58622
In its initial year of operation, if the school fails to open by 58623
the thirtieth day of September, or within one year after the 58624
adoption of the contract pursuant to division (D) of section 58625
3314.02 of the Revised Code if the mission of the school is solely 58626
to serve dropouts, the contract shall be void. 58627

(B) The community school shall also submit to the sponsor a 58628
comprehensive plan for the school. The plan shall specify the 58629
following: 58630

(1) The process by which the governing authority of the school will be selected in the future;	58631 58632
(2) The management and administration of the school;	58633
(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;	58634 58635 58636 58637 58638
(4) The instructional program and educational philosophy of the school;	58639 58640
(5) Internal financial controls.	58641
(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.	58642 58643 58644 58645 58646 58647 58648 58649 58650
(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:	58651 58652 58653 58654 58655
(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	58656 58657
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	58658 58659 58660

(3) Report on an annual basis the results of the evaluation 58661
conducted under division (D)(2) of this section to the department 58662
of education and to the parents of students enrolled in the 58663
community school; 58664

(4) Provide technical assistance to the community school in 58665
complying with laws applicable to the school and terms of the 58666
contract; 58667

(5) Take steps to intervene in the school's operation to 58668
correct problems in the school's overall performance, declare the 58669
school to be on probationary status pursuant to section 3314.073 58670
of the Revised Code, suspend the operation of the school pursuant 58671
to section 3314.072 of the Revised Code, or terminate the contract 58672
of the school pursuant to section 3314.07 of the Revised Code as 58673
determined necessary by the sponsor; 58674

(6) Have in place a plan of action to be undertaken in the 58675
event the community school experiences financial difficulties or 58676
closes prior to the end of a school year. 58677

(E) Upon the expiration of a contract entered into under this 58678
section, the sponsor of a community school may, with the approval 58679
of the governing authority of the school, renew that contract for 58680
a period of time determined by the sponsor, but not ending earlier 58681
than the end of any school year, if the sponsor finds that the 58682
school's compliance with applicable laws and terms of the contract 58683
and the school's progress in meeting the academic goals prescribed 58684
in the contract have been satisfactory. Any contract that is 58685
renewed under this division remains subject to the provisions of 58686
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 58687

(F) If a community school fails to open for operation within 58688
one year after the contract entered into under this section is 58689
adopted pursuant to division (D) of section 3314.02 of the Revised 58690
Code or permanently closes prior to the expiration of the 58691

contract, the contract shall be void and the school shall not 58692
enter into a contract with any other sponsor. A school shall not 58693
be considered permanently closed because the operations of the 58694
school have been suspended pursuant to section 3314.072 of the 58695
Revised Code. ~~Any contract that becomes void under this division~~ 58696
~~shall not count toward any statewide limit on the number of such~~ 58697
~~contracts prescribed by section 3314.013 of the Revised Code.~~ 58698

Sec. 3314.05. (A) The contract between the community school 58699
and the sponsor shall specify the facilities to be used for the 58700
community school and the method of acquisition. Except as provided 58701
in ~~division~~ divisions (B)(3) and (4) of this section, no community 58702
school shall be established in more than one school district under 58703
the same contract. 58704

(B) Division (B) of this section shall not apply to internet- 58705
or computer-based community schools. 58706

(1) A community school may be located in multiple facilities 58707
under the same contract only if the limitations on availability of 58708
space prohibit serving all the grade levels specified in the 58709
contract in a single facility or division (B)(2) ~~or~~, (3), or (4) 58710
of this section applies to the school. The school shall not offer 58711
the same grade level classrooms in more than one facility. 58712

(2) A community school may be located in multiple facilities 58713
under the same contract and, notwithstanding division (B)(1) of 58714
this section, may assign students in the same grade level to 58715
multiple facilities, as long as all of the following apply: 58716

(a) The governing authority of the community school filed a 58717
copy of its contract with the school's sponsor under section 58718
3314.03 of the Revised Code with the superintendent of public 58719
instruction on or before May 15, 2008. 58720

(b) The school was not open for operation prior to July 1, 58721

2008. 58722

(c) The governing authority has entered into and maintains a 58723
contract with an operator of the type described in division 58724
(A)~~(2)~~(8)(b) of section ~~3314.014~~ 3314.02 of the Revised Code. 58725

(d) The contract with that operator qualified the school to 58726
be established pursuant to division (A) of former section 3314.016 58727
of the Revised Code. 58728

(e) The school's rating under section 3302.03 of the Revised 58729
Code does not fall below "in need of continuous improvement" for 58730
two or more consecutive years. 58731

(3) A new start-up community school may be established in two 58732
school districts under the same contract if all of the following 58733
apply: 58734

(a) At least one of the school districts in which the school 58735
is established is a challenged school district; 58736

(b) The school operates not more than one facility in each 58737
school district and, in accordance with division (B)(1) of this 58738
section, the school does not offer the same grade level classrooms 58739
in both facilities; and 58740

(c) Transportation between the two facilities does not 58741
require more than thirty minutes of direct travel time as measured 58742
by school bus. 58743

In the case of a community school to which division (B)(3) of 58744
this section applies, if only one of the school districts in which 58745
the school is established is a challenged school district, that 58746
district shall be considered the school's primary location and the 58747
district in which the school is located for the purposes of 58748
division (A)(19) of section 3314.03 and divisions (C) and (H) of 58749
section 3314.06 of the Revised Code and for all other purposes of 58750
this chapter. If both of the school districts in which the school 58751

is established are challenged school districts, the school's 58752
governing authority shall designate one of those districts to be 58753
considered the school's primary location and the district in which 58754
the school is located for the purposes of those divisions and all 58755
other purposes of this chapter and shall notify the department of 58756
education of that designation. 58757

(4) A community school may be located in multiple facilities 58758
under the same contract and, notwithstanding division (B)(1) of 58759
this section, may assign students in the same grade level to 58760
multiple facilities, as long as both of the following apply: 58761

(a) The facilities are all located in the same county. 58762

(b) The governing authority has entered into and maintains a 58763
contract with an operator. 58764

In the case of a community school to which division (B)(4) of 58765
this section applies and that maintains facilities in more than 58766
one school district, the school's governing authority shall 58767
designate one of those districts to be considered the school's 58768
primary location and the district in which the school is located 58769
for the purposes of division (A)(19) of section 3314.03 and 58770
divisions (C) and (H) of section 3314.06 of the Revised Code and 58771
for all other purposes of this chapter and shall notify the 58772
department of that designation. 58773

(5) Any facility used for a community school shall meet all 58774
health and safety standards established by law for school 58775
buildings. 58776

(C) In the case where a community school is proposed to be 58777
located in a facility owned by a school district or educational 58778
service center, the facility may not be used for such community 58779
school unless the district or service center board owning the 58780
facility enters into an agreement for the community school to 58781
utilize the facility. Use of the facility may be under any terms 58782

and conditions agreed to by the district or service center board 58783
and the school. 58784

(D) Two or more separate community schools may be located in 58785
the same facility. 58786

Sec. 3314.051. (A) When the governing authority of a 58787
community school that acquired real property from a school 58788
district pursuant to former division (G)(2) of section 3313.41 of 58789
the Revised Code decides to dispose of that property, it first 58790
shall offer that property for sale to the school district board of 58791
education from which it acquired the property, at a price that is 58792
not higher than the appraised fair market value of that property. 58793
If the district board does not accept the offer within sixty days 58794
after the offer is made, the community school may dispose of the 58795
property in another lawful manner. 58796

(B) When a community school that acquired real property from 58797
a school district pursuant to former division (G)(2) of section 58798
3313.41 of the Revised Code permanently closes, in distributing 58799
the school's assets under section 3314.074 of the Revised Code, 58800
that property first shall be offered for sale to the school 58801
district board of education from which the community school 58802
acquired the property, at a price that is not higher than the 58803
appraised fair market value of that property. If the district 58804
board does not accept the offer within sixty days after the offer 58805
is made, the property may be disposed in another lawful manner. 58806

Sec. 3314.07. (A) The expiration of the contract for a 58807
community school between a sponsor and a school shall be the date 58808
provided in the contract. A successor contract may be entered into 58809
pursuant to division (E) of section 3314.03 of the Revised Code 58810
unless the contract is terminated or not renewed pursuant to this 58811
section. 58812

(B)(1) A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

(a) Failure to meet student performance requirements stated in the contract;

(b) Failure to meet generally accepted standards of fiscal management;

(c) Violation of any provision of the contract or applicable state or federal law;

(d) Other good cause.

(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.

(3) ~~At least ninety days prior to the termination or nonrenewal of a~~ Not later than the first day of March in the year in which the sponsor intends to terminate or take actions not to renew the community school's contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within ~~seventy~~ fourteen days of the receipt of a request for the hearing. ~~Promptly following~~ Not later than fourteen days after the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.

(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The notice of appeal shall be filed with the state board not later than fourteen days

following receipt of the sponsor's written decision to terminate 58844
the contract. Within sixty days of receipt of the notice of 58845
appeal, the state board shall conduct a hearing and issue a 58846
written decision on the appeal. The written decision of the state 58847
board shall include the reasons for affirming or rescinding the 58848
decision of the sponsor. The decision by the state board 58849
pertaining to an appeal under this division is final. If the 58850
sponsor is the state board, its decision to terminate a contract 58851
under division (B)(3) of this section shall be final. 58852

(5) The termination of a contract under this section shall be 58853
effective upon the occurrence of the later of the following 58854
events: 58855

(a) ~~Ninety days following the~~ The date the sponsor notifies 58856
the school of its decision to terminate the contract as prescribed 58857
in division (B)(3) of this section; 58858

(b) If an informal hearing is requested under division (B)(3) 58859
of this section and as a result of that hearing the sponsor 58860
affirms its decision to terminate the contract, the effective date 58861
of the termination specified in the notice issued under division 58862
(B)(3) of this section, or if that decision is appealed to the 58863
state board under division (B)(4) of this section and the state 58864
board affirms that decision, the date established in the 58865
resolution of the state board affirming the sponsor's decision. 58866

(6) Any community school whose contract is terminated under 58867
division (B) of this section shall close permanently at the end of 58868
the current school year or on a date specified in the notification 58869
of termination under (B)(3) of this section. Any community school 58870
whose contract is terminated under this division shall not enter 58871
into a contract with any other sponsor. 58872

(C) A child attending a community school whose contract has 58873
been terminated, nonrenewed, or suspended or that closes for any 58874

reason shall be admitted to the schools of the district in which 58875
the child is entitled to attend under section 3313.64 or 3313.65 58876
of the Revised Code. Any deadlines established for the purpose of 58877
admitting students under section 3313.97 or 3313.98 of the Revised 58878
Code shall be waived for students to whom this division pertains. 58879

(D) If a community school does not intend to renew a contract 58880
with its sponsor, the community school shall notify its sponsor in 58881
writing of that fact at least one hundred eighty days prior to the 58882
expiration of the contract. Such a community school may enter into 58883
a contract with a new sponsor in accordance with section 3314.03 58884
of the Revised Code upon the expiration of the previous contract. 58885

(E) A sponsor of a community school and the officers, 58886
directors, or employees of such a sponsor are immune from civil 58887
liability for any action authorized under this chapter or the 58888
contract entered into with the school under section 3314.03 of the 58889
Revised Code that is taken to fulfill the sponsor's responsibility 58890
to oversee and monitor the school. The sponsor and its officers, 58891
directors, or employees are not liable in damages in a tort or 58892
other civil action for harm allegedly arising from either of the 58893
following: 58894

(1) A failure of the community school or any of its officers, 58895
directors, or employees to perform any statutory or common law 58896
duty or responsibility or any other legal obligation; 58897

(2) An action or omission of the community school or any of 58898
its officers, directors, or employees that results in harm. 58899

(F) As used in this section: 58900

(1) "Harm" means injury, death, or loss to person or 58901
property. 58902

(2) "Tort action" means a civil action for damages for 58903
injury, death, or loss to person or property other than a civil 58904
action for damages for a breach of contract or another agreement 58905

between persons. 58906

Sec. 3314.08. The deductions under division (C) and the 58907
payments under division (D) of this section for fiscal years ~~2010~~ 58908
2012 and ~~2011~~ 2013 shall be made in accordance with section 58909
3314.088 of the Revised Code. 58910

(A) As used in this section: 58911

(1) "Base formula amount" means the amount specified as such 58912
in a community school's financial plan for a school year pursuant 58913
to division (A)(15) of section 3314.03 of the Revised Code. 58914

(2) "IEP" has the same meaning as in section 3323.01 of the 58915
Revised Code. 58916

(3) "Applicable special education weight" means the multiple 58917
specified in section 3317.013 of the Revised Code for a disability 58918
described in that section. 58919

(4) "Applicable vocational education weight" means: 58920

(a) For a student enrolled in vocational education programs 58921
or classes described in division (A) of section 3317.014 of the 58922
Revised Code, the multiple specified in that division; 58923

(b) For a student enrolled in vocational education programs 58924
or classes described in division (B) of section 3317.014 of the 58925
Revised Code, the multiple specified in that division. 58926

(5) "Entitled to attend school" means entitled to attend 58927
school in a district under section 3313.64 or 3313.65 of the 58928
Revised Code. 58929

(6) A community school student is "included in the poverty 58930
student count" of a school district if the student is entitled to 58931
attend school in the district and the student's family receives 58932
assistance under the Ohio works first program. 58933

(7) "Poverty-based assistance reduction factor" means the 58934

percentage figure, if any, for reducing the per pupil amount of 58935
poverty-based assistance a community school is entitled to receive 58936
pursuant to divisions (D)(5) to (9) of this section in any year, 58937
as specified in the school's financial plan for the year pursuant 58938
to division (A)(15) of section 3314.03 of the Revised Code. 58939

(8) "All-day kindergarten" has the same meaning as in section 58940
~~3317.029~~ 3321.05 of the Revised Code. 58941

(9) "State education aid" has the same meaning as in section 58942
5751.20 of the Revised Code. 58943

(B) The state board of education shall adopt rules requiring 58944
both of the following: 58945

(1) The board of education of each city, exempted village, 58946
and local school district to annually report the number of 58947
students entitled to attend school in the district who are 58948
enrolled in grades one through twelve in a community school 58949
established under this chapter, the number of students entitled to 58950
attend school in the district who are enrolled in kindergarten in 58951
a community school, the number of those kindergartners who are 58952
enrolled in all-day kindergarten in their community school, and 58953
for each child, the community school in which the child is 58954
enrolled. 58955

(2) The governing authority of each community school 58956
established under this chapter to annually report all of the 58957
following: 58958

(a) The number of students enrolled in grades one through 58959
twelve and the number of students enrolled in kindergarten in the 58960
school who are not receiving special education and related 58961
services pursuant to an IEP; 58962

(b) The number of enrolled students in grades one through 58963
twelve and the number of enrolled students in kindergarten, who 58964
are receiving special education and related services pursuant to 58965

an IEP;	58966
(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;	58967 58968 58969 58970
(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;	58971 58972 58973 58974 58975
(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational <u>school</u> district;	58976 58977 58978 58979 58980 58981 58982 58983 58984 58985
(f) The number of enrolled preschool children with disabilities receiving special education services in a state-funded unit;	58986 58987 58988
(g) The community school's base formula amount;	58989
(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;	58990 58991
(i) Any poverty-based assistance reduction factor that applies to a school year.	58992 58993
(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from	58994 58995

the payment made to the district under sections 321.24 and 323.156 58996
of the Revised Code, the department of education shall annually 58997
subtract the sum of the amounts described in divisions (C)(1) to 58998
(9) of this section. However, when deducting payments on behalf of 58999
students enrolled in internet- or computer-based community 59000
schools, the department shall deduct only those amounts described 59001
in divisions (C)(1) and (2) of this section. Furthermore, the 59002
aggregate amount deducted under this division shall not exceed the 59003
sum of the district's state education aid and its payment under 59004
sections 321.24 and 323.156 of the Revised Code. 59005

(1) An amount equal to the sum of the amounts obtained when, 59006
for each community school where the district's students are 59007
enrolled, the number of the district's students reported under 59008
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 59009
in grades one through twelve, and one-half the number of students 59010
reported under those divisions who are enrolled in kindergarten, 59011
in that community school is multiplied by the sum of the base 59012
formula amount of that community school plus the per pupil amount 59013
of the base funding supplements specified in divisions (C)(1) to 59014
(4) of section 3317.012 of the Revised Code. 59015

(2) The sum of the amounts calculated under divisions 59016
(C)(2)(a) and (b) of this section: 59017

(a) For each of the district's students reported under 59018
division (B)(2)(c) of this section as enrolled in a community 59019
school in grades one through twelve and receiving special 59020
education and related services pursuant to an IEP for a disability 59021
described in section 3317.013 of the Revised Code, the product of 59022
the applicable special education weight times the community 59023
school's base formula amount; 59024

(b) For each of the district's students reported under 59025
division (B)(2)(c) of this section as enrolled in kindergarten in 59026
a community school and receiving special education and related 59027

services pursuant to an IEP for a disability described in section 59028
3317.013 of the Revised Code, one-half of the amount calculated as 59029
prescribed in division (C)(2)(a) of this section. 59030

(3) For each of the district's students reported under 59031
division (B)(2)(d) of this section for whom payment is made under 59032
division (D)(4) of this section, the amount of that payment; 59033

(4) An amount equal to the sum of the amounts obtained when, 59034
for each community school where the district's students are 59035
enrolled, the number of the district's students enrolled in that 59036
community school who are included in the district's poverty 59037
student count is multiplied by the per pupil amount of 59038
poverty-based assistance the school district receives that year 59039
pursuant to division (C) of section 3317.029 of the Revised Code, 59040
as adjusted by any poverty-based assistance reduction factor of 59041
that community school. The per pupil amount of that aid for the 59042
district shall be calculated by the department. 59043

(5) An amount equal to the sum of the amounts obtained when, 59044
for each community school where the district's students are 59045
enrolled, the district's per pupil amount of aid received under 59046
division (E) of section 3317.029 of the Revised Code, as adjusted 59047
by any poverty-based assistance reduction factor of the community 59048
school, is multiplied by the sum of the following: 59049

(a) The number of the district's students reported under 59050
division (B)(2)(a) of this section who are enrolled in grades one 59051
to three in that community school and who are not receiving 59052
special education and related services pursuant to an IEP; 59053

(b) One-half of the district's students who are enrolled in 59054
all-day or any other kindergarten class in that community school 59055
and who are not receiving special education and related services 59056
pursuant to an IEP; 59057

(c) One-half of the district's students who are enrolled in 59058

all-day kindergarten in that community school and who are not 59059
receiving special education and related services pursuant to an 59060
IEP. 59061

The district's per pupil amount of aid under division (E) of 59062
section 3317.029 of the Revised Code is the quotient of the amount 59063
the district received under that division divided by the 59064
district's kindergarten through third grade ADM, as defined in 59065
that section. 59066

(6) An amount equal to the sum of the amounts obtained when, 59067
for each community school where the district's students are 59068
enrolled, the district's per pupil amount received under division 59069
(F) of section 3317.029 of the Revised Code, as adjusted by any 59070
poverty-based assistance reduction factor of that community 59071
school, is multiplied by the number of the district's students 59072
enrolled in the community school who are identified as 59073
limited-English proficient. 59074

(7) An amount equal to the sum of the amounts obtained when, 59075
for each community school where the district's students are 59076
enrolled, the district's per pupil amount received under division 59077
(G) of section 3317.029 of the Revised Code, as adjusted by any 59078
poverty-based assistance reduction factor of that community 59079
school, is multiplied by the sum of the following: 59080

(a) The number of the district's students enrolled in grades 59081
one through twelve in that community school; 59082

(b) One-half of the number of the district's students 59083
enrolled in kindergarten in that community school. 59084

The district's per pupil amount under division (G) of section 59085
3317.029 of the Revised Code is the district's amount per teacher 59086
calculated under division (G)(1) or (2) of that section divided by 59087
17. 59088

(8) An amount equal to the sum of the amounts obtained when, 59089

for each community school where the district's students are 59090
enrolled, the district's per pupil amount received under divisions 59091
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 59092
by any poverty-based assistance reduction factor of that community 59093
school, is multiplied by the sum of the following: 59094

(a) The number of the district's students enrolled in grades 59095
one through twelve in that community school; 59096

(b) One-half of the number of the district's students 59097
enrolled in kindergarten in that community school. 59098

The district's per pupil amount under divisions (H) and (I) 59099
of section 3317.029 of the Revised Code is the amount calculated 59100
under each division divided by the district's formula ADM, as 59101
defined in section 3317.02 of the Revised Code. 59102

(9) An amount equal to the per pupil state parity aid funding 59103
calculated for the school district under either division (C) or 59104
(D) of section 3317.0217 of the Revised Code multiplied by the sum 59105
of the number of students in grades one through twelve, and 59106
one-half of the number of students in kindergarten, who are 59107
entitled to attend school in the district and are enrolled in a 59108
community school as reported under division (B)(1) of this 59109
section. 59110

(D) The department shall annually pay to a community school 59111
established under this chapter the sum of the amounts described in 59112
divisions (D)(1) to (10) of this section. However, the department 59113
shall calculate and pay to each internet- or computer-based 59114
community school only the amounts described in divisions (D)(1) to 59115
(3) of this section. Furthermore, the sum of the payments to all 59116
community schools under divisions (D)(1), (2), and (4) to (10) of 59117
this section for the students entitled to attend school in any 59118
particular school district shall not exceed the sum of that 59119
district's state education aid and its payment under sections 59120

321.24 and 323.156 of the Revised Code. If the sum of the payments 59121
calculated under those divisions for the students entitled to 59122
attend school in a particular school district exceeds the sum of 59123
that district's state education aid and its payment under sections 59124
321.24 and 323.156 of the Revised Code, the department shall 59125
calculate and apply a proration factor to the payments to all 59126
community schools under those divisions for the students entitled 59127
to attend school in that district. 59128

~~(1) Subject to section 3314.085 of the Revised Code, an An 59129
amount equal to the sum of the amounts obtained when the number of 59130
students enrolled in grades one through twelve, plus one-half of 59131
the kindergarten students in the school, reported under divisions 59132
(B)(2)(a), (b), and (e) of this section who are not receiving 59133
special education and related services pursuant to an IEP for a 59134
disability described in section 3317.013 of the Revised Code is 59135
multiplied by the sum of the community school's base formula 59136
amount plus the per pupil amount of the base funding supplements 59137
specified in divisions (C)(1) to (4) of section 3317.012 of the 59138
Revised Code. 59139~~

~~(2) Prior to fiscal year 2007, the greater of the amount 59140
calculated under division (D)(2)(a) or (b) of this section, and in 59141
fiscal year 2007 and thereafter, the amount calculated under 59142
division (D)(2)(b) of this section: 59143~~

~~(a) The aggregate amount that the department paid to the 59144
community school in fiscal year 1999 for students receiving 59145
special education and related services pursuant to IEPs, excluding 59146
federal funds and state disadvantaged pupil impact aid funds; 59147~~

~~(b) The sum of the following amounts calculated under 59148
divisions (D)(2)(b)(i) and (ii) of this section: 59149~~

~~(i)(a) For each student reported under division (B)(2)(c) of 59150
this section as enrolled in the school in grades one through 59151~~

twelve and receiving special education and related services 59152
pursuant to an IEP for a disability described in section 3317.013 59153
of the Revised Code, the following amount: 59154
 (the school's base formula amount plus 59155
the per pupil amount of the base funding supplements specified in 59156
divisions (C)(1) to (4) of section 3317.012 of the Revised Code) 59157
 + (the applicable special education weight X the 59158
community school's base formula amount); 59159

~~(ii)~~(b) For each student reported under division (B)(2)(c) of 59160
this section as enrolled in kindergarten and receiving special 59161
education and related services pursuant to an IEP for a disability 59162
described in section 3317.013 of the Revised Code, one-half of the 59163
amount calculated under the formula prescribed in division 59164
(D)(2)~~(b)~~~~(i)~~(a) of this section. 59165

(3) An amount received from federal funds to provide special 59166
education and related services to students in the community 59167
school, as determined by the superintendent of public instruction. 59168

(4) For each student reported under division (B)(2)(d) of 59169
this section as enrolled in vocational education programs or 59170
classes that are described in section 3317.014 of the Revised 59171
Code, are provided by the community school, and are comparable as 59172
determined by the superintendent of public instruction to school 59173
district vocational education programs and classes eligible for 59174
state weighted funding under section 3317.014 of the Revised Code, 59175
an amount equal to the applicable vocational education weight 59176
times the community school's base formula amount times the 59177
percentage of time the student spends in the vocational education 59178
programs or classes. 59179

(5) An amount equal to the sum of the amounts obtained when, 59180
for each school district where the community school's students are 59181
entitled to attend school, the number of that district's students 59182
enrolled in the community school who are included in the 59183

district's poverty student count is multiplied by the per pupil 59184
amount of poverty-based assistance that school district receives 59185
that year pursuant to division (C) of section 3317.029 of the 59186
Revised Code, as adjusted by any poverty-based assistance 59187
reduction factor of the community school. The per pupil amount of 59188
aid shall be determined as described in division (C)(4) of this 59189
section. 59190

(6) An amount equal to the sum of the amounts obtained when, 59191
for each school district where the community school's students are 59192
entitled to attend school, the district's per pupil amount of aid 59193
received under division (E) of section 3317.029 of the Revised 59194
Code, as adjusted by any poverty-based assistance reduction factor 59195
of the community school, is multiplied by the sum of the 59196
following: 59197

(a) The number of the district's students reported under 59198
division (B)(2)(a) of this section who are enrolled in grades one 59199
to three in that community school and who are not receiving 59200
special education and related services pursuant to an IEP; 59201

(b) One-half of the district's students who are enrolled in 59202
all-day or any other kindergarten class in that community school 59203
and who are not receiving special education and related services 59204
pursuant to an IEP; 59205

(c) One-half of the district's students who are enrolled in 59206
all-day kindergarten in that community school and who are not 59207
receiving special education and related services pursuant to an 59208
IEP. 59209

The district's per pupil amount of aid under division (E) of 59210
section 3317.029 of the Revised Code shall be determined as 59211
described in division (C)(5) of this section. 59212

(7) An amount equal to the sum of the amounts obtained when, 59213
for each school district where the community school's students are 59214

entitled to attend school, the number of that district's students 59215
enrolled in the community school who are identified as 59216
limited-English proficient is multiplied by the district's per 59217
pupil amount received under division (F) of section 3317.029 of 59218
the Revised Code, as adjusted by any poverty-based assistance 59219
reduction factor of the community school. 59220

(8) An amount equal to the sum of the amounts obtained when, 59221
for each school district where the community school's students are 59222
entitled to attend school, the district's per pupil amount 59223
received under division (G) of section 3317.029 of the Revised 59224
Code, as adjusted by any poverty-based assistance reduction factor 59225
of the community school, is multiplied by the sum of the 59226
following: 59227

(a) The number of the district's students enrolled in grades 59228
one through twelve in that community school; 59229

(b) One-half of the number of the district's students 59230
enrolled in kindergarten in that community school. 59231

The district's per pupil amount under division (G) of section 59232
3317.029 of the Revised Code shall be determined as described in 59233
division (C)(7) of this section. 59234

(9) An amount equal to the sum of the amounts obtained when, 59235
for each school district where the community school's students are 59236
entitled to attend school, the district's per pupil amount 59237
received under divisions (H) and (I) of section 3317.029 of the 59238
Revised Code, as adjusted by any poverty-based assistance 59239
reduction factor of the community school, is multiplied by the sum 59240
of the following: 59241

(a) The number of the district's students enrolled in grades 59242
one through twelve in that community school; 59243

(b) One-half of the number of the district's students 59244
enrolled in kindergarten in that community school. 59245

The district's per pupil amount under divisions (H) and (I) 59246
of section 3317.029 of the Revised Code shall be determined as 59247
described in division (C)(8) of this section. 59248

(10) An amount equal to the sum of the amounts obtained when, 59249
for each school district where the community school's students are 59250
entitled to attend school, the district's per pupil amount of 59251
state parity aid funding calculated under either division (C) or 59252
(D) of section 3317.0217 of the Revised Code is multiplied by the 59253
sum of the number of that district's students enrolled in grades 59254
one through twelve, and one-half of the number of that district's 59255
students enrolled in kindergarten, in the community school as 59256
reported under ~~division~~ divisions (B)(2)(a) and (b) of this 59257
section. 59258

(E)(1) If a community school's costs for a fiscal year for a 59259
student receiving special education and related services pursuant 59260
to an IEP for a disability described in divisions (B) to (F) of 59261
section 3317.013 of the Revised Code exceed the threshold 59262
catastrophic cost for serving the student as specified in division 59263
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 59264
submit to the superintendent of public instruction documentation, 59265
as prescribed by the superintendent, of all its costs for that 59266
student. Upon submission of documentation for a student of the 59267
type and in the manner prescribed, the department shall pay to the 59268
community school an amount equal to the school's costs for the 59269
student in excess of the threshold catastrophic costs. 59270

(2) The community school shall only report under division 59271
(E)(1) of this section, and the department shall only pay for, the 59272
costs of educational expenses and the related services provided to 59273
the student in accordance with the student's individualized 59274
education program. Any legal fees, court costs, or other costs 59275
associated with any cause of action relating to the student may 59276
not be included in the amount. 59277

(F) A community school may apply to the department of 59278
education for preschool children with disabilities ~~or-gifted~~ unit 59279
funding the school would receive if it were a school district. 59280
Upon request of its governing authority, a community school that 59281
received such unit funding as a school district-operated school 59282
before it became a community school shall retain any units awarded 59283
to it as a school district-operated school provided the school 59284
continues to meet eligibility standards for the unit. 59285

A community school shall be considered a school district and 59286
its governing authority shall be considered a board of education 59287
for the purpose of applying to any state or federal agency for 59288
grants that a school district may receive under federal or state 59289
law or any appropriations act of the general assembly. The 59290
governing authority of a community school may apply to any private 59291
entity for additional funds. 59292

(G) A board of education sponsoring a community school may 59293
utilize local funds to make enhancement grants to the school or 59294
may agree, either as part of the contract or separately, to 59295
provide any specific services to the community school at no cost 59296
to the school. 59297

(H) A community school may not levy taxes or issue bonds 59298
secured by tax revenues. 59299

(I) No community school shall charge tuition for the 59300
enrollment of any student. 59301

(J)(1)(a) A community school may borrow money to pay any 59302
necessary and actual expenses of the school in anticipation of the 59303
receipt of any portion of the payments to be received by the 59304
school pursuant to division (D) of this section. The school may 59305
issue notes to evidence such borrowing. The proceeds of the notes 59306
shall be used only for the purposes for which the anticipated 59307
receipts may be lawfully expended by the school. 59308

(b) A school may also borrow money for a term not to exceed 59309
fifteen years for the purpose of acquiring facilities. 59310

(2) Except for any amount guaranteed under section 3318.50 of 59311
the Revised Code, the state is not liable for debt incurred by the 59312
governing authority of a community school. 59313

(K) For purposes of determining the number of students for 59314
which divisions (D)(5) and (6) of this section applies in any 59315
school year, a community school may submit to the department of 59316
job and family services, no later than the first day of March, a 59317
list of the students enrolled in the school. For each student on 59318
the list, the community school shall indicate the student's name, 59319
address, and date of birth and the school district where the 59320
student is entitled to attend school. Upon receipt of a list under 59321
this division, the department of job and family services shall 59322
determine, for each school district where one or more students on 59323
the list is entitled to attend school, the number of students 59324
residing in that school district who were included in the 59325
department's report under section 3317.10 of the Revised Code. The 59326
department shall make this determination on the basis of 59327
information readily available to it. Upon making this 59328
determination and no later than ninety days after submission of 59329
the list by the community school, the department shall report to 59330
the state department of education the number of students on the 59331
list who reside in each school district who were included in the 59332
department's report under section 3317.10 of the Revised Code. In 59333
complying with this division, the department of job and family 59334
services shall not report to the state department of education any 59335
personally identifiable information on any student. 59336

(L) The department of education shall adjust the amounts 59337
subtracted and paid under divisions (C) and (D) of this section to 59338
reflect any enrollment of students in community schools for less 59339
than the equivalent of a full school year. The state board of 59340

education within ninety days after April 8, 2003, shall adopt in 59341
accordance with Chapter 119. of the Revised Code rules governing 59342
the payments to community schools under this section and section 59343
3314.13 of the Revised Code including initial payments in a school 59344
year and adjustments and reductions made in subsequent periodic 59345
payments to community schools and corresponding deductions from 59346
school district accounts as provided under divisions (C) and (D) 59347
of this section and section 3314.13 of the Revised Code. For 59348
purposes of this section and section 3314.13 of the Revised Code: 59349

(1) A student shall be considered enrolled in the community 59350
school for any portion of the school year the student is 59351
participating at a college under Chapter 3365. of the Revised 59352
Code. 59353

(2) A student shall be considered to be enrolled in a 59354
community school ~~during a school year~~ for the period of time 59355
beginning on the later of the date on which the school both has 59356
received documentation of the student's enrollment from a parent 59357
and the student has commenced participation in learning 59358
opportunities as defined in the contract with the sponsor, or 59359
thirty days prior to the date on which the student is entered into 59360
the education management information system established under 59361
section 3301.0714 of the Revised Code. For purposes of applying 59362
this division and divisions (L)(3) and (4) of this section to a 59363
community school student, "learning opportunities" shall be 59364
defined in the contract, which shall describe both classroom-based 59365
and non-classroom-based learning opportunities and shall be in 59366
compliance with criteria and documentation requirements for 59367
student participation which shall be established by the 59368
department. Any student's instruction time in non-classroom-based 59369
learning opportunities shall be certified by an employee of the 59370
community school. A student's enrollment shall be considered to 59371
cease on the date on which any of the following occur: 59372

(a) The community school receives documentation from a parent terminating enrollment of the student.	59373 59374
(b) The community school is provided documentation of a student's enrollment in another public or private school.	59375 59376
(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.	59377 59378 59379 59380
(3) The department shall determine each community school student's percentage of full-time equivalency based on the percentage of learning opportunities offered by the community school to that student, reported either as number of hours or number of days, is of the total learning opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year.	59381 59382 59383 59384 59385 59386 59387 59388 59389 59390 59391 59392 59393
(4) With respect to the calculation of full-time equivalency under division (L)(3) of this section, the department shall waive the number of hours or days of learning opportunities not offered to a student because the community school was closed during the school year due to disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, so long as the school was actually open for instruction with students in attendance during that school year for not less than the minimum number of hours	59394 59395 59396 59397 59398 59399 59400 59401 59402 59403 59404

required by this chapter. The department shall treat the school as 59405
if it were open for instruction with students in attendance during 59406
the hours or days waived under this division. 59407

(M) The department of education shall reduce the amounts paid 59408
under division (D) of this section to reflect payments made to 59409
colleges under division (B) of section 3365.07 of the Revised Code 59410
or through alternative funding agreements entered into under rules 59411
adopted under section 3365.12 of the Revised Code. 59412

(N)(1) No student shall be considered enrolled in any 59413
internet- or computer-based community school or, if applicable to 59414
the student, in any community school that is required to provide 59415
the student with a computer pursuant to division (C) of section 59416
3314.22 of the Revised Code, unless both of the following 59417
conditions are satisfied: 59418

(a) The student possesses or has been provided with all 59419
required hardware and software materials and all such materials 59420
are operational so that the student is capable of fully 59421
participating in the learning opportunities specified in the 59422
contract between the school and the school's sponsor as required 59423
by division (A)(23) of section 3314.03 of the Revised Code; 59424

(b) The school is in compliance with division (A) of section 59425
3314.22 of the Revised Code, relative to such student. 59426

(2) In accordance with policies adopted jointly by the 59427
superintendent of public instruction and the auditor of state, the 59428
department shall reduce the amounts otherwise payable under 59429
division (D) of this section to any community school that includes 59430
in its program the provision of computer hardware and software 59431
materials to any student, if such hardware and software materials 59432
have not been delivered, installed, and activated for each such 59433
student in a timely manner or other educational materials or 59434
services have not been provided according to the contract between 59435

the individual community school and its sponsor. 59436

The superintendent of public instruction and the auditor of 59437
state shall jointly establish a method for auditing any community 59438
school to which this division pertains to ensure compliance with 59439
this section. 59440

The superintendent, auditor of state, and the governor shall 59441
jointly make recommendations to the general assembly for 59442
legislative changes that may be required to assure fiscal and 59443
academic accountability for such schools. 59444

(O)(1) If the department determines that a review of a 59445
community school's enrollment is necessary, such review shall be 59446
completed and written notice of the findings shall be provided to 59447
the governing authority of the community school and its sponsor 59448
within ninety days of the end of the community school's fiscal 59449
year, unless extended for a period not to exceed thirty additional 59450
days for one of the following reasons: 59451

(a) The department and the community school mutually agree to 59452
the extension. 59453

(b) Delays in data submission caused by either a community 59454
school or its sponsor. 59455

(2) If the review results in a finding that additional 59456
funding is owed to the school, such payment shall be made within 59457
thirty days of the written notice. If the review results in a 59458
finding that the community school owes moneys to the state, the 59459
following procedure shall apply: 59460

(a) Within ten business days of the receipt of the notice of 59461
findings, the community school may appeal the department's 59462
determination to the state board of education or its designee. 59463

(b) The board or its designee shall conduct an informal 59464
hearing on the matter within thirty days of receipt of such an 59465

appeal and shall issue a decision within fifteen days of the 59466
conclusion of the hearing. 59467

(c) If the board has enlisted a designee to conduct the 59468
hearing, the designee shall certify its decision to the board. The 59469
board may accept the decision of the designee or may reject the 59470
decision of the designee and issue its own decision on the matter. 59471

(d) Any decision made by the board under this division is 59472
final. 59473

(3) If it is decided that the community school owes moneys to 59474
the state, the department shall deduct such amount from the 59475
school's future payments in accordance with guidelines issued by 59476
the superintendent of public instruction. 59477

(P) The department shall not subtract from a school 59478
district's state aid account under division (C) of this section 59479
and shall not pay to a community school under division (D) of this 59480
section any amount for any of the following: 59481

(1) Any student who has graduated from the twelfth grade of a 59482
public or nonpublic high school; 59483

(2) Any student who is not a resident of the state; 59484

(3) Any student who was enrolled in the community school 59485
during the previous school year when assessments were administered 59486
under section 3301.0711 of the Revised Code but did not take one 59487
or more of the assessments required by that section and was not 59488
excused pursuant to division (C)(1) or (3) of that section, unless 59489
the superintendent of public instruction grants the student a 59490
waiver from the requirement to take the assessment and a parent is 59491
not paying tuition for the student pursuant to section 3314.26 of 59492
the Revised Code. The superintendent may grant a waiver only for 59493
good cause in accordance with rules adopted by the state board of 59494
education. 59495

(4) Any student who has attained the age of twenty-two years, 59496
except for veterans of the armed services whose attendance was 59497
interrupted before completing the recognized twelve-year course of 59498
the public schools by reason of induction or enlistment in the 59499
armed forces and who apply for enrollment in a community school 59500
not later than four years after termination of war or their 59501
honorable discharge. If, however, any such veteran elects to 59502
enroll in special courses organized for veterans for whom tuition 59503
is paid under federal law, or otherwise, the department shall not 59504
subtract from a school district's state aid account under division 59505
(C) of this section and shall not pay to a community school under 59506
division (D) of this section any amount for that veteran. 59507

Sec. 3314.087. (A) As used in this section: 59508

(1) "Career-technical program" means vocational programs or 59509
classes described in division (A) or (B) of section 3317.014 of 59510
the Revised Code in which a student is enrolled. 59511

(2) "Formula ADM," "category one or two vocational education 59512
ADM," and "FTE basis" have the same meanings as in section 3317.02 59513
of the Revised Code. 59514

(3) "Resident school district" means the city, exempted 59515
village, or local school district in which a student is entitled 59516
to attend school under section 3313.64 or 3313.65 of the Revised 59517
Code. 59518

(B) Notwithstanding anything to the contrary in this chapter 59519
or Chapter ~~3306~~ or 3317. of the Revised Code, a student enrolled 59520
in a community school may simultaneously enroll in the 59521
career-technical program operated by the student's resident school 59522
district. On an FTE basis, the student's resident school district 59523
shall count the student in the category one or two vocational 59524
education ADM for the proportion of the time the student is 59525
enrolled in the district's career-technical program and, 59526

accordingly, the department of education shall calculate funds 59527
under ~~Chapters 3306.~~ and Chapter 3317. for the district 59528
attributable to the student for the proportion of time the student 59529
attends the career-technical program. The community school shall 59530
count the student in its enrollment report under section 3314.08 59531
of the Revised Code and shall report to the department the 59532
proportion of time that the student attends classes at the 59533
community school. The department shall pay the community school 59534
and deduct from the student's resident school district the amount 59535
computed for the student under section 3314.08 of the Revised Code 59536
in proportion to the fraction of the time on an FTE basis that the 59537
student attends classes at the community school. "Full-time 59538
equivalency" for a community school student, as defined in 59539
division (L) of section 3314.08 of the Revised Code, does not 59540
apply to the student. 59541

Sec. 3314.088. ~~(A)~~ For purposes of applying sections 3314.08 59542
and 3314.13 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 59543
2013: 59544

~~(1)~~(A) The base formula amount for community schools for each 59545
of fiscal year 2010 is \$5,718 and for fiscal year 2011 is \$5,703. 59546
These respective amounts years 2012 and 2013 is \$5,653. That 59547
amount shall be applied wherein sections 3314.08 and 3314.13 of 59548
the Revised Code the base formula amount is specified, except for 59549
deducting and paying amounts for special education weighted 59550
funding and vocational education weighted funding. 59551

~~(2)~~(B) The base funding supplements under section 3317.012 of 59552
the Revised Code shall be deemed in each year to be the amounts 59553
specified in that section for fiscal year 2009. Accordingly, when 59554
computing the per-pupil base funding supplements for a community 59555
school under that section for fiscal years 2012 and 2013, the 59556
department of education shall substitute \$5,732 for the "formula 59557

amount" as used in divisions (C)(2), (3), and (4) of that section. 59558

~~(3)(C)~~ Special education additional weighted funding shall be 59559
calculated by first grouping children with disabilities into the 59560
appropriate disability categories prescribed by section 3317.013 59561
of the Revised Code as amended by H.B. 153 of the 129th general 59562
assembly, and then by multiplying the applicable weight respective 59563
multiple specified for fiscal year 2009 in that section 3317.013 59564
of the Revised Code, as it existed for that fiscal year 2009, 59565
times \$5,732. 59566

~~(4)(D)~~ Vocational education additional weighted funding shall 59567
be calculated by multiplying the applicable weight specified in 59568
section 3317.014 of the Revised Code for fiscal year 2009 times 59569
\$5,732. 59570

~~(5)(E)~~ The per pupil amounts paid to a school district under 59571
sections 3317.029 and 3317.0217 of the Revised Code shall be 59572
deemed to be the respective per pupil amounts paid under those 59573
sections to that district for fiscal year 2009. 59574

~~(6)(F)~~ A community school may receive all-day kindergarten 59575
payments under section 3314.13 of the Revised Code only for 59576
all-day kindergarten students who are entitled to attend school in 59577
school districts that, for fiscal year 2009, met the eligibility 59578
requirements of division (D) of section 3317.029 of the Revised 59579
Code. For students entitled to attend school in such school 59580
districts that actually received payment for all-day kindergarten 59581
for fiscal year 2009, the payments to community schools under 59582
section 3314.13 of the Revised Code shall be deducted from the 59583
school district's state education aid. For students entitled to 59584
attend school in such school districts that did not receive 59585
payment for all-day kindergarten for fiscal year 2009, the 59586
payments to community schools under section 3314.13 of the Revised 59587
Code shall be paid out of the funds appropriated under 59588
appropriation item 200550, foundation funding, ~~as appropriated in~~ 59589

~~section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly.~~ 59590

As used in this division, "entitled to attend school" has the same 59591

meaning as in section 3314.08 of the Revised Code. 59592

~~(B) For purposes of applying section 3314.085 of the Revised 59593~~

~~Code to fiscal years 2010 and 2011, the minimum per pupil 59594~~

~~expenditure required for pupil instruction under that section is 59595~~

~~\$2,931, which equals the minimum amount required by that section 59596~~

~~for fiscal year 2009.~~ 59597

Sec. 3314.091. (A) A school district is not required to 59598

provide transportation for any native student enrolled in a 59599

community school if the district board of education has entered 59600

into an agreement with the community school's governing authority 59601

that designates the community school as responsible for providing 59602

or arranging for the transportation of the district's native 59603

students to and from the community school. For any such agreement 59604

to be effective, it must be certified by the superintendent of 59605

public instruction as having met all of the following 59606

requirements: 59607

(1) It is submitted to the department of education by a 59608

deadline which shall be established by the department. 59609

(2) In accordance with divisions (C)(1) and (2) of this 59610

section, it specifies qualifications, such as residing a minimum 59611

distance from the school, for students to have their 59612

transportation provided or arranged. 59613

(3) The transportation provided by the community school is 59614

subject to all provisions of the Revised Code and all rules 59615

adopted under the Revised Code pertaining to pupil transportation. 59616

(4) The sponsor of the community school also has signed the 59617

agreement. 59618

(B)(1) For the school year that begins on July 1, 2007, a 59619

school district is not required to provide transportation for any 59620
native student enrolled in a community school, if the community 59621
school during the previous school year transported the students 59622
enrolled in the school or arranged for the students' 59623
transportation, even if that arrangement consisted of having 59624
parents transport their children to and from the school, but did 59625
not enter into an agreement to transport or arrange for 59626
transportation for those students under division (A) of this 59627
section, and if the governing authority of the community school by 59628
July 15, 2007, submits written notification to the district board 59629
of education stating that the governing authority is accepting 59630
responsibility for providing or arranging for the transportation 59631
of the district's native students to and from the community 59632
school. 59633

(2) For any school year subsequent to the school year that 59634
begins on July 1, 2007, a school district is not required to 59635
provide transportation for any native student enrolled in a 59636
community school if the governing authority of the community 59637
school, by the thirty-first day of January of the previous school 59638
year, submits written notification to the district board of 59639
education stating that the governing authority is accepting 59640
responsibility for providing or arranging for the transportation 59641
of the district's native students to and from the community 59642
school. If the governing authority of the community school has 59643
previously accepted responsibility for providing or arranging for 59644
the transportation of a district's native students to and from the 59645
community school, under division (B)(1) or (2) of this section, 59646
and has since relinquished that responsibility under division 59647
(B)(3) of this section, the governing authority shall not accept 59648
that responsibility again unless the district board consents to 59649
the governing authority's acceptance of that responsibility. 59650

(3) A governing authority's acceptance of responsibility 59651

under division (B)(1) or (2) of this section shall cover an entire 59652
school year, and shall remain in effect for subsequent school 59653
years unless the governing authority submits written notification 59654
to the district board that the governing authority is 59655
relinquishing the responsibility. However, a governing authority 59656
shall not relinquish responsibility for transportation before the 59657
end of a school year, and shall submit the notice relinquishing 59658
responsibility by the thirty-first day of January, in order to 59659
allow the school district reasonable time to prepare 59660
transportation for its native students enrolled in the school. 59661

(C)(1) A community school governing authority that enters 59662
into an agreement under division (A) of this section, or that 59663
accepts responsibility under division (B) of this section, shall 59664
provide or arrange transportation free of any charge for each of 59665
its enrolled students who is required to be transported under 59666
section 3327.01 of the Revised Code or who would otherwise be 59667
transported by the school district under the district's 59668
transportation policy. The governing authority shall report to the 59669
department of education the number of students transported or for 59670
whom transportation is arranged under this section in accordance 59671
with rules adopted by the state board of education. 59672

(2) The governing authority may provide or arrange 59673
transportation for any other enrolled student who is not eligible 59674
for transportation in accordance with division (C)(1) of this 59675
section and may charge a fee for such service up to the actual 59676
cost of the service. 59677

(3) Notwithstanding anything to the contrary in division 59678
(C)(1) or (2) of this section, a community school governing 59679
authority shall provide or arrange transportation free of any 59680
charge for any disabled student enrolled in the school for whom 59681
the student's individualized education program developed under 59682
Chapter 3323. of the Revised Code specifies transportation. 59683

(D)(1) If a school district board and a community school governing authority elect to enter into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation ADM for the current fiscal year, as reported under division (B)(13) of section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with section ~~3306.12~~ 3317.0212 of the Revised Code and any rules of the state board of education

implementing that section, the payment to the community school 59715
shall be the amount so calculated that otherwise would be paid to 59716
the school district in which the student is entitled to attend 59717
school by the method of transportation the district would have 59718
used. The community school, however, is not required to use the 59719
same method to transport that student. 59720

(c) Divisions (D)(1)(a) and (b) of this section do not apply 59721
to fiscal years 2012 and 2013. Rather, for each of those fiscal 59722
years, the per pupil payment to a community school for 59723
transporting a student shall be the total amount paid under former 59724
section 3306.12 of the Revised Code for fiscal year 2011 to the 59725
school district in which the child is entitled to attend school 59726
divided by that district's "qualifying ridership," as defined in 59727
that section for fiscal year 2011. 59728

As used in this division "entitled to attend school" means 59729
entitled to attend school under section 3313.64 or 3313.65 of the 59730
Revised Code. 59731

(2) The department shall deduct the payment under division 59732
(D)(1) of this section from the state education aid, as defined in 59733
section 3314.08 of the Revised Code, and, if necessary, the 59734
payment under sections 321.14 and 323.156 of the Revised Code, 59735
that is otherwise paid to the school district in which the student 59736
enrolled in the community school is entitled to attend school. The 59737
department shall include the number of the district's native 59738
students for whom payment is made to a community school under 59739
division (D)(1) of this section in the calculation of the 59740
district's transportation payment under section ~~3306.12~~ 3317.0212 59741
of the Revised Code and the operating appropriations act. 59742

(3) A community school shall be paid under division (D)(1) of 59743
this section only for students who are eligible as specified in 59744
section 3327.01 of the Revised Code and division (C)(1) of this 59745
section, and whose transportation to and from school is actually 59746

provided, who actually utilized transportation arranged, or for 59747
whom a payment in lieu of transportation is made by the community 59748
school's governing authority. To qualify for the payments, the 59749
community school shall report to the department, in the form and 59750
manner required by the department, data on the number of students 59751
transported or whose transportation is arranged, the number of 59752
miles traveled, cost to transport, and any other information 59753
requested by the department. 59754

(4) A community school shall use payments received under this 59755
section solely to pay the costs of providing or arranging for the 59756
transportation of students who are eligible as specified in 59757
section 3327.01 of the Revised Code and division (C)(1) of this 59758
section, which may include payments to a parent, guardian, or 59759
other person in charge of a child in lieu of transportation. 59760

(E) Except when arranged through payment to a parent, 59761
guardian, or person in charge of a child, transportation provided 59762
or arranged for by a community school pursuant to an agreement 59763
under this section is subject to all provisions of the Revised 59764
Code, and all rules adopted under the Revised Code, pertaining to 59765
the construction, design, equipment, and operation of school buses 59766
and other vehicles transporting students to and from school. The 59767
drivers and mechanics of the vehicles are subject to all 59768
provisions of the Revised Code, and all rules adopted under the 59769
Revised Code, pertaining to drivers and mechanics of such 59770
vehicles. The community school also shall comply with sections 59771
3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) 59772
of section 3327.16 of the Revised Code and, subject to division 59773
(C)(1) of this section, sections 3327.01 and 3327.02 of the 59774
Revised Code, as if it were a school district. 59775

Sec. 3314.10. (A)(1) The governing authority of any community 59776
school established under this chapter may employ teachers and 59777

nonteaching employees necessary to carry out its mission and 59778
fulfill its contract. 59779

(2) Except as provided under division (A)(3) of this section, 59780
employees hired under this section may organize and collectively 59781
bargain pursuant to Chapter 4117. of the Revised Code. 59782
Notwithstanding division (D)(1) of section 4117.06 of the Revised 59783
Code, a unit containing teaching and nonteaching employees 59784
employed under this section shall be considered an appropriate 59785
unit. As applicable, employment under this section is subject to 59786
either Chapter 3307. or 3309. of the Revised Code. 59787

(3) If a school is created by converting all or part of an 59788
existing public school rather than by establishment of a new 59789
start-up school, at the time of conversion, the employees of the 59790
governing authority community school shall remain part of any 59791
collective bargaining unit in which they were included immediately 59792
prior to the conversion and shall remain subject to any collective 59793
bargaining agreement for that unit in effect on the first day of 59794
July of the year in which the community school initially begins 59795
operation and shall be subject to any subsequent collective 59796
bargaining agreement for that unit, unless a petition is certified 59797
as sufficient under division (A)(6) of this section with regard to 59798
those employees. Any new employees of the community school 59799
governing authority shall also be included in the unit to which 59800
they would have been assigned had not the conversion taken place 59801
and shall be subject to the collective bargaining agreement for 59802
that unit unless a petition is certified as sufficient under 59803
division (A)(6) of this section with regard to those employees. 59804

Notwithstanding division (B) of section 4117.01 of the 59805
Revised Code, the board of education of a school district and not 59806
the governing authority of a community school shall be regarded, 59807
for purposes of Chapter 4117. of the Revised Code, as the "public 59808
employer" of the employees of a conversion community school 59809

subject to a collective bargaining agreement pursuant to division 59810
(A)(3) of this section unless a petition is certified under 59811
division (A)(6) of this section with regard to those employees. 59812
Only on and after the effective date of a petition certified as 59813
sufficient under division (A)(6) of this section shall division 59814
(A)(2) of this section apply to those employees of that community 59815
school and only on and after the effective date of that petition 59816
shall Chapter 4117. of the Revised Code apply to the governing 59817
authority of that community school with regard to those employees. 59818

(4) Notwithstanding sections 4117.03 to 4117.18 of the 59819
Revised Code and Section 4 of Amended Substitute Senate Bill No. 59820
133 of the 115th general assembly, the employees of a conversion 59821
community school who are subject to a collective bargaining 59822
agreement pursuant to division (A)(3) of this section shall cease 59823
to be subject to that agreement and all subsequent agreements 59824
pursuant to that division and shall cease to be part of the 59825
collective bargaining unit that is subject to that and all 59826
subsequent agreements, if a majority of the employees of that 59827
community school who are subject to that collective bargaining 59828
agreement sign and submit to the state employment relations board 59829
a petition requesting all of the following: 59830

(a) That all the employees of the community school who are 59831
subject to that agreement be removed from the bargaining unit that 59832
is subject to that agreement and be designated by the state 59833
employment relations board as a new and separate bargaining unit 59834
for purposes of Chapter 4117. of the Revised Code; 59835

(b) That the employee organization certified as the exclusive 59836
representative of the employees of the bargaining unit from which 59837
the employees are to be removed be certified as the exclusive 59838
representative of the new and separate bargaining unit for 59839
purposes of Chapter 4117. of the Revised Code; 59840

(c) That the governing authority of the community school be 59841

regarded as the "public employer" of these employees for purposes 59842
of Chapter 4117. of the Revised Code. 59843

(5) Notwithstanding sections 4117.03 to 4117.18 of the 59844
Revised Code and Section 4 of Amended Substitute Senate Bill No. 59845
133 of the 115th general assembly, the employees of a conversion 59846
community school who are subject to a collective bargaining 59847
agreement pursuant to division (A)(3) of this section shall cease 59848
to be subject to that agreement and all subsequent agreements 59849
pursuant to that division, shall cease to be part of the 59850
collective bargaining unit that is subject to that and all 59851
subsequent agreements, and shall cease to be represented by any 59852
exclusive representative of that collective bargaining unit, if a 59853
majority of the employees of the community school who are subject 59854
to that collective bargaining agreement sign and submit to the 59855
state employment relations board a petition requesting all of the 59856
following: 59857

(a) That all the employees of the community school who are 59858
subject to that agreement be removed from the bargaining unit that 59859
is subject to that agreement; 59860

(b) That any employee organization certified as the exclusive 59861
representative of the employees of that bargaining unit be 59862
decertified as the exclusive representative of the employees of 59863
the community school who are subject to that agreement; 59864

(c) That the governing authority of the community school be 59865
regarded as the "public employer" of these employees for purposes 59866
of Chapter 4117. of the Revised Code. 59867

(6) Upon receipt of a petition under division (A)(4) or (5) 59868
of this section, the state employment relations board shall check 59869
the sufficiency of the signatures on the petition. If the 59870
signatures are found sufficient, the board shall certify the 59871
sufficiency of the petition and so notify the parties involved, 59872

including the board of education, the governing authority of the 59873
community school, and any exclusive representative of the 59874
bargaining unit. The changes requested in a certified petition 59875
shall take effect on the first day of the month immediately 59876
following the date on which the sufficiency of the petition is 59877
certified under division (A)(6) of this section. 59878

(B)(1) The board of education of each city, local, and 59879
exempted village school district sponsoring a community school and 59880
the governing board of each educational service center in which a 59881
community school is located shall adopt a policy that provides a 59882
leave of absence of at least three years to each teacher or 59883
nonteaching employee of the district or service center who is 59884
employed by a conversion or new start-up community school 59885
sponsored by the district or located in the district or center for 59886
the period during which the teacher or employee is continuously 59887
employed by the community school. The policy shall also provide 59888
that any teacher or nonteaching employee may return to employment 59889
by the district or service center if the teacher or employee 59890
leaves or is discharged from employment with the community school 59891
for any reason, unless, in the case of a teacher, the board of the 59892
district or service center determines that the teacher was 59893
discharged for a reason for which the board would have sought to 59894
discharge the teacher under section 3319.16 of the Revised Code, 59895
in which case the board may proceed to discharge the teacher 59896
utilizing the procedures of that section. Upon termination of such 59897
a leave of absence, any seniority that is applicable to the person 59898
shall be calculated to include all of the following: all 59899
employment by the district or service center prior to the leave of 59900
absence; all employment by the community school during the leave 59901
of absence; and all employment by the district or service center 59902
after the leave of absence. The policy shall also provide that if 59903
any teacher holding valid certification returns to employment by 59904
the district or service center upon termination of such a leave of 59905

absence, the teacher shall be restored to the previous position 59906
and salary or to a position and salary similar thereto. If, as a 59907
result of teachers returning to employment upon termination of 59908
such leaves of absence, a school district or educational service 59909
center reduces the number of teachers it employs, it shall make 59910
such reductions in accordance with section ~~3319.17~~ or, if 59911
~~applicable,~~ 3319.171 of the Revised Code. 59912

Unless a collective bargaining agreement providing otherwise 59913
is in effect for an employee of a conversion community school 59914
pursuant to division (A)(3) of this section, an employee on a 59915
leave of absence pursuant to this division shall remain eligible 59916
for any benefits that are in addition to benefits under Chapter 59917
3307. or 3309. of the Revised Code provided by the district or 59918
service center to its employees provided the employee pays the 59919
entire cost associated with such benefits, except that personal 59920
leave and vacation leave cannot be accrued for use as an employee 59921
of a school district or service center while in the employ of a 59922
community school unless the district or service center board 59923
adopts a policy expressly permitting this accrual. 59924

(2) While on a leave of absence pursuant to division (B)(1) 59925
of this section, a conversion community school shall permit a 59926
teacher to use sick leave accrued while in the employ of the 59927
school district from which the leave of absence was taken and 59928
prior to commencing such leave. If a teacher who is on such a 59929
leave of absence uses sick leave so accrued, the cost of any 59930
salary paid by the community school to the teacher for that time 59931
shall be reported to the department of education. The cost of 59932
employing a substitute teacher for that time shall be paid by the 59933
community school. The department of education shall add amounts to 59934
the payments made to a community school under this chapter as 59935
necessary to cover the cost of salary reported by a community 59936
school as paid to a teacher using sick leave so accrued pursuant 59937

to this section. The department shall subtract the amounts of any 59938
payments made to community schools under this division from 59939
payments made to such sponsoring school district under ~~Chapters~~ 59940
~~3306.~~ and Chapter 3317. of the Revised Code. 59941

A school district providing a leave of absence and employee 59942
benefits to a person pursuant to this division is not liable for 59943
any action of that person while the person is on such leave and 59944
employed by a community school. 59945

Sec. 3314.13. Payments and deductions under this section for 59946
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 59947
with section 3314.088 of the Revised Code. 59948

(A) As used in this section: 59949

(1) "All-day kindergarten" has the same meaning as in section 59950
3317.029 of the Revised Code. 59951

(2) "Formula amount" has the same meaning as in section 59952
3317.02 of the Revised Code. 59953

(B) Except as provided in division (C) of this section, the 59954
department of education annually shall pay each community school 59955
established under this chapter one-half of the formula amount for 59956
each student to whom both of the following apply: 59957

(1) The student is entitled to attend school under section 59958
3313.64 or 3313.65 of the Revised Code in a school district that 59959
is eligible to receive a payment under division (D) of section 59960
3317.029 of the Revised Code if it provides all-day kindergarten; 59961

(2) The student is reported by the community school as 59962
enrolled in all-day kindergarten at the community school. 59963

(C) The department shall make no payments under this section 59964
to any internet- or computer-based community school. 59965

(D) If a student for whom payment is made under division (B) 59966

of this section is entitled to attend school in a district that 59967
receives any payment for all-day kindergarten under division (D) 59968
of section 3317.029 of the Revised Code, the department shall 59969
deduct the payment to the community school under this section from 59970
the amount paid that school district under that division. If that 59971
school district does not receive payment for all-day kindergarten 59972
under that division because it does not provide all-day 59973
kindergarten, the department shall pay the community school from 59974
state funds appropriated generally for poverty-based assistance to 59975
school districts. 59976

(E) The department shall adjust the amounts deducted from 59977
school districts and paid to community schools under this section 59978
to reflect any enrollments of students in all-day kindergarten in 59979
community schools for less than the equivalent of a full school 59980
year. 59981

Sec. 3314.19. The sponsor of each community school annually 59982
shall provide the following assurances in writing to the 59983
department of education not later than ten business days prior to 59984
the opening of the school: 59985

(A) That a current copy of the contract between the sponsor 59986
and the governing authority of the school entered into under 59987
section 3314.03 of the Revised Code has been filed with the ~~state~~ 59988
~~office of community schools established under section 3314.11 of~~ 59989
~~the Revised Code~~ department and that any subsequent modifications 59990
to that contract will be filed with the ~~office~~ department; 59991

(B) That the school has submitted to the sponsor a plan for 59992
providing special education and related services to students with 59993
disabilities and has demonstrated the capacity to provide those 59994
services in accordance with Chapter 3323. of the Revised Code and 59995
federal law; 59996

(C) That the school has a plan and procedures for 59997

administering the achievement and diagnostic assessments 59998
prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the 59999
Revised Code; 60000

(D) That school personnel have the necessary training, 60001
knowledge, and resources to properly use and submit information to 60002
all databases maintained by the department for the collection of 60003
education data, including the education management information 60004
system established under section 3301.0714 of the Revised Code in 60005
accordance with methods and timelines established under section 60006
3314.17 of the Revised Code; 60007

(E) That all required information about the school has been 60008
submitted to the Ohio education directory system or any successor 60009
system; 60010

(F) That the school will enroll at least the minimum number 60011
of students required by division (A)(11)(a) of section 3314.03 of 60012
the Revised Code in the school year for which the assurances are 60013
provided; 60014

(G) That all classroom teachers are licensed in accordance 60015
with sections 3319.22 to 3319.31 of the Revised Code, except for 60016
noncertificated persons engaged to teach up to twelve hours per 60017
week pursuant to section 3319.301 of the Revised Code; 60018

(H) That the school's fiscal officer is in compliance with 60019
section 3314.011 of the Revised Code; 60020

(I) That the school has complied with sections 3319.39 and 60021
3319.391 of the Revised Code with respect to all employees and 60022
that the school has conducted a criminal records check of each of 60023
its governing authority members; 60024

(J) That the school holds all of the following: 60025

(1) Proof of property ownership or a lease for the facilities 60026
used by the school; 60027

(2) A certificate of occupancy;	60028
(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;	60029 60030 60031 60032
(4) A satisfactory health and safety inspection;	60033
(5) A satisfactory fire inspection;	60034
(6) A valid food permit, if applicable.	60035
(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;	60036 60037 60038
(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;	60039 60040 60041 60042
(M) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.	60043 60044
<u>Sec. 3314.20. On and after the effective date of this section, no new internet- or computer-based community school shall open for operation in this state unless the school, for at least the three years preceding its opening in this state, operated in another state and performed at a level higher than academic watch, as determined by the department of education.</u>	60045 60046 60047 60048 60049 60050
Sec. 3314.22. (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school; however, the parent of any child enrolled in the school may waive this entitlement in the manner specified in division (A)(3) of this section. In no case shall an internet- or computer-based community school provide a stipend or other	60051 60052 60053 60054 60055 60056

substitute to an enrolled child or the child's parent in lieu of 60057
supplying a computer to the child. The prohibition contained in 60058
the preceding sentence is intended to clarify the meaning of this 60059
division as it existed prior to September 29, 2005, and is not 60060
intended to change that meaning in any way. 60061

(2) Notwithstanding division (A)(1) of this section, if more 60062
than one child living in a single residence is enrolled in an 60063
internet- or computer-based community school, at the option of the 60064
parent of those children, the school may supply less than one 60065
computer per child, as long as at least one computer is supplied 60066
to the residence. An internet- or computer-based community school 60067
may supply no computer at all only if the parent has waived the 60068
entitlement prescribed in division (A)(1) of this section in the 60069
manner specified in division (A)(3) of this section. The parent 60070
may amend the decision to accept less than one computer per child 60071
anytime during the school year, and, in such case, within thirty 60072
days after the parent notifies the school of such amendment, the 60073
school shall provide any additional computers requested by the 60074
parent up to the number necessary to comply with division (A)(1) 60075
of this section. 60076

(3) The parent of any child enrolled in an internet- or 60077
computer-based community school may waive the entitlement to one 60078
computer per child, and have no computer at all supplied by the 60079
school, if the school and parent set forth that waiver in writing 60080
with both parties attesting that there is a computer available to 60081
the child in the child's residence with sufficient hardware, 60082
software, programming, and connectivity so that the child may 60083
fully participate in all of the learning opportunities offered to 60084
the child by the school. The parent may amend the decision to 60085
waive the entitlement at any time during the school year and, in 60086
such case, within thirty days after the parent notifies the school 60087
of that decision, the school shall provide any additional 60088

computers requested by the parent up to the number necessary to 60089
comply with division (A)(1) of this section, regardless of whether 60090
there is any change in the conditions attested to in the waiver. 60091

(4) A copy of a waiver executed under division (A)(3) of this 60092
section shall be retained by the internet- or computer-based 60093
community school and the parent who attested to the conditions 60094
prescribed in that division. The school shall submit a copy of the 60095
waiver to the ~~office of community schools, established under~~ 60096
~~section 3314.11 of the Revised Code,~~ department of education 60097
immediately upon execution of the waiver. 60098

(5) The school shall notify the ~~office of community schools~~ 60099
department of education, in the manner specified by the ~~office~~ 60100
department, of any parent's decision under division (A)(2) of this 60101
section to accept less than one computer per child or the parent's 60102
amendment to that decision, and of any parent's decision to amend 60103
the waiver executed under division (A)(3) of this section. 60104

(B) Each internet- or computer-based community school shall 60105
provide to each parent who is considering enrolling the parent's 60106
child in the school and to the parent of each child already 60107
enrolled in the school a written notice of the provisions 60108
prescribed in division (A) of this section. 60109

(C) If a community school that is not an internet- or 60110
computer-based community school provides any of its enrolled 60111
students with nonclassroom-based learning opportunities provided 60112
via an internet- or other computer-based instructional method and 60113
requires such students to participate in any of those learning 60114
opportunities from their residences, the school shall be subject 60115
to this section and division (C)(1) of section 3314.21 of the 60116
Revised Code relative to each such student in the same manner as 60117
an internet- or computer-based community school, unless both of 60118
the following conditions apply to the student: 60119

(1) The nonclassroom-based learning opportunities in which the student is required to participate from the student's residence are supplemental in nature or do not constitute a significant portion of the total classroom-based and nonclassroom-based learning opportunities provided to the student by the school;

(2) The student's residence is equipped with a computer available for the student's use.

Sec. 3314.23. (A) The state board of education shall adopt rules under Chapter 119. of the Revised Code establishing operating standards for internet- and computer-based community schools based on standards developed by the international association for K-12 online learning. The rules shall include a method by which the department of education shall monitor schools' compliance with the standards adopted under this section.

(B) Internet- and computer-based community schools operating on the effective date of this section shall have three years after the initial adoption of rules under division (A) of this section to be in compliance with those rules.

~~Sec. 3314.35. (A)(1) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2008, but before July 1, 2009:~~

~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.~~

~~(b) The school satisfies all of the following conditions:~~

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~ 60150
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~~(iii) For two of those school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~ 60153
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~~(c) The school satisfies all of the following conditions:~~ 60158

~~(i) The school offers any of grade levels ten to twelve.~~ 60159

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~ 60160
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~~(iii) For two of those school years, the school showed less than two standard years of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~ 60163
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~~(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009, but before July 1, 2011:~~ 60168
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~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.~~ 60171
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~~(b) The school satisfies all of the following conditions:~~ 60175

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~ 60176
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~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for~~ 60178
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two of the three most recent school years. 60180

(iii) In at least two of the three most recent school years, 60181
the school showed less than one standard year of academic growth 60182
in either reading or mathematics, as determined by the department 60183
of education in accordance with rules adopted under division (A) 60184
of section 3302.021 of the Revised Code. 60185

(c) The school offers any of grade levels ten to twelve and 60186
has been declared to be in a state of academic emergency under 60187
section 3302.03 of the Revised Code for three of the four most 60188
recent school years. 60189

(2) Except as provided in division (A)(3) of this section, 60190
this section applies to any community school that meets one of the 60191
following criteria after July 1, 2011: 60192

(a) The school does not offer a grade level higher than three 60193
and has been declared to be in a state of academic emergency under 60194
section 3302.03 of the Revised Code for two of the three most 60195
recent school years. 60196

(b) The school satisfies all of the following conditions: 60197

(i) The school offers any of grade levels four to eight but 60198
does not offer a grade level higher than nine. 60199

(ii) The school has been declared to be in a state of 60200
academic emergency under section 3302.03 of the Revised Code for 60201
two of the three most recent school years. 60202

(iii) In at least two of the three most recent school years, 60203
the school showed less than one standard year of academic growth 60204
in either reading or mathematics, as determined by the department 60205
in accordance with rules adopted under division (A) of section 60206
3302.021 of the Revised Code. 60207

(c) The school offers any of grade levels ten to twelve and 60208
has been declared to be in a state of academic emergency under 60209

section 3302.03 of the Revised Code for two of the three most 60210
recent school years. 60211

(3) This section does not apply to either of the following: 60212

(a) Any community school in which a majority of the students 60213
are enrolled in a dropout prevention and recovery program that is 60214
operated by the school and that has been granted a waiver under 60215
section 3314.36 of the Revised Code; 60216

(b) Any community school in which a majority of the enrolled 60217
students are children with disabilities receiving special 60218
education and related services in accordance with Chapter 3323. of 60219
the Revised Code. 60220

(B) Any community school to which this section applies shall 60221
permanently close at the conclusion of the school year in which 60222
the school first becomes subject to this section. The sponsor and 60223
governing authority of the school shall comply with all procedures 60224
for closing a community school adopted by the department under 60225
division (E) of section 3314.015 of the Revised Code. The 60226
governing authority of the school shall not enter into a contract 60227
with any other sponsor under section 3314.03 of the Revised Code 60228
after the school closes. 60229

~~(C) Not later than July 1, 2008, the department shall 60230
determine the feasibility of using the value added progress 60231
dimension, as defined in section 3302.01 of the Revised Code, as a 60232
factor in evaluating the academic performance of community schools 60233
described in division (A)(1)(c)(i) of this section. 60234
Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, 60235
if the department determines that using the value added progress 60236
dimension to evaluate community schools described in division 60237
(A)(1)(c)(i) of this section is not feasible, a community school 60238
described in that division shall be required to permanently close 60239
under this section only if it has been declared to be in a state 60240~~

~~of academic emergency under section 3302.03 of the Revised Code 60241
for four consecutive school years. 60242~~

~~(D) In accordance with division (B) of section 3314.012 of 60243
the Revised Code, the department shall not consider the 60244
performance ratings assigned to a community school for its first 60245
two years of operation when determining whether the school meets 60246
the criteria prescribed by division (A)(1) or (2) of this section. 60247
The department shall reevaluate each community school that the 60248
department directed to close at the conclusion of the 2009-2010 60249
school year to determine if the school still meets the criteria 60250
prescribed by division (A)(2) of this section when the school's 60251
performance ratings for its first two years of operation are not 60252
considered and, if the school no longer meets those criteria, the 60253
department shall not require the school to close at the conclusion 60254
of that school year. 60255~~

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does 60256
not apply to any community school in which a majority of the 60257
students are enrolled in a dropout prevention and recovery program 60258
that is operated by the school and that has been granted a waiver 60259
by the department of education. The department shall grant a 60260
waiver to a dropout prevention and recovery program, within sixty 60261
days after the program applies for the waiver, if the program 60262
meets all of the following conditions: 60263

(1) The program serves only students not younger than sixteen 60264
years of age and not older than twenty-one years of age. 60265

(2) The program enrolls students who, at the time of their 60266
initial enrollment, either, or both, are at least one grade level 60267
behind their cohort age groups or experience crises that 60268
significantly interfere with their academic progress such that 60269
they are prevented from continuing their traditional programs. 60270

(3) The program requires students to attain at least the 60271

applicable score designated for each of the assessments prescribed 60272
under division (B)(1) of section 3301.0710 of the Revised Code or, 60273
to the extent prescribed by rule of the state board of education 60274
under division ~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, 60275
division (B)(2) of that section. 60276

(4) The program develops an individual career plan for the 60277
student that specifies the student's matriculating to a two-year 60278
degree program, acquiring a business and industry credential, or 60279
entering an apprenticeship. 60280

(5) The program provides counseling and support for the 60281
student related to the plan developed under division (A)(4) of 60282
this section during the remainder of the student's high school 60283
experience. 60284

(6) Prior to receiving the waiver, the program has submitted 60285
to the department an instructional plan that demonstrates how the 60286
academic content standards adopted by the state board of education 60287
under section 3301.079 of the Revised Code will be taught and 60288
assessed. 60289

If the department does not act either to grant the waiver or 60290
to reject the program application for the waiver within sixty days 60291
as required under this section, the waiver shall be considered to 60292
be granted. 60293

(B) Notwithstanding division (A) of this section, the 60294
department shall not grant a waiver to any community school that 60295
did not qualify for a waiver under this section when it initially 60296
began operations, unless the state board of education approves the 60297
waiver. 60298

Sec. 3314.46. As used in this section, "sponsor" includes any 60299
officer, director, employee, agent, representative, subsidiary, or 60300
independent contractor of the sponsor of a community school. 60301

(A) Except as provided in division (B) of this section, no sponsor of a community school shall sell any goods or services to any community school it sponsors. 60302
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(B) If the sponsor of a community school entered into a contract prior to the effective date of this section that involves the sale of goods or services to a community school it sponsors, the sponsor shall not be required to comply with division (A) of this section with respect to that school until the expiration of the contract. 60305
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Sec. 3315.01. (A) Except as provided in division (B) of this section and notwithstanding sections 3315.12 and 3315.14 of the Revised Code, the board of education of any school district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose or any other fund of the district as the board specifies in its resolution. 60311
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(B) This section does not apply to the earnings made on the investment of the bond retirement fund, the sinking fund, a project construction fund established pursuant to sections 3318.01 to 3318.20 of the Revised Code, or the payments received by school districts pursuant to division ~~(I)~~(E) of section 3317.024 of the Revised Code. 60319
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Sec. 3316.041. (A) Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch declared under section 3316.03 of the Revised Code may restructure or refinance loans obtained or in the process of being obtained under section 3313.483 of the Revised Code if all of the following 60325
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requirements are met: 60332

(1) The operating deficit certified for the school district 60333
for the current or preceding fiscal year under section 3313.483 of 60334
the Revised Code exceeds fifteen per cent of the district's 60335
general revenue fund for the fiscal year preceding the year for 60336
which the certification of the operating deficit is made. 60337

(2) The school district voters have, during the period of the 60338
fiscal watch, approved the levy of a tax under section 718.09, 60339
718.10, 5705.194, 5705.21, ~~or 5748.02~~, or 5748.09 of the Revised 60340
Code that is not a renewal or replacement levy, or a levy under 60341
section 5705.199 of the Revised Code, and that will provide new 60342
operating revenue. 60343

(3) The board of education of the school district has adopted 60344
or amended the financial plan required by section 3316.04 of the 60345
Revised Code to reflect the restructured or refinanced loans, and 60346
sets forth the means by which the district will bring projected 60347
operating revenues and expenditures, and projected debt service 60348
obligations, into balance for the life of any such loan. 60349

(B) Subject to the approval of the superintendent of public 60350
instruction, the school district may issue securities to evidence 60351
the restructuring or refinancing authorized by this section. Such 60352
securities may extend the original period for repayment not to 60353
exceed ten years, and may alter the frequency and amount of 60354
repayments, interest or other financing charges, and other terms 60355
or agreements under which the loans were originally contracted, 60356
provided the loans received under sections 3313.483 of the Revised 60357
Code are repaid from funds the district would otherwise receive 60358
under Chapter ~~3306~~, 3317, of the Revised Code, as required under 60359
division (E)(3) of section 3313.483 of the Revised Code. 60360
Securities issued for the purpose of restructuring or refinancing 60361
under this section shall be repaid in equal payments and at equal 60362
intervals over the term of the debt and are not eligible to be 60363

included in any subsequent proposal to restructure or refinance. 60364

(C) Unless the district is declared to be in a state of 60365
fiscal emergency under division (D) of section 3316.04 of the 60366
Revised Code, a school district shall remain in a state of fiscal 60367
watch for the duration of the repayment period of any loan 60368
restructured or refinanced under this section. 60369

Sec. 3316.06. (A) Within one hundred twenty days after the 60370
first meeting of a school district financial planning and 60371
supervision commission, the commission shall adopt a financial 60372
recovery plan regarding the school district for which the 60373
commission was created. During the formulation of the plan, the 60374
commission shall seek appropriate input from the school district 60375
board and from the community. This plan shall contain the 60376
following: 60377

(1) Actions to be taken to: 60378

(a) Eliminate all fiscal emergency conditions declared to 60379
exist pursuant to division (B) of section 3316.03 of the Revised 60380
Code; 60381

(b) Satisfy any judgments, past-due accounts payable, and all 60382
past-due and payable payroll and fringe benefits; 60383

(c) Eliminate the deficits in all deficit funds, except that 60384
any prior year deficits in the capital and maintenance fund 60385
established pursuant to section 3315.18 of the Revised Code shall 60386
be forgiven; 60387

(d) Restore to special funds any moneys from such funds that 60388
were used for purposes not within the purposes of such funds, or 60389
borrowed from such funds by the purchase of debt obligations of 60390
the school district with the moneys of such funds, or missing from 60391
the special funds and not accounted for, if any; 60392

(e) Balance the budget, avoid future deficits in any funds, 60393

and maintain on a current basis payments of payroll, fringe 60394
benefits, and all accounts; 60395

(f) Avoid any fiscal emergency condition in the future; 60396

(g) Restore the ability of the school district to market 60397
long-term general obligation bonds under provisions of law 60398
applicable to school districts generally. 60399

(2) The management structure that will enable the school 60400
district to take the actions enumerated in division (A)(1) of this 60401
section. The plan shall specify the level of fiscal and management 60402
control that the commission will exercise within the school 60403
district during the period of fiscal emergency, and shall 60404
enumerate respectively, the powers and duties of the commission 60405
and the powers and duties of the school board during that period. 60406
The commission may elect to assume any of the powers and duties of 60407
the school board it considers necessary, including all powers 60408
related to personnel, curriculum, and legal issues in order to 60409
successfully implement the actions described in division (A)(1) of 60410
this section. 60411

(3) The target dates for the commencement, progress upon, and 60412
completion of the actions enumerated in division (A)(1) of this 60413
section and a reasonable period of time expected to be required to 60414
implement the plan. The commission shall prepare a reasonable time 60415
schedule for progress toward and achievement of the requirements 60416
for the plan, and the plan shall be consistent with that time 60417
schedule. 60418

(4) The amount and purpose of any issue of debt obligations 60419
that will be issued, together with assurances that any such debt 60420
obligations that will be issued will not exceed debt limits 60421
supported by appropriate certifications by the fiscal officer of 60422
the school district and the county auditor. Debt obligations 60423
issued pursuant to section 133.301 of the Revised Code shall 60424

include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, ~~or 5748.08~~, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under Chapter ~~3306~~. 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for the purpose of restructuring or refinancing debt under this section.

(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually.

(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after April 10, 2001, unless the state superintendent has approved it.

Sec. 3316.08. During a school district's fiscal emergency period, the auditor of state shall determine annually, or at any other time upon request of the financial planning and supervision commission, whether the school district will incur an operating deficit. If the auditor of state determines that a school district will incur an operating deficit, the auditor of state shall certify that determination to the superintendent of public instruction, the financial planning and supervision commission, and the board of education of the school district. Upon receiving the auditor of state's certification, the commission shall adopt a resolution requesting that the board of education work with the county auditor or tax commissioner to estimate the amount and rate of a tax levy that is needed under section 5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised Code to produce a positive fund balance not later than the fifth year of the five-year forecast submitted under section 5705.391 of the Revised Code.

The board of education shall recommend to the commission whether the board supports or opposes a tax levy under section 5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised Code and shall provide supporting documentation to the commission

of its recommendation. 60490

After considering the board of education's recommendation and 60491
supporting documentation, the commission shall adopt a resolution 60492
to either submit a ballot question proposing a tax levy or not to 60493
submit such a question. 60494

Except as otherwise provided in this division, the tax shall 60495
be levied in the manner prescribed for a tax levied under section 60496
5705.194, 5709.199, or 5705.21 or under Chapter 5748. of the 60497
Revised Code. If the commission decides that a tax should be 60498
levied, the tax shall be levied for the purpose of paying current 60499
operating expenses of the school district. The rate of a property 60500
tax levied under section 5705.194, 5709.199, ~~or~~ 5705.21, or 60501
5748.09 of the Revised Code shall be determined by the county 60502
auditor, and the rate of a an income tax levied under section 60503
5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code shall be 60504
determined by the tax commissioner, upon the request of the 60505
commission. The commission, in consultation with the board of 60506
education, shall determine the election at which the question of 60507
the tax shall appear on the ballot, and the commission shall 60508
submit a copy of its resolution to the board of elections not 60509
later than ninety days prior to the day of that election. The 60510
board of elections conducting the election shall certify the 60511
results of the election to the board of education and to the 60512
financial planning and supervision commission. 60513

Sec. 3316.20. (A)(1) The school district solvency assistance 60514
fund is hereby created in the state treasury, to consist of such 60515
amounts designated for the purposes of the fund by the general 60516
assembly. The fund shall be used to provide assistance and grants 60517
to school districts to enable them to remain solvent and to pay 60518
unforeseeable expenses of a temporary or emergency nature that 60519
they are unable to pay from existing resources. 60520

(2) There is hereby created within the fund an account known 60521
as the school district shared resource account, which shall 60522
consist of money appropriated to it by the general assembly. The 60523
money in the account shall be used solely for solvency assistance 60524
to school districts that have been declared under division (B) of 60525
section 3316.03 of the Revised Code to be in a state of fiscal 60526
emergency. 60527

(3) There is hereby created within the fund an account known 60528
as the catastrophic expenditures account, which shall consist of 60529
money appropriated to the account by the general assembly plus all 60530
investment earnings of the fund. Money in the account shall be 60531
used solely for the following: 60532

(a) Solvency assistance to school districts that have been 60533
declared under division (B) of section 3316.03 of the Revised Code 60534
to be in a state of fiscal emergency, in the event that all money 60535
in the shared resource account is utilized for solvency 60536
assistance; 60537

(b) Grants to school districts under division (C) of this 60538
section. 60539

(B) Solvency assistance payments under division (A)(2) or 60540
(3)(a) of this section shall be made from the fund by the 60541
superintendent of public instruction in accordance with rules 60542
adopted by the director of budget and management, after consulting 60543
with the superintendent, specifying approval criteria and 60544
procedures necessary for administering the fund. 60545

The fund shall be reimbursed for any solvency assistance 60546
amounts paid under division (A)(2) or (3)(a) of this section not 60547
later than the end of the ~~second~~ fourth fiscal year following the 60548
fiscal year in which the solvency assistance payment was made, 60549
except that the fund may be reimbursed not later than the end of 60550
the tenth fiscal year following the fiscal year in which the 60551

solvency assistance payment was made upon the approval of the 60552
director of budget and management and the superintendent of public 60553
instruction. If not made directly by the school district, such 60554
reimbursement shall be made by the director of budget and 60555
management from the amounts the school district would otherwise 60556
receive pursuant to Chapter ~~3306.~~ 3317. of the Revised Code, or 60557
from any other funds appropriated for the district by the general 60558
assembly. Reimbursements shall be credited to the respective 60559
account from which the solvency assistance paid to the district 60560
was deducted. 60561

(C) The superintendent of public instruction may make 60562
recommendations, and the controlling board may grant money from 60563
the catastrophic expenditures account to any school district that 60564
suffers an unforeseen catastrophic event that severely depletes 60565
the district's financial resources. The superintendent shall make 60566
recommendations for the grants in accordance with rules adopted by 60567
the director of budget and management, after consulting with the 60568
superintendent. A school district shall not be required to repay 60569
any grant awarded to the district under this division, unless the 60570
district receives money from this state or a third party, 60571
including an agency of the government of the United States, 60572
specifically for the purpose of compensating the district for 60573
revenue lost or expenses incurred as a result of the unforeseen 60574
catastrophic event. If a school district receives a grant from the 60575
catastrophic expenditures account on the basis of the same 60576
circumstances for which an adjustment or recomputation is 60577
authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 60578
3317.0210, or 3317.0211 of the Revised Code, the department of 60579
education shall reduce the adjustment or recomputation by an 60580
amount not to exceed the total amount of the grant, and an amount 60581
equal to the reduction shall be transferred, from the funding 60582
source from which the adjustment or recomputation would be paid, 60583
to the catastrophic expenditures account. Any adjustment or 60584

recomputation under such sections that is in excess of the total 60585
amount of the grant shall be paid to the school district. 60586

Sec. 3316.21. (A) If a school district has been declared to 60587
be in a state of fiscal emergency by the auditor of state under 60588
section 3316.03 of the Revised Code, and if the auditor of state 60589
has further determined upon examination of the district's 60590
financial recovery plan that implementing that plan cannot 60591
reasonably be expected to correct and eliminate all of the 60592
district's fiscal emergency conditions within five fiscal years, 60593
the auditor of state shall notify the superintendent of public 60594
instruction of that determination. 60595

(B) Not later than ninety days after the state superintendent 60596
receives the auditor of state's notification under division (A) of 60597
this section, the state superintendent shall develop an operations 60598
plan for the district and submit that plan to the state board of 60599
education for approval. Upon approval of the plan, the state board 60600
shall suspend the charter of the district and shall take over the 60601
operation of the district. The state board shall continue to 60602
operate the school district until such time as the district's 60603
board and its financial planning and supervision commission submit 60604
an acceptable financial recovery plan to the state superintendent 60605
and the auditor of state has determined that the district does 60606
have a plan that can reasonably be expected to correct and 60607
eliminate the district's fiscal emergency conditions within five 60608
fiscal years. 60609

(C) While the state board is operating the district, all of 60610
the following apply: 60611

(1) The state board shall exercise all powers granted to the 60612
school district board under the Revised Code for management and 60613
control of the schools of the district, except for the power to 60614
propose property tax or school district income tax levies under 60615

Title LVII of the Revised Code, and shall carry out such powers in 60616
the place of the district board. 60617

(2) Subject to approval of the state board, the district 60618
board shall continue to propose tax levies necessary to operate 60619
the district and to resolve the district's fiscal emergency 60620
conditions. 60621

(3) Employees and officers of the district shall be deemed 60622
employees of the state board. 60623

(4) The state board may delegate any management and control 60624
functions of the district to the district's financial planning and 60625
supervision commission. 60626

(5) The state board shall not revoke the charter of the 60627
district or transfer its territory to other districts. 60628

Sec. 3317.01. As used in this section ~~and section 3317.011 of~~ 60629
~~the Revised Code,~~ "school district," unless otherwise specified, 60630
means any city, local, exempted village, joint vocational, or 60631
cooperative education school district and any educational service 60632
center. 60633

This chapter shall be administered by the state board of 60634
education. The superintendent of public instruction shall 60635
calculate the amounts payable to each school district and shall 60636
certify the amounts payable to each eligible district to the 60637
treasurer of the district as provided by this chapter. As soon as 60638
possible after such amounts are calculated, the superintendent 60639
shall certify to the treasurer of each school district the 60640
district's adjusted charge-off increase, as defined in section 60641
5705.211 of the Revised Code. No moneys shall be distributed 60642
pursuant to this chapter without the approval of the controlling 60643
board. 60644

The state board of education shall, in accordance with 60645

appropriations made by the general assembly, meet the financial 60646
obligations of this chapter. 60647

Moneys distributed pursuant to this chapter shall be 60648
calculated and paid on a fiscal year basis, beginning with the 60649
first day of July and extending through the thirtieth day of June. 60650
The moneys appropriated for each fiscal year shall be distributed 60651
periodically to each school district unless otherwise provided 60652
for. The state board, in June of each year, shall submit a ~~yearly~~ 60653
~~distribution plan~~ to the controlling board ~~at its first meeting in~~ 60654
~~July. The state board shall submit any proposed midyear revision~~ 60655
~~of the plan to the controlling board in January. Any year end~~ 60656
~~revision of the plan shall be submitted to the controlling board~~ 60657
~~in June. If moneys appropriated for each fiscal year are~~ 60658
~~distributed other than monthly, such distribution shall be on the~~ 60659
~~same basis for each school district~~ the state board's year-end 60660
distributions pursuant to this chapter. 60661

Except as otherwise provided, payments under this chapter 60662
shall be made only to those school districts in which: 60663

(A) The school district, except for any educational service 60664
center and any joint vocational or cooperative education school 60665
district, levies for current operating expenses at least twenty 60666
mills. Levies for joint vocational or cooperative education school 60667
districts or county school financing districts, limited to or to 60668
the extent apportioned to current expenses, shall be included in 60669
this qualification requirement. School district income tax levies 60670
under Chapter 5748. of the Revised Code, limited to or to the 60671
extent apportioned to current operating expenses, shall be 60672
included in this qualification requirement to the extent 60673
determined by the tax commissioner under division (D) of section 60674
3317.021 of the Revised Code. 60675

(B) The school year next preceding the fiscal year for which 60676
such payments are authorized meets the requirement of section 60677

3313.48 or 3313.481 of the Revised Code, with regard to the 60678
minimum number of days or hours school must be open for 60679
instruction with pupils in attendance, for individualized 60680
parent-teacher conference and reporting periods, and for 60681
professional meetings of teachers. This requirement shall be 60682
waived by the superintendent of public instruction if it had been 60683
necessary for a school to be closed because of disease epidemic, 60684
hazardous weather conditions, inoperability of school buses or 60685
other equipment necessary to the school's operation, damage to a 60686
school building, or other temporary circumstances due to utility 60687
failure rendering the school building unfit for school use, 60688
provided that for those school districts operating pursuant to 60689
section 3313.48 of the Revised Code the number of days the school 60690
was actually open for instruction with pupils in attendance and 60691
for individualized parent-teacher conference and reporting periods 60692
is not less than one hundred seventy-five, or for those school 60693
districts operating on a trimester plan the number of days the 60694
school was actually open for instruction with pupils in attendance 60695
not less than seventy-nine days in any trimester, for those school 60696
districts operating on a quarterly plan the number of days the 60697
school was actually open for instruction with pupils in attendance 60698
not less than fifty-nine days in any quarter, or for those school 60699
districts operating on a pentamester plan the number of days the 60700
school was actually open for instruction with pupils in attendance 60701
not less than forty-four days in any pentamester. 60702

A school district shall not be considered to have failed to 60703
comply with this division or section 3313.481 of the Revised Code 60704
because schools were open for instruction but either twelfth grade 60705
students were excused from attendance for up to three days or only 60706
a portion of the kindergarten students were in attendance for up 60707
to three days in order to allow for the gradual orientation to 60708
school of such students. 60709

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by ~~sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code~~ this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.013. Except for a preschool child with a disability

for whom a scholarship has been awarded under section 3310.41 of 60741
the Revised Code, this section does not apply to preschool 60742
children with disabilities. 60743

Analysis of special education cost data has resulted in a 60744
finding that the average special education additional cost per 60745
pupil, including the costs of related services, can be expressed 60746
as a multiple of the ~~base cost per pupil calculated under section~~ 60747
~~3317.012 of the Revised Code~~ formula amount. The multiples for the 60748
following categories of special education programs, as these 60749
programs are defined for purposes of Chapter 3323. of the Revised 60750
Code, and adjusted as provided in this section, are as follows: 60751

(A) A multiple of ~~0.2892~~ 0.2906 for students whose primary or 60752
only identified disability is a speech and language disability, as 60753
this term is defined pursuant to Chapter 3323. of the Revised 60754
Code; 60755

(B) A multiple of ~~0.3691~~ 0.7374 for students identified as 60756
specific learning disabled or developmentally disabled, as these 60757
terms are defined pursuant to Chapter 3323. of the Revised Code, 60758
or as having an other health impairment-minor; 60759

(C) A multiple of ~~1.7695~~ 1.7716 for students identified as 60760
hearing disabled, ~~vision impaired,~~ or severe behavior disabled, as 60761
these terms are defined pursuant to Chapter 3323. of the Revised 60762
Code; 60763

(D) A multiple of ~~2.3646~~ 2.3643 for students identified as 60764
~~orthopedically disabled~~ vision impaired, as this term is defined 60765
pursuant to Chapter 3323. of the Revised Code, or as having an 60766
other health impairment-major; 60767

(E) A multiple of ~~3.1129~~ 3.2022 for students identified as 60768
orthopedically disabled or as having multiple disabilities, as 60769
~~this term is~~ these terms are defined pursuant to Chapter 3323. of 60770
the Revised Code; 60771

(F) A multiple of ~~4.7342~~ 4.7205 for students identified as
autistic, having traumatic brain injuries, or as both visually and
hearing impaired, as these terms are defined pursuant to Chapter
3323. of the Revised Code.

In fiscal years 2008, 2009, 2010, ~~and 2011, 2012, and 2013,~~
the multiples specified in divisions (A) to (F) of this section
shall be adjusted by multiplying them by 0.90.

~~Not later than the thirtieth day of December in 2007, 2008,
and 2009, the department of education shall submit to the office
of budget and management a report that specifies for each city,
local, exempted village, and joint vocational school district the
fiscal year allocation of the state and local shares of special
education and related services additional weighted funding and
federal special education funds passed through to the district.~~

Sec. 3317.014. The ~~average~~ vocational education additional
cost per pupil can be expressed as a multiple of the ~~base cost per~~
~~pupil calculated under section 3317.012 of the Revised Code~~
formula amount. The multiples for the following categories of
vocational education programs are as follows:

(A) A multiple of 0.57 for students enrolled in vocational
education job-training and workforce development programs approved
by the department of education in accordance with rules adopted
under section 3313.90 of the Revised Code.

(B) A multiple of 0.28 for students enrolled in vocational
education classes other than job-training and workforce
development programs.

Vocational education associated services costs can be
expressed as a multiple of 0.05 of the ~~base cost per pupil~~
~~calculated under section 3317.012 of the Revised Code~~ formula
amount.

~~By the thirtieth day of each December, the department of education shall report to the office of budget and management and the general assembly the amount of weighted funding for vocational education and associated services that was spent by each city, local, exempted village, and joint vocational school district specifically for vocational educational and associated services during the previous fiscal year.~~

Sec. 3317.018. (A) The department of education shall make no calculations or payments under ~~Chapter 3317. of the Revised Code~~ this chapter for any fiscal year except as prescribed in this section. The payments authorized under this section are in addition to payments computed and paid for fiscal years 2012 and 2013 under the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(B) School districts shall report student enrollment data as prescribed by section 3317.03 of the Revised Code, which data the department shall use to make payments under ~~Chapters 3306. and 3317. of the Revised Code.~~ this chapter and the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(C) The tax commissioner shall report data regarding tax valuation and receipts for school districts as prescribed by sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, 3317.0211, and 3317.08 and by division ~~(M)~~(K) of section 3317.02 of the Revised Code, which data the department shall use to make payments under ~~Chapters 3306. and 3317. of the Revised Code.~~ this chapter and the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(D) Unless otherwise specified by another provision of law,

~~in addition to the payments prescribed by Chapter 3306. of the~~ 60833
~~Revised Code,~~ the department shall continue to make payments to or 60834
adjustments for school districts in fiscal years after fiscal year 60835
2009 under the following provisions of ~~Chapter 3317. of the~~ 60836
~~Revised Code~~ this chapter: 60837

(1) The catastrophic cost reimbursement under division (C)(3) 60838
of section 3317.022 of the Revised Code; however, when computing 60839
that payment, the department shall use the disability categories 60840
and multiples specified in section 3317.013 of the Revised Code as 60841
that section existed prior to the effective date of this 60842
amendment. No other payments shall be made under ~~that~~ section 60843
3317.022 of the Revised Code. 60844

(2) All payments or adjustments under section 3317.023 of the 60845
Revised Code, ~~except no payments or adjustments shall be made~~ 60846
~~under divisions (B), (C), and (D) of that section.;~~ 60847

(3) All payments or adjustments under section 3317.024 of the 60848
Revised Code, ~~except no payments or adjustments shall be made~~ 60849
~~under divisions (F) and (N) of that section for fiscal years after~~ 60850
~~fiscal year 2009 or under division (L) of that section for fiscal~~ 60851
~~years 2010 and 2011.;~~ 60852

(4) All payments and adjustments under sections 3317.025, 60853
3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the 60854
Revised Code; 60855

~~(5) Payments under section 3317.04 of the Revised Code;~~ 60856

~~(6)~~ Unit payments under sections 3317.05, 3317.051, 3317.052, 60857
and 3317.053 of the Revised Code, except that no units for gifted 60858
funding are authorized ~~for~~ after fiscal years ~~2010 and 2011 year~~ 60859
2009. 60860

~~(7)~~(6) Payments under sections 3317.06, 3317.063, and 60861
3317.064 of the Revised Code; 60862

(8) Payments under section 3317.07 of the Revised Code;	60863
(9)(7) Payments to educational service centers under section 3317.11 of the Revised Code;	60864 60865
(10)(8) The catastrophic cost reimbursement under division (E) of section 3317.16 of the Revised Code and excess cost reimbursements under division (G) of that section; <u>however, when computing that payment, the department shall use the disability categories and multiples specified in section 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment.</u> No other payments shall be made under that section; <u>3317.16 of the Revised Code.</u>	60866 60867 60868 60869 60870 60871 60872 60873
(11) Payments under section 3317.17 of the Revised Code;	60874
(12)(9) Adjustments under section 3317.18 of the Revised Code;	60875 60876
(13)(10) Payments to cooperative education school districts under section 3317.19 of the Revised Code;	60877 60878
(14)(11) Payments to county MR/DD <u>DD</u> boards under section 3317.20 of the Revised Code;	60879 60880
(15)(12) Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.	60881 60882
(E) Sections 3317.016 and 3317.017 shall not apply to fiscal years after fiscal year 2009.	60883 60884
(F) This section does not affect the provisions of sections 3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, <u>3317.141</u>, 3317.15, 3317.50, <u>and</u> 3317.51, 3317.62, 3317.63, and 3317.64 of the Revised Code.	60885 60886 60887 60888 60889
(F) <u>The department shall make no payments for fiscal years 2012 or 2013 under section 3317.0212 of the Revised Code.</u>	60890 60891

Sec. 3317.02. As used in this chapter: 60892

(A) Unless otherwise specified, "school district" means city, 60893
local, and exempted village school districts. 60894

(B) "Formula amount" means ~~\$5,732~~ \$5,653 for fiscal year ~~2010~~ 60895
2012 and fiscal year ~~2011~~ 2013. 60896

(C) "FTE basis" means a count of students based on full-time 60897
equivalency, in accordance with rules adopted by the department of 60898
education pursuant to section 3317.03 of the Revised Code. In 60899
adopting its rules under this division, the department shall 60900
provide for counting any student in category one, two, three, 60901
four, five, or six special education ADM or in category one or two 60902
vocational education ADM in the same proportion the student is 60903
counted in formula ADM. 60904

(D)(1) "Formula ADM" means, for a city, local, or exempted 60905
village school district, ~~"formula ADM" as defined in section~~ 60906
~~3306.02 of the Revised Code. the average daily membership~~ 60907
described in division (A) of section 3317.03 of the Revised Code, 60908
as verified by the superintendent of public instruction and 60909
adjusted if so ordered under division (K) of that section, and as 60910
further adjusted by the department of education, as follows: 60911

(a) Count only twenty per cent of the number of joint 60912
vocational school district students counted under division (A)(3) 60913
of section 3317.03 of the Revised Code; 60914

(b) Add twenty per cent of the number of students who are 60915
entitled to attend school in the district under section 3313.64 or 60916
3313.65 of the Revised Code and are enrolled in another school 60917
district under a career-technical educational compact. 60918

(2) "Formula ADM" means, for a joint vocational school 60919
district, the final number verified by the superintendent of 60920
public instruction, based on the number reported pursuant to 60921

division (D) of section 3317.03 of the Revised Code, as adjusted, 60922
if so ordered, under division (K) of that section. For purposes of 60923
~~the calculation of payments to or adjustments for a city, exempted~~ 60924
~~village, local, or joint vocational school district under this~~ 60925
~~chapter or under Chapter 3306. of the Revised Code, calculations~~ 60926
~~required under Chapter 3318. of the Revised Code, or adjustments~~ 60927
~~required under Chapter 3365. of the Revised Code, the department~~ 60928
~~of education shall use the district's formula ADM for the previous~~ 60929
~~fiscal year, unless the district's average daily membership~~ 60930
~~reported and verified for the current fiscal year is at least two~~ 60931
~~per cent greater than the formula ADM reported for the previous~~ 60932
~~fiscal year, in which case the department shall use the district's~~ 60933
~~formula ADM for the current fiscal year.~~ 60934

(E) "Three-year average formula ADM" means the average of 60935
formula ADMs for the preceding three fiscal years. 60936

(F)(1) "Category one special education ADM" means the average 60937
daily membership of children with disabilities receiving special 60938
education services for the disability specified in division 60939
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and 60940
reported under division (B)(5) or (D)(2)(b) of section 3317.03 of 60941
the Revised Code. 60942

(2) "Category two special education ADM" means the average 60943
daily membership of children with disabilities receiving special 60944
education services for those disabilities specified in division 60945
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and 60946
reported under division (B)(6) or (D)(2)(c) of section 3317.03 of 60947
the Revised Code. 60948

(3) "Category three special education ADM" means the average 60949
daily membership of students receiving special education services 60950
for those disabilities specified in division ~~(D)(3)(C)~~ of section 60951
~~3306.02~~ 3317.013 of the Revised Code, and reported under division 60952
(B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code. 60953

(4) "Category four special education ADM" means the average 60954
daily membership of students receiving special education services 60955
for those disabilities specified in division (D)~~(4)~~ of section 60956
~~3306.02~~ 3317.013 of the Revised Code and reported under division 60957
(B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code. 60958

(5) "Category five special education ADM" means the average 60959
daily membership of students receiving special education services 60960
for the disabilities specified in division ~~(D)(5)~~(E) of section 60961
~~3306.02~~ 3317.013 of the Revised Code and reported under division 60962
(B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code. 60963

(6) "Category six special education ADM" means the average 60964
daily membership of students receiving special education services 60965
for the disabilities specified in division ~~(D)(6)~~(F) of section 60966
~~3306.02~~ 3317.013 of the Revised Code and reported under division 60967
(B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code. 60968

(7) "Category one vocational education ADM" means the average 60969
daily membership of students receiving vocational education 60970
services described in division (A) of section 3317.014 of the 60971
Revised Code and reported under division (B)(11) or (D)(2)(h) of 60972
section 3317.03 of the Revised Code. 60973

(8) "Category two vocational education ADM" means the average 60974
daily membership of students receiving vocational education 60975
services described in division (B) of section 3317.014 of the 60976
Revised Code and reported under division (B)(12) or (D)(2)(i) of 60977
section 3317.03 of the Revised Code. 60978

(G) "Preschool child with a disability" means a child with a 60979
disability, as defined in section 3323.01 of the Revised Code, who 60980
is at least age three but is not of compulsory school age, as 60981
defined in section 3321.01 of the Revised Code, and who is not 60982
currently enrolled in kindergarten. 60983

(H) "County DD board" means a county board of developmental 60984

disabilities. 60985

(I) "Recognized valuation" means the amount calculated for a 60986
school district pursuant to section 3317.015 of the Revised Code. 60987

~~(J) "Transportation ADM" means the number of children 60988
reported under division (B)(13) of section 3317.03 of the Revised 60989
Code. 60990~~

~~(K) "Average efficient transportation use cost per student" 60991
means a statistical representation of transportation costs as 60992
calculated under division (D)(2) of section 3317.022 of the 60993
Revised Code. 60994~~

~~(L) "Taxes charged and payable" means the taxes charged and 60995
payable against real and public utility property after making the 60996
reduction required by section 319.301 of the Revised Code, plus 60997
the taxes levied against tangible personal property. 60998~~

~~(M)(K) "Total taxable value" means the sum of the amounts 60999
certified for a city, local, exempted village, or joint vocational 61000
school district under divisions (A)(1) and (2) of section 3317.021 61001
of the Revised Code. 61002~~

~~(N)(L) "Tax exempt value" of a school district means the 61003
amount certified for a school district under division (A)(4) of 61004
section 3317.021 of the Revised Code. 61005~~

~~(O)(M) "Potential value" of a school district means the 61006
recognized valuation of a school district plus the tax exempt 61007
value of the district. 61008~~

~~(P)(N) "District median income" means the median Ohio 61009
adjusted gross income certified for a school district. On or 61010
before the first day of July of each year, the tax commissioner 61011
shall certify to the department of education and the office of 61012
budget and management for each city, exempted village, and local 61013
school district the median Ohio adjusted gross income of the 61014~~

residents of the school district determined on the basis of tax 61015
returns filed for the second preceding tax year by the residents 61016
of the district. 61017

~~(Q)~~(O) "Statewide median income" means the median district 61018
median income of all city, exempted village, and local school 61019
districts in the state. 61020

~~(R)~~(P) "Income factor" for a city, exempted village, or local 61021
school district means the quotient obtained by dividing that 61022
district's median income by the statewide median income. 61023

~~(S)~~(Q) "Medically fragile child" means a child to whom all of 61024
the following apply: 61025

(1) The child requires the services of a doctor of medicine 61026
or osteopathic medicine at least once a week due to the 61027
instability of the child's medical condition. 61028

(2) The child requires the services of a registered nurse on 61029
a daily basis. 61030

(3) The child is at risk of institutionalization in a 61031
hospital, skilled nursing facility, or intermediate care facility 61032
for the mentally retarded. 61033

~~(T)~~(R) A child may be identified as having an "other health 61034
impairment-major" if the child's condition meets the definition of 61035
"other health impaired" established in rules adopted by the state 61036
board of education prior to July 1, 2001, and if either of the 61037
following apply: 61038

(1) The child is identified as having a medical condition 61039
that is among those listed by the superintendent of public 61040
instruction as conditions where a substantial majority of cases 61041
fall within the definition of "medically fragile child." The 61042
superintendent of public instruction shall issue an initial list 61043
no later than September 1, 2001. 61044

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

~~(U)~~(S) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division ~~(T)~~(R)(1) or (2) of this section.

~~(V)~~(T) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

~~(W)~~(U) "Property exemption value" means zero in fiscal year 2006, and in fiscal year 2007 and each fiscal year thereafter, the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code.

~~(X)~~(V) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

~~(Y)~~(W) "State share percentage" ~~has the same meaning as in,~~ for a city, exempted village, or local school district, for fiscal years 2012 and 2013, means the district's state share percentage as computed for fiscal year 2011 under former section 3306.02 of the Revised Code. "State share percentage," for a joint vocational school district, for fiscal years 2012 and 2013, means the district's state share percentage as computed for fiscal year 2009 under section 3317.16 of the Revised Code as that section existed for that fiscal year.

~~Sec. 3317.021. The information certified under this section shall be used to calculate payments under this chapter and Chapter~~

~~3306. of the Revised Code.~~ 61075

(A) On or before the first day of June of each year, the tax 61076
commissioner shall certify to the department of education and the 61077
office of budget and management the information described in 61078
divisions (A)(1) to (7) of this section for each city, exempted 61079
village, and local school district, and the information required 61080
by divisions (A)(1) and (2) of this section for each joint 61081
vocational school district, and it shall be used, along with the 61082
information certified under division (B) of this section, in 61083
making the computations for the district under this chapter ~~and~~ 61084
~~Chapter 3306. of the Revised Code.~~ 61085

(1) The taxable value of real and public utility real 61086
property in the school district subject to taxation in the 61087
preceding tax year, by class and by county of location. 61088

(2) The taxable value of tangible personal property, 61089
including public utility personal property, subject to taxation by 61090
the district for the preceding tax year. 61091

(3)(a) The total property tax rate and total taxes charged 61092
and payable for the current expenses for the preceding tax year 61093
and the total property tax rate and the total taxes charged and 61094
payable to a joint vocational district for the preceding tax year 61095
that are limited to or to the extent apportioned to current 61096
expenses. 61097

(b) The portion of the amount of taxes charged and payable 61098
reported for each city, local, and exempted village school 61099
district under division (A)(3)(a) of this section attributable to 61100
a joint vocational school district. 61101

(4) The value of all real and public utility real property in 61102
the school district exempted from taxation minus both of the 61103
following: 61104

(a) The value of real and public utility real property in the 61105

district owned by the United States government and used 61106
exclusively for a public purpose; 61107

(b) The value of real and public utility real property in the 61108
district exempted from taxation under Chapter 725. or 1728. or 61109
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 61110
5709.73, or 5709.78 of the Revised Code. 61111

(5) The total federal adjusted gross income of the residents 61112
of the school district, based on tax returns filed by the 61113
residents of the district, for the most recent year for which this 61114
information is available. 61115

(6) The sum of the school district compensation value as 61116
indicated on the list of exempted property for the preceding tax 61117
year under section 5713.08 of the Revised Code as if such property 61118
had been assessed for taxation that year and the other 61119
compensation value for the school district, minus the amounts 61120
described in divisions (A)(6)(c) to (i) of this section. The 61121
portion of school district compensation value or other 61122
compensation value attributable to an incentive district exemption 61123
may be subtracted only once even if that incentive district 61124
satisfies more than one of the criteria in divisions (A)(6)(c) to 61125
(i) of this section. 61126

(a) "School district compensation value" means the aggregate 61127
value of real property in the school district exempted from 61128
taxation pursuant to an ordinance or resolution adopted under 61129
division (C) of section 5709.40, division (C) of section 5709.73, 61130
or division (B) of section 5709.78 of the Revised Code to the 61131
extent that the exempted value results in the charging of payments 61132
in lieu of taxes required to be paid to the school district under 61133
division (D)(1) or (2) of section 5709.40, division (D) of section 61134
5709.73, or division (C) of section 5709.78 of the Revised Code. 61135

(b) "Other compensation value" means the quotient that 61136

results from dividing (i) the dollar value of compensation 61137
received by the school district during the preceding tax year 61138
pursuant to division (B), (C), or (D) of section 5709.82 of the 61139
Revised Code and the amounts received pursuant to an agreement as 61140
specified in division (D)(2) of section 5709.40, division (D) of 61141
section 5709.73, or division (C) of section 5709.78 of the Revised 61142
Code to the extent those amounts were not previously reported or 61143
included in division (A)(6)(a) of this section, and so that any 61144
such amount is reported only once under division (A)(6)(b) of this 61145
section, in relation to exemptions from taxation granted pursuant 61146
to an ordinance or resolution adopted under division (C) of 61147
section 5709.40, division (C) of section 5709.73, or division (B) 61148
of section 5709.78 of the Revised Code, by (ii) the real property 61149
tax rate in effect for the preceding tax year for 61150
nonresidential/agricultural real property after making the 61151
reductions required by section 319.301 of the Revised Code. 61152

(c) The portion of school district compensation value or 61153
other compensation value that was exempted from taxation pursuant 61154
to such an ordinance or resolution for the preceding tax year, if 61155
the ordinance or resolution is adopted prior to January 1, 2006, 61156
and the legislative authority or board of township trustees or 61157
county commissioners, prior to January 1, 2006, executes a 61158
contract or agreement with a developer, whether for-profit or 61159
not-for-profit, with respect to the development of a project 61160
undertaken or to be undertaken and identified in the ordinance or 61161
resolution, and upon which parcels such project is being, or will 61162
be, undertaken; 61163

(d) The portion of school district compensation value that 61164
was exempted from taxation for the preceding tax year and for 61165
which payments in lieu of taxes for the preceding tax year were 61166
provided to the school district under division (D)(1) of section 61167
5709.40 of the Revised Code. 61168

(e) The portion of school district compensation value that 61169
was exempted from taxation for the preceding tax year pursuant to 61170
such an ordinance or resolution, if and to the extent that, on or 61171
before April 1, 2006, the fiscal officer of the municipal 61172
corporation that adopted the ordinance, or of the township or 61173
county that adopted the resolution, certifies and provides 61174
appropriate supporting documentation to the tax commissioner and 61175
the director of development that, based on hold-harmless 61176
provisions in any agreement between the school district and the 61177
legislative authority of the municipal corporation, board of 61178
township trustees, or board of county commissioners that was 61179
entered into on or before June 1, 2005, the ability or obligation 61180
of the municipal corporation, township, or county to repay bonds, 61181
notes, or other financial obligations issued or entered into prior 61182
to January 1, 2006, will be impaired, including obligations to or 61183
of any other body corporate and politic with whom the legislative 61184
authority of the municipal corporation or board of township 61185
trustees or county commissioners has entered into an agreement 61186
pertaining to the use of service payments derived from the 61187
improvements exempted; 61188

(f) The portion of school district compensation value that 61189
was exempted from taxation for the preceding tax year pursuant to 61190
such an ordinance or resolution, if the ordinance or resolution is 61191
adopted prior to January 1, 2006, in a municipal corporation with 61192
a population that exceeds one hundred thousand, as shown by the 61193
most recent federal decennial census, that includes a major 61194
employment center and that is adjacent to historically distressed 61195
neighborhoods, if the legislative authority of the municipal 61196
corporation that exempted the property prepares an economic 61197
analysis that demonstrates that all taxes generated within the 61198
incentive district accruing to the state by reason of improvements 61199
constructed within the district during its existence exceed the 61200
amount the state pays the school district under section 3317.022 61201

of the Revised Code attributable to such property exemption from 61202
the school district's recognized valuation. The analysis shall be 61203
submitted to and approved by the department of development prior 61204
to January 1, 2006, and the department shall not unreasonably 61205
withhold approval. 61206

(g) The portion of school district compensation value that 61207
was exempted from taxation for the preceding tax year under such 61208
an ordinance or resolution, if the ordinance or resolution is 61209
adopted prior to January 1, 2006, and if service payments have 61210
been pledged to be used for mixed-use riverfront entertainment 61211
development in any county with a population that exceeds six 61212
hundred thousand, as shown by the most recent federal decennial 61213
census; 61214

(h) The portion of school district compensation value that 61215
was exempted from taxation for the preceding tax year under such 61216
an ordinance or resolution, if, prior to January 1, 2006, the 61217
legislative authority of a municipal corporation, board of 61218
township trustees, or board of county commissioners has pledged 61219
service payments for a designated transportation capacity project 61220
approved by the transportation review advisory council under 61221
Chapter 5512. of the Revised Code; 61222

(i) The portion of school district compensation value that 61223
was exempted from taxation for the preceding tax year under such 61224
an ordinance or resolution if the legislative authority of a 61225
municipal corporation, board of township trustees, or board of 61226
county commissioners have, by January 1, 2006, pledged proceeds 61227
for designated transportation improvement projects that involve 61228
federal funds for which the proceeds are used to meet a local 61229
share match requirement for such funding. 61230

As used in division (A)(6) of this section, "project" has the 61231
same meaning as in section 5709.40 of the Revised Code. 61232

(7) The aggregate value of real property in the school district for which an exemption from taxation is granted by an ordinance or resolution adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, minus the product determined by multiplying (a) the aggregate value of the real property in the school district exempted from taxation for the preceding tax year under any of the chapters or sections specified in this division, by (b) a fraction, the numerator of which is the difference between (i) the amount of anticipated revenue such school district would have received for the preceding tax year if the real property exempted from taxation had not been exempted from taxation and (ii) the aggregate amount of payments in lieu of taxes on the exempt real property for the preceding tax year and other compensation received for the preceding tax year by the school district pursuant to any agreements entered into on or after January 1, 2006, under section 5709.82 of the Revised Code between the school district and the legislative authority of a political subdivision that acted under the authority of a chapter or statute specified in this division, that were entered into in relation to such exemption, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted.

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education and the office of budget and management the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (A)(2) and (B) of this section for the school district shall include only the amount of taxable value on the basis of which the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in ~~division (A)(1) of section 3306.01~~ and division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department and the office of budget and management. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of ~~division (A)(1) of section 3306.01~~ and division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this

section; 61298

(2) Estimate the total amount of tax liability for the 61299
current tax year under taxes levied by Chapter 5748. of the 61300
Revised Code that are apportioned to current operating expenses of 61301
the district, excluding any income tax receipts allocated for the 61302
project cost, debt service, or maintenance set-aside associated 61303
with a state-assisted classroom facilities project as authorized 61304
by section 3318.052 of the Revised Code; 61305

(3) Divide the amount estimated under division (D)(2) of this 61306
section by the product obtained under division (D)(1) of this 61307
section. 61308

(E)(1) On or before June 1, 2006, and the first day of April 61309
of each year thereafter, the director of development shall report 61310
to the department of education, the tax commissioner, and the 61311
director of budget and management the total amounts of payments 61312
received by each city, local, exempted village, or joint 61313
vocational school district for the preceding tax year pursuant to 61314
division (D) of section 5709.40, division (D) of section 5709.73, 61315
division (C) of section 5709.78, or division (B)(1), (B)(2), (C), 61316
or (D) of section 5709.82 of the Revised Code in relation to 61317
exemptions from taxation granted pursuant to an ordinance adopted 61318
by the legislative authority of a municipal corporation under 61319
division (C) of section 5709.40 of the Revised Code, or a 61320
resolution adopted by a board of township trustees or board of 61321
county commissioners under division (C) of section 5709.73 or 61322
division (B) of section 5709.78 of the Revised Code, respectively. 61323
On or before April 1, 2006, and the first day of March of each 61324
year thereafter, the treasurer of each city, local, exempted 61325
village, or joint vocational school district that has entered into 61326
such an agreement shall report to the director of development the 61327
total amounts of such payments the district received for the 61328
preceding tax year as provided in this section. The state board of 61329

education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

(2) On or before April 1, 2007, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to divisions (B), (C), and (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to ordinances or resolutions adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. On or before March 1, 2007, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided by this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

Sec. 3317.022. (A)(1) The department of education shall compute and distribute state base cost funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, according to the following formula:

{[the formula amount X (formula ADM +
preschool scholarship ADM)] +
the sum of the base funding supplements
prescribed in divisions (C)(1) to (4)
of section 3317.012 of the Revised Code} -
[.023 x (the sum of recognized valuation
and property exemption value)] +
the amounts calculated for the district under
sections 3317.029 and 3317.0217 of the Revised Code

If the difference obtained is a negative number, the
district's computation shall be zero.

(2)(a) For each school district for which the tax exempt
value of the district equals or exceeds twenty-five per cent of
the potential value of the district, the department of education
shall calculate the difference between the district's tax exempt
value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (A)(2)(a) of
this section applies, the department shall adjust the recognized
valuation used in the calculation under division (A)(1) of this
section by subtracting from it the amount calculated under
division (A)(2)(a) of this section.

(B) As used in this section:

(1) The "total special education weight" for a district means
the sum of the following amounts:

(a) The district's category one special education ADM
multiplied by the multiple specified in division (A) of section
3317.013 of the Revised Code;

(b) The district's category two special education ADM
multiplied by the multiple specified in division (B) of section
3317.013 of the Revised Code;

(c) The district's category three special education ADM

multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;	61392 61393
(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;	61394 61395 61396
(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;	61397 61398 61399
(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.	61400 61401 61402
(2) "Related services" includes:	61403
(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;	61404 61405 61406 61407 61408 61409 61410 61411 61412
(b) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;	61413 61414 61415
(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;	61416 61417 61418
(d) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;	61419 61420
(e) Any other related service needed by children with	61421

disabilities in accordance with their individualized education programs. 61422
61423

(3) The "total vocational education weight" for a district means the sum of the following amounts: 61424
61425

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code; 61426
61427
61428

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code. 61429
61430
61431

(4) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code. 61432
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61434

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula: 61435
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61437
61438

The district's state share percentage X 61439
the formula amount for the year for which 61440
the aid is calculated X the district's 61441
total special education weight 61442

(2) The attributed local share of special education and related services additional weighted costs equals: 61443
61444

(1 - the district's state share percentage) X the district's total special education weight X the formula amount 61445
61446

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district 61447
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may submit to the superintendent of public instruction 61453
documentation, as prescribed by the superintendent, of all its 61454
costs for that student. Upon submission of documentation for a 61455
student of the type and in the manner prescribed, the department 61456
shall pay to the district an amount equal to the sum of the 61457
following: 61458

(i) One-half of the district's costs for the student in 61459
excess of the threshold catastrophic cost; 61460

(ii) The product of one-half of the district's costs for the 61461
student in excess of the threshold catastrophic cost multiplied by 61462
the district's state share percentage. 61463

(b) For purposes of division (C)(3)(a) of this section, the 61464
threshold catastrophic cost for serving a student equals: 61465

(i) For a student in the school district's category two, 61466
three, four, or five special education ADM, twenty-seven thousand 61467
three hundred seventy-five dollars; 61468

(ii) For a student in the district's category six special 61469
education ADM, thirty-two thousand eight hundred fifty dollars. 61470

(c) The district shall only report under division (C)(3)(a) 61471
of this section, and the department shall only pay for, the costs 61472
of educational expenses and the related services provided to the 61473
student in accordance with the student's individualized education 61474
program. Any legal fees, court costs, or other costs associated 61475
with any cause of action relating to the student may not be 61476
included in the amount. 61477

(4)(a) As used in this division, the "personnel allowance" 61478
means thirty thousand dollars in fiscal years 2008 and 2009. 61479

(b) For the provision of speech language pathology services 61480
to students, including students who do not have individualized 61481
education programs prepared for them under Chapter 3323. of the 61482

Revised Code, and for no other purpose, the department of 61483
education shall pay each school district an amount calculated 61484
under the following formula: 61485

(formula ADM divided by 2000) X 61486

the personnel allowance X 61487

the state share percentage 61488

(5) In any fiscal year, a school district shall spend for 61489
purposes that the department designates as approved for special 61490
education and related services expenses at least the amount 61491
calculated as follows: 61492

(formula amount X the sum of categories 61493

one through six special education ADM) + 61494

(total special education weight X formula amount) 61495

The purposes approved by the department for special education 61496
expenses shall include, but shall not be limited to, 61497
identification of children with disabilities, compliance with 61498
state rules governing the education of children with disabilities 61499
and prescribing the continuum of program options for children with 61500
disabilities, provision of speech language pathology services, and 61501
the portion of the school district's overall administrative and 61502
overhead costs that are attributable to the district's special 61503
education student population. 61504

The scholarships deducted from the school district's account 61505
under section 3310.41 of the Revised Code shall be considered to 61506
be an approved special education and related services expense for 61507
the purpose of the school district's compliance with division 61508
(C)(5) of this section. 61509

The department shall require school districts to report data 61510
annually to allow for monitoring compliance with division (C)(5) 61511
of this section. The department shall annually report to the 61512
governor and the general assembly the amount of money spent by 61513
each school district for special education and related services. 61514

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

~~(D)(1) As used in this division:~~

~~(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.~~

~~(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in units for preschool children with disabilities, plus the number of nonpublic school students included in transportation ADM.~~

~~(c) "Transported student percentage" equals transportation ADM divided by transportation base.~~

~~(d) "Transportation cost per student" equals total operating costs for board owned or contractor operated school buses divided by transportation base.~~

~~(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:~~

$$\begin{aligned} & \del 51.79027 + (139.62626 \times \text{daily bus miles per student}) + \\ & \del (116.25573 \times \text{transported student percentage}) \end{aligned}$$

~~The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this~~

~~section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.~~

~~(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:~~

FISCAL YEAR	PERCENTAGE	
2000	52.5%	
2001	55%	
2002	57.5%	
2003 and thereafter	The greater of 60% or the district's state share percentage	

~~The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.~~

~~(4) In addition to funds paid under divisions (D)(2) and (3)~~

~~of this section, a school district shall receive a rough road
subsidy if both of the following apply:~~ 61576
61577

~~(a) Its county rough road percentage is higher than the
statewide rough road percentage, as those terms are defined in
division (D)(5) of this section;~~ 61578
61579
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~~(b) Its district student density is lower than the statewide
student density, as those terms are defined in that division.~~ 61581
61582

~~(5) The rough road subsidy paid to each district meeting the
qualifications of division (D)(4) of this section shall be
calculated in accordance with the following formula:~~ 61583
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61585

~~(per rough mile subsidy X total rough road miles)
X density multiplier~~ 61586
61587

~~where:~~ 61588

~~(a) "Per rough mile subsidy" equals the amount calculated in
accordance with the following formula:~~ 61589
61590

~~0.75 — {0.75 X [(maximum rough road percentage —
county rough road percentage)/(maximum rough road
percentage — statewide rough road percentage)]}~~ 61591
61592
61593

~~(i) "Maximum rough road percentage" means the highest county
rough road percentage in the state.~~ 61594
61595

~~(ii) "County rough road percentage" equals the percentage of
the mileage of state, municipal, county, and township roads that
is rated by the department of transportation as type A, B, C, E2,
or F in the county in which the school district is located or, if
the district is located in more than one county, the county to
which it is assigned for purposes of determining its
cost of doing business factor.~~ 61596
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~~(iii) "Statewide rough road percentage" means the percentage
of the statewide total mileage of state, municipal, county, and
township roads that is rated as type A, B, C, E2, or F by the~~ 61603
61604
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~~department of transportation.~~ 61606

~~(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.~~ 61607
61608
61609

~~(c) "Density multiplier" means a figure calculated in accordance with the following formula:~~ 61610
61611

$$1 - \left[\frac{\text{minimum student density} - \text{district student density}}{\text{minimum student density} - \text{statewide student density}} \right]$$
61612
61613
61614

~~(i) "Minimum student density" means the lowest district student density in the state.~~ 61615
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~~(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.~~ 61617
61618
61619

~~(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.~~ 61620
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~~(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board owned or contractor operated buses and whose transportation is not funded under division (G) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.~~ 61623
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~~(E)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:~~ 61631
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61633

$$\text{state share percentage} \times$$
61634
$$\text{the formula amount} \times$$
61635

total vocational education weight 61636

In any fiscal year, a school district receiving funds under 61637
division ~~(E)~~(D)(1) of this section shall spend those funds only 61638
for the purposes that the department designates as approved for 61639
vocational education expenses. Vocational educational expenses 61640
approved by the department shall include only expenses connected 61641
to the delivery of career-technical programming to 61642
career-technical students. The department shall require the school 61643
district to report data annually so that the department may 61644
monitor the district's compliance with the requirements regarding 61645
the manner in which funding received under division ~~(E)~~(D)(1) of 61646
this section may be spent. 61647

(2) The department shall compute for each school district 61648
state funds for vocational education associated services in 61649
accordance with the following formula: 61650

state share percentage X .05 X the formula amount X 61651
the sum of categories one and two vocational education ADM 61652

In any fiscal year, a school district receiving funds under 61653
division ~~(E)~~(D)(2) of this section, or through a transfer of funds 61654
pursuant to division ~~(H)~~(I) of section 3317.023 of the Revised 61655
Code, shall spend those funds only for the purposes that the 61656
department designates as approved for vocational education 61657
associated services expenses, which may include such purposes as 61658
apprenticeship coordinators, coordinators for other vocational 61659
education services, vocational evaluation, and other purposes 61660
designated by the department. The department may deny payment 61661
under division ~~(E)~~(D)(2) of this section to any district that the 61662
department determines is not operating those services or is using 61663
funds paid under division ~~(E)~~(D)(2) of this section, or through a 61664
transfer of funds pursuant to division ~~(H)~~(I) of section 3317.023 61665
of the Revised Code, for other purposes. 61666

~~(F)~~(E) The actual local share in any fiscal year for the 61667

combination of special education and related services additional 61668
weighted costs funding calculated under division (C)(1) of this 61669
section, transportation ~~funding~~ base payment calculated under 61670
divisions ~~(D)(2) and (3)~~ division (E) of ~~this~~ section 3317.0212 of 61671
the Revised Code, and vocational education and associated services 61672
additional weighted costs funding calculated under divisions 61673
~~(E)(D)~~(1) and (2) of this section shall not exceed for any school 61674
district the product of three and three-tenths mills times the 61675
district's recognized valuation. The department annually shall pay 61676
each school district as an excess cost supplement any amount by 61677
which the sum of the district's attributed local shares for that 61678
funding exceeds that product. For purposes of calculating the 61679
excess cost supplement: 61680

(1) The attributed local share for special education and 61681
related services additional weighted costs funding is the amount 61682
specified in division (C)(2) of this section. 61683

(2) The attributed local share of the district's 61684
transportation ~~funding~~ base payment equals the difference of the 61685
total amount calculated for the district ~~using the formula~~ 61686
~~developed~~ under division ~~(D)(2)~~(E) of ~~this~~ section 3317.0212 of 61687
the Revised Code minus the actual amount paid to the district 61688
after applying the percentage specified in division ~~(D)~~(E)(3) of 61689
~~this~~ that section. 61690

(3) The attributed local share of vocational education and 61691
associated services additional weighted costs funding is the 61692
amount determined as follows: 61693

(1 - state share percentage) X 61694
[(total vocational education weight X 61695
the formula amount) + the payment under 61696
division ~~(E)~~(D)(2) of this section] 61697

Sec. 3317.023. (A) The amounts required to be paid to a 61698

district under this chapter and ~~Chapter 3306.~~ of the Revised Code 61699
shall be adjusted by the amount of the computations made under 61700
divisions (B) to ~~(N)(K)~~ of this section. ~~The department of~~ 61701
~~education shall not make payments or adjustments under divisions~~ 61702
~~(B), (C), and (D) of this section for any fiscal year after fiscal~~ 61703
~~year 2009.~~ 61704

As used in this section: 61705

(1) ~~"Classroom teacher" means a licensed employee who~~ 61706
~~provides direct instruction to pupils, excluding teachers funded~~ 61707
~~from money paid to the district from federal sources; educational~~ 61708
~~service personnel; and vocational and special education teachers.~~ 61709

~~(2) "Educational service personnel" shall not include such~~ 61710
~~specialists funded from money paid to the district from federal~~ 61711
~~sources or assigned full-time to vocational or special education~~ 61712
~~students and classes and may only include those persons employed~~ 61713
~~in the eight specialist areas in a pattern approved by the~~ 61714
~~department of education under guidelines established by the state~~ 61715
~~board of education.~~ 61716

~~(3) "Annual salary" means the annual base salary stated in~~ 61717
~~the state minimum salary schedule for the performance of the~~ 61718
~~teacher's regular teaching duties that the teacher earns for~~ 61719
~~services rendered for the first full week of October of the fiscal~~ 61720
~~year for which the adjustment is made under division (C) of this~~ 61721
~~section. It shall not include any salary payments for supplemental~~ 61722
~~teachers contracts.~~ 61723

~~(4) "Regular student population" means the formula ADM plus~~ 61724
~~the number of students reported as enrolled in the district~~ 61725
~~pursuant to division (A)(1) of section 3313.981 of the Revised~~ 61726
~~Code; minus the number of students reported under division (A)(2)~~ 61727
~~of section 3317.03 of the Revised Code; minus the FTE of students~~ 61728
~~reported under division (B)(6), (7), (8), (9), (10), (11), or (12)~~ 61729

~~of that section who are enrolled in a vocational education class 61730
or receiving special education; and minus twenty per cent of the 61731
students enrolled concurrently in a joint vocational school 61732
district. 61733~~

~~(5) "VEPD" means a school district or group of school 61734
districts designated by the department of education as being 61735
responsible for the planning for and provision of vocational 61736
education services to students within the district or group. 61737~~

~~(6)(2) "Lead district" means a school district, including a 61738
joint vocational school district, designated by the department as 61739
a VEPD, or designated to provide primary vocational education 61740
leadership within a VEPD composed of a group of districts. 61741~~

~~(B) If the district employs less than one full-time 61742
equivalent classroom teacher for each twenty-five pupils in the 61743
regular student population in any school district, deduct the sum 61744
of the amounts obtained from the following computations: 61745~~

~~(1) Divide the number of the district's full-time equivalent 61746
classroom teachers employed by one twenty-fifth; 61747~~

~~(2) Subtract the quotient in (1) from the district's regular 61748
student population; 61749~~

~~(3) Multiply the difference in (2) by seven hundred fifty-two 61750
dollars. 61751~~

~~(C) If a positive amount, add one-half of the amount obtained 61752
by multiplying the number of full-time equivalent classroom 61753
teachers by: 61754~~

~~(1) The mean annual salary of all full-time equivalent 61755
classroom teachers employed by the district at their respective 61756
training and experience levels minus; 61757~~

~~(2) The mean annual salary of all such teachers at their 61758
respective levels in all school districts receiving payments under 61759~~

~~this section.~~ 61760

~~The number of full time equivalent classroom teachers used in this computation shall not exceed one twenty fifth of the district's regular student population. In calculating the district's mean salary under this division, those full time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.~~ 61761
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~~(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:~~ 61771
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~~(1) Divide the number of full time equivalent educational service personnel employed by the district by five one thousandths;~~ 61780
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~~(2) Subtract the quotient in (1) from the district's regular student population;~~ 61783
61784

~~(3) Multiply the difference in (2) by ninety four dollars.~~ 61785

~~(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of~~ 61786
61787
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61790

the Revised Code. 61791

~~(F)~~(C)(1) If the district is required to pay to or entitled 61792
to receive tuition from another school district under division 61793
(C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised 61794
Code, or if the superintendent of public instruction is required 61795
to determine the correct amount of tuition and make a deduction or 61796
credit under section 3317.08 of the Revised Code, deduct and 61797
credit such amounts as provided in division (J) of section 3313.64 61798
or section 3317.08 of the Revised Code. 61799

(2) For each child for whom the district is responsible for 61800
tuition or payment under division (A)(1) of section 3317.082 or 61801
section 3323.091 of the Revised Code, deduct the amount of tuition 61802
or payment for which the district is responsible. 61803

~~(G)~~(D) If the district has been certified by the 61804
superintendent of public instruction under section 3313.90 of the 61805
Revised Code as not in compliance with the requirements of that 61806
section, deduct an amount equal to ten per cent of the amount 61807
computed for the district under ~~Chapter 3306. of the Revised Code~~ 61808
this chapter. 61809

~~(H)~~(E) If the district has received a loan from a commercial 61810
lending institution for which payments are made by the 61811
superintendent of public instruction pursuant to division (E)(3) 61812
of section 3313.483 of the Revised Code, deduct an amount equal to 61813
such payments. 61814

~~(I)~~(F)(1) If the district is a party to an agreement entered 61815
into under division (D), (E), or (F) of section 3311.06 or 61816
division (B) of section 3311.24 of the Revised Code and is 61817
obligated to make payments to another district under such an 61818
agreement, deduct an amount equal to such payments if the district 61819
school board notifies the department in writing that it wishes to 61820
have such payments deducted. 61821

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division ~~(I)~~(F)(1) of this section, add the amount of such payments.

~~(J)~~(G) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

~~(K)~~(H)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the formula amount.

(b) An amount equal to ~~the current formula amount~~ \$5,732 times the state share percentage times any multiple applicable to the student for fiscal year 2009 pursuant to section ~~3306.11~~ 3317.013 or 3317.014 of the Revised Code, as those sections existed for that fiscal year.

(2) Deduct any amount credited pursuant to division ~~(K)~~(H)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the

service center pursuant to section 3317.11 of the Revised Code. 61853

~~(I)~~(I)(1) If a district, including a joint vocational school 61854
district, is a lead district of a VEPD, credit to that district 61855
the following amounts calculated for all the school districts 61856
within that VEPD ~~pursuant to~~: 61857

(a) In any fiscal year except fiscal year 2012 or 2013, the 61858
amount computed under division ~~(E)~~(D)(2) of section 3317.022 of 61859
the Revised Code; 61860

(b) In fiscal years 2012 and 2013, an amount equal to the 61861
following: 61862

state share percentage X .05 X \$5,732 X 61863

the sum of categories one 61864

and two vocational education ADM 61865

(2) Deduct from each appropriate district that is not a lead 61866
district, the amount attributable to that district that is 61867
credited to a lead district under division ~~(I)~~(I)(1) of this 61868
section. 61869

~~(M)~~(J) If the department pays a joint vocational school 61870
district under division (G)(4) of section 3317.16 of the Revised 61871
Code for excess costs of providing special education and related 61872
services to a student with a disability, as calculated under 61873
division (G)(2) of that section, the department shall deduct the 61874
amount of that payment from the city, local, or exempted village 61875
school district that is responsible as specified in that section 61876
for the excess costs. 61877

~~(N)~~(K)(1) If the district reports an amount of excess cost 61878
for special education services for a child under division (C) of 61879
section 3323.14 of the Revised Code, the department shall pay that 61880
amount to the district. 61881

(2) If the district reports an amount of excess cost for 61882
special education services for a child under division (C) of 61883

section 3323.14 of the Revised Code, the department shall deduct 61884
that amount from the district of residence of that child. 61885

Sec. 3317.024. The following shall be distributed monthly, 61886
quarterly, or annually as may be determined by the state board of 61887
education, ~~except that the department of education shall not make~~ 61888
~~payments under divisions (F) and (N) of this section for any~~ 61889
~~fiscal year after fiscal year 2009 or under division (L) of this~~ 61890
~~section for fiscal year 2010 or 2011:~~ 61891

(A) An amount for each island school district and each joint 61892
state school district for the operation of each high school and 61893
each elementary school maintained within such district and for 61894
capital improvements for such schools. Such amounts shall be 61895
determined on the basis of standards adopted by the state board of 61896
education. However, for fiscal years 2012 and 2013, an island 61897
district shall receive the lesser of its actual cost of operation, 61898
as certified to the department of education, or ninety-three per 61899
cent of the amount the district received in state operating 61900
funding for fiscal year 2011. If an island district received no 61901
funding for fiscal year 2011, it shall receive no funding for 61902
either of fiscal year 2012 or 2013. 61903

~~(B) An amount for each school district operating classes for~~ 61904
~~children of migrant workers who are unable to be in attendance in~~ 61905
~~an Ohio school during the entire regular school year. The amounts~~ 61906
~~shall be determined on the basis of standards adopted by the state~~ 61907
~~board of education, except that payment shall be made only for~~ 61908
~~subjects regularly offered by the school district providing the~~ 61909
~~classes.~~ 61910

~~(C) An amount for each school district with guidance,~~ 61911
~~testing, and counseling programs approved by the state board of~~ 61912
~~education. The amount shall be determined on the basis of~~ 61913
~~standards adopted by the state board of education.~~ 61914

~~(D) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;~~ 61915
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~~(E) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.~~ 61917
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~~(F) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~ 61923
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~~(G)~~(C) An amount for the approved cost of transporting eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the school district or educational service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center. 61927
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~~(H)~~(D) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children and an amount to assist needy school districts in purchasing necessary equipment for food preparation. The amounts shall be determined on the basis of rules adopted by the state board of education. 61940
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~~(I)~~(E) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined during the first full week in October of each school year. 61947
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~~(J)~~(F) An amount for each county DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county DD board under section 3323.09 of the Revised Code; 61955
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~~(K) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program.~~ 61960
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~~(L) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy eight dollars.~~ 61965
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~~(M)~~(G) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of 61974
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all tuition amounts required to be paid to the institution under 61979
division (A)(1) of section 3317.082 of the Revised Code. 61980

~~(N) A grant to each school district and joint vocational 61981
school district that operates a "graduation, reality, and 61982
dual role skills" (GRADS) program for pregnant and parenting 61983
students that is approved by the department. The amount of the 61984
payment shall be the district's state share percentage, as defined 61985
in section 3317.022 or 3317.16 of the Revised Code, times the 61986
GRADS personnel allowance times the full time equivalent number of 61987
GRADS teachers approved by the department. The GRADS personnel 61988
allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS 61989
program shall include instruction on adoption as an option for 61990
unintended pregnancies. 61991~~

The state board of education or any other board of education 61992
or governing board may provide for any resident of a district or 61993
educational service center territory any educational service for 61994
which funds are made available to the board by the United States 61995
under the authority of public law, whether such funds come 61996
directly or indirectly from the United States or any agency or 61997
department thereof or through the state or any agency, department, 61998
or political subdivision thereof. 61999

Sec. 3317.025. On or before the first day of June of each 62000
year, the tax commissioner shall certify the following information 62001
to the department of education and the office of budget and 62002
management, for each school district in which the value of the 62003
property described under division (A) of this section exceeds one 62004
per cent of the taxable value of all real and tangible personal 62005
property in the district or in which is located tangible personal 62006
property designed for use or used in strip mining operations, 62007
whose taxable value exceeds five million dollars, and the taxes 62008
upon which the district is precluded from collecting by virtue of 62009

legal proceedings to determine the value of such property: 62010

(A) The total taxable value of all property in the district 62011
owned by a public utility or railroad that has filed a petition 62012
for reorganization under the "Bankruptcy Act," 47 Stat. 1474 62013
(1898), 11 U.S.C. 205, as amended, and all tangible personal 62014
property in the district designed for use or used in strip mining 62015
operations whose taxable value exceeds five million dollars upon 62016
which have not been paid in full on or before the first day of 62017
April of that calendar year all real and tangible personal 62018
property taxes levied for the preceding calendar year and which 62019
the district was precluded from collecting by virtue of 62020
proceedings under section 205 of said act or by virtue of legal 62021
proceedings to determine the tax liability of such strip mining 62022
equipment; 62023

(B) The percentage of the total operating taxes charged and 62024
payable for school district purposes levied against such valuation 62025
for the preceding calendar year that have not been paid by such 62026
date; 62027

(C) The product obtained by multiplying the value certified 62028
under division (A) of this section by the percentage certified 62029
under division (B) of this section. If the value certified under 62030
division (A) of this section includes taxable property owned by a 62031
public utility or railroad that has filed a petition for 62032
reorganization under the bankruptcy act, the amount used in making 62033
the calculation under this division shall be reduced by one per 62034
cent of the total value of all real and tangible personal property 62035
in the district or the value of the utility's or railroad's 62036
property, whichever is less. 62037

Upon receipt of the certification, the department shall 62038
recompute the payments required under ~~Chapter 3306. of the Revised~~ 62039
~~Code~~ this chapter in the manner the payments would have been 62040
computed if: 62041

(1) The amount certified under division (C) of this section 62042
was not subject to taxation by the district and was not included 62043
in the certification made under division (A)(1), (A)(2), or (D) of 62044
section 3317.021 of the Revised Code. 62045

(2) The amount of taxes charged and payable and unpaid and 62046
used to make the computation under division (B) of this section 62047
had not been levied and had not been used in the computation 62048
required by division (B) of section 3317.021 of the Revised Code. 62049
The department shall pay the district that amount in the ensuing 62050
fiscal year in lieu of the amounts computed under ~~Chapter 3306. of~~ 62051
~~the Revised Code~~ this chapter. 62052

If a school district received a grant from the catastrophic 62053
expenditures account pursuant to division (C) of section 3316.20 62054
of the Revised Code on the basis of the same circumstances for 62055
which a recomputation is made under this section, the amount of 62056
the recomputation shall be reduced and transferred in accordance 62057
with division (C) of section 3316.20 of the Revised Code. 62058

Sec. 3317.0210. (A) As used in this section: 62059

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act 62060
of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended. 62061

(2) "Chapter 11 corporation" means a corporation, company, or 62062
other business organization that has filed a petition for 62063
reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 62064
Stat. 2626, 11 U.S.C. 1101, as amended. 62065

(3) "Uncollectable taxes" means property taxes payable in a 62066
calendar year by a Chapter 11 corporation on its property that a 62067
school district is precluded from collecting by virtue of 62068
proceedings under the Bankruptcy Reform Act. 62069

(4) "Basic state aid" means ~~the a school district's~~ state 62070
education aid ~~calculated for a school district under Chapter 3306.~~ 62071

~~of the Revised Code.~~ 62072

(5) "Effective value" means the amount obtained by 62073
multiplying the total taxable value certified in a calendar year 62074
under section 3317.021 of the Revised Code by a fraction, the 62075
numerator of which is the total taxes charged and payable in that 62076
calendar year exclusive of the uncollectable taxes payable in that 62077
year, and the denominator of which is the total taxes charged and 62078
payable in that year. 62079

(6) "Total taxes charged and payable" has the same meaning 62080
given "taxes charged and payable" in section 3317.02 of the 62081
Revised Code. 62082

(B)(1) Between the first day of January and the first day of 62083
February of any year, a school district shall notify the 62084
department of education if it has uncollectable taxes payable in 62085
the preceding calendar year from one Chapter 11 corporation. 62086

(2) The department shall verify whether the district has such 62087
uncollectable taxes from such a corporation, and if the district 62088
does, shall immediately request the tax commissioner to certify 62089
the district's total taxes charged and payable in the preceding 62090
calendar year, and the tax commissioner shall certify that 62091
information to the department within thirty days after receiving 62092
the request. For the purposes of this section, taxes are payable 62093
in the calendar year that includes the day prescribed by law for 62094
their payment, including any lawful extension thereof. 62095

(C) Upon receiving the certification from the tax 62096
commissioner, the department shall determine whether the amount of 62097
uncollectable taxes from the corporation equals at least one per 62098
cent of the total taxes charged and payable as certified by the 62099
tax commissioner. If it does, the department shall compute the 62100
district's effective value and shall recompute the basic state aid 62101
payable to the district for the current fiscal year using the 62102

effective value in lieu of the total taxable value used to compute 62103
the basic state aid for the current fiscal year. The difference 62104
between the basic state aid amount originally computed for the 62105
district for the current fiscal year and the recomputed amount 62106
shall be paid to the district from the lottery profits education 62107
fund before the end of the current fiscal year. 62108

(D) Except as provided in division (E) of this section, 62109
amounts received by a school district under division (C) of this 62110
section shall be repaid to the department of education in any 62111
future year to the extent the district receives payments of 62112
uncollectable taxes in such future year. The district shall notify 62113
the department of any amount owed under this division. 62114

(E) If a school district received a grant from the 62115
catastrophic expenditures account pursuant to division (C) of 62116
section 3316.20 of the Revised Code on the basis of the same 62117
circumstances for which a recomputation is made under this 62118
section, the amount of the recomputation shall be reduced and 62119
transferred in accordance with division (C) of section 3316.20 of 62120
the Revised Code. 62121

Sec. 3317.0211. (A) As used in this section: 62122

(1) "Port authority" means any port authority as defined in 62123
section 4582.01 or 4582.21 of the Revised Code. 62124

(2) "Real property" includes public utility real property and 62125
"personal property" includes public utility personal property. 62126

(3) "Uncollected taxes" means property taxes charged and 62127
payable against the property of a port authority for a tax year 62128
that a school district has not collected. 62129

(4) "Basic state aid" means ~~the a school district's state~~ 62130
~~education aid calculated for a school district under Chapter 3306.~~ 62131
~~of the Revised Code.~~ 62132

(5) "Effective value" means the sum of the effective residential/agricultural real property value, the effective nonresidential/agricultural real property value, and the effective personal value.

(6) "Effective residential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of residential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district.

(7) "Effective nonresidential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of nonresidential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district.

(8) "Effective personal value" means, for a tax year, the amount obtained by multiplying the value for that year certified under division (A)(2) of section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district, exclusive of the uncollected taxes for

that year on that property, and the denominator of which is the 62165
total taxes charged and payable for that year against personal 62166
property subject to taxation in the district. 62167

(9) "Nonresidential/agricultural real property value" means, 62168
for a tax year, the sum of the values certified for a school 62169
district for that year under division (B)(2)(a) of this section, 62170
and "residential/agricultural real property value" means, for a 62171
tax year, the sum of the values certified for a school district 62172
under division (B)(2)(b) of this section. 62173

(10) "Taxes charged and payable against real property" means 62174
the taxes charged and payable against that property after making 62175
the reduction required by section 319.301 of the Revised Code. 62176

(11) "Total taxes charged and payable" has the same meaning 62177
given "taxes charged and payable" in section 3317.02 of the 62178
Revised Code. 62179

(B)(1) By the first day of August of any calendar year, a 62180
school district shall notify the department of education if it has 62181
any uncollected taxes from one port authority for the second 62182
preceding tax year whose taxes charged and payable represent at 62183
least one-half of one per cent of the district's total taxes 62184
charged and payable for that tax year. 62185

(2) The department shall verify whether the district has such 62186
uncollected taxes by the first day of September, and if the 62187
district does, shall immediately request the county auditor of 62188
each county in which the school district has territory to certify 62189
the following information concerning the district's property 62190
values and taxes for the second preceding tax year, and each such 62191
auditor shall certify that information to the department within 62192
thirty days of receiving the request: 62193

(a) The value of the property subject to taxation in the 62194
district that was classified as nonresidential/agricultural real 62195

property pursuant to section 5713.041 of the Revised Code, and the 62196
taxes charged and payable on that property; and 62197

(b) The value of the property subject to taxation in the 62198
district that was classified as residential/agricultural real 62199
property under section 5713.041 of the Revised Code. 62200

(C) By the fifteenth day of November, the department shall 62201
compute the district's effective nonresidential/agricultural real 62202
property value, effective residential/agricultural real property 62203
value, effective personal value, and effective value, and shall 62204
determine whether the school district's effective value for the 62205
second preceding tax year is at least one per cent less than its 62206
total value for that year certified under divisions (A)(1) and (2) 62207
of section 3317.021 of the Revised Code. If it is, the department 62208
shall recompute the basic state aid payable to the district for 62209
the immediately preceding fiscal year using the effective value in 62210
lieu of the amounts previously certified under section 3317.021 of 62211
the Revised Code. The difference between the original basic state 62212
aid amount computed for the district for the preceding fiscal year 62213
and the recomputed amount shall be paid to the district from the 62214
lottery profits education fund before the end of the current 62215
fiscal year. 62216

(D) Except as provided in division (E) of this section, 62217
amounts received by a school district under division (C) of this 62218
section shall be repaid to the department of education in any 62219
future year to the extent the district receives payments of 62220
uncollectable taxes in such future year. The department shall 62221
notify a district of any amount owed under this division. 62222

(E) If a school district received a grant from the 62223
catastrophic expenditures account pursuant to division (C) of 62224
section 3316.20 of the Revised Code on the basis of the same 62225
circumstances for which a recomputation is made under this 62226
section, the amount of the recomputation shall be reduced and 62227

transferred in accordance with division (C) of section 3316.20 of 62228
the Revised Code. 62229

Sec. ~~3306.12~~ 3317.0212. ~~(A)~~ The department of education shall 62230
make no payments under this section for fiscal year 2012 or 2013. 62231

(A) As used in this section: 62232

(1) "Assigned bus" means a school bus used to transport 62233
qualifying riders. 62234

(2) "Nontraditional ridership" means the average number of 62235
qualifying riders who are enrolled in a community school 62236
established under Chapter 3314. of the Revised Code, in a STEM 62237
school established under Chapter 3326. of the Revised Code, or in 62238
a nonpublic school and are provided school bus service by a school 62239
district during the first full week of October. 62240

(3) "Qualifying riders" means resident students enrolled in 62241
regular education in grades kindergarten to twelve who are 62242
provided school bus service by a school district and who live more 62243
than one mile from the school they attend, including students with 62244
dual enrollment in a joint vocational school district or a 62245
cooperative education school district, and students enrolled in a 62246
community school, STEM school, or nonpublic school. 62247

(4) "Qualifying ridership" means the average number of 62248
qualifying riders who are provided school bus service by a school 62249
district during the first full week of October. 62250

(5) "Rider density" means the number of qualifying riders per 62251
square mile of a school district. 62252

(6) "School bus service" means a school district's 62253
transportation of qualifying riders in any of the following types 62254
of vehicles: 62255

(a) School buses owned or leased by the district; 62256

(b) School buses operated by a private contractor hired by the district; 62257
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(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise. 62259
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(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, nontraditional ridership, number of qualifying riders per assigned bus, and any other information requested by the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department. 62262
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(C) The department shall calculate the statewide transportation cost per student as follows: 62269
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(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year. 62271
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(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year. 62276
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(D) The department shall calculate the statewide transportation cost per mile as follows: 62283
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(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by 62285
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its total number of miles driven for school bus service in the 62288
previous fiscal year. 62289

(2) After excluding districts that do not provide school bus 62290
service and the ten districts with the highest transportation 62291
costs per mile and the ten districts with the lowest 62292
transportation costs per mile, divide the aggregate cost for 62293
school bus service for the remaining districts in the previous 62294
fiscal year by the aggregate miles driven for school bus service 62295
in those districts in the previous fiscal year. 62296

(E) The department shall calculate each city, local, and 62297
exempted village school district's transportation base payment as 62298
follows: 62299

(1) Multiply the statewide transportation cost per student by 62300
the district's qualifying ridership for the current fiscal year. 62301

(2) Multiply the statewide transportation cost per mile by 62302
the district's total number of miles driven for school bus service 62303
in the current fiscal year. 62304

(3) Multiply the greater of the amounts calculated under 62305
divisions (E)(1) and (2) of this section by the greater of sixty 62306
per cent or the district's state share percentage, as defined in 62307
section 3317.02 of the Revised Code. 62308

(F) The department shall calculate each city, local, and 62309
exempted village school district's nontraditional ridership 62310
adjustment according to the following formula: 62311

(nontraditional ridership for the current fiscal year / 62312
qualifying ridership for the current fiscal year) X 0.1 X 62313
transportation base payment 62314

(G) If a city, local, ~~and~~ or exempted village school district 62315
offers school bus service to all resident students who are 62316
enrolled in regular education in district schools in grades nine 62317
to twelve and who live more than one mile from the school they 62318

attend, the department shall calculate the district's high school ridership adjustment according to the following formula:

0.025 X transportation base payment

(H) If a city, local, ~~and~~ or exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:

0.025 X transportation base payment

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

0.1 X transportation base payment	62350
(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:	62351 62352 62353
[(efficiency index - 1) / 5] X transportation base payment	62354
(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.	62355 62356
(J) The department shall pay each city, local, and exempted village school district the lesser of the following:	62357 62358
(1) The sum of the amounts calculated under divisions (E) to (H) and (I)(3) of this section;	62359 62360
(2) The district's total costs for school bus service for the prior fiscal year.	62361 62362
(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division (G) (C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.	62363 62364 62365 62366 62367 62368 62369 62370
(L)(1) In fiscal years 2010 and 2011, the department shall pay each district a pro rata portion of the amounts calculated under division (J) of this section and described in division (K) of this section, based on state appropriations.	62371 62372 62373 62374
(2) In addition to the prorated payment under division (L)(1) of this section, in fiscal years 2010 and 2011, the department shall pay each school district that meets the conditions prescribed in division (L)(3) of this section an additional amount equal to the following product:	62375 62376 62377 62378 62379

~~(a) The difference of (i) the amounts calculated under
division (J) of this section and prescribed in division (K) of
this section minus (ii) that prorated payment; times~~ 62380
62381
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~~(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011.~~ 62383

~~(3) Division (L)(2) of this section applies to each school
district that meets all of the following conditions:~~ 62384
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~~(a) The district qualifies for the calculation of a payment
under division (J) of this section because it transports students
on board owned or contractor owned school buses.~~ 62386
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~~(b) The district's local wealth per pupil, calculated as
prescribed in section 3317.0217 of the Revised Code, is at or
below the median local wealth per pupil of all districts that
qualify for calculation of a payment under division (J) of this
section.~~ 62389
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~~(c) The district's rider density is at or below the median
rider density of all districts that qualify for calculation of a
payment under division (J) of this section.~~ 62394
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Sec. 3317.03. ~~The information certified and verified under
this section shall be used to calculate payments under this
chapter and Chapter 3306. of the Revised Code.~~ 62397
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(A) The superintendent of each city, local, and exempted
village school district and of each educational service center
shall, for the schools under the superintendent's supervision,
certify to the state board of education on or before the fifteenth
day of October in each year for the first full school week in
October the average daily membership of students receiving
services from schools under the superintendent's supervision, and
the numbers of other students entitled to attend school in the
district under section 3313.64 or 3313.65 of the Revised Code the
superintendent is required to report under this section, so that

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the department of education can calculate the district's formula 62410
ADM. If a school under the superintendent's supervision is closed 62411
for one or more days during that week due to hazardous weather 62412
conditions or other circumstances described in the first paragraph 62413
of division (B) of section 3317.01 of the Revised Code, the 62414
superintendent may apply to the superintendent of public 62415
instruction for a waiver, under which the superintendent of public 62416
instruction may exempt the district superintendent from certifying 62417
the average daily membership for that school for that week and 62418
specify an alternate week for certifying the average daily 62419
membership of that school. 62420

The average daily membership during such week shall consist 62421
of the sum of the following: 62422

(1) On an FTE basis, the number of students in grades 62423
kindergarten through twelve receiving any educational services 62424
from the district, except that the following categories of 62425
students shall not be included in the determination: 62426

(a) Students enrolled in adult education classes; 62427

(b) Adjacent or other district students enrolled in the 62428
district under an open enrollment policy pursuant to section 62429
3313.98 of the Revised Code; 62430

(c) Students receiving services in the district pursuant to a 62431
compact, cooperative education agreement, or a contract, but who 62432
are entitled to attend school in another district pursuant to 62433
section 3313.64 or 3313.65 of the Revised Code; 62434

(d) Students for whom tuition is payable pursuant to sections 62435
3317.081 and 3323.141 of the Revised Code; 62436

(e) Students receiving services in the district through a 62437
scholarship awarded under either section 3310.41 or sections 62438
3310.51 to 3310.64 of the Revised Code. 62439

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and

"registered private provider" have the same meanings as in section 62470
3310.41 or 3310.51 of the Revised Code, as applicable. 62471

(i) A science, technology, engineering, and mathematics 62472
school established under Chapter 3326. of the Revised Code, 62473
including any participation in a college pursuant to Chapter 3365. 62474
of the Revised Code while enrolled in the school; 62475

(j) A college-preparatory boarding school established under 62476
Chapter 3328. of the Revised Code. 62477

(3) The number of students enrolled in a joint vocational 62478
school district or under a vocational education compact, excluding 62479
any students entitled to attend school in the district under 62480
section 3313.64 or 3313.65 of the Revised Code who are enrolled in 62481
another school district through an open enrollment policy as 62482
reported under division (A)(2)(d) of this section and then enroll 62483
in a joint vocational school district or under a vocational 62484
education compact; 62485

(4) The number of children with disabilities, other than 62486
preschool children with disabilities, entitled to attend school in 62487
the district pursuant to section 3313.64 or 3313.65 of the Revised 62488
Code who are placed by the district with a county DD board, minus 62489
the number of such children placed with a county DD board in 62490
fiscal year 1998. If this calculation produces a negative number, 62491
the number reported under division (A)(4) of this section shall be 62492
zero. 62493

(B) To enable the department of education to obtain the data 62494
needed to complete the calculation of payments pursuant to this 62495
chapter ~~and Chapter 3306.~~ of the Revised Code, in addition to the 62496
average daily membership, each superintendent shall report 62497
separately the following student counts for the same week for 62498
which average daily membership is certified: 62499

(1) The total average daily membership in regular learning 62500

day classes included in the report under division (A)(1) or (2) of 62501
this section for each of the individual grades kindergarten 62502
through twelve in schools under the superintendent's supervision; 62503

(2) The number of all preschool children with disabilities 62504
enrolled as of the first day of December in classes in the 62505
district that are eligible for approval under division (B) of 62506
section 3317.05 of the Revised Code and the number of those 62507
classes, which shall be reported not later than the fifteenth day 62508
of December, in accordance with rules adopted under that section; 62509

(3) The number of children entitled to attend school in the 62510
district pursuant to section 3313.64 or 3313.65 of the Revised 62511
Code who are: 62512

(a) Participating in a pilot project scholarship program 62513
established under sections 3313.974 to 3313.979 of the Revised 62514
Code as described in division (I)(2)(a) or (b) of this section; 62515

(b) Enrolled in a college under Chapter 3365. of the Revised 62516
Code, except when the student is enrolled in the college while 62517
also enrolled in a community school pursuant to Chapter 3314. or a 62518
science, technology, engineering, and mathematics school 62519
established under Chapter 3326. of the Revised Code; 62520

(c) Enrolled in an adjacent or other school district under 62521
section 3313.98 of the Revised Code; 62522

(d) Enrolled in a community school established under Chapter 62523
3314. of the Revised Code that is not an internet- or 62524
computer-based community school as defined in section 3314.02 of 62525
the Revised Code, including any participation in a college 62526
pursuant to Chapter 3365. of the Revised Code while enrolled in 62527
such community school; 62528

(e) Enrolled in an internet- or computer-based community 62529
school, as defined in section 3314.02 of the Revised Code, 62530
including any participation in a college pursuant to Chapter 3365. 62531

of the Revised Code while enrolled in the school;	62532
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	62533 62534
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	62535 62536 62537
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	62538 62539 62540
(i) Participating in a program operated by a county DD board or a state institution;	62541 62542
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	62543 62544 62545 62546
<u>(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.</u>	62547 62548
(4) The number of pupils enrolled in joint vocational schools;	62549 62550
(5) The <u>combined</u> average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (D)(1)(A) of section 3306.02 <u>3317.013</u> of the Revised Code, <u>including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;</u>	62551 62552 62553 62554 62555 62556 62557 62558
(6) The <u>combined</u> average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities	62559 62560 62561

described in division ~~(D)(2)~~(B) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(7) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division ~~(D)(3)~~(C) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(8) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division ~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(9) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education

services for category six disabilities described in division 62594
(D)(6)(F) of section ~~3306.02~~ 3317.013 of the Revised Code, 62595
including children attending a special education program operated 62596
by an alternative public provider or a registered private provider 62597
with a scholarship awarded under either section 3310.41 or 62598
sections 3310.51 to 3310.64 of the Revised Code; 62599

(11) The average daily membership of pupils reported under 62600
division (A)(1) or (2) of this section enrolled in category one 62601
vocational education programs or classes, described in division 62602
(A) of section 3317.014 of the Revised Code, operated by the 62603
school district or by another district, other than a joint 62604
vocational school district, or by an educational service center, 62605
excluding any student reported under division (B)(3)(e) of this 62606
section as enrolled in an internet- or computer-based community 62607
school, notwithstanding division (C) of section 3317.02 of the 62608
Revised Code and division (C)(3) of this section; 62609

(12) The average daily membership of pupils reported under 62610
division (A)(1) or (2) of this section enrolled in category two 62611
vocational education programs or services, described in division 62612
(B) of section 3317.014 of the Revised Code, operated by the 62613
school district or another school district, other than a joint 62614
vocational school district, or by an educational service center, 62615
excluding any student reported under division (B)(3)(e) of this 62616
section as enrolled in an internet- or computer-based community 62617
school, notwithstanding division (C) of section 3317.02 of the 62618
Revised Code and division (C)(3) of this section; 62619

Beginning with fiscal year 2010, vocational education ADM 62620
shall not be used to calculate a district's funding but shall be 62621
reported under divisions (B)(11) and (12) of this section for 62622
statistical purposes. 62623

(13) The average number of children transported by the school 62624
district on board-owned or contractor-owned and -operated buses, 62625

reported in accordance with rules adopted by the department of 62626
education; 62627

(14)(a) The number of children, other than preschool children 62628
with disabilities, the district placed with a county DD board in 62629
fiscal year 1998; 62630

(b) The number of children with disabilities, other than 62631
preschool children with disabilities, placed with a county DD 62632
board in the current fiscal year to receive special education 62633
services for the category one disability described in division 62634
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62635

(c) The number of children with disabilities, other than 62636
preschool children with disabilities, placed with a county DD 62637
board in the current fiscal year to receive special education 62638
services for category two disabilities described in division 62639
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62640

(d) The number of children with disabilities, other than 62641
preschool children with disabilities, placed with a county DD 62642
board in the current fiscal year to receive special education 62643
services for category three disabilities described in division 62644
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62645

(e) The number of children with disabilities, other than 62646
preschool children with disabilities, placed with a county DD 62647
board in the current fiscal year to receive special education 62648
services for category four disabilities described in division 62649
~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62650

(f) The number of children with disabilities, other than 62651
preschool children with disabilities, placed with a county DD 62652
board in the current fiscal year to receive special education 62653
services for the category five disabilities described in division 62654
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code; 62655

(g) The number of children with disabilities, other than 62656

preschool children with disabilities, placed with a county DD 62657
board in the current fiscal year to receive special education 62658
services for category six disabilities described in division 62659
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code. 62660

(C)(1) The average daily membership in divisions (B)(1) to 62661
(12) of this section shall be based upon the number of full-time 62662
equivalent students. The state board of education shall adopt 62663
rules defining full-time equivalent students and for determining 62664
the average daily membership therefrom for the purposes of 62665
divisions (A), (B), and (D) of this section. 62666

(2) A student enrolled in a community school established 62667
under Chapter 3314. ~~or~~ a science, technology, engineering, and 62668
mathematics school established under Chapter 3326., or a 62669
college-preparatory boarding school established under Chapter 62670
3328. of the Revised Code shall be counted in the formula ADM and, 62671
if applicable, the category one, two, three, four, five, or six 62672
special education ADM of the school district in which the student 62673
is entitled to attend school under section 3313.64 or 3313.65 of 62674
the Revised Code for the same proportion of the school year that 62675
the student is counted in the enrollment of the community school 62676
~~or~~ the science, technology, engineering, and mathematics school, 62677
or the college-preparatory boarding school for purposes of section 62678
3314.08 ~~or~~ 3326.33, or 3328.24 of the Revised Code. 62679

Notwithstanding the number of students reported pursuant to 62680
division (B)(3)(d), (e), ~~or~~ (j), or (k) of this section, the 62681
department may adjust the formula ADM of a school district to 62682
account for students entitled to attend school in the district 62683
under section 3313.64 or 3313.65 of the Revised Code who are 62684
enrolled in a community school ~~or~~ a science, technology, 62685
engineering, and mathematics school, or a college-preparatory 62686
boarding school for only a portion of the school year. 62687

(3) No child shall be counted as more than a total of one 62688

child in the sum of the average daily memberships of a school 62689
district under division (A), divisions (B)(1) to (12), or division 62690
(D) of this section, except as follows: 62691

(a) A child with a disability described in ~~division (D) of~~ 62692
section ~~3306.02~~ 3317.013 of the Revised Code may be counted both 62693
in formula ADM and in category one, two, three, four, five, or six 62694
special education ADM and, if applicable, in category one or two 62695
vocational education ADM. As provided in division (C) of section 62696
3317.02 of the Revised Code, such a child shall be counted in 62697
category one, two, three, four, five, or six special education ADM 62698
in the same proportion that the child is counted in formula ADM. 62699

(b) A child enrolled in vocational education programs or 62700
classes described in section 3317.014 of the Revised Code may be 62701
counted both in formula ADM and category one or two vocational 62702
education ADM and, if applicable, in category one, two, three, 62703
four, five, or six special education ADM. Such a child shall be 62704
counted in category one or two vocational education ADM in the 62705
same proportion as the percentage of time that the child spends in 62706
the vocational education programs or classes. 62707

(4) Based on the information reported under this section, the 62708
department of education shall determine the total student count, 62709
as defined in section 3301.011 of the Revised Code, for each 62710
school district. 62711

(D)(1) The superintendent of each joint vocational school 62712
district shall certify to the superintendent of public instruction 62713
on or before the fifteenth day of October in each year for the 62714
first full school week in October the formula ADM, for purposes of 62715
section 3318.42 of the Revised Code and for any other purpose 62716
prescribed by law for which "formula ADM" of the joint vocational 62717
district is a factor. If a school operated by the joint vocational 62718
school district is closed for one or more days during that week 62719
due to hazardous weather conditions or other circumstances 62720

described in the first paragraph of division (B) of section 62721
3317.01 of the Revised Code, the superintendent may apply to the 62722
superintendent of public instruction for a waiver, under which the 62723
superintendent of public instruction may exempt the district 62724
superintendent from certifying the formula ADM for that school for 62725
that week and specify an alternate week for certifying the formula 62726
ADM of that school. 62727

The formula ADM, except as otherwise provided in this 62728
division, shall consist of the average daily membership during 62729
such week, on an FTE basis, of the number of students receiving 62730
any educational services from the district, including students 62731
enrolled in a community school established under Chapter 3314. or 62732
a science, technology, engineering, and mathematics school 62733
established under Chapter 3326. of the Revised Code who are 62734
attending the joint vocational district under an agreement between 62735
the district board of education and the governing authority of the 62736
community school or the governing body of the science, technology, 62737
engineering, and mathematics school and are entitled to attend 62738
school in a city, local, or exempted village school district whose 62739
territory is part of the territory of the joint vocational 62740
district. 62741

The following categories of students shall not be included in 62742
the determination made under division (D)(1) of this section: 62743

(a) Students enrolled in adult education classes; 62744

(b) Adjacent or other district joint vocational students 62745
enrolled in the district under an open enrollment policy pursuant 62746
to section 3313.98 of the Revised Code; 62747

(c) Students receiving services in the district pursuant to a 62748
compact, cooperative education agreement, or a contract, but who 62749
are entitled to attend school in a city, local, or exempted 62750
village school district whose territory is not part of the 62751

territory of the joint vocational district;	62752
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	62753 62754
(2) In <u>To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in</u> addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:	62755 62756 62757 62758 62759 62760 62761
(a) Students enrolled in each individual grade included in the joint vocational district schools;	62762 62763
(b) Children with disabilities receiving special education services for the category one disability described in division (D)(1)(A) of section 3306.02 <u>3317.013</u> of the Revised Code;	62764 62765 62766
(c) Children with disabilities receiving special education services for the category two disabilities described in division (D)(2)(B) of section 3306.02 <u>3317.013</u> of the Revised Code;	62767 62768 62769
(d) Children with disabilities receiving special education services for category three disabilities described in division (D)(3)(C) of section 3306.02 <u>3317.013</u> of the Revised Code;	62770 62771 62772
(e) Children with disabilities receiving special education services for category four disabilities described in division (D)(4) of section 3306.02 <u>3317.013</u> of the Revised Code;	62773 62774 62775
(f) Children with disabilities receiving special education services for the category five disabilities described in division (D)(5)(E) of section 3306.02 <u>3317.013</u> of the Revised Code;	62776 62777 62778
(g) Children with disabilities receiving special education services for category six disabilities described in division (D)(6)(F) of section 3306.02 <u>3317.013</u> of the Revised Code;	62779 62780 62781

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code; 62782
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(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code. 62785
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The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code. 62788
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(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following: 62793
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(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school; 62808
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(2) Any pupil who is not a resident of the state; 62810

(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered 62811
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under section 3301.0711 of the Revised Code but did not take one 62813
or more of the assessments required by that section and was not 62814
excused pursuant to division (C)(1) or (3) of that section; 62815

(4) Any pupil who has attained the age of twenty-two years, 62816
except for veterans of the armed services whose attendance was 62817
interrupted before completing the recognized twelve-year course of 62818
the public schools by reason of induction or enlistment in the 62819
armed forces and who apply for reenrollment in the public school 62820
system of their residence not later than four years after 62821
termination of war or their honorable discharge. 62822

If, however, any veteran described by division (E)(4) of this 62823
section elects to enroll in special courses organized for veterans 62824
for whom tuition is paid under the provisions of federal laws, or 62825
otherwise, that veteran shall not be included in average daily 62826
membership. 62827

Notwithstanding division (E)(3) of this section, the 62828
membership of any school may include a pupil who did not take an 62829
assessment required by section 3301.0711 of the Revised Code if 62830
the superintendent of public instruction grants a waiver from the 62831
requirement to take the assessment to the specific pupil and a 62832
parent is not paying tuition for the pupil pursuant to section 62833
3313.6410 of the Revised Code. The superintendent may grant such a 62834
waiver only for good cause in accordance with rules adopted by the 62835
state board of education. 62836

Except as provided in divisions (B)(2) and (F) of this 62837
section, the average daily membership figure of any local, city, 62838
exempted village, or joint vocational school district shall be 62839
determined by dividing the figure representing the sum of the 62840
number of pupils enrolled during each day the school of attendance 62841
is actually open for instruction during the week for which the 62842
average daily membership is being certified by the total number of 62843
days the school was actually open for instruction during that 62844

week. For purposes of state funding, "enrolled" persons are only 62845
those pupils who are attending school, those who have attended 62846
school during the current school year and are absent for 62847
authorized reasons, and those children with disabilities currently 62848
receiving home instruction. 62849

The average daily membership figure of any cooperative 62850
education school district shall be determined in accordance with 62851
rules adopted by the state board of education. 62852

(F)(1) If the formula ADM for the first full school week in 62853
February is at least three per cent greater than that certified 62854
for the first full school week in the preceding October, the 62855
superintendent of schools of any city, exempted village, or joint 62856
vocational school district or educational service center shall 62857
certify such increase to the superintendent of public instruction. 62858
Such certification shall be submitted no later than the fifteenth 62859
day of February. For the balance of the fiscal year, beginning 62860
with the February payments, the superintendent of public 62861
instruction shall use the increased formula ADM in calculating or 62862
recalculating the amounts to be allocated in accordance with 62863
section 3317.022 or 3317.16 of the Revised Code. In no event shall 62864
the superintendent use an increased membership certified to the 62865
superintendent after the fifteenth day of February. Division 62866
(F)(1) of this section does not apply after fiscal year 2006. 62867

(2) If on the first school day of April the total number of 62868
classes or units for preschool children with disabilities that are 62869
eligible for approval under division (B) of section 3317.05 of the 62870
Revised Code exceeds the number of units that have been approved 62871
for the year under that division, the superintendent of schools of 62872
any city, exempted village, or cooperative education school 62873
district or educational service center shall make the 62874
certifications required by this section for that day. If the 62875
department determines additional units can be approved for the 62876

fiscal year within any limitations set forth in the acts 62877
appropriating moneys for the funding of such units, the department 62878
shall approve additional units for the fiscal year on the basis of 62879
such average daily membership. For each unit so approved, the 62880
department shall pay an amount computed in the manner prescribed 62881
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 62882
Code. 62883

(3) If a student attending a community school under Chapter 62884
3314. ~~or~~ a science, technology, engineering, and mathematics 62885
school established under Chapter 3326., or a college-preparatory 62886
boarding school established under Chapter 3328. of the Revised 62887
Code is not included in the formula ADM certified for the school 62888
district in which the student is entitled to attend school under 62889
section 3313.64 or 3313.65 of the Revised Code, the department of 62890
education shall adjust the formula ADM of that school district to 62891
include the student in accordance with division (C)(2) of this 62892
section, and shall recalculate the school district's payments 62893
under this chapter ~~and Chapter 3306.~~ of the Revised Code for the 62894
entire fiscal year on the basis of that adjusted formula ADM. This 62895
requirement applies regardless of whether the student was 62896
enrolled, as defined in division (E) of this section, in the 62897
community school ~~or~~ the science, technology, engineering, and 62898
mathematics school, or the college-preparatory boarding school 62899
during the week for which the formula ADM is being certified. 62900

(4) If a student awarded an educational choice scholarship is 62901
not included in the formula ADM of the school district from which 62902
the department deducts funds for the scholarship under section 62903
3310.08 of the Revised Code, the department shall adjust the 62904
formula ADM of that school district to include the student to the 62905
extent necessary to account for the deduction, and shall 62906
recalculate the school district's payments under this chapter ~~and~~ 62907
~~Chapter 3306.~~ of the Revised Code for the entire fiscal year on 62908

the basis of that adjusted formula ADM. This requirement applies 62909
regardless of whether the student was enrolled, as defined in 62910
division (E) of this section, in the chartered nonpublic school, 62911
the school district, or a community school during the week for 62912
which the formula ADM is being certified. 62913

(5) If a student awarded a scholarship under the Jon Peterson 62914
special needs scholarship program is not included in the formula 62915
ADM of the school district from which the department deducts funds 62916
for the scholarship under section 3310.55 of the Revised Code, the 62917
department shall adjust the formula ADM of that school district to 62918
include the student to the extent necessary to account for the 62919
deduction, and shall recalculate the school district's payments 62920
under this chapter for the entire fiscal year on the basis of that 62921
adjusted formula ADM. This requirement applies regardless of 62922
whether the student was enrolled, as defined in division (E) of 62923
this section, in an alternative public provider, a registered 62924
private provider, or the school district during the week for which 62925
the formula ADM is being certified. 62926

(G)(1)(a) The superintendent of an institution operating a 62927
special education program pursuant to section 3323.091 of the 62928
Revised Code shall, for the programs under such superintendent's 62929
supervision, certify to the state board of education, in the 62930
manner prescribed by the superintendent of public instruction, 62931
both of the following: 62932

(i) The average daily membership of all children with 62933
disabilities other than preschool children with disabilities 62934
receiving services at the institution for each category of 62935
disability described in divisions ~~(D)(1) to (6)(A)~~ to (F) of 62936
section ~~3306.02~~ 3317.013 of the Revised Code; 62937

(ii) The average daily membership of all preschool children 62938
with disabilities in classes or programs approved annually by the 62939
department of education for unit funding under section 3317.05 of 62940

the Revised Code. 62941

(b) The superintendent of an institution with vocational 62942
education units approved under division (A) of section 3317.05 of 62943
the Revised Code shall, for the units under the superintendent's 62944
supervision, certify to the state board of education the average 62945
daily membership in those units, in the manner prescribed by the 62946
superintendent of public instruction. 62947

(2) The superintendent of each county DD board that maintains 62948
special education classes under section 3317.20 of the Revised 62949
Code or units approved pursuant to section 3317.05 of the Revised 62950
Code shall do both of the following: 62951

(a) Certify to the state board, in the manner prescribed by 62952
the board, the average daily membership in classes under section 62953
3317.20 of the Revised Code for each school district that has 62954
placed children in the classes; 62955

(b) Certify to the state board, in the manner prescribed by 62956
the board, the number of all preschool children with disabilities 62957
enrolled as of the first day of December in classes eligible for 62958
approval under division (B) of section 3317.05 of the Revised 62959
Code, and the number of those classes. 62960

(3)(a) If on the first school day of April the number of 62961
classes or units maintained for preschool children with 62962
disabilities by the county DD board that are eligible for approval 62963
under division (B) of section 3317.05 of the Revised Code is 62964
greater than the number of units approved for the year under that 62965
division, the superintendent shall make the certification required 62966
by this section for that day. 62967

(b) If the department determines that additional classes or 62968
units can be approved for the fiscal year within any limitations 62969
set forth in the acts appropriating moneys for the funding of the 62970
classes and units described in division (G)(3)(a) of this section, 62971

the department shall approve and fund additional units for the 62972
fiscal year on the basis of such average daily membership. For 62973
each unit so approved, the department shall pay an amount computed 62974
in the manner prescribed in sections 3317.052 and 3317.053 of the 62975
Revised Code. 62976

(H) Except as provided in division (I) of this section, when 62977
any city, local, or exempted village school district provides 62978
instruction for a nonresident pupil whose attendance is 62979
unauthorized attendance as defined in section 3327.06 of the 62980
Revised Code, that pupil's membership shall not be included in 62981
that district's membership figure used in the calculation of that 62982
district's formula ADM or included in the determination of any 62983
unit approved for the district under section 3317.05 of the 62984
Revised Code. The reporting official shall report separately the 62985
average daily membership of all pupils whose attendance in the 62986
district is unauthorized attendance, and the membership of each 62987
such pupil shall be credited to the school district in which the 62988
pupil is entitled to attend school under division (B) of section 62989
3313.64 or section 3313.65 of the Revised Code as determined by 62990
the department of education. 62991

(I)(1) A city, local, exempted village, or joint vocational 62992
school district admitting a scholarship student of a pilot project 62993
district pursuant to division (C) of section 3313.976 of the 62994
Revised Code may count such student in its average daily 62995
membership. 62996

(2) In any year for which funds are appropriated for pilot 62997
project scholarship programs, a school district implementing a 62998
state-sponsored pilot project scholarship program that year 62999
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 63000
count in average daily membership: 63001

(a) All children residing in the district and utilizing a 63002
scholarship to attend kindergarten in any alternative school, as 63003

defined in section 3313.974 of the Revised Code; 63004

(b) All children who were enrolled in the district in the 63005
preceding year who are utilizing a scholarship to attend ~~any such~~ 63006
an alternative school. 63007

(J) The superintendent of each cooperative education school 63008
district shall certify to the superintendent of public 63009
instruction, in a manner prescribed by the state board of 63010
education, the applicable average daily memberships for all 63011
students in the cooperative education district, also indicating 63012
the city, local, or exempted village district where each pupil is 63013
entitled to attend school under section 3313.64 or 3313.65 of the 63014
Revised Code. 63015

(K) If the superintendent of public instruction determines 63016
that a component of the average daily membership certified or 63017
reported by a district superintendent, or other reporting entity, 63018
is not correct, the superintendent of public instruction may order 63019
that the formula ADM used for the purposes of payments under any 63020
section of Title XXXVIII of the Revised Code be adjusted in the 63021
amount of the error. 63022

Sec. 3317.031. A membership record shall be kept by grade 63023
level in each city, local, exempted village, joint vocational, and 63024
cooperative education school district and such a record shall be 63025
kept by grade level in each educational service center that 63026
provides academic instruction to pupils, classes for pupils with 63027
disabilities, or any other direct instructional services to 63028
pupils. Such membership record shall show the following 63029
information for each pupil enrolled: Name, date of birth, name of 63030
parent, date entered school, date withdrawn from school, days 63031
present, days absent, and the number of days school was open for 63032
instruction while the pupil was enrolled. At the end of the school 63033
year this membership record shall show the total days present, the 63034

total days absent, and the total days due for all pupils in each 63035
grade. Such membership record shall show the pupils that are 63036
transported to and from school and it shall also show the pupils 63037
that are transported living within one mile of the school 63038
attended. This membership record shall also show any other 63039
information prescribed by the state board of education. 63040

This membership record shall be kept intact for at least five 63041
years and shall be made available to the state board of education 63042
or its representative in making an audit of the average daily 63043
membership or the transportation of the district or educational 63044
service center. ~~The membership records of local school districts~~ 63045
~~shall be filed at the close of each school year in the office of~~ 63046
~~the educational service center superintendent.~~ 63047

The state board of education may withhold any money due any 63048
school district or educational service center under this chapter 63049
~~and Chapter 3306. of the Revised Code~~ until it has satisfactory 63050
evidence that the board of education or educational service center 63051
governing board has fully complied with all of the provisions of 63052
this section. 63053

Nothing in this section shall require any person to release, 63054
or to permit access to, public school records in violation of 63055
section 3319.321 of the Revised Code. 63056

Sec. 3317.05. (A) For the purpose of calculating payments 63057
under sections 3317.052 and 3317.053 of the Revised Code, the 63058
department of education shall determine for each institution, by 63059
the last day of January of each year and based on information 63060
certified under section 3317.03 of the Revised Code, the number of 63061
vocational education units or fractions of units approved by the 63062
department on the basis of standards and rules adopted by the 63063
state board of education. As used in this division, "institution" 63064
means an institution operated by a department specified in section 63065

3323.091 of the Revised Code and that provides vocational 63066
education programs under the supervision of the division of 63067
vocational education of the department that meet the standards and 63068
rules for these programs, including licensure of professional 63069
staff involved in the programs, as established by the state board. 63070

(B) For the purpose of calculating payments under sections 63071
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 63072
department shall determine, based on information certified under 63073
section 3317.03 of the Revised Code, the following by the last day 63074
of January of each year for each educational service center, for 63075
each school district, including each cooperative education school 63076
district, for each institution eligible for payment under section 63077
3323.091 of the Revised Code, and for each county DD board: the 63078
number of classes operated by the school district, service center, 63079
institution, or county DD board for preschool children with 63080
disabilities, or fraction thereof, including in the case of a 63081
district or service center that is a funding agent, classes taught 63082
by a licensed teacher employed by that district or service center 63083
under section 3313.841 of the Revised Code, approved annually by 63084
the department on the basis of standards and rules adopted by the 63085
state board. 63086

(C) For the purpose of calculating payments under sections 63087
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 63088
department shall determine, based on information certified under 63089
section 3317.03 of the Revised Code, the following by the last day 63090
of January of each year for each school district, including each 63091
cooperative education school district, for each institution 63092
eligible for payment under section 3323.091 of the Revised Code, 63093
and for each county DD board: the number of units for related 63094
services, as defined in section 3323.01 of the Revised Code, for 63095
preschool children with disabilities approved annually by the 63096
department on the basis of standards and rules adopted by the 63097

state board. 63098

(D) All of the arithmetical calculations made under this 63099
section shall be carried to the second decimal place. The total 63100
number of units for school districts, service centers, and 63101
institutions approved annually under this section shall not exceed 63102
the number of units included in the estimate of cost for these 63103
units and appropriations made for them by the general assembly. 63104

In the case of units for preschool children with disabilities 63105
described in division (B) of this section, the department shall 63106
approve only preschool units for children who are under age six on 63107
the thirtieth day of September of the academic year, or on the 63108
first day of August of the academic year if the school district in 63109
which the child is enrolled has adopted a resolution under 63110
division (A)(3) of section 3321.01 of the Revised Code, but not 63111
less than age three on the first day of December of the academic 63112
year, except that such a unit may include one or more children who 63113
are under age three or are age six or over on the applicable date, 63114
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 63115
of the Revised Code, if such children have been admitted to the 63116
unit pursuant to rules of the state board. The number of units for 63117
county DD boards and institutions eligible for payment under 63118
section 3323.091 of the Revised Code approved under this section 63119
shall not exceed the number that can be funded with appropriations 63120
made for such purposes by the general assembly. 63121

No unit shall be approved under divisions (B) and (C) of this 63122
section unless a plan has been submitted and approved under 63123
Chapter 3323. of the Revised Code. 63124

~~(E) The department shall approve units or fractions thereof 63125
for gifted children on the basis of standards and rules adopted by 63126
the state board. 63127~~

Sec. 3317.051. ~~(A)(1) Notwithstanding sections 3317.05 and 63128~~

~~3317.11 of the Revised Code, a unit funded pursuant to division 63129
(L) of section 3317.024 or division (A)(2) of section 3317.052 of 63130
the Revised Code shall not be approved for state funding in one 63131
school district, including any cooperative education school 63132
district or any educational service center, to the extent that 63133
such unit provides programs in or services to another district 63134
which receives payment pursuant to section 3317.04 of the Revised 63135
Code. 63136~~

~~(2) Any city, local, exempted village, or cooperative 63137
education school district or any educational service center may 63138
combine partial unit eligibility for programs for preschool 63139
children with disabilities pursuant to section 3317.05 of the 63140
Revised Code, and such combined partial units may be approved for 63141
state funding in one school district or service center. 63142~~

~~(B) After units have been initially approved for any fiscal 63143
year under section 3317.05 of the Revised Code, no unit shall be 63144
subsequently transferred from a school district or educational 63145
service center to another city, exempted village, local, or 63146
cooperative education school district or educational service 63147
center or to an institution or county DD board solely for the 63148
purpose of reducing the financial obligations of the school 63149
district in a fiscal year it receives payment pursuant to section 63150
3317.04 of the Revised Code. 63151~~

Sec. 3317.053. (A) As used in this section: 63152

(1) "State share percentage" has the same meaning as in 63153
section 3317.022 of the Revised Code. 63154

(2) "Dollar amount" means the amount shown in the following 63155
table for the corresponding type of unit: 63156

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05	63157 63158

of the Revised Code	\$8,334	63159
Division (C) of that section	\$3,234	63160
Division (E) of that section	\$5,550	63161

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT	
Division (B) of section 3317.05		63164
of the Revised Code	\$7,799	63165
Division (C) of that section	\$2,966	63166
Division (E) of that section	\$5,251	63167

(B) In the case of each unit described in division (B) ~~or~~ or (C) ~~or (E)~~ of section 3317.05 of the Revised Code and allocated to a city, local, or exempted village school district, the department of education, in addition to the amounts specified in ~~division (E) of section 3317.024 and~~ sections 3317.052 and 3317.19 of the Revised Code, shall pay a supplemental unit allowance equal to the sum of the following amounts:

(1) An amount equal to 50% of the average unit amount for the unit;

(2) An amount equal to the percentage of the dollar amount for the unit that equals the district's state share percentage.

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise

calculated under this section. 63191

(C)(1) In the case of each unit allocated to an institution 63192
pursuant to division (A) of section 3317.05 of the Revised Code, 63193
the department, in addition to the amount specified in section 63194
3317.052 of the Revised Code, shall pay a supplemental unit 63195
allowance of \$7,227. 63196

(2) In the case of each unit described in division (B) of 63197
section 3317.05 of the Revised Code that is allocated to any 63198
entity other than a city, exempted village, or local school 63199
district, the department, in addition to the amount specified in 63200
section 3317.052 of the Revised Code, shall pay a supplemental 63201
unit allowance of \$7,799. 63202

(3) In the case of each unit described in division (C) of 63203
section 3317.05 of the Revised Code and allocated to any entity 63204
other than a city, exempted village, or local school district, the 63205
department, in addition to the amounts specified in section 63206
3317.052 of the Revised Code, shall pay a supplemental unit 63207
allowance of \$2,966. 63208

~~(4) In the case of each unit described in division (E) of 63209
section 3317.05 of the Revised Code and allocated to an 63210
educational service center, the department, in addition to the 63211
amounts specified in division (L) of section 3317.024 of the 63212
Revised Code, shall pay a supplemental unit allowance of \$5,251. 63213~~

Sec. 3317.06. Moneys paid to school districts under division 63214
~~(I)~~(E) of section 3317.024 of the Revised Code shall be used for 63215
the following independent and fully severable purposes: 63216

(A) To purchase such secular textbooks or electronic 63217
textbooks as have been approved by the superintendent of public 63218
instruction for use in public schools in the state and to loan 63219
such textbooks or electronic textbooks to pupils attending 63220

nonpublic schools within the district or to their parents and to 63221
hire clerical personnel to administer such lending program. Such 63222
loans shall be based upon individual requests submitted by such 63223
nonpublic school pupils or parents. Such requests shall be 63224
submitted to the school district in which the nonpublic school is 63225
located. Such individual requests for the loan of textbooks or 63226
electronic textbooks shall, for administrative convenience, be 63227
submitted by the nonpublic school pupil or the pupil's parent to 63228
the nonpublic school, which shall prepare and submit collective 63229
summaries of the individual requests to the school district. As 63230
used in this section: 63231

(1) "Textbook" means any book or book substitute that a pupil 63232
uses as a consumable or nonconsumable text, text substitute, or 63233
text supplement in a particular class or program in the school the 63234
pupil regularly attends. 63235

(2) "Electronic textbook" means ~~computer software,~~ 63236
~~interactive videodisc, magnetic media, CD-ROM, computer~~ 63237
~~courseware, local and remote computer assisted instruction,~~ 63238
~~on-line service, electronic medium, or other means of conveying~~ 63239
~~information to the student or otherwise contributing~~ any book or 63240
book substitute that a student accesses through the use of a 63241
computer or other electronic medium or that is available through 63242
an internet-based provider of course content, or any other 63243
material that contributes to the learning process through 63244
electronic means. 63245

(B) To provide speech and hearing diagnostic services to 63246
pupils attending nonpublic schools within the district. Such 63247
service shall be provided in the nonpublic school attended by the 63248
pupil receiving the service. 63249

(C) To provide physician, nursing, dental, and optometric 63250
services to pupils attending nonpublic schools within the 63251
district. Such services shall be provided in the school attended 63252

by the nonpublic school pupil receiving the service. 63253

(D) To provide diagnostic psychological services to pupils 63254
attending nonpublic schools within the district. Such services 63255
shall be provided in the school attended by the pupil receiving 63256
the service. 63257

(E) To provide therapeutic psychological and speech and 63258
hearing services to pupils attending nonpublic schools within the 63259
district. Such services shall be provided in the public school, in 63260
nonpublic schools, in public centers, or in mobile units located 63261
on or off of the nonpublic premises. If such services are provided 63262
in the public school or in public centers, transportation to and 63263
from such facilities shall be provided by the school district in 63264
which the nonpublic school is located. 63265

(F) To provide guidance, counseling, and social work services 63266
to pupils attending nonpublic schools within the district. Such 63267
services shall be provided in the public school, in nonpublic 63268
schools, in public centers, or in mobile units located on or off 63269
of the nonpublic premises. If such services are provided in the 63270
public school or in public centers, transportation to and from 63271
such facilities shall be provided by the school district in which 63272
the nonpublic school is located. 63273

(G) To provide remedial services to pupils attending 63274
nonpublic schools within the district. Such services shall be 63275
provided in the public school, in nonpublic schools, in public 63276
centers, or in mobile units located on or off of the nonpublic 63277
premises. If such services are provided in the public school or in 63278
public centers, transportation to and from such facilities shall 63279
be provided by the school district in which the nonpublic school 63280
is located. 63281

(H) To supply for use by pupils attending nonpublic schools 63282
within the district such standardized tests and scoring services 63283

as are in use in the public schools of the state; 63284

(I) To provide programs for children who attend nonpublic 63285
schools within the district and are children with disabilities as 63286
defined in section 3323.01 of the Revised Code or gifted children. 63287
Such programs shall be provided in the public school, in nonpublic 63288
schools, in public centers, or in mobile units located on or off 63289
of the nonpublic premises. If such programs are provided in the 63290
public school or in public centers, transportation to and from 63291
such facilities shall be provided by the school district in which 63292
the nonpublic school is located. 63293

(J) To hire clerical personnel to assist in the 63294
administration of programs pursuant to divisions (B), (C), (D), 63295
(E), (F), (G), and (I) of this section and to hire supervisory 63296
personnel to supervise the providing of services and textbooks 63297
pursuant to this section. 63298

(K) To purchase or lease any secular, neutral, and 63299
nonideological computer application software ~~(including designed~~ 63300
to assist students in performing a single task or multiple related 63301
tasks, device management software, learning management software, 63302
~~site-licensing), prerecorded video laserdiscs,~~ digital video on 63303
demand (DVD), ~~compact discs, and video cassette cartridges,~~ wide 63304
area connectivity and related technology as it relates to internet 63305
access, mathematics or science equipment and materials, 63306
instructional materials, and school library materials that are in 63307
general use in the public schools of the state and loan such items 63308
to pupils attending nonpublic schools within the district or to 63309
their parents, and to hire clerical personnel to administer the 63310
lending program. Only such items that are incapable of diversion 63311
to religious use and that are susceptible of loan to individual 63312
pupils and are furnished for the use of individual pupils shall be 63313
purchased and loaned under this division. As used in this section, 63314
"instructional materials" means prepared learning materials that 63315

are secular, neutral, and nonideological in character and are of 63316
benefit to the instruction of school children, and may include 63317
educational resources and services developed by the eTech Ohio 63318
commission. 63319

(L) To purchase or lease instructional equipment, including 63320
computer hardware and related equipment in general use in the 63321
public schools of the state, for use by pupils attending nonpublic 63322
schools within the district and to loan such items to pupils 63323
attending nonpublic schools within the district or to their 63324
parents, and to hire clerical personnel to administer the lending 63325
program. "Computer hardware and related equipment" includes 63326
desktop computers and workstations; laptop computers, computer 63327
tablets, and other mobile handheld devices; and their operating 63328
systems and accessories. 63329

(M) To purchase mobile units to be used for the provision of 63330
services pursuant to divisions (E), (F), (G), and (I) of this 63331
section and to pay for necessary repairs and operating costs 63332
associated with these units. 63333

(N) To reimburse costs the district incurred to store the 63334
records of a chartered nonpublic school that closes. 63335
Reimbursements under this division shall be made one time only for 63336
each chartered nonpublic school that closes. 63337

(O) To purchase life-saving medical or other emergency 63338
equipment for placement in nonpublic schools within the district 63339
or to maintain such equipment. 63340

Clerical and supervisory personnel hired pursuant to division 63341
(J) of this section shall perform their services in the public 63342
schools, in nonpublic schools, public centers, or mobile units 63343
where the services are provided to the nonpublic school pupil, 63344
except that such personnel may accompany pupils to and from the 63345
service sites when necessary to ensure the safety of the children 63346

receiving the services. 63347

All services provided pursuant to this section may be 63348
provided under contract with educational service centers, the 63349
department of health, city or general health districts, or private 63350
agencies whose personnel are properly licensed by an appropriate 63351
state board or agency. 63352

Transportation of pupils provided pursuant to divisions (E), 63353
(F), (G), and (I) of this section shall be provided by the school 63354
district from its general funds and not from moneys paid to it 63355
under division ~~(I)~~(E) of section 3317.024 of the Revised Code 63356
unless a special transportation request is submitted by the parent 63357
of the child receiving service pursuant to such divisions. If such 63358
an application is presented to the school district, it may pay for 63359
the transportation from moneys paid to it under division ~~(I)~~(E) of 63360
section 3317.024 of the Revised Code. 63361

No school district shall provide health or remedial services 63362
to nonpublic school pupils as authorized by this section unless 63363
such services are available to pupils attending the public schools 63364
within the district. 63365

Materials, equipment, computer hardware or software, 63366
textbooks, electronic textbooks, and health and remedial services 63367
provided for the benefit of nonpublic school pupils pursuant to 63368
this section and the admission of pupils to such nonpublic schools 63369
shall be provided without distinction as to race, creed, color, or 63370
national origin of such pupils or of their teachers. 63371

No school district shall provide services, materials, or 63372
equipment that contain religious content for use in religious 63373
courses, devotional exercises, religious training, or any other 63374
religious activity. 63375

As used in this section, "parent" includes a person standing 63376
in loco parentis to a child. 63377

Notwithstanding section 3317.01 of the Revised Code, payments 63378
shall be made under this section to any city, local, or exempted 63379
village school district within which is located one or more 63380
nonpublic elementary or high schools and any payments made to 63381
school districts under division ~~(I)~~(E) of section 3317.024 of the 63382
Revised Code for purposes of this section may be disbursed without 63383
submission to and approval of the controlling board. 63384

The allocation of payments for materials, equipment, 63385
textbooks, electronic textbooks, health services, and remedial 63386
services to city, local, and exempted village school districts 63387
shall be on the basis of the state board of education's estimated 63388
annual average daily membership in nonpublic elementary and high 63389
schools located in the district. 63390

Payments made to city, local, and exempted village school 63391
districts under this section shall be equal to specific 63392
appropriations made for the purpose. All interest earned by a 63393
school district on such payments shall be used by the district for 63394
the same purposes and in the same manner as the payments may be 63395
used. 63396

The department of education shall adopt guidelines and 63397
procedures under which such programs and services shall be 63398
provided, under which districts shall be reimbursed for 63399
administrative costs incurred in providing such programs and 63400
services, and under which any unexpended balance of the amounts 63401
appropriated by the general assembly to implement this section may 63402
be transferred to the auxiliary services personnel unemployment 63403
compensation fund established pursuant to section 4141.47 of the 63404
Revised Code. The department shall also adopt guidelines and 63405
procedures limiting the purchase and loan of the items described 63406
in division (K) of this section to items that are in general use 63407
in the public schools of the state, that are incapable of 63408
diversion to religious use, and that are susceptible to individual 63409

use rather than classroom use. Within thirty days after the end of 63410
each biennium, each board of education shall remit to the 63411
department all moneys paid to it under division ~~(I)~~(E) of section 63412
3317.024 of the Revised Code and any interest earned on those 63413
moneys that are not required to pay expenses incurred under this 63414
section during the biennium for which the money was appropriated 63415
and during which the interest was earned. If a board of education 63416
subsequently determines that the remittal of moneys leaves the 63417
board with insufficient money to pay all valid expenses incurred 63418
under this section during the biennium for which the remitted 63419
money was appropriated, the board may apply to the department of 63420
education for a refund of money, not to exceed the amount of the 63421
insufficiency. If the department determines the expenses were 63422
lawfully incurred and would have been lawful expenditures of the 63423
refunded money, it shall certify its determination and the amount 63424
of the refund to be made to the director of job and family 63425
services who shall make a refund as provided in section 4141.47 of 63426
the Revised Code. 63427

Each school district shall label materials, equipment, 63428
computer hardware or software, textbooks, and electronic textbooks 63429
purchased or leased for loan to a nonpublic school under this 63430
section, acknowledging that they were purchased or leased with 63431
state funds under this section. However, a district need not label 63432
materials, equipment, computer hardware or software, textbooks, or 63433
electronic textbooks that the district determines are consumable 63434
in nature or have a value of less than two hundred dollars. 63435

Sec. 3317.061. The superintendent of each school district, 63436
including each cooperative education and joint vocational school 63437
district and the superintendent of each educational service 63438
center, shall, on forms prescribed and furnished by the state 63439
board of education, certify to the state board of education, on or 63440
before the fifteenth day of October of each year, the name of each 63441

licensed employee employed, on an annual salary, in each school 63442
under such superintendent's supervision during the first full 63443
school week of said month of October, the number of years of 63444
recognized college training such licensed employee has completed, 63445
the college degrees from a recognized college earned by such 63446
licensed employee, the type of teaching license held by such 63447
licensed employee, the number of months such licensed employee is 63448
employed in the school district, the annual salary of such 63449
licensed employee, and such other information as the state board 63450
of education may request. For the purposes of ~~Chapters 3306. and~~ 63451
Chapter 3317. of the Revised Code, a licensed employee is any 63452
employee in a position that requires a license issued pursuant to 63453
sections 3319.22 to 3319.31 of the Revised Code. 63454

Pursuant to standards adopted by the state board of 63455
education, experience of vocational teachers in trade and industry 63456
shall be recognized by such board for the purpose of complying 63457
with the requirements of recognized college training provided by 63458
~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code. 63459

~~Sec. 3317.07. The state board of education shall establish 63460
rules for the purpose of distributing subsidies for the purchase 63461
of school buses under division (D) of section 3317.024 of the 63462
Revised Code. 63463~~

~~No school bus subsidy payments shall be paid to any district 63464
unless such district can demonstrate that pupils residing more 63465
than one mile from the school could not be transported without 63466
such additional aid. 63467~~

~~The amount paid to a county DD board for buses purchased for 63468
transportation of children in special education programs operated 63469
by the board shall be based on a per pupil allocation for eligible 63470
students. 63471~~

~~The amount paid to a school district for buses purchased for 63472~~

~~transportation of pupils with disabilities and nonpublic school
pupils shall be determined by a per pupil allocation based on the
number of special education and nonpublic school pupils for whom
transportation is provided.~~

~~The state board of education shall adopt a formula to
determine the amount of payments that shall be distributed to
school districts to purchase school buses for pupils other than
pupils with disabilities or nonpublic school pupils.~~

~~If any district or county DD board obtains bus services for
pupil transportation pursuant to a contract, such district or
board may use payments received under this section to defray the
costs of contracting for bus services in lieu of for purchasing
buses.~~

If the department of education determines that a county DD
board no longer needs a school bus because the board no longer
transports children to a special education program operated by the
board, or if the department determines that a school district no
longer needs a school bus to transport pupils to a nonpublic
school or special education program, the department may reassign a
bus that was funded with payments provided pursuant to the version
of this section in effect prior to the effective date of this
amendment for the purpose of transporting such pupils. The
department may reassign a bus to a county DD board or school
district that transports children to a special education program
designated in the children's individualized education plans, or to
a school district that transports pupils to a nonpublic school,
and needs an additional school bus.

Sec. 3317.08. A board of education may admit to its schools a
child it is not required by section 3313.64 or 3313.65 of the
Revised Code to admit, if tuition is paid for the child.

Unless otherwise provided by law, tuition shall be computed

in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a preschool child with a disability described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the district's formula ADM.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 ~~or~~, 5748.08, or 5748.09 of the Revised Code that are disbursed to the district during the fiscal year, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education and the office of budget and management for each city, local, and exempted village school district that levies a school district income tax.

(B) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, an amount computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all preschool children with disabilities not included in units approved under division (B) of section 3317.05

of the Revised Code; 63535

(2) For each type of special education service for which 63536
operating expenses are determined under division (B)(1) of this 63537
section, determine the amount of such operating expenses that was 63538
paid from any state funds received under this chapter; 63539

(3) For each type of special education service for which 63540
operating expenses are determined under division (B)(1) of this 63541
section, divide the difference between the amount determined under 63542
division (B)(1) of this section and the amount determined under 63543
division (B)(2) of this section by the total number of preschool 63544
children with disabilities not included in units approved under 63545
division (B) of section 3317.05 of the Revised Code who received 63546
that type of service; 63547

(4) Determine the sum of the quotients obtained under 63548
division (B)(3) of this section for all types of special education 63549
services provided to the child for whom tuition is being 63550
calculated. 63551

The state board of education shall adopt rules defining the 63552
types of special education services and specifying the operating 63553
expenses to be used in the computation under this section. 63554

If any child for whom a tuition charge is computed under this 63555
section for any school year is enrolled in a district for only 63556
part of that school year, the amount of the district's tuition 63557
charge for the child for the school year shall be computed in 63558
proportion to the number of school days the child is enrolled in 63559
the district during the school year. 63560

Except as otherwise provided in division (J) of section 63561
3313.64 of the Revised Code, whenever a district admits a child to 63562
its schools for whom tuition computed in accordance with this 63563
section is an obligation of another school district, the amount of 63564
the tuition shall be certified by the treasurer of the board of 63565

education of the district of attendance, to the board of education 63566
of the district required to pay tuition for its approval and 63567
payment. If agreement as to the amount payable or the district 63568
required to pay the tuition cannot be reached, or the board of 63569
education of the district required to pay the tuition refuses to 63570
pay that amount, the board of education of the district of 63571
attendance shall notify the superintendent of public instruction. 63572
The superintendent shall determine the correct amount and the 63573
district required to pay the tuition and shall deduct that amount, 63574
if any, under division ~~(G)~~(D) of section 3317.023 of the Revised 63575
Code, from the district required to pay the tuition and add that 63576
amount to the amount allocated to the district attended under such 63577
division. The superintendent of public instruction shall send to 63578
the district required to pay the tuition an itemized statement 63579
showing such deductions at the time of such deduction. 63580

When a political subdivision owns and operates an airport, 63581
welfare, or correctional institution or other project or facility 63582
outside its corporate limits, the territory within which the 63583
facility is located is exempt from taxation by the school district 63584
within which such territory is located, and there are school age 63585
children residing within such territory, the political subdivision 63586
owning such tax exempt territory shall pay tuition to the district 63587
in which such children attend school. The tuition for these 63588
children shall be computed as provided for in this section. 63589

Sec. 3317.081. (A) Tuition shall be computed in accordance 63590
with this section if: 63591

(1) The tuition is required by division (C)(3)(b) of section 63592
3313.64 of the Revised Code; or 63593

(2) Neither the child nor the child's parent resides in this 63594
state and tuition is required by section 3327.06 of the Revised 63595
Code. 63596

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount in state education aid that district would have received for the child ~~pursuant to Chapter 3306. and sections 3317.023 and 3317.025 to 3317.0211 of the Revised Code~~ during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.082. As used in this section, "institution" means a residential facility that receives and cares for children maintained by the department of youth services and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code.

(A) On or before the thirty-first day of each January and July, the superintendent of each institution that during the six-month period immediately preceding each January or July provided an elementary or secondary education for any child, other than a child receiving special education under section 3323.091 of the Revised Code, shall prepare and submit to the department of education, a statement for each such child indicating the child's name, any school district responsible to pay tuition for the child as determined by the superintendent in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code, and the period of time during that six-month period that the child received an elementary or secondary education. If any school district is responsible to pay tuition for any such child, the department of education, no later than the immediately succeeding last day of February or August, as applicable, shall calculate the amount of the tuition of the district under section 3317.08 of the Revised Code for the period of time indicated on the statement and do one of the following:

(1) If the tuition amount is equal to or less than the ~~amount~~ 63629
~~of state basic aid funds payable to the district under Chapter~~ 63630
~~3306. and section 3317.023 of the Revised Code~~ district's state 63631
education aid, pay to the institution submitting the statement an 63632
amount equal to the tuition amount, as provided under division 63633
~~(M)~~(G) of section 3317.024 of the Revised Code, and deduct the 63634
tuition amount from the state basic aid funds payable to the 63635
district, as provided under division ~~(F)~~(C)(2) of section 3317.023 63636
of the Revised Code; 63637

(2) If the tuition amount is greater than the ~~amount of state~~ 63638
~~basic aid funds payable to the district under Chapter 3306. and~~ 63639
~~section 3317.023 of the Revised Code~~ district's state education 63640
aid, require the district to pay to the institution submitting the 63641
statement an amount equal to the tuition amount. 63642

(B) In the case of any disagreement about the school district 63643
responsible to pay tuition for a child pursuant to this section, 63644
the superintendent of public instruction shall make the 63645
determination in any such case in accordance with division (C)(2) 63646
or (3) of section 3313.64 of the Revised Code. 63647

Sec. 3317.09. All moneys distributed to a school district, 63648
including any cooperative education or joint vocational school 63649
district and all moneys distributed to any educational service 63650
center, by the state whether from a state or federal source, shall 63651
be accounted for by the division of school finance of the 63652
department of education. All moneys distributed shall be coded as 63653
to county, school district or educational service center, source, 63654
and other pertinent information, and at the end of each month, a 63655
report of such distribution shall be made by such division of 63656
school finance to each school district and educational service 63657
center. If any board of education fails to make the report 63658
required in section 3319.33 of the Revised Code, the 63659

superintendent of public instruction shall be without authority to 63660
distribute funds to that school district or educational service 63661
center ~~pursuant to sections 3317.022 to 3317.0211, 3317.11,~~ 63662
~~3317.16, 3317.17, or 3317.19 of the Revised Code~~ under this 63663
chapter until such time as the required reports are filed with all 63664
specified officers, boards, or agencies. 63665

Sec. 3317.11. (A) As used in this section: 63666

(1) "Client school district" means a city or exempted village 63667
school district that has entered into an agreement under section 63668
3313.843 of the Revised Code to receive any services from an 63669
educational service center. 63670

(2) "Service center ADM" means the sum of the total student 63671
counts of all local school districts within an educational service 63672
center's territory and all of the service center's client school 63673
districts. 63674

(3) "STEM school" means a science, technology, engineering, 63675
and mathematics school established under Chapter 3326. of the 63676
Revised Code. 63677

(4) "Total student count" has the same meaning as in section 63678
3301.011 of the Revised Code. 63679

(B)(1) The governing board of each educational service center 63680
shall provide supervisory services to each local school district 63681
within the service center's territory. Each city or exempted 63682
village school district that enters into an agreement under 63683
section 3313.843 of the Revised Code for a governing board to 63684
provide any services also is considered to be provided supervisory 63685
services by the governing board. Except as provided in division 63686
(B)(2) of this section, the supervisory services shall not exceed 63687
one supervisory teacher for the first fifty classroom teachers 63688
required to be employed in the districts, as calculated in the 63689

manner prescribed under former division (B) of section 3317.023 of 63690
the Revised Code, as that division existed prior to the effective 63691
date of this amendment, and one for each additional one hundred 63692
required classroom teachers, as so calculated. 63693

The supervisory services shall be financed annually through 63694
supervisory units. Except as provided in division (B)(2) of this 63695
section, the number of supervisory units assigned to each district 63696
shall not exceed one unit for the first fifty classroom teachers 63697
required to be employed in the district, as calculated in the 63698
manner prescribed under former division (B) of section 3317.023 of 63699
the Revised Code, as that division existed prior to the effective 63700
date of this amendment, and one for each additional one hundred 63701
required classroom teachers, as so calculated. The cost of each 63702
supervisory unit shall be the sum of: 63703

(a) The minimum salary prescribed by section 3317.13 of the 63704
Revised Code for the licensed supervisory employee of the 63705
governing board; 63706

(b) An amount equal to fifteen per cent of ~~the that~~ salary 63707
~~prescribed by section 3317.13 of the Revised Code;~~ 63708

(c) An allowance for necessary travel expenses, limited to 63709
the lesser of two hundred twenty-three dollars and sixteen cents 63710
per month or two thousand six hundred seventy-eight dollars per 63711
year. 63712

(2) If a majority of the boards of education, or 63713
superintendents acting on behalf of the boards, of the local and 63714
client school districts receiving services from the educational 63715
service center agree to receive additional supervisory services 63716
and to pay the cost of a corresponding number of supervisory units 63717
in excess of the services and units specified in division (B)(1) 63718
of this section, the service center shall provide the additional 63719
services as agreed to by the majority of districts to, and the 63720

department of education shall apportion the cost of the 63721
corresponding number of additional supervisory units pursuant to 63722
division (B)(3) of this section among, all of the service center's 63723
local and client school districts. 63724

(3) The department shall apportion the total cost for all 63725
supervisory units among the service center's local and client 63726
school districts based on each district's total student count. The 63727
department shall deduct each district's apportioned share pursuant 63728
to division ~~(E)~~(B) of section 3317.023 of the Revised Code and pay 63729
the apportioned share to the service center. 63730

(C) The department annually shall deduct from each local and 63731
client school district of each educational service center, 63732
pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised 63733
Code, and pay to the service center an amount equal to six dollars 63734
and fifty cents times the school district's total student count. 63735
The board of education, or the superintendent acting on behalf of 63736
the board, of any local or client school district may agree to pay 63737
an amount in excess of six dollars and fifty cents per student in 63738
total student count. If a majority of the boards of education, or 63739
superintendents acting on behalf of the boards, of the local 63740
school districts within a service center's territory approve an 63741
amount in excess of six dollars and fifty cents per student in 63742
total student count, the department shall deduct the approved 63743
excess per student amount from all of the local school districts 63744
within the service center's territory and pay the excess amount to 63745
the service center. 63746

(D) The department shall pay each educational service center 63747
the amounts due to it from school districts pursuant to contracts, 63748
compacts, or agreements under which the service center furnishes 63749
services to the districts or their students. In order to receive 63750
payment under this division, an educational service center shall 63751
furnish either a copy of the contract, compact, or agreement 63752

clearly indicating the amounts of the payments, or a written 63753
statement that clearly indicates the payments owed and is signed 63754
by the superintendent or treasurer of the responsible school 63755
district. The amounts paid to service centers under this division 63756
shall be deducted from payments to school districts pursuant to 63757
division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code. 63758

(E) Each school district's deduction under this section and 63759
divisions ~~(E)~~(B) and ~~(K)~~(H)(3) of section 3317.023 of the Revised 63760
Code shall be made from the total payment computed for the 63761
district under this chapter, after making any other adjustments in 63762
that payment required by law. 63763

(F)(1) Except as provided in division (F)(2) of this section, 63764
the department annually shall pay the governing board of each 63765
educational service center state funds equal to thirty-seven 63766
dollars times its service center ADM. 63767

(2) The department annually shall pay state funds equal to 63768
forty dollars and fifty-two cents times the service center ADM to 63769
each educational service center comprising territory that was 63770
included in the territory of at least three former service centers 63771
or county school districts, which former centers or districts 63772
engaged in one or more mergers under section 3311.053 of the 63773
Revised Code to form the present center. 63774

(G) Each city, exempted village, local, joint vocational, or 63775
cooperative education school district shall pay to the governing 63776
board of an educational service center any amounts agreed to for 63777
each child enrolled in the district who receives special education 63778
and related services or career-technical education from the 63779
educational service center, unless these educational services are 63780
provided pursuant to a contract, compact, or agreement for which 63781
the department deducts and transfers payments under division (D) 63782
of this section and division ~~(K)~~(H)(3) of section 3317.023 of the 63783
Revised Code. 63784

(H) The department annually shall pay the governing board of each educational service center that has entered into a contract with a STEM school for the provision of services described in division (B) of section 3326.45 of the Revised Code state funds equal to the per-pupil amount specified in the contract for the provision of those services times the number of students enrolled in the STEM school.

(I) An educational service center:

(1) May provide special education and career-technical education to students in its local or client school districts;

(2) Is eligible for transportation funding under division ~~(G)~~(C) of section 3317.024 of the Revised Code ~~and for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code;~~

(3) May apply for and receive gifted education units and provide gifted education services to students in its local or client school districts;

(4) May conduct driver education for high school students in accordance with Chapter 4508. of the Revised Code.

Sec. 3317.12. Any board of education participating in funds distributed under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code shall annually adopt a salary schedule for nonteaching school employees based upon training, experience, and qualifications with initial salaries no less than the salaries in effect on October 13, 1967. Each board of education shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching school employees are to be notified of the position classification to which they

are assigned and the salary for the classification. The 63815
compensation of all employees working for a particular school 63816
board shall be uniform for like positions except as compensation 63817
would be affected by salary increments based upon length of 63818
service. 63819

On the fifteenth day of October each year the salary schedule 63820
and the list of job classifications and salaries in effect on that 63821
date shall be filed by each board of education with the 63822
superintendent of public instruction. If such salary schedule and 63823
classification plan is not filed the superintendent of public 63824
instruction shall order the board to file such schedules 63825
forthwith. If this condition is not corrected within ten days 63826
after receipt of the order from the superintendent of public 63827
instruction, no money shall be distributed to the district under 63828
~~Chapters 3306. and Chapter~~ 3317. of the Revised Code until the 63829
superintendent has satisfactory evidence of the board of 63830
education's full compliance with such order. 63831

Sec. 3317.16. (A) As used in this section: 63832

(1) The "total special education weight" for a joint 63833
vocational school district shall be calculated in the same manner 63834
as prescribed in section 3317.022 of the Revised Code. 63835

(2) The "total vocational education weight" for a joint 63836
vocational school district shall be calculated in the same manner 63837
as prescribed in section 3317.022 of the Revised Code. 63838

(3) The "total recognized valuation" of a joint vocational 63839
school district shall be determined by adding the recognized 63840
valuations of all its constituent school districts that were 63841
subject to the joint vocational school district's tax levies for 63842
both the current and preceding tax years. 63843

(4) "Resident district" means the city, local, or exempted 63844

village school district in which a student is entitled to attend 63845
school under section 3313.64 or 3313.65 of the Revised Code. 63846

(5) "Community school" means a community school established 63847
under Chapter 3314. of the Revised Code. 63848

(B) The department of education shall compute and distribute 63849
state base cost funding to each joint vocational school district 63850
for the fiscal year in accordance with the following formula: 63851

(formula amount X formula ADM) - 63852
(.0005 X total recognized valuation) 63853

If the difference obtained under this division is a negative 63854
number, the district's computation shall be zero. 63855

(C)(1) The department shall compute and distribute state 63856
vocational education additional weighted costs funds to each joint 63857
vocational school district in accordance with the following 63858
formula: 63859

state share percentage X formula amount X 63860
total vocational education weight 63861

In each fiscal year, a joint vocational school district 63862
receiving funds under division (C)(1) of this section shall spend 63863
those funds only for the purposes the department designates as 63864
approved for vocational education expenses. Vocational educational 63865
expenses approved by the department shall include only expenses 63866
connected to the delivery of career-technical programming to 63867
career-technical students. The department shall require the joint 63868
vocational school district to report data annually so that the 63869
department may monitor the district's compliance with the 63870
requirements regarding the manner in which funding received under 63871
division (C)(1) of this section may be spent. 63872

(2) The department shall compute for each joint vocational 63873
school district state funds for vocational education associated 63874
services costs in accordance with the following formula: 63875

state share percentage X .05 X 63876
the formula amount X the sum of 63877
categories one and two vocational 63878
education ADM 63879

In any fiscal year, a joint vocational school district 63880
receiving funds under division (C)(2) of this section, or through 63881
a transfer of funds pursuant to division ~~(L)~~(I) of section 63882
3317.023 of the Revised Code, shall spend those funds only for the 63883
purposes that the department designates as approved for vocational 63884
education associated services expenses, which may include such 63885
purposes as apprenticeship coordinators, coordinators for other 63886
vocational education services, vocational evaluation, and other 63887
purposes designated by the department. The department may deny 63888
payment under division (C)(2) of this section to any district that 63889
the department determines is not operating those services or is 63890
using funds paid under division (C)(2) of this section, or through 63891
a transfer of funds pursuant to division ~~(L)~~(I) of section 63892
3317.023 of the Revised Code, for other purposes. 63893

(D)(1) The department shall compute and distribute state 63894
special education and related services additional weighted costs 63895
funds to each joint vocational school district in accordance with 63896
the following formula: 63897

state share percentage X formula amount X 63898
total special education weight 63899

(2)(a) As used in this division, the "personnel allowance" 63900
means thirty thousand dollars in fiscal years 2008 and 2009. 63901

(b) For the provision of speech language pathology services 63902
to students, including students who do not have individualized 63903
education programs prepared for them under Chapter 3323. of the 63904
Revised Code, and for no other purpose, the department shall pay 63905
each joint vocational school district an amount calculated under 63906
the following formula: 63907

(formula ADM divided by 2000) X the personnel 63908
allowance X state share percentage 63909

(3) In any fiscal year, a joint vocational school district 63910
shall spend for purposes that the department designates as 63911
approved for special education and related services expenses at 63912
least the amount calculated as follows: 63913

(formula amount X 63914
the sum of categories one through 63915
six special education ADM) + 63916
(total special education weight X 63917
formula amount) 63918

The purposes approved by the department for special education 63919
expenses shall include, but shall not be limited to, compliance 63920
with state rules governing the education of children with 63921
disabilities, providing services identified in a student's 63922
individualized education program as defined in section 3323.01 of 63923
the Revised Code, provision of speech language pathology services, 63924
and the portion of the district's overall administrative and 63925
overhead costs that are attributable to the district's special 63926
education student population. 63927

The department shall require joint vocational school 63928
districts to report data annually to allow for monitoring 63929
compliance with division (D)(3) of this section. The department 63930
shall annually report to the governor and the general assembly the 63931
amount of money spent by each joint vocational school district for 63932
special education and related services. 63933

(4) In any fiscal year, a joint vocational school district 63934
shall spend for the provision of speech language pathology 63935
services not less than the sum of the amount calculated under 63936
division (D)(1) of this section for the students in the district's 63937
category one special education ADM and the amount calculated under 63938
division (D)(2) of this section. 63939

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

(1 - state share percentage) X
Total special education weight X
~~the formula amount~~ \$5,732

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The formula amount;

(b) The product of ~~the formula amount~~ \$5,732 times the applicable multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school district may report the excess costs calculated under division (G)(2) of this section to the department of education.

(4) If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint

vocational school district and shall deduct that amount as 64002
provided in division (G)(4)(a) or (b) of this section, as 64003
applicable: 64004

(a) If the student is not enrolled in a community school, the 64005
department shall deduct the amount from the account of the 64006
student's resident district pursuant to division ~~(M)~~(J) of section 64007
3317.023 of the Revised Code. 64008

(b) If the student is enrolled in a community school, the 64009
department shall deduct the amount from the account of the 64010
community school pursuant to section 3314.083 of the Revised Code. 64011

Sec. 3317.18. (A) As used in this section, the terms "Chapter 64012
133. securities," "credit enhancement facilities," "debt charges," 64013
"general obligation," "legislation," "public obligations," and 64014
"securities" have the same meanings as in section 133.01 of the 64015
Revised Code. 64016

(B) The board of education of any school district authorizing 64017
the issuance of securities under section 133.10, 133.301, or 64018
3313.372 of the Revised Code or general obligation Chapter 133. 64019
securities may adopt legislation requesting the state department 64020
of education to approve, and enter into an agreement with the 64021
school district and the primary paying agent or fiscal agent for 64022
such securities providing for, the withholding and deposit of 64023
funds, otherwise due the district under ~~Chapters 3306.~~ and Chapter 64024
3317. of the Revised Code, for the payment of debt service charges 64025
on such securities. 64026

The board of education shall deliver to the state department 64027
a copy of such resolution and any additional pertinent information 64028
the state department may require. 64029

The department of education and the office of budget and 64030
management shall evaluate each request received from a school 64031

district under this section and the department, with the advice 64032
and consent of the director of budget and management, shall 64033
approve or deny each request based on all of the following: 64034

(1) Whether approval of the request will enhance the 64035
marketability of the securities for which the request is made; 64036

(2) Any other pertinent factors or limitations established in 64037
rules made under division (I) of this section, including: 64038

(a) Current and projected obligations of funds due to the 64039
requesting school district under ~~Chapters 3306.~~ and Chapter 3317. 64040
of the Revised Code including obligations of those funds to public 64041
obligations or relevant credit enhancement facilities under this 64042
section, Chapter 133. and section 3313.483 of the Revised Code, 64043
and under any other similar provisions of law; 64044

(b) Whether the department of education or the office of 64045
budget and management has any reason to believe the requesting 64046
school district will be unable to pay when due the debt charges on 64047
the securities for which the request is made. 64048

The department may require a school district to establish 64049
schedules for the payment of all debt charges that take into 64050
account the amount and timing of anticipated distributions of 64051
funds to the district under Chapter 3317. of the Revised Code. 64052

(C) If the department approves the request of a school 64053
district to withhold and deposit funds pursuant to this section, 64054
the department shall enter into a written agreement with the 64055
district and the primary paying agent or fiscal agent for the 64056
securities which shall provide for the withholding of funds 64057
pursuant to this section for the payment of debt charges on those 64058
securities, and may include both of the following: 64059

(1) Provisions for certification by the district to the 64060
department, at a time prior to any date for the payment of 64061
applicable debt charges, whether the district is able to pay those 64062

debt charges when due; 64063

(2) Requirements that the district deposit amounts for the 64064
payment of debt charges on the securities with the primary paying 64065
agent or fiscal agent for the securities prior to the date on 64066
which those debt charge payments are due to the owners or holders 64067
of the securities. 64068

(D) Whenever a district notifies the department of education 64069
that it will be unable to pay debt charges when they are due, 64070
subject to the withholding provisions of this section, or whenever 64071
the applicable paying agent or fiscal agent notifies the 64072
department that it has not timely received from a school district 64073
the full amount needed for the payment when due of those debt 64074
charges to the holders or owners of such securities, the 64075
department shall immediately contact the school district and the 64076
paying agent or fiscal agent to confirm or determine whether the 64077
district is unable to make the required payment by the date on 64078
which it is due. 64079

Upon demand of the treasurer of state while holding a school 64080
district obligation purchased under division (G)(1) of section 64081
135.143 of the Revised Code, the state department of education, 64082
without a request of the school district, shall withhold and 64083
deposit funds pursuant to this section for payment of debt service 64084
charges on that obligation. 64085

If the department confirms or determines that the district 64086
will be unable to make such payment and payment will not be made 64087
pursuant to a credit enhancement facility, the department shall 64088
promptly pay to the applicable primary paying agent or fiscal 64089
agent the lesser of the amount due for debt charges or the amount 64090
due the district for the remainder of the fiscal year under 64091
Chapter 3317. of the Revised Code. If this amount is insufficient 64092
to pay the total amount then due the agent for the payment of debt 64093
charges, the department shall pay to the agent each fiscal year 64094

thereafter, and until the full amount due the agent for unpaid 64095
debt charges is paid in full, the lesser of the remaining amount 64096
due the agent for debt charges or the amount due the district for 64097
the fiscal year under Chapter 3317. of the Revised Code. 64098

(E) The state department may make any payments under this 64099
division by direct deposit of funds by electronic transfer. 64100

Any amount received by a paying agent or fiscal agent under 64101
this section shall be applied only to the payment of debt charges 64102
on the securities of the school district subject to this section 64103
or to the reimbursement to the provider of a credit enhancement 64104
facility that has paid such debt charges. 64105

(F) To the extent a school district whose securities are 64106
subject to this section is unable to pay applicable debt charges 64107
because of the failure to collect property taxes levied for the 64108
payment of those debt charges, the district may transfer to or 64109
deposit into any fund that would have received payments under 64110
~~3306.~~ Chapter 3317. of the Revised Code that were withheld 64111
under this section any such delinquent property taxes when later 64112
collected, provided that transfer or deposit shall be limited to 64113
the amounts withheld from that fund under this section. 64114

(G) The department may make payments under this section to 64115
paying agents or fiscal agents only from and to the extent that 64116
money is appropriated by the general assembly for Chapter 3317. of 64117
the Revised Code or for the purposes of this section. No 64118
securities of a school district to which this section is made 64119
applicable constitute an obligation or a debt or a pledge of the 64120
faith, credit, or taxing power of the state, and the holders or 64121
owners of such securities have no right to have taxes levied or 64122
appropriations made by the general assembly for the payment of 64123
debt charges on those securities, and those securities, if the 64124
department requires, shall contain a statement to that effect. The 64125
agreement for or the actual withholding and payment of moneys 64126

under this section does not constitute the assumption by the state 64127
of any debt of a school district. 64128

(H) In the case of securities subject to the withholding 64129
provisions of this section, the issuing board of education shall 64130
appoint a paying agent or fiscal agent who is not an officer or 64131
employee of the school district. 64132

(I) The department of education, with the advice of the 64133
office of budget and management, may adopt reasonable rules not 64134
inconsistent with this section for the implementation of this 64135
section and division (B) of section 133.25 of the Revised Code as 64136
it relates to the withholding and depositing of payments under 64137
~~Chapters 3306.~~ and Chapter 3317. of the Revised Code to secure 64138
payment of debt charges on school district securities. Those rules 64139
shall include criteria for the evaluation and approval or denial 64140
of school district requests for withholding under this section and 64141
limits on the obligation for the purpose of paying debt charges or 64142
reimbursing credit enhancement facilities of funds otherwise to be 64143
paid to school districts under Chapter 3317. of the Revised Code. 64144

(J) The authority granted by this section is in addition to 64145
and not a limitation on any other authorizations granted by or 64146
pursuant to law for the same or similar purposes. 64147

Sec. 3317.19. (A) As used in this section, "total unit 64148
allowance" means an amount equal to the sum of the following: 64149

(1) The total of the salary allowances for the teachers 64150
employed in the cooperative education school district for all 64151
units approved under division (B) or (C) of section 3317.05 of the 64152
Revised Code. The salary allowance for each unit shall equal the 64153
minimum salary for the teacher of the unit calculated on the basis 64154
of the teacher's training level and years of experience pursuant 64155
to the salary schedule prescribed in the version of section 64156
3317.13 of the Revised Code in effect prior to July 1, 2001. 64157

(2) Fifteen per cent of the total computed under division	64158
(A)(1) of this section;	64159
(3) The total of the unit operating allowances for all	64160
approved units. The amount of each allowance shall equal one of	64161
the following:	64162
(a) Eight thousand twenty-three dollars times the number of	64163
units for preschool children with disabilities or fraction thereof	64164
approved for the year under division (B) of section 3317.05 of the	64165
Revised Code;	64166
(b) Two thousand one hundred thirty-two dollars times the	64167
number of units or fraction thereof approved for the year under	64168
division (C) of section 3317.05 of the Revised Code.	64169
(B) The state board of education shall compute and distribute	64170
to each cooperative education school district for each fiscal year	64171
an amount equal to the sum of the following:	64172
(1) An amount equal to the total of the amounts credited to	64173
the cooperative education school district pursuant to division	64174
(K) <u>(H)</u> of section 3317.023 of the Revised Code;	64175
(2) The total unit allowance;	64176
(3) An amount for assisting in providing free lunches to	64177
needy children and an amount for assisting needy school districts	64178
in purchasing necessary equipment for food preparation pursuant to	64179
division (H) <u>(D)</u> of section 3317.024 of the Revised Code.	64180
(C) If a cooperative education school district has had	64181
additional special education units approved for the year under	64182
division (F)(2) of section 3317.03 of the Revised Code, the	64183
district shall receive an additional amount during the last half	64184
of the fiscal year. For each unit, the additional amount shall	64185
equal fifty per cent of the amount computed under division (A) of	64186
this section for a unit approved under division (B) of section	64187

3317.05 of the Revised Code. 64188

Sec. 3317.20. This section does not apply to preschool 64189
children with disabilities. 64190

(A) As used in this section: 64191

(1) "Applicable weight" means the multiple specified in 64192
section ~~3306.11~~ 3317.013 of the Revised Code for a disability 64193
described in that section. 64194

(2) "Child's school district" means the school district in 64195
which a child is entitled to attend school pursuant to section 64196
3313.64 or 3313.65 of the Revised Code. 64197

(3) "State share percentage" means the state share percentage 64198
of the child's school district. 64199

(B) Except as provided in division (C) of this section, the 64200
department shall annually pay each county DD board for each child 64201
with a disability, other than a preschool child with a disability, 64202
for whom the county DD board provides special education and 64203
related services an amount equal to the formula amount + (state 64204
share percentage X formula amount X the applicable weight). 64205

(C) If any school district places with a county DD board more 64206
children with disabilities than it had placed with a county DD 64207
board in fiscal year 1998, the department shall not make a payment 64208
under division (B) of this section for the number of children 64209
exceeding the number placed in fiscal year 1998. The department 64210
instead shall deduct from the district's payments under this 64211
chapter ~~and Chapter 3306.~~ ~~of the Revised Code,~~ and pay to the 64212
county DD board, an amount calculated in accordance with the 64213
formula prescribed in division (B) of this section for each child 64214
over the number of children placed in fiscal year 1998. 64215

(D) The department shall calculate for each county DD board 64216
receiving payments under divisions (B) and (C) of this section the 64217

following amounts: 64218

(1) The amount received by the county DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year; 64219
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(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section. 64224
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If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section. 64227
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(E) Each county DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county DD board provides special education and related services and the child's school district. 64233
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(F)(1) For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county DD board: 64237
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(a) The child's school district; 64242

(b) The independent contractor engaged to create and maintain data verification codes. 64243
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(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department 64245
64246
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in the manner specified by the department. If the child has not 64248
been assigned a code, the district shall assign a code to that 64249
child and submit the code to the department by a date specified by 64250
the department. If the district does not assign a code to the 64251
child by the specified date, the department shall assign a code to 64252
the child. 64253

The department annually shall submit to each school district 64254
the name and data verification code of each child residing in the 64255
district for whom the department has assigned a code under this 64256
division. 64257

(3) The department shall not release any data verification 64258
code that it receives under division (F) of this section to any 64259
person except as provided by law. 64260

(G) Any document relative to special education and related 64261
services provided by a county DD board that the department holds 64262
in its files that contains both a student's name or other 64263
personally identifiable information and the student's data 64264
verification code shall not be a public record under section 64265
149.43 of the Revised Code. 64266

Sec. 3317.201. This section does not apply to preschool 64267
children with disabilities. 64268

(A) As used in this section, the "total special education 64269
weight" for an institution means the sum of the following amounts: 64270

(1) The number of children reported by the institution under 64271
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64272
receiving services for a disability described in division 64273
~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64274
multiplied by the multiple specified in that division; 64275

(2) The number of children reported by the institution under 64276
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64277

receiving services for a disability described in division 64278
~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64279
multiplied by the multiple specified in that division; 64280

(3) The number of children reported by the institution under 64281
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64282
receiving services for a disability described in division 64283
~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64284
multiplied by the multiple specified in that division; 64285

(4) The number of children reported by the institution under 64286
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64287
receiving services for a disability described in division ~~(D)(4)~~ 64288
of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the 64289
multiple specified in that division; 64290

(5) The number of children reported by the institution under 64291
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64292
receiving services for a disability described in division 64293
~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64294
multiplied by the multiple specified in that division; 64295

(6) The number of children reported by the institution under 64296
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 64297
receiving services for a disability described in division 64298
~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code 64299
multiplied by the multiple specified in that division. 64300

(B) For each fiscal year, the department of education shall 64301
pay each state institution required to provide special education 64302
services under division (A) of section 3323.091 of the Revised 64303
Code an amount equal to the greater of: 64304

(1) The formula amount times the institution's total special 64305
education weight; 64306

(2) The aggregate amount of special education and related 64307
services unit funding the institution received for all children 64308

with disabilities other than preschool children with disabilities 64309
in fiscal year 2005 under sections 3317.052 and 3317.053 of the 64310
Revised Code, as those sections existed prior to June 30, 2005. 64311

Sec. 3318.011. For purposes of providing assistance under 64312
sections 3318.01 to 3318.20 of the Revised Code, the department of 64313
education shall annually do all of the following: 64314

(A) Calculate the adjusted valuation per pupil of each city, 64315
local, and exempted village school district according to the 64316
following formula: 64317

The district's valuation per pupil - 64318
[\$30,000 X (1 - the district's income factor)]. 64319

For purposes of this calculation: 64320

(1) Except for a district with an open enrollment net gain 64321
that is ten per cent or more of its formula ADM, "valuation per 64322
pupil" for a district means its average taxable value, divided by 64323
its formula ADM for the previous fiscal year. "Valuation per 64324
pupil," for a district with an open enrollment net gain that is 64325
ten per cent or more of its formula ADM, means its average taxable 64326
value, divided by the sum of its formula ADM for the previous 64327
fiscal year plus its open enrollment net gain for the previous 64328
fiscal year. 64329

(2) "Average Except for a tangible personal property 64330
phase-out impacted district, "average taxable value" means the 64331
average of the sum of the amounts certified for a district under 64332
divisions (A)(1) and (2) of section 3317.021 of the Revised Code 64333
in the second, third, and fourth preceding fiscal years. For a 64334
tangible personal property phase-out impacted district, "average 64335
taxable value" means the average of the sum of the amounts 64336
certified for the district under division (A)(1) and as public 64337
utility personal property under division (A)(2) of section 64338
3317.021 of the Revised Code in the second, third, and fourth 64339

preceding fiscal years. 64340

(3) "Entitled to attend school" means entitled to attend 64341
school in a city, local, or exempted village school district under 64342
section 3313.64 or 3313.65 of the Revised Code. 64343

(4) "Formula ADM" and "income factor" have the same meanings 64344
as in section 3317.02 of the Revised Code. 64345

(5) "Native student" has the same meaning as in section 64346
3313.98 of the Revised Code. 64347

(6) "Open enrollment net gain" for a district means (a) the 64348
number of the students entitled to attend school in another 64349
district but who are enrolled in the schools of the district under 64350
its open enrollment policy minus (b) the number of the district's 64351
native students who are enrolled in the schools of another 64352
district under the other district's open enrollment policy, both 64353
numbers as certified to the department under section 3313.981 of 64354
the Revised Code. If the difference is a negative number, the 64355
district's "open enrollment net gain" is zero. 64356

(7) "Open enrollment policy" means an interdistrict open 64357
enrollment policy adopted under section 3313.98 of the Revised 64358
Code. 64359

(8) "Tangible personal property phase-out impacted district" 64360
means a school district for which the taxable value of its 64361
tangible personal property certified under division (A)(2) of 64362
section 3317.021 of the Revised Code for tax year 2005, excluding 64363
the taxable value of public utility personal property, made up 64364
eighteen per cent or more of its total taxable value for tax year 64365
2005 as certified under that section. 64366

(B) Calculate for each district the three-year average of the 64367
adjusted valuations per pupil calculated for the district for the 64368
current and two preceding fiscal years; 64369

(C) Rank all such districts in order of adjusted valuation 64370
per pupil from the district with the lowest three-year average 64371
adjusted valuation per pupil to the district with the highest 64372
three-year average adjusted valuation per pupil; 64373

(D) Divide such ranking into percentiles with the first 64374
percentile containing the one per cent of school districts having 64375
the lowest three-year average adjusted valuations per pupil and 64376
the one-hundredth percentile containing the one per cent of school 64377
districts having the highest three-year average adjusted 64378
valuations per pupil; 64379

(E) Determine the school districts that have three-year 64380
average adjusted valuations per pupil that are greater than the 64381
median three-year average adjusted valuation per pupil for all 64382
school districts in the state; 64383

(F) On or before the first day of September, certify the 64384
information described in divisions (A) to (E) of this section to 64385
the Ohio school facilities commission. 64386

Sec. 3318.032. (A) Except as otherwise provided in divisions 64387
(C) and (D) of this section, the portion of the basic project cost 64388
supplied by the school district shall be the greater of: 64389

(1) The required percentage of the basic project costs; 64390

(2)(a) For all districts except a district that opts to 64391
divide its entire classroom facilities needs into segments to be 64392
completed separately as authorized by section 3318.034 of the 64393
Revised Code, an amount necessary to raise the school district's 64394
net bonded indebtedness, as of the date the controlling board 64395
approved the project, to within five thousand dollars of the 64396
required level of indebtedness; 64397

(b) For a district that opts to divide its entire classroom 64398
facilities needs into segments to be completed separately as 64399

authorized by section 3318.034 of the Revised Code, an amount 64400
necessary to raise the school district's net bonded indebtedness, 64401
as of the date the controlling board approved the project, to 64402
within five thousand dollars of the following: 64403

The required level of indebtedness X (the basic 64404
project cost of the segment as approved 64405
by the controlling board / the estimated basic 64406
project cost of the district's entire classroom facilities 64407
needs as determined jointly by the staff of the Ohio 64408
school facilities commission and the district) 64409

(B) The amount of the district's share determined under this 64410
section shall be calculated only as of the date the controlling 64411
board approved the project, and that amount applies throughout the 64412
~~one-year~~ thirteen-month period permitted under section 3318.05 of 64413
the Revised Code for the district's electors to approve the 64414
propositions described in that section. If the amount reserved and 64415
encumbered for a project is released because the electors do not 64416
approve those propositions within that ~~year~~ period, and the school 64417
district later receives the controlling board's approval for the 64418
project, subject to a new project scope and estimated costs under 64419
section 3318.054 of the Revised Code, the district's portion shall 64420
be recalculated in accordance with this section as of the date of 64421
the controlling board's subsequent approval. 64422

(C) At no time shall a school district's portion of the basic 64423
project cost be greater than ninety-five per cent of the total 64424
basic project cost. 64425

(D) If the controlling board approves a project under 64426
sections 3318.01 to 3318.20 of the Revised Code for a school 64427
district that previously received assistance under those sections 64428
or section 3318.37 of the Revised Code within the twenty-year 64429
period prior to the date on which the controlling board approves 64430
the new project, the district's portion of the basic project cost 64431

for the new project shall be the lesser of the following: 64432

(1) The portion calculated under division (A) of this 64433
section; 64434

(2) The greater of the following: 64435

(a) The required percentage of the basic project costs for 64436
the new project; 64437

(b) The percentage of the basic project cost paid by the 64438
district for the previous project. 64439

Sec. 3318.034. (A) This section applies to both of the 64440
following: 64441

(1) Any school district that has not executed an agreement 64442
for a project under sections 3318.01 to 3318.20 of the Revised 64443
Code prior to ~~the effective date of this section~~ June 24, 2008; 64444

(2) Any school district that is eligible for additional 64445
assistance under sections 3318.01 to 3318.20 of the Revised Code 64446
pursuant to division (B)(2) of section 3318.04 of the Revised 64447
Code. 64448

Notwithstanding any provision of this chapter to the 64449
contrary, with the approval of the Ohio school facilities 64450
commission, any school district to which this section applies may 64451
opt to divide the district's entire classroom facilities needs, as 64452
those needs are jointly determined by the staff of the commission 64453
and the school district, into discrete segments and shall comply 64454
with all of the provisions of those sections unless otherwise 64455
provided in this section. 64456

(B) ~~Each~~ Except as provided in division (C) of this section, 64457
each segment shall comply with all of the following: 64458

(1) The segment shall consist of the new construction of one 64459
or more entire buildings or the complete renovation of one or more 64460

entire existing buildings, with any necessary additions to that building. 64461
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(2) The segment shall not include any construction of or renovation or repair to any building that does not complete the needs of the district with respect to that particular building at the time the segment is completed. 64463
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(3) The segment shall consist of new construction, renovations, additions, reconstruction, or repair of classroom facilities to the extent that the school district portion, as determined under section 3318.032 of the Revised Code, is an amount not less than the product of 0.040 times the district's valuation at the time the agreement for the segment is executed, unless the district previously has undertaken a segment under this section and the district's portion of the estimated basic project cost of the remainder of its entire classroom facilities needs, as determined jointly by the staff of the commission and the district, is less than the amount otherwise required by this division. 64467
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(C) A district described in division (A)(2) of this section that has not received the additional assistance authorized under division (B)(2) of section 3318.04 of the Revised Code may undertake a segment, with commission approval, for the purpose of renovating or replacing work performed on a facility under the district's prior project. The commission may approve that segment if the commission determines that the renovation or replacement is necessary to protect the facility. The basic project cost of the segment shall be allocated between the state and the district in accordance with section 3318.032 of the Revised Code. However, the requirements of division (B) of this section shall not apply to a segment undertaken under this division. 64479
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(D) The commission shall conditionally approve and seek controlling board approval in accordance with division (A) of 64491
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section 3318.04 of the Revised Code of each segment. 64493

~~(D)~~(E) The school district's maintenance levy requirement, as 64494
defined in section 3318.18 of the Revised Code, shall run for 64495
twenty-three years from the date the first segment is undertaken; 64496
however, the maintenance levy requirement does not apply to a 64497
segment undertaken under division (C) of this section. 64498

Sec. 3318.05. The conditional approval of the Ohio school 64499
facilities commission for a project shall lapse and the amount 64500
reserved and encumbered for such project shall be released unless 64501
the school district board accepts such conditional approval within 64502
one hundred twenty days following the date of certification of the 64503
conditional approval to the school district board and the electors 64504
of the school district vote favorably on both of the propositions 64505
described in divisions (A) and (B) of this section within ~~one year~~ 64506
thirteen months of the date of such certification, except that a 64507
school district described in division (C) of this section does not 64508
need to submit the proposition described in division (B) of this 64509
section. The propositions described in divisions (A) and (B) of 64510
this section shall be combined in a single proposal. If the 64511
district board or the district's electors fail to meet such 64512
requirements and the amount reserved and encumbered for the 64513
district's project is released, the district shall be given first 64514
priority for project funding as such funds become available, 64515
subject to section 3318.054 of the Revised Code. 64516

(A) On the question of issuing bonds of the school district 64517
board, for the school district's portion of the basic project 64518
cost, in an amount equal to the school district's portion of the 64519
basic project cost less the amount of the proceeds of any 64520
securities authorized or to be authorized under division (J) of 64521
section 133.06 of the Revised Code and dedicated by the school 64522
district board to payment of the district's portion of the basic 64523

project cost; and 64524

(B) On the question of levying a tax the proceeds of which 64525
shall be used to pay the cost of maintaining the classroom 64526
facilities included in the project. Such tax shall be at the rate 64527
of not less than one-half mill for each dollar of valuation for a 64528
period of twenty-three years, subject to any extension approved 64529
under section 3318.061 of the Revised Code. 64530

(C) If a school district has in place a tax levied under 64531
section 5705.21 of the Revised Code for general permanent 64532
improvements for a continuing period of time and the proceeds of 64533
such tax can be used for maintenance, or if a district agrees to 64534
the transfers described in section 3318.051 of the Revised Code, 64535
the school district need not levy the additional tax required 64536
under division (B) of this section, provided the school district 64537
board includes in the agreement entered into under section 3318.08 64538
of the Revised Code provisions either: 64539

(1) Earmarking an amount from the proceeds of that permanent 64540
improvement tax for maintenance of classroom facilities equivalent 64541
to the amount of the additional tax and for the equivalent number 64542
of years otherwise required under this section; 64543

(2) Requiring the transfer of money in accordance with 64544
section 3318.051 of the Revised Code. 64545

The district board subsequently may rescind the agreement to 64546
make the transfers under section 3318.051 of the Revised Code only 64547
so long as the electors of the district have approved, in 64548
accordance with section 3318.063 of the Revised Code, the levy of 64549
a tax for the maintenance of the classroom facilities acquired 64550
under the district's project and that levy continues to be 64551
collected as approved by the electors. 64552

(D) Proceeds of the tax to be used for maintenance of the 64553
classroom facilities under either division (B) or (C)(1) of this 64554

section, and transfers of money in accordance with section 64555
3318.051 of the Revised Code shall be deposited into a separate 64556
fund established by the school district for such purpose. 64557

Sec. 3318.051. (A) Any city, exempted village, or local 64558
school district that commences a project under sections 3318.01 to 64559
3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or 64560
after September 5, 2006, need not levy the tax otherwise required 64561
under division (B) of section 3318.05 of the Revised Code, if the 64562
district board of education adopts a resolution petitioning the 64563
Ohio school facilities commission to approve the transfer of money 64564
in accordance with this section and the commission approves that 64565
transfer. If so approved, the commission and the district board 64566
shall enter into an agreement under which the board, in each of 64567
twenty-three consecutive years beginning in the year in which the 64568
board and the commission enter into the project agreement under 64569
section 3318.08 of the Revised Code, shall transfer into the 64570
maintenance fund required by division (D) of section 3318.05 of 64571
the Revised Code not less than an amount equal to one-half mill 64572
for each dollar of the district's valuation unless and until the 64573
agreement to make those transfers is rescinded by the district 64574
board pursuant to division (F) of this section. 64575

(B) On the first day of July each year, or on an alternative 64576
date prescribed by the commission, the district treasurer shall 64577
certify to the commission and the auditor of state that the amount 64578
required for the year has been transferred. The auditor of state 64579
shall include verification of the transfer as part of any audit of 64580
the district under section 117.11 of the Revised Code. If the 64581
auditor of state finds that less than the required amount has been 64582
deposited into a district's maintenance fund, the auditor of state 64583
shall notify the district board of education in writing of that 64584
fact and require the board to deposit into the fund, within ninety 64585
days after the date of the notice, the amount by which the fund is 64586

deficient for the year. If the district board fails to demonstrate 64587
to the auditor of state's satisfaction that the board has made the 64588
deposit required in the notice, the auditor of state shall notify 64589
the department of education. At that time, the department shall 64590
withhold an amount equal to ten per cent of the district's funds 64591
calculated for the current fiscal year under ~~Chapters 3306. and~~ 64592
Chapter 3317. of the Revised Code until the auditor of state 64593
notifies the department that the auditor of state is satisfied 64594
that the board has made the required transfer. 64595

(C) Money transferred to the maintenance fund shall be used 64596
for the maintenance of the facilities acquired under the 64597
district's project. 64598

(D) The transfers to the maintenance fund under this section 64599
does not affect a district's obligation to establish and maintain 64600
a capital and maintenance fund under section 3315.18 of the 64601
Revised Code. 64602

(E) Any decision by the commission to approve or not approve 64603
the transfer of money under this section is final and not subject 64604
to appeal. The commission shall not be responsible for errors or 64605
miscalculations made in deciding whether to approve a petition to 64606
make transfers under this section. 64607

(F) If the district board determines that it no longer can 64608
continue making the transfers agreed to under this section, the 64609
board may rescind the agreement only so long as the electors of 64610
the district have approved, in accordance with section 3318.063 of 64611
the Revised Code, the levy of a tax for the maintenance of the 64612
classroom facilities acquired under the district's project and 64613
that levy continues to be collected as approved by the electors. 64614
That levy shall be for a number of years that is equal to the 64615
difference between twenty-three years and the number of years that 64616
the district made transfers under this section and shall be at the 64617
rate of not less than one-half mill for each dollar of the 64618

district's valuation. The district board shall continue to make 64619
the transfers agreed to under this section until that levy has 64620
been approved by the electors. 64621

Sec. 3318.054. (A) If conditional approval of a city, 64622
exempted village, or local school district's project lapses as 64623
provided in section 3318.05 of the Revised Code, or if conditional 64624
approval of a joint vocational school district's project lapses as 64625
provided in division (D) of section 3318.41 of the Revised Code, 64626
because the district's electors have not approved the ballot 64627
measures necessary to generate the district's portion of the basic 64628
project cost, and if the district board desires to seek a new 64629
conditional approval of the project, the district board shall 64630
request that the Ohio school facilities commission set the scope, 64631
basic project cost, and school district portion of the basic 64632
project cost prior to resubmitting the ballot measures to the 64633
electors. To do so, the commission shall use the district's 64634
current assessed tax valuation and the district's percentile for 64635
the prior fiscal year. For a district that has entered into an 64636
agreement under section 3318.36 of the Revised Code and desires to 64637
proceed with a project under sections 3318.01 to 3318.20 of the 64638
Revised Code, the district's portion of the basic project cost 64639
shall be the percentage specified in that agreement. The project 64640
scope and basic costs established under this division shall be 64641
valid for one year from the date the commission approves them. 64642

(B) Upon the commission's approval under division (A) of this 64643
section, the district board may submit the ballot measures to the 64644
district's electors for approval of the project based on the new 64645
project scope and estimated costs. Upon electoral approval of 64646
those measures, the district shall be given first priority for 64647
project funding as such funds become available. 64648

(C) When the commission determines that funds are available 64649

for the district's project, the commission shall do all of the 64650
following: 64651

(1) Determine the school district portion of the basic 64652
project cost under section 3318.032 of the Revised Code, in the 64653
case of a city, exempted village, or local school district, or 64654
under section 3318.42 of the Revised Code, in the case of a joint 64655
vocational school district; 64656

(2) Conditionally approve the project and submit it to the 64657
controlling board for approval pursuant to section 3318.04 of the 64658
Revised Code; 64659

(3) Encumber funds for the project under section 3318.11 of 64660
the Revised Code; 64661

(4) Enter into an agreement with the district board under 64662
section 3318.08 of the Revised Code. 64663

Sec. 3318.08. Except in the case of a joint vocational school 64664
district that receives assistance under sections 3318.40 to 64665
3318.45 of the Revised Code, if the requisite favorable vote on 64666
the election is obtained, or if the school district board has 64667
resolved to apply the proceeds of a property tax levy or the 64668
proceeds of an income tax, or a combination of proceeds from such 64669
taxes, as authorized in section 3318.052 of the Revised Code, the 64670
Ohio school facilities commission, upon certification to it of 64671
either the results of the election or the resolution under section 64672
3318.052 of the Revised Code, shall enter into a written agreement 64673
with the school district board for the construction and sale of 64674
the project. In the case of a joint vocational school district 64675
that receives assistance under sections 3318.40 to 3318.45 of the 64676
Revised Code, if the school district board of education and the 64677
school district electors have satisfied the conditions prescribed 64678
in division (D)(1) of section 3318.41 of the Revised Code, the 64679
commission shall enter into an agreement with the school district 64680

board for the construction and sale of the project. In either 64681
case, the agreement shall include, but need not be limited to, the 64682
following provisions: 64683

(A) The sale and issuance of bonds or notes in anticipation 64684
thereof, as soon as practicable after the execution of the 64685
agreement, in an amount equal to the school district's portion of 64686
the basic project cost, including any securities authorized under 64687
division (J) of section 133.06 of the Revised Code and dedicated 64688
by the school district board to payment of the district's portion 64689
of the basic project cost of the project; provided, that if at 64690
that time the county treasurer of each county in which the school 64691
district is located has not commenced the collection of taxes on 64692
the general duplicate of real and public utility property for the 64693
year in which the controlling board approved the project, the 64694
school district board shall authorize the issuance of a first 64695
installment of bond anticipation notes in an amount specified by 64696
the agreement, which amount shall not exceed an amount necessary 64697
to raise the net bonded indebtedness of the school district as of 64698
the date of the controlling board's approval to within five 64699
thousand dollars of the required level of indebtedness for the 64700
preceding year. In the event that a first installment of bond 64701
anticipation notes is issued, the school district board shall, as 64702
soon as practicable after the county treasurer of each county in 64703
which the school district is located has commenced the collection 64704
of taxes on the general duplicate of real and public utility 64705
property for the year in which the controlling board approved the 64706
project, authorize the issuance of a second and final installment 64707
of bond anticipation notes or a first and final issue of bonds. 64708

The combined value of the first and second installment of 64709
bond anticipation notes or the value of the first and final issue 64710
of bonds shall be equal to the school district's portion of the 64711
basic project cost. The proceeds of any such bonds shall be used 64712

first to retire any bond anticipation notes. Otherwise, the 64713
proceeds of such bonds and of any bond anticipation notes, except 64714
the premium and accrued interest thereon, shall be deposited in 64715
the school district's project construction fund. In determining 64716
the amount of net bonded indebtedness for the purpose of fixing 64717
the amount of an issue of either bonds or bond anticipation notes, 64718
gross indebtedness shall be reduced by moneys in the bond 64719
retirement fund only to the extent of the moneys therein on the 64720
first day of the year preceding the year in which the controlling 64721
board approved the project. Should there be a decrease in the tax 64722
valuation of the school district so that the amount of 64723
indebtedness that can be incurred on the tax duplicates for the 64724
year in which the controlling board approved the project is less 64725
than the amount of the first installment of bond anticipation 64726
notes, there shall be paid from the school district's project 64727
construction fund to the school district's bond retirement fund to 64728
be applied against such notes an amount sufficient to cause the 64729
net bonded indebtedness of the school district, as of the first 64730
day of the year following the year in which the controlling board 64731
approved the project, to be within five thousand dollars of the 64732
required level of indebtedness for the year in which the 64733
controlling board approved the project. The maximum amount of 64734
indebtedness to be incurred by any school district board as its 64735
share of the cost of the project is either an amount that will 64736
cause its net bonded indebtedness, as of the first day of the year 64737
following the year in which the controlling board approved the 64738
project, to be within five thousand dollars of the required level 64739
of indebtedness, or an amount equal to the required percentage of 64740
the basic project costs, whichever is greater. All bonds and bond 64741
anticipation notes shall be issued in accordance with Chapter 133. 64742
of the Revised Code, and notes may be renewed as provided in 64743
section 133.22 of the Revised Code. 64744

(B) The transfer of such funds of the school district board 64745

available for the project, together with the proceeds of the sale 64746
of the bonds or notes, except premium, accrued interest, and 64747
interest included in the amount of the issue, to the school 64748
district's project construction fund; 64749

(C) For all school districts except joint vocational school 64750
districts that receive assistance under sections 3318.40 to 64751
3318.45 of the Revised Code, the following provisions as 64752
applicable: 64753

(1) If section 3318.052 of the Revised Code applies, the 64754
earmarking of the proceeds of a tax levied under section 5705.21 64755
of the Revised Code for general permanent improvements or under 64756
section 5705.218 of the Revised Code for the purpose of permanent 64757
improvements, or the proceeds of a school district income tax 64758
levied under Chapter 5748. of the Revised Code, or the proceeds 64759
from a combination of those two taxes, in an amount to pay all or 64760
part of the service charges on bonds issued to pay the school 64761
district portion of the project and an amount equivalent to all or 64762
part of the tax required under division (B) of section 3318.05 of 64763
the Revised Code; 64764

(2) If section 3318.052 of the Revised Code does not apply, 64765
one of the following: 64766

(a) The levy of the tax authorized at the election for the 64767
payment of maintenance costs, as specified in division (B) of 64768
section 3318.05 of the Revised Code; 64769

(b) If the school district electors have approved a 64770
continuing tax for general permanent improvements under section 64771
5705.21 of the Revised Code and that tax can be used for 64772
maintenance, the earmarking of an amount of the proceeds from such 64773
tax for maintenance of classroom facilities as specified in 64774
division (B) of section 3318.05 of the Revised Code; 64775

(c) If, in lieu of the tax otherwise required under division 64776

(B) of section 3318.05 of the Revised Code, the commission has 64777
approved the transfer of money to the maintenance fund in 64778
accordance with section 3318.051 of the Revised Code, a 64779
requirement that the district board comply with the provisions 64780
that section. The district board may rescind the provision 64781
prescribed under division (C)(2)(c) of this section only so long 64782
as the electors of the district have approved, in accordance with 64783
section 3318.063 of the Revised Code, the levy of a tax for the 64784
maintenance of the classroom facilities acquired under the 64785
district's project and that levy continues to be collected as 64786
approved by the electors. 64787

(D) For joint vocational school districts that receive 64788
assistance under sections 3318.40 to 3318.45 of the Revised Code, 64789
provision for deposit of school district moneys dedicated to 64790
maintenance of the classroom facilities acquired under those 64791
sections as prescribed in section 3318.43 of the Revised Code; 64792

(E) Dedication of any local donated contribution as provided 64793
for under section 3318.084 of the Revised Code, including a 64794
schedule for depositing such moneys applied as an offset of the 64795
district's obligation to levy the tax described in division (B) of 64796
section 3318.05 of the Revised Code as required under division 64797
(D)(2) of section 3318.084 of the Revised Code; 64798

(F) Ownership of or interest in the project during the period 64799
of construction, which shall be divided between the commission and 64800
the school district board in proportion to their respective 64801
contributions to the school district's project construction fund; 64802

(G) Maintenance of the state's interest in the project until 64803
any obligations issued for the project under section 3318.26 of 64804
the Revised Code are no longer outstanding; 64805

(H) The insurance of the project by the school district from 64806
the time there is an insurable interest therein and so long as the 64807

state retains any ownership or interest in the project pursuant to 64808
division (F) of this section, in such amounts and against such 64809
risks as the commission shall require; provided, that the cost of 64810
any required insurance until the project is completed shall be a 64811
part of the basic project cost; 64812

(I) The certification by the director of budget and 64813
management that funds are available and have been set aside to 64814
meet the state's share of the basic project cost as approved by 64815
the controlling board pursuant to either section 3318.04 or 64816
division (B)(1) of section 3318.41 of the Revised Code; 64817

(J) Authorization of the school district board to advertise 64818
for and receive construction bids for the project, for and on 64819
behalf of the commission, and to award contracts in the name of 64820
the state subject to approval by the commission; 64821

(K) Provisions for the disbursement of moneys from the school 64822
district's project account upon issuance by the commission or the 64823
commission's designated representative of vouchers for work done 64824
to be certified to the commission by the treasurer of the school 64825
district board; 64826

(L) Disposal of any balance left in the school district's 64827
project construction fund upon completion of the project; 64828

(M) Limitations upon use of the project or any part of it so 64829
long as any obligations issued to finance the project under 64830
section 3318.26 of the Revised Code are outstanding; 64831

(N) Provision for vesting the state's interest in the project 64832
to the school district board when the obligations issued to 64833
finance the project under section 3318.26 of the Revised Code are 64834
outstanding; 64835

(O) Provision for deposit of an executed copy of the 64836
agreement in the office of the commission; 64837

(P) Provision for termination of the contract and release of 64838
the funds encumbered at the time of the conditional approval, if 64839
the proceeds of the sale of the bonds of the school district board 64840
are not paid into the school district's project construction fund 64841
and if bids for the construction of the project have not been 64842
taken within such period after the execution of the agreement as 64843
may be fixed by the commission; 64844

(Q) Provision for the school district to maintain the project 64845
in accordance with a plan approved by the commission; 64846

~~(R)(1) For all school districts except a district undertaking~~ 64847
~~a project under section 3318.38 of the Revised Code or a joint~~ 64848
~~vocational school district undertaking a project under sections~~ 64849
~~3318.40 to 3318.45 of the Revised Code, provision~~ Provision that 64850
all state funds reserved and encumbered to pay the state share of 64851
the cost of the project pursuant to section 3318.03 of the Revised 64852
Code be spent on the construction or acquisition of the project 64853
prior to the expenditure of any and the funds provided by the 64854
school district to pay for its share of the project cost, ~~unless~~ 64855
including the respective shares of the cost of a segment if the 64856
project is divided into segments, be spent on the construction and 64857
acquisition of the project or segment simultaneously in proportion 64858
to the state's and the school district's respective shares of that 64859
basic project cost as determined under section 3318.032 of the 64860
Revised Code or, if the district is a joint vocational school 64861
district, under section 3318.42 of the Revised Code. However, if 64862
the school district certifies to the commission that expenditure 64863
by the school district is necessary to maintain the federal tax 64864
status or tax-exempt status of notes or bonds issued by the school 64865
district to pay for its share of the project cost or to comply 64866
with applicable temporary investment periods or spending 64867
exceptions to rebate as provided for under federal law in regard 64868
to those notes or bonds, ~~in which cases,~~ the school district may 64869

commit to spend, or spend, a greater portion of the funds it 64870
provides+ 64871

~~(2) For a school district undertaking a project under section 64872
3318.38 of the Revised Code or a joint vocational school district 64873
undertaking a project under sections 3318.40 to 3318.45 of the 64874
Revised Code, provision that the state funds reserved and 64875
encumbered and the funds provided by the school district to pay 64876
the basic project cost of any segment of the project, or of the 64877
entire project if it is not divided into segments, be spent on the 64878
construction and acquisition of the project simultaneously in 64879
proportion to the state's and the school district's respective 64880
shares of that basic project cost as determined under section 64881
3318.032 of the Revised Code or, if the district is a joint 64882
vocational school district, under section 3318.42 of the Revised 64883
Code during any specific period than would otherwise be required 64884
under this division. 64885~~

(S) A provision stipulating that the commission may prohibit 64886
the district from proceeding with any project if the commission 64887
determines that the site is not suitable for construction 64888
purposes. The commission may perform soil tests in its 64889
determination of whether a site is appropriate for construction 64890
purposes. 64891

(T) A provision stipulating that, unless otherwise authorized 64892
by the commission, any contingency reserve portion of the 64893
construction budget prescribed by the commission shall be used 64894
only to pay costs resulting from unforeseen job conditions, to 64895
comply with rulings regarding building and other codes, to pay 64896
costs related to design clarifications or corrections to contract 64897
documents, and to pay the costs of settlements or judgments 64898
related to the project as provided under section 3318.086 of the 64899
Revised Code; 64900

(U) Provision stipulating that for continued release of 64901

project funds the school district board shall comply with section 64902
3313.41 of the Revised Code throughout the project and shall 64903
notify the department of education and the Ohio community school 64904
association when the board plans to dispose of facilities by sale 64905
under that section; 64906

(V) Provision that the commission shall not approve a 64907
contract for demolition of a facility until the school district 64908
board has complied with section 3313.41 of the Revised Code 64909
relative to that facility, unless demolition of that facility is 64910
to clear a site for construction of a replacement facility 64911
included in the district's project. 64912

Sec. 3318.111. For a contract for the construction of a 64913
project using assistance provided under this chapter, a school 64914
district board, with the approval of the Ohio school facilities 64915
commission, may enter into a contract with a construction manager 64916
at risk pursuant to section 9.334 of the Revised Code or a 64917
design-build firm pursuant to section 153.693 of the Revised Code, 64918
or a contract for the work described in division (B)(2) of section 64919
153.52 of the Revised Code, provided that any such contract 64920
entered into by the school district adheres to all applicable 64921
requirements imposed on such a contract pursuant to sections 9.33 64922
to 9.335 and Chapter 153. of the Revised Code. 64923

Sec. 3318.12. (A) The Ohio school facilities commission shall 64924
cause to be transferred to the school district's project 64925
construction fund the necessary amounts from amounts appropriated 64926
by the general assembly and set aside for such purpose, from time 64927
to time as may be necessary to pay obligations chargeable to such 64928
fund when due. All investment earnings of a school district's 64929
project construction fund shall be credited to the fund. 64930

(B)(1) The treasurer of the school district board shall 64931

disburse funds from the school district's project construction fund, including investment earnings credited to the fund, only upon the approval of the commission or the commission's designated representative. The commission or the commission's designated representative shall issue vouchers against such fund, in such amounts, and at such times as required by the contracts for construction of the project.

(2) Notwithstanding anything to the contrary in division (B)(1) of this section, the school district board may, by a duly adopted resolution, choose to use all or part of the investment earnings of the district's project construction fund that are attributable to the district's contribution to the fund to pay the cost of classroom facilities or portions or components of classroom facilities that are not included in the district's basic project cost but that are related to the district's project. If the district board adopts a resolution in favor of using those investment earnings as authorized under division (B)(2) of this section, the treasurer shall disburse the amount as designated and directed by the board. However, if the district board chooses to use any part of the investment earnings for classroom facilities or portions or components of classroom facilities that are not included in the basic project cost, as authorized under division (B)(2) of this section, and, subsequently, the cost of the project exceeds the amount in the project construction fund, the district board shall restore to the project construction fund the full amount of the investment earnings used under division (B)(2) of this section before any additional state moneys shall be released for the project.

(C) After ~~the~~ a certificate of completion has been issued for a project has been completed under section 3318.48 of the Revised Code:

(1) At the discretion of the school district board, any

investment earnings remaining in the project construction fund 64964
that are attributable to the school district's contribution to the 64965
fund shall be: 64966

(a) Retained in the project construction fund for future 64967
projects; 64968

(b) Transferred to the district's maintenance fund required 64969
by division (B) of section 3318.05 or section 3318.43 of the 64970
Revised Code, and the money so transferred shall be used solely 64971
for maintaining the classroom facilities included in the project; 64972

(c) Transferred to the district's permanent improvement fund. 64973

(2) Any investment earnings remaining in the project 64974
construction fund that are attributable to the state's 64975
contribution to the fund shall be transferred to the commission 64976
for expenditure pursuant to sections 3318.01 to 3318.20 or 64977
sections 3318.40 to 3318.45 of the Revised Code. 64978

(3) Any other surplus remaining in the school district's 64979
project construction fund ~~after the project has been completed~~ 64980
shall be transferred to the commission and the school district 64981
board in proportion to their respective contributions to the fund. 64982
The commission shall use the money transferred to it under this 64983
division for expenditure pursuant to sections 3318.01 to 3318.20 64984
or sections 3318.40 to 3318.45 of the Revised Code. 64985

(D) Pursuant to appropriations of the general assembly, any 64986
moneys transferred to the commission under division (C)(2) or (3) 64987
of this section from a project construction fund for a project 64988
under sections 3318.40 to 3318.45 of the Revised Code may be used 64989
for future expenditures for projects under sections 3318.40 to 64990
3318.45 of the Revised Code, notwithstanding the two per cent 64991
annual limit specified in division (B) of section 3318.40 of the 64992
Revised Code. 64993

Sec. 3318.31. (A) The Ohio school facilities commission may 64994
perform any act and ensure the performance of any function 64995
necessary or appropriate to carry out the purposes of, and 64996
exercise the powers granted under, Chapter 3318. of the Revised 64997
Code, including any of the following: 64998

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 64999
the Revised Code, rules for the administration of programs 65000
authorized under Chapter 3318. of the Revised Code. 65001

(2) Contract with, retain the services of, or designate, and 65002
fix the compensation of, such agents, accountants, consultants, 65003
advisers, and other independent contractors as may be necessary or 65004
desirable to carry out the programs authorized under Chapter 3318. 65005
of the Revised Code, or authorize the executive director to 65006
perform such powers and duties. 65007

(3) Receive and accept any gifts, grants, donations, and 65008
pledges, and receipts therefrom, to be used for the programs 65009
authorized under Chapter 3318. of the Revised Code. 65010

(4) Make and enter into all contracts, commitments, and 65011
agreements, and execute all instruments, necessary or incidental 65012
to the performance of its duties and the execution of its rights 65013
and powers under Chapter 3318. of the Revised Code, or authorize 65014
the executive director to perform such powers and duties. 65015

(5) Request the director of administrative services to debar 65016
a contractor as provided in section 153.02 of the Revised Code. 65017

(B) The commission shall appoint and fix the compensation of 65018
an executive director who shall serve at the pleasure of the 65019
commission. The executive director shall supervise the operations 65020
of the commission and perform such other duties as delegated by 65021
the commission. The executive director also shall employ and fix 65022
the compensation of such employees as will facilitate the 65023

activities and purposes of the commission, who shall serve at the 65024
pleasure of the executive director. The employees of the 65025
commission shall be exempt from Chapter 4117. of the Revised Code 65026
and shall not be public employees as defined in section 4117.01 of 65027
the Revised Code. 65028

(C) The attorney general shall serve as the legal 65029
representative for the commission and may appoint other counsel as 65030
necessary for that purpose in accordance with section 109.07 of 65031
the Revised Code. 65032

Sec. 3318.36. (A)(1) As used in this section: 65033

(a) "Ohio school facilities commission," "classroom 65034
facilities," "school district," "school district board," "net 65035
bonded indebtedness," "required percentage of the basic project 65036
costs," "basic project cost," "valuation," and "percentile" have 65037
the same meanings as in section 3318.01 of the Revised Code. 65038

(b) "Required level of indebtedness" means five per cent of 65039
the school district's valuation for the year preceding the year in 65040
which the commission and school district enter into an agreement 65041
under division (B) of this section, plus [two one-hundredths of 65042
one per cent multiplied by (the percentile in which the district 65043
ranks minus one)]. 65044

(c) "Local resources" means any moneys generated in any 65045
manner permitted for a school district board to raise the school 65046
district portion of a project undertaken with assistance under 65047
sections 3318.01 to 3318.20 of the Revised Code. 65048

(d) "Tangible personal property phase-out impacted district" 65049
has the same meaning as in section 3318.11 of the Revised Code. 65050

(2) For purposes of determining the required level of 65051
indebtedness, the required percentage of the basic project costs 65052
under division (C)(1) of this section, and priority for assistance 65053

under sections 3318.01 to 3318.20 of the Revised Code, the 65054
percentile ranking of a school district with which the commission 65055
has entered into an agreement under this section between the first 65056
day of July and the thirty-first day of August in each fiscal year 65057
is the percentile ranking calculated for that district for the 65058
immediately preceding fiscal year, and the percentile ranking of a 65059
school district with which the commission has entered into such 65060
agreement between the first day of September and the thirtieth day 65061
of June in each fiscal year is the percentile ranking calculated 65062
for that district for the current fiscal year. However, in the 65063
case of a tangible personal property phase-out impacted district, 65064
the district's priority for assistance under sections 3318.01 to 65065
3318.20 of the Revised Code and its portion of the basic project 65066
cost under those sections shall be determined in the manner 65067
prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 65068
this section. 65069

(B)(1) There is hereby established the school building 65070
assistance expedited local partnership program. Under the program, 65071
the Ohio school facilities commission may enter into an agreement 65072
with the school district board of any school district under which 65073
the school district board may proceed with the new construction or 65074
major repairs of a part of the school district's classroom 65075
facilities needs, as determined under sections 3318.01 to 3318.20 65076
of the Revised Code, through the expenditure of local resources 65077
prior to the school district's eligibility for state assistance 65078
under those sections and may apply that expenditure toward meeting 65079
the school district's portion of the basic project cost of the 65080
total of the school district's classroom facilities needs, as 65081
determined under sections 3318.01 to 3318.20 of the Revised Code 65082
and as recalculated under division (E) of this section, that are 65083
eligible for state assistance under sections 3318.01 to 3318.20 of 65084
the Revised Code when the school district becomes eligible for 65085
that assistance. Any school district that is reasonably expected 65086

to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this

section, as prescribed by division (A)(2) of this section; 65118

(b) For a tangible personal property phase-out impacted 65119
district, the least of (i) the district's percentile ranking 65120
determined at the time the district entered into the agreement 65121
under this section, as prescribed by division (A)(2) of this 65122
section, (ii) the district's current percentile ranking under 65123
section 3318.011 of the Revised Code, or (iii) for a project 65124
approved for fiscal year 2012, the district's percentile ranking 65125
under the alternate equity list prescribed by Section 387.70 of 65126
H.B. 153 of the 129th general assembly. 65127

(4) Any project under this section shall comply with section 65128
3318.03 of the Revised Code and with any specifications for plans 65129
and materials for classroom facilities adopted by the commission 65130
under section 3318.04 of the Revised Code. 65131

(5) If a school district that enters into an agreement under 65132
this section has not begun a project applying local resources as 65133
provided for under that agreement at the time the district is 65134
notified by the commission that it is eligible to receive state 65135
assistance under sections 3318.01 to 3318.20 of the Revised Code, 65136
all assessment and agreement documents entered into under this 65137
section are void. 65138

(6) Only construction of or repairs to classroom facilities 65139
that have been approved by the commission and have been therefore 65140
included as part of a district's basic project cost qualify for 65141
application of local resources under this section. 65142

(C) Based on the results of on-site visits and assessment, 65143
the commission shall determine the basic project cost of the 65144
school district's classroom facilities needs. The commission shall 65145
determine the school district's portion of such basic project 65146
cost, which shall be the greater of: 65147

(1) The required percentage of the basic project costs, 65148

determined based on the school district's percentile ranking; 65149

(2) An amount necessary to raise the school district's net 65150
bonded indebtedness, as of the fiscal year the commission and the 65151
school district enter into the agreement under division (B) of 65152
this section, to within five thousand dollars of the required 65153
level of indebtedness. 65154

(D)(1) When the commission determines the basic project cost 65155
of the classroom facilities needs of a school district and the 65156
school district's portion of that basic project cost under 65157
division (C) of this section, the project shall be conditionally 65158
approved. Such conditional approval shall be submitted to the 65159
controlling board for approval thereof. The controlling board 65160
shall forthwith approve or reject the commission's determination, 65161
conditional approval, and the amount of the state's portion of the 65162
basic project cost; however, no state funds shall be encumbered 65163
under this section. Upon approval by the controlling board, the 65164
school district board may identify a discrete part of its 65165
classroom facilities needs, which shall include only new 65166
construction of or additions or major repairs to a particular 65167
building, to address with local resources. Upon identifying a part 65168
of the school district's basic project cost to address with local 65169
resources, the school district board may allocate any available 65170
school district moneys to pay the cost of that identified part, 65171
including the proceeds of an issuance of bonds if approved by the 65172
electors of the school district. 65173

All local resources utilized under this division shall first 65174
be deposited in the project construction account required under 65175
section 3318.08 of the Revised Code. 65176

(2) Unless the school district board exercises its option 65177
under division (D)(3) of this section, for a school district to 65178
qualify for participation in the program authorized under this 65179
section, one of the following conditions shall be satisfied: 65180

(a) The electors of the school district by a majority vote 65181
shall approve the levy of taxes outside the ten-mill limitation 65182
for a period of twenty-three years at the rate of not less than 65183
one-half mill for each dollar of valuation to be used to pay the 65184
cost of maintaining the classroom facilities included in the basic 65185
project cost as determined by the commission. The form of the 65186
ballot to be used to submit the question whether to approve the 65187
tax required under this division to the electors of the school 65188
district shall be the form for an additional levy of taxes 65189
prescribed in section 3318.361 of the Revised Code, which may be 65190
combined in a single ballot question with the questions prescribed 65191
under section 5705.218 of the Revised Code. 65192

(b) As authorized under division (C) of section 3318.05 of 65193
the Revised Code, the school district board shall earmark from the 65194
proceeds of a permanent improvement tax levied under section 65195
5705.21 of the Revised Code, an amount equivalent to the 65196
additional tax otherwise required under division (D)(2)(a) of this 65197
section for the maintenance of the classroom facilities included 65198
in the basic project cost as determined by the commission. 65199

(c) As authorized under section 3318.051 of the Revised Code, 65200
the school district board shall, if approved by the commission, 65201
annually transfer into the maintenance fund required under section 65202
3318.05 of the Revised Code the amount prescribed in section 65203
3318.051 of the Revised Code in lieu of the tax otherwise required 65204
under division (D)(2)(a) of this section for the maintenance of 65205
the classroom facilities included in the basic project cost as 65206
determined by the commission. 65207

(d) If the school district board has rescinded the agreement 65208
to make transfers under section 3318.051 of the Revised Code, as 65209
provided under division (F) of that section, the electors of the 65210
school district, in accordance with section 3318.063 of the 65211
Revised Code, first shall approve the levy of taxes outside the 65212

ten-mill limitation for the period specified in that section at a 65213
rate of not less than one-half mill for each dollar of valuation. 65214

(e) The school district board shall apply the proceeds of a 65215
tax to leverage bonds as authorized under section 3318.052 of the 65216
Revised Code or dedicate a local donated contribution in the 65217
manner described in division (B) of section 3318.084 of the 65218
Revised Code in an amount equivalent to the additional tax 65219
otherwise required under division (D)(2)(a) of this section for 65220
the maintenance of the classroom facilities included in the basic 65221
project cost as determined by the commission. 65222

(3) A school district board may opt to delay taking any of 65223
the actions described in division (D)(2) of this section until the 65224
school district becomes eligible for state assistance under 65225
sections 3318.01 to 3318.20 of the Revised Code. In order to 65226
exercise this option, the board shall certify to the commission a 65227
resolution indicating the board's intent to do so prior to 65228
entering into an agreement under division (B) of this section. 65229

(4) If pursuant to division (D)(3) of this section a district 65230
board opts to delay levying an additional tax until the district 65231
becomes eligible for state assistance, it shall submit the 65232
question of levying that tax to the district electors as follows: 65233

(a) In accordance with section 3318.06 of the Revised Code if 65234
it will also be necessary pursuant to division (E) of this section 65235
to submit a proposal for approval of a bond issue; 65236

(b) In accordance with section 3318.361 of the Revised Code 65237
if it is not necessary to also submit a proposal for approval of a 65238
bond issue pursuant to division (E) of this section. 65239

(5) No state assistance under sections 3318.01 to 3318.20 of 65240
the Revised Code shall be released until a school district board 65241
that adopts and certifies a resolution under division (D) of this 65242
section also demonstrates to the satisfaction of the commission 65243

compliance with the provisions of division (D)(2) of this section. 65244

Any amount required for maintenance under division (D)(2) of 65245
this section shall be deposited into a separate fund as specified 65246
in division (B) of section 3318.05 of the Revised Code. 65247

(E)(1) If the school district becomes eligible for state 65248
assistance under sections 3318.01 to 3318.20 of the Revised Code 65249
based on its percentile ranking under division (B)(3) of this 65250
section, the commission shall conduct a new assessment of the 65251
school district's classroom facilities needs and shall recalculate 65252
the basic project cost based on this new assessment. The basic 65253
project cost recalculated under this division shall include the 65254
amount of expenditures made by the school district board under 65255
division (D)(1) of this section. The commission shall then 65256
recalculate the school district's portion of the new basic project 65257
cost, which shall be one of the following as applicable: 65258

(a) Except for a tangible personal property phase-out 65259
impacted district, the percentage of the original basic project 65260
cost assigned to the school district as its portion under division 65261
(C) of this section; 65262

(b) For a tangible personal property phase-out impacted 65263
district, the least of (i) the percentage of the original basic 65264
project cost assigned to the school district as its portion under 65265
division (C) of this section, (ii) the percentage of the new basic 65266
project cost determined under section 3318.032 of the Revised Code 65267
using the district's current percentile ranking under section 65268
3318.011 of the Revised Code, or (iii) for a project approved for 65269
fiscal year 2012, the percentage of the new basic project cost 65270
determined under section 3318.032 of the Revised Code using the 65271
district's percentile ranking under the alternate equity list 65272
prescribed by Section 387.70 of H.B. 153 of the 129th general 65273
assembly. The 65274

The commission shall deduct the expenditure of school 65275
district moneys made under division (D)(1) of this section from 65276
the school district's portion of the basic project cost as 65277
recalculated under this division. If the amount of school district 65278
resources applied by the school district board to the school 65279
district's portion of the basic project cost under this section is 65280
less than the total amount of such portion as recalculated under 65281
this division, the school district board by a majority vote of all 65282
of its members shall, if it desires to seek state assistance under 65283
sections 3318.01 to 3318.20 of the Revised Code, adopt a 65284
resolution as specified in section 3318.06 of the Revised Code to 65285
submit to the electors of the school district the question of 65286
approval of a bond issue in order to pay any additional amount of 65287
school district portion required for state assistance. Any tax 65288
levy approved under division (D) of this section satisfies the 65289
requirements to levy the additional tax under section 3318.06 of 65290
the Revised Code. 65291

(2) If the amount of school district resources applied by the 65292
school district board to the school district's portion of the 65293
basic project cost under this section is more than the total 65294
amount of such portion as recalculated under ~~this~~ division (E)(1) 65295
of this section, within one year after the school district's 65296
portion is so recalculated ~~under division (E)(1) of this section~~ 65297
the commission may grant to the school district the difference 65298
between the two calculated portions, but at no time shall the 65299
commission expend any state funds on a project in an amount 65300
greater than the state's portion of the basic project cost as 65301
recalculated under ~~this~~ division (E)(1) of this section. 65302

Any reimbursement under this division shall be only for local 65303
resources the school district has applied toward construction cost 65304
expenditures for the classroom facilities approved by the 65305
commission, which shall not include any financing costs associated 65306

with that construction. 65307

The school district board shall use any moneys reimbursed to 65308
the district under this division to pay off any debt service the 65309
district owes for classroom facilities constructed under its 65310
project under this section before such moneys are applied to any 65311
other purpose. However, the district board first may deposit 65312
moneys reimbursed under this division into the district's general 65313
fund or a permanent improvement fund to replace local resources 65314
the district withdrew from those funds, as long as, and to the 65315
extent that, those local resources were used by the district for 65316
constructing classroom facilities included in the district's basic 65317
project cost. 65318

(3) A tangible personal property phase-out impacted district 65319
shall receive credit under division (E) of this section for the 65320
expenditure of local resources pursuant to any prior agreement 65321
authorized by this section, notwithstanding any recalculation of 65322
its average taxable value. 65323

Sec. 3318.37. (A)(1) As used in this section: 65324

(a) "Large land area school district" means a school district 65325
with a territory of greater than three hundred square miles in any 65326
percentile as determined under section 3318.011 of the Revised 65327
Code. 65328

(b) "Low wealth school district" means a school district in 65329
the first through seventy-fifth percentiles as determined under 65330
section 3318.011 of the Revised Code. 65331

(c) A "school district with an exceptional need for immediate 65332
classroom facilities assistance" means a low wealth or large land 65333
area school district with an exceptional need for new facilities 65334
in order to protect the health and safety of all or a portion of 65335
its students. 65336

~~(2) No school district reasonably expected to be eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code within three fiscal years after the year of the application for assistance under this section shall be eligible for assistance under this section, unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve and the district satisfies the conditions prescribed in divisions (A)(3)(a) and (b) of this section.~~

~~(3)~~ No school district that participates in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code shall receive assistance under the program established under this section unless the following conditions are satisfied:

(a) The district board adopted a resolution certifying its intent to participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.

(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction

experts, the commission shall adopt guidelines for identifying 65368
school districts with an exceptional need for immediate classroom 65369
facilities assistance. 65370

(b) The guidelines shall include application forms and 65371
instructions for school districts to use in applying for 65372
assistance under this section. 65373

(3) The commission shall evaluate the classroom facilities, 65374
and the need for replacement classroom facilities from the 65375
applications received under this section. The commission, 65376
utilizing the guidelines adopted under division (B)(2)(a) of this 65377
section, shall prioritize the school districts to be assessed. 65378

Notwithstanding section 3318.02 of the Revised Code, the 65379
commission may conduct on-site evaluation of the school districts 65380
prioritized under this section and approve and award funds until 65381
such time as all funds set aside under division (B)(1) of this 65382
section have been encumbered. However, the commission need not 65383
conduct the evaluation of facilities if the commission determines 65384
that a district's assessment conducted under section 3318.36 of 65385
the Revised Code is sufficient for purposes of this section. 65386

(4) Notwithstanding division (A) of section 3318.05 of the 65387
Revised Code, the school district's portion of the basic project 65388
cost under this section shall be the "required percentage of the 65389
basic project costs," as defined in division (K) of section 65390
3318.01 of the Revised Code. 65391

(5) Except as otherwise specified in this section, any 65392
project undertaken with assistance under this section shall comply 65393
with all provisions of sections 3318.01 to 3318.20 of the Revised 65394
Code. A school district may receive assistance under sections 65395
3318.01 to 3318.20 of the Revised Code for the remainder of the 65396
district's classroom facilities needs as assessed under this 65397
section when the district is eligible for such assistance pursuant 65398

to section 3318.02 of the Revised Code, but any classroom facility 65399
constructed with assistance under this section shall not be 65400
included in a district's project at that time unless the 65401
commission determines the district has experienced the increased 65402
enrollment specified in division (B)(1) of section 3318.04 of the 65403
Revised Code. 65404

(C) No school district shall receive assistance under this 65405
section for a classroom facility that has been included in the 65406
discrete part of the district's classroom facilities needs 65407
identified and addressed in the district's project pursuant to an 65408
agreement entered into under section 3318.36 of the Revised Code, 65409
unless the district's entire classroom facilities plan consists of 65410
only a single building designed to house grades kindergarten 65411
through twelve. 65412

Sec. 3318.371. The Ohio school facilities commission may 65413
provide assistance under the exceptional needs school facilities 65414
program established by section 3318.37 of the Revised Code to any 65415
school district for the purpose of the relocation or replacement 65416
of classroom facilities required as a result of any contamination 65417
of air, soil, or water that impacts the occupants of the facility. 65418
Assistance under this section is not limited to school districts 65419
in the first through seventy-fifth percentiles as determined under 65420
section 3318.011 of the Revised Code. 65421

The commission shall make a determination in accordance with 65422
guidelines adopted by the commission regarding eligibility and 65423
funding for projects under this section. The commission may 65424
contract with an independent environmental consultant to conduct a 65425
study to assist the commission in making the determination. 65426

If the federal government or other public or private entity 65427
provides funds for restitution of costs incurred by the state or 65428
school district in the relocation or replacement of the classroom 65429

facilities, the school district shall use such funds in excess of 65430
the school district's share to refund the state for the state's 65431
contribution to the environmental contamination portion of the 65432
project. The school district may apply an amount of such 65433
restitution funds up to an amount equal to the school district's 65434
portion of the project, as defined by the commission, toward 65435
paying its portion of that project to reduce the amount of bonds 65436
the school district otherwise must issue to receive state 65437
assistance under sections 3318.01 to 3318.20 of the Revised Code. 65438

Sec. 3318.38. (A) As used in this section, "big-eight school 65439
district" has the same meaning as in section 3314.02 of the 65440
Revised Code. 65441

(B) There is hereby established the accelerated urban school 65442
building assistance program. Under the program, notwithstanding 65443
section 3318.02 of the Revised Code, any big-eight school district 65444
that has not been approved to receive assistance under sections 65445
3318.01 to 3318.20 of the Revised Code by July 1, 2002, may 65446
beginning on that date apply for approval of and be approved for 65447
such assistance. Except as otherwise provided in this section, any 65448
project approved and undertaken pursuant to this section shall 65449
comply with all provisions of sections 3318.01 to 3318.20 of the 65450
Revised Code. 65451

The Ohio school facilities commission shall provide 65452
assistance to any big-eight school district eligible for 65453
assistance under this section in the following manner: 65454

(1) Notwithstanding section 3318.02 of the Revised Code: 65455

(a) Not later than June 30, 2002, the commission shall 65456
conduct an on-site visit and shall assess the classroom facilities 65457
needs of each big-eight school district eligible for assistance 65458
under this section; 65459

(b) Beginning July 1, 2002, any big-eight school district 65460
eligible for assistance under this section may apply to the 65461
commission for conditional approval of its project as determined 65462
by the assessment conducted under division (B)(1)(a) of this 65463
section. The commission may conditionally approve that project and 65464
submit it to the controlling board for approval pursuant to 65465
section 3318.04 of the Revised Code. 65466

(2) If the controlling board approves the project of a 65467
big-eight school district eligible for assistance under this 65468
section, the commission and the school district shall enter into 65469
an agreement as prescribed in section 3318.08 of the Revised Code. 65470
Any agreement executed pursuant to this division shall include any 65471
applicable segmentation provisions as approved by the commission 65472
under division (B)(3) of this section. 65473

(3) Notwithstanding any provision to the contrary in sections 65474
3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight 65475
school district eligible for assistance under this section may 65476
with the approval of the commission opt to divide the project as 65477
approved under division (B)(1)(b) of this section into discrete 65478
segments to be completed sequentially. Any project divided into 65479
segments shall comply with all other provisions of sections 65480
3318.05, 3318.06, and 3318.08 of the Revised Code except as 65481
otherwise specified in this division. 65482

If a project is divided into segments under this division: 65483

(a) The school district need raise only the amount equal to 65484
its proportionate share, as determined under section 3318.032 of 65485
the Revised Code, of each segment at any one time and may seek 65486
voter approval of each segment separately; 65487

(b) The state's proportionate share, as determined under 65488
section 3318.032 of the Revised Code, of only the segment which 65489
has been approved by the school district electors or for which the 65490

district has applied a local donated contribution under section 65491
3318.084 of the Revised Code shall be encumbered in accordance 65492
with section 3318.11 of the Revised Code. Encumbrance of 65493
additional amounts to cover the state's proportionate share of 65494
later segments shall be approved separately as they are approved 65495
by the school district electors or as the district applies a local 65496
donated contribution to the segments under section 3318.084 of the 65497
Revised Code. 65498

(c) The school district's maintenance levy requirement, as 65499
defined in section 3318.18 of the Revised Code, shall run for 65500
twenty-three years from the date the first segment is undertaken. 65501

~~(4) For any project under this section~~ (C) In accordance with 65502
division (R) of section 3318.08 of the Revised Code, the state 65503
funds reserved and encumbered and the funds provided by the school 65504
district to pay the basic project cost of any segment of the 65505
project under this section, or of the entire project if it is not 65506
divided into segments, shall be spent on the construction and 65507
acquisition of the project simultaneously in proportion to the 65508
state's and the school district's respective shares of that basic 65509
project cost as determined under section 3318.032 of the Revised 65510
Code. 65511

Sec. 3318.41. (A)(1) The Ohio school facilities commission 65512
annually shall assess the classroom facilities needs of the number 65513
of joint vocational school districts that the commission 65514
reasonably expects to be able to provide assistance to in a fiscal 65515
year, based on the amount set aside for that fiscal year under 65516
division (B) of section 3318.40 of the Revised Code and the order 65517
of priority prescribed in division (B) of section 3318.42 of the 65518
Revised Code, except that in fiscal year 2004 the commission shall 65519
conduct at least the five assessments prescribed in division (E) 65520
of section 3318.40 of the Revised Code. 65521

Upon conducting an assessment of the classroom facilities 65522
needs of a school district, the commission shall make a 65523
determination of all of the following: 65524

(a) The number of classroom facilities to be included in a 65525
project and the basic project cost of acquiring the classroom 65526
facilities included in the project. The number of facilities and 65527
basic project cost shall be determined in accordance with the 65528
specifications adopted under section 3318.311 of the Revised Code 65529
except to the extent that compliance with such specifications is 65530
waived by the commission pursuant to the rule of the commission 65531
adopted under division (F) of section 3318.40 of the Revised Code. 65532

(b) The school district's portion of the basic project cost 65533
as determined under division (C) of section 3318.42 of the Revised 65534
Code; 65535

(c) The remaining portion of the basic project cost that 65536
shall be supplied by the state; 65537

(d) The amount of the state's portion of the basic project 65538
cost to be encumbered in accordance with section 3318.11 of the 65539
Revised Code in the current and subsequent fiscal years from funds 65540
set aside under division (B) of section 3318.40 of the Revised 65541
Code. 65542

(2) Divisions (A), (C), and (D) of section 3318.03 of the 65543
Revised Code apply to any project under sections 3318.40 to 65544
3318.45 of the Revised Code. 65545

(B)(1) If the commission makes a determination under division 65546
(A) of this section in favor of the acquisition of classroom 65547
facilities for a project under sections 3318.40 to 3318.45 of the 65548
Revised Code, such project shall be conditionally approved. Such 65549
conditional approval shall be submitted to the controlling board 65550
for approval. The controlling board shall immediately approve or 65551
reject the commission's determination, conditional approval, the 65552

amount of the state's portion of the basic project cost, and the 65553
amount of the state's portion of the basic project cost to be 65554
encumbered in the current fiscal year. In the event of approval by 65555
the controlling board, the commission shall certify the 65556
conditional approval to the joint vocational school district board 65557
of education and shall encumber the approved funds for the current 65558
fiscal year. 65559

(2) No school district that receives assistance under 65560
sections 3318.40 to 3318.45 of the Revised Code shall have another 65561
such project conditionally approved until the expiration of twenty 65562
years after the school district's prior project was conditionally 65563
approved, unless the school district board demonstrates to the 65564
satisfaction of the commission that the school district has 65565
experienced since conditional approval of its prior project an 65566
exceptional increase in enrollment or program requirements 65567
significantly above the school district's design capacity under 65568
that prior project as determined by rule of the commission. Any 65569
rule adopted by the commission to implement this division shall be 65570
tailored to address the classroom facilities needs of joint 65571
vocational school districts. 65572

(C) In addition to generating the amount of the school 65573
district's portion of the basic project cost as determined under 65574
division (C) of section 3318.42 of the Revised Code, in order for 65575
a school district to receive assistance under sections 3318.40 to 65576
3318.45 of the Revised Code, the school district board shall set 65577
aside school district moneys for the maintenance of the classroom 65578
facilities included in the school district's project in the amount 65579
and manner prescribed in section 3318.43 of the Revised Code. 65580

(D)(1) The conditional approval for a project certified under 65581
division (B)(1) of this section shall lapse and the amount 65582
reserved and encumbered for such project shall be released unless 65583
both of the following conditions are satisfied: 65584

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within ~~one year~~ thirteen months following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available, subject to section 3318.054 of the Revised Code.

(E) If the conditions prescribed in division (D)(1) of this section are satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) ~~The~~ In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised Code apply to projects under sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board, in order to pay all or part of the school district's portion of its basic project cost, or portions or components of classroom facilities that are not included in the

school district's basic project cost but that are related to the 65646
school district's project, may apply the proceeds of a tax levied 65647
under either section 3311.21 of the Revised Code for ten years or 65648
section 5705.21 of the Revised Code for ~~general permanent~~ 65649
~~improvements~~ a continuing period of time, if the proceeds of that 65650
levy lawfully may be used for general construction, renovation, 65651
repair, or maintenance of classroom facilities to pay debt charges 65652
on and financing costs related to bonds issued to pay all or part 65653
of the school district portion of the basic project cost of the 65654
school district's project under sections 3318.40 to 3318.45 of the 65655
Revised Code, or portions or components of classroom facilities 65656
that are not included in the school district's basic project cost 65657
but that are related to the school district's project, or to 65658
generate an amount equivalent to all or part of the amount 65659
required under section 3318.43 of the Revised Code to be used for 65660
maintenance of classroom facilities acquired under the project. 65661
Bonds issued under this division shall be Chapter 133. securities, 65662
and may be issued as general obligation securities, but the 65663
issuance of the bonds shall not be subject to a vote of the 65664
electors of the school district as long as the tax proceeds 65665
earmarked for payment of the debt charges on the bonds may 65666
lawfully be used for that purpose. Such bonds shall not be 65667
included in the calculation of net indebtedness under section 65668
133.06 of the Revised Code if the resolution authorizing their 65669
issuance includes covenants to appropriate annually, from lawfully 65670
available proceeds of a property tax levied under either section 65671
3311.21 or 5705.21 of the Revised Code, and to continue to levy 65672
that tax in amounts necessary to pay the debt charges on and 65673
financing costs related to the bonds as they become due. No 65674
property tax levied under section 5705.21 of the Revised Code that 65675
is pledged, or that the school district has covenanted to levy, 65676
collect, and appropriate annually to pay the debt charges on and 65677
financing costs related to the bonds under this section may be 65678

repealed while those bonds are outstanding. If such a tax is 65679
reduced by electors of the district or by the board of education 65680
while the bonds are outstanding, the board of education shall 65681
continue to levy and collect the tax under the authority of the 65682
original election authorizing the tax at a rate in each year that 65683
the board reasonably estimates will produce an amount in that year 65684
equal to the debt charges on the bonds in that year. 65685

No state moneys shall be released for a project to which this 65686
division applies until the proceeds of any bonds issued under this 65687
division that are dedicated for payment of the school district's 65688
portion of the basic project cost are first deposited into the 65689
school district's project construction fund. 65690

(C) A school district board of education may adopt a 65691
resolution proposing that any of the following questions be 65692
combined with a question specified in section 3318.45 of the 65693
Revised Code: 65694

(1) A bond issue question under section 133.18 of the Revised 65695
Code; 65696

(2) A tax levy question under section 3311.21 of the Revised 65697
Code; 65698

(3) A tax levy question under either section 3311.21 or 65699
5705.21 of the Revised Code. 65700

Any question described in divisions (C)(1) to (3) of this 65701
section that is combined with a question proposed under section 65702
3318.45 of the Revised Code shall be for the purpose of either 65703
paying for any permanent improvement, as defined in section 133.01 65704
of the Revised Code, or generating operating revenue specifically 65705
for the facilities acquired under the school district's project 65706
under Chapter 3318. of the Revised Code or for both to the extent 65707
such purposes are permitted by the sections of law under which 65708
each is proposed. 65709

(D) The board of education of a joint vocational school 65710
district that receives assistance under this section may enter 65711
into an agreement for joint issuance of bonds as provided for in 65712
section 3318.085 of the Revised Code. 65713

Sec. 3318.48. (A) When all of the following have occurred, a 65714
project undertaken by a school district pursuant to this chapter 65715
shall be considered complete and the Ohio school facilities 65716
commission shall issue a certificate of completion to the district 65717
board of education: 65718

(1) All facilities to be constructed under the project, as 65719
specified in the project agreement entered into under section 65720
3318.08 of the Revised Code, have been completed and the board has 65721
received a permanent certificate of occupancy for each of those 65722
facilities. 65723

(2) The commission has issued certificates of contract 65724
completion on all prime construction contracts entered into by the 65725
board under section 3318.10 of the Revised Code. 65726

(3) The commission has completed a final accounting of the 65727
district's project construction fund and has determined that all 65728
payments from the fund were made in compliance with all policies 65729
of the commission. 65730

(4) Any litigation concerning the project has been finally 65731
resolved with no chance of appeal. 65732

(5) All construction management services typically provided 65733
by the commission to school districts have been delivered and the 65734
commission has canceled any remaining encumbrance of funds for 65735
those services. 65736

(B) The commission may issue a certificate of completion to a 65737
district board prior to all of the conditions described in 65738
division (A) of this section being satisfied, if the commission 65739

determines that the circumstances preventing the conditions from 65740
being satisfied are so minor in nature that the project should be 65741
considered complete. When issuing a certificate of completion 65742
under this division, the commission may specify any of the 65743
following: 65744

(1) Any construction or work that has yet to be completed and 65745
the manner in which the board shall oversee its completion, which 65746
may include procedures for reporting progress to the commission 65747
and for accounting of expenditures; 65748

(2) Terms and conditions for the resolution of any pending 65749
litigation; 65750

(3) Any remaining responsibilities of the construction 65751
manager regarding the project. 65752

(C) The commission may issue a certificate of completion to a 65753
district board that does not voluntarily participate in the 65754
process of closing out the district's project, if the construction 65755
manager for the project verifies that all facilities to be 65756
constructed under the project, as specified in the project 65757
agreement entered into under section 3318.08 of the Revised Code, 65758
have been completed and the commission determines that those 65759
facilities have been occupied for at least one year. In that case, 65760
all funds due to the commission under division (C) of section 65761
3318.12 of the Revised Code shall be returned to the commission 65762
not later than thirty days after receipt of the certificate of 65763
completion. If the funds due to the commission have not been 65764
returned within sixty days after receipt of the certificate of 65765
completion, the auditor of state shall issue a finding for 65766
recovery against the school district and shall request legal 65767
action under section 117.42 of the Revised Code. 65768

(D) Upon issuance of a certificate of completion under this 65769
section, the commission's ownership of and interest in the 65770

project, as specified in division (F) of section 3318.08 of the 65771
Revised Code, shall cease. This cessation shall not alter or 65772
otherwise affect the state's or commission's interest in the 65773
project or any limitations on the use of the project as specified 65774
in the project agreement pursuant to divisions (G), (M), and (N) 65775
of that section or as specified in section 3318.16 of the Revised 65776
Code. 65777

Sec. 3318.49. (A) The corrective action program is hereby 65778
established to provide funding for the correction of work, in 65779
connection with a project funded under sections 3318.01 to 3318.20 65780
or sections 3318.40 to 3318.45 of the Revised Code, that is found 65781
after occupancy of the facility to be defective or to have been 65782
omitted. 65783

(B) The Ohio school facilities commission may provide funding 65784
under this section only if the school district notifies the 65785
executive director of the commission of the defective or omitted 65786
work within five years after occupancy of the facility for which 65787
the district seeks the funding. 65788

(C) The commission shall establish procedures and deadlines 65789
for school districts to follow in applying for assistance under 65790
this section. The procedures shall include definitions of 65791
"defective" and "omitted," and shall require that remediation 65792
efforts focus first on engaging the respective contractors that 65793
designed and constructed the areas that have design or 65794
construction-related issues. The commission shall consider 65795
applications on a case-by-case basis, taking into account the 65796
amount of money appropriated and available for purposes of this 65797
section. 65798

(D) The commission may provide funding assistance necessary 65799
to take corrective measures after evaluating the defective or 65800
omitted work. 65801

(1) If the work to be corrected or remediated is part of a project not yet completed, the commission may amend the project agreement to increase the project budget and use corrective action funding to provide the state portion of the amendment. If the work to be corrected or remediated is part of a completed project and funds were retained or transferred pursuant to division (C) of section 3318.12 of the Revised Code, the commission may enter into a new agreement to address the corrective action. 65802
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(2) Whether or not the project is completed, the district shall contribute a portion of the cost of the corrective action, to be determined in accordance with section 3318.032 of the Revised Code or, if the district is a joint vocational school district, section 3318.42 of the Revised Code. A district that is unable to provide its portion so that remediation can proceed may apply to the commission for additional assistance under section 3318.042 of the Revised Code. 65810
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(E) The commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any recovery of the expense of remediation shall be applied first to the district portion of the cost of the corrective action. Any remaining funds shall be applied to the state portion and deposited into the school building program assistance fund established under section 3318.25 of the Revised Code. 65818
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Sec. 3318.60. (A) As used in this section: 65826

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities. 65827
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(2) "Ohio school facilities commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code. 65830
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(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio school facilities commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities. 65833
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(C) To be eligible for assistance under this program, a board of trustees shall secure at least twenty million dollars of private money to satisfy its share of facilities acquisition. A board of trustees that receives assistance under the program shall fund the acquisition of residential facilities and any other facilities other than classroom facilities through private means. 65839
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(D) The lease payments made by the boards of trustees of college-preparatory boarding schools receiving assistance under the program shall be deposited into the state treasury and credited to the common schools capital facilities bond service fund created in section 151.03 of the Revised Code. 65845
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(E) The acquisition of classroom facilities with assistance provided under the program shall not be subject to sections 3318.01 to 3318.20 of the Revised Code. 65850
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(F) Within the ninety-day period immediately following the effective date of this section, the commission shall adopt rules necessary for the implementation and administration of the program. 65853
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Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law: 65857
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(A) Newly hired regular nonteaching school employees, 65862

including regular hourly rate and per diem employees, shall enter 65863
into written contracts for their employment which shall be for a 65864
period of not more than one year. If such employees are rehired, 65865
their subsequent contract shall be for a period of two years. 65866

(B) After the termination of the two-year contract provided 65867
in division (A) of this section, if the contract of a nonteaching 65868
employee is renewed, the employee shall be continued in 65869
employment, and the salary provided in the contract may be 65870
increased but not reduced unless such reduction is a part of a 65871
uniform plan affecting the nonteaching employees of the entire 65872
district. 65873

(C) The contracts as provided for in this section may be 65874
terminated by a majority vote of the board of education. Except as 65875
provided in ~~section~~ sections 3319.0810 and 3319.172 of the Revised 65876
Code, the contracts may be terminated only for violation of 65877
written rules and regulations as set forth by the board of 65878
education or for incompetency, inefficiency, dishonesty, 65879
drunkenness, immoral conduct, insubordination, discourteous 65880
treatment of the public, neglect of duty, or any other acts of 65881
misfeasance, malfeasance, or nonfeasance. In addition to the right 65882
of the board of education to terminate the contract of an 65883
employee, the board may suspend an employee for a definite period 65884
of time or demote the employee for the reasons set forth in this 65885
division. The action of the board of education terminating the 65886
contract of an employee or suspending or demoting the employee 65887
shall be served upon the employee by certified mail. Within ten 65888
days following the receipt of such notice by the employee, the 65889
employee may file an appeal, in writing, with the court of common 65890
pleas of the county in which such school board is situated. After 65891
hearing the appeal the common pleas court may affirm, disaffirm, 65892
or modify the action of the school board. 65893

A violation of division (A)(7) of section 2907.03 of the 65894

Revised Code is grounds for termination of employment of a nonteaching employee under this division. 65895
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(D) All employees who have been employed by a school district where the provisions of Chapter 124. of the Revised Code do not apply, for a period of at least three years on November 24, 1967, shall hold continuing contracts of employment pursuant to this section. 65897
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(E) Any nonteaching school employee may terminate the nonteaching school employee's contract of employment thirty days subsequent to the filing of a written notice of such termination with the treasurer of the board. 65902
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(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section. 65906
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(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which the employee is employed is officially closed for the reasons set forth in this division. 65910
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Sec. 3319.0810. (A) The board of education of any school district wherein the provisions of Chapter 124. of the Revised Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into 65918
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only if all of the following conditions are satisfied: 65926

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in conformance with those provisions. 65927
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(2) The board permits any employee whose position is terminated under this section to fill any vacancy within the district's organization for which the employee is qualified. The board shall select from among similarly qualified employees to fill such vacancies pursuant to procedures established under any collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination, or in absence of such provisions on the basis of seniority of employment by the board with the employee with the greatest seniority having highest priority. 65936
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(3) Unless a collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination provides otherwise, the board permits any employee whose position is terminated under this section to fill the employee's former position in the event that the board reinstates that position within one year after the date the position is terminated under this section. 65947
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(4) The board permits any employee whose position is terminated under this section to appeal in accordance with section 119.12 of the Revised Code the board's decision to terminate the 65955
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employee's position, not to hire that employee for another 65958
position pursuant to division (A)(2) of this section, or not to 65959
rehire that employee for the position if it is reinstated within 65960
one year after the position is terminated pursuant to division 65961
(A)(3) of this section. 65962

(5) The contract entered into by the board and an independent 65963
agent for the provision of transportation services contains a 65964
stipulation requiring the agent to consider hiring any employees 65965
of the school district whose positions are terminated under this 65966
section for similar positions within the agent's organization. 65967

(6) The contract entered into by the board and an independent 65968
agent for the provision of transportation services contains a 65969
stipulation requiring the agent to recognize for purposes of 65970
employee representation in collective bargaining any employee 65971
organization that represented the employees whose positions are 65972
terminated under this section in collective bargaining with the 65973
board at the time of the termination provided: 65974

(a) A majority of all employees in the bargaining unit agree 65975
to such representation; 65976

(b) Such representation is not prohibited by federal law, 65977
including any ruling of the national labor relations board; 65978

(c) The employee organization is not prohibited from 65979
representing nonpublic employees by other provisions of law or its 65980
own governing instruments. 65981

However, any employee whose position is terminated under this 65982
section shall not be compelled to be included in such bargaining 65983
unit if there is another bargaining unit within the agent's 65984
organization that is applicable to the employee. 65985

(B) If after terminating any positions of employment under 65986
this section the board fails to comply with any condition 65987
prescribed in division (A) of this section or fails to enforce on 65988

the agent its contractual obligations prescribed in divisions 65989
(A)(5) and (6) of this section, the terminations shall be void and 65990
the board shall reinstate the positions and fill them with the 65991
employees who filled those positions just prior to the 65992
terminations. Such employees shall be compensated at a rate equal 65993
to their rate of compensation in those positions just prior to the 65994
terminations plus any increases paid since the terminations to 65995
other nonteaching employees. The employees shall also be entitled 65996
to back pay at such rate for the period from the date of the 65997
terminations to the date of the reinstatements minus any pay 65998
received by the employees during any time the board was in 65999
compliance with such conditions or during any time the board 66000
enforced those obligations. 66001

Any employee aggrieved by the failure of the board to comply 66002
with any condition prescribed in division (A) of this section or 66003
to enforce on the agent its contractual obligations prescribed in 66004
divisions (A)(5) and (6) of this section shall have the right to 66005
sue the board for reinstatement of the employee's former position 66006
as provided for in this division in the court of common pleas for 66007
the county in which the school district is located or, if the 66008
school district is located in more than one county, in the court 66009
of common pleas for the county in which the majority of the 66010
territory of the school district is located. 66011

Sec. 3319.17. (A) As used in this section, "interdistrict 66012
contract" means any contract or agreement entered into by an 66013
educational service center governing board and another board or 66014
other public entity pursuant to section 3313.17, 3313.841, 66015
3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the 66016
Revised Code, including any such contract or agreement for the 66017
provision of services funded under division ~~(I)~~(E) of section 66018
3317.024 of the Revised Code or provided in any unit approved 66019
under section 3317.05 of the Revised Code. 66020

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including ~~leaves provided pursuant to division (B) of section 3314.10 of the Revised Code,~~ suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, ~~any city, exempted village, local, or joint vocational school~~ the district board or service center governing board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of

schools who shall, within each teaching field affected, give 66052
preference first to teachers on continuing contracts and then to 66053
teachers who have greater seniority. In making any such reduction, 66054
any governing board of a service center shall proceed to suspend 66055
contracts in accordance with the recommendation of the 66056
superintendent who shall, within each teaching field or service 66057
area affected, give preference first to teachers on continuing 66058
contracts and then to teachers who have greater seniority. 66059

On a case-by-case basis, in lieu of suspending a contract in 66060
whole, a board may suspend a contract in part, so that an 66061
individual is required to work a percentage of the time the 66062
employee otherwise is required to work under the contract and 66063
receives a commensurate percentage of the full compensation the 66064
employee otherwise would receive under the contract. 66065

The teachers whose continuing contracts are suspended by any 66066
board pursuant to this section shall have the right of restoration 66067
to continuing service status by that board in the order of 66068
seniority of service in the district or service center if and when 66069
teaching positions become vacant or are created for which any of 66070
such teachers are or become qualified. No teacher whose continuing 66071
contract has been suspended pursuant to this section shall lose 66072
that right of restoration to continuing service status by reason 66073
of having declined recall to a position that is less than 66074
full-time or, if the teacher was not employed full-time just prior 66075
to suspension of the teacher's continuing contract, to a position 66076
requiring a lesser percentage of full-time employment than the 66077
position the teacher last held while employed in the district or 66078
service center. 66079

(D) Notwithstanding any provision to the contrary in Chapter 66080
4117. of the Revised Code, the requirements of this section 66081
prevail over any conflicting provisions of agreements between 66082
employee organizations and public employers entered into after 66083

September 29, 2005.

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Sec. 3319.19. (A) Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, upon request, the board of county commissioners shall provide and equip offices in the county for the use of the superintendent of an educational service center, and shall provide heat, light, water, and janitorial services for such offices. Such offices shall be the permanent headquarters of the superintendent and shall be used by the governing board of the service center when it is in session. Except as provided in division (B) of this section, such offices shall be located in the county seat or, upon the approval of the governing board, may be located outside of the county seat.

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(B) In the case of a service center formed under section 3311.053 ~~or 3311.059~~ of the Revised Code, the governing board shall designate the site of its offices. Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, the board of county commissioners of the county in which the designated site is located shall provide and equip the offices as under division (A) of this section, but the costs of such offices and equipment shall be apportioned among the boards of county commissioners of all counties having any territory in the area under the control of the governing board, according to the proportion of local school district pupils under the supervision of such board residing in the respective counties. Where there is a dispute as to the amount any board of county commissioners is required to pay, the probate judge of the county in which the greatest number of pupils under the supervision of the governing board reside shall apportion such costs among the boards of county commissioners and notify each such board of its share of the costs.

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(C) As used in division (C) of this section, in the case of a building, facility, or office space that a board of county commissioners leases or rents, "actual cost per square foot" means all cost on a per square foot basis incurred by the board under the lease or rental agreement. In the case of a building, facility, or office space that the board owns in fee simple, "actual cost per square foot" means the fair rental value on a per square foot basis of the building, facility, or office space either as compared to a similarly situated building, facility, or office space in the general vicinity or as calculated under a formula that accounts for depreciation, amortization of improvements, and other reasonable factors, including, but not limited to, parking space and other amenities.

Not later than the thirty-first day of March of 2002, 2003, 2004, and 2005 a board of county commissioners required to provide or equip offices pursuant to division (A) or (B) of this section shall make a written estimate of the total cost it will incur for the ensuing fiscal year to provide and equip the offices and to provide heat, light, water, and janitorial services for such offices. The total estimate of cost shall include:

(1) The total square feet of space to be utilized by the educational service center;

(2) The total square feet of any common areas that should be reasonably allocated to the center and the methodology for making this allocation;

(3) The actual cost per square foot for both the space utilized by and the common area allocated to the center;

(4) An explanation of the methodology used to determine the actual cost per square foot;

(5) The estimated cost of providing heat, light, and water, including an explanation of how these costs were determined;

(6) The estimated cost of providing janitorial services 66146
including an explanation of the methodology used to determine this 66147
cost; 66148

(7) Any other estimated costs that the board anticipates it 66149
will ~~occur~~ incur and a detailed explanation of the costs and the 66150
rationale used to determine such costs. 66151

A copy of the total estimate of costs under this division 66152
shall be sent to the superintendent of the educational service 66153
center not later than the fifth day of April. The superintendent 66154
shall review the total estimate and shall notify the board of 66155
county commissioners not later than twenty days after receipt of 66156
the estimate of either agreement with the estimate or any specific 66157
objections to the estimates and the reasons for the objections. If 66158
the superintendent agrees with the estimate, it shall become the 66159
final total estimate of cost. Failure of the superintendent to 66160
make objections to the estimate by the twentieth day after receipt 66161
of it shall be deemed to mean that the superintendent is in 66162
agreement with the estimate. 66163

If the superintendent provides specific objections to the 66164
board of county commissioners, the board shall review the 66165
objections and may modify the original estimate and shall send a 66166
revised total estimate to the superintendent within ten days after 66167
the receipt of the superintendent's objections. The superintendent 66168
shall respond to the revised estimate within ten days after its 66169
receipt. If the superintendent agrees with it, it shall become the 66170
final total estimated cost. If the superintendent fails to respond 66171
within the required time, the superintendent shall be deemed to 66172
have agreed with the revised estimate. If the superintendent 66173
disagrees with the revised estimate, the superintendent shall send 66174
specific objections to the county commissioners. 66175

If a superintendent has sent specific objections to the 66176
revised estimate within the required time, the probate judge of 66177

the county which has the greatest number of resident local school 66178
district pupils under the supervision of the educational service 66179
center shall determine the final estimated cost and certify this 66180
amount to the superintendent and the board of county commissioners 66181
prior to the first day of July. 66182

(D)(1) A board of county commissioners shall be responsible 66183
for the following percentages of the final total estimated cost 66184
established by division (C) of this section: 66185

(a) Eighty per cent for fiscal year 2003; 66186

(b) Sixty per cent for fiscal year 2004; 66187

(c) Forty per cent for fiscal year 2005; 66188

(d) Twenty per cent for fiscal year 2006. 66189

In fiscal years 2003, 2004, 2005, and 2006 the educational 66190
service center shall be responsible for the remainder of any costs 66191
in excess of the amounts specified in division (D)(1)(a), (b), (c), 66192
or (d) of this section, as applicable, associated with the 66193
provision and equipment of offices for the educational service 66194
center and for provision of heat, light, water, and janitorial 66195
services for such offices, including any unanticipated or 66196
unexpected increases in the costs beyond the final estimated cost 66197
amount. 66198

Beginning in fiscal year 2007, no board of county 66199
commissioners shall have any obligation to provide and equip 66200
offices for an educational service center or to provide heat, 66201
light, water, or janitorial services for such offices. 66202

(2) Nothing in this section shall prohibit the board of 66203
county commissioners and the governing board of an educational 66204
service center from entering into a contract for providing and 66205
equipping offices for the use of an educational service center and 66206
for providing heat, light, water, and janitorial services for such 66207

offices. The term of any such contract shall not exceed a period 66208
of four years and may be renewed for additional periods not to 66209
exceed four years. Any such contract shall supersede the 66210
provisions of division (D)(1) of this section and no educational 66211
service center may be charged, at any time, any additional amount 66212
for the county's provision of an office and equipment, heat, 66213
light, water, and janitorial services beyond the amount specified 66214
in such contract. 66215

(3) No contract entered into under division (D)(2) of this 66216
section in any year prior to fiscal year 2007 between an 66217
educational service center formed under section 3311.053 ~~or~~ 66218
~~3311.059~~ of the Revised Code and the board of county commissioners 66219
required to provide and equip its office pursuant to division (B) 66220
of this section shall take effect unless the boards of county 66221
commissioners of all other counties required to participate in the 66222
funding for such offices pursuant to division (B) of this section 66223
adopt resolutions approving the contract. 66224

Sec. 3319.227. (A) Notwithstanding any other provision of the 66225
Revised Code or any rule adopted by the state board of education 66226
to the contrary, the state board shall issue a resident educator 66227
license under section 3319.22 of the Revised Code to each person 66228
who is assigned to teach in this state as a participant in the 66229
teach for America program and who meets the following conditions: 66230
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(1) Holds a bachelor's degree from an accredited institution 66232
of higher education; 66233

(2) Maintained a cumulative undergraduate grade point average 66234
of at least 2.5 out of 4.0, or its equivalent; 66235

(3) Has passed an examination prescribed by the state board 66236
in the subject area to be taught; 66237

(4) Has successfully completed the summer training institute operated by teach for America. 66238
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(B) The state board shall issue a resident educator license under this section for teaching in any grade level or subject area for which a person may obtain a resident educator license under section 3319.22 of the Revised Code. The state board shall not adopt rules establishing any additional qualifications for the license beyond those specified in this section. 66240
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(C) Notwithstanding any other provision of the Revised Code or any rule adopted by the state board to the contrary, the state board shall issue a resident educator license under section 3319.22 of the Revised Code to any applicant who has completed at least two years of teaching in another state as a participant in the teach for America program and meets all of the conditions of divisions (A)(1) to (4) of this section. The state board shall credit an applicant under this division as having completed two years of the teacher residency program under section 3319.223 of the Revised Code. 66246
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(D) In order to place teachers in this state, the ~~Teach~~ teach for America program shall enter into an agreement with one or more accredited four-year public or private institutions of higher education in the state to provide optional training of ~~Teach~~ teach for America participants for the purpose of enabling those participants to complete an optional master's degree or an equivalent amount of coursework. Nothing in this division shall require any ~~Teach~~ teach for America participant to complete a master's degree as a condition of holding a license issued under this section. 66256
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Sec. 3319.228. (A) This section applies only to a person who meets the following conditions: 66266
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(1) Holds a minimum of a baccalaureate degree; 66268

(2) Has been licensed and employed as a teacher in another state for each of the preceding five years; 66269
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(3) Was initially licensed as a teacher in any state within the preceding fifteen years; 66271
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(4) Has not had a teacher's license suspended or revoked in any state. 66273
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(B)(1) Not later than July 1, 2012, the superintendent of public instruction shall develop a list of states that the superintendent considers to have standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code. 66275
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(2) Following development of the list, the superintendent shall establish a panel of experts to evaluate the adequacy of the teacher licensure standards of each state on the list. Each person selected by the superintendent to be a member of the panel shall be approved by the state board of education. In evaluating the superintendent's list, the panel shall provide an opportunity for representatives of the department of education, or similar state-level agency, of each state on the list to provide evidence to refute the state's placement on the list. 66282
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Not later than April 1, 2013, the panel shall recommend to the state board that the list be approved without changes or that specified states be removed from the list prior to approval. Not later than July 1, 2013, the state board shall approve a final list of states with standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code. 66291
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(C) Except as otherwise provided in division (E)(1) of this section, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a one-year provisional educator license to any applicant to whom this section applies. On and after that date, neither the state board nor the department of education shall be party to any reciprocity agreement with a state on that list that requires the state board to issue a person to whom this section applies any type of professional educator license on the basis of the person's licensure and teaching experience in that state.

(D) Upon the expiration of a provisional license issued to a person under division (C) of this section, the state board shall issue the person a professional educator license, if the person satisfies either of the following conditions:

(1) The person was issued the provisional license prior to the development of the list by the state superintendent under division (B)(1) of this section and, prior to issuance of the provisional license, the person was most recently licensed to teach by a state not on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state not on that list.

(2) All of the following apply to the person:

(a) Prior to obtaining the provisional license, the person was most recently licensed to teach by a state on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state on that list.

(b) The person was employed under the provisional license by

a school district; community school established under Chapter 3314. of the Revised Code; science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or an entity contracted by such a district or school to provide internet- or computer-based instruction or distance learning programs to students. 66331
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(c) The district or school certifies to the state board that the person's teaching was satisfactory while employed or contracted by the district or school. 66337
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(E)(1) From July 1, 2012, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on the list developed by the state superintendent under division (B)(1) of this section. 66340
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(2) Beginning on the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on that list. 66347
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Sec. 3319.229. The rules adopted under section 3319.22 of the Revised Code shall include requirements for the issuance and renewal of professional career-technical teaching licenses, including, but not limited to, requirements relating to life experience, professional certification, and practical ability. Nothing in sections 3319.22 to 3319.31 of the Revised Code requires, and the state board of education shall not adopt a rule requiring, completion of a degree applicable to the career field, classroom teaching, or an area of licensure for the issuance or 66353
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renewal of a professional career-technical teaching license. 66362

Sec. 3319.26. (A) The state board of education shall adopt 66363
rules establishing the standards and requirements for obtaining an 66364
alternative resident educator license for teaching in grades ~~four~~ 66365
kindergarten to twelve, or the equivalent, in a designated subject 66366
area. ~~However, an alternative resident educator license or~~ in the 66367
area of intervention specialist, as defined by rule of the state 66368
board, ~~shall be valid for teaching in grades kindergarten to~~ 66369
~~twelve.~~ 66370

(B) The superintendent of public instruction and the 66371
chancellor of the Ohio board of regents jointly shall develop an 66372
intensive pedagogical training institute to provide instruction in 66373
the principles and practices of teaching for individuals seeking 66374
an alternative resident educator license. The instruction shall 66375
cover such topics as student development and learning, pupil 66376
assessment procedures, curriculum development, classroom 66377
management, and teaching methodology. 66378

(C) The rules adopted under this section shall require 66379
applicants for the alternative resident educator license to 66380
satisfy the following conditions prior to issuance of the license, 66381
but they shall not require applicants to have completed a major in 66382
the subject area for which application is being made: 66383

(1) Hold a minimum of a baccalaureate degree; 66384

(2) Successfully complete the pedagogical training institute 66385
described in division (B) of this section; or a summer training 66386
institute provided to participants of a teacher preparation 66387
program that is operated by a nonprofit organization and has been 66388
approved by the chancellor. The chancellor shall approve any such 66389
program that requires participants to hold a bachelor's degree; 66390
have a cumulative undergraduate grade point average of at least 66391

2.5 out of 4.0, or its equivalent; and successfully complete the 66392
program's summer training institute. 66393

(3) Pass an examination in the subject area for which 66394
application is being made. 66395

(D) An alternative resident educator license shall be valid 66396
for four years, except that the state board, on a case-by-case 66397
basis, may extend the license's duration as necessary to enable 66398
the license holder to complete the Ohio teacher residency program 66399
established under section 3319.223 of the Revised Code. 66400

(E) The rules shall require the holder of an alternative 66401
resident educator license, as a condition of continuing to hold 66402
the license, to do all of the following: 66403

(1) Participate in the Ohio teacher residency program; 66404

(2) Show satisfactory progress in taking and successfully 66405
completing ~~at~~ one of the following: 66406

(a) At least twelve additional semester hours, or the 66407
equivalent, of college coursework in the principles and practices 66408
of teaching in such topics as student development and learning, 66409
pupil assessment procedures, curriculum development, classroom 66410
management, and teaching methodology; 66411

(b) Professional development provided by a teacher 66412
preparation program that has been approved by the chancellor under 66413
division (C)(2) of this section. 66414

(3) Take an assessment of professional knowledge in the 66415
second year of teaching under the license. 66416

(F) The rules shall provide for the granting of a 66417
professional educator license to a holder of an alternative 66418
resident educator license upon successfully completing all of the 66419
following: 66420

(1) Four years of teaching under the alternative license; 66421

(2) The ~~twelve semester hours, or the equivalent, of the~~ 66422
additional college coursework or professional development 66423
described in division (E)(2) of this section; 66424

(3) The assessment of professional knowledge described in 66425
division (E)(3) of this section. The standards for successfully 66426
completing this assessment and the manner of conducting the 66427
assessment shall be the same as for any other individual who is 66428
required to take the assessment pursuant to rules adopted by the 66429
state board under section 3319.22 of the Revised Code. 66430

(4) The Ohio teacher residency program; 66431

(5) All other requirements for a professional educator 66432
license adopted by the state board under section 3319.22 of the 66433
Revised Code. 66434

(G) A person who is assigned to teach in this state as a 66435
participant in the teach for America program or who has completed 66436
two years of teaching in another state as a participant in that 66437
program shall be eligible for a license only under section 66438
3319.227 of the Revised Code and shall not be eligible for a 66439
license under this section. 66440

Sec. 3319.31. (A) As used in this section and sections 66441
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 66442
means a certificate, license, or permit described in this chapter 66443
or in division (B) of section 3301.071 or in section 3301.074 of 66444
the Revised Code. 66445

(B) For any of the following reasons, the state board of 66446
education, in accordance with Chapter 119. and section 3319.311 of 66447
the Revised Code, may refuse to issue a license to an applicant; 66448
may limit a license it issues to an applicant; may suspend, 66449
revoke, or limit a license that has been issued to any person; or 66450
may revoke a license that has been issued to any person and has 66451

expired:	66452
(1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position;	66453 66454 66455
(2) A plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the following:	66456 66457
(a) A felony other than a felony listed in division (C) of this section;	66458 66459
(b) An offense of violence other than an offense of violence listed in division (C) of this section;	66460 66461
(c) A theft offense, as defined in section 2913.01 of the Revised Code, other than a theft offense listed in division (C) of this section;	66462 66463 66464
(d) A drug abuse offense, as defined in section 2925.01 of the Revised Code, that is not a minor misdemeanor, other than a drug abuse offense listed in division (C) of this section;	66465 66466 66467
(e) A violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in divisions (B)(2)(a) to (d) of this section.	66468 66469 66470
(3) A judicial finding of eligibility for intervention in lieu of conviction under section 2951.041 of the Revised Code, or agreeing to participate in a pre-trial diversion program under section 2935.36 of the Revised Code, or a similar diversion program under rules of a court, for any offense listed in division (B)(2) or (C) of this section;	66471 66472 66473 66474 66475 66476
(4) Failure to comply with section 3314.40, 3319.313, 3326.24, <u>3328.19</u> , or 5126.253 of the Revised Code.	66477 66478
(C) Upon learning of a plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the offenses listed in this division by a person who holds a current or expired	66479 66480 66481

license or is an applicant for a license or renewal of a license, 66482
the state board or the superintendent of public instruction, if 66483
the state board has delegated the duty pursuant to division (D) of 66484
this section, shall by a written order revoke the person's license 66485
or deny issuance or renewal of the license to the person. The 66486
state board or the superintendent shall revoke a license that has 66487
been issued to a person to whom this division applies and has 66488
expired in the same manner as a license that has not expired. 66489

Revocation of a license or denial of issuance or renewal of a 66490
license under this division is effective immediately at the time 66491
and date that the board or superintendent issues the written order 66492
and is not subject to appeal in accordance with Chapter 119. of 66493
the Revised Code. Revocation of a license or denial of issuance or 66494
renewal of license under this division remains in force during the 66495
pendency of an appeal by the person of the plea of guilty, finding 66496
of guilt, or conviction that is the basis of the action taken 66497
under this division. 66498

The state board or superintendent shall take the action 66499
required by this division for a violation of division (B)(1), (2), 66500
(3), or (4) of section 2919.22 of the Revised Code; a violation of 66501
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 66502
2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 66503
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 66504
2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 66505
2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 66506
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 66507
2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 66508
2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 66509
2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 66510
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 66511
2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 66512
of the Revised Code; a violation of section 2905.04 of the Revised 66513

Code as it existed prior to July 1, 1996; a violation of section 66514
2919.23 of the Revised Code that would have been a violation of 66515
section 2905.04 of the Revised Code as it existed prior to July 1, 66516
1996, had the violation been committed prior to that date; 66517
felonious sexual penetration in violation of former section 66518
2907.12 of the Revised Code; or a violation of an ordinance of a 66519
municipal corporation that is substantively comparable to an 66520
offense listed in this paragraph. 66521

(D) The state board may delegate to the superintendent of 66522
public instruction the authority to revoke a person's license or 66523
to deny issuance or renewal of a license to a person under 66524
division (C) or (F) of this section. 66525

(E)(1) If the plea of guilty, finding of guilt, or conviction 66526
that is the basis of the action taken under division (B)(2) or (C) 66527
of this section, or under the version of division (F) of section 66528
3319.311 of the Revised Code in effect prior to ~~the effective date~~ 66529
~~of this amendment~~ September 12, 2008, is overturned on appeal, 66530
upon exhaustion of the criminal appeal, the clerk of the court 66531
that overturned the plea, finding, or conviction or, if 66532
applicable, the clerk of the court that accepted an appeal from 66533
the court that overturned the plea, finding, or conviction, shall 66534
notify the state board that the plea, finding, or conviction has 66535
been overturned. Within thirty days after receiving the 66536
notification, the state board shall initiate proceedings to 66537
reconsider the revocation or denial of the person's license in 66538
accordance with division (E)(2) of this section. In addition, the 66539
person whose license was revoked or denied may file with the state 66540
board a petition for reconsideration of the revocation or denial 66541
along with appropriate court documents. 66542

(2) Upon receipt of a court notification or a petition and 66543
supporting court documents under division (E)(1) of this section, 66544
the state board, after offering the person an opportunity for an 66545

adjudication hearing under Chapter 119. of the Revised Code, shall 66546
determine whether the person committed the act in question in the 66547
prior criminal action against the person that is the basis of the 66548
revocation or denial and may continue the revocation or denial, 66549
may reinstate the person's license, with or without limits, or may 66550
grant the person a new license, with or without limits. The 66551
decision of the board shall be based on grounds for revoking, 66552
denying, suspending, or limiting a license adopted by rule under 66553
division (G) of this section and in accordance with the 66554
evidentiary standards the board employs for all other licensure 66555
hearings. The decision of the board under this division is subject 66556
to appeal under Chapter 119. of the Revised Code. 66557

(3) A person whose license is revoked or denied under 66558
division (C) of this section shall not apply for any license if 66559
the plea of guilty, finding of guilt, or conviction that is the 66560
basis of the revocation or denial, upon completion of the criminal 66561
appeal, either is upheld or is overturned but the state board 66562
continues the revocation or denial under division (E)(2) of this 66563
section and that continuation is upheld on final appeal. 66564

(F) The state board may take action under division (B) of 66565
this section, and the state board or the superintendent shall take 66566
the action required under division (C) of this section, on the 66567
basis of substantially comparable conduct occurring in a 66568
jurisdiction outside this state or occurring before a person 66569
applies for or receives any license. 66570

(G) The state board may adopt rules in accordance with 66571
Chapter 119. of the Revised Code to carry out this section and 66572
section 3319.311 of the Revised Code. 66573

Sec. 3319.311. (A)(1) The state board of education, or the 66574
superintendent of public instruction on behalf of the board, may 66575
investigate any information received about a person that 66576

reasonably appears to be a basis for action under section 3319.31 66577
of the Revised Code, including information received pursuant to 66578
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 66579
or 5153.176 of the Revised Code. Except as provided in division 66580
(A)(2) of this section, the board shall contract with the office 66581
of the Ohio attorney general to conduct any investigation of that 66582
nature. The board shall pay for the costs of the contract only 66583
from moneys in the state board of education licensure fund 66584
established under section 3319.51 of the Revised Code. Except as 66585
provided in division (A)(2) of this section, all information 66586
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 66587
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 66588
information obtained during an investigation is confidential and 66589
is not a public record under section 149.43 of the Revised Code. 66590
If an investigation is conducted under this division regarding 66591
information received about a person and no action is taken against 66592
the person under this section or section 3319.31 of the Revised 66593
Code within two years of the completion of the investigation, all 66594
records of the investigation shall be expunged. 66595

(2) In the case of a person about whom the board has learned 66596
of a plea of guilty to, finding of guilt by a jury or court of, or 66597
a conviction of an offense listed in division (C) of section 66598
3319.31 of the Revised Code, or substantially comparable conduct 66599
occurring in a jurisdiction outside this state, the board or the 66600
superintendent of public instruction need not conduct any further 66601
investigation and shall take the action required by division (C) 66602
or (F) of that section. Except as provided in division (G) of this 66603
section, all information obtained by the board or the 66604
superintendent of public instruction pertaining to the action is a 66605
public record under section 149.43 of the Revised Code. 66606

(B) The superintendent of public instruction shall review the 66607
results of each investigation of a person conducted under division 66608

(A)(1) of this section and shall determine, on behalf of the state board, whether the results warrant initiating action under division (B) of section 3319.31 of the Revised Code. The superintendent shall advise the board of such determination at a meeting of the board. Within fourteen days of the next meeting of the board, any member of the board may ask that the question of initiating action under section 3319.31 of the Revised Code be placed on the board's agenda for that next meeting. Prior to initiating that action against any person, the person's name and any other personally identifiable information shall remain confidential.

(C) The board shall take no action against a person under division (B) of section 3319.31 of the Revised Code without providing the person with written notice of the charges and with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(D) For purposes of an investigation under division (A)(1) of this section or a hearing under division (C) of this section or under division (E)(2) of section 3319.31 of the Revised Code, the board, or the superintendent on behalf of the board, may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. The issuance of subpoenas under this division may be by certified mail or personal delivery to the person.

(E) The superintendent, on behalf of the board, may enter into a consent agreement with a person against whom action is being taken under division (B) of section 3319.31 of the Revised Code. The board may adopt rules governing the superintendent's action under this division.

(F) No surrender of a license shall be effective until the board takes action to accept the surrender unless the surrender is

pursuant to a consent agreement entered into under division (E) of 66641
this section. 66642

(G) The name of any person who is not required to report 66643
information under section 3314.40, 3319.313, 3326.24, 3328.19, 66644
5126.253, or 5153.176 of the Revised Code, but who in good faith 66645
provides information to the state board or superintendent of 66646
public instruction about alleged misconduct committed by a person 66647
who holds a license or has applied for issuance or renewal of a 66648
license, shall be confidential and shall not be released. Any such 66649
person shall be immune from any civil liability that otherwise 66650
might be incurred or imposed for injury, death, or loss to person 66651
or property as a result of the provision of that information. 66652

(H)(1) No person shall knowingly make a false report to the 66653
superintendent of public instruction or the state board of 66654
education alleging misconduct by an employee of a public or 66655
chartered nonpublic school or an employee of the operator of a 66656
community school established under Chapter 3314. or a 66657
college-preparatory boarding school established under Chapter 66658
3328. of the Revised Code. 66659

(2)(a) In any civil action brought against a person in which 66660
it is alleged and proved that the person violated division (H)(1) 66661
of this section, the court shall award the prevailing party 66662
reasonable attorney's fees and costs that the prevailing party 66663
incurred in the civil action or as a result of the false report 66664
that was the basis of the violation. 66665

(b) If a person is convicted of or pleads guilty to a 66666
violation of division (H)(1) of this section, if the subject of 66667
the false report that was the basis of the violation was charged 66668
with any violation of a law or ordinance as a result of the false 66669
report, and if the subject of the false report is found not to be 66670
guilty of the charges brought against the subject as a result of 66671
the false report or those charges are dismissed, the court that 66672

sentences the person for the violation of division (H)(1) of this 66673
section, as part of the sentence, shall order the person to pay 66674
restitution to the subject of the false report, in an amount equal 66675
to reasonable attorney's fees and costs that the subject of the 66676
false report incurred as a result of or in relation to the 66677
charges. 66678

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) 66679
of section 109.57 of the Revised Code, the appointing or hiring 66680
officer of the board of education of a school district, the 66681
governing board of an educational service center, or of a 66682
chartered nonpublic school shall request the superintendent of the 66683
bureau of criminal identification and investigation to conduct a 66684
criminal records check with respect to any applicant who has 66685
applied to the school district, educational service center, or 66686
school for employment in any position. The appointing or hiring 66687
officer shall request that the superintendent include information 66688
from the federal bureau of investigation in the criminal records 66689
check, unless all of the following apply to the applicant: 66690

(a) The applicant is applying to be an instructor of adult 66691
education. 66692

(b) The duties of the position for which the applicant is 66693
applying do not involve routine interaction with a child or 66694
regular responsibility for the care, custody, or control of a 66695
child or, if the duties do involve such interaction or 66696
responsibility, during any period of time in which the applicant, 66697
if hired, has such interaction or responsibility, another employee 66698
of the school district, educational service center, or chartered 66699
nonpublic school will be present in the same room with the child 66700
or, if outdoors, will be within a thirty-yard radius of the child 66701
or have visual contact with the child. 66702

(c) The applicant presents proof that the applicant has been 66703

a resident of this state for the five-year period immediately 66704
prior to the date upon which the criminal records check is 66705
requested or provides evidence that within that five-year period 66706
the superintendent has requested information about the applicant 66707
from the federal bureau of investigation in a criminal records 66708
check. 66709

(2) A person required by division (A)(1) of this section to 66710
request a criminal records check shall provide to each applicant a 66711
copy of the form prescribed pursuant to division (C)(1) of section 66712
109.572 of the Revised Code, provide to each applicant a standard 66713
impression sheet to obtain fingerprint impressions prescribed 66714
pursuant to division (C)(2) of section 109.572 of the Revised 66715
Code, obtain the completed form and impression sheet from each 66716
applicant, and forward the completed form and impression sheet to 66717
the superintendent of the bureau of criminal identification and 66718
investigation at the time the person requests a criminal records 66719
check pursuant to division (A)(1) of this section. 66720

(3) An applicant who receives pursuant to division (A)(2) of 66721
this section a copy of the form prescribed pursuant to division 66722
(C)(1) of section 109.572 of the Revised Code and a copy of an 66723
impression sheet prescribed pursuant to division (C)(2) of that 66724
section and who is requested to complete the form and provide a 66725
set of fingerprint impressions shall complete the form or provide 66726
all the information necessary to complete the form and shall 66727
provide the impression sheet with the impressions of the 66728
applicant's fingerprints. If an applicant, upon request, fails to 66729
provide the information necessary to complete the form or fails to 66730
provide impressions of the applicant's fingerprints, the board of 66731
education of a school district, governing board of an educational 66732
service center, or governing authority of a chartered nonpublic 66733
school shall not employ that applicant for any position. 66734

(4) Notwithstanding any provision of this section to the 66735

contrary, an applicant who meets the conditions prescribed in 66736
divisions (A)(1)(a) and (b) of this section and who, within the 66737
two-year period prior to the date of application, was the subject 66738
of a criminal records check under this section prior to being 66739
hired for short-term employment with the school district, 66740
educational service center, or chartered nonpublic school to which 66741
application is being made shall not be required to undergo a 66742
criminal records check prior to the applicant's rehiring by that 66743
district, service center, or school. 66744

(B)(1) Except as provided in rules adopted by the department 66745
of education in accordance with division (E) of this section and 66746
as provided in division (B)(3) of this section, no board of 66747
education of a school district, no governing board of an 66748
educational service center, and no governing authority of a 66749
chartered nonpublic school shall employ a person if the person 66750
previously has been convicted of or pleaded guilty to any of the 66751
following: 66752

(a) A violation of section 2903.01, 2903.02, 2903.03, 66753
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 66754
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 66755
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 66756
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 66757
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 66758
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 66759
2925.06, or 3716.11 of the Revised Code, a violation of section 66760
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 66761
violation of section 2919.23 of the Revised Code that would have 66762
been a violation of section 2905.04 of the Revised Code as it 66763
existed prior to July 1, 1996, had the violation been committed 66764
prior to that date, a violation of section 2925.11 of the Revised 66765
Code that is not a minor drug possession offense, or felonious 66766
sexual penetration in violation of former section 2907.12 of the 66767

Revised Code; 66768

(b) A violation of an existing or former law of this state, 66769
another state, or the United States that is substantially 66770
equivalent to any of the offenses or violations described in 66771
division (B)(1)(a) of this section. 66772

(2) A board, governing board of an educational service 66773
center, or a governing authority of a chartered nonpublic school 66774
may employ an applicant conditionally until the criminal records 66775
check required by this section is completed and the board or 66776
governing authority receives the results of the criminal records 66777
check. If the results of the criminal records check indicate that, 66778
pursuant to division (B)(1) of this section, the applicant does 66779
not qualify for employment, the board or governing authority shall 66780
release the applicant from employment. 66781

(3) No board and no governing authority of a chartered 66782
nonpublic school shall employ a teacher who previously has been 66783
convicted of or pleaded guilty to any of the offenses listed in 66784
section 3319.31 of the Revised Code. 66785

(C)(1) Each board and each governing authority of a chartered 66786
nonpublic school shall pay to the bureau of criminal 66787
identification and investigation the fee prescribed pursuant to 66788
division (C)(3) of section 109.572 of the Revised Code for each 66789
criminal records check conducted in accordance with that section 66790
upon the request pursuant to division (A)(1) of this section of 66791
the appointing or hiring officer of the board or governing 66792
authority. 66793

(2) A board and the governing authority of a chartered 66794
nonpublic school may charge an applicant a fee for the costs it 66795
incurs in obtaining a criminal records check under this section. A 66796
fee charged under this division shall not exceed the amount of 66797
fees the board or governing authority pays under division (C)(1) 66798

of this section. If a fee is charged under this division, the 66799
board or governing authority shall notify the applicant at the 66800
time of the applicant's initial application for employment of the 66801
amount of the fee and that, unless the fee is paid, the board or 66802
governing authority will not consider the applicant for 66803
employment. 66804

(D) The report of any criminal records check conducted by the 66805
bureau of criminal identification and investigation in accordance 66806
with section 109.572 of the Revised Code and pursuant to a request 66807
under division (A)(1) of this section is not a public record for 66808
the purposes of section 149.43 of the Revised Code and shall not 66809
be made available to any person other than the applicant who is 66810
the subject of the criminal records check or the applicant's 66811
representative, the board or governing authority requesting the 66812
criminal records check or its representative, and any court, 66813
hearing officer, or other necessary individual involved in a case 66814
dealing with the denial of employment to the applicant. 66815

(E) The department of education shall adopt rules pursuant to 66816
Chapter 119. of the Revised Code to implement this section, 66817
including rules specifying circumstances under which the board or 66818
governing authority may hire a person who has been convicted of an 66819
offense listed in division (B)(1) or (3) of this section but who 66820
meets standards in regard to rehabilitation set by the department. 66821

The department shall amend rule 3301-83-23 of the Ohio 66822
Administrative Code that took effect August 27, 2009, and that 66823
specifies the offenses that disqualify a person for employment as 66824
a school bus or school van driver and establishes rehabilitation 66825
standards for school bus and school van drivers. 66826

(F) Any person required by division (A)(1) of this section to 66827
request a criminal records check shall inform each person, at the 66828
time of the person's initial application for employment, of the 66829
requirement to provide a set of fingerprint impressions and that a 66830

criminal records check is required to be conducted and 66831
satisfactorily completed in accordance with section 109.572 of the 66832
Revised Code if the person comes under final consideration for 66833
appointment or employment as a precondition to employment for the 66834
school district, educational service center, or school for that 66835
position. 66836

(G) As used in this section: 66837

(1) "Applicant" means a person who is under final 66838
consideration for appointment or employment in a position with a 66839
board of education, governing board of an educational service 66840
center, or a chartered nonpublic school, except that "applicant" 66841
does not include a person already employed by a board or chartered 66842
nonpublic school who is under consideration for a different 66843
position with such board or school. 66844

(2) "Teacher" means a person holding an educator license or 66845
permit issued under section 3319.22 or 3319.301 of the Revised 66846
Code and teachers in a chartered nonpublic school. 66847

(3) "Criminal records check" has the same meaning as in 66848
section 109.572 of the Revised Code. 66849

(4) "Minor drug possession offense" has the same meaning as 66850
in section 2925.01 of the Revised Code. 66851

(H) If the board of education of a local school district 66852
adopts a resolution requesting the assistance of the educational 66853
service center in which the local district has territory in 66854
conducting criminal records checks of substitute teachers and 66855
substitutes for other district employees under this section, the 66856
appointing or hiring officer of such educational service center 66857
shall serve for purposes of this section as the appointing or 66858
hiring officer of the local board in the case of hiring substitute 66859
teachers and other substitute employees for the local district. 66860

Sec. 3319.57. (A) A grant program is hereby established under 66861
which the department of education shall award grants to assist 66862
certain schools in a city, exempted village, local, or joint 66863
vocational school district in implementing one of the following 66864
innovations: 66865

(1) The use of instructional specialists to mentor and 66866
support classroom teachers; 66867

(2) The use of building managers to supervise the 66868
administrative functions of school operation so that a school 66869
principal can focus on supporting instruction, providing 66870
instructional leadership, and engaging teachers as part of the 66871
instructional leadership team; 66872

(3) The reconfiguration of school leadership structure in a 66873
manner that allows teachers to serve in leadership roles so that 66874
teachers may share the responsibility for making and implementing 66875
school decisions; 66876

(4) The adoption of new models for restructuring the school 66877
day or school year, such as including teacher planning and 66878
collaboration time as part of the school day; 66879

(5) The creation of smaller schools or smaller units within 66880
larger schools for the purpose of facilitating teacher 66881
collaboration to improve and advance the professional practice of 66882
teaching; 66883

(6) The implementation of "grow your own" recruitment 66884
strategies that are designed to assist individuals who show a 66885
commitment to education become licensed teachers, to assist 66886
experienced teachers obtain licensure in subject areas for which 66887
there is need, and to assist teachers in becoming principals; 66888

(7) The provision of better conditions for new teachers, such 66889
as reduced teaching load and reduced class size; 66890

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;	66891 66892
(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;	66893 66894 66895
(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;	66896 66897
(11) The implementation of a program to increase the subject matter competency of veteran teachers.	66898 66899
(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:	66900 66901 66902
(1) Be hard to staff, as defined by the department.	66903
(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded).	66904 66905 66906 66907
For purposes of division (B)(2) of this section, "state share percentage" has the same meaning as in section 3306.02 <u>3317.02</u> of the Revised Code.	66908 66909 66910
(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section.	66911 66912 66913 66914
(D) The state board of education shall adopt rules for the administration of this grant program.	66915 66916
<u>Sec. 3319.58.</u> (A) As used in this section, "core subject area" has the same meaning as in section 3319.074 of the Revised Code.	66917 66918 66919

(B) Each year, the board of education of each city, exempted village, and local school district, governing authority of each community school established under Chapter 3314. of the Revised Code, and governing body of each STEM school established under Chapter 3326. of the Revised Code with a building in the lowest ten percentiles of performance index score, as ranked under section 3302.21 of the Revised Code, shall require each classroom teacher teaching in a core subject area in such a building to register for and take all written examinations prescribed by the state board of education for licensure to teach that core subject area and the grade level to which the teacher is assigned under section 3319.22 of the Revised Code. However, if a teacher who takes a prescribed examination under this division passes that examination and provides proof of that passage to the teacher's employer, the teacher shall not be required to take the examination again for three years, regardless of the performance index score ranking of the building in which the teacher teaches. No teacher shall be responsible for the cost of taking an examination under this division.

(C) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (B) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314. or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three consecutive administrations of that examination.

Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code;

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all recommendations shall be provided to the state board of education, the chancellor of the Ohio board of regents, and the board of nursing, ~~and the health care coverage and quality council.~~

Sec. 3323.052. Not later than sixty days after the effective date of this section, the department of education shall develop a document that compares a parent's and child's rights under this chapter and 20 U.S.C. 1400 et seq. with the parent's and child's rights under the Jon Peterson special needs scholarship program, established in sections 3310.51 to 3310.64 of the Revised Code, including the deadline for application for a scholarship or renewal of a scholarship and notice of that application to the child's school district, prescribed in division (C) of section 3310.52 of the Revised Code, and the provisions of divisions (A) and (B) of section 3310.53 of the Revised Code. The department

shall revise that document as necessary to reflect any pertinent 66982
changes in state or federal statutory law, rule, or regulation 66983
enacted or adopted after the initial document is developed. The 66984
department and each school district shall ensure that the document 66985
prescribed in this section is included in, appended to, or 66986
otherwise distributed in conjunction with the notice required 66987
under 20 U.S.C. 1415(d), and any provision of the Code of Federal 66988
Regulations implementing that requirement, in the manner and at 66989
all the times specified for such notice in federal law or 66990
regulation. As used in this section, a "child's school district" 66991
means the school district in which the child is entitled to attend 66992
school under section 3313.64 or 3313.65 of the Revised Code. 66993

Sec. 3323.09. (A) As used in this section: 66994

(1) "Home" has the meaning given in section 3313.64 of the 66995
Revised Code. 66996

(2) "Preschool child" means a child who is at least age three 66997
but under age six on the thirtieth day of September of an academic 66998
year. 66999

(B) Each county DD board shall establish special education 67000
programs for all children with disabilities who in accordance with 67001
section 3323.04 of the Revised Code have been placed in special 67002
education programs operated by the county board and for preschool 67003
children who are developmentally delayed or at risk of being 67004
developmentally delayed. The board annually shall submit to the 67005
department of education a plan for the provision of these programs 67006
and, if applicable, a request for approval of units under section 67007
3317.05 of the Revised Code. The superintendent of public 67008
instruction shall review the plan and approve or modify it in 67009
accordance with rules adopted by the state board of education 67010
under section 3301.07 of the Revised Code. The superintendent of 67011
public instruction shall compile the plans submitted by county 67012

boards and shall submit a comprehensive plan to the state board. 67013

A county DD board may combine transportation for children 67014
enrolled in classes funded under section 3317.20 or units approved 67015
under section 3317.05 with transportation for children and adults 67016
enrolled in programs and services offered by the board under 67017
~~section 5126.12~~ Chapter 5126. of the Revised Code. 67018

(C) A county DD board that during the school year provided 67019
special education pursuant to this section for any child with 67020
mental disabilities under twenty-two years of age shall prepare 67021
and submit the following reports and statements: 67022

(1) The board shall prepare a statement for each child who at 67023
the time of receiving such special education was a resident of a 67024
home and was not in the legal or permanent custody of an Ohio 67025
resident or a government agency in this state, and whose natural 67026
or adoptive parents are not known to have been residents of this 67027
state subsequent to the child's birth. The statement shall contain 67028
the child's name, the name of the child's school district of 67029
residence, the name of the county board providing the special 67030
education, and the number of months, including any fraction of a 67031
month, it was provided. Not later than the thirtieth day of June, 67032
the board shall forward a certified copy of such statement to both 67033
the director of developmental disabilities and to the home. 67034

Within thirty days after its receipt of a statement, the home 67035
shall pay tuition to the county board computed in the manner 67036
prescribed by section 3323.141 of the Revised Code. 67037

(2) The board shall prepare a report for each school district 67038
that is the school district of residence of one or more of such 67039
children for whom statements are not required by division (C)(1) 67040
of this section. The report shall contain the name of the county 67041
board providing special education, the name of each child 67042
receiving special education, the number of months, including 67043

fractions of a month, that the child received it, and the name of 67044
the child's school district of residence. Not later than the 67045
thirtieth day of June, the board shall forward certified copies of 67046
each report to the school district named in the report, the 67047
superintendent of public instruction, and the director of 67048
developmental disabilities. 67049

Sec. 3323.091. (A) The department of mental health, the 67050
department of developmental disabilities, the department of youth 67051
services, and the department of rehabilitation and correction 67052
shall establish and maintain special education programs for 67053
children with disabilities in institutions under their 67054
jurisdiction according to standards adopted by the state board of 67055
education. 67056

(B) The superintendent of each state institution required to 67057
provide services under division (A) of this section, and each 67058
county DD board, providing special education for preschool 67059
children with disabilities under this chapter may apply to the 67060
state department of education for unit funding, which shall be 67061
paid in accordance with sections 3317.052 and 3317.053 of the 67062
Revised Code. 67063

The superintendent of each state institution required to 67064
provide services under division (A) of this section may apply to 67065
the department of education for special education and related 67066
services weighted funding for children with disabilities other 67067
than preschool children with disabilities, calculated in 67068
accordance with section 3317.201 of the Revised Code. 67069

Each county DD board providing special education for children 67070
with disabilities other than preschool children with disabilities 67071
may apply to the department of education for base cost and special 67072
education and related services weighted funding calculated in 67073
accordance with section 3317.20 of the Revised Code. 67074

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a preschool child with a disability described in division (C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under ~~sections 3306.13 and 3317.023~~ Chapter 3317. of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section

3317.08 of the Revised Code for the period covered by the 67107
statement, except that in calculating the tuition under that 67108
section the operating expenses of the institution submitting the 67109
statement under this section shall be used instead of the 67110
operating expenses of the school district of residence; 67111

(b) Deduct from the amount of state funds, if any, payable 67112
under ~~sections 3317.022 or 3306.13 and 3317.023~~ Chapter 3317. of 67113
the Revised Code to the child's school district of residence an 67114
amount equal to the amount paid under division (C)(2)(a) of this 67115
section. 67116

Sec. 3323.14. This section does not apply to any preschool 67117
child with a disability except if included in a unit approved 67118
under division (B) of section 3317.05 of the Revised Code. 67119

(A) Where a child who is a school resident of one school 67120
district receives special education from another district and the 67121
per capita cost to the educating district for that child exceeds 67122
the sum of the amount received by the educating district for that 67123
child under division (A) of section 3317.08 of the Revised Code 67124
and the amount received by the district from the state board of 67125
education for that child, then the board of education of the 67126
district of residence shall pay to the board of the school 67127
district that is providing the special education such excess cost 67128
as is determined by using a formula approved by the department of 67129
education and agreed upon in contracts entered into by the boards 67130
of the districts concerned at the time the district providing such 67131
special education accepts the child for enrollment. The department 67132
shall certify the amount of the payments under ~~Chapters 3306. and~~ 67133
Chapter 3317. of the Revised Code for such pupils with 67134
disabilities for each school year ending on the thirtieth day of 67135
July. 67136

(B) In the case of a child described in division (A) of this 67137

section who has been placed in a home, as defined in section 67138
3313.64 of the Revised Code, pursuant to the order of a court and 67139
who is not subject to section 3323.141 of the Revised Code, the 67140
district providing the child with special education and related 67141
services may charge to the child's district of residence the 67142
excess cost determined by formula approved by the department, 67143
regardless of whether the district of residence has entered into a 67144
contract with the district providing the services. If the district 67145
providing the services chooses to charge excess costs, the 67146
district may report the amount calculated under this division to 67147
the department. 67148

(C) If a district providing special education for a child 67149
reports an amount for the excess cost of those services, as 67150
authorized and calculated under division (A) or (B) of this 67151
section, the department shall pay that amount of excess cost to 67152
the district providing the services and shall deduct that amount 67153
from the child's district of residence in accordance with division 67154
~~(N)~~(K) of section 3317.023 of the Revised Code. 67155

Sec. 3323.142. This section does not apply to any preschool 67156
child with a disability except if included in a unit approved 67157
under division (B) of section 3317.05 of the Revised Code. 67158

As used in this section, "per pupil amount" for a preschool 67159
child with a disability included in such an approved unit means 67160
the amount determined by dividing the amount received for the 67161
classroom unit in which the child has been placed by the number of 67162
children in the unit. For any other child, "per pupil amount" 67163
means the amount paid for the child under section 3317.20 of the 67164
Revised Code. 67165

When a school district places or has placed a child with a 67166
county DD board for special education, but another district is 67167
responsible for tuition under section 3313.64 or 3313.65 of the 67168

Revised Code and the child is not a resident of the territory 67169
served by the county DD board, the board may charge the district 67170
responsible for tuition with the educational costs in excess of 67171
the per pupil amount received by the board under ~~Chapters 3306-~~ 67172
~~and Chapter~~ 3317. of the Revised Code. The amount of the excess 67173
cost shall be determined by the formula established by rule of the 67174
department of education under section 3323.14 of the Revised Code, 67175
and the payment for such excess cost shall be made by the school 67176
district directly to the county DD board. 67177

A school district board of education and the county DD board 67178
that serves the school district may negotiate and contract, at or 67179
after the time of placement, for payments by the board of 67180
education to the county DD board for additional services provided 67181
to a child placed with the county DD board and whose 67182
individualized education program established pursuant to section 67183
3323.08 of the Revised Code requires additional services that are 67184
not routinely provided children in the county DD board's program 67185
but are necessary to maintain the child's enrollment and 67186
participation in the program. Additional services may include, but 67187
are not limited to, specialized supplies and equipment for the 67188
benefit of the child and instruction, training, or assistance 67189
provided by staff members other than staff members for which 67190
funding is received under Chapter ~~3306.~~ or 3317. of the Revised 67191
Code. 67192

Sec. 3323.31. The Franklin county educational service center 67193
shall establish the Ohio ~~Center~~ center for ~~Autism~~ autism and ~~Low~~ 67194
~~Incidence~~ low incidence. The ~~Center~~ center shall administer 67195
programs and coordinate services for infants, preschool and 67196
school-age children, and adults with autism and low incidence 67197
disabilities. The ~~Center's~~ center's principal focus shall be 67198
programs and services for persons with autism. The ~~Center~~ center 67199
shall be under the direction of an executive director, appointed 67200

by the superintendent of the service center in consultation with 67201
the advisory board established under section 3323.33 of the 67202
Revised Code. 67203

In addition to its other duties, the Ohio ~~Center~~ center for 67204
~~Autism~~ autism and ~~Low Incidence~~ low incidence shall participate as 67205
a member of ~~an~~ the interagency workgroup on autism, as it is 67206
established by the ~~department~~ director of developmental 67207
disabilities ~~and~~ under section 5123.0419 of the Revised Code. The 67208
center shall provide technical assistance and support to the 67209
department of developmental disabilities in the department's 67210
leadership role to develop and implement the ~~initiatives~~ 67211
~~identified by~~ projects and activities of the workgroup. 67212

Sec. 3324.05. (A) Each school district shall submit an annual 67213
report to the department of education specifying the number of 67214
students in each of grades kindergarten through ~~twelfth~~ twelve 67215
screened, the number assessed, and the number identified as gifted 67216
in each category specified in section 3324.03 of the Revised Code. 67217

(B) The department of education shall audit each school 67218
district's identification numbers at least once every three years 67219
and may select any district at random or upon complaint or 67220
suspicion of noncompliance for a further audit to determine 67221
compliance with sections 3324.03 to 3324.06 of the Revised Code. 67222

(C) The department shall provide technical assistance to any 67223
district found in noncompliance under division (B) of this 67224
section. The department may reduce funds received by the district 67225
under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code by any 67226
amount if the district continues to be noncompliant. 67227

Sec. 3325.08. (A) A diploma shall be granted by the 67228
superintendent of the state school for the blind and the 67229
superintendent of the state school for the deaf to any student 67230

enrolled in one of these state schools to whom all of the 67231
following apply: 67232

(1) The student has successfully completed the individualized 67233
education program developed for the student for the student's high 67234
school education pursuant to section 3323.08 of the Revised Code; 67235

(2) Subject to section 3313.614 of the Revised Code, the 67236
student has met the assessment requirements of division (A)(2)(a) 67237
or (b) of this section, as applicable. 67238

(a) If the student entered the ninth grade prior to the date 67239
prescribed by rule of the state board of education under division 67240
~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the student 67241
either: 67242

(i) Has attained at least the applicable scores designated 67243
under division (B)(1) of section 3301.0710 of the Revised Code on 67244
all the assessments prescribed by that division unless division 67245
(L) of section 3313.61 of the Revised Code applies to the student; 67246

(ii) Has satisfied the alternative conditions prescribed in 67247
section 3313.615 of the Revised Code. 67248

(b) If the student entered the ninth grade on or after the 67249
date prescribed by rule of the state board under division 67250
~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the student 67251
has ~~attained on~~ met the requirements of the entire assessment 67252
system prescribed under division (B)(2) of section 3301.0710 of 67253
the Revised Code ~~at least the required passing composite score,~~ 67254
~~designated under division (C)(1) of section 3301.0712 of the~~ 67255
~~Revised Code~~, except to the extent that division (L) of section 67256
3313.61 of the Revised Code applies to the student. 67257

(3) The student is not eligible to receive an honors diploma 67258
granted pursuant to division (B) of this section. 67259

No diploma shall be granted under this division to anyone 67260

except as provided under this division. 67261

(B) In lieu of a diploma granted under division (A) of this 67262
section, the superintendent of the state school for the blind and 67263
the superintendent of the state school for the deaf shall grant an 67264
honors diploma, in the same manner that the boards of education of 67265
school districts grant such diplomas under division (B) of section 67266
3313.61 of the Revised Code, to any student enrolled in one of 67267
these state schools who accomplishes all of the following: 67268

(1) Successfully completes the individualized education 67269
program developed for the student for the student's high school 67270
education pursuant to section 3323.08 of the Revised Code; 67271

(2) Subject to section 3313.614 of the Revised Code, has met 67272
the assessment requirements of division (B)(2)(a) or (b) of this 67273
section, as applicable. 67274

(a) If the student entered the ninth grade prior to the date 67275
prescribed by rule of the state board under division ~~(E)~~(D)(2) of 67276
section 3301.0712 of the Revised Code, the student either: 67277

(i) Has attained at least the applicable scores designated 67278
under division (B)(1) of section 3301.0710 of the Revised Code on 67279
all the assessments prescribed under that division; 67280

(ii) Has satisfied the alternative conditions prescribed in 67281
section 3313.615 of the Revised Code. 67282

(b) If the student entered the ninth grade on or after the 67283
date prescribed by rule of the state board under division 67284
~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student 67285
has ~~attained on~~ met the requirements of the entire assessment 67286
system prescribed under division (B)(2) of section 3301.0710 of 67287
the Revised Code ~~at least the required passing composite score,~~ 67288
~~designated under division (C)(1) of section 3301.0712 of the~~ 67289
Revised Code. 67290

(3) Has met additional criteria for granting an honors diploma. 67291
67292

These additional criteria shall be the same as those 67293
prescribed by the state board under division (B) of section 67294
3313.61 of the Revised Code for the granting of such diplomas by 67295
school districts. No honors diploma shall be granted to anyone 67296
failing to comply with this division and not more than one honors 67297
diploma shall be granted to any student under this division. 67298

(C) A diploma or honors diploma awarded under this section 67299
shall be signed by the superintendent of public instruction and 67300
the superintendent of the state school for the blind or the 67301
superintendent of the state school for the deaf, as applicable. 67302
Each diploma shall bear the date of its issue and be in such form 67303
as the school superintendent prescribes. 67304

(D) Upon granting a diploma to a student under this section, 67305
the superintendent of the state school in which the student is 67306
enrolled shall provide notice of receipt of the diploma to the 67307
board of education of the school district where the student is 67308
entitled to attend school under section 3313.64 or 3313.65 of the 67309
Revised Code when not residing at the state school for the blind 67310
or the state school for the deaf. The notice shall indicate the 67311
type of diploma granted. 67312

Sec. 3326.11. Each science, technology, engineering, and 67313
mathematics school established under this chapter and its 67314
governing body shall comply with sections 9.90, 9.91, 109.65, 67315
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 67316
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 67317
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 67318
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 67319
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 67320
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 67321

3313.671, 3313.672, 3313.673, 3313.674, 3313.69, 3313.71, 67322
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 67323
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 67324
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 67325
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 67326
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 67327
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 67328
4123., 4141., and 4167. of the Revised Code as if it were a school 67329
district. 67330

Sec. 3326.33. Payments and deductions under this section for 67331
fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance 67332
with section 3326.39 of the Revised Code. 67333

For each student enrolled in a science, technology, 67334
engineering, and mathematics school established under this 67335
chapter, the department of education annually shall deduct from 67336
the state education aid of a student's resident school district 67337
and, if necessary, from the payment made to the district under 67338
sections 321.24 and 323.156 of the Revised Code and pay to the 67339
school the sum of the following: 67340

(A) The sum of the formula amount plus the per pupil amount 67341
of the base funding supplements specified in divisions (C)(1) to 67342
(4) of section 3317.012 of the Revised Code. 67343

(B) If the student is receiving special education and related 67344
services pursuant to an IEP, the product of the applicable special 67345
education weight times the formula amount; 67346

(C) If the student is enrolled in vocational education 67347
programs or classes that are described in section 3317.014 of the 67348
Revised Code, are provided by the school, and are comparable as 67349
determined by the superintendent of public instruction to school 67350
district vocational education programs and classes eligible for 67351
state weighted funding under section 3317.014 of the Revised Code, 67352

the product of the applicable vocational education weight times 67353
the formula amount times the percentage of time the student spends 67354
in the vocational education programs or classes; 67355

(D) If the student is included in the poverty student count 67356
of the student's resident district, the per pupil amount of the 67357
district's payment under division (C) of section 3317.029 of the 67358
Revised Code; 67359

(E) If the student is identified as limited English 67360
proficient and the student's resident district receives a payment 67361
for services to limited English proficient students under division 67362
(F) of section 3317.029 of the Revised Code, the per pupil amount 67363
of the district's payment under that division, calculated in the 67364
same manner as per pupil payments are calculated under division 67365
(C)(6) of section 3314.08 of the Revised Code; 67366

(F) If the student's resident district receives a payment 67367
under division (G), (H), or (I) of section 3317.029 of the Revised 67368
Code, the per pupil amount of the district's payments under each 67369
division, calculated in the same manner as per pupil payments are 67370
calculated under divisions (C)(7) and (8) of section 3314.08 of 67371
the Revised Code; 67372

(G) If the student's resident district receives a parity aid 67373
payment under section 3317.0217 of the Revised Code, the per pupil 67374
amount calculated for the district under division (C) or (D) of 67375
that section. 67376

Sec. 3326.39. For purposes of applying sections 3326.31 to 67377
3326.37 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 67378
2013: 67379

(A) The formula amount for STEM schools for each of fiscal 67380
~~year 2010 is \$5,718, and for fiscal year 2011 is \$5,703. These~~ 67381
~~respective amounts~~ years 2012 and 2013 is \$5,653. That amount 67382

shall be applied wherein sections 3326.31 to 3326.37 of the Revised Code the formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a STEM school under that section for fiscal years 2012 and 2013, the department of education shall substitute \$5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

(C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability categories prescribed by section 3317.013 of the Revised Code as amended by H.B. 153 of the 129th general assembly, and then by multiplying the applicable weight respective multiple specified for fiscal year 2009 in that section 3317.013 of the Revised Code, as it existed for that fiscal year 2009, times \$5,732.

(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times \$5,732.

(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a

school under section 3327.01 of the Revised Code:	67414
(1) The time and distance required to provide the transportation;	67415 67416
(2) The number of pupils to be transported;	67417
(3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;	67418 67419
(4) Whether similar or equivalent service is provided to other pupils eligible for transportation;	67420 67421
(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;	67422 67423
(6) Whether other reimbursable types of transportation are available.	67424 67425
(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.	67426 67427 67428 67429
(2) The board shall report its determination to the state board of education in a manner determined by the state board.	67430 67431
(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.	67432 67433 67434 67435 67436 67437 67438 67439 67440 67441
(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide	67442 67443

payment in lieu of transportation by doing the following: 67444

(1) In accordance with guidelines established by the 67445
department of education, informing the pupil's parent, guardian, 67446
or other person in charge of the pupil of both of the following: 67447

(a) The board's resolution; 67448

(b) The right of the pupil's parent, guardian, or other 67449
person in charge of the pupil to accept the offer of payment in 67450
lieu of transportation or to reject the offer and instead request 67451
the department to initiate mediation procedures. 67452

(2) Issuing the pupil's parent, guardian, or other person in 67453
charge of the pupil a contract or other form on which the parent, 67454
guardian, or other person in charge of the pupil is given the 67455
option to accept or reject the board's offer of payment in lieu of 67456
transportation. 67457

(D) If the parent, guardian, or other person in charge of the 67458
pupil accepts the offer of payment in lieu of providing 67459
transportation, the board shall pay the parent, guardian, or other 67460
person in charge of the ~~child~~ pupil an amount that shall be not 67461
less than the amount determined by the department of education as 67462
the minimum for payment in lieu of transportation, and not more 67463
than the amount determined by the department as the average cost 67464
of pupil transportation for the previous school year. Payment may 67465
be prorated if the time period involved is only a part of the 67466
school year. 67467

(E)(1)(a) Upon the request of a parent, guardian, or other 67468
person in charge of the pupil who rejected the payment in lieu of 67469
transportation, the department shall conduct mediation procedures. 67470

(b) If the mediation does not resolve the dispute, the state 67471
board of education shall conduct a hearing in accordance with 67472
Chapter 119. of the Revised Code. The state board may approve the 67473
payment in lieu of transportation or may order the board of 67474

education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments 67507
from the department under division (F)(2) of this section shall do 67508
either of the following: 67509

(1) Disburse the entire amount of the payments to the parent, 67510
guardian, or other person in ~~control~~ charge of the pupil affected 67511
by the failure of the school district of residence to provide 67512
transportation; 67513

(2) Use the entire amount of the payments to provide 67514
acceptable transportation for the affected pupil. 67515

Sec. 3327.04. (A) The board of education of any city, 67516
exempted village, or local school district may contract with the 67517
board of another district for the admission or transportation, or 67518
both, of pupils into any school in such other district, on terms 67519
agreed upon by such boards. 67520

(B) The boards of two school districts may enter into a 67521
contract under this section to share the provision of 67522
transportation to a child who resides in one school district and 67523
attends school in the other district. Under such an agreement, one 67524
district may claim the total transportation subsidy available for 67525
such child under section ~~3306.12~~ 3317.0212 of the Revised Code or 67526
other provisions of law and may agree to pay any portion of such 67527
subsidy to the other district sharing the provision of 67528
transportation to that child. The contract shall delineate the 67529
transportation responsibilities of each district. 67530

A school district that enters into a contract under this 67531
section is not liable for any injury, death, or loss to the person 67532
or property of a student that may occur while the student is being 67533
furnished transportation by the other school district that is a 67534
party to the contract. 67535

(C) Whenever a board not maintaining a high school enters 67536

into an agreement with one or more boards maintaining such school 67537
for the schooling of all its high school pupils, the board making 67538
such agreement is exempt from the payment of tuition at other high 67539
schools of pupils living within three miles of the school 67540
designated in the agreement. In case no such agreement is entered 67541
into, the high school to be attended can be selected by the pupil 67542
holding an eighth grade diploma, and the tuition shall be paid by 67543
the board of the district of school residence. 67544

Sec. 3327.05. (A) Except as provided in division (B) of this 67545
section, no board of education of any school district shall 67546
provide transportation for any pupil who is a school resident of 67547
another school district unless the pupil is enrolled pursuant to 67548
section 3313.98 of the Revised Code or the board of the other 67549
district has given its written consent thereto. If the board of 67550
any school district files with the state board of education a 67551
written complaint that transportation for resident pupils is being 67552
provided by the board of another school district contrary to this 67553
division, the state board of education shall make an investigation 67554
of such complaint. If the state board of education finds that 67555
transportation is being provided contrary to this section, it may 67556
withdraw from state funds due the offending district any part of 67557
the amount that has been approved for transportation pursuant to 67558
section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions 67559
of law. 67560

(B) Notwithstanding division (D) of section 3311.19 and 67561
division (D) of section 3311.52 of the Revised Code, this division 67562
does not apply to any joint vocational or cooperative education 67563
school district. 67564

A board of education may provide transportation to and from 67565
the nonpublic school of attendance if both of the following apply: 67566

(1) The parent, guardian, or other person in charge of the 67567

pupil agrees to pay the board for all costs incurred in providing 67568
the transportation that are not reimbursed pursuant to Chapter 67569
~~3306.~~~~or~~ 3317. of the Revised Code; 67570

(2) The pupil's school district of residence does not provide 67571
transportation for public school pupils of the same grade as the 67572
pupil being transported under this division, or that district is 67573
not required under section 3327.01 of the Revised Code to 67574
transport the pupil to and from the nonpublic school because the 67575
direct travel time to the nonpublic school is more than thirty 67576
minutes. 67577

Upon receipt of the request to provide transportation, the 67578
board shall review the request and determine whether the board 67579
will accommodate the request. If the board agrees to transport the 67580
pupil, the board may transport the pupil to and from the nonpublic 67581
school and a collection point in the district, as determined by 67582
the board. If the board transports the pupil, the board may 67583
include the pupil in the district's transportation ADM reported to 67584
the department of education under section 3317.03 of the Revised 67585
Code and, accordingly, may receive a state payment under section 67586
~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law 67587
for transporting the pupil. 67588

If the board declines to transport the pupil, the board, in a 67589
written communication to the parent, guardian, or other person in 67590
charge of the pupil, shall state the reasons for declining the 67591
request. 67592

Sec. 3328.01. As used in this chapter: 67593

(A) "Child with a disability," "IEP," and "school district of 67594
residence" have the same meanings as in section 3323.01 of the 67595
Revised Code. 67596

(B) "Eligible student" means a student who is entitled to 67597

attend school in a participating school district; is at risk of 67598
academic failure; is from a family whose income is below two 67599
hundred per cent of the federal poverty guidelines, as defined in 67600
section 5101.46 of the Revised Code; meets any additional criteria 67601
prescribed by agreement between the state board of education and 67602
the operator of the college-preparatory boarding school in which 67603
the student seeks enrollment; and meets at least two of the 67604
following additional conditions: 67605

(1) The student has a record of in-school disciplinary 67606
actions, suspensions, expulsions, or truancy. 67607

(2) The student has not attained at least a proficient score 67608
on the state achievement assessments in English language arts, 67609
reading, or mathematics prescribed under section 3301.0710 of the 67610
Revised Code, after those assessments have been administered to 67611
the student at least once, or the student has not attained at 67612
least a score designated by the board of trustees of the 67613
college-preparatory boarding school in which the student seeks 67614
enrollment under this chapter on an end-of-course examination in 67615
English language arts or mathematics prescribed under section 67616
3301.0712 of the Revised Code. 67617

(3) The student is a child with a disability. 67618

(4) The student has been referred for academic intervention 67619
services. 67620

(5) The student's head of household is a single parent. As 67621
used in this division and in division (B)(6) of this section, 67622
"head of household" means a person who occupies the same household 67623
as the student and who is financially responsible for the student. 67624

(6) The student's head of household is not the student's 67625
custodial parent. 67626

(7) A member of the student's family has been imprisoned, as 67627
defined in section 1.05 of the Revised Code. 67628

(C) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code. 67629
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(D) "Formula ADM" and "category one through six special education ADM" have the same meanings as in section 3306.02 of the Revised Code. 67632
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(E) "Operator" means the operator of a college-preparatory boarding school selected under section 3328.11 of the Revised Code. 67635
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(F) "Participating school district" means either of the following: 67638
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(1) The school district in which a college-preparatory boarding school established under this chapter is located; 67640
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(2) A school district other than one described in division (F)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter. 67642
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(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code. 67649
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Sec. 3328.02. Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised Code. 67651
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Sec. 3328.03. In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under 67656
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this chapter shall create an obligation of state funds for a 67658
period longer than two years; however, the general assembly, every 67659
two years, may authorize renewal of any such obligation. 67660

Sec. 3328.04. The city, exempted village, or local school 67661
district in which a college-preparatory boarding school 67662
established under this chapter is located is a participating 67663
school district under this chapter. Any other city, exempted 67664
village, or local school district may agree to be a participating 67665
school district. The state board of education shall adopt 67666
procedures for districts to agree to be participating school 67667
districts. 67668

Sec. 3328.11. (A) In accordance with the procedures 67669
prescribed in division (B) of this section, the state board of 67670
education shall select a private nonprofit corporation that meets 67671
the following qualifications to operate each college-preparatory 67672
boarding school established under this chapter: 67673

(1) The corporation has experience operating a school or 67674
program similar to the schools authorized under this chapter. 67675

(2) The school or program described in division (A)(1) of 67676
this section has demonstrated to the satisfaction of the state 67677
board success in improving the academic performance of students. 67678

(3) The corporation has demonstrated to the satisfaction of 67679
the state board that the corporation has the capacity to secure 67680
private funds for the development of the school authorized under 67681
this chapter. 67682

(B)(1) Not later than sixty days after the effective date of 67683
this section, the state board shall issue a request for proposals 67684
from private nonprofit corporations qualified to operate a 67685
college-preparatory boarding school established under this 67686
chapter. If the state board subsequently determines that the 67687

establishment of one or more additional college-preparatory 67688
boarding schools is advisable, the state board shall issue 67689
requests for proposals from private nonprofit corporations 67690
qualified to operate those additional schools. 67691

In all cases, the state board shall select the school's 67692
operator from among the qualified responders within one hundred 67693
eighty days after the issuance of the request for proposals. If no 67694
qualified responder submits a proposal, the state board may issue 67695
another request for proposals. 67696

(2) Each proposal submitted to the state board shall contain 67697
the following information: 67698

(a) The proposed location of the college-preparatory boarding 67699
school, which may differ from any location recommended by the 67700
state board in the request for proposals; 67701

(b) A plan for offering grade six in the school's initial 67702
year of operation and a plan for increasing the grade levels 67703
offered by the school in subsequent years; 67704

(c) Any other information about the proposed educational 67705
program, facilities, or operations of the school considered 67706
necessary by the state board. 67707

Sec. 3328.12. The state board of education shall enter into a 67708
contract with the operator of each college-preparatory boarding 67709
school established under this chapter. The contract shall 67710
stipulate the following: 67711

(A) The school may operate only if and to the extent the 67712
school holds a valid charter granted by the state board under 67713
section 3301.16 of the Revised Code. 67714

(B) The operator shall oversee the acquisition of a facility 67715
for the school. 67716

(C) The operator shall operate the school in accordance with 67717

the terms of the proposal accepted by the state board under section 3328.11 of the Revised Code, including the plan for increasing the grade levels offered by the school. 67718
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(D) The school shall comply with the provisions of this chapter. 67721
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(E) The school shall comply with any other provisions of law specified in the contract, the charter granted by the state board, and the rules adopted by the state board under section 3328.50 of the Revised Code. 67723
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(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code. 67727
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(G) The school shall meet the academic goals and other performance standards specified in the contract. 67729
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(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination. 67731
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(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract. 67738
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Sec. 3328.13. Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for 67741
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the appointment of members of the school's board of trustees, 67748
whose terms of office shall be as prescribed in section 3328.15 of 67749
the Revised Code. The bylaws also shall include standards for the 67750
admission of students to the school and their dismissal from the 67751
school. The bylaws shall be subject to the approval of the state 67752
board. 67753

Sec. 3328.14. Each operator of a college-preparatory boarding 67754
school established under this chapter shall adopt a program of 67755
outreach to inform every city, local, and exempted village school 67756
district about the school and the procedures for admission to the 67757
school and for becoming a participating school district. 67758

Sec. 3328.15. (A) Each college-preparatory boarding school 67759
established under this chapter shall be governed by a board of 67760
trustees consisting of up to twenty-five members. Five of those 67761
members shall be appointed by the governor, with the advice and 67762
consent of the senate. The governor's appointments may be based on 67763
nonbinding recommendations made by the superintendent of public 67764
instruction. The remaining members shall be appointed pursuant to 67765
the bylaws adopted under section 3328.13 of the Revised Code. 67766

(B) The terms of office of the initial members shall be as 67767
follows: 67768

(1) Two members appointed by the governor shall serve for an 67769
initial term of three years. 67770

(2) Two members appointed by the governor shall serve for an 67771
initial term of two years. 67772

(3) One member appointed by the governor shall serve for an 67773
initial term of one year. 67774

(4) One-third of the members appointed pursuant to the 67775
bylaws, rounded down to the nearest whole number, shall serve for 67776

an initial term of three years. 67777

(5) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of two years. 67778
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(6) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of one year. 67781
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(7) Any remaining members appointed pursuant to the bylaws shall serve for an initial term of one year. 67784
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Thereafter the terms of office of all members shall be for three years. 67786
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The beginning date and ending date of terms of office shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code. 67788
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(C) Vacancies on the board shall be filled in the same manner as the initial appointments. A member appointed to an unexpired term shall serve for the remainder of that term and may be reappointed subject to division (D) of this section. 67791
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(D) No member may serve for more than three consecutive three-year terms. 67795
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(E) The officers of the board shall be selected by and from among the members of the board. 67797
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(F) Compensation for the members of the board, if any, shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code. 67799
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Sec. 3328.17. Employees of a college-preparatory boarding school established under this chapter may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the 67802
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Revised Code, a unit containing teaching and nonteaching employees 67806
employed under this section may be considered an appropriate unit. 67807

Sec. 3328.18. (A) As used in this section, "license" has the 67808
same meaning as in section 3319.31 of the Revised Code. 67809

(B) If a person who is employed by a college-preparatory 67810
boarding school established under this chapter or its operator is 67811
arrested, summoned, or indicted for an alleged violation of an 67812
offense listed in division (C) of section 3319.31 of the Revised 67813
Code, if the person holds a license, or an offense listed in 67814
division (B)(1) of section 3319.39 of the Revised Code, if the 67815
person does not hold a license, the chief administrator of the 67816
school in which that person works shall suspend that person from 67817
all duties that require the care, custody, or control of a child 67818
during the pendency of the criminal action against the person. If 67819
the person who is arrested, summoned, or indicted for an alleged 67820
violation of an offense listed in division (C) of section 3319.31 67821
or division (B)(1) of section 3319.39 of the Revised Code is the 67822
chief administrator of the school, the board of trustees of the 67823
school shall suspend the chief administrator from all duties that 67824
require the care, custody, or control of a child. 67825

(C) When a person who holds a license is suspended in 67826
accordance with this section, the chief administrator or board 67827
that imposed the suspension promptly shall report the person's 67828
suspension to the department of education. The report shall 67829
include the offense for which the person was arrested, summoned, 67830
or indicted. 67831

Sec. 3328.19. (A) As used in this section: 67832

(1) "Conduct unbecoming to the teaching profession" shall be 67833
as described in rules adopted by the state board of education. 67834

(2) "Intervention in lieu of conviction" means intervention 67835

in lieu of conviction under section 2951.041 of the Revised Code. 67836

(3) "License" has the same meaning as in section 3319.31 of the Revised Code. 67837
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(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court. 67839
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(B) The chief administrator of each college-preparatory boarding school established under this chapter, or the president or chairperson of the board of trustees of the school if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to a person employed to work in the school who holds a license issued by the state board of education: 67842
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(1) The chief administrator, or president or chairperson, knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67850
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(2) The board of trustees of the school, or the operator, has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board or operator has reasonably determined that the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67857
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(3) The employee has resigned under threat of termination or nonrenewal as described in division (B)(2) of this section. 67865
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(4) The employee has resigned because of or in the course of an investigation by the board or operator regarding whether the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67867
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(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the chief administrator of the school, the president or chairperson of the board of trustees of the school shall make the report required under this section. 67873
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(D) If a report is required under this section, the chief administrator, or president or chairperson, shall submit to the superintendent of public instruction the name and social security number of the employee about whom the information is required and a factual statement regarding any of the conditions prescribed in divisions (B)(1) to (4) of this section that apply to the employee. 67878
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(E) A determination made by the board or operator as described in division (B)(2) of this section or a termination, nonrenewal, resignation, or other separation described in divisions (B)(2) to (4) of this section does not create a presumption of the commission or lack of the commission by the employee of an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 67885
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(F) No individual required to submit a report under division (B) of this section shall knowingly fail to comply with that division. 67893
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(G) An individual who provides information to the superintendent of public instruction in accordance with this 67896
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section in good faith shall be immune from any civil liability 67898
that otherwise might be incurred or imposed for injury, death, or 67899
loss to person or property as a result of the provision of that 67900
information. 67901

Sec. 3328.191. The board of trustees of each 67902
college-preparatory boarding school established under this chapter 67903
shall require that the reports of any investigation by the board 67904
or by the school's operator of an employee who works in the 67905
school, regarding whether the employee has committed an act or 67906
offense for which the chief administrator of the school or the 67907
president or chairperson of the board is required to make a report 67908
to the superintendent of public instruction under section 3328.19 67909
of the Revised Code, be kept in the employee's personnel file. If, 67910
after an investigation under division (A) of section 3319.311 of 67911
the Revised Code, the superintendent of public instruction 67912
determines that the results of that investigation do not warrant 67913
initiating action under section 3319.31 of the Revised Code, the 67914
board shall require the reports of the investigation to be moved 67915
from the employee's personnel file to a separate public file. 67916

Sec. 3328.192. Notwithstanding any provision to the contrary 67917
in Chapter 4117. of the Revised Code, the provisions of sections 67918
3328.19 and 3328.191 of the Revised Code prevail over any 67919
conflicting provisions of a collective bargaining agreement or 67920
contract for employment entered into on or after the effective 67921
date of this section. 67922

Sec. 3328.193. (A) As used in this section, "license" has the 67923
same meaning as in section 3319.31 of the Revised Code. 67924

(B) No employee of a college-preparatory boarding school 67925
established under this chapter or its operator shall do either of 67926
the following: 67927

(1) Knowingly make a false report to the chief administrator of the school, or the chief administrator's designee, alleging misconduct by another employee of the school or its operator; 67928
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(2) Knowingly cause the chief administrator, or the chief administrator's designee, to make a false report of the alleged misconduct to the superintendent of public instruction or the state board of education. 67931
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(C) Any employee of a college-preparatory boarding school established under this chapter or its operator who in good faith reports to the chief administrator of the school, or the chief administrator's designee, information about alleged misconduct committed by another employee of the school or operator shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information. 67935
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If the alleged misconduct involves a person who holds a license but the chief administrator is not required to submit a report to the superintendent of public instruction under section 3328.19 of the Revised Code and the chief administrator, or the chief administrator's designee, in good faith reports the alleged misconduct to the superintendent of public instruction or the state board, the chief administrator, or the chief administrator's designee, shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information. 67943
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(D)(1) In any civil action brought against a person in which it is alleged and proved that the person violated division (B) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation. 67953
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(2) If a person is convicted of or pleads guilty to a violation of division (B) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (B) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

Sec. 3328.20. (A) As used in this section: 67972

(1) "Designated official" means the chief administrator of a college-preparatory boarding school established under this chapter, or the chief administrator's designee.

(2) "Essential school services" means services provided by a private company under contract with a college-preparatory boarding school established under this chapter that the chief administrator of the school has determined are necessary for the operation of the school and that would need to be provided by persons employed by the school or its operator if the services were not provided by the private company.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(B) This section applies to any person who is an employee of a private company under contract with a college-preparatory boarding school established under this chapter to provide essential school services and who will work in the school in a position that does not require a license issued by the state board

of education, is not for the operation of a vehicle for pupil transportation, and that involves routine interaction with a child or regular responsibility for the care, custody, or control of a child. 67990
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(C) No college-preparatory boarding school established under this chapter shall permit a person to whom this section applies to work in the school, unless one of the following applies to the person: 67994
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(1) The person's employer presents proof of both of the following to the designated official: 67998
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(a) That the person has been the subject of a criminal records check conducted in accordance with division (D) of this section within the five-year period immediately prior to the date on which the person will begin working in the school; 68000
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(b) That the criminal records check indicates that the person has not been convicted of or pleaded guilty to any offense described in division (B)(1) of section 3319.39 of the Revised Code. 68004
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(2) During any period of time in which the person will have routine interaction with a child or regular responsibility for the care, custody, or control of a child, the designated official has arranged for an employee of the school to be present in the same room with the child or, if outdoors, to be within a thirty-yard radius of the child or to have visual contact with the child. 68008
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(D) Any private company that has been hired or seeks to be hired by a college-preparatory boarding school established under this chapter to provide essential school services may request the bureau of criminal identification and investigation to conduct a criminal records check of any of its employees for the purpose of complying with division (C)(1) of this section. Each request for a criminal records check under this division shall be made to the 68014
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superintendent of the bureau in the manner prescribed in section 68021
3319.39 of the Revised Code. Upon receipt of a request, the bureau 68022
shall conduct the criminal records check in accordance with 68023
section 109.572 of the Revised Code as if the request had been 68024
made under section 3319.39 of the Revised Code. 68025

Notwithstanding division (H) of section 109.57 of the Revised 68026
Code, the private company may share the results of any criminal 68027
records check conducted under this division with the designated 68028
official for the purpose of complying with division (C)(1) of this 68029
section, but in no case shall the designated official release that 68030
information to any other person. 68031

Sec. 3328.21. (A) Any eligible student may apply for 68032
admission to a college-preparatory boarding school established 68033
under this chapter in a grade level offered by the school that is 68034
appropriate for the student and shall be admitted to the school in 68035
that grade level to the extent the student's admission is within 68036
the capacity of the school as established by the school's board of 68037
trustees, subject to division (B) of this section. If more 68038
eligible students apply for admission than the number of students 68039
permitted by the capacity established by the board of trustees, 68040
admission shall be by lot. 68041

(B) In the first year of operation, each school established 68042
under this chapter shall offer only grade six and shall not admit 68043
more than eighty students to the school. In each subsequent year 68044
of operation, the school may add additional grade levels as 68045
specified in the contract under section 3328.12 of the Revised 68046
Code, but at no time shall the school's total student population 68047
exceed four hundred students. 68048

Sec. 3328.22. The educational program of a 68049
college-preparatory boarding school established under this chapter 68050

shall include at least all of the following: 68051

(A) A remedial curriculum for students in grades lower than grade nine; 68052
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(B) A college-preparatory curriculum for high school students that, at a minimum, shall comply with section 3313.603 of the Revised Code as that section applies to school districts; 68054
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(C) Extracurricular activities, including athletic and cultural activities; 68057
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(D) College admission counseling; 68059

(E) Health and mental health services; 68060

(F) Tutoring services; 68061

(G) Community services opportunities; 68062

(H) A residential student life program. 68063

Sec. 3328.23. (A) A college-preparatory boarding school established under this chapter and the school's operator shall comply with Chapter 3323. of the Revised Code as if the school were a school district. For each child with a disability enrolled in the school for whom an IEP has been developed, the school and its operator shall verify in the manner prescribed by the department of education that the school is providing the services required under the child's IEP. 68064
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(B) The school district in which a child with a disability enrolled in the college-preparatory boarding school is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the student with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child is enrolled in the college-preparatory boarding school. 68072
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Sec. 3328.24. A college-preparatory boarding school 68079
established under this chapter, its operator, and its board of 68080
trustees shall comply with sections 3301.0710, 3301.0711, 68081
3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as 68082
if the school and the operator were a school district and the 68083
school's board of trustees were a district board of education. 68084

Sec. 3328.25. (A) The board of trustees of a 68085
college-preparatory boarding school established under this chapter 68086
shall grant a diploma to any student enrolled in the school to 68087
whom all of the following apply: 68088

(1) The student has successfully completed the school's high 68089
school curriculum or the IEP developed for the student by the 68090
school pursuant to section 3323.08 of the Revised Code or has 68091
qualified under division (D) or (F) of section 3313.603 of the 68092
Revised Code, provided that the school shall not require a student 68093
to remain in school for any specific number of semesters or other 68094
terms if the student completes the required curriculum early. 68095

(2) Subject to section 3313.614 of the Revised Code, the 68096
student has met the assessment requirements of division (A)(2)(a) 68097
or (b) of this section, as applicable. 68098

(a) If the student entered ninth grade prior to the date 68099
prescribed by rule of the state board of education under division 68100
(D)(2) of section 3301.0712 of the Revised Code, the student 68101
either: 68102

(i) Has attained at least the applicable scores designated 68103
under division (B)(1) of section 3301.0710 of the Revised Code on 68104
all the assessments prescribed by that division unless division 68105
(L) of section 3313.61 of the Revised Code applies to the student; 68106

(ii) Has satisfied the alternative conditions prescribed in 68107
section 3313.615 of the Revised Code. 68108

(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code, except to the extent that the student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code. 68109
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(3) The student is not eligible to receive an honors diploma granted under division (B) of this section. 68117
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No diploma shall be granted under this division to anyone except as provided in this division. 68119
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(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in the same manner that boards of education of school districts grant honors diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in the school who accomplishes all of the following: 68121
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(1) Successfully completes the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code; 68127
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(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable. 68130
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(a) If the student entered ninth grade prior to the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student either: 68133
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(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division; 68136
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(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code. 68139
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(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code. 68141
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(3) Has met the additional criteria for granting an honors diploma prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of honors diplomas by school districts. 68146
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An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. No honors diploma shall be granted to anyone failing to comply with this division, and not more than one honors diploma shall be granted to any student under this division. 68150
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(C) A diploma or honors diploma awarded under this section shall be signed by the presiding officer of the board of trustees. Each diploma shall bear the date of its issue and be in such form as the board of trustees prescribes. 68157
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(D) Upon granting a diploma to a student under this section, the presiding officer of the board of trustees shall provide notice of receipt of the diploma to the board of education of the city, exempted village, or local school district where the student is entitled to attend school when not residing at the college-preparatory boarding school. The notice shall indicate the type of diploma granted. 68161
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Sec. 3328.26. (A) The department of education shall issue an 68168

annual report card for each college-preparatory boarding school 68169
established under this chapter that includes all information 68170
applicable to school buildings under section 3302.03 of the 68171
Revised Code. 68172

(B) For each student enrolled in the school, the department 68173
shall combine data regarding the academic performance of that 68174
student with comparable data from the school district in which the 68175
student is entitled to attend school for the purpose of 68176
calculating the performance of the district as a whole on the 68177
report card issued for the district under section 3302.03 of the 68178
Revised Code. 68179

(C) Each college-preparatory boarding school and its operator 68180
shall comply with sections 3302.04 and 3302.041 of the Revised 68181
Code, except that any action required to be taken by a school 68182
district pursuant to those sections shall be taken by the school. 68183

Sec. 3328.31. Each college-preparatory boarding school 68184
established under this chapter shall report to the department of 68185
education, in the form and manner prescribed by the department, 68186
the following information: 68187

(A) The total number of students enrolled in the school; 68188

(B) The number of students enrolled in the school who are 68189
receiving special education and related services pursuant to an 68190
IEP; 68191

(C) The city, exempted village, or local school district in 68192
which each student reported under division (A) of this section is 68193
entitled to attend school; 68194

(D) Any additional information the department determines 68195
necessary to make payments to the school under this chapter. 68196

Sec. 3328.32. The city, exempted village, or local school 68197

district in which each child enrolled in a college-preparatory 68198
boarding school established under this chapter is entitled to 68199
attend school shall count that child in the district's average 68200
daily membership and in the district's category one through six 68201
special education ADM, as appropriate, as reported under divisions 68202
(A) and (B)(5) to (10) of section 3317.03 of the Revised Code. 68203

The department of education shall count that child in the 68204
district's formula ADM. 68205

Sec. 3328.33. For each child enrolled in a 68206
college-preparatory boarding school, as reported under section 68207
3328.31 of the Revised Code, the department of education shall 68208
deduct from the state education aid and, if necessary, from the 68209
payment under sections 321.24 and 323.156 of the Revised Code, for 68210
the city, exempted village, or local school district in which the 68211
child is entitled to attend school an amount equal to eighty-five 68212
per cent of the operating expenditure per pupil of that district. 68213

As used in this section, a district's "operating expenditure 68214
per pupil" is the total amount of state payments and other 68215
nonfederal revenue spent by the district for operating expenses 68216
during the previous fiscal year, divided by the district's formula 68217
ADM for the previous fiscal year. 68218

Sec. 3328.34. (A) For each child enrolled in a 68219
college-preparatory boarding school, as reported under section 68220
3328.31 of the Revised Code, the department of education shall pay 68221
to the school the sum of the amount deducted from a participating 68222
school district's account for that child under section 3328.33 of 68223
the Revised Code plus the per-pupil boarding amount specified in 68224
division (B) of this section. 68225

(B) For the first fiscal year in which a college-preparatory 68226
boarding school may be established under this chapter, the 68227

"per-pupil boarding amount" is twenty-five thousand dollars. For each fiscal year thereafter, that amount shall be adjusted by the rate of inflation, as measured by the consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor, for the previous twelve-month period.

(C) The state board of education may accept funds from federal and state noneducation support services programs for the purpose of funding the per pupil boarding amount prescribed in division (B) of this section. Notwithstanding any other provision of the Revised Code, the state board shall coordinate and streamline any noneducation program requirements in order to eliminate redundant or conflicting requirements, licensing provisions, and oversight by government programs or agencies. The applicable regulatory entities shall, to the maximum extent possible, use independent reports and financial audits provided by the operator and coordinated by the department of education to eliminate or reduce contract and administrative reviews. Regulatory entities other than the state board may suggest reasonable additional items to be included in such independent reports and financial audits to meet any requirements of federal law. Reporting paperwork prepared for the state board shall be shared with and accepted by other state and local entities to the maximum extent feasible.

(D)(1) Notwithstanding division (A) of this section, if, in any fiscal year, the operator of a college-preparatory boarding school receives federal funds for the purpose of supporting the school's operations, the amount of those federal funds shall be deducted from the total per-pupil boarding amount for all enrolled students paid by the department to the school for that fiscal year, unless the operator and the department determine otherwise in a written agreement. Any portion of the total per-pupil

boarding amount for all enrolled students remaining after the 68260
deduction of the federal funds shall be paid by the department to 68261
the school from state funds appropriated to the department. 68262

(2) Notwithstanding division (A) of this section, if, in any 68263
fiscal year, the department receives federal funds for the purpose 68264
of supporting the operations of a college-preparatory boarding 68265
school, the department shall use those federal funds first to pay 68266
the school the total per-pupil boarding amount for all enrolled 68267
students for that fiscal year. Any portion of the total per-pupil 68268
boarding amount for all enrolled students remaining after the use 68269
of the federal funds shall be paid by the department to the school 68270
from state funds appropriated to the department. 68271

(3) If any federal funds are used for the purpose prescribed 68272
in division (D)(1) or (2) of this section, the department shall 68273
comply with all requirements upon which the acceptance of the 68274
federal funds is conditioned, including any requirements set forth 68275
in the funding application submitted by the operator or the 68276
department and, to the extent sufficient funds are appropriated by 68277
the general assembly, any requirements regarding maintenance of 68278
effort in expenditures. 68279

Sec. 3328.35. To the extent permitted by federal law, the 68280
department of education shall include college-preparatory boarding 68281
schools established under this chapter in its annual allocation of 68282
federal moneys under Title I of the "Elementary and Secondary 68283
Education Act of 1965," 20 U.S.C. 6301, et seq. The department may 68284
apply for any other federal moneys that may be used to support the 68285
operations of college-preparatory boarding schools established 68286
under this chapter. 68287

Sec. 3328.36. A college-preparatory boarding school 68288
established under this chapter shall be considered a school 68289

district and its board of trustees, on behalf of the school's 68290
operator, shall be considered a board of education for the purpose 68291
of applying to any state or federal agency for grants that a 68292
school district or public school may receive under federal or 68293
state law or any appropriations act of the general assembly. The 68294
college-preparatory boarding school and its operator may apply to 68295
any private entity to receive and accept funds. 68296

Sec. 3328.41. Each participating school district shall be 68297
responsible for providing transportation on a weekly basis for 68298
each student enrolled in a college-preparatory boarding school 68299
established under this chapter who is entitled to attend school in 68300
the district to and from that college-preparatory boarding school. 68301

Sec. 3328.45. (A) If the state board of education determines 68302
that a college-preparatory boarding school established under this 68303
chapter is not in compliance with any provision of this chapter or 68304
the terms of the contract entered into under section 3328.12 of 68305
the Revised Code, or that the school has failed to meet the 68306
academic goals or performance standards specified in that 68307
contract, the state board may initiate the termination procedures 68308
specified in the contract. No termination shall take effect prior 68309
to the end of a school year. Upon the effective date of a 68310
termination, the school shall close. 68311

(B) If a college-preparatory boarding school is required to 68312
close under division (A) of this section or closes for any other 68313
reason, the school's board of trustees shall execute the closing 68314
as provided in the contract under section 3328.12 of the Revised 68315
Code. 68316

Sec. 3328.50. The state board of education shall adopt rules 68317
in accordance with Chapter 119. of the Revised Code prescribing 68318

procedures necessary for the implementation of this chapter. 68319

Sec. 3328.99. (A) Whoever violates division (F) of section 3328.19 of the Revised Code shall be punished as follows: 68320
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(1) Except as otherwise provided in division (A)(2) of this section, the person is guilty of a misdemeanor of the fourth degree. 68322
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(2) The person is guilty of a misdemeanor of the first degree if both of the following conditions apply: 68325
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(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child. 68327
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(b) During the period between the violation of division (F) of section 3328.19 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child. 68333
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(B) Whoever violates division (B) of section 3328.193 of the Revised Code is guilty of a misdemeanor of the first degree. 68342
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Sec. 3329.08. At any regular meeting, the board of education of each local school district, from lists adopted by the educational service center governing board, and the board of education of each city, and exempted village school district 68344
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shall determine by a majority vote of all members elected or 68348
appointed under division (B) or (F) of section 3311.71 of the 68349
Revised Code which of such textbooks or electronic textbooks so 68350
filed shall be used in the schools under its control. 68351

Sec. 3331.01. (A) As used in this chapter: 68352

(1) "Superintendent" or "superintendent of schools" of a 68353
school district means the person employed as the superintendent or 68354
that person's designee. ~~In the case of a local school district,~~ 68355
~~such designee may be the superintendent of the educational service~~ 68356
~~center to which the school district belongs.~~ 68357

(2) "Chief administrative officer" means the chief 68358
administrative officer of a nonpublic or community school or that 68359
person's designee. 68360

(B)(1) Except as provided in division (B)(2) of this section, 68361
an age and schooling certificate may be issued only by the 68362
superintendent of the city, local, joint vocational, or exempted 68363
village school district in which the child in whose name such 68364
certificate is issued resides or by the chief administrative 68365
officer of the nonpublic or community school the child attends, 68366
and only upon satisfactory proof that the child to whom the 68367
certificate is issued is at least fourteen years of age. 68368

(2) A child who resides in this state shall apply for an age 68369
and schooling certificate to the superintendent of the school 68370
district in which the child resides, or to the chief 68371
administrative officer of the school that the child attends. 68372
Residents of other states who work in Ohio shall apply to the 68373
superintendent of the school district in which the place of 68374
employment is located, as a condition of employment or service. 68375

(C) Any such age and schooling certificate may be issued only 68376
upon satisfactory proof that the employment contemplated by the 68377

child is not prohibited by any law regulating the employment of 68378
such children. Section 4113.08 of the Revised Code does not apply 68379
to such employer in respect to such child while engaged in an 68380
employment legal for a child of the age stated therein. 68381

(D) Age and schooling certificate forms shall be approved by 68382
the state board of education, including forms submitted 68383
electronically. Forms shall not display the social security number 68384
of the child. Except as otherwise provided in this section, every 68385
application for an age and schooling certificate must be signed in 68386
the presence of the officer issuing it by the child in whose name 68387
it is issued. 68388

(E) A child shall furnish the superintendent or chief 68389
administrative officer all information required by this chapter in 68390
support of the issuance of a certificate. 68391

(F) On and after September 1, 2002, each superintendent and 68392
chief administrative officer who issues an age and schooling 68393
certificate shall file electronically the certificate with the 68394
director of commerce in accordance with rules adopted by the 68395
director of administrative services pursuant to section 1306.21 of 68396
the Revised Code. On and after September 1, 2002, only 68397
electronically filed certificates are valid to satisfy the 68398
requirements of Chapter 4109. of the Revised Code. 68399

Sec. 3333.03. (A) The governor, with the advice and consent 68400
of the senate, shall appoint the chancellor of the Ohio board of 68401
regents. ~~The governor may remove the chancellor in accordance with~~ 68402
~~section 3.04 of the Revised Code, except that the removal shall~~ 68403
~~not require the advice and consent of the senate. The chancellor~~ 68404
~~shall serve at the pleasure of the governor, and the governor~~ 68405
shall prescribe the chancellor's duties in addition to the 68406
chancellor's duties prescribed by law. ~~In no case shall the~~ 68407
~~chancellor assume any duties prescribed by the governor or law~~ 68408

~~until the senate has consented to the chancellor's appointment.~~ 68409
The governor shall fix the compensation for the chancellor. The 68410
chancellor shall be a member of the governor's cabinet. 68411

~~(B) The term of office of the chancellor shall be five years.~~ 68412
~~Any person appointed chancellor to fill a vacancy occurring prior~~ 68413
~~to the expiration of the term for which the predecessor was~~ 68414
~~appointed shall hold office for the remainder of that term. Any~~ 68415
~~vacancy in the office shall be filled within sixty days after the~~ 68416
~~vacancy occurs. Each chancellor shall continue in office~~ 68417
~~subsequent to the expiration date of the term for which the~~ 68418
~~chancellor was appointed until a successor takes office, or until~~ 68419
~~a period of sixty days has elapsed, whichever occurs first. The~~ 68420
~~chancellor may be reappointed. The term of the chancellor in~~ 68421
~~office on the effective date of this amendment shall coincide with~~ 68422
~~the term of that chancellor's appointing governor. Subsequent~~ 68423
~~appointments to the office of chancellor shall be made pursuant to~~ 68424
~~division (A) of this section.~~ 68425

(C) The chancellor is responsible for appointing and fixing 68426
the compensation of all professional, administrative, and clerical 68427
employees and staff members necessary to assist in the performance 68428
of the chancellor's duties. All employees and staff shall serve at 68429
the chancellor's pleasure. 68430

(D) The chancellor shall be a person qualified by training 68431
and experience to understand the problems and needs of the state 68432
in the field of higher education and to devise programs, plans, 68433
and methods of solving the problems and meeting the needs. 68434

(E) Neither the chancellor nor any staff member or employee 68435
of the chancellor shall be a trustee, officer, or employee of any 68436
public or private college or university while serving as 68437
chancellor, staff member, or employee. 68438

Sec. 3333.043. (A) As used in this section: 68439

(1) "Institution of higher education" means the state 68440
universities listed in section 3345.011 of the Revised Code, 68441
municipal educational institutions established under Chapter 3349. 68442
of the Revised Code, community colleges established under Chapter 68443
3354. of the Revised Code, university branches established under 68444
Chapter 3355. of the Revised Code, technical colleges established 68445
under Chapter 3357. of the Revised Code, state community colleges 68446
established under Chapter 3358. of the Revised Code, any 68447
institution of higher education with a certificate of registration 68448
from the state board of career colleges and schools, and any 68449
institution for which the chancellor of the Ohio board of regents 68450
receives a notice pursuant to division (C) of this section. 68451

(2) "Community service" has the same meaning as in section 68452
3313.605 of the Revised Code. 68453

(B)(1) The board of trustees or other governing entity of 68454
each institution of higher education shall encourage and promote 68455
participation of students in community service through a program 68456
appropriate to the mission, student population, and environment of 68457
each institution. The program may include, but not be limited to, 68458
providing information about community service opportunities during 68459
student orientation or in student publications; providing awards 68460
for exemplary community service; encouraging faculty members to 68461
incorporate community service into students' academic experiences 68462
wherever appropriate to the curriculum; encouraging recognized 68463
student organizations to undertake community service projects as 68464
part of their purposes; and establishing advisory committees of 68465
students, faculty members, and community and business leaders to 68466
develop cooperative programs that benefit the community and 68467
enhance student experience. The program shall be flexible in 68468
design so as to permit participation by the greatest possible 68469
number of students, including part-time students and students for 68470
whom participation may be difficult due to financial, academic, 68471

personal, or other considerations. The program shall emphasize 68472
community service opportunities that can most effectively use the 68473
skills of students, such as tutoring or literacy programs. The 68474
programs shall encourage students to perform services that will 68475
not supplant the hiring of, result in the displacement of, or 68476
impair any existing employment contracts of any particular 68477
employee of any private or governmental entity for which services 68478
are performed. 68479

(2) The chancellor of the Ohio board of regents shall 68480
encourage all institutions of higher education in the development 68481
of community service programs. With the assistance of the Ohio 68482
~~community~~ commission on service council and volunteerism created 68483
in section 121.40 of the Revised Code, the chancellor shall make 68484
available information about higher education community service 68485
programs to institutions of higher education and to statewide 68486
organizations involved with or promoting volunteerism, including 68487
information about model community service programs, teacher 68488
training courses, and community service curricula and teaching 68489
materials for possible use by institutions of higher education in 68490
their programs. The chancellor shall encourage institutions of 68491
higher education to jointly coordinate higher education community 68492
service programs through consortia of institutions or other 68493
appropriate means of coordination. 68494

(C) The board of trustees of any nonprofit institution with a 68495
certificate of authorization issued pursuant to Chapter 1713. of 68496
the Revised Code or the governing authority of a private 68497
institution exempt from regulation under Chapter 3332. of the 68498
Revised Code as prescribed in section 3333.046 of the Revised Code 68499
may notify the chancellor that it is making itself subject to 68500
divisions (A) and (B) of this section. Upon receipt of such a 68501
notice, these divisions shall apply to that institution. 68502

Sec. 3333.0411. Not later than December 31, 2012, and 68503
annually thereafter, the chancellor of the Ohio board of regents 68504
shall report aggregate academic growth data for students assigned 68505
to graduates of teacher preparation programs approved under 68506
section 3333.048 of the Revised Code who teach English language 68507
arts or mathematics in any of grades four to eight in a public 68508
school in Ohio. For this purpose, the chancellor shall use the 68509
value-added progress dimension prescribed by section 3302.021 of 68510
the Revised Code. The chancellor shall aggregate the data by 68511
graduating class for each approved teacher preparation program, 68512
except that if a particular class has ten or fewer graduates to 68513
which this section applies, the chancellor shall report the data 68514
for a group of classes over a three-year period. In no case shall 68515
the report identify any individual graduate. The department of 68516
education shall share any data necessary for the report with the 68517
chancellor. 68518

Sec. 3333.31. (A) For state subsidy and tuition surcharge 68519
purposes, status as a resident of Ohio shall be defined by the 68520
chancellor of the Ohio board of regents by rule promulgated 68521
pursuant to Chapter 119. of the Revised Code. No adjudication as 68522
to the status of any person under such rule, however, shall be 68523
required to be made pursuant to Chapter 119. of the Revised Code. 68524
The term "resident" for these purposes shall not be equated with 68525
the definition of that term as it is employed elsewhere under the 68526
laws of this state and other states, and shall not carry with it 68527
any of the legal connotations appurtenant thereto. Rather, except 68528
as provided in ~~division~~ divisions (B) and (D) of this section, for 68529
such purposes, the rule promulgated under this section shall have 68530
the objective of excluding from treatment as residents those who 68531
are present in the state primarily for the purpose of attending a 68532
state-supported or state-assisted institution of higher education, 68533

and may prescribe presumptive rules, rebuttable or conclusive, as 68534
to such purpose based upon the source or sources of support of the 68535
student, residence prior to first enrollment, evidence of 68536
intention to remain in the state after completion of studies, or 68537
such other factors as the chancellor deems relevant. 68538

(B) The rules of the chancellor for determining student 68539
residency shall grant residency status to a veteran and to the 68540
veteran's spouse and any dependent of the veteran, if both of the 68541
following conditions are met: 68542

(1) The veteran either: 68543

(a) Served one or more years on active military duty and was 68544
honorably discharged or received a medical discharge that was 68545
related to the military service; 68546

(b) Was killed while serving on active military duty or has 68547
been declared to be missing in action or a prisoner of war. 68548

(2) If the veteran seeks residency status for tuition 68549
surcharge purposes, the veteran has established domicile in this 68550
state as of the first day of a term of enrollment in an 68551
institution of higher education. If the spouse or a dependent of 68552
the veteran seeks residency status for tuition surcharge purposes, 68553
the veteran and the spouse or dependent seeking residency status 68554
have established domicile in this state as of the first day of a 68555
term of enrollment in an institution of higher education, except 68556
that if the veteran was killed while serving on active military 68557
duty or has been declared to be missing in action or a prisoner of 68558
war, only the spouse or dependent seeking residency status shall 68559
be required to have established domicile in accordance with this 68560
division. 68561

(C) The rules of the chancellor for determining student 68562
residency shall not deny residency status to a student who is 68563
either a dependent child of a parent, or the spouse of a person 68564

who, as of the first day of a term of enrollment in an institution 68565
of higher education, has accepted full-time employment and 68566
established domicile in this state for reasons other than gaining 68567
the benefit of favorable tuition rates. 68568

Documentation of full-time employment and domicile shall 68569
include both of the following documents: 68570

(1) A sworn statement from the employer or the employer's 68571
representative on the letterhead of the employer or the employer's 68572
representative certifying that the parent or spouse of the student 68573
is employed full-time in Ohio; 68574

(2) A copy of the lease under which the parent or spouse is 68575
the lessee and occupant of rented residential property in the 68576
state, a copy of the closing statement on residential real 68577
property of which the parent or spouse is the owner and occupant 68578
in this state or, if the parent or spouse is not the lessee or 68579
owner of the residence in which the parent or spouse has 68580
established domicile, a letter from the owner of the residence 68581
certifying that the parent or spouse resides at that residence. 68582

Residency officers may also evaluate, in accordance with the 68583
chancellor's rule, requests for immediate residency status from 68584
dependent students whose parents are not living and whose domicile 68585
follows that of a legal guardian who has accepted full-time 68586
employment and established domicile in the state for reasons other 68587
than gaining the benefit of favorable tuition rates. 68588

(D)(1) The rules of the chancellor for determining student 68589
residency shall grant residency status to a person who, while a 68590
resident of this state for state subsidy and tuition surcharge 68591
purposes, graduated from a high school in this state, if the 68592
person enrolls in an institution of higher education and 68593
establishes domicile in this state within ten years after 68594
graduating from high school, regardless of the student's residence 68595

prior to that enrollment. 68596

(2) The rules of the chancellor for determining student 68597
residency shall not grant residency status to an alien if the 68598
alien is not also an immigrant or a nonimmigrant. 68599

(E) As used in this section: 68600

(1) "Dependent," "domicile," "institution of higher 68601
education," and "residency officer" have the meanings ascribed in 68602
the chancellor's rules adopted under this section. 68603

(2) "Alien" means a person who is not a United States citizen 68604
or a United States national. 68605

(3) "Immigrant" means an alien who has been granted the right 68606
by the United States bureau of citizenship and immigration 68607
services to reside permanently in the United States and to work 68608
without restrictions in the United States. 68609

(4) "Nonimmigrant" means an alien who has been granted the 68610
right by the United States bureau of citizenship and immigration 68611
services to reside temporarily in the United States. 68612

Sec. 3333.38. (A) As used in this section: 68613

(1) "Institution of higher education" includes all of the 68614
following: 68615

(a) A state institution of higher education, as defined in 68616
section 3345.011 of the Revised Code; 68617

(b) A nonprofit institution issued a certificate of 68618
authorization under Chapter 1713. of the Revised Code; 68619

(c) A private institution exempt from regulation under 68620
Chapter 3332. of the Revised Code, as prescribed in section 68621
3333.046 of the Revised Code; 68622

(d) An institution of higher education with a certificate of 68623
registration from the state board of career colleges and schools 68624

under Chapter 3332. of the Revised Code. 68625

(2) "Student financial assistance supported by state funds" 68626
includes assistance granted under sections 3315.33, 3333.12, 68627
3333.122, 3333.21, 3333.26, 3333.28, 3333.372, 3333.391, 3333.93, 68628
5910.03, 5910.032, and 5919.34 of the Revised Code, financed by an 68629
award under the choose Ohio first scholarship program established 68630
under section 3333.61 of the Revised Code, or financed by an award 68631
under the Ohio co-op/internship program established under section 68632
3333.72 of the Revised Code, and any other post-secondary student 68633
financial assistance supported by state funds. 68634

(B) An individual who is convicted of, pleads guilty to, or 68635
is adjudicated a delinquent child for one of the following 68636
violations shall be ineligible to receive any student financial 68637
assistance supported by state funds at an institution of higher 68638
education for two calendar years from the time the individual 68639
applies for assistance of that nature: 68640

(1) A violation of section 2917.02 or 2917.03 of the Revised 68641
Code; 68642

(2) A violation of section 2917.04 of the Revised Code that 68643
is a misdemeanor of the fourth degree; 68644

(3) A violation of section 2917.13 of the Revised Code that 68645
is a misdemeanor of the fourth or first degree and occurs within 68646
the proximate area where four or more others are acting in a 68647
course of conduct in violation of section 2917.11 of the Revised 68648
Code. 68649

(C) If an individual is convicted of, pleads guilty to, or is 68650
adjudicated a delinquent child for committing a violation of 68651
section 2917.02 or 2917.03 of the Revised Code, and if the 68652
individual is enrolled in a state-supported institution of higher 68653
education, the institution in which the individual is enrolled 68654
shall immediately dismiss the individual. No state-supported 68655

institution of higher education shall admit an individual of that 68656
nature for one academic year after the individual applies for 68657
admission to a state-supported institution of higher education. 68658
This division does not limit or affect the ability of a 68659
state-supported institution of higher education to suspend or 68660
otherwise discipline its students. 68661

Sec. 3333.43. This section does not apply to any 68662
baccalaureate degree program that is a cooperative education 68663
program, as defined in section 3333.71 of the Revised Code. 68664

(A) The chancellor of the Ohio board of regents shall require 68665
all state institutions of higher education that offer 68666
baccalaureate degrees, as a condition of reauthorization for 68667
certification of each baccalaureate program offered by the 68668
institution, to submit a statement describing how each major for 68669
which the school offers a baccalaureate degree may be completed 68670
within three academic years. The chronology of the statement shall 68671
begin with the fall semester of a student's first year of the 68672
baccalaureate program. 68673

(B) The statement required under this section may include, 68674
but not be limited to, any of the following methods to contribute 68675
to earning a baccalaureate degree in three years: 68676

(1) Advanced placement credit; 68677

(2) International baccalaureate program credit; 68678

(3) A waiver of degree and credit-hour requirements by 68679
completion of courses that are widely available at community 68680
colleges in the state or through online programs offered by state 68681
institutions of higher education or private nonprofit institutions 68682
of higher education holding certificates of authorization under 68683
Chapter 1713. of the Revised Code, and through courses taken by 68684
the student through the post-secondary enrollment options program 68685

under Chapter 3365. of the Revised Code; 68686

(4) Completion of coursework during summer sessions; 68687

(5) A waiver of foreign-language degree requirements based on a proficiency examination specified by the institution. 68688
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(C)(1) Not later than October 15, 2012, each state institution of higher education shall provide statements required under this section for ten per cent of all baccalaureate degree programs offered by the institution. 68690
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(2) Not later than June 30, 2014, each state institution of higher education shall provide statements required under this section for sixty per cent of all baccalaureate degree programs offered by the institution. 68694
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(D) Each state institution of higher education required to submit statements under this section shall post its three-year option on its web site and also provide that information to the department of education. The department shall distribute that information to the superintendent, high school principal, and guidance counselor, or equivalents, of each school district, community school established under Chapter 3314. of the Revised Code, and STEM school established under Chapter 3326. of the Revised Code. 68698
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(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs. 68707
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Sec. 3333.66. (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is 68710
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implementing the pilot tuition restructuring plan originally 68716
recognized in Am. Sub. H.B. 95 of the 125th general assembly, that 68717
university's instructional and general fees shall be considered to 68718
be the average full-time in-state undergraduate instructional and 68719
general fee amount after taking into account the Ohio resident and 68720
Ohio leader scholarships and any other credit provided to all Ohio 68721
residents. 68722

(2) The chancellor of the Ohio board of regents may authorize 68723
a state university or college or a nonpublic Ohio institution of 68724
higher education to award a choose Ohio first scholarship in an 68725
amount greater than one-half of the highest in-state undergraduate 68726
instructional and general fees charged by all state universities 68727
to either of the following: 68728

(a) Any undergraduate student who qualifies for a scholarship 68729
and is enrolled in a program leading to a teaching profession in 68730
science, technology, engineering, mathematics, or medicine; 68731

(b) Any graduate student who qualifies for a scholarship, if 68732
any initiatives are selected for award under division (B) of this 68733
section. 68734

(B) The chancellor shall encourage state universities and 68735
colleges, alone or in collaboration with other state institutions 68736
of higher education, nonpublic Ohio universities and colleges, or 68737
other public or private Ohio entities, to submit proposals under 68738
the choose Ohio first scholarship program for initiatives that 68739
recruit either of the following: 68740

(1) Ohio residents who enrolled in colleges and universities 68741
in other states or other countries to return to Ohio and enroll in 68742
state universities or colleges as graduate students in the fields 68743
of science, technology, engineering, mathematics, and medicine, or 68744
in the fields of science, technology, engineering, mathematics, or 68745
medical education. If such proposals are submitted and meet the 68746

chancellor's competitive criteria for awards, the chancellor, 68747
subject to approval by the controlling board, shall give at least 68748
one of the proposals preference for an award. 68749

(2) Graduates, or undergraduates who will graduate in time to 68750
participate in the program described in this division by the 68751
subsequent school year, from an Ohio college or university who 68752
received, or will receive, a degree in science, technology, 68753
engineering, mathematics, or medicine to participate in a 68754
graduate-level teacher education masters program in one of those 68755
fields that requires the student to establish a domicile in the 68756
state and to commit to teach for a minimum of three years in a 68757
hard-to-staff school district in the state upon completion of the 68758
master's degree program. The chancellor may require a college or 68759
university to give priority to qualified candidates who graduated 68760
from a high school in this state. 68761

"Hard-to-staff" shall be as defined by the department of 68762
education. 68763

(C) The general assembly intends that money appropriated for 68764
the choose Ohio first scholarship program in each fiscal year be 68765
used for scholarships in the following academic year. 68766

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the 68767
Revised Code: 68768

(A) "Clearinghouse" means the clearinghouse established under 68769
section 3333.82 of the Revised Code. 68770

(B) "Community school" means a community school established 68771
under Chapter 3314. of the Revised Code. 68772

(C) "Common statewide platform" means a software program that 68773
facilitates the delivery of courses via computers from multiple 68774
course providers to multiple end users, tracks the progress of the 68775
end user, and includes an integrated searchable database of 68776

standards-based course content. 68777

(D) "Course provider" means a school district, community 68778
school, STEM school, state institution of higher education, 68779
private college or university, or nonprofit or for-profit private 68780
entity that creates or is an agent of the creator of original 68781
course content for a course offered through the clearinghouse. 68782

(E) "Instructor" means an individual who holds a license 68783
issued by the state board of education, as defined in section 68784
3319.31 of the Revised Code, or an individual employed as an 68785
instructor or professor by a state institution of higher education 68786
or a private college or university. 68787

(F) "State institution of higher education" has the same 68788
meaning as in section 3345.011 of the Revised Code. 68789

(G) "STEM school" means a science, technology, engineering, 68790
and mathematics school established under Chapter 3326. of the 68791
Revised Code. 68792

(H) A "student's community school" means the community school 68793
in which the student is enrolled instead of being enrolled in a 68794
school operated by a school district. 68795

(I) A "student's school district" means the school district 68796
operating the school in which the student is lawfully enrolled. 68797

(J) "A student's STEM school" means the STEM school in which 68798
the student is enrolled instead of being enrolled in a school 68799
operated by a school district. 68800

(K) "School district" means a city, exempted village, local, 68801
or joint vocational school district. 68802

Sec. 3333.82. (A) The chancellor of the Ohio board of regents 68803
shall establish a clearinghouse of interactive distance learning 68804
courses and other distance learning courses delivered via a 68805
computer-based method offered by school districts, community 68806

schools, STEM schools, state institutions of higher education, 68807
private colleges and universities, and other nonprofit and 68808
for-profit course providers for sharing with other school 68809
districts, community schools, STEM schools, state institutions of 68810
higher education, private colleges and universities, and 68811
individuals for the fee set pursuant to section 3333.84 of the 68812
Revised Code. The chancellor shall not be responsible for the 68813
content of courses offered through the clearinghouse; however, all 68814
such courses shall be delivered only in accordance with technical 68815
specifications approved by the chancellor and on a common 68816
statewide platform administered by the chancellor. 68817

The clearinghouse's distance learning program for students in 68818
grades kindergarten to twelve shall be based on the following 68819
principles: 68820

(1) All Ohio students shall have access to high quality 68821
distance learning courses at any point in their educational 68822
careers. 68823

(2) All students shall be able to customize their education 68824
using distance learning courses offered through the clearinghouse 68825
and no student shall be denied access to any course in the 68826
clearinghouse in which the student is eligible to enroll. 68827

(3) Students may take distance learning courses for all or 68828
any portion of their curriculum requirements and may utilize a 68829
combination of distance learning courses and courses taught in a 68830
traditional classroom setting. 68831

(4) Students may earn an unlimited number of academic credits 68832
through distance learning courses. 68833

(5) Students may take distance learning courses at any time 68834
of the calendar year. 68835

(6) Student advancement to higher coursework shall be based 68836
on a demonstration of subject area competency instead of 68837

completion of any particular number of hours of instruction. 68838

(B) To offer a course through the clearinghouse, a course 68839
provider shall apply to the chancellor in a form and manner 68840
prescribed by the chancellor. The application for each course 68841
shall describe the course of study in as much detail as required 68842
by the chancellor, whether an instructor is provided, the 68843
qualification and credentials of the instructor, the number of 68844
hours of instruction, and any other information required by the 68845
chancellor. The chancellor may require course providers to include 68846
in their applications information recommended by the state board 68847
of education under former section 3353.30 of the Revised Code. 68848

(C) The chancellor shall review the technical specifications 68849
of each application submitted under division (B) of this section. 68850
In reviewing applications, the chancellor may consult with the 68851
department of education; however, the responsibility to either 68852
approve or not approve a course for the clearinghouse belongs to 68853
the chancellor. The chancellor may request additional information 68854
from a course provider that submits an application under division 68855
(B) of this section, if the chancellor determines that such 68856
information is necessary. The chancellor may negotiate changes in 68857
the proposal to offer a course, if the chancellor determines that 68858
changes are necessary in order to approve the course. 68859

(D) The chancellor shall catalog each course approved for the 68860
clearinghouse, through a print or electronic medium, displaying 68861
the following: 68862

(1) Information necessary for a student and the student's 68863
parent, guardian, or custodian and the student's school district, 68864
community school, STEM school, college, or university to decide 68865
whether to enroll in or subscribe to the course; 68866

(2) Instructions for enrolling in that course, including 68867
deadlines for enrollment. 68868

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider. 68869
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~~(F) The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code. The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format.~~ 68872
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Sec. 3333.83. ~~(A) A student who is enrolled in a school operated by a school district or in a community school or STEM school may enroll in a course through the clearinghouse only if both of the following conditions are satisfied:~~ 68879
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~~(1) The student's enrollment in the course is approved by the student's school district, community school, or STEM school.~~ 68883
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~~(2) The student's school district, community school, or STEM school agrees to accept for credit the grade assigned by the course provider, if that provider is another school district, community school, or STEM school. Each school district, community school, and STEM school shall encourage students to take advantage of the distance learning opportunities offered through the clearinghouse and shall assist any student electing to participate in the clearinghouse with the selection and scheduling of courses that satisfy the district's or school's curriculum requirements and promote the student's post-secondary college or career plans.~~ 68885
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(B) For each student enrolled in a school operated by a school district or in a community school or STEM school who is enrolling in a course provided through the clearinghouse by another school district, community school, or STEM school, the student's school district, community school, or STEM school shall 68895
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transmit the student's name to the course provider. 68900

The course provider may request from the student's school 68901
district, community school, or STEM school other information from 68902
the student's school record. The district or school shall provide 68903
the requested information only in accordance with section 3319.321 68904
of the Revised Code. 68905

(C) The student's school district, community school, or STEM 68906
school shall determine the manner in which and facilities at which 68907
the student shall participate in the course consistent with 68908
specifications for technology and connectivity adopted by the 68909
chancellor of the Ohio board of regents. 68910

(D) A student may withdraw from a course prior to the end of 68911
the course only by a date and in a manner prescribed by the 68912
student's school district, community school, or STEM school. 68913

(E) A student who is enrolled in a school operated by a 68914
school district or in a community school or STEM school and who 68915
takes a course through the clearinghouse shall be counted in the 68916
formula ADM of a school district under section 3317.03 of the 68917
Revised Code as if the student were taking the course from the 68918
student's school district, community school, or STEM school. 68919

Sec. 3333.84. (A) The fee charged for any course offered 68920
through the clearinghouse shall be set by the course provider. 68921

(B) The chancellor of the Ohio board of regents shall 68922
prescribe the manner in which the fee for a course shall be 68923
collected or deducted from the school district, school, college or 68924
university, or individual subscribing to the course and in which 68925
manner the fee shall be paid to the course provider. 68926

(C) The chancellor may retain a percentage of the fee charged 68927
for a course to offset the cost of maintaining and operating the 68928
clearinghouse, including the payment of compensation for an entity 68929

or a private entity that is under contract with the chancellor 68930
under division (F) of section 3333.82 of the Revised Code. The 68931
percentage retained shall be determined by the chancellor. 68932

(D) Nothing in this section shall be construed to require the 68933
school district, community school, or STEM school in which a 68934
student is enrolled to pay the fee charged for a course taken by 68935
the student. 68936

Sec. 3333.85. (A) The grade for a student enrolled in a 68937
school operated by a school district or in a community school or 68938
STEM school for a course provided through the clearinghouse by 68939
another school district, community school, or STEM school shall be 68940
assigned by the course provider and shall be transmitted to the 68941
student's school district, community school, or STEM school. 68942

(B) The district or school enrolling the student shall award 68943
the student credit for successful completion of the course. The 68944
credit awarded shall be equivalent to any credit that would be 68945
granted for successful completion of a similar course offered by 68946
the district or school. 68947

(C) No district or school shall prohibit or otherwise limit 68948
any student's access to or participation in courses offered 68949
through the clearinghouse, or refuse to recognize such courses as 68950
fulfilling curriculum requirements, including the requirements for 68951
a high school diploma under section 3313.603 of the Revised Code. 68952

Sec. 3333.87. The chancellor of the Ohio board of regents and 68953
the state board of education jointly, and in consultation with the 68954
director of the governor's office of 21st century education, shall 68955
adopt rules in accordance with Chapter 119. of the Revised Code 68956
prescribing procedures for the implementation of sections 3333.81 68957
to 3333.86 of the Revised Code. 68958

Sec. 3333.90. (A) As used in this section:	68959
(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.	68960 68961 68962 68963 68964
(2) " Authority <u>Issuing authority</u> " means the Ohio building authority <u>has the same meaning as in section 154.01 of the Revised Code.</u>	68965 68966 68967
(3) "Bond service charges" has the same meaning as in section 152.09 <u>154.01</u> of the Revised Code.	68968 68969
(4) "Chancellor" means the chancellor of the Ohio board of regents.	68970 68971
(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:	68972 68973 68974
(a) A community college as defined in section 3354.01 of the Revised Code;	68975 68976
(b) A technical college as defined in section 3357.01 of the Revised Code;	68977 68978
(c) A state community college as defined in section 3358.01 of the Revised Code.	68979 68980
(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:	68981 68982 68983
(a) A community college district as defined in section 3354.01 of the Revised Code;	68984 68985
(b) A technical college district as defined in section 3357.01 of the Revised Code;	68986 68987

(c) A state community college district as defined in section 3358.01 of the Revised Code. 68988
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(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code. 68990
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(8) "Obligations" has the meaning as in section ~~152.09~~ 154.01 or 3345.12 of the Revised Code, as the context requires. 68992
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(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under ~~division (C) of~~ section ~~152.09~~ 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations. 68994
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The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require. 69007
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The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the issuing authority in the case of obligations to be issued by the issuing authority, shall approve each request if all of the following conditions are met: 69010
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(1) Approval of the request will enhance the marketability of 69018

the obligations for which the request is made; 69019

(2) The chancellor and the office of budget and management, 69020
and the issuing authority in the case of obligations to be issued 69021
by the issuing authority, have no reason to believe the requesting 69022
community or technical college district or the community or 69023
technical college it operates will be unable to pay when due the 69024
bond service charges on the obligations for which the request is 69025
made, and bond service charges on those obligations are therefore 69026
not anticipated to be paid pursuant to this section from the 69027
allocated state share of instruction for purposes of Section 17 of 69028
Article VIII, Ohio Constitution. 69029

(3) Any other pertinent conditions established in rules 69030
adopted under division (H) of this section. 69031

(C) If the chancellor approves the request of a community or 69032
technical college district to withhold and deposit funds pursuant 69033
to this section, the chancellor shall enter into a written 69034
agreement with the district and the primary paying agent or fiscal 69035
agent for the obligations, which agreement shall provide for the 69036
withholding of funds pursuant to this section for the payment of 69037
bond service charges on those obligations. The agreement may also 69038
include both of the following: 69039

(1) Provisions for certification by the district to the 69040
chancellor, prior to the deadline for payment of the applicable 69041
bond service charges, whether the district and the community or 69042
technical college it operates are able to pay those bond service 69043
charges when due; 69044

(2) Requirements that the district or the community or 69045
technical college it operates deposits amounts for the payment of 69046
those bond service charges with the primary paying agent or fiscal 69047
agent for the obligations prior to the date on which the bond 69048
service charges are due to the owners or holders of the 69049

obligations. 69050

(D) Whenever a district or the community or technical college 69051
it operates notifies the chancellor that it will not be able to 69052
pay the bond service charges when they are due, subject to the 69053
withholding provisions of this section, or whenever the applicable 69054
paying agent or fiscal agent notifies the chancellor that it has 69055
not timely received from a district or from the college it 69056
operates the full amount needed for payment of the bond service 69057
charges when due to the holders or owners of such obligations, the 69058
chancellor shall immediately contact the district or college and 69059
the paying agent or fiscal agent to confirm that the district and 69060
the college are not able to make the required payment by the date 69061
on which it is due. 69062

If the chancellor confirms that the district and the college 69063
are not able to make the payment and the payment will not be made 69064
pursuant to a credit enhancement facility, the chancellor shall 69065
promptly pay to the applicable primary paying agent or fiscal 69066
agent the lesser of the amount due for bond service charges or the 69067
amount of the next periodic distribution scheduled to be made to 69068
the district or to the college in respect of its allocated state 69069
share of instruction. If this amount is insufficient to pay the 69070
total amount then due the agent for the payment of bond service 69071
charges, the chancellor shall continue to pay to the agent from 69072
each periodic distribution thereafter, and until the full amount 69073
due the agent for unpaid bond service charges is paid in full, the 69074
lesser of the remaining amount due the agent for bond service 69075
charges or the amount of the next periodic distribution scheduled 69076
to be made to the district or college in respect of its allocated 69077
state share of instruction. 69078

(E) The chancellor may make any payments under this section 69079
by direct deposit of funds by electronic transfer. 69080

Any amount received by a paying agent or fiscal agent under 69081

this section shall be applied only to the payment of bond service 69082
charges on the obligations of the community or technical college 69083
district or community or technical college subject to this section 69084
or to the reimbursement of the provider of a credit enhancement 69085
facility that has paid the bond service charges. 69086

(F) The chancellor may make payments under this section to 69087
paying agents or fiscal agents during any fiscal biennium of the 69088
state only from and to the extent that money is appropriated to 69089
the board of regents by the general assembly for distribution 69090
during such biennium for the state share of instruction and only 69091
to the extent that a portion of the state share of instruction has 69092
been allocated to the community or technical college district or 69093
community or technical college. Obligations of the issuing 69094
authority or of a community or technical college district to which 69095
this section is made applicable do not constitute an obligation or 69096
a debt or a pledge of the faith, credit, or taxing power of the 69097
state, and the holders or owners of those obligations have no 69098
right to have excises or taxes levied or appropriations made by 69099
the general assembly for the payment of bond service charges on 69100
the obligations, and the obligations shall contain a statement to 69101
that effect. The agreement for or the actual withholding and 69102
payment of money under this section does not constitute the 69103
assumption by the state of any debt of a community or technical 69104
college district or a community or technical college, and bond 69105
service charges on the related obligations are not anticipated to 69106
be paid from the state general revenue fund for purposes of 69107
Section 17 of Article VIII, Ohio Constitution. 69108

(G) In the case of obligations subject to the withholding 69109
provisions of this section, the issuing community or technical 69110
college district, or the issuing authority in the case of 69111
obligations issued by the issuing authority, shall appoint a 69112
paying agent or fiscal agent who is not an officer or employee of 69113

the district or college. 69114

(H) The chancellor, with the advice and consent of the office 69115
of budget and management, may adopt reasonable rules not 69116
inconsistent with this section for the implementation of this 69117
section to secure payment of bond service charges on obligations 69118
issued by a community or technical college district or by the 69119
issuing authority for the benefit of a community or technical 69120
college district or the community or technical college it 69121
operates. Those rules shall include criteria for the evaluation 69122
and approval or denial of community or technical college district 69123
requests for withholding under this section. 69124

(I) The authority granted by this section is in addition to 69125
and not a limitation on any other authorizations granted by or 69126
pursuant to law for the same or similar purposes. 69127

Sec. 3333.93. (A) The Ohio out-of-state tuition surcharge 69128
forgiveness program is hereby created. The chancellor of the Ohio 69129
board of regents shall defer payment of the out-of-state tuition 69130
surcharge for nonresident undergraduate and graduate students 69131
enrolled in a state institution of higher education who qualify 69132
for the program. In order to receive such a deferment, nonresident 69133
students must commit to living and working in the state for five 69134
years after receiving a degree from a state institution of higher 69135
education. For each year a deferment recipient lives and works in 69136
Ohio, a percentage of the total amount of out-of-state tuition 69137
owed by the recipient shall be forgiven until the end of the fifth 69138
year of employment and residency in the state after graduation, at 69139
which time the remaining amount owed shall be forgiven under 69140
division (C) of section 3333.94 of the Revised Code. 69141

(B) The chancellor shall adopt rules in accordance with 69142
Chapter 119. of the Revised Code to establish and administer the 69143
program. Such rules shall include, but not be limited to, all of 69144

<u>the following:</u>	69145
<u>(1) Student eligibility to receive a deferment, and any academic requirements to continue receiving the deferment;</u>	69146
<u>(2) An application, selection, and award process for deferments;</u>	69148
<u>(3) A process for accounting for the amount of out-of-state tuition owed by the deferment recipient, calculated in conjunction with state institutions of higher education;</u>	69149
<u>(4) The maximum amount of out-of-state tuition surcharges a recipient may defer;</u>	69150
<u>(5) A procedure for recipients who transfer to other state institutions of higher education;</u>	69151
<u>(6) Conditions under which a deferment shall be canceled.</u>	69152
<u>The chancellor shall require that all applicants to the deferment program shall file a statement of selective service status in compliance with section 3345.32 of the Revised Code, if applicable, and that all applicants have not been convicted of, plead guilty to, or adjudicated a delinquent child for any violation listed in section 3333.38 of the Revised Code.</u>	69153
<u>(C)(1) Tuition surcharge deferment recipients shall reside and work in the state for not less than five years immediately subsequent to receiving a degree from a state institution of higher education.</u>	69154
<u>(2) If a student who receives a deferral under this section as an undergraduate enrolls in a graduate program at a state institution of higher education in the academic year subsequent to graduation, division (C)(1) of this section shall not apply until the student graduates from the graduate program in which that student is enrolled.</u>	69155
<u>(D) The board of trustees of any state institution of higher</u>	69156

education may do either of the following: 69175

(1) Limit the number of nonresident students enrolled in that state institution who may participate in the program established in this section; 69176
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(2) Establish eligibility standards for students enrolled in that state institution to qualify for and to continue participating in the program established under this section. 69179
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Sec. 3333.94. (A) Each recipient who accepts an out-of-state tuition surcharge payment deferment under section 3333.93 of the Revised Code, or the recipient's parent if the recipient is younger than eighteen years of age, shall sign a promissory note payable to the state in the event the recipient does not satisfy the requirements of division (C) of section 3333.93 of the Revised Code or the deferment is terminated. The amount payable under the note shall be the amount of deferred total out-of-state tuition surcharge accrued by the recipient. The period of repayment under the note shall be determined by the chancellor of the Ohio board of regents. The note shall stipulate that the obligation to make payments under the note is canceled after the recipient has lived and worked in the state for five years after graduation in accordance with division (C) of section 3333.93 of the Revised Code, or if the recipient dies or becomes totally and permanently disabled. 69182
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(B) Repayment of the principal amount of the deferred surcharge and interest accrued shall be deferred while the recipient is enrolled in a state institution of higher education, while the recipient is seeking employment to fulfill the employment obligation, for a period not to exceed six months, or while the recipient lives and works in the state. 69198
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(C) During the five-year period following the recipient's graduation from a state institution of higher education, the 69204
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chancellor shall deduct from the outstanding balance that may be 69206
converted to a loan an amount as follows at the end of each year 69207
the recipient lives and works in the state: 69208

(1) Ten per cent of the total amount deferred, at the end of 69209
the first year of employment and residence after graduation; 69210

(2) Twenty per cent of the total amount deferred, at the end 69211
of the second year of employment and residence; 69212

(3) Thirty per cent of the total amount deferred, at the end 69213
of the third year of employment and residence after graduation; 69214

(4) Fifty per cent of the total amount deferred, at the end 69215
of the fourth year of employment and residence after graduation; 69216

(5) One hundred per cent of the total amount deferred, at the 69217
end of the fifth year of employment and residence after 69218
graduation. 69219

(D) The chancellor may terminate the deferment in accordance 69220
with the rules adopted under section 3333.93 of the Revised Code, 69221
in which case the amount deferred shall be converted to a loan to 69222
be repaid under division (A) of this section. 69223

(E) Except as provided in division (B)(5) of section 3333.93 69224
of the Revised Code, the deferment shall be deemed terminated upon 69225
the recipient's withdrawal from school or the recipient's failure 69226
to meet the standards of the deferment, as determined by the 69227
chancellor or the state institution of higher education from which 69228
the recipient received a degree, and shall be converted to a loan 69229
to be repaid under division (A) of this section. 69230

(F) The chancellor and the attorney general shall collect 69231
payments on the converted loan in accordance with section 131.02 69232
of the Revised Code. 69233

Sec. 3334.19. (A) The Ohio tuition trust authority shall 69234
adopt an investment plan that sets forth investment policies and 69235

guidelines to be utilized in administering the variable college 69236
savings program and investment options offered by the authority. 69237
The investment options shall include a default option to benefit 69238
contributors who are first-time investors or have low to moderate 69239
incomes. Except as provided in section 3334.20 of the Revised 69240
Code, the authority shall contract with one or more insurance 69241
companies, banks, or other financial institutions to act as its 69242
investment agents and to provide such services as the authority 69243
considers appropriate to the investment plan, including: 69244

(1) Purchase, control, and safekeeping of assets; 69245

(2) Record keeping and accounting for individual accounts and 69246
for the program as a whole; 69247

(3) Provision of consolidated statements of account. 69248

(B) The authority or its investment agents shall maintain a 69249
separate account for the beneficiary of each contract entered into 69250
under the variable college savings program. If a beneficiary has 69251
more than one such account, the authority or its agents shall 69252
track total contributions and earnings and provide a consolidated 69253
system of account distributions to institutions of higher 69254
education. 69255

(C) The authority or its investment agents may place assets 69256
of the program in savings accounts and may purchase fixed or 69257
variable life insurance or annuity contracts, securities, evidence 69258
of indebtedness, or other investment products pursuant to the 69259
investment plan. 69260

(D) Contributors shall not direct the investment of their 69261
contributions under the investment plan. The authority shall 69262
impose other limits on contributors' investment discretion to the 69263
extent required under section 529 of the Internal Revenue Code. 69264

(E) The investment agents with which the authority contracts 69265
shall discharge their duties with respect to program funds with 69266

the care and diligence that a prudent person familiar with such 69267
matters and with the character and aims of the program would use. 69268

(F) The assets of the program shall be preserved, invested, 69269
and expended solely for the purposes of this chapter and shall not 69270
be loaned or otherwise transferred or used by the state for any 69271
other purpose. This section shall not be construed to prohibit the 69272
investment agents of the authority from investing, by purchase or 69273
otherwise, in bonds, notes, or other obligations of the state or 69274
any agency or instrumentality of the state. Unless otherwise 69275
specified by the authority, assets of the program shall be 69276
expended in the following order of priority: 69277

(1) To make payments on behalf of beneficiaries; 69278

(2) To make refunds upon termination of variable college 69279
savings program contracts; 69280

(3) To pay the authority's costs of administering the 69281
program; 69282

(4) To pay or cover any other expenditure or disbursement the 69283
authority determines necessary or appropriate. 69284

(G) Fees, charges, and other costs imposed or collected by 69285
the authority in connection with the variable college savings 69286
program, including any fees or other payments that the authority 69287
requires an investment agent to pay to the authority, shall be 69288
credited to either the variable operating fund or the index 69289
operating fund at the discretion of the authority. These funds are 69290
hereby created in the state treasury. Expenses incurred in the 69291
administration of the variable college savings program, as well as 69292
other expenses, disbursements, or payments the authority considers 69293
appropriate for the benefit of any college savings programs 69294
administered by the authority, the state of Ohio and its citizens, 69295
shall be paid from the variable operating fund or the index 69296
operating fund at the discretion of the authority. 69297

(H) No records of the authority indicating the identity of purchasers, contributors, and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code.

Sec. 3345.023. (A) No state institution of higher education shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.

(B) As used in this section:

(1) "Benefits" include, without limitation:

(a) Recognition;

(b) Registration;

(c) The use of facilities of the state institution of higher education for meetings or speaking purposes, subject to section 3345.021 of the Revised Code;

(d) The use of channels of communication of the state institution of higher education;

(e) Funding sources that are otherwise available to any other student group in the state institution of higher education.

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.061. (A) Ohio's two-year institutions of higher education are respected points of entry for students embarking on post-secondary careers and courses completed at those institutions are transferable to state universities in accordance with articulation and transfer agreements developed under sections

3333.16, 3333.161, and 3333.162 of the Revised Code. 69327

(B) Beginning with undergraduate students who commence 69328
undergraduate studies in the 2014-2015 academic year, no state 69329
university listed in section 3345.011 of the Revised Code, except 69330
Central state university, Shawnee state university, and Youngstown 69331
state university, shall receive any state operating subsidies for 69332
any academic remedial or developmental courses for undergraduate 69333
students, including courses prescribed in the Ohio core curriculum 69334
for high school graduation under division (C) of section 3313.603 69335
of the Revised Code, offered at its main campus, except as 69336
provided in divisions (B)(1) to (4) of this section. 69337

(1) In the 2014-2015 and 2015-2016 academic years, a state 69338
university may receive state operating subsidies for academic 69339
remedial or developmental courses for not more than three per cent 69340
of the total undergraduate credit hours provided by the university 69341
at its main campus. 69342

(2) In the 2016-2017 academic year, a state university may 69343
receive state operating subsidies for academic remedial or 69344
developmental courses for not more than fifteen per cent of the 69345
first-year students who have graduated from high school within the 69346
previous twelve months and who are enrolled in the university at 69347
its main campus, as calculated on a full-time-equivalent basis. 69348

(3) In the 2017-2018 academic year, a state university may 69349
receive state operating subsidies for academic remedial or 69350
developmental courses for not more than ten per cent of the 69351
first-year students who have graduated from high school within the 69352
previous twelve months and who are enrolled in the university at 69353
its main campus, as calculated on a full-time-equivalent basis. 69354

(4) In the 2018-2019 academic year, a state university may 69355
receive state operating subsidies for academic remedial or 69356
developmental courses for not more than five per cent of the 69357

first-year students who have graduated from high school within the 69358
previous twelve months and who are enrolled in the university at 69359
its main campus, as calculated on a full-time-equivalent basis. 69360

Each state university may continue to offer academic remedial 69361
and developmental courses at its main campus beyond the extent for 69362
which state operating subsidies may be paid under this division 69363
and may continue to offer such courses beyond the 2018-2019 69364
academic year. However, the university shall not receive any state 69365
operating subsidies for such courses above the maximum amounts 69366
permitted in this division. 69367

(C) Except as otherwise provided in division (B) of this 69368
section, beginning with students who commence undergraduate 69369
studies in the 2014-2015 academic year, state operating subsidies 69370
for academic remedial or developmental courses offered by state 69371
institutions of higher education may be paid only to Central state 69372
university, Shawnee state university, Youngstown state university, 69373
any university branch, any community college, any state community 69374
college, or any technical college. 69375

(D) Each state university shall grant credit for academic 69376
remedial or developmental courses successfully completed at an 69377
institution described in division (C) of this section pursuant to 69378
any applicable articulation and transfer agreements the university 69379
has entered into in accordance with policies and procedures 69380
adopted under section 3333.16, 3333.161, or 3333.162 of the 69381
Revised Code. 69382

(E) The chancellor of the Ohio board of regents shall do all 69383
of the following: 69384

(1) Withhold state operating subsidies for academic remedial 69385
or developmental courses provided by a state university as 69386
required in order to conform to divisions (B) and (C) of this 69387
section; 69388

(2) Adopt uniform statewide standards for academic remedial and developmental courses offered by all state institutions of higher education, ~~as defined in section 3345.011 of the Revised Code;~~

(3) Encourage and assist in the design and establishment of academic remedial and developmental courses by institutions of higher education;

(4) Define "academic year" for purposes of this section and section 3345.06 of the Revised Code;

(5) Encourage and assist in the development of articulation and transfer agreements between state universities and other institutions of higher education in accordance with policies and procedures adopted under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(F) Not later than December 31, 2012, the presidents, or equivalent position, of all state institutions of higher education, or their designees, jointly shall establish uniform statewide standards in mathematics, science, reading, and writing each student enrolled in a state institution of higher education must meet to be considered in remediation-free status. The presidents also shall establish assessments, if they deem necessary, to determine if a student meets the standards adopted under this division. Each institution is responsible for assessing the needs of its enrolled students in the manner adopted by the presidents. The board of trustees or managing authority of each state institution of higher education shall adopt the remediation-free status standard, and any related assessments, into the institution's policies.

The chancellor shall assist in coordinating the work of the presidents under this division.

(G) Each year, not later than a date established by the

chancellor, each state institution of higher education shall 69420
report to the governor, the general assembly, the chancellor, and 69421
the superintendent of public instruction all of the following for 69422
the prior academic year: 69423

(1) The institution's aggregate costs for providing academic 69424
remedial or developmental courses; 69425

(2) The amount of those costs disaggregated according to the 69426
city, local, or exempted village school districts from which the 69427
students taking those courses received their high school diplomas; 69428

(3) Any other information with respect to academic remedial 69429
and developmental courses that the chancellor considers 69430
appropriate. 69431

(H) Not later than December 31, 2011, and the thirty-first 69432
day of each December thereafter, the chancellor and the 69433
superintendent of public instruction shall issue a report 69434
recommending policies and strategies for reducing the need for 69435
academic remediation and developmental courses at state 69436
institutions of higher education. 69437

(I) As used in this section, "state institution of higher 69438
education" has the same meaning as in section 3345.011 of the 69439
Revised Code. 69440

Sec. 3345.14. (A) As used in this section, "state college or 69441
university" means any state university or college defined in 69442
division (A)(1) of section 3345.12 of the Revised Code, and any 69443
other institution of higher education defined in division (A)(2) 69444
of that section. 69445

(B) All rights to and interests in discoveries, inventions, 69446
or patents which result from research or investigation conducted 69447
in any experiment station, bureau, laboratory, research facility, 69448
or other facility of any state college or university, or by 69449

employees of any state college or university acting within the 69450
scope of their employment or with funding, equipment, or 69451
infrastructure provided by or through any state college or 69452
university, shall be the sole property of that college or 69453
university. No person, firm, association, corporation, or 69454
governmental agency which uses the facilities of such college or 69455
university in connection with such research or investigation and 69456
no faculty member, employee, or student of such college or 69457
university participating in or making such discoveries or 69458
inventions, shall have any rights to or interests in such 69459
discoveries or inventions, including income therefrom, except as 69460
may, by determination of the board of trustees of such college or 69461
university, be assigned, licensed, transferred, or paid to such 69462
persons or entities in accordance with division (C) of this 69463
section or in accordance with rules adopted under division (D) of 69464
this section. 69465

(C) As may be determined from time to time by the board of 69466
trustees of any state college or university, the college or 69467
university may retain, assign, license, transfer, sell, or 69468
otherwise dispose of, in whole or in part and upon such terms as 69469
the board of trustees may direct, any and all rights to, interests 69470
in, or income from any such discoveries, inventions, or patents 69471
which the college or university owns or may acquire. Such 69472
dispositions may be to any individual, firm, association, 69473
corporation, or governmental agency, or to any faculty member, 69474
employee, or student of the college or university as the board of 69475
trustees may direct. Any and all income or proceeds derived or 69476
retained from such dispositions shall be applied to the general or 69477
special use of the college or university as determined by the 69478
board of trustees of such college or university. 69479

(D)(1) Notwithstanding any provision of the Revised Code to 69480
the contrary, including but not limited to sections 102.03, 69481

102.04, 2921.42, and 2921.43 of the Revised Code, the board of trustees of any state college or university may adopt rules in accordance with section 111.15 of the Revised Code that set forth circumstances under which an employee of the college or university may solicit or accept, and under which a person may give or promise to give to such an employee, a financial interest in any firm, corporation, or other association to which the board has assigned, licensed, transferred, or sold the college or university's interests in its intellectual property, including discoveries or inventions made or created by that employee or in patents issued to that employee.

(2) Rules established under division (D)(1) of this section shall include the following:

(a) A requirement that each college or university employee disclose to the college or university board of trustees any financial interest the employee holds in a firm, corporation, or other association as described in division (D)(1) of this section;

(b) A requirement that all disclosures made under division (D)(2)(a) of this section are reviewed by officials designated by the college or university board of trustees. The officials designated under this division shall determine the information that shall be disclosed and safeguards that shall be applied in order to manage, reduce, or eliminate any actual or potential conflict of interest.

(c) A requirement that in implementing division (D) of this section all members of the college or university board of trustees shall be governed by Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(d) Guidelines to ensure that any financial interest held by any employee of the college or university does not result in misuse of the students, employees, or resources of the college or

university for the benefit of the firm, corporation, or other 69513
association in which such interest is held or does not otherwise 69514
interfere with the duties and responsibilities of the employee who 69515
holds such an interest. 69516

(3) Rules established under division (D)(1) of this section 69517
may include other provisions at the discretion of the college or 69518
university board of trustees. 69519

(E) Notwithstanding division (D) of this section, the Ohio 69520
ethics commission retains authority to provide assistance to a 69521
college or university board of trustees in the implementation of 69522
division (D)(2) of this section and to address any matter that is 69523
outside the scope of the exception to division (B) of this section 69524
as set forth in division (D) of this section or as set forth in 69525
rules established under division (D) of this section. 69526

Sec. 3345.32. (A) As used in this section: 69527

(1) "State university or college" means the institutions 69528
described in section 3345.27 of the Revised Code and the northeast 69529
Ohio medical university. 69530

(2) "Resident" has the meaning specified by rule of the 69531
chancellor of the Ohio board of regents. 69532

(3) "Statement of selective service status" means a statement 69533
certifying one of the following: 69534

(a) That the individual filing the statement has registered 69535
with the selective service system in accordance with the "Military 69536
Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as 69537
amended; 69538

(b) That the individual filing the statement is not required 69539
to register with the selective service for one of the following 69540
reasons: 69541

(i) The individual is under eighteen or over twenty-six years 69542

of age. 69543

(ii) The individual is on active duty with the armed forces 69544
of the United States other than for training in a reserve or 69545
national guard unit. 69546

(iii) The individual is a nonimmigrant alien lawfully in the 69547
United States in accordance with section 101 (a)(15) of the 69548
"Immigration and Nationality Act," 8 U.S.C. 1101, as amended. 69549

(iv) The individual is not a citizen of the United States and 69550
is a permanent resident of the Trust Territory of the Pacific 69551
Islands or the Northern Mariana Islands. 69552

(4) "Institution of higher education" means any eligible 69553
institution approved by the United States department of education 69554
pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as 69555
amended, or any institution whose students are eligible for 69556
financial assistance under any of the programs described by 69557
division (E) of this section. 69558

(B) The chancellor shall, by rule, specify the form of 69559
statements of selective service status to be filed in compliance 69560
with divisions (C) to (E) of this section. Each statement of 69561
selective service status shall contain a section wherein a male 69562
student born after December 31, 1959, certifies that the student 69563
has registered with the selective service system in accordance 69564
with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. 69565
App. 453, as amended. For those students not required to register 69566
with the selective service, as specified in divisions (A)(2)(b)(i) 69567
to (iv) of this section, a section shall be provided on the 69568
statement of selective service status for the certification of 69569
nonregistration and for an explanation of the reason for the 69570
exemption. The chancellor may require that such statements be 69571
accompanied by documentation specified by rule of the chancellor. 69572

(C) A state university or college that enrolls in any course, 69573

class, or program a male student born after December 31, 1959, who 69574
has not filed a statement of selective service status with the 69575
university or college shall, regardless of the student's 69576
residency, charge the student any tuition surcharge charged 69577
students who are not residents of this state. 69578

(D) No male born after December 31, 1959, shall be eligible 69579
to receive any loan, grant, scholarship, or other financial 69580
assistance for educational expenses granted under section 3315.33, 69581
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.391, 3333.93, 69582
5910.03, 5910.032, or 5919.34 of the Revised Code, financed by an 69583
award under the choose Ohio first scholarship program established 69584
under section 3333.61 of the Revised Code, or financed by an award 69585
under the Ohio co-op/internship program established under section 69586
3333.72 of the Revised Code, unless that person has filed a 69587
statement of selective service status with that person's 69588
institution of higher education. 69589

(E) If an institution of higher education receives a 69590
statement from an individual certifying that the individual has 69591
registered with the selective service system in accordance with 69592
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 69593
453, as amended, or that the individual is exempt from 69594
registration for a reason other than that the individual is under 69595
eighteen years of age, the institution shall not require the 69596
individual to file any further statements. If it receives a 69597
statement certifying that the individual is not required to 69598
register because the individual is under eighteen years of age, 69599
the institution shall require the individual to file a new 69600
statement of selective service status each time the individual 69601
seeks to enroll for a new academic term or makes application for a 69602
new loan or loan guarantee or for any form of financial assistance 69603
for educational expenses, until it receives a statement certifying 69604
that the individual has registered with the selective service 69605

system or is exempt from registration for a reason other than that 69606
the individual is under eighteen years of age. 69607

Sec. 3345.54. (A) As used in this section: 69608

(1) "Auxiliary facilities" has the same meaning as in section 69609
3345.12 of the Revised Code. 69610

(2) "Conduit entity" means an organization described in 69611
section 501(c)(3) of the Internal Revenue Code qualified as a 69612
public charity under section 509(a)(2) or 509(a)(3) of the 69613
Internal Revenue Code, whose corporate purpose allows it to 69614
perform the functions and obligations of a conduit entity pursuant 69615
to the terms of a financing agreement. 69616

(3) "Conveyed property" means auxiliary facilities conveyed 69617
by a state institution to a conduit entity pursuant to a financing 69618
agreement. 69619

(4) "Financing agreement" means a contract described in 69620
division (C) of this section. 69621

(5) "Independent funding source" means a private entity that 69622
enters into a financing agreement with a conduit entity and a 69623
state institution. 69624

(6) "State institution" means a state institution of higher 69625
education as defined in section 3345.011 of the Revised Code. 69626

(B) The board of trustees of a state institution, with the 69627
approval of the chancellor of the Ohio board of regents and the 69628
controlling board, may enter into a financing agreement with a 69629
conduit entity and an independent funding source selected either 69630
through a competitive selection process or by direct negotiations, 69631
and may convey to the conduit entity title to any auxiliary 69632
facilities owned by the state institution pursuant to the terms of 69633
a financing agreement. 69634

(C) A financing agreement under this section is a written 69635

contract entered into among a state institution, a conduit entity, 69636
and an independent funding source that provides for: 69637

(1) The conveyance of auxiliary facilities owned by a state 69638
institution to the conduit entity for consideration deemed 69639
adequate by the state institution; 69640

(2) The lease of the conveyed property by the conduit entity 69641
to the independent funding source and leaseback of the conveyed 69642
property to the conduit entity for a term not to exceed 69643
ninety-nine years; 69644

(3) Such other terms and conditions that may be negotiated 69645
and agreed upon by the parties, including, but not limited to, 69646
terms regarding: 69647

(a) Payment to the state institution by the conduit entity of 69648
revenues received by it from the operations of the conveyed 69649
property in excess of the payments it is required to make to the 69650
independent funding source under the lease-leaseback arrangement 69651
described in division (C)(2) of this section; 69652

(b) Pledge, assignment, or creation of a lien in favor of the 69653
independent funding source by the conduit entity of any revenues 69654
derived from the conveyed property; 69655

(c) Reverter or conveyance of title to the conveyed property 69656
to the state institution when the conveyed property is no longer 69657
subject to a lease with the independent funding source. 69658

(4) Terms and conditions required by the chancellor or the 69659
controlling board as a condition of approval of the financing 69660
agreement. 69661

(D) The state institution and the conduit entity may enter 69662
into such other management agreements or other contracts regarding 69663
the conveyed property the parties deem appropriate, including 69664
agreements pursuant to which the state institution may maintain or 69665

administer the conveyed property and collect and disburse revenues 69666
from the conveyed property on behalf of the conduit entity. 69667

(E) The parties may modify or extend the term of the 69668
financing agreement with the approval of the chancellor and the 69669
controlling board. 69670

(F) The conveyed property shall retain its exemption from 69671
property taxes and assessments as though title to the conveyed 69672
property were held by the state institution during any part of a 69673
tax year that title is held by the state institution or the 69674
conduit entity and, if held by the conduit entity, remains subject 69675
to the lease-leaseback arrangement described in division (C)(2) of 69676
this section. However, as a condition of the continued exemption 69677
of the conveyed property during the term of the lease-leaseback 69678
arrangement the conduit entity shall apply for and maintain the 69679
exemption as provided by law. 69680

(G) Nothing in this section is intended to abrogate, amend, 69681
limit, or replace any existing authority state institutions may 69682
have with respect to the conveyance, lease, lease-leaseback, 69683
finance, or acquisition of auxiliary facilities including, but not 69684
limited to, authority granted under sections 3345.07, 3345.11, and 69685
3345.12 of the Revised Code. 69686

Sec. 3345.55. (A) For purposes of this section, "university" 69687
includes a state institution of higher education as defined in 69688
section 3345.011 of the Revised Code and a university housing 69689
commission created under section 3347.01 of the Revised Code. 69690

(B) Each university may enter into a lease agreement with a 69691
nonpublic vendor to provide housing services in campus housing 69692
facilities to students of the university. The lease agreement may 69693
require the vendor to construct new campus housing facilities to 69694
serve students. The vendor with whom the university enters into an 69695
agreement shall be responsible for the operation and maintenance 69696

of the housing facilities. The lease shall be for a term of at least twenty years but shall not exceed thirty years. The lease agreement shall specify that the vendor is required to lease housing units to students of the university. Any university housing policies shall extend to and be enforced by the vendors with whom the university contracts.

(C) If the vendors with whom the university has entered into a lease agreement violate the terms of the lease, the university may revoke the lease and regain operational control over the dormitory.

Sec. 3345.81. (A) The chancellor of the Ohio board of regents shall develop a plan for designating public institutions of higher education as charter universities. In developing the plan, the chancellor shall:

(1) Study the administrative and financial relationships between the state and its public institutions of higher education to determine the extent to which public colleges and universities can manage their operations more effectively when accorded flexibility through selected delegation of authority;

(2) Examine legal and other issues related to the feasibility and practicability of restructuring the administrative and financial relationships between the state and its public institutions of higher education;

(3) Consult with the presidents of the institutions of higher education of the university system of Ohio.

(B) The office of budget and management, the department of administrative services, and each state institution of higher education shall provide the chancellor, upon the chancellor's request, with research assistance, fiscal and policy analysis, and other services in conducting the study and developing the plan

under this section. Each state agency shall provide the chancellor with any other assistance requested by the chancellor in conducting the study and developing the plan. 69727
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(C) The chancellor shall specify in the plan: 69730

(1) The manner in which a state institution of higher education may become eligible for restructured financial and operational authority, and performance measures and criteria to determine eligibility. The performance measures and criteria shall address the institution's ability to manage successfully its administrative and financial operations without jeopardizing the financial integrity and stability of the institution. 69731
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(2) Specific areas of financial and operational authority that are subject to increased flexibility; 69738
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(3) The nature and term of the management agreement required between the state and an institution. 69740
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(D) Not later than August 15, 2011, the chancellor shall submit to the general assembly and the governor a report of findings and recommendations for use in developing policy, statutory, and administrative rule changes necessary to implement the plan. No institution shall be designated a charter university until the general assembly, after considering the chancellor's plan, has enacted legislation establishing a procedure for making the designation. The chancellor shall not adopt, amend, or rescind any rules with respect to designating institutions as charter universities until that legislation is enacted. The general assembly intends that the general assembly, governor, and chancellor will take actions necessary for implementation of the plan for charter universities to commence July 1, 2012. 69742
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Sec. 3349.29. An agreement made pursuant to sections 3349.27 and 3349.28 of the Revised Code is not effective unless it has 69755
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been approved by the legislative authority of the municipal 69757
corporation with which the municipal university is identified, 69758
upon such legislative authority's determination that such 69759
agreement will be beneficial to the municipal corporation, and 69760
also approved by the Ohio board of regents, and, if required by 69761
any applicable appropriation measure, by the state controlling 69762
board, and any payment from state tax moneys provided for in the 69763
agreement will be subject to appropriations made by the general 69764
assembly. If provision is to be made under such agreement for the 69765
transfer of, or grant of the right to use, all or a substantial 69766
part of the assets of the municipal university to the state 69767
university and assumption by the state university of educational 69768
functions of the municipal university, such agreement shall not 69769
become effective, under sections 3349.27 to 3349.30 of the Revised 69770
Code until the electors of the municipal corporation have approved 69771
such transfer or grant. 69772

The legislative authority of the municipal corporation shall, 69773
by ordinance, submit the question to the electors at a general, 69774
primary, or a special election to be held on the date specified in 69775
the ordinance. The ordinance shall be certified to the board of 69776
elections not later than the forty-fifth day preceding the date of 69777
the election. Notice of the election shall be published in one ~~or~~ 69778
~~more newspapers~~ newspaper of general circulation in the municipal 69779
corporation once a week for two consecutive weeks or as provided 69780
in section 7.16 of the Revised Code, prior to the election ~~and,~~ 69781
~~if.~~ If the board of elections operates and maintains a web site, 69782
notice of the election also shall be posted on that web site for 69783
thirty days prior to the election. The form of the ballot to be 69784
used at the election shall be substantially as follows, with such 69785
variations as may be appropriate to reflect the general nature of 69786
the transfer or grant of use of assets and the transfer of 69787
educational functions contemplated: 69788

"Shall assets of the municipal university known as be transferred to (make available for use by) a state university known as and the state university assume educational functions of the municipal university and provide higher education in (or in close proximity to) the city of to the residents of the city of and of the state of Ohio and such others as shall be admitted?"

The favorable vote of a majority of those voting on the proposition constitutes such approval as is required by this section.

Sec. 3353.04. (A) The eTech Ohio commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;

(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined

by the commission. 69820

(3) Ensure that, where appropriate, products produced by any 69821
entity to which the commission provides financial assistance for 69822
use in elementary and secondary education are aligned with the 69823
statewide academic standards adopted by the state board pursuant 69824
to section 3301.079 of the Revised Code; 69825

(4) Promote accessibility to educational products aligned 69826
with the statewide academic standards, adopted by the state board 69827
pursuant to section 3301.079 of the Revised Code, for school 69828
districts, community schools, and other entities serving grades 69829
kindergarten through twelve; 69830

(5) Own or operate transmission facilities and 69831
interconnection facilities, or contract for transmission 69832
facilities and interconnection facilities, for an educational 69833
television, radio, or radio reading service network; 69834

(6) Establish standards for interconnection facilities used 69835
by the commission in the transmission of educational television, 69836
radio, or radio reading service programming; 69837

(7) Enter into agreements with noncommercial educational 69838
television or radio broadcasting stations or radio reading 69839
services for the operation of the interconnection; 69840

(8) Enter into agreements with noncommercial educational 69841
television or radio broadcasting stations or radio reading 69842
services for the production and use of educational television, 69843
radio, or radio reading service programs to be transmitted by the 69844
educational telecommunications network; 69845

(9) Execute contracts and other agreements necessary and 69846
desirable to carry out the purposes of this chapter and other 69847
duties prescribed to the commission by law or authorize the 69848
executive director of the commission to execute such contracts and 69849
agreements on the commission's behalf; 69850

(10) Act as consultant with educational television and 69851
educational radio stations and radio reading services toward 69852
coordination within the state of the distribution of federal funds 69853
that may become available for equipment for educational 69854
broadcasting or radio reading services; 69855

(11) Make payments to noncommercial Ohio educational 69856
television or radio broadcasting stations or radio reading 69857
services to sustain the operation of such stations or services; 69858

(12) In consultation with participants in programs 69859
administered by the commission, establish guidelines governing 69860
purchasing and procurement that facilitate the timely and 69861
effective implementation of such programs; 69862

(13) In consultation with participants in programs 69863
administered by the commission, consider the efficiency and cost 69864
savings of statewide procurement prior to allocating and releasing 69865
funds for such programs; 69866

(14) In consultation with participants in programs 69867
administered by the commission, establish a systems support 69868
network to facilitate the timely implementation of the programs 69869
and other projects and activities for which the commission 69870
provides assistance. 69871

(B) Chapters 123., 124., 125., and 153. of the Revised Code 69872
and sections 9.331, ~~9.332~~, and ~~9.333~~ to 9.335 of the Revised Code 69873
do not apply to contracts, programs, projects, or activities of 69874
the commission. 69875

Sec. 3353.15. There is hereby created in the state treasury 69876
the information technology service fund. The fund shall consist of 69877
money received by the eTech Ohio commission pursuant to agreements 69878
with educational entities for the provision of information 69879
technology services to support initiatives to align education from 69880

preschool through college, and any other money deposited into the 69881
fund by the commission. Money in the fund shall be used to provide 69882
the services specified in the agreements, including implementation 69883
and maintenance of an electronic clearinghouse for student 69884
transcript transfers and development of the education data 69885
repository described in section 3301.94 of the Revised Code. 69886
Investment earnings of the fund shall be credited to the fund. 69887

Sec. 3354.12. (A) Upon the request by resolution approved by 69888
the board of trustees of a community college district, and upon 69889
certification to the board of elections not less than ninety days 69890
prior to the election, the boards of elections of the county or 69891
counties comprising such district shall place upon the ballot in 69892
their respective counties the question of levying a tax on all the 69893
taxable property in the community college district outside the 69894
ten-mill limitation, for a specified period of years or for a 69895
continuing period of time, to provide funds for any one or more of 69896
the following purposes: the acquisition of sites, the erection, 69897
furnishing, and equipment of buildings, the acquisition, 69898
construction, or improvement of any property which the board of 69899
trustees of a community college district is authorized to acquire, 69900
construct, or improve and which has an estimated life of 69901
usefulness of five years or more as certified by the fiscal 69902
officer, and the payment of operating costs. Not more than two 69903
special elections shall be held in any one calendar year. Levies 69904
for a continuing period of time adopted under this section may be 69905
reduced in accordance with section 5705.261 of the Revised Code. 69906

If such proposal is to be or include the renewal of an 69907
existing levy at the expiration thereof, the ballot for such 69908
election shall state whether it is a renewal of a tax; a renewal 69909
of a stated number of mills and an increase of a stated number of 69910
mills, or a renewal of a part of an existing levy with a reduction 69911

of a stated number of mills; the year of the tax duplicate on 69912
which such renewal will first be made; and if earlier, the year of 69913
the tax duplicate on which such additional levy will first be 69914
made, which may include the tax duplicate for the current year 69915
unless the election is to be held after the first Tuesday after 69916
the first Monday in November of the current tax year. The ballot 69917
shall also state the period of years for such levy or that it is 69918
for a continuing period of time. If a levy for a continuing period 69919
of time provides for but is not limited to current expenses, the 69920
resolution of the board of trustees providing for the election on 69921
such levy shall apportion the annual rate of the levy between 69922
current expenses and the other purpose or purposes. Such 69923
apportionment need not be the same for each year of the levy, but 69924
the respective portions of the rate actually levied each year for 69925
current expenses and the other purpose or purposes shall be 69926
limited by such apportionment. The portion of the rate apportioned 69927
to the other purpose or purposes shall be reduced as provided in 69928
division (B) of this section. 69929

If a majority of the electors in such district voting on such 69930
question approve thereof, the county auditor or auditors of the 69931
county or counties comprising such district shall annually, for 69932
the applicable years, place such levy on the tax duplicate in such 69933
district, in an amount determined by the board of trustees, but 69934
not to exceed the amount set forth in the proposition approved by 69935
the electors. 69936

The boards of trustees of a community college district shall 69937
establish a special fund for all revenue derived from any tax 69938
levied pursuant to this section. 69939

The boards of elections of the county or counties comprising 69940
the district shall cause to be published in a newspaper of general 69941
circulation in each such county an advertisement of the proposed 69942
tax levy question once a week for two consecutive weeks, or as 69943

provided in section 7.16 of the Revised Code, prior to the 69944
election at which the question is to appear on the ballot, ~~and,~~ 69945
~~if.~~ If a board of elections operates and maintains a web site, 69946
that board also shall post ~~a similar~~ the advertisement on its web 69947
site for thirty days prior to that election. 69948

After the approval of such levy by vote, the board of 69949
trustees of a community college district may anticipate a fraction 69950
of the proceeds of such levy and from time to time issue 69951
anticipation notes having such maturity or maturities that the 69952
aggregate principal amount of all such notes maturing in any 69953
calendar year shall not exceed seventy-five per cent of the 69954
anticipated proceeds from such levy for such year, and that no 69955
note shall mature later than the thirty-first day of December of 69956
the tenth calendar year following the calendar year in which such 69957
note is issued. Each issue of notes shall be sold as provided in 69958
Chapter 133. of the Revised Code. 69959

The amount of bonds or anticipatory notes authorized pursuant 69960
to Chapter 3354. of the Revised Code, may include sums to repay 69961
moneys previously borrowed, advanced, or granted and expended for 69962
the purposes of such bond or anticipatory note issues, whether 69963
such moneys were advanced from the available funds of the 69964
community college district or by other persons, and the community 69965
college district may restore and repay to such funds or persons 69966
from the proceeds of such issues the moneys so borrowed, advanced 69967
or granted. 69968

All operating costs of such community college may be paid out 69969
of any gift or grant from the state, pursuant to division (K) of 69970
section 3354.09 of the Revised Code; out of student fees and 69971
tuition collected pursuant to division (G) of section 3354.09 of 69972
the Revised Code; or out of unencumbered funds from any other 69973
source of the community college income not prohibited by law. 69974

(B) Prior to the application of section 319.301 of the 69975

Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

Sec. 3354.16. (A) When the board of trustees of a community college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty two hundred~~ thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in at least one a newspaper of general circulation within the community college district wherein the work is to be done. Subject to section 3354.10 of the Revised Code, the board of trustees of the district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty two hundred~~ thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States

department of commerce, bureau of economic analysis implicit price 70008
deflator for gross domestic product, nonresidential structures, or 70009
an alternative if the federal government ceases to publish this 70010
metric, provided that no increase or decrease for any year shall 70011
exceed three per cent of the contract limit in existence at the 70012
time of the adjustment. Notwithstanding division (A) of this 70013
section, the limit adjusted under this division shall be used 70014
thereafter in lieu of the limit in division (A) of this section. 70015

(C) Before entering into an improvement pursuant to division 70016
(A) of this section, the board of trustees of a community college 70017
district shall require separate and distinct proposals to be made 70018
for furnishing materials or doing work on the improvement, or 70019
both, in the board's discretion, for each separate and distinct 70020
branch or class of work entering into the improvement. The board 70021
of trustees also may require a single, combined proposal for the 70022
entire project for materials or doing work, or both, in the 70023
board's discretion, that includes each separate and distinct 70024
branch or class of work entering into the improvement. The board 70025
of trustees need not solicit separate proposals for a branch or 70026
class of work for an improvement if the estimate cost for that 70027
branch or class of work is less than ~~five~~ twenty thousand dollars. 70028

(D) When more than one branch or class of work is required, 70030
no contract for the entire job, or for a greater portion thereof 70031
than is embraced in one such branch or class of work shall be 70032
awarded, unless the separate bids do not cover all the work and 70033
materials required or the bids for the whole or for two or more 70034
kinds of work or materials are lower than the separate bids in the 70035
aggregate. The board of trustees need not award separate contracts 70036
for a branch or class of work entering into an improvement if the 70037
estimated cost for that branch or class of work is less than ~~five~~ 70038
twenty thousand dollars. 70039

Sec. 3355.09. Upon receipt of a request from the university 70040
branch district managing authority, the boards of elections of the 70041
county or counties comprising such district shall place upon the 70042
ballot in the district at the next primary or general election 70043
occurring not less than ninety days after submission of such 70044
request by such managing authority, the question of levying a tax 70045
outside the ten-mill limitation, for a specified period of years, 70046
to provide funds for any of the following purposes: 70047

(A) Purchasing a site or enlargement thereof; 70048

(B) The erection and equipment of buildings; 70049

(C) Enlarging, improving, or rebuilding buildings; 70050

(D) The acquisition, construction, or improvement of any 70051
property which the university branch district managing authority 70052
is authorized to acquire, construct, or improve and which has been 70053
certified by the fiscal officer to have an estimated useful life 70054
of five or more years. 70055

If a majority of the electors in such district voting on such 70056
question approve, the county auditor of the county or counties 70057
comprising such district shall annually place such levy on the tax 70058
duplicate in such district, in the amount set forth in the 70059
proposition approved by the electors. 70060

The managing authority of the university branch district 70061
shall establish a special fund pursuant to section 3355.07 of the 70062
Revised Code for all revenue derived from any tax levied pursuant 70063
to provisions of this section. 70064

The boards of election of the county or counties comprising 70065
the district shall cause to be published in a newspaper of general 70066
circulation in each such county an advertisement of the proposed 70067
tax levy question once a week for two consecutive weeks, or as 70068
provided in section 7.16 of the Revised Code, prior to the 70069

election at which the question is to appear on the ballot,~~and,~~ 70070
~~if.~~ If a board of elections operates and maintains a web site, 70071
that board also shall post ~~a similar~~ the advertisement on its web 70072
site for thirty days prior to the election. 70073

After the approval of such levy by vote, the managing 70074
authority of the university branch district may anticipate a 70075
fraction of the proceeds of such levy and from time to time, 70076
during the life of such levy, issue anticipation notes in an 70077
amount not to exceed seventy-five per cent of the estimated 70078
proceeds of such levy to be collected in each year over a period 70079
of five years after the date of the issuance of such notes, less 70080
an amount equal to the proceeds of such levy previously obligated 70081
for such year by the issuance of anticipation notes, provided, 70082
that the total amount maturing in any one year shall not exceed 70083
seventy-five per cent of the anticipated proceeds of such levy for 70084
that year. 70085

Each issue of notes shall be sold as provided in Chapter 133. 70086
of the Revised Code and shall mature serially in substantially 70087
equal amounts, during each remaining year of the levy, not to 70088
exceed five, after their issuance. 70089

Sec. 3357.16. (A) When the board of trustees of a technical 70090
college district has by resolution determined to let by contract 70091
the work of improvements pursuant to the official plan of such 70092
district, contracts in amounts exceeding a dollar amount set by 70093
the board, which dollar amount shall not exceed ~~fifty~~ two hundred 70094
thousand dollars, shall be advertised after notice calling for 70095
bids has been published once a week for three consecutive weeks or 70096
as provided in section 7.16 of the Revised Code, in ~~at least one~~ a 70097
newspaper of general circulation within the technical college 70098
district where the work is to be done. The board of trustees of 70099
the technical college district may let such contract to the lowest 70100

responsive and responsible bidder, in accordance with section 70101
9.312 of the Revised Code, who meets the requirements of section 70102
153.54 of the Revised Code. Such contract shall be in writing and 70103
shall be accompanied by or shall refer to plans and specifications 70104
for the work to be done. Such contract shall be approved by the 70105
board of trustees and signed by the president of the board and by 70106
the contractor. 70107

(B) On the first day of January of every even-numbered year, 70108
the chancellor of the board of regents shall adjust the ~~fifty two~~ 70109
hundred thousand dollar contract limit set forth in division (A) 70110
of this section, as adjusted in any previous year pursuant to this 70111
division. The chancellor shall adjust the limit according to the 70112
average increase or decrease for each of the two years immediately 70113
preceding the adjustment as set forth in the United States 70114
department of commerce, bureau of economic analysis implicit price 70115
deflator for gross domestic product, nonresidential structures, or 70116
an alternative if the federal government ceases to publish this 70117
metric, provided that no increase or decrease for any year shall 70118
exceed three per cent of the contract limit in existence at the 70119
time of the adjustment. Notwithstanding division (A) of this 70120
section, the limit adjusted under this division shall be used 70121
thereafter in lieu of the limit in division (A) of this section. 70122

(C) Before entering into an improvement pursuant to division 70123
(A) of this section, the board of trustees of a technical college 70124
district shall require separate and distinct proposals to be made 70125
for furnishing materials or doing work on the improvement, or 70126
both, in the board's discretion, for each separate and distinct 70127
branch or class of work entering into the improvement. The board 70128
of trustees also may require a single, combined proposal for the 70129
entire project for materials or doing work, or both, in the 70130
board's discretion, that includes each separate and distinct 70131
branch or class of work entering into the improvement. The board 70132

of trustees need not solicit separate proposals for a branch or
class of work for an improvement if the estimate cost for that
branch or class of work is less than ~~five~~ twenty thousand dollars.

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(D) When more than one branch or class of work is required,
no contract for the entire job, or for a greater portion thereof
than is embraced in one such branch or class of work shall be
awarded, unless the separate bids do not cover all the work and
materials required or the bids for the whole or for two or more
kinds of work or materials are lower than the separate bids in the
aggregate. The board of trustees need not award separate contracts
for a branch or class of work entering into an improvement if the
estimated cost for that branch or class of work is less than ~~five~~
twenty thousand dollars.

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Sec. 3365.01. As used in this chapter:

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(A) "College" means any state-assisted college or university
described in section 3333.041 of the Revised Code, any nonprofit
institution holding a certificate of authorization pursuant to
Chapter 1713. of the Revised Code, any private institution exempt
from regulation under Chapter 3332. of the Revised Code as
prescribed in section 3333.046 of the Revised Code, and any
institution holding a certificate of registration from the state
board of career colleges and schools and program authorization for
an associate or bachelor's degree program issued under section
3332.05 of the Revised Code.

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(B) "School district," except as specified in division (G) of
this section, means any school district to which a student is
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of
the Revised Code and does not include a joint vocational or
cooperative education school district.

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(C) "Parent" has the same meaning as in section 3313.64 of

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the Revised Code. 70164

(D) "Participant" means a student enrolled in a college under 70165
the post-secondary enrollment options program established by this 70166
chapter. 70167

(E) "Secondary grade" means the ninth through twelfth grades. 70168

(F) "School foundation payments" means the amount required to 70169
be paid to a school district for a fiscal year under ~~Chapters~~ 70170
~~3306.~~ and Chapter 3317. of the Revised Code. 70171

(G) "Tuition base" means, with respect to a participant's 70172
school district, the sum of the formula amount plus the per pupil 70173
amount of the base funding supplements specified in divisions 70174
(C)(1) to (4) of section 3317.012 of the Revised Code for fiscal 70175
year 2009. 70176

The participant's "school district" in the case of a 70177
participant enrolled in a community school shall be the school 70178
district in which the student is entitled to attend school under 70179
section 3313.64 or 3313.65 of the Revised Code. 70180

(H) "Educational program" means enrollment in one or more 70181
school districts, in a nonpublic school, or in a college under 70182
division (B) of section 3365.04 of the Revised Code. 70183

(I) "Nonpublic school" means a chartered or nonchartered 70184
school for which minimum standards are prescribed by the state 70185
board of education pursuant to division (D) of section 3301.07 of 70186
the Revised Code. 70187

(J) "School year" means the year beginning on the first day 70188
of July and ending on the thirtieth day of June. 70189

(K) "Community school" means any school established pursuant 70190
to Chapter 3314. of the Revised Code that includes secondary 70191
grades. 70192

(L) "STEM school" means a science, technology, engineering, 70193

and mathematics school established under Chapter 3326. of the 70194
Revised Code. 70195

Sec. 3365.08. (A) A college that expects to receive or 70196
receives reimbursement under section 3365.07 of the Revised Code 70197
or through alternative funding agreements entered into under rules 70198
adopted under section 3365.12 of the Revised Code shall furnish to 70199
a participant all textbooks and materials directly related to a 70200
course taken by the participant under division (B) of section 70201
3365.04 of the Revised Code. No college shall charge such 70202
participant for tuition, textbooks, materials, or other fees 70203
directly related to any such course. 70204

(B) No student enrolled under this chapter in a course for 70205
which credit toward high school graduation is awarded shall 70206
receive direct financial aid through any state or federal program. 70207

(C) If a school district provides transportation for resident 70208
school students in grades eleven and twelve under section 3327.01 70209
of the Revised Code, a parent of a pupil enrolled in a course 70210
under division (A)(2) or (B) of section 3365.04 of the Revised 70211
Code may apply to the board of education for full or partial 70212
reimbursement for the necessary costs of transporting the student 70213
between the secondary school the student attends and the college 70214
in which the student is enrolled. Reimbursement may be paid solely 70215
from funds received by the district for pupil transportation under 70216
section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions 70217
of law. The state board of education shall establish guidelines, 70218
based on financial need, under which a district may provide such 70219
reimbursement. 70220

(D) If a community school provides or arranges transportation 70221
for its pupils in grades nine through twelve under section 70222
3314.091 of the Revised Code, a parent of a pupil of the community 70223
school who is enrolled in a course under division (A)(2) or (B) of 70224

section 3365.04 of the Revised Code may apply to the governing 70225
authority of the community school for full or partial 70226
reimbursement of the necessary costs of transporting the student 70227
between the community school and the college. The governing 70228
authority may pay the reimbursement in accordance with the state 70229
board's rules adopted under division (C) of this section solely 70230
from funds paid to it under section 3314.091 of the Revised Code. 70231

Sec. 3375.41. When a board of library trustees appointed 70232
pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 70233
or 3375.30 of the Revised Code determines to construct, demolish, 70234
alter, repair, or reconstruct a library or make any improvements 70235
or repairs, the cost of which will exceed twenty-five thousand 70236
dollars, except in cases of urgent necessity or for the security 70237
and protection of library property, it shall proceed as follows: 70238

(A) The board shall advertise for a period of two weeks for 70239
sealed bids in ~~some a~~ newspaper of general circulation in the 70240
district, ~~and, if there are two such newspapers, the board shall~~ 70241
~~advertise in both of them~~ or as provided in section 7.16 of the 70242
Revised Code. If no newspaper has a general circulation in the 70243
district, the board shall post the advertisement in three public 70244
places in the district. The advertisement shall be entered in full 70245
by the fiscal officer on the record of proceedings of the board. 70246

(B) The sealed bids shall be filed with the fiscal officer by 70247
twelve noon of the last day stated in the advertisement. 70248

(C) The sealed bids shall be opened at the next meeting of 70249
the board, shall be publicly read by the fiscal officer, and shall 70250
be entered in full on the records of the board; provided that the 70251
board, by resolution, may provide for the public opening and 70252
reading of the bids by the fiscal officer, immediately after the 70253
time for their filing has expired, at the usual place of meeting 70254
of the board, and for the tabulation of the bids and a report of 70255

the tabulation to the board at its next meeting. 70256

(D) Each sealed bid shall contain the name of every person 70257
interested in it and shall meet the requirements of section 153.54 70258
of the Revised Code. 70259

(E) When both labor and materials are embraced in the work 70260
bid for, the board may require that each be separately stated in 70261
the sealed bid, with their price, or may require that bids be 70262
submitted without the separation. 70263

(F) None but the lowest responsible bid shall be accepted. 70264
The board may reject all the bids or accept any bid for both labor 70265
and material for the improvement or repair which is the lowest in 70266
the aggregate. 70267

(G) The contract shall be between the board and the bidders. 70268
The board shall pay the contract price for the work in cash at the 70269
times and in the amounts as provided by sections 153.12, 153.13, 70270
and 153.14 of the Revised Code. 70271

(H) When two or more bids are equal, in whole or in part, and 70272
are lower than any others, either may be accepted, but in no case 70273
shall the work be divided between these bidders. 70274

(I) When there is reason to believe there is collusion or 70275
combination among the bidders, the bids of those concerned in the 70276
collusion or combination shall be rejected. 70277

Sec. 3381.11. The board of trustees of a regional arts and 70278
cultural district or any officer or employee designated by such 70279
board may make any contract for the purchase of supplies or 70280
material or for labor for any work, under the supervision of the 70281
board, the cost of which shall not exceed ten thousand dollars. 70282
When an expenditure, other than for the acquisition of real 70283
estate, the discharge of noncontractual claims, personal services, 70284
or for the product or services of public utilities, exceeds ten 70285

thousand dollars, such expenditure shall be made only after a 70286
notice calling for bids has been published once a week for two 70287
consecutive weeks in ~~at least~~ one newspaper of general circulation 70288
within the territory of the district or as provided in section 70289
7.16 of the Revised Code. The board may then let said contract to 70290
the lowest and best bidder, who shall give a good and approved 70291
bond with ample security conditioned on the carrying out of the 70292
contract. Such contract shall be in writing and shall be 70293
accompanied by or shall refer to plans and specifications for the 70294
work to be done, approved by the board. The plans and 70295
specifications shall at all times be made and considered part of 70296
the contract. The contract shall be approved by the board and 70297
signed on behalf of the district and by the contractor. No sale of 70298
any real or personal property or a lease thereof having a term 70299
thereof in excess of five years shall be made except with the 70300
highest and best bidder after publication of notice for bids in 70301
the manner above provided. 70302

Competitive bidding under this section is not required when: 70303

(A) The board, by a two-thirds affirmative vote of its 70304
members, determines that a real and present emergency exists and 70305
such determination and the reasons therefor are entered in the 70306
proceedings of the board, when: 70307

(1) The estimated cost is less than fifteen thousand dollars; 70308
or 70309

(2) There is actual physical damage to structures or 70310
equipment. 70311

(B) Such purchase consists of supplies or a replacement or 70312
supplemental part or parts for a product or equipment owned or 70313
leased by the district and the only source of supply for such 70314
supplies, part, or parts is limited to a single supplier; 70315

(C) The lease is a renewal of a lease for electronic data 70316

processing equipment, services, or systems; 70317

(D) Services or supplies are available from a qualified 70318
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 70319
Revised Code; 70320

(E) With respect to any contract, agreement, or lease by a 70321
district with any arts or cultural organization or any 70322
governmental body or agency. 70323

Sec. 3501.03. At least ten days before the time for holding 70324
an election the board of elections shall give public notice by a 70325
proclamation, posted in a conspicuous place in the courthouse and 70326
city hall, or by one insertion in a newspaper published of general 70327
circulation in the county, ~~but if no newspaper is published in~~ 70328
~~such county, then in a newspaper of general circulation therein.~~ 70329

The board shall have authority to publicize information 70330
relative to registration or elections. 70331

Sec. 3501.17. (A) The expenses of the board of elections 70332
shall be paid from the county treasury, in pursuance of 70333
appropriations by the board of county commissioners, in the same 70334
manner as other county expenses are paid. If the board of county 70335
commissioners fails to appropriate an amount sufficient to provide 70336
for the necessary and proper expenses of the board of elections 70337
pertaining to the conduct of elections, the board of elections may 70338
apply to the court of common pleas within the county, which shall 70339
fix the amount necessary to be appropriated and the amount shall 70340
be appropriated. Payments shall be made upon vouchers of the board 70341
of elections certified to by its chairperson or acting chairperson 70342
and the director or deputy director, upon warrants of the county 70343
auditor. 70344

The board of elections shall not incur any obligation 70345
involving the expenditure of money unless there are moneys 70346

sufficient in the funds appropriated therefor to meet the 70347
obligation. If the board of elections requests a transfer of funds 70348
from one of its appropriation items to another, the board of 70349
county commissioners shall adopt a resolution providing for the 70350
transfer except as otherwise provided in section 5705.40 of the 70351
Revised Code. The expenses of the board of elections shall be 70352
apportioned among the county and the various subdivisions as 70353
provided in this section, and the amount chargeable to each 70354
subdivision shall be withheld by the county auditor from the 70355
moneys payable thereto at the time of the next tax settlement. At 70356
the time of submitting budget estimates in each year, the board of 70357
elections shall submit to the taxing authority of each 70358
subdivision, upon the request of the subdivision, an estimate of 70359
the amount to be withheld from the subdivision during the next 70360
fiscal year. 70361

A board of township trustees may, by resolution, request that 70362
the county auditor withhold expenses charged to the township from 70363
a specified township fund that is to be credited with revenue at a 70364
tax settlement. The resolution shall specify the tax levy ballot 70365
issue, the date of the election on the levy issue, and the 70366
township fund from which the expenses the board of elections 70367
incurs related to that ballot issue shall be withheld. 70368

(B) Except as otherwise provided in division (F) of this 70369
section, the compensation of the members of the board of elections 70370
and of the director, deputy director, and regular employees in the 70371
board's offices, other than compensation for overtime worked; the 70372
expenditures for the rental, furnishing, and equipping of the 70373
office of the board and for the necessary office supplies for the 70374
use of the board; the expenditures for the acquisition, repair, 70375
care, and custody of the polling places, booths, guardrails, and 70376
other equipment for polling places; the cost of tally sheets, 70377
maps, flags, ballot boxes, and all other permanent records and 70378

equipment; the cost of all elections held in and for the state and 70379
county; and all other expenses of the board which are not 70380
chargeable to a political subdivision in accordance with this 70381
section shall be paid in the same manner as other county expenses 70382
are paid. 70383

(C) The compensation of judges of elections and intermittent 70384
employees in the board's offices; the cost of renting, moving, 70385
heating, and lighting polling places and of placing and removing 70386
ballot boxes and other fixtures and equipment thereof, including 70387
voting machines, marking devices, and automatic tabulating 70388
equipment; the cost of printing and delivering ballots, cards of 70389
instructions, registration lists required under section 3503.23 of 70390
the Revised Code, and other election supplies, including the 70391
supplies required to comply with division (H) of section 3506.01 70392
of the Revised Code; the cost of contractors engaged by the board 70393
to prepare, program, test, and operate voting machines, marking 70394
devices, and automatic tabulating equipment; and all other 70395
expenses of conducting primaries and elections in the odd-numbered 70396
years shall be charged to the subdivisions in and for which such 70397
primaries or elections are held. The charge for each primary or 70398
general election in odd-numbered years for each subdivision shall 70399
be determined in the following manner: first, the total cost of 70400
all chargeable items used in conducting such elections shall be 70401
ascertained; second, the total charge shall be divided by the 70402
number of precincts participating in such election, in order to 70403
fix the cost per precinct; third, the cost per precinct shall be 70404
prorated by the board of elections to the subdivisions conducting 70405
elections for the nomination or election of offices in such 70406
precinct; fourth, the total cost for each subdivision shall be 70407
determined by adding the charges prorated to it in each precinct 70408
within the subdivision. 70409

(D) The entire cost of special elections held on a day other 70410

than the day of a primary or general election, both in 70411
odd-numbered or in even-numbered years, shall be charged to the 70412
subdivision. Where a special election is held on the same day as a 70413
primary or general election in an even-numbered year, the 70414
subdivision submitting the special election shall be charged only 70415
for the cost of ballots and advertising. Where a special election 70416
is held on the same day as a primary or general election in an 70417
odd-numbered year, the subdivision submitting the special election 70418
shall be charged for the cost of ballots and advertising for such 70419
special election, in addition to the charges prorated to such 70420
subdivision for the election or nomination of candidates in each 70421
precinct within the subdivision, as set forth in the preceding 70422
paragraph. 70423

(E) Where a special election is held on the day specified by 70424
division (E) of section 3501.01 of the Revised Code for the 70425
holding of a primary election, for the purpose of submitting to 70426
the voters of the state constitutional amendments proposed by the 70427
general assembly, and a subdivision conducts a special election on 70428
the same day, the entire cost of the special election shall be 70429
divided proportionally between the state and the subdivision based 70430
upon a ratio determined by the number of issues placed on the 70431
ballot by each, except as otherwise provided in division (G) of 70432
this section. Such proportional division of cost shall be made 70433
only to the extent funds are available for such purpose from 70434
amounts appropriated by the general assembly to the secretary of 70435
state. If a primary election is also being conducted in the 70436
subdivision, the costs shall be apportioned as otherwise provided 70437
in this section. 70438

(F) When a precinct is open during a general, primary, or 70439
special election solely for the purpose of submitting to the 70440
voters a statewide ballot issue, the state shall bear the entire 70441
cost of the election in that precinct and shall reimburse the 70442

county for all expenses incurred in opening the precinct. 70443

(G)(1) The state shall bear the entire cost of advertising in 70444
newspapers statewide ballot issues, explanations of those issues, 70445
and arguments for or against those issues, as required by Section 70446
1g of Article II and Section 1 of Article XVI, Ohio Constitution, 70447
and any other section of law. Appropriations made to the 70448
controlling board shall be used to reimburse the secretary of 70449
state for all expenses the secretary of state incurs for such 70450
advertising under division (G) of section 3505.062 of the Revised 70451
Code. 70452

(2) There is hereby created in the state treasury the 70453
statewide ballot advertising fund. The fund shall receive 70454
transfers approved by the controlling board, and shall be used by 70455
the secretary of state to pay the costs of advertising state 70456
ballot issues as required under division (G)(1) of this section. 70457
Any such transfers may be requested from and approved by the 70458
controlling board prior to placing the advertising, in order to 70459
facilitate timely provision of the required advertising. 70460

(H) The cost of renting, heating, and lighting registration 70461
places; the cost of the necessary books, forms, and supplies for 70462
the conduct of registration; and the cost of printing and posting 70463
precinct registration lists shall be charged to the subdivision in 70464
which such registration is held. 70465

(I) At the request of a majority of the members of the board 70466
of elections, the board of county commissioners may, by 70467
resolution, establish an elections revenue fund. Except as 70468
otherwise provided in this division, the purpose of the fund shall 70469
be to accumulate revenue withheld by or paid to the county under 70470
this section for the payment of any expense related to the duties 70471
of the board of elections specified in section 3501.11 of the 70472
Revised Code, upon approval of a majority of the members of the 70473
board of elections. The fund shall not accumulate any revenue 70474

withheld by or paid to the county under this section for the 70475
compensation of the members of the board of elections or of the 70476
director, deputy director, or other regular employees in the 70477
board's offices, other than compensation for overtime worked. 70478

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the 70479
Revised Code, the board of county commissioners may, by 70480
resolution, transfer money to the elections revenue fund from any 70481
other fund of the political subdivision from which such payments 70482
lawfully may be made. Following an affirmative vote of a majority 70483
of the members of the board of elections, the board of county 70484
commissioners may, by resolution, rescind an elections revenue 70485
fund established under this division. If an elections revenue fund 70486
is rescinded, money that has accumulated in the fund shall be 70487
transferred to the county general fund. 70488

(J) As used in this section: 70489

(1) "Political subdivision" and "subdivision" mean any board 70490
of county commissioners, board of township trustees, legislative 70491
authority of a municipal corporation, board of education, or any 70492
other board, commission, district, or authority that is empowered 70493
to levy taxes or permitted to receive the proceeds of a tax levy, 70494
regardless of whether the entity receives tax settlement moneys as 70495
described in division (A) of this section; 70496

(2) "Statewide ballot issue" means any ballot issue, whether 70497
proposed by the general assembly or by initiative or referendum, 70498
that is submitted to the voters throughout the state. 70499

Sec. 3505.13. A contract for the printing of ballots 70500
involving a cost in excess of ten thousand dollars shall not be 70501
let until after five days' notice published once in a ~~leading~~ 70502
newspaper ~~published~~ of general circulation in the county or upon 70503
notice given by mail by the board of elections, addressed to the 70504
responsible printing offices within the state. Except as otherwise 70505

provided in this section, each bid for such printing must be 70506
accompanied by a bond with at least two sureties, or a surety 70507
company, satisfactory to the board, in a sum double the amount of 70508
the bid, conditioned upon the faithful performance of the contract 70509
for such printing as is awarded and for the payment as damages by 70510
such bidder to the board of any excess of cost over the bid which 70511
it may be obliged to pay for such work by reason of the failure of 70512
the bidder to complete the contract. No bid unaccompanied by such 70513
bond shall be considered by the board. The board may, however, 70514
waive the requirement that each bid be accompanied by a bond if 70515
the cost of the contract is ten thousand dollars or less. The 70516
contract shall be let to the lowest responsible bidder in the 70517
state. All ballots shall be printed within the state. 70518

Sec. 3506.05. (A) As used in this section, except when used 70519
as part of the phrase "tabulating equipment" or "automatic 70520
tabulating equipment": 70521

(1) "Equipment" means a voting machine, marking device, 70522
automatic tabulating equipment, or software. 70523

(2) "Vendor" means the person that owns, manufactures, 70524
distributes, or has the legal right to control the use of 70525
equipment, or the person's agent. 70526

(B) No voting machine, marking device, automatic tabulating 70527
equipment, or software for the purpose of casting or tabulating 70528
votes or for communications among systems involved in the 70529
tabulation, storage, or casting of votes shall be purchased, 70530
leased, put in use, or continued to be used, except for 70531
experimental use as provided in division (B) of section 3506.04 of 70532
the Revised Code, unless it, a manual of procedures governing its 70533
use, and training materials, service, and other support 70534
arrangements have been certified by the secretary of state and 70535
unless the board of elections of each county where the equipment 70536

will be used has assured that a demonstration of the use of the 70537
equipment has been made available to all interested electors. The 70538
secretary of state shall appoint a board of voting machine 70539
examiners to examine and approve equipment and its related manuals 70540
and support arrangements. The board shall consist of four members, 70541
who shall be appointed as follows: 70542

(1) Two members appointed by the secretary of state. 70543

(2) One member appointed by either the speaker of the house 70544
of representatives or the minority leader of the house of 70545
representatives, whichever is a member of the opposite political 70546
party from the one to which the secretary of state belongs. 70547

(3) One member appointed by either the president of the 70548
senate or the minority leader of the senate, whichever is a member 70549
of the opposite political party from the one to which the 70550
secretary of state belongs. 70551

In all cases of a tie vote or a disagreement in the board, if 70552
no decision can be arrived at, the board shall submit the matter 70553
in controversy to the secretary of state, who shall summarily 70554
decide the question, and the secretary of state's decision shall 70555
be final. Each member of the board shall be a competent and 70556
experienced election officer or a person who is knowledgeable 70557
about the operation of voting equipment and shall serve during the 70558
secretary of state's term. Any vacancy on the board shall be 70559
filled in the same manner as the original appointment. The 70560
secretary of state shall provide staffing assistance to the board, 70561
at the board's request. 70562

For the member's service, each member of the board shall 70563
receive three hundred dollars per day for each combination of 70564
marking device, tabulating equipment, and voting machine examined 70565
and reported, but in no event shall a member receive more than six 70566
hundred dollars to examine and report on any one marking device, 70567

item of tabulating equipment, or voting machine. Each member of 70568
the board shall be reimbursed for expenses the member incurs 70569
during an examination or during the performance of any related 70570
duties that may be required by the secretary of state. 70571
Reimbursement of these expenses shall be made in accordance with, 70572
and shall not exceed, the rates provided for under section 126.31 70573
of the Revised Code. 70574

Neither the secretary of state nor the board, nor any public 70575
officer who participates in the authorization, examination, 70576
testing, or purchase of equipment, shall have any pecuniary 70577
interest in the equipment or any affiliation with the vendor. 70578

(C)(1) A vendor who desires to have the secretary of state 70579
certify equipment shall first submit the equipment, all current 70580
related procedural manuals, and a current description of all 70581
related support arrangements to the board of voting machine 70582
examiners for examination, testing, and approval. The submission 70583
shall be accompanied by a fee of ~~eighteen~~ two thousand four 70584
hundred dollars and a detailed explanation of the construction and 70585
method of operation of the equipment, a full statement of its 70586
advantages, and a list of the patents and copyrights used in 70587
operations essential to the processes of vote recording and 70588
tabulating, vote storage, system security, and other crucial 70589
operations of the equipment as may be determined by the board. An 70590
additional fee, in an amount to be set by rules promulgated by the 70591
board, may be imposed to pay for the costs of alternative testing 70592
or testing by persons other than board members, record-keeping, 70593
and other extraordinary costs incurred in the examination process. 70594
Moneys not used shall be returned to the person or entity 70595
submitting the equipment for examination. 70596

(2) Fees collected by the secretary of state under this 70597
section shall be deposited into the state treasury to the credit 70598
of the board of voting machine examiners fund, which is hereby 70599

created. All moneys credited to this fund shall be used solely for 70600
the purpose of paying for the services and expenses of each member 70601
of the board or for other expenses incurred relating to the 70602
examination, testing, reporting, or certification of voting 70603
machine devices, the performance of any related duties as required 70604
by the secretary of state, or the reimbursement of any person 70605
submitting an examination fee as provided in this chapter. 70606

(D) Within sixty days after the submission of the equipment 70607
and payment of the fee, or as soon thereafter as is reasonably 70608
practicable, but in any event within not more than ninety days 70609
after the submission and payment, the board of voting machine 70610
examiners shall examine the equipment and file with the secretary 70611
of state a written report on the equipment with its 70612
recommendations and its determination or condition of approval 70613
regarding whether the equipment, manual, and other related 70614
materials or arrangements meet the criteria set forth in sections 70615
3506.07 and 3506.10 of the Revised Code and can be safely used by 70616
the voters at elections under the conditions prescribed in Title 70617
XXXV of the Revised Code, or a written statement of reasons for 70618
which testing requires a longer period. The board may grant 70619
temporary approval for the purpose of allowing experimental use of 70620
equipment. If the board finds that the equipment meets the 70621
criteria set forth in sections 3506.06, 3506.07, and 3506.10 of 70622
the Revised Code, can be used safely and can be depended upon to 70623
record and count accurately and continuously the votes of 70624
electors, and has the capacity to be warranted, maintained, and 70625
serviced, it shall approve the equipment and recommend that the 70626
secretary of state certify the equipment. The secretary of state 70627
shall notify all boards of elections of any such certification. 70628
Equipment of the same model and make, if it provides for recording 70629
of voter intent, system security, voter privacy, retention of 70630
vote, and communication of voting records in an identical manner, 70631
may then be adopted for use at elections. 70632

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that

certification of the equipment may be withdrawn. 70666

(G)(1) The notice given by the secretary of state under 70667
division (F) of this section shall be in writing and shall specify 70668
both of the following: 70669

(a) The reasons why the certification may be withdrawn; 70670

(b) The date on which certification will be withdrawn unless 70671
the vendor takes satisfactory corrective measures or explains why 70672
there are no problems with the equipment or why the enhancements 70673
or adjustments to the equipment are not significant. 70674

(2) A vendor who receives a notice under division (F) of this 70675
section shall, within thirty days after receiving it, submit to 70676
the board of voting machine examiners in writing a description of 70677
the corrective measures taken and the date on which they were 70678
taken, or the explanation required under division (G)(1)(b) of 70679
this section. 70680

(3) Not later than fifteen days after receiving a written 70681
description or explanation under division (G)(2) of this section 70682
from a vendor, the board shall determine whether the corrective 70683
measures taken or the explanation is satisfactory to allow 70684
continued certification of the equipment, and the secretary of 70685
state shall send the vendor a written notice of the board's 70686
determination, specifying the reasons for it. If the board has 70687
determined that the measures taken or the explanation given is 70688
unsatisfactory, the notice shall include the effective date of 70689
withdrawal of the certification. This date may be different from 70690
the date originally specified in division (G)(1)(b) of this 70691
section. 70692

(4) A vendor who receives a notice under division (G)(3) of 70693
this section indicating a decision to withdraw certification may, 70694
within thirty days after receiving it, request in writing that the 70695
board hold a hearing to reconsider its decision. Any interested 70696

party shall be given the opportunity to submit testimony or 70697
documentation in support of or in opposition to the board's 70698
recommendation to withdraw certification. Failure of the vendor to 70699
take appropriate steps as described in division (G)(1)(b) or to 70700
comply with division (G)(2) of this section results in a waiver of 70701
the vendor's rights under division (G)(4) of this section. 70702

(H)(1) The secretary of state, in consultation with the board 70703
of voting machine examiners, shall establish, by rule, guidelines 70704
for the approval, certification, and continued certification of 70705
the voting machines, marking devices, and tabulating equipment to 70706
be used under Title XXXV of the Revised Code. The guidelines shall 70707
establish procedures requiring vendors or computer software 70708
developers to place in escrow with an independent escrow agent 70709
approved by the secretary of state a copy of all source code and 70710
related documentation, together with periodic updates as they 70711
become known or available. The secretary of state shall require 70712
that the documentation include a system configuration and that the 70713
source code include all relevant program statements in low- or 70714
high-level languages. As used in this division, "source code" does 70715
not include variable codes created for specific elections. 70716

(2) Nothing in any rule adopted under division (H) of this 70717
section shall be construed to limit the ability of the secretary 70718
of state to follow or adopt, or to preclude the secretary of state 70719
from following or adopting, any guidelines proposed by the federal 70720
election commission, any entity authorized by the federal election 70721
commission to propose guidelines, the election assistance 70722
commission, or any entity authorized by the election assistance 70723
commission to propose guidelines. 70724

(3)(a) Before the initial certification of any direct 70725
recording electronic voting machine with a voter verified paper 70726
audit trail, and as a condition for the continued certification 70727
and use of those machines, the secretary of state shall establish, 70728

by rule, standards for the certification of those machines. Those 70729
standards shall include, but are not limited to, all of the 70730
following: 70731

(i) A definition of a voter verified paper audit trail as a 70732
paper record of the voter's choices that is verified by the voter 70733
prior to the casting of the voter's ballot and that is securely 70734
retained by the board of elections; 70735

(ii) Requirements that the voter verified paper audit trail 70736
shall not be retained by any voter and shall not contain 70737
individual voter information; 70738

(iii) A prohibition against the production by any direct 70739
recording electronic voting machine of anything that legally could 70740
be removed by the voter from the polling place, such as a receipt 70741
or voter confirmation; 70742

(iv) A requirement that paper used in producing a voter 70743
verified paper audit trail be sturdy, clean, and resistant to 70744
degradation; 70745

(v) A requirement that the voter verified paper audit trail 70746
shall be capable of being optically scanned for the purpose of 70747
conducting a recount or other audit of the voting machine and 70748
shall be readable in a manner that makes the voter's ballot 70749
choices obvious to the voter without the use of computer or 70750
electronic codes; 70751

(vi) A requirement, for office-type ballots, that the voter 70752
verified paper audit trail include the name of each candidate 70753
selected by the voter; 70754

(vii) A requirement, for questions and issues ballots, that 70755
the voter verified paper audit trail include the title of the 70756
question or issue, the name of the entity that placed the question 70757
or issue on the ballot, and the voter's ballot selection on that 70758
question or issue, but not the entire text of the question or 70759

issue. 70760

(b) The secretary of state, by rule adopted under Chapter 70761
119. of the Revised Code, may waive the requirement under division 70762
(H)(3)(a)(v) of this section, if the secretary of state determines 70763
that the requirement is cost prohibitive. 70764

(4)(a) Except as otherwise provided in division (H)(4)(c) of 70765
this section, any voting machine, marking device, or automatic 70766
tabulating equipment initially certified or acquired on or after 70767
December 1, 2008, shall have the most recent federal certification 70768
number issued by the election assistance commission. 70769

(b) Any voting machine, marking device, or automatic 70770
tabulating equipment certified for use in this state on ~~the~~ 70771
~~effective date of this amendment~~ September 12, 2008, shall meet, 70772
as a condition of continued certification and use, the voting 70773
system standards adopted by the federal election commission in 70774
2002. 70775

(c) A county that acquires additional voting machines, 70776
marking devices, or automatic tabulating equipment on or after 70777
December 1, 2008, shall not be considered to have acquired those 70778
machines, devices, or equipment on or after December 1, 2008, for 70779
the purpose of division (H)(4)(a) of this section if all of the 70780
following apply: 70781

(i) The voting machines, marking devices, or automatic 70782
tabulating equipment acquired are the same as the machines, 70783
devices, or equipment currently used in that county. 70784

(ii) The acquisition of the voting machines, marking devices, 70785
or automatic tabulating equipment does not replace or change the 70786
primary voting system used in that county. 70787

(iii) The acquisition of the voting machines, marking 70788
devices, or automatic tabulating equipment is for the purpose of 70789
replacing inoperable machines, devices, or equipment or for the 70790

purpose providing additional machines, devices, or equipment 70791
required to meet the allocation requirements established pursuant 70792
to division (I) of section 3501.11 of the Revised Code. 70793

Sec. 3701.021. (A) The public health council shall adopt, in 70794
accordance with Chapter 119. of the Revised Code, such rules as 70795
are necessary to carry out sections 3701.021 to 3701.0210 of the 70796
Revised Code, including, but not limited to, rules to establish 70797
the following: 70798

(1) Medical and financial eligibility requirements for the 70799
program for medically handicapped children; 70800

(2) Eligibility requirements for providers of services for 70801
medically handicapped children; 70802

(3) Procedures to be followed by the department of health in 70803
disqualifying providers for violating requirements adopted under 70804
division (A)(2) of this section; 70805

(4) Procedures to be used by the department regarding 70806
application for diagnostic services under division (B) of section 70807
3701.023 of the Revised Code and payment for those services under 70808
division (E) of that section; 70809

(5) Standards for the provision of service coordination by 70810
the department of health and city and general health districts; 70811

(6) Procedures for the department to use to determine the 70812
amount to be paid annually by each county for services for 70813
medically handicapped children and to allow counties to retain 70814
funds under divisions (A)(2) and (3) of section 3701.024 of the 70815
Revised Code; 70816

(7) Financial eligibility requirements for services for Ohio 70817
residents twenty-one years of age or older who have cystic 70818
fibrosis; 70819

(8) Criteria for payment of approved providers who provide 70820

services for medically handicapped children; 70821

(9) Criteria for the department to use in determining whether 70822
the payment of health insurance premiums of participants in the 70823
program for medically handicapped children is cost-effective; 70824

(10) Procedures for appeal of denials of applications under 70825
divisions (A) and (D) of section 3701.023 of the Revised Code, 70826
disqualification of providers, and amounts paid for services; 70827

(11) Terms of appointment for members of the medically 70828
handicapped children's medical advisory council created in section 70829
3701.025 of the Revised Code; 70830

(12) Eligibility requirements for the hemophilia program, 70831
including income and hardship requirements; 70832

(13) If a manufacturer discount program is established under 70833
division (J)(1) of section 3701.023 of the Revised Code, 70834
procedures for administering the program, including criteria and 70835
other requirements for participation in the program by 70836
manufacturers of drugs and nutritional formulas. 70837

(B) The department of health shall develop a manual of 70838
operational procedures and guidelines for the program for 70839
medically handicapped children to implement sections 3701.021 to 70840
3701.0210 of the Revised Code. 70841

Sec. 3701.023. (A) The department of health shall review 70842
applications for eligibility for the program for medically 70843
handicapped children that are submitted to the department by city 70844
and general health districts and physician providers approved in 70845
accordance with division (C) of this section. The department shall 70846
determine whether the applicants meet the medical and financial 70847
eligibility requirements established by the public health council 70848
pursuant to division (A)(1) of section 3701.021 of the Revised 70849
Code, and by the department in the manual of operational 70850

procedures and guidelines for the program for medically 70851
handicapped children developed pursuant to division (B) of that 70852
section. Referrals of potentially eligible children for the 70853
program may be submitted to the department on behalf of the child 70854
by parents, guardians, public health nurses, or any other 70855
interested person. The department of health may designate other 70856
agencies to refer applicants to the department of health. 70857

(B) In accordance with the procedures established in rules 70858
adopted under division (A)(4) of section 3701.021 of the Revised 70859
Code, the department of health shall authorize a provider or 70860
providers to provide to any Ohio resident under twenty-one years 70861
of age, without charge to the resident or the resident's family 70862
and without restriction as to the economic status of the resident 70863
or the resident's family, diagnostic services necessary to 70864
determine whether the resident has a medically handicapping or 70865
potentially medically handicapping condition. 70866

(C) The department of health shall review the applications of 70867
health professionals, hospitals, medical equipment suppliers, and 70868
other individuals, groups, or agencies that apply to become 70869
providers. The department shall enter into a written agreement 70870
with each applicant who is determined, pursuant to the 70871
requirements set forth in rules adopted under division (A)(2) of 70872
section 3701.021 of the Revised Code, to be eligible to be a 70873
provider in accordance with the provider agreement required by the 70874
medical assistance program established under section 5111.01 of 70875
the Revised Code. No provider shall charge a medically handicapped 70876
child or the child's parent or guardian for services authorized by 70877
the department under division (B) or (D) of this section. 70878

The department, in accordance with rules adopted under 70879
division (A)(3) of section 3701.021 of the Revised Code, may 70880
disqualify any provider from further participation in the program 70881
for violating any requirement set forth in rules adopted under 70882

division (A)(2) of that section. The disqualification shall not 70883
take effect until a written notice, specifying the requirement 70884
violated and describing the nature of the violation, has been 70885
delivered to the provider and the department has afforded the 70886
provider an opportunity to appeal the disqualification under 70887
division (H) of this section. 70888

(D) The department of health shall evaluate applications from 70889
city and general health districts and approved physician providers 70890
for authorization to provide treatment services, service 70891
coordination, and related goods to children determined to be 70892
eligible for the program for medically handicapped children 70893
pursuant to division (A) of this section. The department shall 70894
authorize necessary treatment services, service coordination, and 70895
related goods for each eligible child in accordance with an 70896
individual plan of treatment for the child. As an alternative, the 70897
department may authorize payment of health insurance premiums on 70898
behalf of eligible children when the department determines, in 70899
accordance with criteria set forth in rules adopted under division 70900
(A)(9) of section 3701.021 of the Revised Code, that payment of 70901
the premiums is cost-effective. 70902

(E) The department of health shall pay, from appropriations 70903
to the department, any necessary expenses, including but not 70904
limited to, expenses for diagnosis, treatment, service 70905
coordination, supportive services, transportation, and accessories 70906
and their upkeep, provided to medically handicapped children, 70907
provided that the provision of the goods or services is authorized 70908
by the department under division (B) or (D) of this section. Money 70909
appropriated to the department of health may also be expended for 70910
reasonable administrative costs incurred by the program. The 70911
department of health also may purchase liability insurance 70912
covering the provision of services under the program for medically 70913
handicapped children by physicians and other health care 70914

professionals. 70915

Payments made to providers by the department of health 70916
pursuant to this division for inpatient hospital care, outpatient 70917
care, and all other medical assistance furnished to eligible 70918
recipients shall be made in accordance with rules adopted by the 70919
public health council pursuant to division (A) of section 3701.021 70920
of the Revised Code. 70921

The departments of health and job and family services shall 70922
jointly implement procedures to ensure that duplicate payments are 70923
not made under the program for medically handicapped children and 70924
the medical assistance program established under section 5111.01 70925
of the Revised Code and to identify and recover duplicate 70926
payments. 70927

(F) At the time of applying for participation in the program 70928
for medically handicapped children, a medically handicapped child 70929
or the child's parent or guardian shall disclose the identity of 70930
any third party against whom the child or the child's parent or 70931
guardian has or may have a right of recovery for goods and 70932
services provided under division (B) or (D) of this section. The 70933
department of health shall require a medically handicapped child 70934
who receives services from the program or the child's parent or 70935
guardian to apply for all third-party benefits for which the child 70936
may be eligible and require the child, parent, or guardian to 70937
apply all third-party benefits received to the amount determined 70938
under division (E) of this section as the amount payable for goods 70939
and services authorized under division (B) or (D) of this section. 70940
The department is the payer of last resort and shall pay for 70941
authorized goods or services, up to the amount determined under 70942
division (E) of this section for the authorized goods or services, 70943
only to the extent that payment for the authorized goods or 70944
services is not made through third-party benefits. When a third 70945
party fails to act on an application or claim for benefits by a 70946

medically handicapped child or the child's parent or guardian, the 70947
department shall pay for the goods or services only after ninety 70948
days have elapsed since the date the child, parents, or guardians 70949
made an application or claim for all third-party benefits. 70950
Third-party benefits received shall be applied to the amount 70951
determined under division (E) of this section. Third-party 70952
payments for goods and services not authorized under division (B) 70953
or (D) of this section shall not be applied to payment amounts 70954
determined under division (E) of this section. Payment made by the 70955
department shall be considered payment in full of the amount 70956
determined under division (E) of this section. Medicaid payments 70957
for persons eligible for the medical assistance program 70958
established under section 5111.01 of the Revised Code shall be 70959
considered payment in full of the amount determined under division 70960
(E) of this section. 70961

(G) The department of health shall administer a program to 70962
provide services to Ohio residents who are twenty-one or more 70963
years of age who have cystic fibrosis and who meet the eligibility 70964
requirements established by the rules of the public health council 70965
pursuant to division (A)(7) of section 3701.021 of the Revised 70966
Code, subject to all provisions of this section, but not subject 70967
to section 3701.024 of the Revised Code. 70968

(H) The department of health shall provide for appeals, in 70969
accordance with rules adopted under section 3701.021 of the 70970
Revised Code, of denials of applications for the program for 70971
medically handicapped children under division (A) or (D) of this 70972
section, disqualification of providers, or amounts paid under 70973
division (E) of this section. Appeals under this division are not 70974
subject to Chapter 119. of the Revised Code. 70975

The department may designate ombudspersons to assist 70976
medically handicapped children or their parents or guardians, upon 70977
the request of the children, parents, or guardians, in filing 70978

appeals under this division and to serve as children's, parents', 70979
or guardians' advocates in matters pertaining to the 70980
administration of the program for medically handicapped children 70981
and eligibility for program services. The ombudspersons shall 70982
receive no compensation but shall be reimbursed by the department, 70983
in accordance with rules of the office of budget and management, 70984
for their actual and necessary travel expenses incurred in the 70985
performance of their duties. 70986

(I) The department of health, and city and general health 70987
districts providing service coordination pursuant to division 70988
(A)(2) of section 3701.024 of the Revised Code, shall provide 70989
service coordination in accordance with the standards set forth in 70990
the rules adopted under section 3701.021 of the Revised Code, 70991
without charge, and without restriction as to economic status. 70992

(J)(1) The department of health may establish a manufacturer 70993
discount program under which a manufacturer of a drug or 70994
nutritional formula is permitted to enter into an agreement with 70995
the department to provide a discount on the price of the drug or 70996
nutritional formula distributed to medically handicapped children 70997
participating in the program for medically handicapped children. 70998
The program shall be administered in accordance with rules adopted 70999
under section 3701.021 of the Revised Code. 71000

(2) If a manufacturer enters into an agreement with the 71001
department as described in division (J)(1) of this section, the 71002
manufacturer and the department may negotiate the amount and terms 71003
of the discount. 71004

(3) In lieu of establishing a discount program as described 71005
in division (J)(1) of this section, the department and a 71006
manufacturer of a drug or nutritional formula may discuss a 71007
donation of drugs, nutritional formulas, or money by the 71008
manufacturer to the department. 71009

Sec. 3701.0211. For each year that federal funds are made 71010
available to states under Title V of the "Social Security Act," 71011
124 Stat. 352 (2010), 42 U.S.C. 710, as amended, for use in 71012
providing abstinence education, the director of health shall 71013
submit to the United States secretary of health and human services 71014
an application for the allotment of those funds that is available 71015
to this state. The director shall use the funds received in 71016
accordance with any conditions under which the application was 71017
approved. 71018

Sec. 3701.032. The director of health may adopt rules 71019
defining what constitutes a "health home" for the purpose of any 71020
entity that is authorized to provide care coordination services. 71021
The rules shall be adopted in accordance with Chapter 119. of the 71022
Revised Code. 71023

Sec. 3701.07. (A) The public health council shall adopt rules 71024
in accordance with Chapter 119. of the Revised Code defining and 71025
classifying hospitals and dispensaries and providing for the 71026
reporting of information by hospitals and dispensaries. Except as 71027
otherwise provided in the Revised Code, the rules providing for 71028
the reporting of information shall not require inclusion of any 71029
confidential patient data or any information concerning the 71030
financial condition, income, expenses, or net worth of the 71031
facilities other than that financial information already contained 71032
in those portions of the medicare or medicaid cost report that is 71033
necessary for the department of health to certify the per diem 71034
cost under section 3701.62 of the Revised Code. The rules may 71035
require the reporting of information in the following categories: 71036

(1) Information needed to identify and classify the 71037
institution; 71038

(2) Information on facilities and type and volume of services 71039

provided by the institution; 71040

(3) The number of beds listed by category of care provided; 71041

(4) The number of licensed or certified professional 71042
employees by classification; 71043

(5) The number of births that occurred at the institution the 71044
previous calendar year; 71045

(6) Any other information that the council considers relevant 71046
to the safety of patients served by the institution. 71047

Every hospital and dispensary, public or private, annually 71048
shall register with and report to the department of health. 71049
Reports shall be submitted in the manner prescribed in rules 71050
adopted under this division. 71051

(B) Every governmental entity or private nonprofit 71052
corporation or association whose employees or representatives are 71053
defined as residents' rights advocates under divisions (E)(1) and 71054
(2) of section 3721.10 ~~or division (A)(10) of section 3722.01~~ of 71055
the Revised Code shall register with the department of health on 71056
forms furnished by the director of health and shall provide such 71057
reasonable identifying information as the director may prescribe. 71058

The department shall compile a list of the governmental 71059
entities, corporations, or associations registering under this 71060
division and shall update the list annually. Copies of the list 71061
shall be made available to nursing home administrators as defined 71062
in division (C) of section 3721.10 of the Revised Code and to 71063
adult care facility managers as defined in section ~~3722.01~~ 5119.70 71064
of the Revised Code. 71065

Sec. 3701.61. (A) The department of health shall establish 71066
the help me grow program ~~for the purpose of encouraging to~~ 71067
encourage early prenatal and well-baby care, provide parenting 71068
education to promote the comprehensive health and development of 71069

children, and provide early intervention services in accordance 71070
with part C of the "Individuals with Disabilities Education Act," 71071
118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. The program shall 71072
include ~~distributing subsidies to counties to provide the~~ 71073
following services: 71074

(1) ~~Home visiting~~ Home visiting services to ~~newborn infants~~ 71075
~~and their families with a pregnant woman or an infant or toddler~~ 71076
under three years of age who meet the eligibility requirements 71077
established in rules adopted under this section; 71078

(2) ~~Services~~ Part C early intervention services to infants 71079
and toddlers under three years of age who ~~are at risk for, or who~~ 71080
~~have, a developmental delay or disability and their families meet~~ 71081
the eligibility requirements established in rules adopted under 71082
this section. 71083

(B) ~~The department shall not provide home visiting services~~ 71084
~~under the help me grow program unless requested in writing by a~~ 71085
~~parent of the infant or toddler~~ director of health may enter into 71086
an interagency agreement with one or more state agencies to 71087
implement the help me grow program and ensure coordination of 71088
early childhood programs. 71089

(C) The director may distribute help me grow program funds 71090
through contracts, grants, or subsidies to entities providing 71091
services under the program. 71092

(D) To the extent funds are available, the department shall 71093
establish a system of payment to providers of home visiting and 71094
part C early intervention services. 71095

~~(C)~~(E) As a condition of receiving payments for home visiting 71096
services, providers shall report to the director data on the 71097
program performance indicators that are used to assess progress 71098
toward achieving the goals of the program. The report shall 71099
include data on the performance indicator of birth outcomes, 71100

including risk indicators of low birth weight and preterm births, 71101
and data on all other performance indicators specified in rules 71102
adopted under this section. The providers shall report the data in 71103
the format and within the time frames specified in the rules. 71104

The director shall prepare an annual report on the data 71105
received from the providers. 71106

(F) Pursuant to Chapter 119. of the Revised Code, the 71107
department director shall adopt rules that are necessary and 71108
proper to implement this section. The rules shall specify all of 71109
the following: 71110

(1) Eligibility requirements for home visiting services and 71111
part C early intervention services; 71112

(2) Eligibility requirements for providers of home visiting 71113
services and providers of part C early intervention services; 71114

(3) Standards and procedures for the provision of program 71115
services, including data collection, program monitoring, and 71116
program evaluation; 71117

(4) Procedures for appealing the denial of an application for 71118
program services or the termination of services; 71119

(5) Procedures for appealing the denial of an application to 71120
become a provider of program services or the termination of the 71121
department's approval of a provider; 71122

(6) Procedures for addressing complaints; 71123

(7) The program performance indicators on which data must be 71124
reported by providers of home visiting services under division (E) 71125
of this section, which, to the extent possible, shall be 71126
consistent with federal reporting requirements for federally 71127
funded home visiting services; 71128

(8) The format in which reports must be submitted under 71129
division (E) of this section and the time frames within which the 71130

<u>reports must be submitted;</u>	71131
<u>(9) Criteria for payment of approved providers of program services;</u>	71132
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<u>(10) Any other rules necessary to implement the program.</u>	71134
<u>(G) A family enrolled in the help me grow at-risk program on the effective date of this amendment shall be eligible for at-risk services until December 31, 2013, or until the eligible child reaches three years of age, whichever occurs first.</u>	71135
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Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:	71139
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(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.	71141
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(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.	71151
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(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	71153
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(4) "Health care practitioner" means all of the following:	71156
(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	71157
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(b) A registered or licensed practical nurse licensed under	71159

Chapter 4723. of the Revised Code;	71160
(c) An optometrist licensed under Chapter 4725. of the Revised Code;	71161 71162
(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;	71163 71164 71165 71166
(e) A pharmacist licensed under Chapter 4729. of the Revised Code;	71167 71168
(f) A physician;	71169
(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	71170 71171
(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;	71172 71173
(i) A psychologist licensed under Chapter 4732. of the Revised Code;	71174 71175
(j) A chiropractor;	71176
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	71177 71178
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	71179 71180
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	71181 71182
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	71183 71184
(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	71185 71186 71187 71188

(p) A dietitian licensed under Chapter 4759. of the Revised Code; 71189
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(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code; 71191
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(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code. 71193
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(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. 71196
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(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 71199
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(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 71201
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(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment. 71210
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(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative. 71214
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- (10) "Patient" means either of the following: 71219
- (a) An individual who received health care treatment from a health care provider; 71220
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- (b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section. 71222
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- (11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division. 71225
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- (12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 71237
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- (13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. 71239
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- (14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record. 71243
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- (B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal 71246
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representative, or authorized person dated not more than one year 71250
before the date on which it is submitted. The request shall 71251
indicate whether the copy is to be sent to the requestor, 71252
physician or chiropractor, or held for the requestor at the office 71253
of the health care provider. Within a reasonable time after 71254
receiving a request that meets the requirements of this division 71255
and includes sufficient information to identify the record 71256
requested, a health care provider that has the patient's medical 71257
records shall permit the patient to examine the record during 71258
regular business hours without charge or, on request, shall 71259
provide a copy of the record in accordance with section 3701.741 71260
of the Revised Code, except that if a physician or chiropractor 71261
who has treated the patient determines for clearly stated 71262
treatment reasons that disclosure of the requested record is 71263
likely to have an adverse effect on the patient, the health care 71264
provider shall provide the record to a physician or chiropractor 71265
designated by the patient. The health care provider shall take 71266
reasonable steps to establish the identity of the person making 71267
the request to examine or obtain a copy of the patient's record. 71268

(C) If a health care provider fails to furnish a medical 71269
record as required by division (B) of this section, the patient, 71270
personal representative, or authorized person who requested the 71271
record may bring a civil action to enforce the patient's right of 71272
access to the record. 71273

(D)(1) This section does not apply to medical records whose 71274
release is covered by section 173.20 or 3721.13 of the Revised 71275
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 71276
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 71277
Records," or by 42 C.F.R. 483.10. 71278

(2) Nothing in this section is intended to supersede the 71279
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 71280
and 2305.252 of the Revised Code. 71281

Sec. 3701.83. (A) There is hereby created in the state 71282
treasury the general operations fund. Moneys in the fund shall be 71283
used for the purposes specified in sections 3701.04, 3701.344, 71284
3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, ~~3722.04~~, 71285
3729.07, ~~3733.04~~, ~~3733.25~~, ~~3733.43~~, 3748.04, 3748.05, 3748.07, 71286
3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 71287
of the Revised Code. 71288

(B) The alcohol testing program fund is hereby created in the 71289
state treasury. The director of health shall use the fund to 71290
administer and enforce the alcohol testing and permit program 71291
authorized by section 3701.143 of the Revised Code. 71292

The fund shall receive transfers from the liquor control fund 71293
created under section 4301.12 of the Revised Code. All investment 71294
earnings of the alcohol testing program fund shall be credited to 71295
the fund. 71296

Sec. 3702.59. (A) The director of health shall accept for 71297
review certificate of need applications as provided in sections 71298
3702.592, 3702.593, and 3702.594 of the Revised Code. 71299

(B)(1) The director shall not approve an application for a 71300
certificate of need for the addition of long-term care beds to an 71301
existing health care facility or for the development of a new 71302
health care facility if any of the following apply: 71303

(a) The existing health care facility in which the beds are 71304
being placed has one or more waivers for life safety code 71305
deficiencies, one or more state fire code violations, or one or 71306
more state building code violations, and the project identified in 71307
the application does not propose to correct all life safety code 71308
deficiencies for which a waiver has been granted, all state fire 71309
code violations, and all state building code violations at the 71310
existing health care facility in which the beds are being placed; 71311

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing health care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners:

(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies;

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies;

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

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(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the health care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the health care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new health care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing health care facility from which the beds are being relocated.

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(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

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(1) Is operated exclusively by a religious order;

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(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

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(3) Was providing care exclusively to members of such a religious order on January 1, 1994.

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~~At no time shall individuals other than those described in division (C)(2) of this section be admitted to a facility to use beds for which a certificate of need is approved under this~~

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~~division.~~ 71374

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children. 71375
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The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code. 71381
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Sec. 3704.06. (A) The attorney general, upon the request of the director of environmental protection, shall prosecute any person who violates section 3704.05 or 3704.16 of the Revised Code. 71385
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(B) The attorney general, upon request of the director, shall bring an action for an injunction, a civil penalty, or any other appropriate proceedings in any court of competent jurisdiction against any person violating or threatening to violate section 3704.05 or 3704.16 of the Revised Code. The court shall have jurisdiction to grant prohibitory and mandatory injunctive relief and to require payment of a civil penalty upon the showing that ~~such~~ the person has violated this chapter or rules adopted thereunder. 71389
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(C) A person who violates section 3704.05 or 3704.16 of the Revised Code shall pay a civil penalty of not more than twenty-five thousand dollars for each day of each violation. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors. 71398
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(D) One-half of the moneys collected as civil penalties under 71403

division (C) of this section shall be credited to the 71404
environmental education fund created in section 3745.22 of the 71405
Revised Code. The remainder of the moneys so collected shall be 71406
credited to the air pollution control administration fund, which 71407
is hereby created in the state treasury. The air pollution control 71408
administration fund shall be administered by the director. Moneys 71409
in the air pollution control administration fund shall be used to 71410
supplement other moneys available for the administration and 71411
enforcement of this chapter and the rules adopted and terms and 71412
conditions of orders and permits issued under it, including, 71413
without limitation, the issuance of permits under it, and shall 71414
not be used to satisfy any state matching fund requirements for 71415
the receipt of any federal grant funds. 71416

The director may expend not more than ~~seven~~ one million five 71417
hundred ~~fifty~~ thousand dollars of the moneys credited to the air 71418
pollution control administration fund under this division in any 71419
fiscal year for the purposes specified in this division. The 71420
director may request authority from the controlling board to 71421
expend any moneys credited to that fund in any fiscal year in 71422
excess of that amount. 71423

(E) Upon written complaint by any person, the director shall 71424
conduct such investigations and make such inquiries as are 71425
necessary to secure compliance with this chapter. The director, 71426
upon complaint or upon ~~his~~ the director's own initiative, may 71427
investigate or make inquiries into any alleged violation or act of 71428
air pollution. 71429

Sec. 3704.14. (A)(1) If the director of environmental 71430
protection determines that implementation of a motor vehicle 71431
inspection and maintenance program is necessary for the state to 71432
effectively comply with the federal Clean Air Act after June 30, 71433
~~2009~~ 2011, the director may provide for the implementation of the 71434

program in those counties in this state in which such a program is 71435
federally mandated. Upon making such a determination, the director 71436
of environmental protection may request the director of 71437
administrative services to extend the terms of the contract that 71438
was entered into under the authority of ~~Section 7~~ of Am. Sub. H.B. 71439
~~24~~ 1 of the ~~127th~~ 128th general assembly. Upon receiving the 71440
request, the director of administrative services shall extend the 71441
contract, beginning on July 1, ~~2009~~ 2011, in accordance with this 71442
section. The contract shall be extended for a period of up to ~~six~~ 71443
twelve months with the contractor who conducted the motor vehicle 71444
inspection and maintenance program under that contract. 71445

(2) Prior to the expiration of the contract extension that is 71446
authorized by division (A)(1) of this section, the director of 71447
environmental protection ~~may~~ shall request the director of 71448
administrative services to enter into a contract with a vendor to 71449
operate a decentralized motor vehicle inspection and maintenance 71450
program in each county in this state in which such a program is 71451
federally mandated through June 30, ~~2011~~ 2015, with an option for 71452
the state to renew the contract through June 30, ~~2012~~ 2017. The 71453
contract shall ensure that the decentralized motor vehicle 71454
inspection and maintenance program achieves at least the same 71455
~~ozone precursor~~ emission reductions as achieved by the program 71456
operated under the authority of the contract that was extended 71457
under division (A)(1) of this section. The director of 71458
administrative services shall select a vendor through a 71459
competitive selection process in compliance with Chapter 125. of 71460
the Revised Code. 71461

(3) Notwithstanding any law to the contrary, the director of 71462
administrative services shall ensure that a competitive selection 71463
process regarding a contract to operate a decentralized motor 71464
vehicle inspection and maintenance program in this state 71465
incorporates the following ~~elements~~, which shall be included in 71466

the contract: 71467

(a) A For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities; 71468
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(b) A requirement that the vendor selected to operate the 71473
program provide notification of the program's requirements to each 71474
owner of a motor vehicle that is required to be inspected under 71475
the program. The contract shall require the notification to be 71476
provided not later than sixty days prior to the date by which the 71477
owner of the motor vehicle is required to have the motor vehicle 71478
inspected. The director of environmental protection and the vendor 71479
shall jointly agree on the content of the notice. However, the 71480
notice shall include at a minimum the locations of all inspection 71481
facilities within a specified distance of the address that is 71482
listed on the owner's motor vehicle registration; 71483

(c) A requirement that the vendor comply with testing methodology and supply the required equipment approved by the director of environmental protection as specified in the competitive selection process in compliance with Chapter 125. of the Revised Code. 71484
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(4) A decentralized motor vehicle inspection and maintenance 71489
program operated under this section shall comply with division (B) 71490
of this section. The director of environmental protection shall 71491
administer the decentralized motor vehicle inspection and 71492
maintenance program operated under this section. 71493

(B) The decentralized motor vehicle inspection and 71494
maintenance program authorized by this section, at a minimum, 71495
shall do all of the following: 71496

(1) Comply with the federal Clean Air Act; 71497

(2) Provide for the issuance of inspection certificates; 71498

(3) Provide for a new car exemption for motor vehicles four 71499
years old or newer and provide that a new motor vehicle is exempt 71500
for four years regardless of whether legal title to the motor 71501
vehicle is transferred during that period. 71502

~~(C) A motor vehicle inspection and maintenance program shall 71503
not be implemented in any county in which such a program is not 71504
authorized under division (A) of this section without the approval 71505
of the general assembly through the enactment of legislation. 71506
Further, a motor vehicle inspection and maintenance program shall 71507
not be implemented in any county beyond June 30, 2012, without the 71508
approval of the general assembly through the enactment of 71509
legislation. 71510~~

~~(D)~~ The director of environmental protection shall adopt 71511
rules in accordance with Chapter 119. of the Revised Code that the 71512
director determines are necessary to implement this section. The 71513
director may continue to implement and enforce rules pertaining to 71514
the motor vehicle inspection and maintenance program previously 71515
implemented under former section 3704.14 of the Revised Code as 71516
that section existed prior to its repeal and reenactment by Am. 71517
Sub. H.B. 66 of the 126th general assembly, provided that the 71518
rules do not conflict with this section. 71519

~~(E)~~(D) There is hereby created in the state treasury the auto 71520
emissions test fund, which shall consist of money received by the 71521
director from any cash transfers, state and local grants, and 71522
other contributions that are received for the purpose of funding 71523
the program established under this section. The director of 71524
environmental protection shall use money in the fund solely for 71525
the implementation, supervision, administration, operation, and 71526
enforcement of the motor vehicle inspection and maintenance 71527
program established under this section. Money in the fund shall 71528
not be used for either of the following: 71529

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

~~(F)~~(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.

(b) Replacement of a birth certificate following an adoption, 71560
legitimation, paternity determination or acknowledgement, or court 71561
order; 71562

(c) Filing of a delayed registration of a vital record; 71563

(d) Amendment of a vital record that is requested later than 71564
one year after the filing date of the vital record; 71565

(e) Any other documents or services for which the public 71566
health council considers the charging of a fee appropriate. 71567

(2) Fees prescribed under division (A)(1)(a) of this section 71568
shall not be less than twelve dollars. 71569

(3) Fees prescribed under division (A)(1) of this section 71570
shall be collected in addition to any fees required by sections 71571
3109.14 and 3705.242 of the Revised Code. 71572

(4) Fees prescribed under division (A) of this section shall 71573
not apply to certifications issued under division (H) of this 71574
section or copies provided under section 3705.241 of the Revised 71575
Code. 71576

(B) In addition to the fees prescribed under division (A) of 71577
this section or section 3709.09 of the Revised Code, the office of 71578
vital statistics ~~or~~, the board of health of a city or general 71579
health district, or a local registrar of vital statistics who is 71580
not a salaried employee of a city or general health district shall 71581
charge a five-dollar fee for each certified copy of a vital record 71582
and each certification of birth. This fee shall be deposited in 71583
the general operations fund created under section 3701.83 of the 71584
Revised Code and be used to support the operations, the 71585
modernization, and the automation of the vital records program in 71586
this state. A board of health or a local registrar shall forward 71587
all fees collected under this division to the department of health 71588
not later than thirty days after the end of each calendar quarter. 71589

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents; 71622
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(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents; 71624
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(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents; 71627
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(4) In primary registration districts of less than fifty thousand, one dollar. 71629
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(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code. 71631
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(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license. 71641
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(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in 71647
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these cases. 71653

(H) The fee for an heirloom certification of birth issued 71654
pursuant to division (B)(2) of section 3705.23 of the Revised Code 71655
shall be an amount prescribed by rule by the director of health 71656
plus any fee required by section 3109.14 of the Revised Code. In 71657
setting the amount of the fee, the director shall establish a 71658
surcharge in addition to an amount necessary to offset the expense 71659
of processing heirloom certifications of birth. The fee prescribed 71660
by the director of health pursuant to this division shall be 71661
deposited into the state treasury to the credit of the heirloom 71662
certification of birth fund which is hereby created. Money 71663
credited to the fund shall be used by the office of vital 71664
statistics to offset the expense of processing heirloom 71665
certifications of birth. However, the money collected for the 71666
surcharge, subject to the approval of the controlling board, shall 71667
be used for the purposes specified by the family and children 71668
first council pursuant to section 121.37 of the Revised Code. 71669

(I)(1) Four dollars of each fee collected by ~~the director of~~ 71670
~~health or~~ the board of health of a city or general health district 71671
~~for an item or service described in division (A)(1)(a) of this~~ 71672
~~section~~ a certified copy of a vital record or a certification of 71673
birth shall be transferred to the office of vital statistics not 71674
later than thirty days after the end of each calendar quarter and 71675
shall be used to support public health systems. Of each four 71676
dollars collected, one dollar shall be used by the director of 71677
health to pay subsidies to boards of health. The subsidies shall 71678
be distributed in accordance with the same formula established 71679
under section 3701.342 of the Revised Code for the distribution of 71680
state health district subsidy funds to boards of health and local 71681
health departments. 71682

(2) Four dollars of each fee collected by a local registrar 71683
of vital statistics who is not a salaried employee of a city or 71684

general health district, for a certified copy of a vital record or 71685
certification of birth, shall be transferred to the office of 71686
vital statistics not later than thirty days after the end of each 71687
calendar quarter and shall be used to support public health 71688
systems. 71689

Sec. 3709.085. (A) The board of health of a city or general 71690
health district may enter into a contract with any political 71691
subdivision or other governmental agency to obtain or provide all 71692
or part of any services, including, but not limited to, 71693
enforcement services, for the purposes of Chapter 3704. of the 71694
Revised Code, the rules adopted and orders made pursuant thereto, 71695
or any other ordinances or rules for the prevention, control, and 71696
abatement of air pollution. 71697

(B)(1) As used in division (B)(2) of this section: 71698

(a) "Semipublic disposal system" means a disposal system that 71699
treats the sanitary sewage discharged from publicly or privately 71700
owned buildings or places of assemblage, entertainment, 71701
recreation, education, correction, hospitalization, housing, or 71702
employment, but does not include a disposal system that treats 71703
sewage in amounts of more than twenty-five thousand gallons per 71704
day; a disposal system for the treatment of sewage that is exempt 71705
from the requirements of section 6111.04 of the Revised Code 71706
pursuant to division (F)(7) of that section; or a disposal system 71707
for the treatment of industrial waste. 71708

(b) Terms defined in section 6111.01 of the Revised Code have 71709
the same meanings as in that section. 71710

(2) The board of health of a city or general health district 71711
may enter into a contract with the environmental protection agency 71712
to conduct on behalf of the agency inspection or enforcement 71713
services, for the purposes of Chapter 6111. of the Revised Code 71714
and rules adopted thereunder, for the disposal or treatment of 71715

sewage from semipublic disposal systems. The board of health of a 71716
city or general health district may charge a fee established 71717
pursuant to section 3709.09 of the Revised Code to be paid by the 71718
owner or operator of a semipublic disposal system for inspections 71719
conducted by the board pursuant to a contract entered into under 71720
division (B)(2) of this section, except that the board shall not 71721
charge a fee for those inspections conducted at any recreational 71722
vehicle park, recreation camp, or combined park-camp that is 71723
licensed under section 3729.05 of the Revised Code or at any 71724
manufactured home park that is licensed under section ~~3733.03~~ 71725
4781.26 of the Revised Code. 71726

Sec. 3709.09. (A) The board of health of a city or general 71727
health district may, by rule, establish a uniform system of fees 71728
to pay the costs of any services provided by the board. 71729

The fee for issuance of a certified copy of a vital record or 71730
a certification of birth shall not be less than the fee prescribed 71731
for the same service under division (A)(1) of section 3705.24 of 71732
the Revised Code and shall include the fees required by division 71733
(B) of section 3705.24 and section 3109.14 of the Revised Code. 71734

Fees for services provided by the board for purposes 71735
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 71736
3730.03, ~~3733.04, 3733.25~~ 3733.21, and 3749.04 of the Revised Code 71737
shall be established in accordance with rules adopted under 71738
division (B) of this section. The district advisory council, in 71739
the case of a general health district, and the legislative 71740
authority of the city, in the case of a city health district, may 71741
disapprove any fee established by the board of health under this 71742
division, and any such fee, as disapproved, shall not be charged 71743
by the board of health. 71744

(B) The public health council shall adopt rules under section 71745
111.15 of the Revised Code that establish fee categories and a 71746

uniform methodology for use in calculating the costs of services 71747
provided for purposes specified in sections 3701.344, 3711.10, 71748
3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~ 3733.21, and 3749.04 71749
of the Revised Code. In adopting the rules, the public health 71750
council shall consider recommendations it receives from advisory 71751
boards established either by statute or the director of health for 71752
entities subject to the fees. 71753

(C) Except when a board of health establishes a fee by 71754
adopting a rule as an emergency measure, the board of health shall 71755
hold a public hearing regarding each proposed fee for a service 71756
provided by the board for a purpose specified in section 3701.344, 71757
3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~ 3733.21, or 71758
3749.04 of the Revised Code. If a public hearing is held, at least 71759
twenty days prior to the public hearing the board shall give 71760
written notice of the hearing to each entity affected by the 71761
proposed fee. The notice shall be mailed to the last known address 71762
of each entity and shall specify the date, time, and place of the 71763
hearing and the amount of the proposed fee. 71764

(D) If payment of a fee established under this section is not 71765
received by the day on which payment is due, the board of health 71766
shall assess a penalty. The amount of the penalty shall be equal 71767
to twenty-five per cent of the applicable fee. 71768

(E) All rules adopted by a board of health under this section 71769
shall be adopted, recorded, and certified as are ordinances of 71770
municipal corporations and the record thereof shall be given in 71771
all courts the same effect as is given such ordinances, but the 71772
advertisements of such rules shall be by publication in one 71773
newspaper of general circulation within the health district. 71774
Publication shall be made once a week for two consecutive weeks or 71775
as provided in section 7.16 of the Revised Code, and such rules 71776
shall take effect and be in force ten days from the date of the 71777
first publication. 71778

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the public health council requires to be collected under sections 3701.344, 3718.06, 3729.07, ~~3733.04~~, ~~3733.25~~, and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3709.21. The board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or

restriction of disease, and the prevention, abatement, or 71809
suppression of nuisances. Such board may require that no human, 71810
animal, or household wastes from sanitary installations within the 71811
district be discharged into a storm sewer, open ditch, or 71812
watercourse without a permit therefor having been secured from the 71813
board under such terms as the board requires. All orders and 71814
regulations not for the government of the board, but intended for 71815
the general public, shall be adopted, recorded, and certified as 71816
are ordinances of municipal corporations and the record thereof 71817
shall be given in all courts the same effect as is given such 71818
ordinances, but the advertisements of such orders and regulations 71819
shall be by publication in ~~one~~ a newspaper published and of 71820
general circulation within the district. Publication shall be made 71821
once a week for two consecutive weeks or as provided in section 71822
7.16 of the Revised Code, and such orders and regulations shall 71823
take effect and be in force ten days from the date of the first 71824
publication. In cases of emergency caused by epidemics of 71825
contagious or infectious diseases, or conditions or events 71826
endangering the public health, the board may declare such orders 71827
and regulations to be emergency measures, and such orders and 71828
regulations shall become effective immediately without such 71829
advertising, recording, and certifying. 71830

Sec. 3709.341. The board of county commissioners may donate 71831
or sell property, buildings, and furnishings to any board of 71832
health of a general or combined health district. Upon acceptance 71833
by the board of health of the general or combined district, the 71834
board of county commissioners may convey the property, buildings, 71835
and furnishings to the board of health to be used as quarters by 71836
the board of health. The instrument conveying the property, 71837
buildings, and furnishings shall include a reverter clause that, 71838
in the event the board of health subsequently sells the property, 71839
buildings, and furnishings: 71840

(A) Reverts the property, buildings, and furnishings to the board of county commissioners if they initially were donated by the board of county commissioners; or 71841
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(B) Specifies how the proceeds of the board of health's subsequent sale of the property, buildings, and furnishings shall be distributed, if they initially were sold by the board of county commissioners. 71844
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Sec. 3717.01. As used in this chapter: 71848

(A) "Ohio uniform food safety code" means the food safety and related standards adopted under section 3717.05 of the Revised Code. 71849
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(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food" includes ice, water or any other beverage, food ingredients, and chewing gum. 71852
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(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment. 71856
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As used in this division: 71862

(1) "Retail" means the sale of food to a person who is the ultimate consumer. 71863
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(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received. 71865
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(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period. 71868
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(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable

structure, or watercraft and that routinely changes location, 71902
except that if the operation remains at any one location for more 71903
than forty consecutive days, the operation is no longer a mobile 71904
food service operation. "Mobile food service operation" includes a 71905
food service operation that does not remain at any one location 71906
for more than forty consecutive days and serves, in a manner 71907
consistent with division (F) of this section, only frozen 71908
desserts; beverages, nuts, popcorn, candy, or similar confections; 71909
bakery products identified in section 911.01 of the Revised Code; 71910
or any combination of those items. 71911

(J) "Seasonal food service operation" means a food service 71912
operation, other than a mobile food service operation, that is 71913
operated for not more than six months in a licensing period. 71914

(K) "Temporary food service operation" means a food service 71915
operation that is operated at an event for not more than five 71916
consecutive days, except when operated for more than five 71917
consecutive days pursuant to division (E)(2) of section 3717.43 of 71918
the Revised Code. 71919

(L) "Vending machine location" means an area or room where 71920
one or more vending machines are installed and operated, except 71921
that if the machines within an area are separated by more than one 71922
hundred fifty feet, each area separated by that distance 71923
constitutes a separate vending machine location. As used in this 71924
division, "vending machine" means a both of the following: 71925

(1) A self-service device that automatically dispenses on the 71926
insertion of currency, tokens, or similar means a predetermined 71927
unit serving of food, either in bulk or in package, without having 71928
to be replenished after each use; 71929

(2) A self-service device at which an individual purchases a 71930
predetermined unit serving of food, either in bulk or in package, 71931
by scanning the bar code of the food that was obtained at the 71932

<u>vending machine location.</u>	71933
(M) "Board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.	71934 71935 71936
(N) "Government entity" means this state, a political subdivision of this state, another state, or a political subdivision or other local government body of another state.	71937 71938 71939
(O) "Licensor" means one of the following:	71940
(1) A board of health approved under section 3717.11 of the Revised Code;	71941 71942
(2) The director of agriculture acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of retail food establishments;	71943 71944 71945
(3) The director of health acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of food service operations.	71946 71947 71948
(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.	71949 71950
(Q) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.	71951 71952 71953 71954 71955 71956
(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.	71957 71958 71959
(S) "Cottage food production operation" has the same meaning as in division (A)(20) of section 3715.01 of the Revised Code.	71960 71961

Sec. 3717.53. (A) As used in this section: 71962

(1) "Food nutrition information" includes, but is not limited 71963
to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, 71964
potassium, protein, vitamin, mineral, allergen, and sodium content 71965
of food. "Food nutrition information" also includes the 71966
designation of food as healthy or unhealthy. 71967

(2) "Political subdivision" and "local legislation" have the 71968
same meanings as in section 905.501 of the Revised Code. 71969

(3) "Consumer incentive item" means any licensed media 71970
character, toy, game, trading card, contest, point accumulation, 71971
club membership, admission ticket, token, code or password for 71972
digital access, coupon, voucher, incentive, crayons, coloring 71973
placemat, or other premium, prize, or consumer product that is 71974
associated with a meal served by or acquired from a food service 71975
operation. 71976

(B) The director of agriculture has sole and exclusive 71977
authority in this state to regulate the provision of food 71978
nutrition information and consumer incentive items at food service 71979
operations. The director may adopt rules for that purpose in 71980
accordance with Chapter 119. of the Revised Code, including rules 71981
that establish a schedule of civil penalties for violations of 71982
this section and rules adopted under it. Subject to the approval 71983
of the joint committee on agency rule review, portions of the 71984
rules may be adopted by referencing all or any part of any federal 71985
regulations pertaining to the provision of food nutrition 71986
information and consumer incentive items. 71987

The regulation of the provision of food nutrition information 71988
and consumer incentive items at food service operations is a 71989
matter of general statewide interest that requires statewide 71990
regulation, and rules adopted under this section constitute a 71991
comprehensive plan with respect to all aspects of the regulation 71992

of the provision of food nutrition information and consumer 71993
incentive items at food service operations in this state. Rules 71994
adopted under this section shall be applied uniformly throughout 71995
this state. 71996

(C) No political subdivision shall ~~enact~~ do any of the 71997
following: 71998

(1) Enact, adopt, or continue in effect local legislation 71999
relating to the provision or nonprovision of food nutrition 72000
information or consumer incentive items at food service 72001
operations; 72002

(2) Condition a license, a permit, or regulatory approval on 72003
the provision or nonprovision of food nutrition information or 72004
consumer incentive items at food service operations; 72005

(3) Ban, prohibit, or otherwise restrict food at food service 72006
operations based on the food nutrition information or on the 72007
provision or nonprovision of consumer incentive items; 72008

(4) Condition a license, a permit, or regulatory approval for 72009
a food service operation on the existence or nonexistence of 72010
food-based health disparities; 72011

(5) Ban, prohibit, or otherwise restrict food service 72012
operations based on the existence or nonexistence of food-based 72013
health disparities. 72014

Sec. 3717.54. (A) No political subdivision shall enact, 72015
adopt, or continue in effect local legislation that bans, 72016
prohibits, or otherwise restricts a food service operation because 72017
that food service operation is characterized as a quick service or 72018
fast food restaurant. The regulation of how food service 72019
operations are characterized is a matter of general statewide 72020
interest that requires uniform statewide regulation, and this 72021
chapter and rules adopted under it constitute a comprehensive plan 72022

with respect to all aspects of food service operations in this 72023
state. 72024

(B) As used in this section, "political subdivision" and 72025
"local legislation" have the same meanings as in section 905.501 72026
of the Revised Code. 72027

Sec. 3719.141. (A) A peace officer may sell any controlled 72028
substance in the performance of the officer's official duties only 72029
if either of the following applies: 72030

(1) A peace officer may sell any controlled substance in the 72031
performance of the officer's official duties if all of the 72032
following apply: 72033

(a) Prior approval for the sale has been given by the 72034
prosecuting attorney of the county in which the sale takes place, 72035
in any manner described in division (B) of this section; 72036

(b) The peace officer who makes the sale determines that the 72037
sale is necessary in the performance of the officer's official 72038
duties; 72039

(c) Any of the following applies: 72040

(i) The person to whom the sale is made or any other person 72041
who is involved in the sale does not know that the officer who 72042
makes the sale is a peace officer, and the peace officer who makes 72043
the sale determines that the sale is necessary to prevent the 72044
person from determining or suspecting that the officer who makes 72045
the sale is a peace officer. 72046

(ii) The peace officer who makes the sale determines that the 72047
sale is necessary to preserve an identity that the peace officer 72048
who makes the sale has assumed in the performance of the officer's 72049
official duties. 72050

(iii) The sale involves a controlled substance that, during 72051

the course of another sale, was intercepted by the peace officer 72052
who makes the sale or any other peace officer who serves the same 72053
agency served by the peace officer who makes the sale; the 72054
intended recipient of the controlled substance in the other sale 72055
does not know that the controlled substance has been so 72056
intercepted; the sale in question is made to the intended 72057
recipient of the controlled substance in the other sale and is 72058
undertaken with the intent of obtaining evidence of a drug abuse 72059
offense against the intended recipient of the controlled 72060
substance; and the sale in question does not involve the transfer 72061
of any money or other thing of value to the peace officer who 72062
makes the sale or any other peace officer who serves the same 72063
agency served by the peace officer who makes the sale in exchange 72064
for the controlled substance. 72065

(d) If the sale is made under the circumstances described in 72066
division (A)(1)(c)(i) or (ii) of this section, no person is 72067
charged with any criminal offense or any delinquent act based upon 72068
the sale unless both of the following apply: 72069

(i) The person also is charged with a criminal offense or a 72070
delinquent act that is based upon an act or omission that is 72071
independent of the sale but that either is connected together with 72072
the sale, or constitutes a part of a common scheme or plan with 72073
the sale, or is part of a course of criminal conduct involving the 72074
sale. 72075

(ii) The criminal offense or delinquent act based upon the 72076
sale and the other criminal offense or delinquent act are charged 72077
in the same indictment, information, or complaint. 72078

(e) The sale is not part of a continuing course of conduct 72079
involving the sale of controlled substances by the peace officer 72080
who makes the sale. 72081

(f) The amount of the controlled substance sold and the scope 72082

of the sale of the controlled substance is as limited as possible 72083
under the circumstances. 72084

(g) Prior to the sale, the law enforcement agency served by 72085
the peace officer who makes the sale has adopted a written 72086
internal control policy that does all of the following: 72087

(i) Addresses the keeping of detailed records as to the 72088
amount of money or other things of value obtained in the sale in 72089
exchange for the controlled substance; 72090

(ii) Addresses the delivery of all moneys or things of value 72091
so obtained to the prosecuting attorney pursuant to division (D) 72092
of this section; 72093

(iii) Addresses the agency's use and disposition of all such 72094
moneys or things of value that are deposited in the law 72095
enforcement trust fund of the sheriff, municipal corporation, or 72096
township, pursuant to division (D) of this section, and that are 72097
used by the sheriff, are allocated to the police department of the 72098
municipal corporation by its legislative authority, or are 72099
allocated by the board of township trustees to the township police 72100
department, township or joint police district police force, or 72101
office of the constable; 72102

(iv) Provides for the keeping of detailed financial records 72103
of the receipts of the proceeds, the general types of expenditures 72104
made out of the proceeds received, and the specific amount of each 72105
general type of expenditure. The policy shall not provide for or 72106
permit the identification of any peace officer involved in the 72107
sale, any information that is or may be needed in an ongoing 72108
investigation, or any specific expenditure that is made in an 72109
ongoing investigation. 72110

(2) A peace officer may sell any controlled substance in the 72111
performance of the officer's official duties if all of the 72112
following apply: 72113

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) Prior to the sale, the law enforcement agency served by the peace officer has adopted a written internal control policy that does the things listed in divisions (A)(1)(g)(i) to (iv) of this section;

(c) The purchaser of the controlled substance acquires possession of it in the presence of the peace officer who makes the sale.

(d) Upon the consummation of the sale, either of the following occurs:

(i) The peace officer arrests the purchaser of the controlled substance, recovers it and the proceeds of the sale, and secures it and the proceeds as evidence to be used in a subsequent prosecution.

(ii) The peace officer makes a reasonable, good faith effort to arrest the purchaser of the controlled substance and to recover the controlled substance and the proceeds of the sale, but the officer is unable to make the arrest and recover all of the controlled substance and proceeds for reasons beyond the officer's control, and the peace officer secures all of the controlled substance recovered and all of the proceeds recovered as evidence to be used in a subsequent prosecution.

(B) The approval of a prosecuting attorney required by division (A)(1)(a) or (2)(a) of this section may be in either of the following forms:

(1) A general approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, that grants approval only to that peace officer, and that grants approval for

any such sale that may be necessary, after the approval has been 72145
granted, under the standards described in division (A)(1) or (2) 72146
of this section; 72147

(2) A specific approval that is given by the prosecuting 72148
attorney to the peace officer who makes the sale or to the law 72149
enforcement agency served by that peace officer, and that grants 72150
approval only to that peace officer and only for the particular 72151
sale in question, under the standards described in division (A)(1) 72152
or (2) of this section. 72153

(C) If a peace officer sells a controlled substance in the 72154
performance of the officer's official duties under division (A)(1) 72155
or (2) of this section, the peace officer, within a reasonable 72156
time after the sale, shall provide the prosecuting attorney who 72157
granted approval for the sale with a written summary that 72158
identifies the amount and type of controlled substance sold, the 72159
circumstances of the sale, and the amount of any money or other 72160
thing of value obtained in the sale in exchange for the controlled 72161
substance. The summary shall not identify or enable the 72162
identification of any peace officer involved in the sale and shall 72163
not contain any information that is or may be needed in an ongoing 72164
investigation. 72165

(D)(1) Except as provided in division (D)(2) of this section, 72166
if a peace officer sells a controlled substance in the performance 72167
of the officer's official duties under division (A)(1) or (2) of 72168
this section, the peace officer, as soon as possible after the 72169
sale, shall deliver all money or other things of value obtained in 72170
the sale in exchange for the controlled substance to the 72171
prosecuting attorney who granted approval for the sale. The 72172
prosecuting attorney shall safely keep all money and other things 72173
of value the prosecuting attorney receives under this division for 72174
use as evidence in any criminal action or delinquency proceeding 72175
based upon the sale. All money so received by a prosecuting 72176

attorney that no longer is needed as evidence in any criminal 72177
action or delinquency proceeding shall be deposited by the 72178
prosecuting attorney in the law enforcement trust fund of the 72179
sheriff if the peace officer who made the sale is the sheriff or a 72180
deputy sheriff or the law enforcement trust fund of a municipal 72181
corporation or township if it is served by the peace officer who 72182
made the sale, as established pursuant to section 2981.13 of the 72183
Revised Code, and upon deposit shall be expended only as provided 72184
in that section. All other things of value so received by a 72185
prosecuting attorney that no longer are needed as evidence in any 72186
criminal action or delinquency proceeding shall be disposed of, 72187
without appraisal, at a public auction to the highest bidder for 72188
cash; the proceeds of the sale shall be deposited by the 72189
prosecuting attorney in the law enforcement trust fund of the 72190
sheriff if the peace officer who made the sale is the sheriff or a 72191
deputy sheriff or the law enforcement trust fund of a municipal 72192
corporation or township if it is served by the peace officer who 72193
made the sale, as established pursuant to section 2981.13 of the 72194
Revised Code, and upon deposit shall be expended only as provided 72195
in that section. Each law enforcement agency that uses any money 72196
that was deposited in a law enforcement trust fund pursuant to 72197
this division shall comply with the written internal control 72198
policy adopted by the agency, as required by division (A)(1)(g) or 72199
(2)(b) of this section, in its use of the money. 72200

(2) Division (D)(1) of this section does not apply in 72201
relation to a peace officer who sells a controlled substance in 72202
the performance of the officer's official duties under division 72203
(A)(1) of this section in any of the following circumstances: 72204

(a) The person to whom the sale is made or any other person 72205
who is involved in the sale does not know that the officer is a 72206
peace officer, and, if the officer were to retain and deliver the 72207
money or other things of value to the prosecuting attorney, the 72208

person would determine or suspect that the officer is a peace officer. 72209
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(b) If the officer were to retain and deliver the money or other things of value to the prosecuting attorney, an identity that has been assumed in the performance of the officer's official duties would not be preserved. 72211
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(c) The sale is made under the circumstances described in division (A)(1)(c)(iii) of this section. 72215
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(3) If division (D)(1) of this section does not apply in relation to a peace officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section due to the operation of division (D)(2) of this section, the peace officer, as soon as possible after the sale, shall deliver to the prosecuting attorney who granted approval for the sale a written summary that describes the circumstances of the sale and the reason for which division (D)(1) of this section does not apply. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation. 72217
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(E)(1) A written internal control policy adopted by a law enforcement agency that is served by a peace officer who sells a controlled substance under division (A)(1) or (2) of this section, as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general 72229
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types of expenditures made out of the proceeds received, and the 72241
specific amounts of each general type of expenditure by a law 72242
enforcement agency in relation to any sale of a controlled 72243
substance under division (A)(1) or (2) of this section are public 72244
records open for inspection under section 149.43 of the Revised 72245
Code. 72246

(2) A summary required by division (C) or (D)(3) of this 72247
section is a public record open for inspection under section 72248
149.43 of the Revised Code. 72249

(F)(1) Each prosecuting attorney who grants approval for a 72250
sale of controlled substances by a peace officer and who receives 72251
in any calendar year one or more summaries under division (C) of 72252
this section relative to the sale of a controlled substance by a 72253
peace officer shall prepare a report covering the calendar year 72254
that cumulates all of the information contained in each of the 72255
summaries so received in the calendar year and shall send the 72256
cumulative report, no later than the first day of March in the 72257
calendar year following the calendar year covered by the report, 72258
to the attorney general. 72259

(2) Each prosecuting attorney who receives any money or any 72260
other thing of value under division (D)(1) of this section shall 72261
keep detailed financial records of the receipts and dispositions 72262
of all such moneys or things of value so received. No record of 72263
that nature shall identify, or enable the identification of, any 72264
person from whom money or another thing of value was received as a 72265
result of the sale of a controlled substance under division (A)(1) 72266
or (2) of this section or contain any information that is or may 72267
be needed in an ongoing investigation. Each record of that nature 72268
is a public record open for inspection under section 149.43 of the 72269
Revised Code and shall include, but is not limited to, all of the 72270
following information: 72271

(a) The identity of each law enforcement agency that has so 72272

delivered any money or other thing of value to the prosecuting attorney; 72273
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(b) The total amount of money or other things of value so received from each law enforcement agency; 72275
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(c) The disposition made under this section of all money or other things of value so received. 72277
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(G) Divisions (A) to (F) of this section do not apply to any peace officer, or to any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice. Any peace officer, or any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice may sell a controlled substance in the performance of the officer's, agent's, or employee's official duties if the sale is made in accordance with federal statutes and regulations. 72279
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(H) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code and also includes a special agent of the bureau of criminal identification and investigation. 72288
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Sec. 3719.41. Controlled substance schedules I, II, III, IV, and V are hereby established, which schedules include the following, subject to amendment pursuant to section 3719.43 or 3719.44 of the Revised Code. 72292
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SCHEDULE I 72296

(A) Narcotics-opiates 72297

Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation: 72298
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(1) Acetyl-alpha-methylfentanyl	72303
(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);	72304
(2) Acetylmethadol;	72305
(3) Allylprodine;	72306
(4) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);	72307 72308 72309
(5) Alphameprodine;	72310
(6) Alphamethadol;	72311
(7) Alpha-methylfentanyl	72312
(N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide;	72313
1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);	72314
(8) Alpha-methylthiofentanyl	72315
(N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N- phenylpropanamide);	72316 72317
(9) Benzethidine;	72318
(10) Betacetylmethadol;	72319
(11) Beta-hydroxyfentanyl	72320
(N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl)-N- phenylpropanamide);	72321
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N- phenylpropanamide);	72322 72323 72324
(13) Betameprodine;	72325
(14) Betamethadol;	72326
(15) Betaprodine;	72327
(16) Clonitazene;	72328
(17) Dextromoramide;	72329
(18) Diampromide;	72330

(19) Diethylthiambutene;	72331
(20) Difenoquin;	72332
(21) Dimenoxadol;	72333
(22) Dimepheptanol;	72334
(23) Dimethylthiambutene;	72335
(24) Dioxaphetyl butyrate;	72336
(25) Dipipanone;	72337
(26) Ethylmethylthiambutene;	72338
(27) Etonitazene;	72339
(28) Etozeridine;	72340
(29) Furethidine;	72341
(30) Hydroxypethidine;	72342
(31) Ketobemidone;	72343
(32) Levomoramide;	72344
(33) Levophenacymorphan;	72345
(34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);	72346 72347
(35) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);	72348 72349 72350
(36) Morpheridine;	72351
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);	72352
(38) Noracymethadol;	72353
(39) Norlevorphanol;	72354
(40) Normethadone;	72355
(41) Norpipanone;	72356

(42) Para-fluorofentanyl	72357
(N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;	72358
(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine;	72359
(44) Phenadoxone;	72360
(45) Phenampromide;	72361
(46) Phenomorphan;	72362
(47) Phenoperidine;	72363
(48) Piritramide;	72364
(49) Proheptazine;	72365
(50) Properidine;	72366
(51) Propiram;	72367
(52) Racemoramide;	72368
(53) Thiofentanyl	72369
(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;	72370
(54) Tilidine;	72371
(55) Trimeperidine.	72372
(B) Narcotics-opium derivatives	72373
Any of the following opium derivatives, including their	72374
salts, isomers, and salts of isomers, unless specifically excepted	72375
under federal drug abuse control laws, whenever the existence of	72376
these salts, isomers, and salts of isomers is possible within the	72377
specific chemical designation:	72378
(1) Acetorphine;	72379
(2) Acetyldihydrocodeine;	72380
(3) Benzylmorphine;	72381
(4) Codeine methylbromide;	72382
(5) Codeine-n-oxide;	72383

(6) Cyprenorphine;	72384
(7) Desomorphine;	72385
(8) Dihydromorphine;	72386
(9) Drotebanol;	72387
(10) Etorphine (except hydrochloride salt);	72388
(11) Heroin;	72389
(12) Hydromorphanol;	72390
(13) Methyldesorphine;	72391
(14) Methyldihydromorphine;	72392
(15) Morphine methylbromide;	72393
(16) Morphine methylsulfonate;	72394
(17) Morphine-n-oxide;	72395
(18) Myrophine;	72396
(19) Nicocodeine;	72397
(20) Nicomorphine;	72398
(21) Normorphine;	72399
(22) Pholcodine;	72400
(23) Thebacon.	72401
(C) Hallucinogens	72402
Any material, compound, mixture, or preparation that contains	72403
any quantity of the following hallucinogenic substances, including	72404
their salts, isomers, and salts of isomers, unless specifically	72405
excepted under federal drug abuse control laws, whenever the	72406
existence of these salts, isomers, and salts of isomers is	72407
possible within the specific chemical designation. For the	72408
purposes of this division only, "isomer" includes the optical	72409
isomers, position isomers, and geometric isomers.	72410

(1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET);	72411 72412 72413
(2) 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);	72414 72415 72416
(3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus);	72417 72418 72419
(4) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);	72420 72421
(5) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);	72422 72423
(6) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);	72424 72425 72426
(7) 5-methoxy-3,4-methylenedioxy-amphetamine;	72427
(8) 4-methyl-2,5-dimethoxy-amphetamine (some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM" and "STP");	72428 72429 72430
(9) 3,4-methylenedioxy amphetamine;	72431
(10) 3,4-methylenedioxymethamphetamine (MDMA);	72432
(11) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);	72433 72434 72435
(12) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine and N-hydroxy MDA);	72436 72437 72438
(13) 3,4,5-trimethoxy amphetamine;	72439

(14) Bufotenine (some trade or other names:	72440
3-(beta-dimethylaminoethyl)-5-hydroxyindole;	72441
3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin;	72442
5-hydroxy-N, N-dimethyltryptamine; mappine);	72443
(15) Diethyltryptamine (some trade or other names: N,	72444
N-diethyltryptamine; DET);	72445
(16) Dimethyltryptamine (some trade or other names: DMT);	72446
(17) Ibogaine (some trade or other names:	72447
7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-	72448
5H-pyrido[1',2':1,2] azepino [5, 4-b] indole; tabernanthe iboga);	72449
(18) Lysergic acid diethylamide;	72450
(19) Marihuana;	72451
(20) Mescaline;	72452
(21) Parahexyl (some trade or other names: 3-hexyl-1-	72453
hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran;	72454
synhexyl);	72455
(22) Peyote (meaning all parts of the plant presently	72456
classified botanically as "Lophophora williamsii Lemaire," whether	72457
growing or not, the seeds of that plant, any extract from any part	72458
of that plant, and every compound, manufacture, salts, derivative,	72459
mixture, or preparation of that plant, its seeds, or its	72460
extracts);	72461
(23) N-ethyl-3-piperidyl benzilate;	72462
(24) N-methyl-3-piperidyl benzilate;	72463
(25) Psilocybin;	72464
(26) Psilocyn;	72465
(27) Tetrahydrocannabinols (synthetic equivalents of the	72466
substances contained in the plant, or in the resinous extractives	72467
of Cannabis, sp. and/or synthetic substances, derivatives, and	72468

their isomers with similar chemical structure and pharmacological activity such as the following: delta-1-cis or trans tetrahydrocannabinol, and their optical isomers; delta-6-cis or trans tetrahydrocannabinol, and their optical isomers; delta-3,4-cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered.));	72469 72470 72471 72472 72473 72474 72475 72476 72477
(28) Ethylamine analog of phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE);	72478 72479 72480 72481
(29) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP);	72482 72483
(30) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);	72484 72485 72486
(31) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;	72487
(32) Hashish;	72488
(33) Salvia divinorum;	72489
(34) Salvinorin A _i	72490
<u>(35) Methylone (3,4-methylenedioxyethcathinone);</u>	72491
<u>(36) MDPV (3,4-methylenedioxypropylvalerone);</u>	72492
<u>(37) Mephedrone (4-methylmethcathinone);</u>	72493
<u>(38) 4-methoxymethcathinone;</u>	72494
<u>(39) 4-fluoromethcathinone;</u>	72495
<u>(40) 3-fluoromethcathinone.</u>	72496
(D) Depressants	72497

Any material, compound, mixture, or preparation that contains 72498
any quantity of the following substances having a depressant 72499
effect on the central nervous system, including their salts, 72500
isomers, and salts of isomers, unless specifically excepted under 72501
federal drug abuse control laws, whenever the existence of these 72502
salts, isomers, and salts of isomers is possible within the 72503
specific chemical designation: 72504

(1) Mecloqualone; 72505

(2) Methaqualone. 72506

(E) Stimulants 72507

Unless specifically excepted or unless listed in another 72508
schedule, any material, compound, mixture, or preparation that 72509
contains any quantity of the following substances having a 72510
stimulant effect on the central nervous system, including their 72511
salts, isomers, and salts of isomers: 72512

(1) Aminorex (some other names: aminoxaphen; 72513
2-amino-5-phenyl-2-oxazoline; or 72514
4,5-dihydro-5-phenyl-2-oxazolamine); 72515

(2) Cathinone (some trade or other names: 72516
2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 72517
2-aminopropiophenone, and norephedrone); 72518

(3) Fenethylline; 72519

(4) Methcathinone (some other names: 72520
2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 72521
2-methylamino)-1-phenylpropan-1-one; 72522
alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; 72523
N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and 72524
UR1432, its salts, optical isomers, and salts of optical isomers; 72525

(5) (+/-)cis-4-methylaminorex 72526
((+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine); 72527

(6) N-ethylamphetamine;	72528
(7) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).	72529 72530 72531
SCHEDULE II	72532
(A) Narcotics-opium and opium derivatives	72533
Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:	72534 72535 72536 72537 72538 72539
(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:	72540 72541 72542 72543 72544
(a) Raw opium;	72545
(b) Opium extracts;	72546
(c) Opium fluid extracts;	72547
(d) Powdered opium;	72548
(e) Granulated opium;	72549
(f) Tincture of opium;	72550
(g) Codeine;	72551
(h) Ethylmorphine;	72552
(i) Etorphine hydrochloride;	72553
(j) Hydrocodone;	72554
(k) Hydromorphone;	72555

(l) Metopon;	72556
(m) Morphine;	72557
(n) Oxycodone;	72558
(o) Oxymorphone;	72559
(p) Thebaine.	72560
(2) Any salt, compound, derivative, or preparation thereof	72561
that is chemically equivalent to or identical with any of the	72562
substances referred to in division (A)(1) of this schedule, except	72563
that these substances shall not include the isoquinoline alkaloids	72564
of opium;	72565
(3) Opium poppy and poppy straw;	72566
(4) Coca leaves and any salt, compound, derivative, or	72567
preparation of coca leaves (including cocaine and ecgonine, their	72568
salts, isomers, and derivatives, and salts of those isomers and	72569
derivatives), and any salt, compound, derivative, or preparation	72570
thereof that is chemically equivalent to or identical with any of	72571
these substances, except that the substances shall not include	72572
decocainized coca leaves or extraction of coca leaves, which	72573
extractions do not contain cocaine or ecgonine;	72574
(5) Concentrate of poppy straw (the crude extract of poppy	72575
straw in either liquid, solid, or powder form that contains the	72576
phenanthrene alkaloids of the opium poppy).	72577
(B) Narcotics-opiates	72578
Unless specifically excepted under federal drug abuse control	72579
laws or unless listed in another schedule, any of the following	72580
opiates, including their isomers, esters, ethers, salts, and salts	72581
of isomers, esters, and ethers, whenever the existence of these	72582
isomers, esters, ethers, and salts is possible within the specific	72583
chemical designation, but excluding dextrorphan and	72584
levopropoxyphene:	72585

(1) Alfentanil;	72586
(2) Alphaprodine;	72587
(3) Anileridine;	72588
(4) Bezitramide;	72589
(5) Bulk dextropropoxyphene (non-dosage forms);	72590
(6) Carfentanil;	72591
(7) Dihydrocodeine;	72592
(8) Diphenoxylate;	72593
(9) Fentanyl;	72594
(10) Isomethadone;	72595
(11) Levo-alpha-acetylmethadol (some other names:	72596
levo-alpha-acetylmethadol; levomethadyl acetate; LAAM);	72597
(12) Levomethorphan;	72598
(13) Levorphanol;	72599
(14) Metazocine;	72600
(15) Methadone;	72601
(16) Methadone-intermediate,	72602
4-cyano-2-dimethylamino-4,4-diphenyl butane;	72603
(17) Moramide-intermediate,	72604
2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;	72605
(18) Pethidine (meperidine);	72606
(19) Pethidine-intermediate-A,	72607
4-cyano-1-methyl-4-phenylpiperidine;	72608
(20) Pethidine-intermediate-B,	72609
ethyl-4-phenylpiperidine-4-carboxylate;	72610
(21) Pethidine-intermediate-C,	72611
1-methyl-4-phenylpiperidine-4-carboxylic acid;	72612

(22) Phenazocine;	72613
(23) Piminodine;	72614
(24) Racemethorphan;	72615
(25) Racemorphan;	72616
(26) Remifentanil;	72617
(27) Sufentanil.	72618
(C) Stimulants	72619
Unless specifically excepted under federal drug abuse control	72620
laws or unless listed in another schedule, any material, compound,	72621
mixture, or preparation that contains any quantity of the	72622
following substances having a stimulant effect on the central	72623
nervous system:	72624
(1) Amphetamine, its salts, its optical isomers, and salts of	72625
its optical isomers;	72626
(2) Methamphetamine, its salts, its isomers, and salts of its	72627
isomers;	72628
(3) Methylphenidate;	72629
(4) Phenmetrazine and its salts.	72630
(D) Depressants	72631
Unless specifically excepted under federal drug abuse control	72632
laws or unless listed in another schedule, any material, compound,	72633
mixture, or preparation that contains any quantity of the	72634
following substances having a depressant effect on the central	72635
nervous system, including their salts, isomers, and salts of	72636
isomers, whenever the existence of these salts, isomers, and salts	72637
of isomers is possible within the specific chemical designation:	72638
(1) Amobarbital;	72639
(2) Gamma-hydroxy-butyrate;	72640

(3) Glutethimide;	72641
(4) Pentobarbital;	72642
(5) Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)piperidine; PCP);	72643 72644
(6) Secobarbital;	72645
(7) 1-aminophenylcyclohexane and all N-mono-substituted and/or all N-N-disubstituted analogs including, but not limited to, the following:	72646 72647 72648
(a) 1-phenylcyclohexylamine;	72649
(b) (1-phenylcyclohexyl) methylamine;	72650
(c) (1-phenylcyclohexyl) dimethylamine;	72651
(d) (1-phenylcyclohexyl) methylethylamine;	72652
(e) (1-phenylcyclohexyl) isopropylamine;	72653
(f) 1-(1-phenylcyclohexyl) morpholine.	72654
(E) Hallucinogenic substances	72655
(1) Nabilone (another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1- hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one);	72656 72657 72658
<u>(2) Formaldehyde.</u>	72659
(F) Immediate precursors	72660
Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:	72661 72662 72663 72664
(1) Immediate precursor to amphetamine and methamphetamine:	72665
(a) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone);	72666 72667 72668

- (2) Immediate precursors to phencyclidine (PCP): 72669
- (a) 1-phenylcyclohexylamine; 72670
- (b) 1-piperidinocyclohexanecarbonitrile (PCC). 72671

SCHEDULE III

- (A) Stimulants 72673

Unless specifically excepted under federal drug abuse control 72674
laws or unless listed in another schedule, any material, compound, 72675
mixture, or preparation that contains any quantity of the 72676
following substances having a stimulant effect on the central 72677
nervous system, including their salts, their optical isomers, 72678
position isomers, or geometric isomers, and salts of these 72679
isomers, whenever the existence of these salts, isomers, and salts 72680
of isomers is possible within the specific chemical designation: 72681

(1) All stimulant compounds, mixtures, and preparations 72682
included in schedule III pursuant to the federal drug abuse 72683
control laws and regulations adopted under those laws; 72684

(2) Benzphetamine; 72685

(3) Chlorphentermine; 72686

(4) Clortermine; 72687

(5) Phendimetrazine. 72688

- (B) Depressants 72689

Unless specifically excepted under federal drug abuse control 72690
laws or unless listed in another schedule, any material, compound, 72691
mixture, or preparation that contains any quantity of the 72692
following substances having a depressant effect on the central 72693
nervous system: 72694

(1) Any compound, mixture, or preparation containing 72695
amobarbital, secobarbital, pentobarbital, or any salt of any of 72696
these drugs, and one or more other active medicinal ingredients 72697

that are not listed in any schedule;	72698
(2) Any suppository dosage form containing amobarbital,	72699
secobarbital, pentobarbital, or any salt of any of these drugs and	72700
approved by the food and drug administration for marketing only as	72701
a suppository;	72702
(3) Any substance that contains any quantity of a derivative	72703
of barbituric acid or any salt of a derivative of barbituric acid;	72704
(4) Chlorhexadol;	72705
(5) Ketamine, its salts, isomers, and salts of isomers (some	72706
other names for ketamine:	72707
(+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone);	72708
(6) Lysergic acid;	72709
(7) Lysergic acid amide;	72710
(8) Methyprylon;	72711
(9) Sulfondiethylmethane;	72712
(10) Sulfonethylmethane;	72713
(11) Sulfonmethane;	72714
(12) Tiletamine, zolazepam, or any salt of tiletamine or	72715
zolazepam (some trade or other names for a tiletamine-zolazepam	72716
combination product: Telazol); (some trade or other names for	72717
tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone); (some	72718
trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-	72719
dihydro-1,3,8-trimethylpyrazolo-[3, 4-e][1,4]-diazepin-7(1H)-one;	72720
flupyrzapon).	72721
(C) Narcotic antidotes	72722
(1) Nalorphine.	72723
(D) Narcotics-narcotic preparations	72724
Unless specifically excepted under federal drug abuse control	72725

laws or unless listed in another schedule, any material, compound, 72726
mixture, or preparation that contains any of the following 72727
narcotic drugs, or their salts calculated as the free anhydrous 72728
base or alkaloid, in limited quantities as set forth below: 72729

(1) Not more than 1.8 grams of codeine per 100 milliliters or 72730
not more than 90 milligrams per dosage unit, with an equal or 72731
greater quantity of an isoquinoline alkaloid of opium; 72732

(2) Not more than 1.8 grams of codeine per 100 milliliters or 72733
not more than 90 milligrams per dosage unit, with one or more 72734
active, nonnarcotic ingredients in recognized therapeutic amounts; 72735

(3) Not more than 300 milligrams of dihydrocodeinone per 100 72736
milliliters or not more than 15 milligrams per dosage unit, with a 72737
fourfold or greater quantity of an isoquinoline alkaloid of opium; 72738

(4) Not more than 300 milligrams of dihydrocodeinone per 100 72739
milliliters or not more than 15 milligrams per dosage unit, with 72740
one or more active, nonnarcotic ingredients in recognized 72741
therapeutic amounts; 72742

(5) Not more than 1.8 grams of dihydrocodeine per 100 72743
milliliters or not more than 90 milligrams per dosage unit, with 72744
one or more active, nonnarcotic ingredients in recognized 72745
therapeutic amounts; 72746

(6) Not more than 300 milligrams of ethylmorphine per 100 72747
milliliters or not more than 15 milligrams per dosage unit, with 72748
one or more active, nonnarcotic ingredients in recognized 72749
therapeutic amounts; 72750

(7) Not more than 500 milligrams of opium per 100 milliliters 72751
or per 100 grams or not more than 25 milligrams per dosage unit, 72752
with one or more active, nonnarcotic ingredients in recognized 72753
therapeutic amounts; 72754

(8) Not more than 50 milligrams of morphine per 100 72755

milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts. 72756
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(E) Anabolic steroids 72758

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, esters, isomers, and salts of esters and isomers, whenever the existence of these salts, esters, and isomers is possible within the specific chemical designation: 72759
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(1) Anabolic steroids. Except as otherwise provided in division (E)(1) of schedule III, "anabolic steroids" means any drug or hormonal substance that is chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) and that promotes muscle growth. "Anabolic steroids" does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States secretary of health and human services for that administration, unless a person prescribes, dispenses, or distributes this type of anabolic steroid for human use. "Anabolic steroid" includes, but is not limited to, the following: 72766
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(a) Boldenone; 72778

(b) Chlorotestosterone (4-chlortestosterone); 72779

(c) Clostebol; 72780

(d) Dehydrochlormethyltestosterone; 72781

(e) Dihydrotestosterone (4-dihydrotestosterone); 72782

(f) Drostanolone; 72783

(g) Ethylestrenol; 72784

(h) Fluoxymesterone; 72785

(i) Formebolone (formebolone);	72786
(j) Mesterolone;	72787
(k) Methandienone;	72788
(l) Methandranone;	72789
(m) Methandriol;	72790
(n) Methandrostenolone;	72791
(o) Methenolone;	72792
(p) Methyltestosterone;	72793
(q) Mibolerone;	72794
(r) Nandrolone;	72795
(s) Norethandrolone;	72796
(t) Oxandrolone;	72797
(u) Oxymesterone;	72798
(v) Oxymetholone;	72799
(w) Stanolone;	72800
(x) Stanozolol;	72801
(y) Testolactone;	72802
(z) Testosterone;	72803
(aa) Trenbolone;	72804
(bb) Any salt, ester, isomer, or salt of an ester or isomer of a drug or hormonal substance described or listed in division (E)(1) of schedule III if the salt, ester, or isomer promotes muscle growth.	72805 72806 72807 72808
(F) Hallucinogenic substances	72809
(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product (some other names for	72810 72811 72812

dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro- 72813
6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or 72814
(-)-delta-9-(trans)-tetrahydrocannabinol). 72815

SCHEDULE IV 72816

(A) Narcotic drugs 72817

Unless specifically excepted by federal drug abuse control 72818
laws or unless listed in another schedule, any material, compound, 72819
mixture, or preparation that contains any of the following 72820
narcotic drugs, or their salts calculated as the free anhydrous 72821
base or alkaloid, in limited quantities as set forth below: 72822

(1) Not more than one milligram of difenoxin and not less 72823
than 25 micrograms of atropine sulfate per dosage unit; 72824

(2) Dextropropoxyphene 72825
(alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2- 72826
propionoxybutane)[final dosage forms]. 72827

(B) Depressants 72828

Unless specifically excepted under federal drug abuse control 72829
laws or unless listed in another schedule, any material, compound, 72830
mixture, or preparation that contains any quantity of the 72831
following substances, including their salts, isomers, and salts of 72832
isomers, whenever the existence of these salts, isomers, and salts 72833
of isomers is possible within the specific chemical designation: 72834

(1) Alprazolam; 72835

(2) Barbital; 72836

(3) Bromazepam; 72837

(4) Camazepam; 72838

(5) Chloral betaine; 72839

(6) Chloral hydrate; 72840

(7) Chlordiazepoxide; 72841

(8) Clobazam;	72842
(9) Clonazepam;	72843
(10) Clorazepate;	72844
(11) Clotiazepam;	72845
(12) Cloxazolam;	72846
(13) Delorazepam;	72847
(14) Diazepam;	72848
(15) Estazolam;	72849
(16) Ethchlorvynol;	72850
(17) Ethinamate;	72851
(18) Ethyl loflazepate;	72852
(19) Fludiazepam;	72853
(20) Flunitrazepam;	72854
(21) Flurazepam;	72855
(22) Halazepam;	72856
(23) Haloxazolam;	72857
(24) Ketazolam;	72858
(25) Loprazolam;	72859
(26) Lorazepam;	72860
(27) Lormetazepam;	72861
(28) Mebutamate;	72862
(29) Medazepam;	72863
(30) Meprobamate;	72864
(31) Methohexital;	72865
(32) Methylphenobarbital (mephobarbital);	72866

(33) Midazolam;	72867
(34) Nimetazepam;	72868
(35) Nitrazepam;	72869
(36) Nordiazepam;	72870
(37) Oxazepam;	72871
(38) Oxazolam;	72872
(39) Paraldehyde;	72873
(40) Petrichloral;	72874
(41) Phenobarbital;	72875
(42) Pinazepam;	72876
(43) Prazepam;	72877
(44) Quazepam;	72878
(45) Temazepam;	72879
(46) Tetrazepam;	72880
(47) Triazolam;	72881
(48) Zaleplon;	72882
(49) Zolpidem.	72883
(C) Fenfluramine	72884
Any material, compound, mixture, or preparation that contains	72885
any quantity of the following substances, including their salts,	72886
their optical isomers, position isomers, or geometric isomers, and	72887
salts of these isomers, whenever the existence of these salts,	72888
isomers, and salts of isomers is possible within the specific	72889
chemical designation:	72890
(1) Fenfluramine.	72891
(D) Stimulants	72892
Unless specifically excepted under federal drug abuse control	72893

laws or unless listed in another schedule, any material, compound, 72894
mixture, or preparation that contains any quantity of the 72895
following substances having a stimulant effect on the central 72896
nervous system, including their salts, their optical isomers, 72897
position isomers, or geometric isomers, and salts of these 72898
isomers, whenever the existence of these salts, isomers, and salts 72899
of isomers is possible within the specific chemical designation: 72900

(1) Cathine ((+)-norpseudoephedrine); 72901

(2) Diethylpropion; 72902

(3) Fencamfamin; 72903

(4) Fenproporex; 72904

(5) Mazindol; 72905

(6) Mefenorex; 72906

(7) Modafinil; 72907

(8) Pemoline (including organometallic complexes and chelates 72908
thereof); 72909

(9) Phentermine; 72910

(10) Pipradrol; 72911

(11) Sibutramine; 72912

(12) SPA [(-)-1-dimethylamino-1,2-diphenylethane]. 72913

(E) Other substances 72914

Unless specifically excepted under federal drug abuse control 72915
laws or unless listed in another schedule, any material, compound, 72916
mixture, or preparation that contains any quantity of the 72917
following substances, including their salts: 72918

(1) Pentazocine; 72919

(2) Butorphanol (including its optical isomers). 72920

SCHEDULE V 72921

(A) Narcotic drugs	72922
Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, and their salts, as set forth below:	72923 72924 72925 72926
(1) Buprenorphine.	72927
(B) Narcotics-narcotic preparations	72928
Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, and that includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:	72929 72930 72931 72932 72933 72934 72935 72936
(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;	72937 72938
(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;	72939 72940
(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;	72941 72942
(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfite per dosage unit;	72943 72944
(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;	72945 72946
(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfite per dosage unit.	72947 72948
(C) Stimulants	72949
Unless specifically exempted or excluded under federal drug	72950

abuse control laws or unless listed in another schedule, any 72951
material, compound, mixture, or preparation that contains any 72952
quantity of the following substances having a stimulant effect on 72953
the central nervous system, including their salts, isomers, and 72954
salts of isomers: 72955

(1) Ephedrine, except as provided in division (K) of section 72956
3719.44 of the Revised Code; 72957

(2) Pyrovalerone. 72958

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 72959
3721.99 of the Revised Code: 72960

(1)(a) "Home" means an institution, residence, or facility 72961
that provides, for a period of more than twenty-four hours, 72962
whether for a consideration or not, accommodations to three or 72963
more unrelated individuals who are dependent upon the services of 72964
others, including a nursing home, residential care facility, home 72965
for the aging, and a veterans' home operated under Chapter 5907. 72966
of the Revised Code. 72967

(b) "Home" also means both of the following: 72968

(i) Any facility that a person, as defined in section 3702.51 72969
of the Revised Code, proposes for certification as a skilled 72970
nursing facility or nursing facility under Title XVIII or XIX of 72971
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 72972
as amended, and for which a certificate of need, other than a 72973
certificate to recategorize hospital beds as described in section 72974
3702.522 of the Revised Code or division (R)(7)(d) of the version 72975
of section 3702.51 of the Revised Code in effect immediately prior 72976
to April 20, 1995, has been granted to the person under sections 72977
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 72978

(ii) A county home or district home that is or has been 72979
licensed as a residential care facility. 72980

- (c) "Home" does not mean any of the following: 72981
- (i) Except as provided in division (A)(1)(b) of this section, 72982
a public hospital or hospital as defined in section 3701.01 or 72983
5122.01 of the Revised Code; 72984
- (ii) A residential facility for mentally ill persons as 72985
defined under section 5119.22 of the Revised Code; 72986
- (iii) A residential facility as defined in section 5123.19 of 72987
the Revised Code; 72988
- (iv) An adult care facility as defined in section ~~3722.01~~ 72989
5119.70 of the Revised Code; 72990
- (v) An alcohol or drug addiction program as defined in 72991
section 3793.01 of the Revised Code; 72992
- (vi) A facility licensed to provide methadone treatment under 72993
section 3793.11 of the Revised Code; 72994
- (vii) A facility providing services under contract with the 72995
department of developmental disabilities under section 5123.18 of 72996
the Revised Code unless section 5123.192 of the Revised Code makes 72997
the facility subject to the requirements of this chapter; 72998
- (viii) A facility operated by a hospice care program licensed 72999
under section 3712.04 of the Revised Code that is used exclusively 73000
for care of hospice patients; 73001
- (ix) A facility, infirmary, or other entity that is operated 73002
by a religious order, provides care exclusively to members of 73003
religious orders who take vows of celibacy and live by virtue of 73004
their vows within the orders as if related, and does not 73005
participate in the medicare program established under Title XVIII 73006
of the "Social Security Act" or the medical assistance program 73007
established under Chapter 5111. of the Revised Code and Title XIX 73008
of the "Social Security Act," if on January 1, 1994, the facility, 73009
infirmary, or entity was providing care exclusively to members of 73010

the religious order; 73011

(x) A county home or district home that has never been 73012
licensed as a residential care facility. 73013

(2) "Unrelated individual" means one who is not related to 73014
the owner or operator of a home or to the spouse of the owner or 73015
operator as a parent, grandparent, child, grandchild, brother, 73016
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 73017
uncle. 73018

(3) "Mental impairment" does not mean mental illness as 73019
defined in section 5122.01 of the Revised Code or mental 73020
retardation as defined in section 5123.01 of the Revised Code. 73021

(4) "Skilled nursing care" means procedures that require 73022
technical skills and knowledge beyond those the untrained person 73023
possesses and that are commonly employed in providing for the 73024
physical, mental, and emotional needs of the ill or otherwise 73025
incapacitated. "Skilled nursing care" includes, but is not limited 73026
to, the following: 73027

(a) Irrigations, catheterizations, application of dressings, 73028
and supervision of special diets; 73029

(b) Objective observation of changes in the patient's 73030
condition as a means of analyzing and determining the nursing care 73031
required and the need for further medical diagnosis and treatment; 73032

(c) Special procedures contributing to rehabilitation; 73033

(d) Administration of medication by any method ordered by a 73034
physician, such as hypodermically, rectally, or orally, including 73035
observation of the patient after receipt of the medication; 73036

(e) Carrying out other treatments prescribed by the physician 73037
that involve a similar level of complexity and skill in 73038
administration. 73039

(5)(a) "Personal care services" means services including, but 73040

not limited to, the following: 73041

(i) Assisting residents with activities of daily living; 73042

(ii) Assisting residents with self-administration of 73043
medication, in accordance with rules adopted under section 3721.04 73044
of the Revised Code; 73045

(iii) Preparing special diets, other than complex therapeutic 73046
diets, for residents pursuant to the instructions of a physician 73047
or a licensed dietitian, in accordance with rules adopted under 73048
section 3721.04 of the Revised Code. 73049

(b) "Personal care services" does not include "skilled 73050
nursing care" as defined in division (A)(4) of this section. A 73051
facility need not provide more than one of the services listed in 73052
division (A)(5)(a) of this section to be considered to be 73053
providing personal care services. 73054

(6) "Nursing home" means a home used for the reception and 73055
care of individuals who by reason of illness or physical or mental 73056
impairment require skilled nursing care and of individuals who 73057
require personal care services but not skilled nursing care. A 73058
nursing home is licensed to provide personal care services and 73059
skilled nursing care. 73060

(7) "Residential care facility" means a home that provides 73061
either of the following: 73062

(a) Accommodations for seventeen or more unrelated 73063
individuals and supervision and personal care services for three 73064
or more of those individuals who are dependent on the services of 73065
others by reason of age or physical or mental impairment; 73066

(b) Accommodations for three or more unrelated individuals, 73067
supervision and personal care services for at least three of those 73068
individuals who are dependent on the services of others by reason 73069
of age or physical or mental impairment, and, to at least one of 73070

those individuals, any of the skilled nursing care authorized by 73071
section 3721.011 of the Revised Code. 73072

(8) "Home for the aging" means a home that provides services 73073
as a residential care facility and a nursing home, except that the 73074
home provides its services only to individuals who are dependent 73075
on the services of others by reason of both age and physical or 73076
mental impairment. 73077

The part or unit of a home for the aging that provides 73078
services only as a residential care facility is licensed as a 73079
residential care facility. The part or unit that may provide 73080
skilled nursing care beyond the extent authorized by section 73081
3721.011 of the Revised Code is licensed as a nursing home. 73082

(9) "County home" and "district home" mean a county home or 73083
district home operated under Chapter 5155. of the Revised Code. 73084

(B) The public health council may further classify homes. For 73085
the purposes of this chapter, any residence, institution, hotel, 73086
congregate housing project, or similar facility that meets the 73087
definition of a home under this section is such a home regardless 73088
of how the facility holds itself out to the public. 73089

(C) For purposes of this chapter, personal care services or 73090
skilled nursing care shall be considered to be provided by a 73091
facility if they are provided by a person employed by or 73092
associated with the facility or by another person pursuant to an 73093
agreement to which neither the resident who receives the services 73094
nor the resident's sponsor is a party. 73095

(D) Nothing in division (A)(4) of this section shall be 73096
construed to permit skilled nursing care to be imposed on an 73097
individual who does not require skilled nursing care. 73098

Nothing in division (A)(5) of this section shall be construed 73099
to permit personal care services to be imposed on an individual 73100
who is capable of performing the activity in question without 73101

assistance. 73102

(E) Division (A)(1)(c)(ix) of this section does not prohibit 73103
a facility, infirmary, or other entity described in that division 73104
from seeking licensure under sections 3721.01 to 3721.09 of the 73105
Revised Code or certification under Title XVIII or XIX of the 73106
"Social Security Act." However, such a facility, infirmary, or 73107
entity that applies for licensure or certification must meet the 73108
requirements of those sections or titles and the rules adopted 73109
under them and obtain a certificate of need from the director of 73110
health under section 3702.52 of the Revised Code. 73111

(F) Nothing in this chapter, or rules adopted pursuant to it, 73112
shall be construed as authorizing the supervision, regulation, or 73113
control of the spiritual care or treatment of residents or 73114
patients in any home who rely upon treatment by prayer or 73115
spiritual means in accordance with the creed or tenets of any 73116
recognized church or religious denomination. 73117

Sec. 3721.011. (A) In addition to providing accommodations, 73118
supervision, and personal care services to its residents, a 73119
residential care facility may ~~provide~~ do the following: 73120

(1) Provide the following skilled nursing care to its 73121
residents ~~as follows~~: 73122

~~(1)(a)~~ (a) Supervision of special diets; 73123

~~(2)(b)~~ (b) Application of dressings, in accordance with rules 73124
adopted under section 3721.04 of the Revised Code; 73125

~~(3)(c)~~ (c) Subject to division (B)(1) of this section, 73126
administration of medication; 73127

~~(4)~~ 73128

(2) Subject to division (C) of this section, provide other 73129
skilled nursing care ~~provided~~ on a part-time, intermittent basis 73130
for not more than a total of one hundred twenty days in a 73131

twelve-month period; 73132

~~(5) Subject to division (D) of this section, (3) Provide~~ 73133
skilled nursing care ~~provided~~ for more than one hundred twenty 73134
days in a twelve-month period to a ~~hospice patient, as defined in~~ 73135
~~section 3712.01 of the Revised Code~~ resident when the requirements 73136
of division (D) of this section are met. 73137

A residential care facility may not admit or retain an 73138
individual requiring skilled nursing care that is not authorized 73139
by this section. A residential care facility may not provide 73140
skilled nursing care beyond the limits established by this 73141
section. 73142

(B)(1) A residential care facility may admit or retain an 73143
individual requiring medication, including biologicals, only if 73144
the individual's personal physician has determined in writing that 73145
the individual is capable of self-administering the medication or 73146
the facility provides for the medication to be administered to the 73147
individual by a home health agency certified under Title XVIII of 73148
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C.A. 1395, 73149
as amended; a hospice care program licensed under Chapter 3712. of 73150
the Revised Code; or a member of the staff of the residential care 73151
facility who is qualified to perform medication administration. 73152
Medication may be administered in a residential care facility only 73153
by the following persons authorized by law to administer 73154
medication: 73155

(a) A registered nurse licensed under Chapter 4723. of the 73156
Revised Code; 73157

(b) A licensed practical nurse licensed under Chapter 4723. 73158
of the Revised Code who holds proof of successful completion of a 73159
course in medication administration approved by the board of 73160
nursing and who administers the medication only at the direction 73161
of a registered nurse or a physician authorized under Chapter 73162

4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 73163
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(c) A medication aide certified under Chapter 4723. of the Revised Code; 73165
73166

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 73167
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(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following: 73170
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(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container; 73173
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(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. 73175
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(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident. 73180
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(C) Except as provided in division (D) of this section, a residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any 73188
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twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D)(1) A residential care facility may admit or retain a ~~hospice patient~~ an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in

section 3712.01 of the Revised Code, a hospice care program 73224
licensed under Chapter 3712. of the Revised Code. ~~The~~ 73225

~~(2) The agreement between the residential care facility and hospice program~~ required by division (D)(1) of this section shall 73226
include all of the following provisions: 73227
73228

~~(1)(a)~~ That the hospice patient individual will be provided 73229
skilled nursing care in the facility only if a determination has 73230
been made that the ~~patient's~~ individual's needs can be met at the 73231
facility; 73232

~~(2)(b)~~ That the hospice patient individual will be retained 73233
in the facility only if periodic redeterminations are made that 73234
the ~~patient's~~ individual's needs are being met at the facility; 73235

~~(3)(c)~~ That the redeterminations will be made according to a 73236
schedule specified in the agreement; 73237

~~(4) That the~~ (d) If the individual is a hospice patient, that 73238
the individual has been given an opportunity to choose the hospice 73239
care program that best meets the ~~patient's~~ individual's needs; 73240

(e) Unless the individual is a hospice patient, that the 73241
individual's personal physician has determined that the skilled 73242
nursing care the individual needs is routine. 73243

(E) Notwithstanding any other provision of this chapter, a 73244
residential care facility in which residents receive skilled 73245
nursing care pursuant to this section is not a nursing home. 73246

Sec. 3721.02. (A) The director of health shall license homes 73247
and establish procedures to be followed in inspecting and 73248
licensing homes. The director may inspect a home at any time. Each 73249
home shall be inspected by the director at least once prior to the 73250
issuance of a license and at least once every fifteen months 73251
thereafter. The state fire marshal or a township, municipal, or 73252
other legally constituted fire department approved by the marshal 73253

shall also inspect a home prior to issuance of a license, at least 73254
once every fifteen months thereafter, and at any other time 73255
requested by the director. A home does not have to be inspected 73256
prior to issuance of a license by the director, state fire 73257
marshal, or a fire department if ownership of the home is assigned 73258
or transferred to a different person and the home was licensed 73259
under this chapter immediately prior to the assignment or 73260
transfer. The director may enter at any time, for the purposes of 73261
investigation, any institution, residence, facility, or other 73262
structure that has been reported to the director or that the 73263
director has reasonable cause to believe is operating as a nursing 73264
home, residential care facility, or home for the aging without a 73265
valid license required by section 3721.05 of the Revised Code or, 73266
in the case of a county home or district home, is operating 73267
despite the revocation of its residential care facility license. 73268
The director may delegate the director's authority and duties 73269
under this chapter to any division, bureau, agency, or official of 73270
the department of health. 73271

(B) A single facility may be licensed both as a nursing home 73272
pursuant to this chapter and as an adult care facility pursuant to 73273
Chapter ~~3722~~. 5119. of the Revised Code if the director determines 73274
that the part or unit to be licensed as a nursing home can be 73275
maintained separate and discrete from the part or unit to be 73276
licensed as an adult care facility. 73277

(C) In determining the number of residents in a home for the 73278
purpose of licensing, the director shall consider all the 73279
individuals for whom the home provides accommodations as one group 73280
unless one of the following is the case: 73281

(1) The home is a home for the aging, in which case all the 73282
individuals in the part or unit licensed as a nursing home shall 73283
be considered as one group, and all the individuals in the part or 73284
unit licensed as a rest home shall be considered as another group. 73285

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

- (a) For state fiscal year 2010, two hundred twenty dollars;
- (b) For state fiscal year 2011, two hundred seventy dollars;
- (c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and

enforcing this chapter and rules adopted under it. 73317

(E)(1) Except as otherwise provided in this section, the 73318
results of an inspection or investigation of a home that is 73319
conducted under this section, including any statement of 73320
deficiencies and all findings and deficiencies cited in the 73321
statement on the basis of the inspection or investigation, shall 73322
be used solely to determine the home's compliance with this 73323
chapter or another chapter of the Revised Code in any action or 73324
proceeding other than an action commenced under division (I) of 73325
section 3721.17 of the Revised Code. Those results of an 73326
inspection or investigation, that statement of deficiencies, and 73327
the findings and deficiencies cited in that statement shall not be 73328
used in any court or in any action or proceeding that is pending 73329
in any court and are not admissible in evidence in any action or 73330
proceeding unless that action or proceeding is an appeal of an 73331
action by the department of health under this chapter or is an 73332
action by any department or agency of the state to enforce this 73333
chapter or another chapter of the Revised Code. 73334

(2) Nothing in division (E)(1) of this section prohibits the 73335
results of an inspection or investigation conducted under this 73336
section from being used in a criminal investigation or 73337
prosecution. 73338

Sec. 3721.031. (A) The director of health may investigate any 73339
complaint the director receives concerning a home. If the director 73340
investigates a complaint, the director shall conduct an initial 73341
investigation of a complaint as a desk audit. If pursuant to the 73342
desk audit the director determines sufficient cause exists for an 73343
on-site examination, the director shall continue the investigation 73344
with an on-site examination. 73345

(B)(1) Except as required by court order, as necessary for 73346
the administration or enforcement of any statute relating to 73347

homes, or as provided in division ~~(C)~~(D) of this section, the 73348
director and any employee of the department of health shall not 73349
release any of the following information without the permission of 73350
the individual or of the individual's legal representative: 73351

(a) The identity of any patient or resident; 73352

(b) The identity of any individual who submits a complaint 73353
about a home; 73354

(c) The identity of any individual who provides the director 73355
with information about a home and has requested confidentiality; 73356

(d) Any information that reasonably would tend to disclose 73357
the identity of any individual described in division ~~(A)~~(B)(1)(a) 73358
to (c) of this section. 73359

(2) An agency or individual to whom the director is required, 73360
by court order or for the administration or enforcement of a 73361
statute relating to homes, to release information described in 73362
division ~~(A)~~(B)(1) of this section shall not release the 73363
information without the permission of the individual who would be 73364
or would reasonably tend to be identified, or of the individual's 73365
legal representative, unless the agency or individual is required 73366
to release it by division ~~(C)~~(D) of this section, by court order, 73367
or for the administration or enforcement of a statute relating to 73368
homes. 73369

~~(B)~~(C) Except as provided in division ~~(C)~~(D) of this section, 73370
any record that identifies an individual described in division 73371
~~(A)~~(B)(1)(a) to (c) of this section or that reasonably would tend 73372
to identify such an individual is not a public record for the 73373
purposes of section 149.43 of the Revised Code, and is not subject 73374
to inspection and copying under section 1347.08 of the Revised 73375
Code. 73376

~~(C)~~(D) If the director, or an agency or individual to whom 73377
the director is required by court order or for administration or 73378

enforcement of a statute relating to homes to release information 73379
described in division ~~(A)~~(B)(1) of this section, uses information 73380
in any administrative or judicial proceeding against a home that 73381
reasonably would tend to identify an individual described in 73382
division ~~(A)~~(B)(1)(a) to (c) of this section, the director, 73383
agency, or individual shall disclose that information to the home. 73384
However, the director, agency, or individual shall not disclose 73385
information that directly identifies an individual described in 73386
divisions ~~(A)~~(B)(1)(a) to (c) of this section, unless the 73387
individual is to testify in the proceedings. 73388

~~(D)~~(E) No person shall knowingly register a false complaint 73389
about a home with the director, or knowingly swear or affirm the 73390
truth of a false complaint, when the complaint is made for the 73391
purpose of incriminating another. 73392

~~(E)~~(F) An individual who in good faith submits a complaint 73393
under this section or any other provision of the Revised Code 73394
regarding a violation of this chapter, or participates in any 73395
investigation, administrative proceeding, or judicial proceeding 73396
resulting from the complaint, has the full protection against 73397
retaliatory action provided by sections 4113.51 to 4113.53 of the 73398
Revised Code. 73399

Sec. 3721.04. (A) The public health council shall adopt and 73400
publish rules governing the operation of homes, which shall have 73401
uniform application throughout the state, and shall prescribe 73402
standards for homes with respect to, but not limited to, the 73403
following matters: 73404

(1) The minimum space requirements for occupants and 73405
equipping of the buildings in which homes are housed so as to 73406
ensure healthful, safe, sanitary, and comfortable conditions for 73407
all residents, so long as they are not inconsistent with Chapters 73408
3781. and 3791. of the Revised Code or with any rules adopted by 73409

the board of building standards and by the state fire marshal;	73410
(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;	73411 73412 73413 73414 73415
(3) The medical, rehabilitative, and recreational services to be provided by each class of home;	73416 73417
(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;	73418 73419
(5) The personal and social services to be provided by each class of home;	73420 73421
(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;	73422 73423
(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;	73424 73425
(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;	73426 73427 73428 73429
(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.	73430 73431 73432
(B) The public health council may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.	73433 73434 73435
(C) The following apply to the public health council when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:	73436 73437 73438
(1) When adopting rules applicable to residential care	73439

facilities, the public health council shall take into 73440
consideration the effect that the following may have on the number 73441
of personnel needed: 73442

(a) Provision of personal care services; 73443

(b) Provision of part-time, intermittent skilled nursing care 73444
pursuant to division (C) of section 3721.011 of the Revised Code; 73445

(c) Provision of skilled nursing care to ~~hospice patients~~ 73446
residents pursuant to division (D) of section 3721.011 of the 73447
Revised Code. 73448

(2) The rules prescribing qualifications of nurse aides used 73449
by long-term care facilities, as those terms are defined in 73450
section 3721.21 of the Revised Code, shall be no less stringent 73451
than the requirements, guidelines, and procedures established by 73452
the United States secretary of health and human services under 73453
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 73454
(1935), 42 U.S.C.A. 301, as amended. 73455

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 73456
Revised Code: 73457

(A) "Franchise permit fee rate" means the ~~amount determined~~ 73458
~~as follows~~ following: 73459

(1) ~~Determine the difference between the following:~~ 73460

~~(a) The total net patient revenue, less medicaid per diem 73461
payments, of all nursing homes and hospital long term care units 73462
as shown on cost reports filed under section 5111.26 of the 73463
Revised Code for the calendar year immediately preceding the 73464
fiscal year for which the franchise permit fee is assessed under 73465
section 3721.51 of the Revised Code For fiscal year 2012, eleven 73466
dollars and thirty-eight cents; 73467~~

~~(b) The total net patient revenue, less medicaid per diem 73468
payments, of all nursing homes and hospital long term care units 73469~~

~~as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.~~

~~(2) Multiply the amount determined under division (A)(1) of this section by five and five tenths per cent;~~

~~(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;~~

~~(4) Subtract eleven dollars and ninety five cents from the amount determined under division (A)(3) of this section;~~

~~(5) Add eleven dollars and ninety five cents to the amount determined under division (A)(4) of this section For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty cents.~~

(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(C) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(D) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is

indirectly held harmless for any portion of the costs of a 73500
broad-based health-care-related tax. If the indirect guarantee 73501
percentage changes during a fiscal year, the indirect guarantee 73502
percentage is the following: 73503

(1) For the part of the fiscal year before the change takes 73504
effect, the percentage in effect before the change; 73505

(2) For the part of the fiscal year beginning with the date 73506
the indirect guarantee percentage changes, the new percentage. 73507

(E) "Inpatient days" means all days during which a resident 73508
of a nursing facility, regardless of payment source, occupies a 73509
bed in the nursing facility that is included in the facility's 73510
certified capacity under Title XIX. Therapeutic or hospital leave 73511
days for which payment is made under section 5111.26 of the 73512
Revised Code are considered inpatient days proportionate to the 73513
percentage of the facility's per resident per day rate paid for 73514
those days. 73515

~~(E)~~(F) "Medicaid" has the same meaning as in section 5111.01 73516
of the Revised Code. 73517

~~(F)~~(G) "Medicaid day" means all days during which a resident 73518
who is a medicaid recipient occupies a bed in a nursing facility 73519
that is included in the facility's certified capacity under Title 73520
XIX. Therapeutic or hospital leave days for which payment is made 73521
under section 5111.26 of the Revised Code are considered medicaid 73522
days proportionate to the percentage of the nursing facility's per 73523
resident per day rate for those days. 73524

~~(G)~~(H) "Medicare" means the program established by Title 73525
XVIII. 73526

~~(H)~~(I) "Nursing facility" has the same meaning as in section 73527
5111.20 of the Revised Code. 73528

~~(I)~~(J)(1) "Nursing home" means all of the following: 73529

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.

~~(J)~~(K) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(K)~~(L) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus

any other beds certified as skilled nursing facility beds under 73559
Title XVIII or nursing facility beds under Title XIX on the first 73560
day of May of the calendar year in which the fee is determined 73561
pursuant to division (A) of section 3721.53 of the Revised Code; 73562

(2) The number of days in the fiscal year beginning on the 73563
first day of July of the calendar year in which the fee is 73564
determined pursuant to division (A) of section 3721.53 of the 73565
Revised Code. 73566

(B) Subject to sections 3721.512 and 3721.513 of the Revised 73567
Code and divisions (C) and (D) of this section and for the 73568
purposes specified in ~~sections~~ section 3721.56 and ~~3721.561~~ of the 73569
Revised Code, determine an annual franchise permit fee on each 73570
hospital in an amount equal to the franchise permit fee rate 73571
multiplied by the product of the following: 73572

(1) The number of beds registered pursuant to section 3701.07 73573
of the Revised Code as skilled nursing facility beds or long-term 73574
care beds, plus any other beds licensed as nursing home beds under 73575
section 3721.02 or 3721.09 of the Revised Code, on the first day 73576
of May of the calendar year in which the fee is determined 73577
pursuant to division (A) of section 3721.53 of the Revised Code; 73578

(2) The number of days in the fiscal year beginning on the 73579
first day of July of the calendar year in which the fee is 73580
determined pursuant to division (A) of section 3721.53 of the 73581
Revised Code. 73582

(C) If the total amount of the franchise permit fee assessed 73583
under divisions (A) and (B) of this section for a fiscal year 73584
exceeds ~~five and one half per cent~~ the indirect guarantee 73585
percentage of the actual net patient revenue for all nursing homes 73586
and hospital long-term care units for that fiscal year, do both of 73587
the following: 73588

(1) Recalculate the assessments under divisions (A) and (B) 73589

of this section using a per bed per day rate equal to ~~five and~~ 73590
~~one-half per cent~~ the indirect guarantee percentage of actual net 73591
patient revenue for all nursing homes and hospital long-term care 73592
units for that fiscal year; 73593

(2) Refund the difference between the amount of the franchise 73594
permit fee assessed for that fiscal year under divisions (A) and 73595
(B) of this section and the amount recalculated under division 73596
(C)(1) of this section as a credit against the assessments imposed 73597
under divisions (A) and (B) of this section for the subsequent 73598
fiscal year. 73599

(D) If the United States centers for medicare and medicaid 73600
services determines that the franchise permit fee established by 73601
sections 3721.50 to 3721.58 of the Revised Code is an 73602
impermissible health care-related tax under section 1903(w) of the 73603
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 73604
amended, take all necessary actions to cease implementation of 73605
sections 3721.50 to 3721.58 of the Revised Code in accordance with 73606
rules adopted under section 3721.58 of the Revised Code. 73607

Sec. ~~3721.561~~ 3721.56. (A) There is hereby created in the 73608
state treasury the nursing ~~facility stabilization~~ home franchise 73609
permit fee fund. All payments and penalties paid by nursing homes 73610
and hospitals under sections 3721.53 and 3721.54 of the Revised 73611
Code ~~that are not deposited into the home and community based~~ 73612
~~services for the aged fund~~ shall be deposited into the fund. The 73613
fund shall also consist of money deposited into it pursuant to 73614
sections 3769.08 and 3769.26 of the Revised Code. Subject to 73615
division (B) of section 3769.08 of the Revised Code, the 73616
department of job and family services shall use the money in the 73617
fund to make medicaid payments to providers of nursing facilities 73618
facility services and providers of home and community-based 73619
services. Money in the fund may also be used for the residential 73620

state supplement program established under section 5119.69 of the 73621
Revised Code. 73622

(B) Any money remaining in the nursing ~~facility stabilization~~ 73623
home franchise permit fee fund after payments specified in 73624
division (A) of this section are made shall be retained in the 73625
fund. Any interest or other investment proceeds earned on money in 73626
the fund shall be credited to the fund and used to make medicaid 73627
payments in accordance with division (A) of this section. 73628

Sec. 3721.58. The director of job and family services shall 73629
adopt rules in accordance with Chapter 119. of the Revised Code to 73630
do ~~all~~ both of the following: 73631

(A) Prescribe the actions the department of job and family 73632
services will take to cease implementation of sections 3721.50 73633
through 3721.57 of the Revised Code if the United States centers 73634
for medicare and medicaid services determines that the franchise 73635
permit fee established by those sections is an impermissible 73636
health-care related tax under section 1903(w) of the "Social 73637
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 73638
amended; 73639

(B) ~~Establish the method of distributing moneys in the home~~ 73640
~~and community based services for the aged fund created under~~ 73641
~~section 3721.56 of the Revised Code;~~ 73642

~~(C)~~ Establish any requirements or procedures the director 73643
considers necessary to implement sections 3721.50 to 3721.58 of 73644
the Revised Code. 73645

Sec. 3721.99. (A) Whoever violates section 3721.021, division 73646
(B), (D), or (E) of section 3721.05, division (A), (C), or (D) of 73647
section 3721.051, section 3721.06, division (A) of section 73648
3721.22, division (A) or (B) of section 3721.24, or division (E) 73649

or (F) of section 3721.30 of the Revised Code shall be fined one hundred dollars for a first offense. For each subsequent offense, the violator shall be fined five hundred dollars.

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(B) Whoever violates division (A) or (C) of section 3721.05 or division (B) of section 3721.051 of the Revised Code shall be fined five thousand dollars for a first offense. For each subsequent offense, the violator shall be fined ten thousand dollars.

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(C) Whoever violates division ~~(D)~~(E) of section 3721.031 or division (E) of section 3721.22 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

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Sec. 3729.01. As used in this chapter:

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(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

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(B) "Campsite user" means a person who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

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(C) "Combined park-camp" means any tract of land upon which a combination of five or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities. A tract of land that is subdivided for lease or other contract of the individual lots is a combined park-camp if a combination of five or more recreational vehicles or portable camping units are placed on it for recreation, vacation, or business purposes.

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"Combined park-camp" does not include any tract of land used

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solely as a temporary park-camp or solely as a manufactured home park. 73680
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(D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle. 73682
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"Dependent recreational vehicle" includes a park model. 73684

(E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a recreational vehicle park, recreation camp, or combined park-camp, for which plan review is required under division (A) of section 3729.03 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable. 73685
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(F) "Director of health" means the director of health or the director's authorized representative. 73695
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(G) "Flood" or "flooding" means either of the following: 73697

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following: 73698
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(a) The overflow of inland or tidal waters; 73700

(b) The unusual and rapid accumulation or runoff of surface waters from any source; 73701
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(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. 73703
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(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining 73708
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that is caused by waves or currents of water exceeding anticipated 73710
cyclical levels or that is suddenly caused by an unusually high 73711
water level in a natural body of water, and that is accompanied by 73712
a severe storm, by an unanticipated force of nature, such as a 73713
flash flood, by an abnormal tidal surge, or by some similarly 73714
unusual and unforeseeable event, that results in flooding as 73715
defined in division (G)(1)(a) of this section. 73716

(H) "Flood plain" means the area adjoining any river, stream, 73717
watercourse, or lake that has been or may be covered by flood 73718
water. 73719

(I) "Licensor" means either the board of health of a city or 73720
general health district, or the authority having the duties of a 73721
board of health in any city as authorized by section 3709.05 of 73722
the Revised Code, or the director of health, when required under 73723
division (B) of section 3729.06 of the Revised Code. "Licensor" 73724
also means an authorized representative of any of those entities 73725
or of the director. 73726

(J) "Manufactured home park" has the same meaning as in 73727
section ~~3733.01~~ 4781.01 of the Revised Code. 73728

(K) "One-hundred-year flood" means a flood having a one per 73729
cent chance of being equaled or exceeded in any given year. 73730

(L) "One-hundred-year flood plain" means that portion of a 73731
flood plain inundated by a one-hundred-year flood. 73732

(M) "Operator" means the person who has responsible charge of 73733
a recreational vehicle park, recreation camp, combined park-camp, 73734
or temporary park-camp and who is licensed under this chapter. 73735

(N) "Park model" means a recreational vehicle that meets the 73736
American national standard institute standard A119.5(1988) for 73737
park trailers, is built on a single chassis, has a gross trailer 73738
area of not more than four hundred square feet when set up, is 73739
designed for seasonal or temporary living quarters, and may be 73740

connected to utilities necessary for operation of installed 73741
features and appliances. 73742

(O) "Person" has the same meaning as in section 1.59 of the 73743
Revised Code and also includes this state, any political 73744
subdivision of this state, and any other state or local body of 73745
this state. 73746

(P) "Portable camping units" means dependent recreational 73747
vehicles, tents, portable sleeping equipment, and similar camping 73748
equipment used for travel, recreation, vacation, or business 73749
purposes. 73750

(Q) "Recreation camp" means any tract of land upon which five 73751
or more portable camping units are placed and includes any 73752
roadway, building, structure, vehicle, or enclosure used or 73753
intended for use as a part of the facilities of the camp. A tract 73754
of land that is subdivided for lease or other contract of the 73755
individual lots is a recreation camp if five or more portable 73756
camping units are placed on it for recreation, vacation, or 73757
business purposes. 73758

"Recreation camp" does not include any tract of land used 73759
solely for the storage or display for sale of dependent 73760
recreational vehicles, solely as a temporary park-camp, or solely 73761
as a manufactured home park. 73762

(R) "Recreational vehicle" has the same meaning as in section 73763
4501.01 of the Revised Code. 73764

(S) "Recreational vehicle park" means any tract of land used 73765
for parking five or more self-contained recreational vehicles and 73766
includes any roadway, building, structure, vehicle, or enclosure 73767
used or intended for use as part of the park facilities and any 73768
tract of land that is subdivided for lease or other contract of 73769
the individual lots for the express or implied purpose of placing 73770
self-contained recreational vehicles for recreation, vacation, or 73771

business purposes. 73772

"Recreational vehicle park" does not include any tract of 73773
land used solely for the storage or display for sale of 73774
self-contained recreational vehicles, solely as a temporary 73775
park-camp, or solely as a manufactured home park. 73776

(T) "Self-contained recreational vehicle" means a 73777
recreational vehicle that can operate independent of connections 73778
to sewer and water and has plumbing fixtures or appliances all of 73779
which are connected to sewage holding tanks located within the 73780
vehicle. "Self-contained recreational vehicle" includes a park 73781
model. 73782

(U) "Substantially alter" means a change in the layout or 73783
design of a recreational vehicle park, recreation camp, combined 73784
park-camp, or temporary park-camp, including, without limitation, 73785
the movement of utilities or changes in established streets, lots, 73786
or sites or in other facilities. 73787

(V) "Temporary park-camp" means any tract of land used for a 73788
period not to exceed a total of twenty-one days per calendar year 73789
for the purpose of parking five or more recreational vehicles, 73790
dependent recreational vehicles, or portable camping units, or any 73791
combination thereof, for one or more periods of time that do not 73792
exceed seven consecutive days or parts thereof. 73793

(W) "Tract" means a contiguous area of land that consists of 73794
one or more parcels, lots, or sites that have been separately 73795
surveyed regardless of whether the individual parcels, lots, or 73796
sites have been recorded and regardless of whether the one or more 73797
parcels, lots, or sites are under common or different ownership. 73798

Sec. 3733.21. ~~(A) As used in sections 3733.21 to 3733.30 of~~ 73799
~~the Revised Code this section:~~ 73800

~~(A)(1)~~ "Board of health" means the board of health of a city 73801

or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

~~(B) "Director" means the director of health or his authorized representative.~~

~~(C)(2)~~ "Dock" means a structure or platform either parallel or perpendicular to the shoreline designed to provide access to or an area to secure watercraft.

~~(D)(3)~~ "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

~~(E)(4)~~ "Marina" means a boat basin that has docks or moorings for seven or more watercraft as defined in section 1547.01 of the Revised Code. "Marina" does not include:

~~(1)(a)~~ Any dock or mooring contiguous to a privately owned residence and used exclusively by the owner and the owner's guests;

~~(2)(b)~~ Any dock, mooring, or other area where watercraft are stored or in storage;

~~(3)(c)~~ Any dry dock or shipyard where the watercraft are being held for maintenance or repairs;

~~(4)(d)~~ Any boat basin where all of the watercraft moored are rowboats, canoes, pedal boats, or other watercraft propelled by human muscular effort;

~~(5)(e)~~ Any dock or mooring on inland lakes used by the owner, or guests of the owner, of a private residence located on land that is contiguous to land, owned by this state or an agency or political subdivision of this state, contiguous to the dock or mooring;

~~(6)(f)~~ Any boat basin located on waters where the watercraft

used are normally unsuited for the installation of on-board 73832
permanent sanitary systems. 73833

~~(F)(5)~~ "Mooring" means that portion of a dock, or any 73834
equipment or area, used to secure watercraft. 73835

~~(G)~~ "Person" means the state or any political subdivision, 73836
special district, public or private corporation, individual, firm, 73837
partnership, association, or other entity. 73838

~~(H)~~ "Public health council" means the public health council 73839
as created by section 3701.33 of the Revised Code. 73840

~~(I)~~ "Sanitary facilities" includes restrooms, water supply, 73841
facilities for the pumping of watercraft holding tanks, and those 73842
other facilities to ensure the sanitary operation of marinas and 73843
the watercraft using them as are considered necessary by the 73844
public health council in rules adopted under section 3733.22 of 73845
the Revised Code. 73846

(B) A board of health within whose jurisdiction a marina is 73847
located shall adopt rules governing the inspection of and issuance 73848
of licenses for marinas. The rules shall require at a minimum 73849
annual inspections. The rules may include provisions for the 73850
levying of a fee for a marina license. The fee shall be 73851
established in accordance with section 3709.09 of the Revised 73852
Code. 73853

Sec. 3733.41. As used in sections 3733.41 to ~~3733.49~~ 3733.43 73854
of the Revised Code: 73855

(A) "Agricultural labor camp" means one or more buildings or 73856
structures, trailers, tents, or vehicles, together with any land 73857
appertaining thereto, established, operated, or used as temporary 73858
living quarters for two or more families or five or more persons 73859
intending to engage in or engaged in agriculture or related food 73860
processing, whether occupancy is by rent, lease, or mutual 73861

agreement. "Agricultural labor camp" does not include a hotel or 73862
motel, or a ~~trailer~~ manufactured home park ~~as defined and~~ 73863
regulated pursuant to sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.52 73864
of the Revised Code, and rules adopted thereunder. 73865

(B) "Board of health" means the board of health of a city or 73866
general health district or the authority having the duties of a 73867
board of health in any city as authorized by section 3709.05 of 73868
the Revised Code or an authorized representative of the board of 73869
health. 73870

~~(C) "Director" means the director of the department of health 73871
or his authorized representative. 73872~~

~~(D) "Licensor" means the director of health. 73873~~

~~(E) "Person" means the state, any political subdivision, 73874
public or private corporation, partnership, association, trust, 73875
individual, or other entity. 73876~~

~~(F) "Public health council" means the public health council 73877
as created by section 3701.33 of the Revised Code. 73878~~

Sec. 3733.42. A board of health within whose jurisdiction an 73879
agricultural labor camp is located shall adopt rules governing the 73880
inspection of and issuance of licenses for agricultural labor 73881
camps. The rules shall require at a minimum annual inspections. 73882
The rules may include provisions for the levying of a fee for an 73883
agricultural labor camp license. The fee shall be established in 73884
accordance with section 3709.09 of the Revised Code. 73885

~~Sec. 3733.49~~ 3733.43. (A) There is hereby established under 73886
the authority of the director of job and family services the 73887
office of the migrant agricultural ombudsperson. The director 73888
shall appoint the ombudsperson. No person shall serve as 73889
ombudsperson who has a fiduciary or pecuniary interest in an 73890
agricultural labor camp. The ombudsperson shall have recognized 73891

ability and experience in migrant labor issues and shall speak 73892
both English and Spanish fluently. The ombudsperson shall be a 73893
member of the classified civil service and shall be subject to an 73894
annual job evaluation by the director. The ombudsperson's salary 73895
shall be established in a pay range fixed by the director. 73896

(B) The migrant agricultural ombudsperson shall: 73897

(1) Collect and compile available data, statistics, and 73898
information concerning migrant agricultural laborers and 73899
agricultural labor camps published by any agency of this state, 73900
any agency of the federal government, and private organizations, 73901
including, but not limited to, churches and Hispanic 73902
organizations. These data, statistics, and information are public 73903
records as defined in section 149.43 of the Revised Code. 73904

(2) Coordinate the collection, analysis, and dissemination of 73905
information about the supply and quality of housing for migrant 73906
agricultural laborers in both licensed and unlicensed camps; 73907

(3) Become familiar with state and federal laws and rules 73908
concerning migrant agricultural laborers and agricultural labor 73909
camps and especially with state and federal programs for which 73910
migrant agricultural laborers might qualify; 73911

(4) Establish a toll-free telephone number that: 73912

(a) Camp owners and farmers who employ migrant agricultural 73913
laborers may use to seek clarification of laws and rules 73914
applicable to camps and for registering complaints; and 73915

(b) Migrant agricultural laborers may use for the purpose of 73916
obtaining information described in divisions (B)(1) and (2) of 73917
this section and for registering complaints. 73918

(5) Refer problems, complaints, or questions brought to the 73919
ombudsperson's attention to the appropriate state or federal 73920
agency or the attorney general; 73921

(6) Serve as an advocate for migrant agricultural laborers in social service matters; 73922
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(7) Submit an annual report to the president of the senate, the speaker of the house of representatives, and the members of the minority leadership of the senate and house of representatives on or before the thirtieth day of June of each year describing migrant agricultural labor conditions found by the ombudsperson's office, along with an assessment of the effect of existing law on migrant agricultural labor and labor camps and any recommendations for change. The report shall contain a compilation of the kinds of complaints received and recommendations for any changes in the laws or rules that the ombudsperson considers necessary or desirable. 73924
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(8) Develop and recommend to the general assembly definitions of "migrant agricultural laborer" and "migrant farmworker child" to be used consistently by all state agencies, including, but not limited to, boards, departments, divisions, commissions, bureaus, societies, councils, and institutions; and 73935
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(9) Conduct a peak-period census of migrant agricultural laborers in this state, by county, so that the ombudsperson can properly assess the need for housing for those laborers. The department of health shall assist the ombudsperson by providing information on the peak occupancy of agricultural labor camps and other additional information obtained through inspections of agricultural labor camps. 73940
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Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities 73947
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will be located, maintained, and operated, and will undergo 73953
closure and post-closure care, in a sanitary manner so as not to 73954
create a nuisance, cause or contribute to water pollution, create 73955
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 73956
257.3-8, as amended. The rules may include, without limitation, 73957
financial assurance requirements for closure and post-closure care 73958
and corrective action and requirements for taking corrective 73959
action in the event of the surface or subsurface discharge or 73960
migration of explosive gases or leachate from a solid waste 73961
facility, or of ground water contamination resulting from the 73962
transfer or disposal of solid wastes at a facility, beyond the 73963
boundaries of any area within a facility that is operating or is 73964
undergoing closure or post-closure care where solid wastes were 73965
disposed of or are being disposed of. The rules shall not concern 73966
or relate to personnel policies, salaries, wages, fringe benefits, 73967
or other conditions of employment of employees of persons owning 73968
or operating solid waste facilities. The director, in accordance 73969
with Chapter 119. of the Revised Code, shall adopt and may amend, 73970
suspend, or rescind rules governing the issuance, modification, 73971
revocation, suspension, or denial of variances from the director's 73972
solid waste rules, including, without limitation, rules adopted 73973
under this chapter governing the management of scrap tires. 73974

Variances shall be issued, modified, revoked, suspended, or 73975
rescinded in accordance with this division, rules adopted under 73976
it, and Chapter 3745. of the Revised Code. The director may order 73977
the person to whom a variance is issued to take such action within 73978
such time as the director may determine to be appropriate and 73979
reasonable to prevent the creation of a nuisance or a hazard to 73980
the public health or safety or the environment. Applications for 73981
variances shall contain such detail plans, specifications, and 73982
information regarding objectives, procedures, controls, and other 73983
pertinent data as the director may require. The director shall 73984
grant a variance only if the applicant demonstrates to the 73985

director's satisfaction that construction and operation of the 73986
solid waste facility in the manner allowed by the variance and any 73987
terms or conditions imposed as part of the variance will not 73988
create a nuisance or a hazard to the public health or safety or 73989
the environment. In granting any variance, the director shall 73990
state the specific provision or provisions whose terms are to be 73991
varied and also shall state specific terms or conditions imposed 73992
upon the applicant in place of the provision or provisions. The 73993
director may hold a public hearing on an application for a 73994
variance or renewal of a variance at a location in the county 73995
where the operations that are the subject of the application for 73996
the variance are conducted. The director shall give not less than 73997
twenty days' notice of the hearing to the applicant by certified 73998
mail and shall publish at least one notice of the hearing in a 73999
newspaper with general circulation in the county where the hearing 74000
is to be held. The director shall make available for public 74001
inspection at the principal office of the environmental protection 74002
agency a current list of pending applications for variances and a 74003
current schedule of pending variance hearings. The director shall 74004
make a complete stenographic record of testimony and other 74005
evidence submitted at the hearing. Within ten days after the 74006
hearing, the director shall make a written determination to issue, 74007
renew, or deny the variance and shall enter the determination and 74008
the basis for it into the record of the hearing. The director 74009
shall issue, renew, or deny an application for a variance or 74010
renewal of a variance within six months of the date upon which the 74011
director receives a complete application with all pertinent 74012
information and data required. No variance shall be issued, 74013
revoked, modified, or denied until the director has considered the 74014
relative interests of the applicant, other persons and property 74015
affected by the variance, and the general public. Any variance 74016
granted under this division shall be for a period specified by the 74017
director and may be renewed from time to time on such terms and 74018

for such periods as the director determines to be appropriate. No 74019
application shall be denied and no variance shall be revoked or 74020
modified without a written order stating the findings upon which 74021
the denial, revocation, or modification is based. A copy of the 74022
order shall be sent to the applicant or variance holder by 74023
certified mail. 74024

(B) The director shall prescribe and furnish the forms 74025
necessary to administer and enforce this chapter. The director may 74026
cooperate with and enter into agreements with other state, local, 74027
or federal agencies to carry out the purposes of this chapter. The 74028
director may exercise all incidental powers necessary to carry out 74029
the purposes of this chapter. 74030

The director may use moneys in the infectious waste 74031
management fund created in section 3734.021 of the Revised Code 74032
exclusively for administering and enforcing the provisions of this 74033
chapter governing the management of infectious wastes. Of each 74034
registration and renewal fee collected under rules adopted under 74035
division (A)(2)(a) of section 3734.021 or under section 3734.022 74036
of the Revised Code, the director, within forty-five days of its 74037
receipt, shall remit from the fund one-half of the fee received to 74038
the board of health of the health district in which the registered 74039
premises is located, or, in the instance of an infectious wastes 74040
transporter, to the board of health of the health district in 74041
which the transporter's principal place of business is located. 74042
However, if the board of health having jurisdiction over a 74043
registrant's premises or principal place of business is not on the 74044
approved list under section 3734.08 of the Revised Code, the 74045
director shall not make that payment to the board of health. 74046

(C) Except as provided in this division and divisions (N)(2) 74047
and (3) of this section, no person shall establish a new solid 74048
waste facility or infectious waste treatment facility, or modify 74049
an existing solid waste facility or infectious waste treatment 74050

facility, without submitting an application for a permit with 74051
accompanying detail plans, specifications, and information 74052
regarding the facility and method of operation and receiving a 74053
permit issued by the director, except that no permit shall be 74054
required under this division to install or operate a solid waste 74055
facility for sewage sludge treatment or disposal when the 74056
treatment or disposal is authorized by a current permit issued 74057
under Chapter 3704. or 6111. of the Revised Code. 74058

No person shall continue to operate a solid waste facility 74059
for which the director has denied a permit for which an 74060
application was required under division (A)(3) of section 3734.05 74061
of the Revised Code, or for which the director has disapproved 74062
plans and specifications required to be filed by an order issued 74063
under division (A)(5) of that section, after the date prescribed 74064
for commencement of closure of the facility in the order issued 74065
under division (A)(6) of section 3734.05 of the Revised Code 74066
denying the permit application or approval. 74067

On and after the effective date of the rules adopted under 74068
division (A) of this section and division (D) of section 3734.12 74069
of the Revised Code governing solid waste transfer facilities, no 74070
person shall establish a new, or modify an existing, solid waste 74071
transfer facility without first submitting an application for a 74072
permit with accompanying engineering detail plans, specifications, 74073
and information regarding the facility and its method of operation 74074
to the director and receiving a permit issued by the director. 74075

No person shall establish a new compost facility or continue 74076
to operate an existing compost facility that accepts exclusively 74077
source separated yard wastes without submitting a completed 74078
registration for the facility to the director in accordance with 74079
rules adopted under divisions (A) and (N)(3) of this section. 74080

This division does not apply to an infectious waste treatment 74081
facility that meets any of the following conditions: 74082

(1) Is owned or operated by the generator of the wastes and 74083
exclusively treats, by methods, techniques, and practices 74084
established by rules adopted under division (C)(1) or (3) of 74085
section 3734.021 of the Revised Code, wastes that are generated at 74086
any premises owned or operated by that generator regardless of 74087
whether the wastes are generated on the premises where the 74088
generator's treatment facility is located or, if the generator is 74089
a hospital as defined in section 3727.01 of the Revised Code, 74090
infectious wastes that are described in division (A)(1)(g), (h), 74091
or (i) of section 3734.021 of the Revised Code; 74092

(2) Holds a license or renewal of a license to operate a 74093
crematory facility issued under Chapter 4717. and a permit issued 74094
under Chapter 3704. of the Revised Code; 74095

(3) Treats or disposes of dead animals or parts thereof, or 74096
the blood of animals, and is subject to any of the following: 74097

(a) Inspection under the "Federal Meat Inspection Act," 81 74098
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 74099

(b) Chapter 918. of the Revised Code; 74100

(c) Chapter 953. of the Revised Code. 74101

(D) Neither this chapter nor any rules adopted under it apply 74102
to single-family residential premises; to infectious wastes 74103
generated by individuals for purposes of their own care or 74104
treatment that are disposed of with solid wastes from the 74105
individual's residence; to the temporary storage of solid wastes, 74106
other than scrap tires, prior to their collection for disposal; to 74107
the storage of one hundred or fewer scrap tires unless they are 74108
stored in such a manner that, in the judgment of the director or 74109
the board of health of the health district in which the scrap 74110
tires are stored, the storage causes a nuisance, a hazard to 74111
public health or safety, or a fire hazard; or to the collection of 74112
solid wastes, other than scrap tires, by a political subdivision 74113

or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with

section 3734.05 of the Revised Code and subject to the payment of 74144
 an application fee not to exceed one thousand five hundred 74145
 dollars, payable upon application for a hazardous waste facility 74146
 installation and operation permit and upon application for a 74147
 renewal permit issued under division (H) of section 3734.05 of the 74148
 Revised Code, to be credited to the hazardous waste facility 74149
 management fund created in section 3734.18 of the Revised Code. 74150
 The term of a hazardous waste facility installation and operation 74151
 permit shall not exceed ten years. 74152

In addition to the application fee, there is hereby levied an 74153
 annual permit fee to be paid by the permit holder upon the 74154
 anniversaries of the date of issuance of the hazardous waste 74155
 facility installation and operation permit and of any subsequent 74156
 renewal permits and to be credited to the hazardous waste facility 74157
 management fund. Annual permit fees totaling forty thousand 74158
 dollars or more for any one facility may be paid on a quarterly 74159
 basis with the first quarterly payment each year being due on the 74160
 anniversary of the date of issuance of the hazardous waste 74161
 facility installation and operation permit and of any subsequent 74162
 renewal permits. The annual permit fee shall be determined for 74163
 each permit holder by the director in accordance with the 74164
 following schedule: 74165

TYPE OF BASIC				74166
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	74167
Storage facility using: 74168				
Containers	On-site, off-site, and			74169
	satellite		\$ 500	74170
Tanks	On-site, off-site, and			74171
	satellite		500	74172
Waste pile	On-site, off-site, and			74173
	satellite		3,000	74174
Surface impoundment	On-site and satellite		8,000	74175

	Off-site	10,000	74176
Disposal facility using:			74177
Deep well injection	On-site and satellite	15,000	74178
	Off-site	25,000	74179
Landfill	On-site and satellite	25,000	74180
	Off-site	40,000	74181
Land application	On-site and satellite	2,500	74182
	Off-site	5,000	74183
Surface impoundment	On-site and satellite	10,000	74184
	Off-site	20,000	74185
Treatment facility using:			74186
Tanks	On-site, off-site, and		74187
	satellite	700	74188
Surface impoundment	On-site and satellite	8,000	74189
	Off-site	10,000	74190
Incinerator	On-site and satellite	5,000	74191
	Off-site	10,000	74192
Other forms			74193
of treatment	On-site, off-site, and		74194
	satellite	1,000	74195

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage,

treatment, or disposal shall pay the permit fee indicated by the 74209
schedule for each such method. 74210

The director shall not require the payment of that portion of 74211
an annual permit fee of any permit holder that would apply to a 74212
hazardous waste management unit for which a permit has been 74213
issued, but for which construction has not yet commenced. Once 74214
construction has commenced, the director shall require the payment 74215
of a part of the appropriate fee indicated by the schedule that 74216
bears the same relationship to the total fee that the number of 74217
days remaining until the next anniversary date at which payment of 74218
the annual permit fee is due bears to three hundred sixty-five. 74219

The director, by rules adopted in accordance with Chapters 74220
119. and 3745. of the Revised Code, shall prescribe procedures for 74221
collecting the annual permit fee established by this division and 74222
may prescribe other requirements necessary to carry out this 74223
division. 74224

(3) The prohibition against establishing or operating a 74225
hazardous waste facility without a hazardous waste facility 74226
installation and operation permit does not apply to either of the 74227
following: 74228

(a) A facility that is operating in accordance with a permit 74229
renewal issued under division (H) of section 3734.05 of the 74230
Revised Code, a revision issued under division (I) of that section 74231
as it existed prior to August 20, 1996, or a modification issued 74232
by the director under division (I) of that section on and after 74233
August 20, 1996; 74234

(b) Except as provided in division (J) of section 3734.05 of 74235
the Revised Code, a facility that will operate or is operating in 74236
accordance with a permit by rule, or that is not subject to permit 74237
requirements, under rules adopted by the director. In accordance 74238
with Chapter 119. of the Revised Code, the director shall adopt, 74239

and subsequently may amend, suspend, or rescind, rules for the 74240
purposes of division (E)(3)(b) of this section. Any rules so 74241
adopted shall be consistent with and equivalent to regulations 74242
pertaining to interim status adopted under the "Resource 74243
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 74244
6921, as amended, except as otherwise provided in this chapter. 74245

If a modification is requested or proposed for a facility 74246
described in division (E)(3)(a) or (b) of this section, division 74247
(I)(7) of section 3734.05 of the Revised Code applies. 74248

(F) No person shall store, treat, or dispose of hazardous 74249
waste identified or listed under this chapter and rules adopted 74250
under it, regardless of whether generated on or off the premises 74251
where the waste is stored, treated, or disposed of, or transport 74252
or cause to be transported any hazardous waste identified or 74253
listed under this chapter and rules adopted under it to any other 74254
premises, except at or to any of the following: 74255

(1) A hazardous waste facility operating under a permit 74256
issued in accordance with this chapter; 74257

(2) A facility in another state operating under a license or 74258
permit issued in accordance with the "Resource Conservation and 74259
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 74260
amended; 74261

(3) A facility in another nation operating in accordance with 74262
the laws of that nation; 74263

(4) A facility holding a permit issued pursuant to Title I of 74264
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 74265
Stat. 1052, 33 U.S.C.A. 1401, as amended; 74266

(5) A hazardous waste facility as described in division 74267
(E)(3)(a) or (b) of this section. 74268

(G) The director, by order, may exempt any person generating, 74269

collecting, storing, treating, disposing of, or transporting solid 74270
wastes, infectious wastes, or hazardous waste, or processing solid 74271
wastes that consist of scrap tires, in such quantities or under 74272
such circumstances that, in the determination of the director, are 74273
unlikely to adversely affect the public health or safety or the 74274
environment from any requirement to obtain a registration 74275
certificate, permit, or license or comply with the manifest system 74276
or other requirements of this chapter. Such an exemption shall be 74277
consistent with and equivalent to any regulations adopted by the 74278
administrator of the United States environmental protection agency 74279
under the "Resource Conservation and Recovery Act of 1976," 90 74280
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 74281
provided in this chapter. 74282

(H) No person shall engage in filling, grading, excavating, 74283
building, drilling, or mining on land where a hazardous waste 74284
facility, or a solid waste facility, was operated without prior 74285
authorization from the director, who shall establish the procedure 74286
for granting such authorization by rules adopted in accordance 74287
with Chapter 119. of the Revised Code. 74288

A public utility that has main or distribution lines above or 74289
below the land surface located on an easement or right-of-way 74290
across land where a solid waste facility was operated may engage 74291
in any such activity within the easement or right-of-way without 74292
prior authorization from the director for purposes of performing 74293
emergency repair or emergency replacement of its lines; of the 74294
poles, towers, foundations, or other structures supporting or 74295
sustaining any such lines; or of the appurtenances to those 74296
structures, necessary to restore or maintain existing public 74297
utility service. A public utility may enter upon any such easement 74298
or right-of-way without prior authorization from the director for 74299
purposes of performing necessary or routine maintenance of those 74300
portions of its existing lines; of the existing poles, towers, 74301

foundations, or other structures sustaining or supporting its 74302
lines; or of the appurtenances to any such supporting or 74303
sustaining structure, located on or above the land surface on any 74304
such easement or right-of-way. Within twenty-four hours after 74305
commencing any such emergency repair, replacement, or maintenance 74306
work, the public utility shall notify the director or the 74307
director's authorized representative of those activities and shall 74308
provide such information regarding those activities as the 74309
director or the director's representative may request. Upon 74310
completion of the emergency repair, replacement, or maintenance 74311
activities, the public utility shall restore any land of the solid 74312
waste facility disturbed by those activities to the condition 74313
existing prior to the commencement of those activities. 74314

(I) No owner or operator of a hazardous waste facility, in 74315
the operation of the facility, shall cause, permit, or allow the 74316
emission therefrom of any particulate matter, dust, fumes, gas, 74317
mist, smoke, vapor, or odorous substance that, in the opinion of 74318
the director, unreasonably interferes with the comfortable 74319
enjoyment of life or property by persons living or working in the 74320
vicinity of the facility, or that is injurious to public health. 74321
Any such action is hereby declared to be a public nuisance. 74322

(J) Notwithstanding any other provision of this chapter, in 74323
the event the director finds an imminent and substantial danger to 74324
public health or safety or the environment that creates an 74325
emergency situation requiring the immediate treatment, storage, or 74326
disposal of hazardous waste, the director may issue a temporary 74327
emergency permit to allow the treatment, storage, or disposal of 74328
the hazardous waste at a facility that is not otherwise authorized 74329
by a hazardous waste facility installation and operation permit to 74330
treat, store, or dispose of the waste. The emergency permit shall 74331
not exceed ninety days in duration and shall not be renewed. The 74332
director shall adopt, and may amend, suspend, or rescind, rules in 74333

accordance with Chapter 119. of the Revised Code governing the 74334
issuance, modification, revocation, and denial of emergency 74335
permits. 74336

(K) No owner or operator of a sanitary landfill shall 74337
knowingly accept for disposal, or dispose of, any infectious 74338
wastes, other than those subject to division (A)(1)(c) of section 74339
3734.021 of the Revised Code, that have not been treated to render 74340
them noninfectious. For the purposes of this division, 74341
certification by the owner or operator of the treatment facility 74342
where the wastes were treated on the shipping paper required by 74343
rules adopted under division (D)(2) of that section creates a 74344
rebuttable presumption that the wastes have been so treated. 74345

(L) The director, in accordance with Chapter 119. of the 74346
Revised Code, shall adopt, and may amend, suspend, or rescind, 74347
rules having uniform application throughout the state establishing 74348
a training and certification program that shall be required for 74349
employees of boards of health who are responsible for enforcing 74350
the solid waste and infectious waste provisions of this chapter 74351
and rules adopted under them and for persons who are responsible 74352
for the operation of solid waste facilities or infectious waste 74353
treatment facilities. The rules shall provide all of the 74354
following, without limitation: 74355

(1) The program shall be administered by the director and 74356
shall consist of a course on new solid waste and infectious waste 74357
technologies, enforcement procedures, and rules; 74358

(2) The course shall be offered on an annual basis; 74359

(3) Those persons who are required to take the course under 74360
division (L) of this section shall do so triennially; 74361

(4) Persons who successfully complete the course shall be 74362
certified by the director; 74363

(5) Certification shall be required for all employees of 74364

boards of health who are responsible for enforcing the solid waste 74365
or infectious waste provisions of this chapter and rules adopted 74366
under them and for all persons who are responsible for the 74367
operation of solid waste facilities or infectious waste treatment 74368
facilities; 74369

(6)(a) All employees of a board of health who, on the 74370
effective date of the rules adopted under this division, are 74371
responsible for enforcing the solid waste or infectious waste 74372
provisions of this chapter and the rules adopted under them shall 74373
complete the course and be certified by the director not later 74374
than January 1, 1995; 74375

(b) All employees of a board of health who, after the 74376
effective date of the rules adopted under division (L) of this 74377
section, become responsible for enforcing the solid waste or 74378
infectious waste provisions of this chapter and rules adopted 74379
under them and who do not hold a current and valid certification 74380
from the director at that time shall complete the course and be 74381
certified by the director within two years after becoming 74382
responsible for performing those activities. 74383

No person shall fail to obtain the certification required 74384
under this division. 74385

(M) The director shall not issue a permit under section 74386
3734.05 of the Revised Code to establish a solid waste facility, 74387
or to modify a solid waste facility operating on December 21, 74388
1988, in a manner that expands the disposal capacity or geographic 74389
area covered by the facility, that is or is to be located within 74390
the boundaries of a state park established or dedicated under 74391
Chapter 1541. of the Revised Code, a state park purchase area 74392
established under section 1541.02 of the Revised Code, any unit of 74393
the national park system, or any property that lies within the 74394
boundaries of a national park or recreation area, but that has not 74395
been acquired or is not administered by the secretary of the 74396

United States department of the interior, located in this state, 74397
or any candidate area located in this state and identified for 74398
potential inclusion in the national park system in the edition of 74399
the "national park system plan" submitted under paragraph (b) of 74400
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 74401
U.S.C.A. 1a-5, as amended, current at the time of filing of the 74402
application for the permit, unless the facility or proposed 74403
facility is or is to be used exclusively for the disposal of solid 74404
wastes generated within the park or recreation area and the 74405
director determines that the facility or proposed facility will 74406
not degrade any of the natural or cultural resources of the park 74407
or recreation area. The director shall not issue a variance under 74408
division (A) of this section and rules adopted under it, or issue 74409
an exemption order under division (G) of this section, that would 74410
authorize any such establishment or expansion of a solid waste 74411
facility within the boundaries of any such park or recreation 74412
area, state park purchase area, or candidate area, other than a 74413
solid waste facility exclusively for the disposal of solid wastes 74414
generated within the park or recreation area when the director 74415
determines that the facility will not degrade any of the natural 74416
or cultural resources of the park or recreation area. 74417

(N)(1) The rules adopted under division (A) of this section, 74418
other than those governing variances, do not apply to scrap tire 74419
collection, storage, monocell, monofill, and recovery facilities. 74420
Those facilities are subject to and governed by rules adopted 74421
under sections 3734.70 to 3734.73 of the Revised Code, as 74422
applicable. 74423

(2) Division (C) of this section does not apply to scrap tire 74424
collection, storage, monocell, monofill, and recovery facilities. 74425
The establishment and modification of those facilities are subject 74426
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 74427
Code, as applicable. 74428

(3) The director may adopt, amend, suspend, or rescind rules 74429
under division (A) of this section creating an alternative system 74430
for authorizing the establishment, operation, or modification of a 74431
solid waste compost facility in lieu of the requirement that a 74432
person seeking to establish, operate, or modify a solid waste 74433
compost facility apply for and receive a permit under division (C) 74434
of this section and section 3734.05 of the Revised Code and a 74435
license under division (A)(1) of that section. The rules may 74436
include requirements governing, without limitation, the 74437
classification of solid waste compost facilities, the submittal of 74438
operating records for solid waste compost facilities, and the 74439
creation of a registration or notification system in lieu of the 74440
issuance of permits and licenses for solid waste compost 74441
facilities. The rules shall specify the applicability of divisions 74442
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 74443
Code to a solid waste compost facility. 74444

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 74445
(8), and (9) of this section, no person shall operate or maintain 74446
a solid waste facility without a license issued under this 74447
division by the board of health of the health district in which 74448
the facility is located or by the director of environmental 74449
protection when the health district in which the facility is 74450
located is not on the approved list under section 3734.08 of the 74451
Revised Code. 74452

During the month of December, but before the first day of 74453
January of the next year, every person proposing to continue to 74454
operate an existing solid waste facility shall procure a license 74455
under this division to operate the facility for that year from the 74456
board of health of the health district in which the facility is 74457
located or, if the health district is not on the approved list 74458
under section 3734.08 of the Revised Code, from the director. The 74459
application for such a license shall be submitted to the board of 74460

health or to the director, as appropriate, on or before the last 74461
day of September of the year preceding that for which the license 74462
is sought. In addition to the application fee prescribed in 74463
division (A)(2) of this section, a person who submits an 74464
application after that date shall pay an additional ten per cent 74465
of the amount of the application fee for each week that the 74466
application is late. Late payment fees accompanying an application 74467
submitted to the board of health shall be credited to the special 74468
fund of the health district created in division (B) of section 74469
3734.06 of the Revised Code, and late payment fees accompanying an 74470
application submitted to the director shall be credited to the 74471
general revenue fund. A person who has received a license, upon 74472
sale or disposition of a solid waste facility, and upon consent of 74473
the board of health and the director, may have the license 74474
transferred to another person. The board of health or the director 74475
may include such terms and conditions in a license or revision to 74476
a license as are appropriate to ensure compliance with this 74477
chapter and rules adopted under it. The terms and conditions may 74478
establish the authorized maximum daily waste receipts for the 74479
facility. Limitations on maximum daily waste receipts shall be 74480
specified in cubic yards of volume for the purpose of regulating 74481
the design, construction, and operation of solid waste facilities. 74482
Terms and conditions included in a license or revision to a 74483
license by a board of health shall be consistent with, and pertain 74484
only to the subjects addressed in, the rules adopted under 74485
division (A) of section 3734.02 and division (D) of section 74486
3734.12 of the Revised Code. 74487

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 74488
(9) of this section, each person proposing to open a new solid 74489
waste facility or to modify an existing solid waste facility shall 74490
submit an application for a permit with accompanying detail plans 74491
and specifications to the environmental protection agency for 74492
required approval under the rules adopted by the director pursuant 74493

to division (A) of section 3734.02 of the Revised Code and 74494
applicable rules adopted under division (D) of section 3734.12 of 74495
the Revised Code at least two hundred seventy days before proposed 74496
operation of the facility and shall concurrently make application 74497
for the issuance of a license under division (A)(1) of this 74498
section with the board of health of the health district in which 74499
the proposed facility is to be located. 74500

(b) On and after the effective date of the rules adopted 74501
under division (A) of section 3734.02 of the Revised Code and 74502
division (D) of section 3734.12 of the Revised Code governing 74503
solid waste transfer facilities, each person proposing to open a 74504
new solid waste transfer facility or to modify an existing solid 74505
waste transfer facility shall submit an application for a permit 74506
with accompanying engineering detail plans, specifications, and 74507
information regarding the facility and its method of operation to 74508
the environmental protection agency for required approval under 74509
those rules at least two hundred seventy days before commencing 74510
proposed operation of the facility and concurrently shall make 74511
application for the issuance of a license under division (A)(1) of 74512
this section with the board of health of the health district in 74513
which the facility is located or proposed. 74514

(c) Each application for a permit under division (A)(2)(a) or 74515
(b) of this section shall be accompanied by a nonrefundable 74516
application fee of four hundred dollars that shall be credited to 74517
the general revenue fund. Each application for an annual license 74518
under division (A)(1) or (2) of this section shall be accompanied 74519
by a nonrefundable application fee of one hundred dollars. If the 74520
application for an annual license is submitted to a board of 74521
health on the approved list under section 3734.08 of the Revised 74522
Code, the application fee shall be credited to the special fund of 74523
the health district created in division (B) of section 3734.06 of 74524
the Revised Code. If the application for an annual license is 74525

submitted to the director, the application fee shall be credited 74526
to the general revenue fund. If a permit or license is issued, the 74527
amount of the application fee paid shall be deducted from the 74528
amount of the permit fee due under division (Q) of section 3745.11 74529
of the Revised Code or the amount of the license fee due under 74530
division (A)(1), (2), (3), ~~or (4)~~, or (5) of section 3734.06 of 74531
the Revised Code. 74532

(d) As used in divisions (A)(2)(d), (e), and (f) of this 74533
section, "modify" means any of the following: 74534

(i) Any increase of more than ten per cent in the total 74535
capacity of a solid waste facility; 74536

(ii) Any expansion of the limits of solid waste placement at 74537
a solid waste facility; 74538

(iii) Any increase in the depth of excavation at a solid 74539
waste facility; 74540

(iv) Any change in the technique of waste receipt or type of 74541
waste received at a solid waste facility that may endanger human 74542
health, as determined by the director by rules adopted in 74543
accordance with Chapter 119. of the Revised Code. 74544

Not later than ~~thirty-five~~ forty-five days after submitting 74545
an application under division (A)(2)(a) or (b) of this section for 74546
a permit to open a new or modify an existing solid waste facility, 74547
the applicant, in conjunction with an officer or employee of the 74548
environmental protection agency, shall hold a public meeting on 74549
the application within the county in which the new or modified 74550
solid waste facility is or is proposed to be located or within a 74551
contiguous county. Not less than thirty days before holding the 74552
public meeting on the application, the applicant shall publish 74553
notice of the meeting in each newspaper of general circulation 74554
that is published in the county in which the facility is or is 74555
proposed to be located. If no newspaper of general circulation is 74556

published in the county, the applicant shall publish the notice in 74557
a newspaper of general circulation in the county. The notice shall 74558
contain the date, time, and location of the public meeting and a 74559
general description of the proposed new or modified facility. Not 74560
later than five days after publishing the notice, the applicant 74561
shall send by certified mail a copy of the notice and the date the 74562
notice was published to the director and the legislative authority 74563
of each municipal corporation, township, and county, and to the 74564
chief executive officer of each municipal corporation, in which 74565
the facility is or is proposed to be located. At the public 74566
meeting, the applicant shall provide information and describe the 74567
application and respond to comments or questions concerning the 74568
application, and the officer or employee of the agency shall 74569
describe the permit application process. At the public meeting, 74570
any person may submit written or oral comments on or objections to 74571
the application. Not more than thirty days after the public 74572
meeting, the applicant shall provide the director with a copy of a 74573
transcript of the full meeting, copies of any exhibits, displays, 74574
or other materials presented by the applicant at the meeting, and 74575
the original copy of any written comments submitted at the 74576
meeting. 74577

(e) Except as provided in division (A)(2)(f) of this section, 74578
prior to taking an action, other than a proposed or final denial, 74579
upon an application submitted under division (A)(2)(a) of this 74580
section for a permit to open a new or modify an existing solid 74581
waste facility, the director shall hold a public information 74582
session and a public hearing on the application within the county 74583
in which the new or modified solid waste facility is or is 74584
proposed to be located or within a contiguous county. If the 74585
application is for a permit to open a new solid waste facility, 74586
the director shall hold the hearing not less than fourteen days 74587
after the information session. If the application is for a permit 74588
to modify an existing solid waste facility, the director may hold 74589

both the information session and the hearing on the same day 74590
unless any individual affected by the application requests in 74591
writing that the information session and the hearing not be held 74592
on the same day, in which case the director shall hold the hearing 74593
not less than fourteen days after the information session. The 74594
director shall publish notice of the public information session or 74595
public hearing not less than thirty days before holding the 74596
information session or hearing, as applicable. The notice shall be 74597
published in each newspaper of general circulation that is 74598
published in the county in which the facility is or is proposed to 74599
be located. If no newspaper of general circulation is published in 74600
the county, the director shall publish the notice in a newspaper 74601
of general circulation in the county. The notice shall contain the 74602
date, time, and location of the information session or hearing, as 74603
applicable, and a general description of the proposed new or 74604
modified facility. At the public information session, an officer 74605
or employee of the environmental protection agency shall describe 74606
the status of the permit application and be available to respond 74607
to comments or questions concerning the application. At the public 74608
hearing, any person may submit written or oral comments on or 74609
objections to the approval of the application. The applicant, or a 74610
representative of the applicant who has knowledge of the location, 74611
construction, and operation of the facility, shall attend the 74612
information session and public hearing to respond to comments or 74613
questions concerning the facility directed to the applicant or 74614
representative by the officer or employee of the environmental 74615
protection agency presiding at the information session and 74616
hearing. 74617

(f) The solid waste management policy committee of a county 74618
or joint solid waste management district may adopt a resolution 74619
requesting expeditious consideration of a specific application 74620
submitted under division (A)(2)(a) of this section for a permit to 74621
modify an existing solid waste facility within the district. The 74622

resolution shall make the finding that expedited consideration of 74623
the application without the public information session and public 74624
hearing under division (A)(2)(e) of this section is in the public 74625
interest and will not endanger human health, as determined by the 74626
director by rules adopted in accordance with Chapter 119. of the 74627
Revised Code. Upon receiving such a resolution, the director, at 74628
the director's discretion, may issue a final action upon the 74629
application without holding a public information session or public 74630
hearing pursuant to division (A)(2)(e) of this section. 74631

(3) Except as provided in division (A)(10) of this section, 74632
and unless the owner or operator of any solid waste facility, 74633
other than a solid waste transfer facility or a compost facility 74634
that accepts exclusively source separated yard wastes, that 74635
commenced operation on or before July 1, 1968, has obtained an 74636
exemption from the requirements of division (A)(3) of this section 74637
in accordance with division (G) of section 3734.02 of the Revised 74638
Code, the owner or operator shall submit to the director an 74639
application for a permit with accompanying engineering detail 74640
plans, specifications, and information regarding the facility and 74641
its method of operation for approval under rules adopted under 74642
division (A) of section 3734.02 of the Revised Code and applicable 74643
rules adopted under division (D) of section 3734.12 of the Revised 74644
Code in accordance with the following schedule: 74645

(a) Not later than September 24, 1988, if the facility is 74646
located in the city of Garfield Heights or Parma in Cuyahoga 74647
county; 74648

(b) Not later than December 24, 1988, if the facility is 74649
located in Delaware, Greene, Guernsey, Hamilton, Madison, 74650
Mahoning, Ottawa, or Vinton county; 74651

(c) Not later than March 24, 1989, if the facility is located 74652
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 74653
Washington county, or is located in the city of Brooklyn or 74654

Cuyahoga Heights in Cuyahoga county; 74655

(d) Not later than June 24, 1989, if the facility is located 74656
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 74657
Summit county or is located in Cuyahoga county outside the cities 74658
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 74659

(e) Not later than September 24, 1989, if the facility is 74660
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 74661
county; 74662

(f) Not later than December 24, 1989, if the facility is 74663
located in a county not listed in divisions (A)(3)(a) to (e) of 74664
this section; 74665

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 74666
section, not later than December 31, 1990, if the facility is a 74667
solid waste facility owned by a generator of solid wastes when the 74668
solid waste facility exclusively disposes of solid wastes 74669
generated at one or more premises owned by the generator 74670
regardless of whether the facility is located on a premises where 74671
the wastes are generated and if the facility disposes of more than 74672
one hundred thousand tons of solid wastes per year, provided that 74673
any such facility shall be subject to division (A)(5) of this 74674
section. 74675

(4) Except as provided in divisions (A)(8), (9), and (10) of 74676
this section, unless the owner or operator of any solid waste 74677
facility for which a permit was issued after July 1, 1968, but 74678
before January 1, 1980, has obtained an exemption from the 74679
requirements of division (A)(4) of this section under division (G) 74680
of section 3734.02 of the Revised Code, the owner or operator 74681
shall submit to the director an application for a permit with 74682
accompanying engineering detail plans, specifications, and 74683
information regarding the facility and its method of operation for 74684
approval under those rules. 74685

(5) The director may issue an order in accordance with 74686
Chapter 3745. of the Revised Code to the owner or operator of a 74687
solid waste facility requiring the person to submit to the 74688
director updated engineering detail plans, specifications, and 74689
information regarding the facility and its method of operation for 74690
approval under rules adopted under division (A) of section 3734.02 74691
of the Revised Code and applicable rules adopted under division 74692
(D) of section 3734.12 of the Revised Code if, in the director's 74693
judgment, conditions at the facility constitute a substantial 74694
threat to public health or safety or are causing or contributing 74695
to or threatening to cause or contribute to air or water pollution 74696
or soil contamination. Any person who receives such an order shall 74697
submit the updated engineering detail plans, specifications, and 74698
information to the director within one hundred eighty days after 74699
the effective date of the order. 74700

(6) The director shall act upon an application submitted 74701
under division (A)(3) or (4) of this section and any updated 74702
engineering plans, specifications, and information submitted under 74703
division (A)(5) of this section within one hundred eighty days 74704
after receiving them. If the director denies any such permit 74705
application, the order denying the application or disapproving the 74706
plans shall include the requirements that the owner or operator 74707
submit a plan for closure and post-closure care of the facility to 74708
the director for approval within six months after issuance of the 74709
order, cease accepting solid wastes for disposal or transfer at 74710
the facility, and commence closure of the facility not later than 74711
one year after issuance of the order. If the director determines 74712
that closure of the facility within that one-year period would 74713
result in the unavailability of sufficient solid waste management 74714
facility capacity within the county or joint solid waste 74715
management district in which the facility is located to dispose of 74716
or transfer the solid waste generated within the district, the 74717
director in the order of denial or disapproval may postpone 74718

commencement of closure of the facility for such period of time as 74719
the director finds necessary for the board of county commissioners 74720
or directors of the district to secure access to or for there to 74721
be constructed within the district sufficient solid waste 74722
management facility capacity to meet the needs of the district, 74723
provided that the director shall certify in the director's order 74724
that postponing the date for commencement of closure will not 74725
endanger ground water or any property surrounding the facility, 74726
allow methane gas migration to occur, or cause or contribute to 74727
any other type of environmental damage. 74728

If an emergency need for disposal capacity that may affect 74729
public health and safety exists as a result of closure of a 74730
facility under division (A)(6) of this section, the director may 74731
issue an order designating another solid waste facility to accept 74732
the wastes that would have been disposed of at the facility to be 74733
closed. 74734

(7) If the director determines that standards more stringent 74735
than those applicable in rules adopted under division (A) of 74736
section 3734.02 of the Revised Code and division (D) of section 74737
3734.12 of the Revised Code, or standards pertaining to subjects 74738
not specifically addressed by those rules, are necessary to ensure 74739
that a solid waste facility constructed at the proposed location 74740
will not cause a nuisance, cause or contribute to water pollution, 74741
or endanger public health or safety, the director may issue a 74742
permit for the facility with such terms and conditions as the 74743
director finds necessary to protect public health and safety and 74744
the environment. If a permit is issued, the director shall state 74745
in the order issuing it the specific findings supporting each such 74746
term or condition. 74747

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 74748
not apply to a solid waste compost facility that accepts 74749
exclusively source separated yard wastes and that is registered 74750

under division (C) of section 3734.02 of the Revised Code or, 74751
unless otherwise provided in rules adopted under division (N)(3) 74752
of section 3734.02 of the Revised Code, to a solid waste compost 74753
facility if the director has adopted rules establishing an 74754
alternative system for authorizing the establishment, operation, 74755
or modification of a solid waste compost facility under that 74756
division. 74757

(9) Divisions (A)(1) to (7) of this section do not apply to 74758
scrap tire collection, storage, monocell, monofill, and recovery 74759
facilities. The approval of plans and specifications, as 74760
applicable, and the issuance of registration certificates, 74761
permits, and licenses for those facilities are subject to sections 74762
3734.75 to 3734.78 of the Revised Code, as applicable, and section 74763
3734.81 of the Revised Code. 74764

(10) Divisions (A)(3) and (4) of this section do not apply to 74765
a solid waste incinerator that was placed into operation on or 74766
before October 12, 1994, and that is not authorized to accept and 74767
treat infectious wastes pursuant to division (B) of this section. 74768

(B)(1) Each person who is engaged in the business of treating 74769
infectious wastes for profit at a treatment facility located off 74770
the premises where the wastes are generated that is in operation 74771
on August 10, 1988, and who proposes to continue operating the 74772
facility shall submit to the board of health of the health 74773
district in which the facility is located an application for a 74774
license to operate the facility. 74775

Thereafter, no person shall operate or maintain an infectious 74776
waste treatment facility without a license issued by the board of 74777
health of the health district in which the facility is located or 74778
by the director when the health district in which the facility is 74779
located is not on the approved list under section 3734.08 of the 74780
Revised Code. 74781

(2)(a) During the month of December, but before the first day 74782
of January of the next year, every person proposing to continue to 74783
operate an existing infectious waste treatment facility shall 74784
procure a license to operate the facility for that year from the 74785
board of health of the health district in which the facility is 74786
located or, if the health district is not on the approved list 74787
under section 3734.08 of the Revised Code, from the director. The 74788
application for such a license shall be submitted to the board of 74789
health or to the director, as appropriate, on or before the last 74790
day of September of the year preceding that for which the license 74791
is sought. In addition to the application fee prescribed in 74792
division (B)(2)(c) of this section, a person who submits an 74793
application after that date shall pay an additional ten per cent 74794
of the amount of the application fee for each week that the 74795
application is late. Late payment fees accompanying an application 74796
submitted to the board of health shall be credited to the special 74797
infectious waste fund of the health district created in division 74798
(C) of section 3734.06 of the Revised Code, and late payment fees 74799
accompanying an application submitted to the director shall be 74800
credited to the general revenue fund. A person who has received a 74801
license, upon sale or disposition of an infectious waste treatment 74802
facility and upon consent of the board of health and the director, 74803
may have the license transferred to another person. The board of 74804
health or the director may include such terms and conditions in a 74805
license or revision to a license as are appropriate to ensure 74806
compliance with the infectious waste provisions of this chapter 74807
and rules adopted under them. 74808

(b) Each person proposing to open a new infectious waste 74809
treatment facility or to modify an existing infectious waste 74810
treatment facility shall submit an application for a permit with 74811
accompanying detail plans and specifications to the environmental 74812
protection agency for required approval under the rules adopted by 74813
the director pursuant to section 3734.021 of the Revised Code two 74814

hundred seventy days before proposed operation of the facility and 74815
concurrently shall make application for a license with the board 74816
of health of the health district in which the facility is or is 74817
proposed to be located. Not later than ninety days after receiving 74818
a completed application under division (B)(2)(b) of this section 74819
for a permit to open a new infectious waste treatment facility or 74820
modify an existing infectious waste treatment facility to expand 74821
its treatment capacity, or receiving a completed application under 74822
division (A)(2)(a) of this section for a permit to open a new 74823
solid waste incineration facility, or modify an existing solid 74824
waste incineration facility to also treat infectious wastes or to 74825
increase its infectious waste treatment capacity, that pertains to 74826
a facility for which a notation authorizing infectious waste 74827
treatment is included or proposed to be included in the solid 74828
waste incineration facility's license pursuant to division (B)(3) 74829
of this section, the director shall hold a public hearing on the 74830
application within the county in which the new or modified 74831
infectious waste or solid waste facility is or is proposed to be 74832
located or within a contiguous county. Not less than thirty days 74833
before holding the public hearing on the application, the director 74834
shall publish notice of the hearing in each newspaper that has 74835
general circulation and that is published in the county in which 74836
the facility is or is proposed to be located. If there is no 74837
newspaper that has general circulation and that is published in 74838
the county, the director shall publish the notice in a newspaper 74839
of general circulation in the county. The notice shall contain the 74840
date, time, and location of the public hearing and a general 74841
description of the proposed new or modified facility. At the 74842
public hearing, any person may submit written or oral comments on 74843
or objections to the approval or disapproval of the application. 74844
The applicant, or a representative of the applicant who has 74845
knowledge of the location, construction, and operation of the 74846
facility, shall attend the public hearing to respond to comments 74847

or questions concerning the facility directed to the applicant or 74848
representative by the officer or employee of the environmental 74849
protection agency presiding at the hearing. 74850

(c) Each application for a permit under division (B)(2)(b) of 74851
this section shall be accompanied by a nonrefundable application 74852
fee of four hundred dollars that shall be credited to the general 74853
revenue fund. Each application for an annual license under 74854
division (B)(2)(a) of this section shall be accompanied by a 74855
nonrefundable application fee of one hundred dollars. If the 74856
application for an annual license is submitted to a board of 74857
health on the approved list under section 3734.08 of the Revised 74858
Code, the application fee shall be credited to the special 74859
infectious waste fund of the health district created in division 74860
(C) of section 3734.06 of the Revised Code. If the application for 74861
an annual license is submitted to the director, the application 74862
fee shall be credited to the general revenue fund. If a permit or 74863
license is issued, the amount of the application fee paid shall be 74864
deducted from the amount of the permit fee due under division (Q) 74865
of section 3745.11 of the Revised Code or the amount of the 74866
license fee due under division (C) of section 3734.06 of the 74867
Revised Code. 74868

(d) The owner or operator of any infectious waste treatment 74869
facility that commenced operation on or before July 1, 1968, shall 74870
submit to the director an application for a permit with 74871
accompanying engineering detail plans, specifications, and 74872
information regarding the facility and its method of operation for 74873
approval under rules adopted under section 3734.021 of the Revised 74874
Code in accordance with the following schedule: 74875

(i) Not later than December 24, 1988, if the facility is 74876
located in Delaware, Greene, Guernsey, Hamilton, Madison, 74877
Mahoning, Ottawa, or Vinton county; 74878

(ii) Not later than March 24, 1989, if the facility is 74879

located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 74880
or Washington county, or is located in the city of Brooklyn, 74881
Cuyahoga Heights, or Parma in Cuyahoga county; 74882

(iii) Not later than June 24, 1989, if the facility is 74883
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 74884
Lucas, or Summit county or is located in Cuyahoga county outside 74885
the cities of Brooklyn, Cuyahoga Heights, and Parma; 74886

(iv) Not later than September 24, 1989, if the facility is 74887
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 74888
county; 74889

(v) Not later than December 24, 1989, if the facility is 74890
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 74891
of this section. 74892

The owner or operator of an infectious waste treatment 74893
facility required to submit a permit application under division 74894
(B)(2)(d) of this section is not required to pay any permit 74895
application fee under division (B)(2)(c) of this section, or 74896
permit fee under division (Q) of section 3745.11 of the Revised 74897
Code, with respect thereto unless the owner or operator also 74898
proposes to modify the facility. 74899

(e) The director may issue an order in accordance with 74900
Chapter 3745. of the Revised Code to the owner or operator of an 74901
infectious waste treatment facility requiring the person to submit 74902
to the director updated engineering detail plans, specifications, 74903
and information regarding the facility and its method of operation 74904
for approval under rules adopted under section 3734.021 of the 74905
Revised Code if, in the director's judgment, conditions at the 74906
facility constitute a substantial threat to public health or 74907
safety or are causing or contributing to or threatening to cause 74908
or contribute to air or water pollution or soil contamination. Any 74909
person who receives such an order shall submit the updated 74910

engineering detail plans, specifications, and information to the 74911
director within one hundred eighty days after the effective date 74912
of the order. 74913

(f) The director shall act upon an application submitted 74914
under division (B)(2)(d) of this section and any updated 74915
engineering plans, specifications, and information submitted under 74916
division (B)(2)(e) of this section within one hundred eighty days 74917
after receiving them. If the director denies any such permit 74918
application or disapproves any such updated engineering plans, 74919
specifications, and information, the director shall include in the 74920
order denying the application or disapproving the plans the 74921
requirement that the owner or operator cease accepting infectious 74922
wastes for treatment at the facility. 74923

(3) Division (B) of this section does not apply to an 74924
infectious waste treatment facility that meets any of the 74925
following conditions: 74926

(a) Is owned or operated by the generator of the wastes and 74927
exclusively treats, by methods, techniques, and practices 74928
established by rules adopted under division (C)(1) or (3) of 74929
section 3734.021 of the Revised Code, wastes that are generated at 74930
any premises owned or operated by that generator regardless of 74931
whether the wastes are generated on the same premises where the 74932
generator's treatment facility is located or, if the generator is 74933
a hospital as defined in section 3727.01 of the Revised Code, 74934
infectious wastes that are described in division (A)(1)(g), (h), 74935
or (i) of section 3734.021 of the Revised Code; 74936

(b) Holds a license or renewal of a license to operate a 74937
crematory facility issued under Chapter 4717. and a permit issued 74938
under Chapter 3704. of the Revised Code; 74939

(c) Treats or disposes of dead animals or parts thereof, or 74940
the blood of animals, and is subject to any of the following: 74941

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 74942
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(ii) Chapter 918. of the Revised Code; 74944

(iii) Chapter 953. of the Revised Code. 74945

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes. 74946
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On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules. 74954
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(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of 74962
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the application within ten days after the submission or at such 74973
earlier time as the director may establish by rule. If the 74974
application is for a proposed new hazardous waste disposal or 74975
thermal treatment facility, the applicant also shall give actual 74976
notice of the general design and purpose of the facility to the 74977
legislative authority of each municipal corporation, township, and 74978
county in which the facility is proposed to be located at least 74979
ninety days before the permit application is submitted to the 74980
environmental protection agency. 74981

In accordance with rules adopted under section 3734.12 of the 74982
Revised Code, prior to the submission of a complete application 74983
for a hazardous waste facility installation and operation permit, 74984
the applicant shall hold at least one meeting in the township or 74985
municipal corporation in which the facility is proposed to be 74986
located, whichever is geographically closer to the proposed 74987
location of the facility. The meeting shall be open to the public 74988
and shall be held to inform the community of the proposed 74989
hazardous waste management activities and to solicit questions 74990
from the community concerning the activities. 74991

(D)(1) Except as provided in section 3734.123 of the Revised 74992
Code, upon receipt of a complete application for a hazardous waste 74993
facility installation and operation permit under division (C) of 74994
this section, the director shall consider the application and 74995
accompanying information to determine whether the application 74996
complies with agency rules and the requirements of division (D)(2) 74997
of this section. After making a determination, the director shall 74998
issue either a draft permit or a notice of intent to deny the 74999
permit. The director, in accordance with rules adopted under 75000
section 3734.12 of the Revised Code or with rules adopted to 75001
implement Chapter 3745. of the Revised Code, shall provide public 75002
notice of the application and the draft permit or the notice of 75003
intent to deny the permit, provide an opportunity for public 75004

comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from

which the person may influence the installation and operation of 75035
the facility has been involved in any prior activity involving 75036
transportation, treatment, storage, or disposal of hazardous 75037
waste, that person has a history of compliance with this chapter 75038
and Chapters 3704. and 6111. of the Revised Code and all rules and 75039
standards adopted under them, the "Resource Conservation and 75040
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 75041
amended, and all regulations adopted under it, and similar laws 75042
and rules of other states if any such prior operation was located 75043
in another state that demonstrates sufficient reliability, 75044
expertise, and competency to operate a hazardous waste facility 75045
under the applicable provisions of this chapter and Chapters 3704. 75046
and 6111. of the Revised Code, the applicable rules and standards 75047
adopted under them, and terms and conditions of a hazardous waste 75048
facility installation and operation permit, given the potential 75049
for harm to the public health and safety and the environment that 75050
could result from the irresponsible operation of the facility. For 75051
off-site facilities, as defined in section 3734.41 of the Revised 75052
Code, the director may use the investigative reports of the 75053
attorney general prepared pursuant to section 3734.42 of the 75054
Revised Code as a basis for making a finding and determination 75055
under division (D)(2)(f) of this section. 75056

(g) That the active areas within a new hazardous waste 75057
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 75058
(e), as amended, or organic waste that is toxic and is listed 75059
under 40 C.F.R. 261, as amended, is being stored, treated, or 75060
disposed of and where the aggregate of the storage design capacity 75061
and the disposal design capacity of all hazardous waste in those 75062
areas is greater than two hundred fifty thousand gallons, are not 75063
located or operated within any of the following: 75064

(i) Two thousand feet of any residence, school, hospital, 75065
jail, or prison; 75066

(ii) Any naturally occurring wetland; 75067

(iii) Any flood hazard area if the applicant cannot show that 75068
the facility will be designed, constructed, operated, and 75069
maintained to prevent washout by a one-hundred-year flood. 75070

Division (D)(2)(g) of this section does not apply to the 75071
facility of any applicant who demonstrates to the director that 75072
the limitations specified in that division are not necessary 75073
because of the nature or volume of the waste and the manner of 75074
management applied, the facility will impose no substantial danger 75075
to the health and safety of persons occupying the structures 75076
listed in division (D)(2)(g)(i) of this section, and the facility 75077
is to be located or operated in an area where the proposed 75078
hazardous waste activities will not be incompatible with existing 75079
land uses in the area. 75080

(h) That the facility will not be located within the 75081
boundaries of a state park established or dedicated under Chapter 75082
1541. of the Revised Code, a state park purchase area established 75083
under section 1541.02 of the Revised Code, any unit of the 75084
national park system, or any property that lies within the 75085
boundaries of a national park or recreation area, but that has not 75086
been acquired or is not administered by the secretary of the 75087
United States department of the interior, located in this state, 75088
or any candidate area located in this state identified for 75089
potential inclusion in the national park system in the edition of 75090
the "national park system plan" submitted under paragraph (b) of 75091
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 75092
U.S.C.A. 1a-5, as amended, current at the time of filing of the 75093
application for the permit, unless the facility will be used 75094
exclusively for the storage of hazardous waste generated within 75095
the park or recreation area in conjunction with the operation of 75096
the park or recreation area. Division (D)(2)(h) of this section 75097
does not apply to the facility of any applicant for modification 75098

of a permit unless the modification application proposes to 75099
increase the land area included in the facility or to increase the 75100
quantity of hazardous waste that will be treated, stored, or 75101
disposed of at the facility. 75102

(3) Not later than one hundred eighty days after the end of 75103
the public comment period, the director, without prior hearing, 75104
shall issue or deny the permit in accordance with Chapter 3745. of 75105
the Revised Code. If the director approves an application for a 75106
hazardous waste facility installation and operation permit, the 75107
director shall issue the permit, upon such terms and conditions as 75108
the director finds are necessary to ensure the construction and 75109
operation of the hazardous waste facility in accordance with the 75110
standards of this section. 75111

(E) No political subdivision of this state shall require any 75112
additional zoning or other approval, consent, permit, certificate, 75113
or condition for the construction or operation of a hazardous 75114
waste facility authorized by a hazardous waste facility 75115
installation and operation permit issued pursuant to this chapter, 75116
nor shall any political subdivision adopt or enforce any law, 75117
ordinance, or rule that in any way alters, impairs, or limits the 75118
authority granted in the permit. 75119

(F) The director may issue a single hazardous waste facility 75120
installation and operation permit to a person who operates two or 75121
more adjoining facilities where hazardous waste is stored, 75122
treated, or disposed of if the application includes detail plans, 75123
specifications, and information on all facilities. For the 75124
purposes of this section, "adjoining" means sharing a common 75125
boundary, separated only by a public road, or in such proximity 75126
that the director determines that the issuance of a single permit 75127
will not create a hazard to the public health or safety or the 75128
environment. 75129

(G) No person shall falsify or fail to keep or submit any 75130

plans, specifications, data, reports, records, manifests, or other 75131
information required to be kept or submitted to the director by 75132
this chapter or the rules adopted under it. 75133

(H)(1) Each person who holds an installation and operation 75134
permit issued under this section and who wishes to obtain a permit 75135
renewal shall submit a completed application for an installation 75136
and operation permit renewal and any necessary accompanying 75137
general plans, detail plans, specifications, and such information 75138
as the director may require to the director no later than one 75139
hundred eighty days prior to the expiration date of the existing 75140
permit or upon a later date prior to the expiration of the 75141
existing permit if the permittee can demonstrate good cause for 75142
the late submittal. The director shall consider the application 75143
and accompanying information, inspection reports of the facility, 75144
results of performance tests, a report regarding the facility's 75145
compliance or noncompliance with the terms and conditions of its 75146
permit and rules adopted by the director under this chapter, and 75147
such other information as is relevant to the operation of the 75148
facility and shall issue a draft renewal permit or a notice of 75149
intent to deny the renewal permit. The director, in accordance 75150
with rules adopted under this section or with rules adopted to 75151
implement Chapter 3745. of the Revised Code, shall give public 75152
notice of the application and draft renewal permit or notice of 75153
intent to deny the renewal permit, provide for the opportunity for 75154
public comments within a specified time period, schedule a public 75155
meeting in the county in which the facility is located if 75156
significant interest is shown, and give public notice of the 75157
public meeting. 75158

(2) Within sixty days after the public meeting or close of 75159
the public comment period, the director, without prior hearing, 75160
shall issue or deny the renewal permit in accordance with Chapter 75161
3745. of the Revised Code. The director shall not issue a renewal 75162

permit unless the director determines that the facility under the 75163
existing permit has a history of compliance with this chapter, 75164
rules adopted under it, the existing permit, or orders entered to 75165
enforce such requirements that demonstrates sufficient 75166
reliability, expertise, and competency to operate the facility 75167
henceforth under this chapter, rules adopted under it, and the 75168
renewal permit. If the director approves an application for a 75169
renewal permit, the director shall issue the permit subject to the 75170
payment of the annual permit fee required under division (E) of 75171
section 3734.02 of the Revised Code and upon such terms and 75172
conditions as the director finds are reasonable to ensure that 75173
continued operation, maintenance, closure, and post-closure care 75174
of the hazardous waste facility are in accordance with the rules 75175
adopted under section 3734.12 of the Revised Code. 75176

(3) An installation and operation permit renewal application 75177
submitted to the director that also contains or would constitute 75178
an application for a modification shall be acted upon by the 75179
director in accordance with division (I) of this section in the 75180
same manner as an application for a modification. In approving or 75181
disapproving the renewal portion of a permit renewal application 75182
containing an application for a modification, the director shall 75183
apply the criteria established under division (H)(2) of this 75184
section. 75185

(4) An application for renewal or modification of a permit 75186
that does not contain an application for a modification as 75187
described in divisions (I)(3)(a) to (d) of this section shall not 75188
be subject to division (D)(2) of this section. 75189

(I)(1) As used in this section, "modification" means a change 75190
or alteration to a hazardous waste facility or its operations that 75191
is inconsistent with or not authorized by its existing permit or 75192
authorization to operate. Modifications shall be classified as 75193
Class 1, 2, or 3 modifications in accordance with rules adopted 75194

under division (K) of this section. Modifications classified as 75195
Class 3 modifications, in accordance with rules adopted under that 75196
division, shall be further classified by the director as either 75197
Class 3 modifications that are to be approved or disapproved by 75198
the director under divisions (I)(3)(a) to (d) of this section or 75199
as Class 3 modifications that are to be approved or disapproved by 75200
the director under division (I)(5) of this section. Not later than 75201
thirty days after receiving a request for a modification under 75202
division (I)(4) of this section that is not listed in Appendix I 75203
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 75204
section, the director shall classify the modification and shall 75205
notify the owner or operator of the facility requesting the 75206
modification of the classification. Notwithstanding any other law 75207
to the contrary, a modification that involves the transfer of a 75208
hazardous waste facility installation and operation permit to a 75209
new owner or operator for any off-site facility as defined in 75210
section 3734.41 of the Revised Code shall be classified as a Class 75211
3 modification. The transfer of a hazardous waste facility 75212
installation and operation permit to a new owner or operator for a 75213
facility that is not an off-site facility shall be classified as a 75214
Class 1 modification requiring prior approval of the director. 75215

(2) Except as provided in section 3734.123 of the Revised 75216
Code, a hazardous waste facility installation and operation permit 75217
may be modified at the request of the director or upon the written 75218
request of the permittee only if any of the following applies: 75219

(a) The permittee desires to accomplish alterations, 75220
additions, or deletions to the permitted facility or to undertake 75221
alterations, additions, deletions, or activities that are 75222
inconsistent with or not authorized by the existing permit; 75223

(b) New information or data justify permit conditions in 75224
addition to or different from those in the existing permit; 75225

(c) The standards, criteria, or rules upon which the existing 75226

permit is based have been changed by new, amended, or rescinded 75227
standards, criteria, or rules, or by judicial decision after the 75228
existing permit was issued, and the change justifies permit 75229
conditions in addition to or different from those in the existing 75230
permit; 75231

(d) The permittee proposes to transfer the permit to another 75232
person. 75233

(3) The director shall approve or disapprove an application 75234
for a modification in accordance with division (D)(2) of this 75235
section and rules adopted under division (K) of this section for 75236
all of the following categories of Class 3 modifications: 75237

(a) Authority to conduct treatment, storage, or disposal at a 75238
site, location, or tract of land that has not been authorized for 75239
the proposed category of treatment, storage, or disposal activity 75240
by the facility's permit; 75241

(b) Modification or addition of a hazardous waste management 75242
unit, as defined in rules adopted under section 3734.12 of the 75243
Revised Code, that results in an increase in a facility's storage 75244
capacity of more than twenty-five per cent over the capacity 75245
authorized by the facility's permit, an increase in a facility's 75246
treatment rate of more than twenty-five per cent over the rate so 75247
authorized, or an increase in a facility's disposal capacity over 75248
the capacity so authorized. The authorized disposal capacity for a 75249
facility shall be calculated from the approved design plans for 75250
the disposal units at that facility. In no case during a five-year 75251
period shall a facility's storage capacity or treatment rate be 75252
modified to increase by more than twenty-five per cent in the 75253
aggregate without the director's approval in accordance with 75254
division (D)(2) of this section. Notwithstanding any provision of 75255
division (I) of this section to the contrary, a request for 75256
modification of a facility's annual total waste receipt limit 75257
shall be classified and approved or disapproved by the director 75258

under division (I)(5) of this section. 75259

(c) Authority to add any of the following categories of 75260
regulated activities not previously authorized at a facility by 75261
the facility's permit: storage at a facility not previously 75262
authorized to store hazardous waste, treatment at a facility not 75263
previously authorized to treat hazardous waste, or disposal at a 75264
facility not previously authorized to dispose of hazardous waste; 75265
or authority to add a category of hazardous waste management unit 75266
not previously authorized at the facility by the facility's 75267
permit. Notwithstanding any provision of division (I) of this 75268
section to the contrary, a request for authority to add or to 75269
modify an activity or a hazardous waste management unit for the 75270
purposes of performing a corrective action shall be classified and 75271
approved or disapproved by the director under division (I)(5) of 75272
this section. 75273

(d) Authority to treat, store, or dispose of waste types 75274
listed or characterized as reactive or explosive, in rules adopted 75275
under section 3734.12 of the Revised Code, or any acute hazardous 75276
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 75277
previously authorized to treat, store, or dispose of those types 75278
of wastes by the facility's permit unless the requested authority 75279
is limited to wastes that no longer exhibit characteristics 75280
meeting the criteria for listing or characterization as reactive 75281
or explosive wastes, or for listing as acute hazardous waste, but 75282
still are required to carry those waste codes as established in 75283
rules adopted under section 3734.12 of the Revised Code because of 75284
the requirements established in 40 C.F.R. 261(a) and (e), as 75285
amended, that is, the "mixture," "derived-from," or "contained-in" 75286
regulations. 75287

(4) A written request for a modification from the permittee 75288
shall be submitted to the director and shall contain such 75289
information as is necessary to support the request. Requests for 75290

modifications shall be acted upon by the director in accordance 75291
with this section and rules adopted under it. 75292

(5) Class 1 modification applications that require prior 75293
approval of the director, as provided in division (I)(1) of this 75294
section or as determined in accordance with rules adopted under 75295
division (K) of this section, Class 2 modification applications, 75296
and Class 3 modification applications that are not described in 75297
divisions (I)(3)(a) to (d) of this section shall be approved or 75298
disapproved by the director in accordance with rules adopted under 75299
division (K) of this section. The board of county commissioners of 75300
the county, the board of township trustees of the township, and 75301
the city manager or mayor of the municipal corporation in which a 75302
hazardous waste facility is located shall receive notification of 75303
any application for a modification for that facility and shall be 75304
considered as interested persons with respect to the director's 75305
consideration of the application. 75306

As used in division (I) of this section: 75307

(a) "Owner" means the person who owns a majority or 75308
controlling interest in a facility. 75309

(b) "Operator" means the person who is responsible for the 75310
overall operation of a facility. 75311

The director shall approve or disapprove an application for a 75312
Class 1 modification that requires the director's approval within 75313
sixty days after receiving the request for modification. The 75314
director shall approve or disapprove an application for a Class 2 75315
modification within three hundred days after receiving the request 75316
for modification. The director shall approve or disapprove an 75317
application for a Class 3 modification within three hundred 75318
sixty-five days after receiving the request for modification. 75319

(6) The approval or disapproval by the director of a Class 1 75320
modification application is not a final action that is appealable 75321

under Chapter 3745. of the Revised Code. The approval or 75322
disapproval by the director of a Class 2 modification or a Class 3 75323
modification is a final action that is appealable under that 75324
chapter. In approving or disapproving a request for a 75325
modification, the director shall consider all comments pertaining 75326
to the request that are received during the public comment period 75327
and the public meetings. The administrative record for appeal of a 75328
final action by the director in approving or disapproving a 75329
request for a modification shall include all comments received 75330
during the public comment period relating to the request for 75331
modification, written materials submitted at the public meetings 75332
relating to the request, and any other documents related to the 75333
director's action. 75334

(7) Notwithstanding any other provision of law to the 75335
contrary, a change or alteration to a hazardous waste facility 75336
described in division (E)(3)(a) or (b) of section 3734.02 of the 75337
Revised Code, or its operations, is a modification for the 75338
purposes of this section. An application for a modification at 75339
such a facility shall be submitted, classified, and approved or 75340
disapproved in accordance with divisions (I)(1) to (6) of this 75341
section in the same manner as a modification to a hazardous waste 75342
facility installation and operation permit. 75343

(J)(1) Except as provided in division (J)(2) of this section, 75344
an owner or operator of a hazardous waste facility that is 75345
operating in accordance with a permit by rule under rules adopted 75346
by the director under division (E)(3)(b) of section 3734.02 of the 75347
Revised Code shall submit either a hazardous waste facility 75348
installation and operation permit application for the facility or 75349
a modification application, whichever is required under division 75350
(J)(1)(a) or (b) of this section, within one hundred eighty days 75351
after the director has requested the application or upon a later 75352
date if the owner or operator demonstrates to the director good 75353

cause for the late submittal. 75354

(a) If the owner or operator does not have a hazardous waste 75355
facility installation and operation permit for any hazardous waste 75356
treatment, storage, or disposal activities at the facility, the 75357
owner or operator shall submit an application for such a permit to 75358
the director for the activities authorized by the permit by rule. 75359
Notwithstanding any other provision of law to the contrary, the 75360
director shall approve or disapprove the application for the 75361
permit in accordance with the procedures governing the approval or 75362
disapproval of permit renewals under division (H) of this section. 75363

(b) If the owner or operator has a hazardous waste facility 75364
installation and operation permit for hazardous waste treatment, 75365
storage, or disposal activities at the facility other than those 75366
authorized by the permit by rule, the owner or operator shall 75367
submit to the director a request for modification in accordance 75368
with division (I) of this section. Notwithstanding any other 75369
provision of law to the contrary, the director shall approve or 75370
disapprove the modification application in accordance with 75371
division (I)(5) of this section. 75372

(2) The owner or operator of a boiler or industrial furnace 75373
that is conducting thermal treatment activities in accordance with 75374
a permit by rule under rules adopted by the director under 75375
division (E)(3)(b) of section 3734.02 of the Revised Code shall 75376
submit a hazardous waste facility installation and operation 75377
permit application if the owner or operator does not have such a 75378
permit for any hazardous waste treatment, storage, or disposal 75379
activities at the facility or, if the owner or operator has such a 75380
permit for hazardous waste treatment, storage, or disposal 75381
activities at the facility other than thermal treatment activities 75382
authorized by the permit by rule, a modification application to 75383
add those activities authorized by the permit by rule, whichever 75384
is applicable, within one hundred eighty days after the director 75385

has requested the submission of the application or upon a later 75386
date if the owner or operator demonstrates to the director good 75387
cause for the late submittal. The application shall be accompanied 75388
by information necessary to support the request. The director 75389
shall approve or disapprove an application for a hazardous waste 75390
facility installation and operation permit in accordance with 75391
division (D) of this section and approve or disapprove an 75392
application for a modification in accordance with division (I)(3) 75393
of this section, except that the director shall not disapprove an 75394
application for the thermal treatment activities on the basis of 75395
the criteria set forth in division (D)(2)(g) or (h) of this 75396
section. 75397

(3) As used in division (J) of this section: 75398

(a) "Modification application" means a request for a 75399
modification submitted in accordance with division (I) of this 75400
section. 75401

(b) "Thermal treatment," "boiler," and "industrial furnace" 75402
have the same meanings as in rules adopted under section 3734.12 75403
of the Revised Code. 75404

(K) The director shall adopt, and may amend, suspend, or 75405
rescind, rules in accordance with Chapter 119. of the Revised Code 75406
in order to implement divisions (H) and (I) of this section. 75407
Except when in actual conflict with this section, rules governing 75408
the classification of and procedures for the modification of 75409
hazardous waste facility installation and operation permits shall 75410
be substantively and procedurally identical to the regulations 75411
governing hazardous waste facility permitting and permit 75412
modifications adopted under the "Resource Conservation and 75413
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 75414
amended. 75415

Sec. 3734.06. (A)(1) Except as provided in ~~division~~ divisions 75416

(A)(2), (3), ~~and~~ (4), and (5) of this section and in section 75417
3734.82 of the Revised Code, the annual fee for a solid waste 75418
facility license shall be in accordance with the following 75419
schedule: 75420

AUTHORIZED MAXIMUM	ANNUAL	
DAILY WASTE	LICENSE	
RECEIPT (TONS)	FEE	
100 or less	\$ 5,000	75424
101 to 200	12,500	75425
201 to 500	30,000	75426
501 or more	60,000	75427

For the purpose of determining the applicable license fee 75428
under divisions (A)(1) ~~and~~, (2), and (3) of this section, the 75429
authorized maximum daily waste receipt shall be the maximum amount 75430
of wastes the facility is authorized to receive daily that is 75431
established in the permit for the facility, and any modifications 75432
to that permit, issued under division (A)(2) or (3) of section 75433
3734.05 of the Revised Code; the annual license for the facility, 75434
and any revisions to that license, issued under division (A)(1) of 75435
section 3734.05 of the Revised Code; the approved operating plan 75436
or operational report for which submission and approval are 75437
required by rules adopted by the director of environmental 75438
protection under section 3734.02 of the Revised Code; an order 75439
issued by the director as authorized by rule; or the updated 75440
engineering plans, specifications, and facility and operation 75441
information approved under division (A)(4) of section 3734.05 of 75442
the Revised Code. If no authorized maximum daily waste receipt is 75443
so established, the annual license fee is sixty thousand dollars 75444
under division (A)(1) of this section and thirty thousand dollars 75445
under ~~division~~ divisions (A)(2) and (3) of this section. 75446

The authorized maximum daily waste receipt set forth in any 75447
such document shall be stated in terms of cubic yards of volume 75448

for the purpose of regulating the design, construction, and 75449
operation of a solid waste facility. For the purpose of 75450
determining applicable license fees under this section, the 75451
authorized maximum daily waste receipt so stated shall be 75452
converted from cubic yards to tons as the unit of measurement 75453
based upon a conversion factor of three cubic yards per ton for 75454
compacted wastes generally and one cubic yard per ton for baled 75455
wastes. 75456

(2) The annual license fee for a facility that is an 75457
incinerator facility is one-half the amount shown in division 75458
(A)(1) of this section. When a municipal corporation, county, or 75459
township owns and operates more than one incinerator within its 75460
boundaries, the municipal corporation, county, or township shall 75461
pay one fee for the licenses for all of its incinerators. The fee 75462
shall be determined on the basis of the aggregate maximum daily 75463
waste receipt for all the incinerators owned and operated by the 75464
municipal corporation, county, or township in an amount that is 75465
one-half the amount shown in division (A)(1) of this section. 75466

(3) The annual fee for a solid waste compost facility license 75467
shall be in accordance with the following schedule: 75468

AUTHORIZED MAXIMUM	ANNUAL	75469
DAILY WASTE	LICENSE	75470
RECEIPT (TONS)	FEE	75471
12 or less	\$ 300	75472
13 to 25	600	75473
26 to 50	1,200	75474
51 to 75	1,800	75475
76 to 100	2,500	75476
101 to 200 <u>150</u>	6,250 <u>3,750</u>	75477
<u>151 to 200</u>	<u>5,000</u>	75478
201 to 500 <u>250</u>	15,000 <u>6,250</u>	75479
<u>251 to 300</u>	<u>7,500</u>	75480

<u>301 to 400</u>	<u>10,000</u>	75481
<u>401 to 500</u>	<u>12,500</u>	75482
501 or more	30,000	75483

~~(3)~~(4) The annual license fee for a solid waste facility, 75484
regardless of its authorized maximum daily waste receipt, is five 75485
thousand dollars for a facility meeting either of the following 75486
qualifications: 75487

(a) The facility is owned by a generator of solid wastes when 75488
the solid waste facility exclusively disposes of solid wastes 75489
generated at one or more premises owned by the generator 75490
regardless of whether the facility is located on a premises where 75491
the wastes are generated. 75492

(b) The facility exclusively disposes of wastes that are 75493
generated from the combustion of coal, or from the combustion of 75494
primarily coal in combination with scrap tires, that is not 75495
combined in any way with garbage at one or more premises owned by 75496
the generator. 75497

~~(4)~~(5) The annual license fee for a facility that is a 75498
transfer facility is seven hundred fifty dollars. 75499

~~(5)~~(6) The same fees shall apply to private operators and to 75500
the state and its political subdivisions and shall be paid within 75501
thirty days after issuance of a license. The fee includes the cost 75502
of licensing, all inspections, and other costs associated with the 75503
administration of the solid waste provisions of this chapter and 75504
rules adopted under them, excluding the provisions governing scrap 75505
tires. Each such license shall specify that it is conditioned upon 75506
payment of the applicable fee to the board of health or the 75507
director, as appropriate, within thirty days after issuance of the 75508
license. 75509

(B) The board of health shall retain two thousand five 75510
hundred dollars of each license fee collected by the board under 75511

divisions (A)(1), (2), ~~and (3)~~, and (4) of this section or the 75512
entire amount of any such fee that is less than two thousand five 75513
hundred dollars. The moneys retained shall be paid into a special 75514
fund, which is hereby created in each health district, and used 75515
solely to administer and enforce the solid waste provisions of 75516
this chapter and the rules adopted under them, excluding the 75517
provisions governing scrap tires. The remainder of each license 75518
fee collected by the board shall be transmitted to the director 75519
within forty-five days after receipt of the fee. The director 75520
shall transmit these moneys to the treasurer of state to be 75521
credited to the general revenue fund. The board of health shall 75522
retain the entire amount of each fee collected under division 75523
(A)~~(4)~~(5) of this section, which moneys shall be paid into the 75524
special fund of the health district. 75525

(C)(1) Except as provided in divisions (C)(2) and (3) of this 75526
section, the annual fee for an infectious waste treatment facility 75527
license shall be in accordance with the following schedule: 75528

AVERAGE	ANNUAL	75529
DAILY WASTE	LICENSE	75530
RECEIPT (TONS)	FEE	75531
100 or less	\$ 5,000	75532
101 to 200	12,500	75533
201 to 500	30,000	75534
501 or more	60,000	75535

For the purpose of determining the applicable license fee 75536
under divisions (C)(1) and (2) of this section, the average daily 75537
waste receipt shall be the average amount of infectious wastes the 75538
facility is authorized to receive daily that is established in the 75539
permit for the facility, and any modifications to that permit, 75540
issued under division (B)(2)(b) or (d) of section 3734.05 of the 75541
Revised Code; or the annual license for the facility, and any 75542
revisions to that license, issued under division (B)(2)(a) of 75543

section 3734.05 of the Revised Code. If no average daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (C)(1) of this section and thirty thousand dollars under division (C)(2) of this section.

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Sec. 3734.18. (A) As used in this section:

(1) "On-site facility" means a facility that treats or disposes of hazardous waste that is generated on the premises of

the facility. 75575

(2) "Off-site facility" means a facility that treats or 75576
disposes of hazardous waste that is generated off the premises of 75577
the facility. 75578

(3) "Satellite facility" means any of the following: 75579

(a) An on-site facility that also receives hazardous waste 75580
from other premises owned by the same person who generates the 75581
waste on the facility premises; 75582

(b) An off-site facility operated so that all of the 75583
hazardous waste it receives is generated on one or more premises 75584
owned by the person who owns the facility; 75585

(c) An on-site facility that also receives hazardous waste 75586
that is transported uninterruptedly and directly to the facility 75587
through a pipeline from a generator who is not the owner of the 75588
facility. 75589

(B) A treatment or disposal facility that is subject to the 75590
fees that are levied under this section may be both an on-site 75591
facility and an off-site facility. The determination of whether an 75592
on-site facility fee or an off-site facility fee is to be paid for 75593
a hazardous waste that is treated or disposed of at the facility 75594
shall be based on whether that hazardous waste was generated on or 75595
off the premises of the facility. 75596

(C) There are hereby levied fees on the disposal of hazardous 75597
waste to be collected according to the following schedule at each 75598
disposal facility to which a hazardous waste facility installation 75599
and operation permit or renewal of a permit has been issued under 75600
this chapter or that is operating in accordance with a permit by 75601
rule under rules adopted by the director of environmental 75602
protection: 75603

(1) For disposal facilities that are off-site facilities, 75604

fees shall be levied at the rate of four dollars and fifty cents 75605
per ton for hazardous waste disposed of by deep well injection and 75606
nine dollars per ton for hazardous waste disposed of by land 75607
application or landfilling. The owner or operator of the facility, 75608
as a trustee for the state, shall collect the fees and forward 75609
them to the director in accordance with rules adopted under this 75610
section. 75611

(2) For disposal facilities that are on-site or satellite 75612
facilities, fees shall be levied at the rate of two dollars per 75613
ton for hazardous waste disposed of by deep well injection and 75614
four dollars per ton for hazardous waste disposed of by land 75615
application or landfilling. The maximum annual disposal fee for an 75616
on-site disposal facility that disposes of one hundred thousand 75617
tons or less of hazardous waste in a year is twenty-five thousand 75618
dollars. The maximum annual disposal fee for an on-site facility 75619
that disposes of more than one hundred thousand tons of hazardous 75620
waste in a year by land application or landfilling is fifty 75621
thousand dollars, and the maximum annual fee for an on-site 75622
facility that disposes of more than one hundred thousand tons of 75623
hazardous waste in a year by deep well injection is one hundred 75624
thousand dollars. The maximum annual disposal fee for a satellite 75625
facility that disposes of one hundred thousand tons or less of 75626
hazardous waste in a year is thirty-seven thousand five hundred 75627
dollars, and the maximum annual disposal fee for a satellite 75628
facility that disposes of more than one hundred thousand tons of 75629
hazardous waste in a year is seventy-five thousand dollars, except 75630
that a satellite facility defined under division (A)(3)(b) of this 75631
section that receives hazardous waste from a single generation 75632
site is subject to the same maximum annual disposal fees as an 75633
on-site disposal facility. The owner or operator shall pay the fee 75634
to the director each year upon the anniversary of the date of 75635
issuance of the owner's or operator's installation and operation 75636
permit during the term of that permit and any renewal permit 75637

issued under division (H) of section 3734.05 of the Revised Code 75638
or on the anniversary of the date of a permit by rule. If payment 75639
is late, the owner or operator shall pay an additional ten per 75640
cent of the amount of the fee for each month that it is late. 75641

(D) There are hereby levied fees at the rate of two dollars 75642
per ton on hazardous waste that is treated at treatment facilities 75643
that are not on-site or satellite facilities to which a hazardous 75644
waste facility installation and operation permit or renewal of a 75645
permit has been issued under this chapter, whose owner or operator 75646
is operating in accordance with a permit by rule under rules 75647
adopted by the director, or that are not subject to the hazardous 75648
waste facility installation and operation permit requirements 75649
under rules adopted by the director. 75650

(E) There are hereby levied additional fees on the treatment 75651
and disposal of hazardous waste at the rate of ten per cent of the 75652
applicable fees prescribed in division (C) or (D) of this section 75653
for the purposes of paying the costs of municipal corporations and 75654
counties for conducting reviews of applications for hazardous 75655
waste facility installation and operation permits for proposed new 75656
or modified hazardous waste landfills within their boundaries, 75657
emergency response actions with respect to releases of hazardous 75658
waste from hazardous waste facilities within their boundaries, 75659
monitoring the operation of such hazardous waste facilities, and 75660
local waste management planning programs. The owner or operator of 75661
a facility located within a municipal corporation, as a trustee 75662
for the municipal corporation, shall collect the fees levied by 75663
this division and forward them to the treasurer of the municipal 75664
corporation or such officer as, by virtue of the charter, has the 75665
duties of the treasurer in accordance with rules adopted under 75666
this section. The owner or operator of a facility located in an 75667
unincorporated area, as a trustee of the county in which the 75668
facility is located, shall collect the fees levied by this 75669

division and forward them to the county treasurer of that county 75670
in accordance with rules adopted under this section. The owner or 75671
operator shall pay the fees levied by this division to the 75672
treasurer or such other officer of the municipal corporation or to 75673
the county treasurer each year upon the anniversary of the date of 75674
issuance of the owner's or operator's installation and operation 75675
permit during the term of that permit and any renewal permit 75676
issued under division (H) of section 3734.05 of the Revised Code 75677
or on the anniversary of the date of a permit by rule or the date 75678
on which the facility became exempt from hazardous waste facility 75679
installation and operation permit requirements under rules adopted 75680
by the director. If payment is late, the owner or operator shall 75681
pay an additional ten per cent of the amount of the fee for each 75682
month that the payment is late. 75683

Moneys received by a municipal corporation under this 75684
division shall be paid into a special fund of the municipal 75685
corporation and used exclusively for the purposes of conducting 75686
reviews of applications for hazardous waste facility installation 75687
and operation permits for new or modified hazardous waste 75688
landfills located or proposed within the municipal corporation, 75689
conducting emergency response actions with respect to releases of 75690
hazardous waste from facilities located within the municipal 75691
corporation, monitoring operation of such hazardous waste 75692
facilities, and conducting waste management planning programs 75693
within the municipal corporation through employees of the 75694
municipal corporation or pursuant to contracts entered into with 75695
persons or political subdivisions. Moneys received by a board of 75696
county commissioners under this division shall be paid into a 75697
special fund of the county and used exclusively for those purposes 75698
within the unincorporated area of the county through employees of 75699
the county or pursuant to contracts entered into with persons or 75700
political subdivisions. 75701

(F) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (D) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(G) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (C) and (D) of this section ~~into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code,~~ to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (C)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board on an annual basis for that use ~~on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on any loans made by the~~

~~Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund and for the purposes specified in sections 3734.19 to 3734.27 of the Revised Code.~~

~~Until September 28, 1996, the director also may use moneys in the fund to pay the start up costs of administering Chapter 3746. of the Revised Code.~~

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency ~~in accordance with this section~~, the controlling board shall approve the expenditure.

Sec. 3734.19. (A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or facilities.

Upon receipt of a request and a review of the evidence submitted with the request, the director shall conduct an investigation to determine if hazardous waste was actually treated, stored, or disposed of at the locations or facilities and, if so, to determine the nature and approximate quantity and types of the waste treated, stored, or disposed of at the

particular locations or facilities. In addition, the director 75765
shall determine whether the locations or facilities, because of 75766
their present condition and the nature and quantities of waste 75767
treated, stored, or disposed of therein, result or are likely to 75768
result in air pollution, pollution of the waters of the state, or 75769
soil contamination or constitute a present or imminent and 75770
substantial threat to public health or safety. The director shall 75771
report the findings of ~~his~~ the investigation to the municipal 75772
corporation, county, or township requesting the survey. 75773

For the purpose of conducting investigations under this 75774
section, the director or ~~his~~ the director's authorized 75775
representative may enter upon any public or private property. The 75776
director or ~~his~~ the director's authorized representative may apply 75777
for, and any judge of a court of common pleas shall issue, an 75778
appropriate search warrant necessary to achieve the purposes of 75779
this section within the court's territorial jurisdiction. When 75780
conducting investigations under this section, the director shall 75781
cause no unnecessary damage to any property. The director may 75782
expend moneys from the hazardous waste facility management fund 75783
created in section 3734.18 of the Revised Code, the hazardous 75784
waste clean-up fund created in section 3734.28 of the Revised 75785
Code, or the environmental protection remediation fund created in 75786
section 3734.281 of the Revised Code for conducting 75787
investigations. 75788

(B) As used in this section and in sections 3734.20, 3734.21, 75789
3734.23, 3734.25, and 3734.26 of the Revised Code, "soil 75790
contamination" means the presence in or on the soil of any 75791
hazardous waste or hazardous waste residue resulting from the 75792
discharge, deposit, injection, dumping, spilling, leaking, 75793
emitting, or placing into or on the soil of hazardous waste or 75794
hazardous waste residue, or any material that when discharged, 75795
deposited, injected, dumped, spilled, leaked, emitted, or placed 75796

into or on the soil becomes a hazardous waste, in any quantity or 75797
having any characteristics that are or threaten to be injurious to 75798
public health or safety, plant or animal life, or the environment 75799
or that unreasonably interfere with the comfortable enjoyment of 75800
life or property. 75801

Sec. 3734.20. (A) If the director of environmental protection 75802
has reason to believe that hazardous waste was treated, stored, or 75803
disposed of at any location within the state, the director may 75804
conduct such investigations and make such inquiries, including 75805
obtaining samples and examining and copying records, as are 75806
reasonable or necessary to determine if conditions at a hazardous 75807
waste facility, solid waste facility, or other location where the 75808
director has reason to believe hazardous waste was treated, 75809
stored, or disposed of constitute a substantial threat to public 75810
health or safety or are causing or contributing to or threatening 75811
to cause or contribute to air or water pollution or soil 75812
contamination. The director or the director's authorized 75813
representative may apply for, and any judge of a court of common 75814
pleas shall issue, an appropriate search warrant necessary to 75815
achieve the purposes of this section within the court's 75816
territorial jurisdiction. The director may expend moneys from the 75817
hazardous waste facility management fund created in section 75818
3734.18 of the Revised Code, the hazardous waste clean-up fund 75819
created in section 3734.28 of the Revised Code, or the 75820
environmental protection remediation fund created in section 75821
3734.281 of the Revised Code for conducting investigations under 75822
this section. 75823

(B) If the director determines that conditions at a hazardous 75824
waste facility, solid waste facility, or other location where 75825
hazardous waste was treated, stored, or disposed of constitute a 75826
substantial threat to public health or safety or are causing or 75827
contributing to or threatening to cause or contribute to air or 75828

water pollution or soil contamination, the director shall initiate 75829
appropriate action under this chapter or Chapter 3704. or 6111. of 75830
the Revised Code or seek any other appropriate legal or equitable 75831
remedies to abate the pollution or contamination or to protect 75832
public health or safety. 75833

If an order of the director to abate or prevent air or water 75834
pollution or soil contamination or to remedy a threat to public 75835
health or safety caused by conditions at such a facility issued 75836
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 75837
Code is not wholly complied with within the time prescribed in the 75838
order, the director may, through officers or employees of the 75839
environmental protection agency or through contractors employed 75840
for that purpose in accordance with the bidding procedure 75841
established in division (C) of section 3734.23 of the Revised 75842
Code, enter upon the facility and perform those measures necessary 75843
to abate or prevent air or water pollution or soil contamination 75844
from the facility or to protect public health or safety, 75845
including, but not limited to, measures prescribed in division (B) 75846
of section 3734.23 of the Revised Code. The director shall keep an 75847
itemized record of the cost of the investigation and measures 75848
performed, including costs for labor, materials, and any contract 75849
services required. Upon completion of the investigation or 75850
measures, the director shall record the cost of performing those 75851
measures at the office of the county recorder of the county in 75852
which the facility is located. The cost so recorded constitutes a 75853
lien against the property on which the facility is located until 75854
discharged. Upon written request of the director, the attorney 75855
general shall institute a civil action to recover the cost. Any 75856
moneys so received shall be credited to the hazardous waste 75857
facility management fund, the hazardous waste clean-up fund, or 75858
the environmental protection remediation fund, as applicable. 75859

When entering upon a facility under this division, the 75860

director shall perform or cause to be performed only those 75861
measures necessary to abate or prevent air or water pollution or 75862
soil contamination caused by conditions at the facility or to 75863
abate threats to public health or safety caused by conditions at 75864
the facility. For this purpose the director may expend moneys from 75865
~~either the hazardous waste facility management fund, the hazardous~~ 75866
waste clean-up fund, or the environmental protection remediation 75867
fund and may expend moneys from loans from the Ohio water 75868
development authority to the environmental protection agency that 75869
pledge moneys from ~~either the hazardous waste facility management~~ 75870
fund, the hazardous waste clean-up fund, or the environmental 75871
protection remediation fund for the repayment of and for the 75872
interest on such loans. 75873

Sec. 3734.21. (A) The director of environmental protection 75874
may expend moneys credited to the hazardous waste facility 75875
management fund created in section 3734.18 of the Revised Code, 75876
the hazardous waste clean-up fund created in section 3734.28 of 75877
the Revised Code, or the environmental protection remediation fund 75878
created in section 3734.281 of the Revised Code for the payment of 75879
the cost of measures necessary for the proper closure of hazardous 75880
waste facilities or any solid waste facilities containing 75881
significant quantities of hazardous waste, for the payment of 75882
costs of the development and construction of suitable hazardous 75883
waste facilities required by division (B) of section 3734.23 of 75884
the Revised Code to the extent the director determines that such 75885
facilities are not available, and for the payment of costs that 75886
are necessary to abate conditions thereon that are causing or 75887
contributing to or threatening to cause or contribute to air or 75888
water pollution or soil contamination or that constitute a 75889
substantial threat to public health or safety. In addition, the 75890
director may expend and pledge moneys credited to ~~either the~~ 75891
hazardous waste facility management fund, the hazardous waste 75892

clean-up fund, or the environmental protection remediation fund 75893
for repayment of and for interest on any loan made by the Ohio 75894
water development authority to the environmental protection agency 75895
for the payment of such costs. 75896

(B) Before beginning to clean up any facility under this 75897
section, the director shall develop a plan for the cleanup and an 75898
estimate of the cost thereof. The plan shall include only those 75899
measures necessary to abate conditions thereon that are causing or 75900
contributing to or threatening to cause or contribute to air or 75901
water pollution or soil contamination or that constitute a 75902
substantial threat to public health or safety, including, but not 75903
limited to, establishment and maintenance of an adequate cover of 75904
soil and vegetation on any facility for the burial of hazardous 75905
waste to prevent the infiltration of water into cells where 75906
hazardous waste is buried, the accumulation or runoff of 75907
contaminated surface water, the production of leachate, and air 75908
emissions of hazardous waste; the collection and treatment of 75909
contaminated surface water runoff; the collection and treatment of 75910
leachate; or, if conditions so require, the removal of hazardous 75911
waste from the facility and the treatment or disposal of the waste 75912
at a suitable hazardous waste facility. The plan or any part of 75913
the plan for the cleanup of the facility shall be carried out by 75914
entering into contracts therefor in accordance with the procedures 75915
established in division (C) of section 3734.23 of the Revised 75916
Code. 75917

Sec. 3734.22. Before beginning to clean up any facility under 75918
section 3734.21 of the Revised Code, the director of environmental 75919
protection shall endeavor to enter into an agreement with the 75920
owner of the land on which the facility is located, or with the 75921
owner of the facility, specifying the measures to be performed and 75922
authorizing the director, employees of the agency, or contractors 75923
retained by the director to enter upon the land and perform the 75924

specified measures. 75925

Each agreement may contain provisions for the reimbursement 75926
of the state for the costs of the cleanup. 75927

All reimbursements and payments shall be credited to the 75928
hazardous waste facility management fund created in section 75929
3734.18 of the Revised Code, the hazardous waste clean-up fund 75930
created in section 3734.28 of the Revised Code, or the 75931
environmental protection remediation fund created in section 75932
3734.281 of the Revised Code, as applicable. 75933

The agreement may require the owner to execute an easement 75934
whereby the director, an authorized employee of the agency, or a 75935
contractor employed by the agency in accordance with the bidding 75936
procedure established in division (C) of section 3734.23 of the 75937
Revised Code may enter upon the facility to sample, repair, or 75938
reconstruct air and water quality monitoring equipment constructed 75939
under the agreement. Such easements shall be for a specified 75940
period of years and may be extinguished by agreement between the 75941
owner and the director. When necessary to protect the public 75942
health or safety, the agreement may require the owner to enter 75943
into an environmental covenant with the director in accordance 75944
with sections 5301.80 to 5301.92 of the Revised Code. 75945

Upon a breach of the reimbursement provisions of the 75946
agreement by the owner of the land or facility, or upon 75947
notification to the director by the owner that the owner is unable 75948
to perform the duties under the reimbursement provisions of the 75949
agreement, the director may record the unreimbursed portion of the 75950
costs of cleanup at the office of the county recorder of the 75951
county in which the facility is located. The costs so recorded 75952
constitute a lien against the property on which the facility is 75953
located until discharged. Upon written request of the director, 75954
the attorney general shall institute a civil action to recover the 75955
unreimbursed portion of the costs of cleanup. Any moneys so 75956

recovered shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.

Sec. 3734.23. (A) The director of environmental protection may acquire by purchase, gift, donation, contribution, or appropriation in accordance with sections 163.01 to 163.21 of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or

soil contamination or that constitute a substantial threat to 75989
public health or safety, including, but not limited to, 75990
establishment and maintenance of an adequate cover of soil and 75991
vegetation on any facility for the burial of hazardous waste to 75992
prevent the infiltration of water into cells where hazardous waste 75993
is buried, the accumulation or runoff of contaminated surface 75994
water, the production of leachate, and air emissions of hazardous 75995
waste; the collection and treatment of contaminated surface water 75996
runoff; the collection and treatment of leachate; or, if 75997
conditions so require, the removal of hazardous waste from the 75998
facility and the treatment or disposal of the waste at a suitable 75999
hazardous waste facility. After performing these measures, the 76000
director shall provide for the post-closure care, maintenance, and 76001
monitoring of facilities cleaned up under this section. 76002

(C) Before proceeding to clean up any facility under this 76003
section or section 3734.20 or 3734.21 of the Revised Code, the 76004
director shall develop a plan for the cleanup of the facility and 76005
an estimate of the cost thereof. The director may carry out the 76006
plan or any part of the plan by contracting for the services, 76007
construction, and repair necessary therefor. The director shall 76008
award each such contract to the lowest responsible bidder after 76009
sealed bids therefor are received, opened, and published at the 76010
time fixed by the director and notice of the time and place at 76011
which the sealed bids will be received, opened, and published has 76012
been published by the director in a newspaper of general 76013
circulation in the county in which the facility to be cleaned up 76014
under the contract is located at least once within the ten days 76015
before the opening of the bids. However, if after advertising for 76016
bids for the contract, no bids are received by the director at the 76017
time and place fixed for receiving them, the director may 76018
advertise again for bids, or the director may, if the director 76019
considers the public interest will best be served thereby, enter 76020
into a contract for the cleanup of the facility without further 76021

advertisement for bids. The director may reject any or all bids 76022
received and fix and publish again notice of the time and place at 76023
which bids for the contracts will be received, opened, and 76024
published. 76025

(D) The director shall keep an itemized record of the costs 76026
of any acquisition under division (A) of this section and the 76027
costs of cleanup under division (B) of this section. 76028

Sec. 3734.24. After the cleanup of a solid waste facility or 76029
a hazardous waste facility acquired and cleaned up under section 76030
3734.23 of the Revised Code, the director of environmental 76031
protection may, if the facility is suitable for use by any other 76032
state department, agency, office, or institution and if the 76033
proposed use of the facility is compatible with the condition of 76034
the facility as cleaned up, transfer the facility to that state 76035
department, agency, office, or institution. The director shall 76036
continue to provide for the post-closure care, maintenance, and 76037
monitoring of any such cleaned-up facility as required by section 76038
3734.23 of the Revised Code. 76039

If the director determines that any facility so cleaned up is 76040
suitable, because of its condition as cleaned up, for restricted 76041
or unrestricted use, the director may, with the approval of the 76042
attorney general, sell the facility if the sale is advantageous to 76043
the state. Prior to selling the cleaned-up facility, the director 76044
shall, when necessary to protect public health or safety, enter 76045
into an environmental covenant in accordance with sections 5301.80 76046
to 5301.92 of the Revised Code. When selling any such cleaned-up 76047
facility, the director shall retain the right to enter upon the 76048
facility, in person or by an authorized agent, to provide for the 76049
post-closure care, maintenance, and monitoring of the facility. 76050
The director shall provide for the post-closure care, maintenance, 76051
and monitoring of any such facility sold as required by section 76052

3734.23 of the Revised Code. 76053

With the approval of the attorney general, the director may 76054
grant easements or leases on any such cleaned-up facility if the 76055
director determines that the use of the facility under the 76056
easement or lease is compatible with its condition as cleaned up. 76057

Any moneys derived from the sale of such cleaned-up 76058
facilities or from payments from easements or leases shall be 76059
credited to the hazardous waste facility management fund created 76060
in section 3734.18 of the Revised Code, the hazardous waste 76061
clean-up fund created in section 3734.28 of the Revised Code, or 76062
the environmental protection remediation fund created in section 76063
3734.281 of the Revised Code, as applicable. 76064

Sec. 3734.25. (A) The director of environmental protection 76065
may make grants of moneys from the hazardous waste facility 76066
management fund created in section 3734.18 of the Revised Code or 76067
the hazardous waste clean-up fund created in section 3734.28 of 76068
the Revised Code for payment by the state of up to two-thirds of 76069
the reasonable and necessary expenses incurred by a municipal 76070
corporation, county, or township for the proper closure of or 76071
abatement of air or water pollution or soil contamination from a 76072
solid waste facility in which significant quantities of hazardous 76073
waste were disposed of and that the political subdivision owns and 76074
once operated. 76075

(B) A municipal corporation, county, or township shall submit 76076
an application for a grant on forms provided by the director, 76077
together with detail plans and specifications indicating the 76078
measures to be performed, an itemized estimate of the project's 76079
cost, a description of the project's benefits, and such other 76080
information as the director prescribes. The plan for closure or 76081
abatement of air or water pollution or soil contamination may be 76082
prepared in consultation with the director or the board of health 76083

of the city or general health district in which the facility is 76084
located. The director may award the applicant a grant only if the 76085
director finds that the proposed measures will provide for the 76086
proper closure of the facility and will abate or prevent air or 76087
water pollution or soil contamination, including, but not limited 76088
to, those measures necessary or desirable to: 76089

(1) In the case of a facility at which land burial of 76090
hazardous waste occurred, establish and maintain a suitable cover 76091
of soil and vegetation over the cells in which waste is buried in 76092
order to minimize erosion, the infiltration of surface water into 76093
the cells, the production of leachate, and the accumulation or 76094
runoff of contaminated surface waters and to prevent air emissions 76095
of hazardous waste from the facility; 76096

(2) Collect and treat contaminated surface water runoff from 76097
the facility; 76098

(3) Collect and treat leachate produced at the facility; 76099

(4) Install test wells and other equipment or facilities to 76100
monitor the quality of surface waters receiving runoff from the 76101
facility or to monitor air emissions of hazardous waste from the 76102
facility; 76103

(5) Regularly monitor and analyze surface water runoff from 76104
the facility, the quality of waters receiving the runoff, and 76105
ground water quality in the vicinity of the facility, and 76106
regularly monitor leachate collection and treatment systems 76107
installed under the grant and analyze samples from them; 76108

(6) Remove and dispose of hazardous waste from the facility 76109
at a suitable hazardous waste disposal facility where necessary to 76110
protect public health or safety or to prevent or abate air or 76111
water pollution or soil contamination. 76112

(C) The director shall determine the amount of the grant 76113
based upon the director's determination of what constitutes 76114

reasonable and necessary expenses for the proper closure of the 76115
facility or for the prevention or elimination of air or water 76116
pollution or soil contamination from the facility. In making a 76117
grant, the director shall enter into a contract with the municipal 76118
corporation, county, or township that owns the facility to ensure 76119
that the moneys granted are used for the purposes of this section 76120
and that measures performed are properly done. The final payment 76121
under a grant may not be made until the director inspects and 76122
approves the completed cleanup. 76123

The contract shall require the municipal corporation, county, 76124
or township to execute an easement whereby the director, an 76125
authorized employee of the agency, or a contractor employed by the 76126
director may enter upon the facility to sample, repair, or 76127
reconstruct air and water quality monitoring equipment constructed 76128
under the contract. Such easements shall be for a specified period 76129
of years and may be extinguished by agreement between the 76130
political subdivision and the director. 76131

When necessary to protect public health or safety, the 76132
contract may require the municipal corporation, county, or 76133
township to enter into an environmental covenant with the director 76134
in accordance with sections 5301.80 to 5301.92 of the Revised 76135
Code. 76136

Sec. 3734.26. (A) The director of environmental protection 76137
may make grants of moneys from the hazardous waste facility 76138
management fund created in section 3734.18 of the Revised Code or 76139
the hazardous waste clean-up fund created in section 3734.28 of 76140
the Revised Code to the owner, other than a political subdivision, 76141
of a solid waste facility in which significant quantities of 76142
hazardous waste were disposed of or a hazardous waste facility for 76143
up to fifty per cent of the cost of the reasonable and necessary 76144
expenses incurred for the proper closure of or abatement or 76145

prevention of air or water pollution or soil contamination from 76146
the facility and for developing the land on which it was located 76147
for use in industry, commerce, distribution, or research. 76148

The director shall not make grants to the owner of any land 76149
on which such facilities are located if the owner at any time 76150
owned or operated the facility located thereon for profit or in 76151
conjunction with any profit-making enterprise located in this 76152
state or to any person who at any time owned or operated a 76153
facility concerning which the director has taken action under 76154
section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, 76155
the director may make grants under this section to any subsequent 76156
owner of the land, provided that the person has no affiliation 76157
with any person who owned or operated the facility located on the 76158
land for profit or in conjunction with any profit-making 76159
enterprise located in this state or who owned or operated a 76160
facility concerning which the director has taken action under 76161
section 3734.20, 3734.22, or 3734.23 of the Revised Code. 76162

(B) The owner shall submit an application for a grant on 76163
forms furnished by the director, together with detail plans and 76164
specifications for the measures to be performed to close the 76165
facility properly or to abate or prevent air or water pollution or 76166
soil contamination from the facility, an itemized estimate of the 76167
project's cost, a description of the project's estimated benefits, 76168
and such other information as the director prescribes. The plan 76169
may be prepared in consultation with the director or with the 76170
board of health of the city or general health district in which 76171
the facility is located. The director may award the applicant a 76172
grant only after finding that the proposed measures will provide 76173
for the proper closure of the facility or will abate or prevent 76174
air or water pollution or soil contamination from the facility, 76175
including, but not limited to, those measures necessary or 76176
desirable to: 76177

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement

or prevention of air or water pollution or soil contamination from 76209
the facility. 76210

In making a grant, the director shall enter into a contract 76211
for funding with each applicant awarded a grant to ensure that the 76212
moneys granted are used for the purpose of this section and that 76213
the measures performed are properly performed. The final payment 76214
under a grant may not be made until the director inspects and 76215
approves the completed cleanup and the plans for developing the 76216
land for use in industry, commerce, distribution, or research. 76217

Each contract for funding shall contain provisions for the 76218
reimbursement of the state of a portion of the costs of the 76219
cleanup that is commensurate with the increase in the market value 76220
of the property attributable to the cleanup thereon, as determined 76221
by appraisals made before and after cleanup in the manner stated 76222
in the contract. For reimbursement of that portion, the contract 76223
may include provisions for: 76224

(1) Payment to the state of the share of the income derived 76225
from the productive use of the land; 76226

(2) Imposition of a lien in the amount of the increase in 76227
fair market value payable upon the transfer or conveyance to a new 76228
owner; 76229

(3) Waiver of all reimbursement if the determination 76230
discloses an increase in value that is insubstantial in comparison 76231
to the benefits to the public from the abatement of threats to 76232
public health or safety or from the abatement or prevention of 76233
pollution or contamination, considering the applicant's share of 76234
the cleanup cost. 76235

All reimbursements and payments shall be credited to the 76236
hazardous waste facility management fund or the hazardous waste 76237
clean-up fund ~~created in section 3734.28 of the Revised Code, as~~ 76238
applicable. 76239

(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the contract may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Sec. 3734.27. Before making grants from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, the director of environmental protection shall consider each project application submitted by a political subdivision under section 3734.25 of the Revised Code, each application submitted by the owner of a facility under section 3734.26 of the Revised Code, and each facility surveyed under section 3734.19 of the Revised Code and, based upon the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration, establish priorities for awarding grants from the fund.

Sec. 3734.28. Except as otherwise provided in ~~section~~ sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability

Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, 76271
including moneys recovered under division (B)(1) of this section, 76272
shall be paid into the state treasury to the credit of the 76273
hazardous waste clean-up fund, which is hereby created. In 76274
addition, ~~any moneys~~ both of the following shall be credited to 76275
the fund: 76276

(A) Moneys recovered for costs paid from the fund for 76277
activities described in divisions (A)(1) and (2) of section 76278
3745.12 of the Revised Code ~~shall be credited to the fund;~~ 76279

(B) Natural resource damage assessment costs recovered under 76280
any of the following: 76281

(1) The "Comprehensive Environmental Response, Compensation, 76282
and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et 76283
seq., as amended; 76284

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 76285
2701, et seq., as amended; 76286

(3) The Federal Water Pollution Control Act as defined in 76287
section 6111.01 of the Revised Code; 76288

(4) Any other applicable federal or state law. ~~The~~ 76289

The environmental protection agency shall use the moneys in 76290
the fund for the purposes set forth in division (D) of section 76291
3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 76292
3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, 76293
and Chapter 3746. of the Revised Code, including any related 76294
enforcement expenses. In addition, the agency shall use the moneys 76295
in the fund to pay the state's long-term operation and maintenance 76296
costs or matching share for actions taken under the "Comprehensive 76297
Environmental Response, Compensation, and Liability Act of 1980," 76298
as amended. If those moneys are reimbursed by grants or other 76299
moneys from the United States or any other person, the moneys 76300
shall be placed in the fund and not in the general revenue fund. 76301

The director of environmental protection may enter into 76302
contracts and grant agreements with federal, state, or local 76303
government agencies, nonprofit organizations, and colleges and 76304
universities for the purpose of carrying out the responsibilities 76305
of the environmental protection agency for which money may be 76306
expended from the fund. 76307

Sec. 3734.282. ~~All~~ Except for natural resource damage 76308
assessment costs recovered by the state that are required by 76309
section 3734.28 of the Revised Code to be credited to the 76310
hazardous waste clean-up fund created in that section, all money 76311
collected by the state for natural resources damages under the 76312
"Comprehensive Environmental Response, Compensation, and Liability 76313
Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, 76314
the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et 76315
seq., as amended, the ~~"Clean Federal Water Pollution Control Act,"~~ 76316
~~86 Stat. 862, 33 U.S.C. 1321,~~ as amended defined in section 76317
6111.01 of the Revised Code, or any other applicable federal or 76318
state law shall be paid into the state treasury to the credit of 76319
the natural resource damages fund, which is hereby created. The 76320
director of environmental protection shall use money in the fund 76321
only in accordance with the purposes of and the limitations on 76322
natural resources damages set forth in the "Comprehensive 76323
Environmental Response, Compensation, and Liability Act of 1980," 76324
as amended, the "Oil Pollution Act of 1990," as amended, the 76325
~~"Clean Federal Water Pollution Control Act," as amended,~~ or 76326
another applicable federal or state law. All investment earnings 76327
of the fund shall be credited to the fund. 76328

The director of environmental protection may enter into 76329
contracts and grant agreements with federal, state, or local 76330
government agencies, nonprofit organizations, and colleges and 76331
universities for the purpose of carrying out the director's 76332
responsibilities for which money may be expended from the fund. 76333

Sec. 3734.57. (A) The following fees are hereby levied on the 76334
transfer or disposal of solid wastes in this state: 76335

(1) One dollar per ton ~~on and after July 1, 2003,~~ through 76336
June 30, ~~2012~~ 2014, one-half of the proceeds of which shall be 76337
deposited in the state treasury to the credit of the hazardous 76338
waste facility management fund created in section 3734.18 of the 76339
Revised Code and one-half of the proceeds of which shall be 76340
deposited in the state treasury to the credit of the hazardous 76341
waste clean-up fund created in section 3734.28 of the Revised 76342
Code; 76343

(2) An additional one dollar per ton ~~on and after July 1,~~ 76344
~~2003,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be 76345
deposited in the state treasury to the credit of the solid waste 76346
fund, which is hereby created. The environmental protection agency 76347
shall use money in the solid waste fund to pay the costs of 76348
administering and enforcing the laws pertaining to solid wastes, 76349
infectious wastes, and construction and demolition debris, 76350
including, without limitation, ground water evaluations related to 76351
solid wastes, infectious wastes, and construction and demolition 76352
debris, under this chapter and Chapter 3714. of the Revised Code 76353
and any rules adopted under them, providing compliance assistance 76354
to small businesses, and paying a share of the administrative 76355
costs of the environmental protection agency pursuant to section 76356
3745.014 of the Revised Code. 76357

(3) An additional ~~one dollar~~ two dollars and fifty cents per 76358
ton ~~on and after July 1, 2005,~~ through June 30, ~~2012~~ 2014, the 76359
proceeds of which shall be deposited in the state treasury to the 76360
credit of the environmental protection fund created in section 76361
3745.015 of the Revised Code; 76362

(4) ~~An additional one dollar per ton on and after August 1,~~ 76363
~~2009, through June 30, 2012, the proceeds of which shall be~~ 76364

~~deposited in the state treasury to the credit of the environmental
protection fund.~~ 76365
76366

(5) An additional twenty-five cents per ton ~~on and after~~ 76367
~~August 1, 2009,~~ through June 30, ~~2012~~ 2013, the proceeds of which 76368
shall be deposited in the state treasury to the credit of the soil 76369
and water conservation district assistance fund created in section 76370
1515.14 of the Revised Code. 76371

In the case of solid wastes that are taken to a solid waste 76372
transfer facility located in this state prior to being transported 76373
for disposal at a solid waste disposal facility located in this 76374
state or outside of this state, the fees levied under this 76375
division shall be collected by the owner or operator of the 76376
transfer facility as a trustee for the state. The amount of fees 76377
required to be collected under this division at such a transfer 76378
facility shall equal the total tonnage of solid wastes received at 76379
the facility multiplied by the fees levied under this division. In 76380
the case of solid wastes that are not taken to a solid waste 76381
transfer facility located in this state prior to being transported 76382
to a solid waste disposal facility, the fees shall be collected by 76383
the owner or operator of the solid waste disposal facility as a 76384
trustee for the state. The amount of fees required to be collected 76385
under this division at such a disposal facility shall equal the 76386
total tonnage of solid wastes received at the facility that was 76387
not previously taken to a solid waste transfer facility located in 76388
this state multiplied by the fees levied under this division. Fees 76389
levied under this division do not apply to materials separated 76390
from a mixed waste stream for recycling by a generator or 76391
materials removed from the solid waste stream through recycling, 76392
as "recycling" is defined in rules adopted under section 3734.02 76393
of the Revised Code. 76394

The owner or operator of a solid waste transfer facility or 76395
disposal facility, as applicable, shall prepare and file with the 76396

director of environmental protection each month a return 76397
indicating the total tonnage of solid wastes received at the 76398
facility during that month and the total amount of the fees 76399
required to be collected under this division during that month. In 76400
addition, the owner or operator of a solid waste disposal facility 76401
shall indicate on the return the total tonnage of solid wastes 76402
received from transfer facilities located in this state during 76403
that month for which the fees were required to be collected by the 76404
transfer facilities. The monthly returns shall be filed on a form 76405
prescribed by the director. Not later than thirty days after the 76406
last day of the month to which a return applies, the owner or 76407
operator shall mail to the director the return for that month 76408
together with the fees required to be collected under this 76409
division during that month as indicated on the return or may 76410
submit the return and fees electronically in a manner approved by 76411
the director. If the return is filed and the amount of the fees 76412
due is paid in a timely manner as required in this division, the 76413
owner or operator may retain a discount of three-fourths of one 76414
per cent of the total amount of the fees that are required to be 76415
paid as indicated on the return. 76416

The owner or operator may request an extension of not more 76417
than thirty days for filing the return and remitting the fees, 76418
provided that the owner or operator has submitted such a request 76419
in writing to the director together with a detailed description of 76420
why the extension is requested, the director has received the 76421
request not later than the day on which the return is required to 76422
be filed, and the director has approved the request. If the fees 76423
are not remitted within thirty days after the last day of the 76424
month to which the return applies or are not remitted by the last 76425
day of an extension approved by the director, the owner or 76426
operator shall not retain the three-fourths of one per cent 76427
discount and shall pay an additional ten per cent of the amount of 76428
the fees for each month that they are late. For purposes of 76429

calculating the late fee, the first month in which fees are late 76430
begins on the first day after the deadline has passed for timely 76431
submitting the return and fees, and one additional month shall be 76432
counted every thirty days thereafter. 76433

The owner or operator of a solid waste facility may request a 76434
refund or credit of fees levied under this division and remitted 76435
to the director that have not been paid to the owner or operator. 76436
Such a request shall be made only if the fees have not been 76437
collected by the owner or operator, have become a debt that has 76438
become worthless or uncollectable for a period of six months or 76439
more, and may be claimed as a deduction, including a deduction 76440
claimed if the owner or operator keeps accounts on an accrual 76441
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 76442
U.S.C. 166, as amended, and regulations adopted under it. Prior to 76443
making a request for a refund or credit, an owner or operator 76444
shall make reasonable efforts to collect the applicable fees. A 76445
request for a refund or credit shall not include any costs 76446
resulting from those efforts to collect unpaid fees. 76447

A request for a refund or credit of fees shall be made in 76448
writing, on a form prescribed by the director, and shall be 76449
supported by evidence that may be required in rules adopted by the 76450
director under this chapter. After reviewing the request, and if 76451
the request and evidence submitted with the request indicate that 76452
a refund or credit is warranted, the director shall grant a refund 76453
to the owner or operator or shall permit a credit to be taken by 76454
the owner or operator on a subsequent monthly return submitted by 76455
the owner or operator. The amount of a refund or credit shall not 76456
exceed an amount that is equal to ninety days' worth of fees owed 76457
to an owner or operator by a particular debtor of the owner or 76458
operator. A refund or credit shall not be granted by the director 76459
to an owner or operator more than once in any twelve-month period 76460
for fees owed to the owner or operator by a particular debtor. 76461

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located 76494
in the district of solid wastes generated within the district; 76495

(2) The disposal at a solid waste disposal facility within 76496
the district of solid wastes generated outside the boundaries of 76497
the district, but inside this state; 76498

(3) The disposal at a solid waste disposal facility within 76499
the district of solid wastes generated outside the boundaries of 76500
this state. 76501

The solid waste management plan of the county or joint 76502
district approved under section 3734.521 or 3734.55 of the Revised 76503
Code and any amendments to it, or the resolution adopted under 76504
this division, as appropriate, shall establish the rates of the 76505
fees levied under divisions (B)(1), (2), and (3) of this section, 76506
if any, and shall specify whether the fees are levied on the basis 76507
of tons or cubic yards as the unit of measurement. A solid waste 76508
management district that levies fees under this division on the 76509
basis of cubic yards shall do so in accordance with division (A) 76510
of this section. 76511

The fee levied under division (B)(1) of this section shall be 76512
not less than one dollar per ton nor more than two dollars per 76513
ton, the fee levied under division (B)(2) of this section shall be 76514
not less than two dollars per ton nor more than four dollars per 76515
ton, and the fee levied under division (B)(3) of this section 76516
shall be not more than the fee levied under division (B)(1) of 76517
this section. 76518

Prior to the approval of the solid waste management plan of a 76519
district under section 3734.55 of the Revised Code, the solid 76520
waste management policy committee of a district may levy fees 76521
under this division by adopting a resolution establishing the 76522
proposed amount of the fees. Upon adopting the resolution, the 76523
committee shall deliver a copy of the resolution to the board of 76524

county commissioners of each county forming the district and to 76525
the legislative authority of each municipal corporation and 76526
township under the jurisdiction of the district and shall prepare 76527
and publish the resolution and a notice of the time and location 76528
where a public hearing on the fees will be held. Upon adopting the 76529
resolution, the committee shall deliver written notice of the 76530
adoption of the resolution; of the amount of the proposed fees; 76531
and of the date, time, and location of the public hearing to the 76532
director and to the fifty industrial, commercial, or institutional 76533
generators of solid wastes within the district that generate the 76534
largest quantities of solid wastes, as determined by the 76535
committee, and to their local trade associations. The committee 76536
shall make good faith efforts to identify those generators within 76537
the district and their local trade associations, but the 76538
nonprovision of notice under this division to a particular 76539
generator or local trade association does not invalidate the 76540
proceedings under this division. The publication shall occur at 76541
least thirty days before the hearing. After the hearing, the 76542
committee may make such revisions to the proposed fees as it 76543
considers appropriate and thereafter, by resolution, shall adopt 76544
the revised fee schedule. Upon adopting the revised fee schedule, 76545
the committee shall deliver a copy of the resolution doing so to 76546
the board of county commissioners of each county forming the 76547
district and to the legislative authority of each municipal 76548
corporation and township under the jurisdiction of the district. 76549
Within sixty days after the delivery of a copy of the resolution 76550
adopting the proposed revised fees by the policy committee, each 76551
such board and legislative authority, by ordinance or resolution, 76552
shall approve or disapprove the revised fees and deliver a copy of 76553
the ordinance or resolution to the committee. If any such board or 76554
legislative authority fails to adopt and deliver to the policy 76555
committee an ordinance or resolution approving or disapproving the 76556
revised fees within sixty days after the policy committee 76557

delivered its resolution adopting the proposed revised fees, it 76558
shall be conclusively presumed that the board or legislative 76559
authority has approved the proposed revised fees. The committee 76560
shall determine if the resolution has been ratified in the same 76561
manner in which it determines if a draft solid waste management 76562
plan has been ratified under division (B) of section 3734.55 of 76563
the Revised Code. 76564

The committee may amend the schedule of fees levied pursuant 76565
to a resolution adopted and ratified under this division by 76566
adopting a resolution establishing the proposed amount of the 76567
amended fees. The committee may repeal the fees levied pursuant to 76568
such a resolution by adopting a resolution proposing to repeal 76569
them. Upon adopting such a resolution, the committee shall proceed 76570
to obtain ratification of the resolution in accordance with this 76571
division. 76572

Not later than fourteen days after declaring the new fees to 76573
be ratified or the fees to be repealed under this division, the 76574
committee shall notify by certified mail the owner or operator of 76575
each solid waste disposal facility that is required to collect the 76576
fees of the ratification and the amount of the fees or of the 76577
repeal of the fees. Collection of any fees shall commence or 76578
collection of repealed fees shall cease on the first day of the 76579
second month following the month in which notification is sent to 76580
the owner or operator. 76581

Fees levied under this division also may be established, 76582
amended, or repealed by a solid waste management policy committee 76583
through the adoption of a new district solid waste management 76584
plan, the adoption of an amended plan, or the amendment of the 76585
plan or amended plan in accordance with sections 3734.55 and 76586
3734.56 of the Revised Code or the adoption or amendment of a 76587
district plan in connection with a change in district composition 76588
under section 3734.521 of the Revised Code. 76589

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees

or amended fees levied under divisions (B)(1) to (3) of this 76623
section pursuant to the district's initial or amended plan as so 76624
approved or, if appropriate, the repeal of the district's fees by 76625
that initial or amended plan. Collection of any fees set forth in 76626
such a plan or amended plan shall commence on the first day of 76627
January immediately following the issuance of the notice. If such 76628
an initial or amended plan repeals a schedule of fees, collection 76629
of the fees shall cease on that first day of January. 76630

If, in the case of a change in district composition involving 76631
the withdrawal of a county from a joint district, the director 76632
completes the actions required under division (G)(1) or (3) of 76633
section 3734.521 of the Revised Code, as appropriate, less than 76634
forty-five days before the beginning of a calendar year, the 76635
director, on behalf of each of the districts resulting from the 76636
change that obtained the director's approval of an initial or 76637
amended plan in connection with the change proceedings, shall 76638
notify by certified mail the owner or operator of each solid waste 76639
disposal facility that is required to collect the district's fees 76640
that the change is to take effect on the first day of January 76641
immediately following the mailing of the notice and of the amount 76642
of the fees or amended fees levied under divisions (B)(1) to (3) 76643
of this section pursuant to the district's initial or amended plan 76644
as so approved or, if appropriate, the repeal of the district's 76645
fees by that initial or amended plan. Collection of any fees set 76646
forth in such a plan or amended plan shall commence on the first 76647
day of the second month following the month in which notification 76648
is sent to the owner or operator. If such an initial or amended 76649
plan repeals a schedule of fees, collection of the fees shall 76650
cease on the first day of the second month following the month in 76651
which notification is sent to the owner or operator. 76652

If the schedule of fees that a solid waste management 76653
district is levying under divisions (B)(1) to (3) of this section 76654

is amended or repealed, the fees in effect immediately prior to 76655
the amendment or repeal shall continue to be collected until 76656
collection of the amended fees commences or collection of the 76657
repealed fees ceases, as applicable, as specified in this 76658
division. In the case of a change in district composition, money 76659
so received from the collection of the fees of the former 76660
districts shall be divided among the resulting districts in 76661
accordance with division (B) of section 343.012 of the Revised 76662
Code and the agreements entered into under division (B) of section 76663
343.01 of the Revised Code to establish the former and resulting 76664
districts and any amendments to those agreements. 76665

For the purposes of the provisions of division (B) of this 76666
section establishing the times when newly established or amended 76667
fees levied by a district are required to commence and the 76668
collection of fees that have been amended or repealed is required 76669
to cease, "fees" or "schedule of fees" includes, in addition to 76670
fees levied under divisions (B)(1) to (3) of this section, those 76671
levied under section 3734.573 or 3734.574 of the Revised Code. 76672

(C) For the purposes of defraying the added costs to a 76673
municipal corporation or township of maintaining roads and other 76674
public facilities and of providing emergency and other public 76675
services, and compensating a municipal corporation or township for 76676
reductions in real property tax revenues due to reductions in real 76677
property valuations resulting from the location and operation of a 76678
solid waste disposal facility within the municipal corporation or 76679
township, a municipal corporation or township in which such a 76680
solid waste disposal facility is located may levy a fee of not 76681
more than twenty-five cents per ton on the disposal of solid 76682
wastes at a solid waste disposal facility located within the 76683
boundaries of the municipal corporation or township regardless of 76684
where the wastes were generated. 76685

The legislative authority of a municipal corporation or 76686

township may levy fees under this division by enacting an 76687
ordinance or adopting a resolution establishing the amount of the 76688
fees. Upon so doing the legislative authority shall mail a 76689
certified copy of the ordinance or resolution to the board of 76690
county commissioners or directors of the county or joint solid 76691
waste management district in which the municipal corporation or 76692
township is located or, if a regional solid waste management 76693
authority has been formed under section 343.011 of the Revised 76694
Code, to the board of trustees of that regional authority, the 76695
owner or operator of each solid waste disposal facility in the 76696
municipal corporation or township that is required to collect the 76697
fee by the ordinance or resolution, and the director of 76698
environmental protection. Although the fees levied under this 76699
division are levied on the basis of tons as the unit of 76700
measurement, the legislative authority, in its ordinance or 76701
resolution levying the fees under this division, may direct that 76702
the fees be levied on the basis of cubic yards as the unit of 76703
measurement based upon a conversion factor of three cubic yards 76704
per ton generally or one cubic yard per ton for baled wastes. 76705

Not later than five days after enacting an ordinance or 76706
adopting a resolution under this division, the legislative 76707
authority shall so notify by certified mail the owner or operator 76708
of each solid waste disposal facility that is required to collect 76709
the fee. Collection of any fee levied on or after March 24, 1992, 76710
shall commence on the first day of the second month following the 76711
month in which notification is sent to the owner or operator. 76712

(D)(1) The fees levied under divisions (A), (B), and (C) of 76713
this section do not apply to the disposal of solid wastes that: 76714

(a) Are disposed of at a facility owned by the generator of 76715
the wastes when the solid waste facility exclusively disposes of 76716
solid wastes generated at one or more premises owned by the 76717
generator regardless of whether the facility is located on a 76718

premises where the wastes are generated; 76719

~~(b) Are disposed of at facilities that exclusively dispose of 76720
wastes that are generated from the combustion of coal, or from the 76721
combustion of primarily coal in combination with scrap tires, that 76722
is not combined in any way with garbage at one or more regardless 76723
of whether the disposal facility is located on the premises owned 76724
by the generator where the wastes are generated. 76725~~

(2) Except as provided in section 3734.571 of the Revised 76726
Code, any fees levied under division (B)(1) of this section apply 76727
to solid wastes originating outside the boundaries of a county or 76728
joint district that are covered by an agreement for the joint use 76729
of solid waste facilities entered into under section 343.02 of the 76730
Revised Code by the board of county commissioners or board of 76731
directors of the county or joint district where the wastes are 76732
generated and disposed of. 76733

(3) When solid wastes, other than solid wastes that consist 76734
of scrap tires, are burned in a disposal facility that is an 76735
incinerator or energy recovery facility, the fees levied under 76736
divisions (A), (B), and (C) of this section shall be levied upon 76737
the disposal of the fly ash and bottom ash remaining after burning 76738
of the solid wastes and shall be collected by the owner or 76739
operator of the sanitary landfill where the ash is disposed of. 76740

(4) When solid wastes are delivered to a solid waste transfer 76741
facility, the fees levied under divisions (B) and (C) of this 76742
section shall be levied upon the disposal of solid wastes 76743
transported off the premises of the transfer facility for disposal 76744
and shall be collected by the owner or operator of the solid waste 76745
disposal facility where the wastes are disposed of. 76746

(5) The fees levied under divisions (A), (B), and (C) of this 76747
section do not apply to sewage sludge that is generated by a waste 76748
water treatment facility holding a national pollutant discharge 76749

elimination system permit and that is disposed of through 76750
incineration, land application, or composting or at another 76751
resource recovery or disposal facility that is not a landfill. 76752

(6) The fees levied under divisions (A), (B), and (C) of this 76753
section do not apply to solid wastes delivered to a solid waste 76754
composting facility for processing. When any unprocessed solid 76755
waste or compost product is transported off the premises of a 76756
composting facility and disposed of at a landfill, the fees levied 76757
under divisions (A), (B), and (C) of this section shall be 76758
collected by the owner or operator of the landfill where the 76759
unprocessed waste or compost product is disposed of. 76760

(7) When solid wastes that consist of scrap tires are 76761
processed at a scrap tire recovery facility, the fees levied under 76762
divisions (A), (B), and (C) of this section shall be levied upon 76763
the disposal of the fly ash and bottom ash or other solid wastes 76764
remaining after the processing of the scrap tires and shall be 76765
collected by the owner or operator of the solid waste disposal 76766
facility where the ash or other solid wastes are disposed of. 76767

(8) The director of environmental protection may issue an 76768
order exempting from the fees levied under this section solid 76769
wastes, including, but not limited to, scrap tires, that are 76770
generated, transferred, or disposed of as a result of a contract 76771
providing for the expenditure of public funds entered into by the 76772
administrator or regional administrator of the United States 76773
environmental protection agency, the director of environmental 76774
protection, or the director of administrative services on behalf 76775
of the director of environmental protection for the purpose of 76776
remediating conditions at a hazardous waste facility, solid waste 76777
facility, or other location at which the administrator or regional 76778
administrator or the director of environmental protection has 76779
reason to believe that there is a substantial threat to public 76780
health or safety or the environment or that the conditions are 76781

causing or contributing to air or water pollution or soil 76782
contamination. An order issued by the director of environmental 76783
protection under division (D)(8) of this section shall include a 76784
determination that the amount of the fees not received by a solid 76785
waste management district as a result of the order will not 76786
adversely impact the implementation and financing of the 76787
district's approved solid waste management plan and any approved 76788
amendments to the plan. Such an order is a final action of the 76789
director of environmental protection. 76790

(E) The fees levied under divisions (B) and (C) of this 76791
section shall be collected by the owner or operator of the solid 76792
waste disposal facility where the wastes are disposed of as a 76793
trustee for the county or joint district and municipal corporation 76794
or township where the wastes are disposed of. Moneys from the fees 76795
levied under division (B) of this section shall be forwarded to 76796
the board of county commissioners or board of directors of the 76797
district in accordance with rules adopted under division (H) of 76798
this section. Moneys from the fees levied under division (C) of 76799
this section shall be forwarded to the treasurer or such other 76800
officer of the municipal corporation as, by virtue of the charter, 76801
has the duties of the treasurer or to the fiscal officer of the 76802
township, as appropriate, in accordance with those rules. 76803

(F) Moneys received by the treasurer or other officer of the 76804
municipal corporation under division (E) of this section shall be 76805
paid into the general fund of the municipal corporation. Moneys 76806
received by the fiscal officer of the township under that division 76807
shall be paid into the general fund of the township. The treasurer 76808
or other officer of the municipal corporation or the township 76809
fiscal officer, as appropriate, shall maintain separate records of 76810
the moneys received from the fees levied under division (C) of 76811
this section. 76812

(G) Moneys received by the board of county commissioners or 76813

board of directors under division (E) of this section or section 76814
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 76815
shall be paid to the county treasurer, or other official acting in 76816
a similar capacity under a county charter, in a county district or 76817
to the county treasurer or other official designated by the board 76818
of directors in a joint district and kept in a separate and 76819
distinct fund to the credit of the district. If a regional solid 76820
waste management authority has been formed under section 343.011 76821
of the Revised Code, moneys received by the board of trustees of 76822
that regional authority under division (E) of this section shall 76823
be kept by the board in a separate and distinct fund to the credit 76824
of the district. Moneys in the special fund of the county or joint 76825
district arising from the fees levied under division (B) of this 76826
section and the fee levied under division (A) of section 3734.573 76827
of the Revised Code shall be expended by the board of county 76828
commissioners or directors of the district in accordance with the 76829
district's solid waste management plan or amended plan approved 76830
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 76831
exclusively for the following purposes: 76832

(1) Preparation of the solid waste management plan of the 76833
district under section 3734.54 of the Revised Code, monitoring 76834
implementation of the plan, and conducting the periodic review and 76835
amendment of the plan required by section 3734.56 of the Revised 76836
Code by the solid waste management policy committee; 76837

(2) Implementation of the approved solid waste management 76838
plan or amended plan of the district, including, without 76839
limitation, the development and implementation of solid waste 76840
recycling or reduction programs; 76841

(3) Providing financial assistance to boards of health within 76842
the district, if solid waste facilities are located within the 76843
district, for enforcement of this chapter and rules, orders, and 76844
terms and conditions of permits, licenses, and variances adopted 76845

or issued under it, other than the hazardous waste provisions of 76846
this chapter and rules adopted and orders and terms and conditions 76847
of permits issued under those provisions; 76848

(4) Providing financial assistance to each county within the 76849
district to defray the added costs of maintaining roads and other 76850
public facilities and of providing emergency and other public 76851
services resulting from the location and operation of a solid 76852
waste facility within the county under the district's approved 76853
solid waste management plan or amended plan; 76854

(5) Pursuant to contracts entered into with boards of health 76855
within the district, if solid waste facilities contained in the 76856
district's approved plan or amended plan are located within the 76857
district, for paying the costs incurred by those boards of health 76858
for collecting and analyzing samples from public or private water 76859
wells on lands adjacent to those facilities; 76860

(6) Developing and implementing a program for the inspection 76861
of solid wastes generated outside the boundaries of this state 76862
that are disposed of at solid waste facilities included in the 76863
district's approved solid waste management plan or amended plan; 76864

(7) Providing financial assistance to boards of health within 76865
the district for the enforcement of section 3734.03 of the Revised 76866
Code or to local law enforcement agencies having jurisdiction 76867
within the district for enforcing anti-littering laws and 76868
ordinances; 76869

(8) Providing financial assistance to boards of health of 76870
health districts within the district that are on the approved list 76871
under section 3734.08 of the Revised Code to defray the costs to 76872
the health districts for the participation of their employees 76873
responsible for enforcement of the solid waste provisions of this 76874
chapter and rules adopted and orders and terms and conditions of 76875
permits, licenses, and variances issued under those provisions in 76876

the training and certification program as required by rules 76877
adopted under division (L) of section 3734.02 of the Revised Code; 76878

(9) Providing financial assistance to individual municipal 76879
corporations and townships within the district to defray their 76880
added costs of maintaining roads and other public facilities and 76881
of providing emergency and other public services resulting from 76882
the location and operation within their boundaries of a 76883
composting, energy or resource recovery, incineration, or 76884
recycling facility that either is owned by the district or is 76885
furnishing solid waste management facility or recycling services 76886
to the district pursuant to a contract or agreement with the board 76887
of county commissioners or directors of the district; 76888

(10) Payment of any expenses that are agreed to, awarded, or 76889
ordered to be paid under section 3734.35 of the Revised Code and 76890
of any administrative costs incurred pursuant to that section. In 76891
the case of a joint solid waste management district, if the board 76892
of county commissioners of one of the counties in the district is 76893
negotiating on behalf of affected communities, as defined in that 76894
section, in that county, the board shall obtain the approval of 76895
the board of directors of the district in order to expend moneys 76896
for administrative costs incurred. 76897

Prior to the approval of the district's solid waste 76898
management plan under section 3734.55 of the Revised Code, moneys 76899
in the special fund of the district arising from the fees shall be 76900
expended for those purposes in the manner prescribed by the solid 76901
waste management policy committee by resolution. 76902

Notwithstanding division (G)(6) of this section as it existed 76903
prior to October 29, 1993, or any provision in a district's solid 76904
waste management plan prepared in accordance with division 76905
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 76906
prior to that date, any moneys arising from the fees levied under 76907
division (B)(3) of this section prior to January 1, 1994, may be 76908

expended for any of the purposes authorized in divisions (G)(1) to 76909
(10) of this section. 76910

(H) The director shall adopt rules in accordance with Chapter 76911
119. of the Revised Code prescribing procedures for collecting and 76912
forwarding the fees levied under divisions (B) and (C) of this 76913
section to the boards of county commissioners or directors of 76914
county or joint solid waste management districts and to the 76915
treasurers or other officers of municipal corporations and the 76916
fiscal officers of townships. The rules also shall prescribe the 76917
dates for forwarding the fees to the boards and officials and may 76918
prescribe any other requirements the director considers necessary 76919
or appropriate to implement and administer divisions (A), (B), and 76920
(C) of this section. 76921

Sec. 3734.577. Notwithstanding any section of the Revised 76922
Code to the contrary, no solid waste management district shall 76923
exempt a public sector commercial licensed hauler from a fee that 76924
is charged to private sector commercial licensed haulers by the 76925
solid waste management district. 76926

Sec. 3734.85. (A) On and after the effective date of the 76927
rules adopted under sections 3734.70, 3734.71, 3734.72, and 76928
3734.73 of the Revised Code, the director of environmental 76929
protection may take action under this section to abate 76930
accumulations of scrap tires. If the director determines that an 76931
accumulation of scrap tires constitutes a danger to the public 76932
health or safety or to the environment, the director shall issue 76933
an order under section 3734.13 of the Revised Code to the person 76934
responsible for the accumulation of scrap tires directing that 76935
person, within one hundred twenty days after the issuance of the 76936
order, to remove the accumulation of scrap tires from the premises 76937
on which it is located and transport the tires to a scrap tire 76938
storage, monocell, monofill, or recovery facility licensed under 76939

section 3734.81 of the Revised Code, to such a facility in another 76940
state operating in compliance with the laws of the state in which 76941
it is located, or to any other solid waste disposal facility in 76942
another state that is operating in compliance with the laws of 76943
that state. If the person responsible for causing the accumulation 76944
of scrap tires is a person different from the owner of the land on 76945
which the accumulation is located, the director may issue such an 76946
order to the landowner. 76947

If the director is unable to ascertain immediately the 76948
identity of the person responsible for causing the accumulation of 76949
scrap tires, the director shall examine the records of the 76950
applicable board of health and law enforcement agencies to 76951
ascertain that person's identity. Before initiating any 76952
enforcement or removal actions under this division against the 76953
owner of the land on which the accumulation is located, the 76954
director shall initiate any such actions against the person that 76955
the director has identified as responsible for causing the 76956
accumulation of scrap tires. Failure of the director to make 76957
diligent efforts to ascertain the identity of the person 76958
responsible for causing the accumulation of scrap tires or to 76959
initiate an action against the person responsible for causing the 76960
accumulation shall not constitute an affirmative defense by a 76961
landowner to an enforcement action initiated by the director under 76962
this division requiring immediate removal of any accumulation of 76963
scrap tires. 76964

Upon the written request of the recipient of an order issued 76965
under this division, the director may extend the time for 76966
compliance with the order if the request demonstrates that the 76967
recipient has acted in good faith to comply with the order. If the 76968
recipient of an order issued under this division fails to comply 76969
with the order within one hundred twenty days after the issuance 76970
of the order or, if the time for compliance with the order was so 76971

extended, within that time, the director shall take such actions 76972
as the director considers reasonable and necessary to remove and 76973
properly manage the scrap tires located on the land named in the 76974
order. The director, through employees of the environmental 76975
protection agency or a contractor, may enter upon the land on 76976
which the accumulation of scrap tires is located and remove and 76977
transport them to a scrap tire recovery facility for processing, 76978
to a scrap tire storage facility for storage, or to a scrap tire 76979
monocell or monofill facility for storage or disposal. 76980

The director shall enter into contracts ~~with the owners or~~ 76981
~~operators of scrap tire storage, monocell, monofill, or recovery~~ 76982
~~facilities~~ for the storage, disposal, or processing of scrap tires 76983
removed through removal operations conducted under this section. 76984
~~In doing so, the director shall give preference to scrap tire~~ 76985
~~recovery facilities.~~ 76986

If a person to whom a removal order is issued under this 76987
division fails to comply with the order and if the director 76988
performs a removal action under this section, the person to whom 76989
the removal order is issued is liable to the director for the 76990
costs incurred by the director for conducting the removal 76991
operation, storage at a scrap tire storage facility, storage or 76992
disposal at a scrap tire monocell or monofill facility, or 76993
processing of the scrap tires so removed, the transportation of 76994
the scrap tires from the site of the accumulation to the scrap 76995
tire storage, monocell, monofill, or recovery facility where the 76996
scrap tires were stored, disposed of, or processed, and the 76997
administrative and legal expenses incurred by the director in 76998
connection with the removal operation. The director shall keep an 76999
itemized record of those costs. Upon completion of the actions for 77000
which the costs were incurred, the director shall record the costs 77001
at the office of the county recorder of the county in which the 77002
accumulation of scrap tires was located. The costs so recorded 77003

constitute a lien on the property on which the accumulation of 77004
scrap tires was located until discharged. Upon the written request 77005
of the director, the attorney general shall bring a civil action 77006
against the person responsible for the accumulation of the scrap 77007
tires that were the subject of the removal operation to recover 77008
the costs for which the person is liable under this division. Any 77009
money so received or recovered shall be credited to the scrap tire 77010
management fund created in section 3734.82 of the Revised Code. 77011

If, in a civil action brought under this division, an owner 77012
of real property is ordered to pay to the director the costs of a 77013
removal action that removed an accumulation of scrap tires from 77014
the person's land or if a lien is placed on the person's land for 77015
the costs of such a removal action, and, in either case, if the 77016
landowner was not the person responsible for causing the 77017
accumulation of scrap tires so removed, the landowner may bring a 77018
civil action against the person who was responsible for causing 77019
the accumulation to recover the amount of the removal costs that 77020
the court ordered the landowner to pay to the director or the 77021
amount of the removal costs certified to the county recorder as a 77022
lien on the landowner's property, whichever is applicable. If the 77023
landowner prevails in the civil action against the person who was 77024
responsible for causing the accumulation of scrap tires, the 77025
court, as it considers appropriate, may award to the landowner the 77026
reasonable attorney's fees incurred by the landowner for bringing 77027
the action, court costs, and other reasonable expenses incurred by 77028
the landowner in connection with the civil action. A landowner 77029
shall bring such a civil action within two years after making the 77030
final payment of the removal costs to the director pursuant to the 77031
judgment rendered against the landowner in the civil action 77032
brought under this division upon the director's request or within 77033
two years after the director certified the costs of the removal 77034
action to the county recorder, as appropriate. A person who, at 77035
the time that a removal action was conducted under this division, 77036

owned the land on which the removal action was performed may bring 77037
an action under this division to recover the costs of the removal 77038
action from the person responsible for causing the accumulation of 77039
scrap tires so removed regardless of whether the person owns the 77040
land at the time of bringing the action. 77041

Subject to the limitations set forth in division (G) of 77042
section 3734.82 of the Revised Code, the director may use moneys 77043
in the scrap tire management fund for conducting removal actions 77044
under this division. Any moneys recovered under this division 77045
shall be credited to the scrap tire management fund. 77046

(B) The director shall initiate enforcement and removal 77047
actions under division (A) of this section in accordance with the 77048
following descending listing of priorities: 77049

(1) Accumulations of scrap tires that the director finds 77050
constitute a fire hazard or threat to public health; 77051

(2) Accumulations of scrap tires determined by the director 77052
to contain more than one million scrap tires; 77053

(3) Accumulations of scrap tires in densely populated areas; 77054

(4) Other accumulations of scrap tires that the director or 77055
board of health of the health district in which the accumulation 77056
is located determines constitute a public nuisance; 77057

(5) Any other accumulations of scrap tires present on 77058
premises operating without a valid license issued under section 77059
3734.05 or 3734.81 of the Revised Code. 77060

(C) The director shall not take enforcement and removal 77061
actions under division (A) of this section against the owner or 77062
operator of, or the owner of the land on which is located, any of 77063
the following: 77064

(1) A premises where not more than one hundred scrap tires 77065
are present at any time; 77066

- (2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria: 77067
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- (a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location. 77069
77070
- (b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation. 77071
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- (3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored; 77073
77074
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- (4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet; 77077
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- (5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet; 77081
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- (6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use; 77085
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- (7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments; 77087
77088
- (8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; 77089
77090
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- (9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires; 77092
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- (10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 77095
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3734.84 of the Revised Code has been given; 77097

(11) A transporter registered under section 3734.83 of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination. 77098
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(D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief. 77102
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(E) An owner of real property upon which there is located an accumulation of not more than two thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met: 77106
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(1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise. 77112
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(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property. 77116
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(3) The owner of the property did not participate in or consent to the placing of the tires on the property. 77120
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(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property. 77122
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(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this 77125
77126

section. 77127

(6) The person responsible for placing the tires on the 77128
property, in doing so, was not acting as an agent for the owner of 77129
the property. 77130

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 77131
defray the cost of administering and enforcing the scrap tire 77132
provisions of this chapter, rules adopted under those provisions, 77133
and terms and conditions of orders, variances, and licenses issued 77134
under those provisions; to abate accumulations of scrap tires; to 77135
make grants supporting market development activities for scrap 77136
tires and synthetic rubber from tire manufacturing processes and 77137
tire recycling processes and to support scrap tire amnesty and 77138
cleanup events; to make loans to promote the recycling or recovery 77139
of energy from scrap tires; and to defray the costs of 77140
administering and enforcing sections 3734.90 to 3734.9014 of the 77141
Revised Code, a fee of fifty cents per tire is hereby levied on 77142
the sale of tires. The proceeds of the fee shall be deposited in 77143
the state treasury to the credit of the scrap tire management fund 77144
created in section 3734.82 of the Revised Code. The fee is levied 77145
from the first day of the calendar month that begins next after 77146
thirty days from October 29, 1993, through June 30, ~~2011~~ 2013. 77147

(2) Beginning on ~~September 5, 2001~~ July 1, 2011, and ending 77148
on June 30, ~~2011~~ 2013, there is hereby levied an additional fee of 77149
fifty cents per tire on the sale of tires the proceeds of which 77150
shall be deposited in the state treasury to the credit of the 77151
~~scrap tire management fund and be used exclusively for the~~ 77152
~~purposes specified in division (C)(3) of that section until July~~ 77153
~~1, 2010, whereupon the proceeds shall be deposited in the state~~ 77154
~~treasury to the credit of the~~ soil and water conservation district 77155
assistance fund created in section 1515.14 of the Revised Code. 77156

(B) Only one sale of the same article shall be used in 77157

computing the amount of the fee due. 77158

Sec. 3735.36. When a metropolitan housing authority has 77159
acquired the property necessary for any project, it shall proceed 77160
to make plans and specifications for carrying out such project, 77161
and shall advertise for bids for all work ~~which~~ that it desires to 77162
have done by contract, such advertisements to be published as 77163
provided in section 7.16 of the Revised Code or once a week for 77164
two consecutive weeks in a newspaper of general circulation in the 77165
political subdivision in which the project is to be developed. The 77166
contract shall be awarded to the lowest and best bidder. 77167

Sec. 3735.66. The legislative authorities of municipal 77168
corporations and counties may survey the housing within their 77169
jurisdictions and, after the survey, may adopt resolutions 77170
describing the boundaries of community reinvestment areas which 77171
contain the conditions required for the finding under division (B) 77172
of section 3735.65 of the Revised Code. The findings resulting 77173
from the survey shall be incorporated in the resolution describing 77174
the boundaries of an area. The legislative authority may stipulate 77175
in the resolution that only new structures or remodeling 77176
classified as to use as commercial, industrial, or residential, or 77177
some combination thereof, and otherwise satisfying the 77178
requirements of section 3735.67 of the Revised Code are eligible 77179
for exemption from taxation under that section. If the resolution 77180
does not include such a stipulation, all new structures and 77181
remodeling satisfying the requirements of section 3735.67 of the 77182
Revised Code are eligible for exemption from taxation regardless 77183
of classification. Whether or not the resolution includes such a 77184
stipulation, the classification of the structures or remodeling 77185
eligible for exemption in the area shall at all times be 77186
consistent with zoning restrictions applicable to the area. For 77187
the purposes of sections 3735.65 to 3735.70 of the Revised Code, 77188

whether a structure or remodeling composed of multiple units is 77189
classified as commercial or residential shall be determined by 77190
resolution or ordinance of the legislative authority or, in the 77191
absence of such a determination, by the classification of the use 77192
of the structure or remodeling under the applicable zoning 77193
regulations. 77194

If construction or remodeling classified as residential is 77195
eligible for exemption from taxation, the resolution shall specify 77196
a percentage, not to exceed one hundred per cent, of the assessed 77197
valuation of such property to be exempted. The percentage 77198
specified shall apply to all residential construction or 77199
remodeling for which exemption is granted. 77200

The resolution adopted pursuant to this section shall be 77201
published in a newspaper of general circulation in the municipal 77202
corporation, if the resolution is adopted by the legislative 77203
authority of a municipal corporation, or in a newspaper of general 77204
circulation in the county, if the resolution is adopted by the 77205
legislative authority of the county, once a week for two 77206
consecutive weeks or as provided in section 7.16 of the Revised 77207
Code, immediately following its adoption. 77208

Each legislative authority adopting a resolution pursuant to 77209
this section shall designate a housing officer. In addition, each 77210
such legislative authority, not later than fifteen days after the 77211
adoption of the resolution, shall petition the director of 77212
development for the director to confirm the findings described in 77213
the resolution. The petition shall be accompanied by a copy of the 77214
resolution and by a map of the community reinvestment area in 77215
sufficient detail to denote the specific boundaries of the area 77216
and to indicate zoning restrictions applicable to the area. The 77217
director shall determine whether the findings contained in the 77218
resolution are valid, and whether the classification of structures 77219
or remodeling eligible for exemption under the resolution is 77220

consistent with zoning restrictions applicable to the area as 77221
indicated on the map. Within thirty days of receiving the 77222
petition, the director shall forward the director's determination 77223
to the legislative authority. The legislative authority or housing 77224
officer shall not grant any exemption from taxation under section 77225
3735.67 of the Revised Code until the director forwards the 77226
director's determination to the legislative authority. The 77227
director shall assign to each community reinvestment area a unique 77228
designation by which the area shall be identified for purposes of 77229
sections 3735.65 to 3735.70 of the Revised Code. 77230

If zoning restrictions in any part of a community 77231
reinvestment area are changed at any time after the legislative 77232
authority petitions the director under this section, the 77233
legislative authority shall notify the director and shall submit a 77234
map of the area indicating the new zoning restrictions in the 77235
area. 77236

Sec. 3737.73. (A) No principal or person in charge of a 77237
public or private school or educational institution having an 77238
average daily attendance of twenty or more pupils, and no person 77239
in charge of any children's home or orphanage housing twenty or 77240
more minor persons, shall willfully neglect to instruct and train 77241
such children by means of drills or rapid dismissals, so that such 77242
children in a sudden emergency may leave the building in the 77243
shortest possible time without confusion. The principal or person 77244
in charge of a school or educational institution shall conduct 77245
drills or rapid dismissals at least nine times during the school 77246
year, which shall be at the times and frequency prescribed in 77247
rules adopted by the fire marshal. However, no drill or rapid 77248
dismissal under this division need be conducted in any month that 77249
a school safety drill required under division (D) of this section 77250
is conducted as long as a total of nine drills or rapid dismissals 77251
under this division are conducted in the school year. The 77252

principal or person in charge of a children's home or orphanage 77253
shall conduct drills or rapid dismissals at least once each month 77254
while the home is in operation. In the case of schools, no 77255
principal or person in charge of a school shall willfully neglect 77256
to keep the doors and exits of such building unlocked during 77257
school hours. The fire marshal may order the immediate 77258
installation of necessary fire gongs or signals in such schools, 77259
institutions, or children's homes and enforce this division and 77260
divisions (B) and (C)(3) of this section. 77261

(B) In conjunction with the drills or rapid dismissals 77262
required by division (A) of this section, principals or persons in 77263
charge of public or private primary and secondary schools, or 77264
educational institutions, shall instruct pupils in safety 77265
precautions to be taken in case of a tornado alert or warning. 77266
Such principals or persons in charge of such schools or 77267
institutions shall designate, in accordance with standards 77268
prescribed by the fire marshal, appropriate locations to be used 77269
to shelter pupils in case of a tornado, tornado alert, or warning. 77270

(C)(1) The fire marshal or the fire marshal's designee shall 77271
annually inspect each school, institution, home, or orphanage 77272
subject to division (A) of this section to determine compliance 77273
with that division, and each school or institution subject to 77274
division (B) of this section to ascertain whether the locations 77275
comply with the standards prescribed under that division. Nothing 77276
in this section shall require a school or institution to construct 77277
or improve a facility or location for use as a shelter area. 77278

(2) The fire marshal or the fire marshal's designee shall 77279
issue a warning to any person found in violation of division (A) 77280
or (B) of this section. The warning shall indicate the specific 77281
violation and a date by which such violation shall be corrected. 77282

(3) No person shall fail to correct violations by the date 77283
indicated on a warning issued under division (C)(2) of this 77284

section. 77285

(D)(1) On or before April 1, 2007, and on or before each 77286
first day of December thereafter, the principal or person in 77287
charge of each public or private school or educational institution 77288
shall conduct a school safety drill to provide pupils with 77289
instruction in the procedures to follow in situations where pupils 77290
must be secured in the school building, such as a threat to the 77291
school involving an act of terrorism; a person possessing a deadly 77292
weapon or dangerous ordnance, as defined in section 2923.11 of the 77293
Revised Code, on school property; or other act of violence. 77294

(2)(a) The principal or person in charge of each public or 77295
private school or educational institution shall provide to the 77296
police chief or other similar chief law enforcement officer of the 77297
municipal corporation, township, or township or joint police 77298
district in which the school or institution is located, or, in 77299
absence of any such person, the county sheriff of the county in 77300
which the school or institution is located advance written notice 77301
of each school safety drill required under division (D)(1) of this 77302
section and shall keep a written record of the date and time of 77303
each drill conducted. The advance notice shall be provided not 77304
later than seventy-two hours prior to the date the drill will be 77305
conducted and shall include the date and time the drill will be 77306
conducted and the address of the school or educational 77307
institution. The notice shall be provided by mail, facsimile, or 77308
electronic submission. 77309

(b) Not later than April 5, 2007, and not later than the 77310
fifth day of December each year thereafter, the principal or 77311
person in charge of each public or private school or educational 77312
institution shall provide written certification by mail of the 77313
date and time each school safety drill required under division 77314
(D)(1) of this section was conducted to the police chief or other 77315
similar chief law enforcement officer of the municipal 77316

corporation, township, or township or joint police district in 77317
which the school or institution is located, or, in the absence of 77318
any such person, the county sheriff of the county in which the 77319
school or institution is located. If such certification is not 77320
provided, the principal or person in charge of the school or 77321
institution shall be considered to have failed to conduct the 77322
drill and shall be subject to division (D)(4) of this section. 77323

(3) The principal or person in charge of each public or 77324
private school or educational institution shall hold annual 77325
training sessions for employees of the school or institution 77326
regarding the conduct of school safety drills. 77327

(4) The police chief or other similar chief law enforcement 77328
officer of a municipal corporation, township, or township or joint 77329
police district, or, in the absence of any such person, the county 77330
sheriff shall issue a warning to any person found in violation of 77331
division (D)(1) of this section. Each warning issued for a 77332
violation of division (D)(1) of this section shall require the 77333
principal or person in charge of the school or institution to 77334
correct the violation by conducting the school safety drill not 77335
later than the thirtieth day after the date the warning is issued. 77336
The violation shall not be considered corrected unless, not later 77337
than forty days after the date the warning is issued, the 77338
principal or person in charge of the school or institution 77339
provides written certification of the date and time the drill was 77340
conducted to the police chief or other similar chief law 77341
enforcement officer or county sheriff who issued the warning. 77342

(5) No person shall fail to correct violations by the date 77343
indicated on a warning issued under division (D)(4) of this 77344
section. 77345

Sec. 3737.83. The fire marshal shall, as part of the state 77346
fire code, adopt rules to: 77347

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment; 77348
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(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment; 77350
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(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt. 77354
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(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards. 77358
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In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards. 77364
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With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code. 77370
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(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code. 77373
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(F) Establish minimum standards for fire prevention and safety an adult group home seeking licensure as an adult care 77377
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facility must meet under section ~~3722.02~~ 5119.71 of the Revised 77379
Code. The fire marshal shall adopt the rules under this division 77380
in consultation with the directors of mental health and aging and 77381
interested parties designated by the directors of mental health 77382
and aging. 77383

Sec. 3737.841. As used in this section and section 3737.842 77384
of the Revised Code: 77385

(A) "Public occupancy" means all of the following: 77386

(1) Any state correctional institution as defined in section 77387
2967.01 of the Revised Code and any county, multicounty, 77388
municipal, or municipal-county jail or workhouse; 77389

(2) Any hospital as defined in section 3727.01 of the Revised 77390
Code, any hospital licensed by the department of mental health 77391
under section 5119.20 of the Revised Code, and any institution, 77392
hospital, or other place established, controlled, or supervised by 77393
the department of mental health under Chapter 5119. of the Revised 77394
Code; 77395

(3) Any nursing home, residential care facility, or home for 77396
the aging as defined in section 3721.01 of the Revised Code and 77397
any adult care facility as defined in section ~~3722.01~~ 5119.70 of 77398
the Revised Code; 77399

(4) Any child day-care center and any type A family day-care 77400
home as defined in section 5104.01 of the Revised Code; 77401

(5) Any public auditorium or stadium; 77402

(6) Public assembly areas of hotels and motels containing 77403
more than ten articles of seating furniture. 77404

(B) "Sell" includes sell, offer or expose for sale, barter, 77405
trade, deliver, give away, rent, consign, lease, possess for sale, 77406
or dispose of in any other commercial manner. 77407

(C) Except as provided in division (D) of this section, 77408
"seating furniture" means any article of furniture, including 77409
children's furniture, that can be used as a support for an 77410
individual, or ~~his~~ an individual's limbs or feet, when sitting or 77411
resting in an upright or reclining position and that either: 77412

(1) Is made with loose or attached cushions or pillows; 77413

(2) Is stuffed or filled in whole or in part with any filling 77414
material; 77415

(3) Is or can be stuffed or filled in whole or in part with 77416
any substance or material, concealed by fabric or any other 77417
covering. 77418

"Seating furniture" includes the cushions or pillows 77419
belonging to or forming a part of the furniture, the structural 77420
unit, and the filling material and its container or covering. 77421

(D) "Seating furniture" does not include, except if intended 77422
for use by children or in facilities designed for the care or 77423
treatment of humans, any of the following: 77424

(1) Cushions or pads intended solely for outdoor use; 77425

(2) Any article with a smooth surface that contains no more 77426
than one-half inch of filling material, if that article does not 77427
have an upholstered horizontal surface meeting an upholstered 77428
vertical surface; 77429

(3) Any article manufactured solely for recreational use or 77430
physical fitness purposes, including weight-lifting benches, 77431
gymnasium mats or pads, and sidehorses. 77432

(E) "Filling material" means cotton, wool, kapok, feathers, 77433
down, hair, liquid, or any other natural or ~~manmade~~ artificial 77434
material or substance that is used or can be used as stuffing in 77435
seating furniture. 77436

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the Revised Code:

(A) "Accidental release" means any sudden or nonsudden release of petroleum that was neither expected nor intended by the owner or operator of the applicable underground storage tank system and that results in the need for corrective action or compensation for bodily injury or property damage.

(B) "Corrective action" means any action necessary to protect human health and the environment in the event of a release of petroleum into the environment, including, without limitation, any action necessary to monitor, assess, and evaluate the release. In the instance of a suspected release, ~~the term~~ "corrective action" includes, without limitation, an investigation to confirm or disprove the occurrence of the release. In the instance of a confirmed release, ~~the term~~ "corrective action" includes, without limitation, the initial corrective action taken under section 3737.88 or 3737.882 of the Revised Code and rules adopted or orders issued under those sections and any action taken consistent with a remedial action to clean up contaminated ground water, surface water, soils, and subsurface material and to address the residual effects of a release after the initial corrective action is taken.

(C) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the petroleum underground storage tank linked deposit program provided for in sections 3737.95 to 3737.98 of the Revised Code.

(D) "Eligible owner" means any person that owns six or fewer petroleum underground storage tanks comprising a petroleum underground storage tank or underground storage tank system.

(E) "Installer" means a person who supervises the 77468
installation of, performance of major repairs on site to, 77469
abandonment of, or removal of underground storage tank systems. 77470

(F) "Major repair" means the restoration of a tank or an 77471
underground storage tank system component that has caused a 77472
release of a product from the underground storage tank system, the 77473
upgrading of a tank or an underground storage tank system 77474
component, or the modification of a tank or an underground storage 77475
tank system component. "Major repair" does not include routine 77476
maintenance for normal operational upkeep to prevent an 77477
underground storage tank system from releasing a product. 77478

(G) "Operator" means the person in daily control of, or 77479
having responsibility for the daily operation of, an underground 77480
storage tank system. 77481

(H) "Owner" means: 77482

(1) In the instance of an underground storage tank system in 77483
use on November 8, 1984, or brought into use after that date, the 77484
person who owns the underground storage tank system; 77485

(2) In the instance of an underground storage tank system in 77486
use before November 8, 1984, that was no longer in use on that 77487
date, the person who owned the underground storage tank system 77488
immediately before the discontinuation of its use. 77489

~~The term~~ "Owner" includes any person who holds, or, in the 77490
instance of an underground storage tank system in use before 77491
November 8, 1984, but no longer in use on that date, any person 77492
who held immediately before the discontinuation of its use, a 77493
legal, equitable, or possessory interest of any kind in an 77494
underground storage tank system or in the property on which the 77495
underground storage tank system is located, including, without 77496
limitation, a trust, vendor, vendee, lessor, or lessee. ~~The term~~ 77497
"Owner" does not include any person who, without participating in 77498

the management of an underground storage tank system and without 77499
otherwise being engaged in petroleum production, refining, or 77500
marketing, holds indicia of ownership in an underground storage 77501
tank system primarily to protect the person's security interest in 77502
it. 77503

(I) "Person," in addition to the meaning in section 3737.01 77504
of the Revised Code, means the United States and any department, 77505
agency, or instrumentality thereof. 77506

(J) "Petroleum" means petroleum, including crude oil or any 77507
fraction thereof, that is a liquid at the temperature of sixty 77508
degrees Fahrenheit and the pressure of fourteen and seven-tenths 77509
pounds per square inch absolute. ~~The term~~ "Petroleum" includes, 77510
without limitation, motor fuels, jet fuels, distillate fuel oils, 77511
residual fuel oils, lubricants, petroleum solvents, and used oils. 77512

(K) "Petroleum underground storage tank linked deposit" means 77513
a certificate of deposit placed by the treasurer of state with an 77514
eligible lending institution pursuant to sections 3737.95 to 77515
3737.98 of the Revised Code. 77516

(L) "Regulated substance" means petroleum or any substance 77517
identified or listed as a hazardous substance in rules adopted 77518
under division (D) of section 3737.88 of the Revised Code. 77519

(M) "Release" means any spilling, leaking, emitting, 77520
discharging, escaping, leaching, or disposing of from an 77521
underground storage tank system into ground or surface water or 77522
subsurface soils or otherwise into the environment. 77523

(N) Notwithstanding division (F) of section 3737.01 of the 77524
Revised Code, "responsible person" means the person who is the 77525
owner or operator of an underground storage tank system. 77526

(O) "Tank" means a stationary device designed to contain an 77527
accumulation of regulated substances that is constructed of 77528
~~manmade~~ manufactured materials. 77529

(P) "Underground storage tank" means one or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of regulated substances the volume of which, including the volume of the underground pipes connected thereto, is ten per cent or more beneath the surface of the ground.

~~The term~~ "Underground storage tank" does not include any of the following or any pipes connected to any of the following:

(1) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat. 1003, 49 U.S.C.A. 2001, as amended;

(2) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(3) Tanks used for storing heating fuel for consumptive use on the premises where stored;

(4) Surface impoundments, pits, ponds, or lagoons;

(5) Storm or waste water collection systems;

(6) Flow-through process tanks;

(7) Storage tanks located in underground areas, including, without limitation, basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;

(8) Septic tanks;

(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.

(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.

(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue refunding bonds that are issued by the petroleum underground storage tank release compensation board pursuant to sections 3737.90 to 3737.948 of the Revised Code.

(T) "Class C release" means a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C release" also includes any release designated as a "class C release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground ~~petroleum~~ storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the ~~program~~ programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those

rules, enter into environmental covenants in accordance with 77591
sections 5301.80 to 5301.92 of the Revised Code, and perform such 77592
other duties, as are consistent with those programs. The fire 77593
marshal, by rule, may delegate the authority to conduct 77594
inspections of underground storage tanks to certified fire safety 77595
inspectors. 77596

(2) In the place of any rules regarding release containment 77597
and release detection for underground storage tanks adopted under 77598
division (A)(1) of this section, the fire marshal, by rule, shall 77599
designate areas as being sensitive for the protection of human 77600
health and the environment and adopt alternative rules regarding 77601
release containment and release detection methods for new and 77602
upgraded underground storage tank systems located in those areas. 77603
In designating such areas, the fire marshal shall take into 77604
consideration such factors as soil conditions, hydrogeology, water 77605
use, and the location of public and private water supplies. Not 77606
later than July 11, 1990, the fire marshal shall file the rules 77607
required under this division with the secretary of state, director 77608
of the legislative service commission, and joint committee on 77609
agency rule review in accordance with divisions (B) and (H) of 77610
section 119.03 of the Revised Code. 77611

(3) Notwithstanding sections 3737.87 to 3737.89 of the 77612
Revised Code, a person who is not a responsible person may conduct 77613
a voluntary action in accordance with Chapter 3746. of the Revised 77614
Code and rules adopted under it for a class C release. The 77615
director of environmental protection, pursuant to section 3746.12 77616
of the Revised Code, may issue a covenant not to sue to any person 77617
who properly completes a voluntary action with respect to a class 77618
C release in accordance with Chapter 3746. of the Revised Code and 77619
rules adopted under it. 77620

(B) Before adopting any rule under this section or section 77621
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 77622

file written notice of the proposed rule with the chairperson of 77623
the state fire commission, and, within sixty days after notice is 77624
filed, the commission may file responses to or comments on and may 77625
recommend alternative or supplementary rules to the fire marshal. 77626
At the end of the sixty-day period or upon the filing of 77627
responses, comments, or recommendations by the commission, the 77628
fire marshal may adopt the rule filed with the commission or any 77629
alternative or supplementary rule recommended by the commission. 77630

(C) The fire commission may recommend courses of action to be 77631
taken by the fire marshal in carrying out the fire marshal's 77632
duties under this section. The commission shall file its 77633
recommendations in the office of the fire marshal, and, within 77634
sixty days after the recommendations are filed, the fire marshal 77635
shall file with the chairperson of the commission comments on, and 77636
proposed action in response to, the recommendations. 77637

(D) For the purpose of sections 3737.87 to 3737.89 of the 77638
Revised Code, the fire marshal shall adopt, and may amend and 77639
rescind, rules identifying or listing hazardous substances. The 77640
rules shall be consistent with and equivalent in scope, coverage, 77641
and content to regulations identifying or listing hazardous 77642
substances adopted under the "Comprehensive Environmental 77643
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 77644
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 77645
not identify or list as a hazardous substance any hazardous waste 77646
identified or listed in rules adopted under division (A) of 77647
section 3734.12 of the Revised Code. 77648

(E) ~~Notwithstanding any provision of the laws of this state~~ 77649
~~to the contrary~~ Except as provided in division (A)(3) of this 77650
section, the fire marshal ~~has~~ shall have exclusive jurisdiction to 77651
regulate the storage, treatment, and disposal of petroleum 77652
contaminated soil generated from corrective actions undertaken in 77653
response to releases of petroleum from underground storage tank 77654

systems. The fire marshal may adopt, amend, or rescind such rules 77655
as the fire marshal considers to be necessary or appropriate to 77656
regulate the storage, treatment, or disposal of petroleum 77657
contaminated soil so generated. 77658

(F) The fire marshal shall adopt, amend, and rescind rules 77659
under sections 3737.88 to 3737.882 of the Revised Code in 77660
accordance with Chapter 119. of the Revised Code. 77661

Sec. 3743.06. In addition to conforming to the rules of the 77662
fire marshal adopted pursuant to section 3743.05 of the Revised 77663
Code, licensed manufacturers of fireworks shall operate their 77664
fireworks plants in accordance with the following: 77665

(A) Signs indicating that smoking is generally forbidden and 77666
trespassing is prohibited on the premises of a fireworks plant 77667
shall be posted on the premises in a manner determined by the fire 77668
marshal. 77669

(B) Reasonable precautions shall be taken to protect the 77670
premises of a fireworks plant from trespass, loss, theft, or 77671
destruction. Only persons employed by the manufacturer, authorized 77672
governmental personnel, and persons who have obtained permission 77673
from a member of the manufacturer's office to be on the premises, 77674
are to be allowed to enter and remain on the premises. 77675

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 77676
matches, lighters, other flame-producing items, or open flame on, 77677
or the carrying of a concealed source of ignition into, the 77678
premises of a fireworks plant is prohibited, except that a 77679
manufacturer may permit smoking in specified lunchrooms or 77680
restrooms in buildings or other structures in which no 77681
manufacturing, handling, sales, or storage of fireworks takes 77682
place. "NO SMOKING" signs shall be posted on the premises as 77683
required by the fire marshal. 77684

(D) Fire and explosion prevention and other reasonable safety 77685
measures and precautions shall be implemented by a manufacturer. 77686

(E) Persons shall not be permitted to have in their 77687
possession or under their control, while they are on the premises 77688
of the fireworks plant, any intoxicating liquor, beer, or 77689
controlled substance, and they shall not be permitted to enter or 77690
remain on the premises if they are found to be under the influence 77691
of any intoxicating liquor, beer, or controlled substance. 77692

(F) A manufacturer shall conform to all building, safety, and 77693
zoning statutes, ordinances, rules, or other enactments that apply 77694
to the premises of its fireworks plant. 77695

(G) Each fireworks plant shall have at least one class 1 77696
magazine that is approved by the bureau of alcohol, tobacco, and 77697
firearms of the United States department of the treasury and that 77698
is otherwise in conformity with federal law. This division does 77699
not apply to fireworks plants existing on or before August 3, 77700
1931. 77701

(H) Awnings, tents, and canopies shall not be used as 77702
facilities for the sale or storage of fireworks. This division 77703
does not prohibit the use of an awning or canopy attached to a 77704
public access showroom for storing nonflammable shopping 77705
convenience items such as shopping carts or baskets or providing a 77706
shaded area for patrons waiting to enter the public sales area. 77707

(I) Fireworks may be stored in trailers if the trailers are 77708
properly enclosed, secured, and grounded and are separated from 77709
any structure to which the public is admitted by a distance that 77710
will, in the fire marshal's judgment, allow fire-fighting 77711
equipment to have full access to the structures on the licensed 77712
premises. Such trailers may be moved into closer proximity to any 77713
structure only to accept or discharge cargo for a period not to 77714
exceed forty-eight hours. Only two such trailers may be placed in 77715

such closer proximity at any one time. At no time may trailers be 77716
used for conducting sales of any class of fireworks, nor may 77717
members of the public have access to the trailers. 77718

Storage areas for fireworks that are in the same building 77719
where fireworks are displayed and sold to the public shall be 77720
separated from the areas to which the public has access by an 77721
appropriately rated fire wall. 77722

(J) A fire suppression system as defined in section 3781.108 77723
of the Revised Code may be turned off only for repair, drainage of 77724
the system to prevent damage by freezing during the period of 77725
time, approved by the fire marshal, that the facility is closed to 77726
all public access during winter months, or maintenance of the 77727
system. If any repair or maintenance is necessary during times 77728
when the facility is open for public access and business as 77729
approved by the fire marshal, the licensed manufacturer shall 77730
notify in advance the appropriate insurance company and fire chief 77731
or fire prevention officer regarding the nature of the maintenance 77732
or repair and the time when it will be performed. 77733

(K) If any fireworks item is removed from its original 77734
package or is manufactured with any fuse other than a safety fuse 77735
approved by the consumer product safety commission, then the item 77736
shall be covered completely by repackaging or bagging or it shall 77737
otherwise be covered so as to prevent ignition prior to sale. 77738

(L) A safety officer shall be present during regular business 77739
hours at a building open to the public during the period 77740
commencing fourteen days before, and ending two days after, each 77741
fourth day of July. The officer shall be highly visible, enforce 77742
this chapter and any applicable building codes to the extent the 77743
officer is authorized by law, and be one of the following: 77744

(1) A deputy sheriff; 77745

(2) A law enforcement officer of a municipal corporation, 77746

township, or township or joint ~~township~~ police district; 77747

(3) A private uniformed security guard registered under 77748
section 4749.06 of the Revised Code. 77749

(M) All doors of all buildings on the licensed premises shall 77750
swing outward. 77751

(N) All wholesale and commercial sales of fireworks shall be 77752
packaged, shipped, placarded, and transported in accordance with 77753
United States department of transportation regulations applicable 77754
to the transportation, and the offering for transportation, of 77755
hazardous materials. For purposes of this division, "wholesale and 77756
commercial sales" includes all sales for resale and any nonretail 77757
sale made in furtherance of a commercial enterprise. For purposes 77758
of enforcement of these regulations under section 4905.83 of the 77759
Revised Code, any sales transaction exceeding one thousand pounds 77760
shall be rebuttably presumed to be a wholesale or commercial sale. 77761

Sec. 3743.19. In addition to conforming to the rules of the 77762
fire marshal adopted pursuant to section 3743.18 of the Revised 77763
Code, licensed wholesalers of fireworks shall conduct their 77764
business operations in accordance with the following: 77765

(A) A wholesaler shall conduct its business operations from 77766
the location described in its application for licensure or in a 77767
notification submitted under division (B) of section 3743.17 of 77768
the Revised Code. 77769

(B) Signs indicating that smoking is generally forbidden and 77770
trespassing is prohibited on the premises of a wholesaler shall be 77771
posted on the premises as determined by the fire marshal. 77772

(C) Reasonable precautions shall be taken to protect the 77773
premises of a wholesaler from trespass, loss, theft, or 77774
destruction. 77775

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 77776

matches, lighters, other flame-producing items, or open flame on, 77777
or the carrying of a concealed source of ignition into, the 77778
premises of a wholesaler is prohibited, except that a wholesaler 77779
may permit smoking in specified lunchrooms or restrooms in 77780
buildings or other structures in which no sales, handling, or 77781
storage of fireworks takes place. "NO SMOKING" signs shall be 77782
posted on the premises as required by the fire marshal. 77783

(E) Fire and explosion prevention and other reasonable safety 77784
measures and precautions shall be implemented by a wholesaler. 77785

(F) Persons shall not be permitted to have in their 77786
possession or under their control, while they are on the premises 77787
of a wholesaler, any intoxicating liquor, beer, or controlled 77788
substance, and they shall not be permitted to enter or remain on 77789
the premises if they are found to be under the influence of any 77790
intoxicating liquor, beer, or controlled substance. 77791

(G) A wholesaler shall conform to all building, safety, and 77792
zoning statutes, ordinances, rules, or other enactments that apply 77793
to its premises. 77794

(H) Each building used in the sale of fireworks shall be kept 77795
open to the public for at least four hours each day between the 77796
hours of eight a.m. and five p.m., five days of each week, every 77797
week of the year. Upon application from a licensed wholesaler, the 77798
fire marshal may waive any of the requirements of this division. 77799

(I) Awnings, tents, or canopies shall not be used as 77800
facilities for the storage or sale of fireworks. This division 77801
does not prohibit the use of an awning or canopy attached to a 77802
public access showroom for storing nonflammable shopping 77803
convenience items such as shopping carts or baskets or providing a 77804
shaded area for patrons waiting to enter the public sales area. 77805

(J) 1.4G fireworks may be stored in trailers if the trailers 77806
are properly enclosed, secured, and grounded and are separated 77807

from any structure to which the public is admitted by a distance 77808
that will, in the fire marshal's judgment, allow fire-fighting 77809
equipment to have full access to the structures on the licensed 77810
premises. Such trailers may be moved into closer proximity to any 77811
structure only to accept or discharge cargo for a period not to 77812
exceed forty-eight hours. Only two such trailers may be placed in 77813
such closer proximity at any one time. At no time may trailers be 77814
used for conducting sales of any class of fireworks nor may 77815
members of the public have access to the trailers. 77816

Storage areas for fireworks that are in the same building 77817
where fireworks are displayed and sold to the public shall be 77818
separated from the areas to which the public has access by an 77819
appropriately rated fire wall. If the licensee installs and 77820
properly maintains an early suppression fast response sprinkler 77821
system or equivalent fire suppression system as described in the 77822
fire code adopted by the fire marshal in accordance with section 77823
3737.82 of the Revised Code throughout the structure, a fire 77824
barrier wall may be substituted for a fire wall between the areas 77825
to which the public has access and the storage portions of the 77826
structure. 77827

(K) A fire suppression system as defined in section 3781.108 77828
of the Revised Code may be turned off only for repair, drainage of 77829
the system to prevent damage by freezing during the period of 77830
time, approved by the fire marshal under division (I) of this 77831
section, that the facility is closed to public access during 77832
winter months, or maintenance of the system. If any repair or 77833
maintenance is necessary during times when the facility is open 77834
for public access and business, the licensed wholesaler shall 77835
notify in advance the appropriate insurance company and fire chief 77836
or fire prevention officer regarding the nature of the maintenance 77837
or repair and the time when it will be performed. 77838

(L) If any fireworks item is removed from its original 77839

package or is manufactured with any fuse other than a fuse 77840
approved by the consumer product safety commission, then the item 77841
shall be covered completely by repackaging or bagging or it shall 77842
otherwise be covered so as to prevent ignition prior to sale. 77843

(M) A safety officer shall be present during regular business 77844
hours at a building open to the public during the period 77845
commencing fourteen days before, and ending two days after, each 77846
fourth day of July. The officer shall be highly visible, enforce 77847
this chapter and any applicable building codes to the extent the 77848
officer is authorized by law, and be one of the following: 77849

(1) A deputy sheriff; 77850

(2) A law enforcement officer of a municipal corporation, 77851
township, or township or joint ~~township~~ police district; 77852

(3) A private uniformed security guard registered under 77853
section 4749.06 of the Revised Code. 77854

(N) All doors of all buildings on the licensed premises shall 77855
swing outward. 77856

(O) All wholesale and commercial sales of fireworks shall be 77857
packaged, shipped, placarded, and transported in accordance with 77858
United States department of transportation regulations applicable 77859
to the transportation, and the offering for transportation, of 77860
hazardous materials. For purposes of this division, "wholesale and 77861
commercial sales" includes all sales for resale and any nonretail 77862
sale made in furtherance of a commercial enterprise. For purposes 77863
of enforcement of these regulations under section 4905.83 of the 77864
Revised Code, any sales transaction exceeding one thousand pounds 77865
shall be rebuttably presumed to be a wholesale or commercial sale. 77866

Sec. 3743.52. (A) The license of an exhibitor of fireworks is 77867
effective for one year from the date of its issuance by the fire 77868
marshal. If an exhibitor of fireworks wishes to continue as an 77869

exhibitor after its then effective license expires, it shall apply 77870
for a new license pursuant to section 3743.50 of the Revised Code. 77871
The fire marshal shall send a written notice of the expiration of 77872
its license to a licensed exhibitor at least two months before the 77873
expiration date. 77874

(B) The license of an exhibitor of fireworks authorizes the 77875
exhibitor to conduct public fireworks exhibitions in this state if 77876
it complies with sections 3743.50 to 3743.55 of the Revised Code 77877
and with the rules adopted by the fire marshal pursuant to section 77878
3743.53 of the Revised Code. 77879

The license is not transferable or assignable, and is subject 77880
to revocation as provided in section 3743.70 or division (D) of 77881
section 3743.99 of the Revised Code or pursuant to Chapter 119. of 77882
the Revised Code if the exhibitor fails to comply with sections 77883
3743.50 to 3743.55 of the Revised Code or the rules adopted by the 77884
fire marshal pursuant to section 3743.53 of the Revised Code. 77885

If the license of an exhibitor is revoked, the exhibitor 77886
shall cease conducting public fireworks exhibitions immediately. 77887
Subject to division (D) of section 3743.99 of the Revised Code, 77888
the exhibitor may not reapply for licensure as an exhibitor of 77889
fireworks until two years expire from the date of revocation. The 77890
fire marshal shall remove from the list of licensed exhibitors the 77891
exhibitor's name, and shall notify fire chiefs, fire prevention 77892
officers, and police chiefs or other similar chief law enforcement 77893
officers of municipal corporations, townships, or township or 77894
joint police districts in this state of the revocation. 77895

(C) Each licensed exhibitor of fireworks or a designee of the 77896
exhibitor, whose identity is provided to the fire marshal by the 77897
exhibitor, shall attend a continuing education program consisting 77898
of not less than six hours of instruction once every three years. 77899
The fire marshal shall develop the program, and the fire marshal 77900
or a person or public agency approved by the fire marshal shall 77901

conduct it. A licensed exhibitor or the exhibitor's designee who 77902
attends a program as required under this division, within one year 77903
after attending the program, and on an annual basis during the 77904
following two years, shall conduct in-service training for other 77905
employees of the licensee regarding the information obtained in 77906
the program. A licensed exhibitor shall provide the fire marshal 77907
with certified proof of full compliance with all applicable annual 77908
training requirements of the United States department of 77909
transportation and of the occupational safety and health 77910
administration. A licensed exhibitor shall provide the fire 77911
marshal with notice of the date, time, and place of all in-service 77912
training not less than thirty days prior to an in-service training 77913
event. An individual exhibitor who has no employees shall not 77914
fulfill continuing education requirements through a designee. 77915

Sec. 3743.53. (A) The fire marshal shall adopt rules in 77916
accordance with Chapter 119. of the Revised Code that establish 77917
qualifications that all applicants for licensure as an exhibitor 77918
of fireworks shall satisfy. These rules shall be designed to 77919
provide a reasonable degree of assurance that individuals 77920
conducting public fireworks exhibitions in this state are 77921
proficient in handling and discharging fireworks, are capable of 77922
handling the responsibilities associated with exhibitions as 77923
prescribed by rule of the fire marshal pursuant to divisions (B) 77924
and (E) of this section or as prescribed by sections 3743.50 to 77925
3743.55 of the Revised Code, and will conduct fireworks 77926
exhibitions in a manner that emphasizes the safety and security of 77927
the public. The rules shall be consistent with sections 3743.50 to 77928
3743.55 of the Revised Code and may include, in addition to other 77929
requirements prescribed by the fire marshal, a requirement that 77930
the applicant for licensure successfully complete a written 77931
examination or otherwise successfully demonstrate its proficiency 77932
in the handling and discharging of fireworks in a safe manner and 77933

its ability to handle the responsibilities associated with 77934
exhibitions. 77935

(B) The fire marshal shall adopt rules in accordance with 77936
Chapter 119. of the Revised Code that govern the nature and 77937
conduct of public fireworks exhibitions by licensed exhibitors of 77938
fireworks. These rules shall be designed to promote the safety and 77939
security of persons viewing a fireworks exhibition, to promote the 77940
safety of persons who, although not viewing an exhibition, could 77941
be affected by fireworks used at it, and to promote the safety and 77942
security of exhibitors and their assistants. 77943

The rules shall be consistent with sections 3743.50 to 77944
3743.55 of the Revised Code; except as otherwise provided in this 77945
section, shall be substantially equivalent to the most recent 77946
versions of chapters 1123, 1124, and 1126 of the most recent 77947
national fire protection association standards; and shall apply 77948
to, but not be limited to, the following subject matters: 77949

(1) The construction of shells used in a fireworks 77950
exhibition; 77951

(2) Except as the storage and securing of fireworks is 77952
addressed by the rules adopted under division (E) of this section, 77953
the storage, securing, and supervision of fireworks pending their 77954
use in, and during the course of, a fireworks exhibition, and 77955
inspections by exhibitors of fireworks to be used in an exhibition 77956
prior to their use. These rules shall regulate, among other 77957
relevant matters, the storage of fireworks in manners that will 77958
effectively eliminate or reduce the likelihood of the fireworks 77959
becoming wet or being exposed to flame, and appropriate distances 77960
between storage sites and the sites at which fireworks will be 77961
discharged. 77962

(3) The installation and nature of mortars used in a 77963
fireworks exhibition, and inspections by exhibitors of mortars 77964

prior to their use; 77965

(4) Minimum distances between storage sites, discharge sites, 77966
spectator viewing sites, parking areas, and potential landing 77967
areas of fireworks, and minimum distances between discharge sites, 77968
potential landing areas, and residential or other types of 77969
buildings or structures; 77970

(5) The nature of discharge sites and potential landing 77971
sites; 77972

(6) Fire protection, the use and location of monitors for 77973
crowd control, the use of fences and rope barriers for crowd 77974
control, illumination, smoking and the use of open flame, and 77975
posting of warning signs concerning smoking or the use of open 77976
flame in connection with fireworks exhibitions. These rules may 77977
provide some authority to local officials in determining adequate 77978
fire protection, and numbers and locations of monitors. 77979

(7) Procedures to be followed in the discharging of 77980
fireworks; 77981

(8) Weather and crowd-related conditions under which 77982
fireworks may and may not be discharged, including circumstances 77983
under which exhibitions should be postponed; 77984

(9) Inspections of premises following a fireworks exhibition 77985
for purposes of locating and disposing of defective or unexploded 77986
fireworks. Inspections shall be required immediately following an 77987
exhibition, and, if an exhibition is conducted at night, also at 77988
sunrise the following morning. 77989

(C) All mortars used in a fireworks exhibition that are 77990
greater than or equal to eight inches in diameter shall be 77991
equipped with electronic ignition equipment in accordance with 77992
chapter 1123 of the most recent edition of the national fire 77993
protection association standards. 77994

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

(E)(1) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code and consistent with division (E)(3) of this section that establish both of the following:

(a) Uniform standards for the stability and securing of fireworks storage racks used at a fireworks exhibition;

(b) A detailed checklist that a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall complete, while conducting the inspection required under division (C) of section 3743.54 of the Revised Code at the premises at which a fireworks exhibition will take place, to ensure that the exhibition will comply with all applicable requirements of this chapter, and all applicable rules adopted under this chapter, that regulate the conduct of a fireworks exhibition.

(2) Each licensed exhibitor of fireworks shall comply with the rules that the fire marshal adopts under division (E)(1)(a) of this section.

(3) Prior to the fire marshal's adoption of the rules referred to in divisions (E)(1)(a) and (b) of this section, the director of commerce shall appoint a committee consisting of the fire marshal, three representatives of the fireworks industry, and three representatives of the fire service industry to assist the fire marshal in adopting those rules. The fire marshal shall adopt initial rules under those divisions by not later than May 1, 2001.

(F) A fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall conduct the inspection referred to in division (E)(1)(b) of this section, complete the checklist referred to in division (E)(1)(b) of this section while conducting the inspection, and provide a copy of the completed checklist to the fire marshal.

(G) A designee, if any, designated by a police chief or other similar chief law enforcement officer under this section or section 3743.54 of the Revised Code shall be a law enforcement officer serving in the same law enforcement agency as the police chief or other similar chief law enforcement officer.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular municipal corporation.

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the

approval shall be obtained from the fire chief of the particular township or township fire district, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular township, or township or joint police district.

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision providing the police services and from the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivisions providing the police and fire protection services.

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township or joint police district police department,

and no contract for police or fire protection services between 78089
political subdivisions covering the premises on which the 78090
exhibition will take place, the approval shall be obtained from 78091
the fire prevention officer, and from the police chief or other 78092
similar chief law enforcement officer, or the designee of the 78093
police chief or other similar chief law enforcement officer, 78094
having jurisdiction over the premises. 78095

(2) The approval required by division (B)(1) of this section 78096
shall be evidenced by the fire chief or fire prevention officer 78097
and by the police chief or other similar chief law enforcement 78098
officer, or the designee of the police chief or other similar 78099
chief law enforcement officer, signing a permit for the 78100
exhibition. The fire marshal shall prescribe the form of 78101
exhibition permits and distribute copies of the form to fire 78102
chiefs, to fire prevention officers, and to police chiefs or other 78103
similar chief law enforcement officers of municipal corporations, 78104
townships, or township or joint police districts, or their 78105
designees, in this state. Any exhibitor of fireworks who wishes to 78106
conduct a public fireworks exhibition may obtain a copy of the 78107
form from the fire marshal or, if it is available, from a fire 78108
chief, a fire prevention officer, a police chief or other similar 78109
chief law enforcement officer of a municipal corporation, 78110
township, or township or joint police district, or a designee of 78111
such a police chief or other similar chief law enforcement 78112
officer. 78113

(C) Before a permit is signed and issued to a licensed 78114
exhibitor of fireworks, the fire chief or fire prevention officer, 78115
in consultation with the police chief or other similar chief law 78116
enforcement officer or with the designee of the police chief or 78117
other similar chief law enforcement officer, shall inspect the 78118
premises on which the exhibition will take place and shall 78119
determine that, in fact, the applicant for the permit is a 78120

licensed exhibitor of fireworks. Each applicant shall show the 78121
applicant's license as an exhibitor of fireworks to the fire chief 78122
or fire prevention officer. 78123

The fire chief or fire prevention officer, and the police 78124
chief or other similar chief law enforcement officer, or the 78125
designee of the police chief or other similar chief law 78126
enforcement officer, shall give approval to conduct a public 78127
fireworks exhibition only if satisfied, based on the inspection, 78128
that the premises on which the exhibition will be conducted allow 78129
the exhibitor to comply with the rules adopted by the fire marshal 78130
pursuant to divisions (B) and (E) of section 3743.53 of the 78131
Revised Code and that the applicant is, in fact, a licensed 78132
exhibitor of fireworks. The fire chief or fire prevention officer, 78133
in consultation with the police chief or other similar chief law 78134
enforcement officer or with the designee of the police chief or 78135
other similar chief law enforcement officer, may inspect the 78136
premises immediately prior to the exhibition to determine if the 78137
exhibitor has complied with the rules, and may revoke a permit for 78138
noncompliance with the rules. 78139

(D) If the legislative authorities of their political 78140
subdivisions have prescribed a fee for the issuance of a permit 78141
for a public fireworks exhibition, fire chiefs or fire prevention 78142
officers, and police chiefs, other similar chief law enforcement 78143
officers, or their designee, shall not issue a permit until the 78144
exhibitor pays the requisite fee. 78145

Each exhibitor shall provide an indemnity bond in the amount 78146
of at least one million dollars, with surety satisfactory to the 78147
fire chief or fire prevention officer and to the police chief or 78148
other similar chief law enforcement officer, or the designee of 78149
the police chief or other similar chief law enforcement officer, 78150
conditioned for the payment of all final judgments that may be 78151
rendered against the exhibitor on account of injury, death, or 78152

loss to persons or property emanating from the fireworks 78153
exhibition, or proof of insurance coverage of at least one million 78154
dollars for liability arising from injury, death, or loss to 78155
persons or property emanating from the fireworks exhibition. The 78156
legislative authority of a political subdivision in which a public 78157
fireworks exhibition will take place may require the exhibitor to 78158
provide an indemnity bond or proof of insurance coverage in 78159
amounts greater than those required by this division. Fire chiefs 78160
or fire prevention officers, and police chiefs, other similar 78161
chief law enforcement officers, or their designee, shall not issue 78162
a permit until the exhibitor provides the bond or proof of the 78163
insurance coverage required by this division or by the political 78164
subdivision in which the fireworks exhibition will take place. 78165

(E)(1) Each permit for a fireworks exhibition issued by a 78166
fire chief or fire prevention officer, and by the police chief or 78167
other similar chief law enforcement officer, or the designee of 78168
the police chief or other similar chief law enforcement officer, 78169
shall contain a distinct number, designate the municipal 78170
corporation, township, ~~or~~ township fire or police district, or 78171
joint police district of the fire chief, fire prevention officer, 78172
police chief or other similar chief law enforcement officer, or 78173
designee of the police chief or other similar chief law 78174
enforcement officer, and identify the certified fire safety 78175
inspector, fire chief, or fire prevention officer who will be 78176
present before, during, and after the exhibition, where 78177
appropriate. A copy of each permit issued shall be forwarded by 78178
the fire chief or fire prevention officer, and by the police chief 78179
or other similar chief law enforcement officer, or the designee of 78180
the police chief or other similar chief law enforcement officer, 78181
issuing it to the fire marshal, who shall keep a record of the 78182
permits received. A permit is not transferable or assignable. 78183

(2) Each fire chief, fire prevention officer, police chief or 78184

other similar chief law enforcement officer, and designee of a 78185
police chief or other similar chief law enforcement officer shall 78186
keep a record of issued permits for fireworks exhibitions. In this 78187
list, the fire chief, fire prevention officer, police chief or 78188
other similar chief law enforcement officer, and designee of a 78189
police chief or other similar chief law enforcement officer shall 78190
list the name of the exhibitor, the exhibitor's license number, 78191
the premises on which the exhibition will be conducted, the date 78192
and time of the exhibition, and the number and political 78193
subdivision designation of the permit issued to the exhibitor for 78194
the exhibition. 78195

(F) The governing authority having jurisdiction in the 78196
location where an exhibition is to take place shall require that a 78197
certified fire safety inspector, fire chief, or fire prevention 78198
officer be present before, during, and after the exhibition, and 78199
shall require the certified fire safety inspector, fire chief, or 78200
fire prevention officer to inspect the premises where the 78201
exhibition is to take place and determine whether the exhibition 78202
is in compliance with this chapter. 78203

(G) Notwithstanding any provision of the Revised Code to the 78204
contrary, the state fire marshal is hereby authorized to create 78205
additional license categories for fireworks exhibitors and to 78206
create additional permit requirements for fireworks exhibitions 78207
for the indoor use of fireworks and other uses of pyrotechnics, 78208
including the use of pyrotechnic materials that do not meet the 78209
definition of fireworks as described in section 3743.01 of the 78210
Revised Code. Such licenses and permits and the fees for such 78211
licenses and permits shall be described in rules adopted by the 78212
fire marshal under Chapter 119. of the Revised Code. Such rules 78213
may provide for different standards for exhibitor licensure and 78214
the permitting and conducting of a fireworks exhibition than the 78215
requirements of this chapter. 78216

Prior to the state fire marshal's adoption of the rules 78217
described in this division, the director of commerce shall appoint 78218
a committee consisting of the state fire marshal or the marshal's 78219
designee, three representatives of the fireworks industry, and 78220
three representatives of the fire service to assist the state fire 78221
marshal in adopting these rules. Unless an extension is granted by 78222
the director of commerce, the state fire marshal shall adopt 78223
initial rules under this section not later than July 1, 2010. 78224

Sec. 3743.64. (A) No person shall conduct a fireworks 78225
exhibition in this state or act as an exhibitor of fireworks in 78226
this state unless the person is a licensed exhibitor of fireworks. 78227

(B) No person shall conduct a fireworks exhibition in this 78228
state or act as an exhibitor of fireworks in this state after the 78229
person's license as an exhibitor of fireworks has expired, been 78230
denied renewal, or been revoked, unless a new license has been 78231
obtained. 78232

(C) No licensed exhibitor of fireworks shall fail to comply 78233
with the applicable requirements of the rules adopted by the fire 78234
marshal pursuant to divisions (B) and (E) of section 3743.53 of 78235
the Revised Code or to comply with divisions (C) and (D) of that 78236
section. 78237

(D) No licensed exhibitor of fireworks shall conduct a 78238
fireworks exhibition unless a permit has been secured for the 78239
exhibition pursuant to section 3743.54 of the Revised Code or if a 78240
permit so secured is revoked by a fire chief or fire prevention 78241
officer, in consultation with a police chief or other similar 78242
chief law enforcement officer of a municipal corporation, 78243
township, or township or joint police district or with a designee 78244
of such a police chief or other similar chief law enforcement 78245
officer, pursuant to that section. 78246

(E) No licensed exhibitor of fireworks shall acquire 78247

fireworks for use at a fireworks exhibition other than in 78248
accordance with sections 3743.54 and 3743.55 of the Revised Code. 78249

(F) No licensed exhibitor of fireworks or other person 78250
associated with the conduct of a fireworks exhibition shall have 78251
possession or control of, or be under the influence of, any 78252
intoxicating liquor, beer, or controlled substance while on the 78253
premises on which the exhibition is being conducted. 78254

(G) No licensed exhibitor of fireworks shall permit an 78255
employee to assist the licensed exhibitor in conducting fireworks 78256
exhibitions unless the employee is registered with the fire 78257
marshal under section 3743.56 of the Revised Code. 78258

(H) Except as provided in division (C) of section 3743.541 of 78259
the Revised Code, no person shall knowingly, or knowingly permit 78260
another person to, dismantle, reposition, or otherwise disturb any 78261
fireworks, associated equipment or materials, or other items 78262
within a fireworks incident site, or any evidence related to a 78263
fireworks incident, at any time after that person has reason to 78264
believe a fireworks incident has occurred, before the state fire 78265
marshal, the state fire marshal's designee, a member of the state 78266
fire marshal's staff, or other appropriate state or local law 78267
enforcement authorities permit in accordance with section 3743.541 78268
of the Revised Code the dismantling, repositioning, or other 78269
disturbance of the fireworks, equipment, materials, or items 78270
within the fireworks incident site or of any evidence related to 78271
the fireworks incident. 78272

Sec. 3745.015. There is hereby created in the state treasury 78273
the environmental protection fund consisting of money credited to 78274
the fund under ~~divisions~~ division (A)(3) ~~and (4)~~ of section 78275
3734.57 of the Revised Code. The environmental protection agency 78276
shall use money in the fund to pay the agency's costs associated 78277
with administering and enforcing, or otherwise conducting 78278

activities under, this chapter and Chapters 3704., 3734., 3746., 78279
3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 78280
6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and 78281
sections 122.65 and 1521.19 of the Revised Code. 78282

Sec. 3745.016. There is hereby created in the state treasury 78283
the federally supported cleanup and response fund consisting of 78284
money credited to the fund from federal grants, gifts, and 78285
contributions to support the investigation and remediation of 78286
contaminated property. The environmental protection agency shall 78287
use money in the fund to support the investigation and remediation 78288
of contaminated property. 78289

Sec. 3745.11. (A) Applicants for and holders of permits, 78290
licenses, variances, plan approvals, and certifications issued by 78291
the director of environmental protection pursuant to Chapters 78292
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 78293
to the environmental protection agency for each such issuance and 78294
each application for an issuance as provided by this section. No 78295
fee shall be charged for any issuance for which no application has 78296
been submitted to the director. 78297

(B) Each person who is issued a permit to install prior to 78298
July 1, 2003, pursuant to rules adopted under division (F) of 78299
section 3704.03 of the Revised Code shall pay the fees specified 78300
in the following schedules: 78301

(1) Fuel-burning equipment (boilers) 78302
Input capacity (maximum) 78303
(million British thermal units per hour) Permit to install 78304
Greater than 0, but less than 10 \$ 200 78305
10 or more, but less than 100 400 78306
100 or more, but less than 300 800 78307
300 or more, but less than 500 1500 78308

500 or more, but less than 1000	2500	78309
1000 or more, but less than 5000	4000	78310
5000 or more	6000	78311

Units burning exclusively natural gas, number two fuel oil,
or both shall be assessed a fee that is one-half of the applicable
amount established in division (F)(1) of this section.

(2) Incinerators		78315
Input capacity (pounds per hour)	Permit to install	78316
0 to 100	\$ 100	78317
101 to 500	400	78318
501 to 2000	750	78319
2001 to 20,000	1000	78320
more than 20,000	2500	78321

(3)(a) Process		78322
Process weight rate (pounds per hour)	Permit to install	78323
0 to 1000	\$ 200	78324
1001 to 5000	400	78325
5001 to 10,000	600	78326
10,001 to 50,000	800	78327
more than 50,000	1000	78328

In any process where process weight rate cannot be
ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any
person issued a permit to install pursuant to rules adopted under
division (F) of section 3704.03 of the Revised Code shall pay the
fees established in division (B)(3)(c) of this section for a
process used in any of the following industries, as identified by
the applicable four-digit standard industrial classification code
according to the Standard Industrial Classification Manual
published by the United States office of management and budget in
the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;	78340
1213 Bituminous coal and lignite mining services;	78341
1411 Dimension stone;	78342
1422 Crushed and broken limestone;	78343
1427 Crushed and broken stone, not elsewhere classified;	78344
1442 Construction sand and gravel;	78345
1446 Industrial sand;	78346
3281 Cut stone and stone products;	78347
3295 Minerals and earth, ground or otherwise treated.	78348

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	78354
10,001 to 50,000	300	78355
50,001 to 100,000	400	78356
100,001 to 200,000	500	78357
200,001 to 400,000	600	78358
400,001 or more	700	78359

(4) Storage tanks 78360

Gallons (maximum useful capacity)	Permit to install	
0 to 20,000	\$ 100	78362
20,001 to 40,000	150	78363
40,001 to 100,000	200	78364
100,001 to 250,000	250	78365
250,001 to 500,000	350	78366
500,001 to 1,000,000	500	78367
1,000,001 or greater	750	78368

(5) Gasoline/fuel dispensing facilities 78369

For each gasoline/fuel dispensing facility	Permit to install	78370
	\$ 100	78371
(6) Dry cleaning facilities		78372
For each dry cleaning facility	Permit to install	78373
(includes all units at the facility)	\$ 100	78374
(7) Registration status		78375
For each source covered	Permit to install	78376
by registration status	\$ 75	78377
(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.		78378 78379 78380 78381 78382 78383 78384 78385 78386
The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:		78387 78388 78389 78390
(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;		78391 78392 78393
(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;		78394 78395 78396
(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar		78397 78398 78399 78400

year in which the emissions occurred. 78401

The fees levied under division (C)(1) of this section do not 78402
apply to that portion of the emissions of a regulated pollutant at 78403
a facility that exceed four thousand tons during a calendar year. 78404

(2) The fees assessed under division (C)(1) of this section 78405
are for the purpose of providing funding for the Title V permit 78406
program. 78407

(3) The fees assessed under division (C)(1) of this section 78408
do not apply to emissions from any electric generating unit 78409
designated as a Phase I unit under Title IV of the federal Clean 78410
Air Act prior to calendar year 2000. Those fees shall be assessed 78411
on the emissions from such a generating unit commencing in 78412
calendar year 2001 based upon the total actual emissions from the 78413
generating unit during calendar year 2000 and shall continue to be 78414
assessed each subsequent calendar year based on the total actual 78415
emissions from the generating unit during the preceding calendar 78416
year. 78417

(4) The director shall issue invoices to owners or operators 78418
of air contaminant sources who are required to pay a fee assessed 78419
under division (C) or (D) of this section. Any such invoice shall 78420
be issued no sooner than the applicable date when the fee first 78421
may be collected in a year under the applicable division, shall 78422
identify the nature and amount of the fee assessed, and shall 78423
indicate that the fee is required to be paid within thirty days 78424
after the issuance of the invoice. 78425

(D)(1) Except as provided in division (D)(3) of this section, 78426
from January 1, 1994, through December 31, 2003, each person who 78427
owns or operates an air contaminant source; who is required to 78428
apply for a permit to operate pursuant to rules adopted under 78429
division (G), or a variance pursuant to division (H), of section 78430
3704.03 of the Revised Code; and who is not required to apply for 78431

and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 50	\$ 75	78440
50 or more, but less than 100	300	78441
100 or more	700	78442

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	78457
10 or more, but less than 50	200	78458
50 or more, but less than 100	300	78459
100 or more	700	78460

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air

contaminant sources at the facility that include terms and 78464
conditions that lower the facility's potential to emit air 78465
contaminants below the major source thresholds established in 78466
rules adopted under section 3704.036 of the Revised Code. 78467

(b) Beginning January 1, 2000, through June 30, ~~2012~~ 2014, 78468
each person who owns or operates a synthetic minor facility shall 78469
pay an annual fee based on the sum of the actual annual emissions 78470
from the facility of particulate matter, sulfur dioxide, nitrogen 78471
dioxide, organic compounds, and lead in accordance with the 78472
following schedule: 78473

Combined total tons		78474
per year of all regulated	Annual fee	78475
pollutants emitted	per facility	78476
Less than 10	\$ 170	78477
10 or more, but less than 20	340	78478
20 or more, but less than 30	670	78479
30 or more, but less than 40	1,010	78480
40 or more, but less than 50	1,340	78481
50 or more, but less than 60	1,680	78482
60 or more, but less than 70	2,010	78483
70 or more, but less than 80	2,350	78484
80 or more, but less than 90	2,680	78485
90 or more, but less than 100	3,020	78486
100 or more	3,350	78487

(4) The fees assessed under division (D)(1) of this section 78488
shall be collected annually no sooner than the fifteenth day of 78489
April, commencing in 1995. The fees assessed under division (D)(2) 78490
of this section shall be collected annually no sooner than the 78491
fifteenth day of April, commencing in 2005. The fees assessed 78492
under division (D)(3) of this section shall be collected no sooner 78493
than the fifteenth day of April, commencing in 2000. The fees 78494
assessed under division (D) of this section in a calendar year 78495

shall be based upon the sum of the actual emissions of those 78496
regulated pollutants during the preceding calendar year. For the 78497
purpose of division (D) of this section, emissions of air 78498
contaminants may be calculated using engineering calculations, 78499
emission factors, material balance calculations, or performance 78500
testing procedures, as authorized by the director. The director, 78501
by rule, may require persons who are required to pay the fees 78502
assessed under division (D) of this section to pay those fees 78503
biennially rather than annually. 78504

(E)(1) Consistent with the need to cover the reasonable costs 78505
of the Title V permit program, the director annually shall 78506
increase the fees prescribed in division (C)(1) of this section by 78507
the percentage, if any, by which the consumer price index for the 78508
most recent calendar year ending before the beginning of a year 78509
exceeds the consumer price index for calendar year 1989. Upon 78510
calculating an increase in fees authorized by division (E)(1) of 78511
this section, the director shall compile revised fee schedules for 78512
the purposes of division (C)(1) of this section and shall make the 78513
revised schedules available to persons required to pay the fees 78514
assessed under that division and to the public. 78515

(2) For the purposes of division (E)(1) of this section: 78516

(a) The consumer price index for any year is the average of 78517
the consumer price index for all urban consumers published by the 78518
United States department of labor as of the close of the 78519
twelve-month period ending on the thirty-first day of August of 78520
that year. 78521

(b) If the 1989 consumer price index is revised, the director 78522
shall use the revision of the consumer price index that is most 78523
consistent with that for calendar year 1989. 78524

(F) Each person who is issued a permit to install pursuant to 78525
rules adopted under division (F) of section 3704.03 of the Revised 78526

Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)			78527
Input capacity (maximum)			78528
(million British thermal units per hour)	Permit to install		78529
Greater than 0, but less than 10	\$ 200		78530
10 or more, but less than 100	400		78531
100 or more, but less than 300	1000		78532
300 or more, but less than 500	2250		78533
500 or more, but less than 1000	3750		78534
1000 or more, but less than 5000	6000		78535
5000 or more	9000		78536

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity			78541
Generating capacity (mega watts)	Permit to install		78542
0 or more, but less than 10	\$ 25		78543
10 or more, but less than 25	150		78544
25 or more, but less than 50	300		78545
50 or more, but less than 100	500		78546
100 or more, but less than 250	1000		78547
250 or more	2000		78548

(3) Incinerators			78549
Input capacity (pounds per hour)	Permit to install		78550
0 to 100	\$ 100		78551
101 to 500	500		78552
501 to 2000	1000		78553

2001 to 20,000	1500	78558
more than 20,000	3750	78559

(4)(a) Process		78560
Process weight rate (pounds per hour)	Permit to install	78561
0 to 1000	\$ 200	78562
1001 to 5000	500	78563
5001 to 10,000	750	78564
10,001 to 50,000	1000	78565
more than 50,000	1250	78566

In any process where process weight rate cannot be 78567
ascertained, the minimum fee shall be assessed. A boiler, furnace, 78568
combustion turbine, stationary internal combustion engine, or 78569
process heater designed to provide direct heat or power to a 78570
process not designed to generate electricity shall be assessed a 78571
fee established in division (F)(4)(a) of this section. A 78572
combustion turbine or stationary internal combustion engine 78573
designed to generate electricity shall be assessed a fee 78574
established in division (F)(2) of this section. 78575

(b) Notwithstanding division (F)(4)(a) of this section, any 78576
person issued a permit to install pursuant to rules adopted under 78577
division (F) of section 3704.03 of the Revised Code shall pay the 78578
fees set forth in division (F)(4)(c) of this section for a process 78579
used in any of the following industries, as identified by the 78580
applicable two-digit, three-digit, or four-digit standard 78581
industrial classification code according to the Standard 78582
Industrial Classification Manual published by the United States 78583
office of management and budget in the executive office of the 78584
president, 1987, as revised: 78585

Major group 10, metal mining; 78586

Major group 12, coal mining; 78587

Major group 14, mining and quarrying of nonmetallic minerals; 78588

Industry group 204, grain mill products;		78589
2873 Nitrogen fertilizers;		78590
2874 Phosphatic fertilizers;		78591
3281 Cut stone and stone products;		78592
3295 Minerals and earth, ground or otherwise treated;		78593
4221 Grain elevators (storage only);		78594
5159 Farm related raw materials;		78595
5261 Retail nurseries and lawn and garden supply stores.		78596
(c) The fees set forth in the following schedule apply to the		78597
issuance of a permit to install pursuant to rules adopted under		78598
division (F) of section 3704.03 of the Revised Code for a process		78599
identified in division (F)(4)(b) of this section:		78600
Process weight rate (pounds per	Permit to install	78601
hour)		
0 to 10,000	\$ 200	78602
10,001 to 50,000	400	78603
50,001 to 100,000	500	78604
100,001 to 200,000	600	78605
200,001 to 400,000	750	78606
400,001 or more	900	78607
(5) Storage tanks		78608
Gallons (maximum useful capacity)	Permit to install	78609
0 to 20,000	\$ 100	78610
20,001 to 40,000	150	78611
40,001 to 100,000	250	78612
100,001 to 500,000	400	78613
500,001 or greater	750	78614
(6) Gasoline/fuel dispensing facilities		78615
For each gasoline/fuel		78616
dispensing facility (includes all	Permit to install	78617

units at the facility)	\$ 100	78618
(7) Dry cleaning facilities		78619
For each dry cleaning		78620
facility (includes all units	Permit to install	78621
at the facility)	\$ 100	78622
(8) Registration status		78623
For each source covered	Permit to install	78624
by registration status	\$ 75	78625
(G) An owner or operator who is responsible for an asbestos		78626
demolition or renovation project pursuant to rules adopted under		78627
section 3704.03 of the Revised Code shall pay the fees set forth		78628
in the following schedule:		78629
Action	Fee	78630
Each notification	\$75	78631
Asbestos removal	\$3/unit	78632
Asbestos cleanup	\$4/cubic yard	78633
For purposes of this division, "unit" means any combination of		78634
linear feet or square feet equal to fifty.		78635
(H) A person who is issued an extension of time for a permit		78636
to install an air contaminant source pursuant to rules adopted		78637
under division (F) of section 3704.03 of the Revised Code shall		78638
pay a fee equal to one-half the fee originally assessed for the		78639
permit to install under this section, except that the fee for such		78640
an extension shall not exceed two hundred dollars.		78641
(I) A person who is issued a modification to a permit to		78642
install an air contaminant source pursuant to rules adopted under		78643
section 3704.03 of the Revised Code shall pay a fee equal to		78644
one-half of the fee that would be assessed under this section to		78645
obtain a permit to install the source. The fee assessed by this		78646
division only applies to modifications that are initiated by the		78647
owner or operator of the source and shall not exceed two thousand		78648

dollars. 78649

(J) Notwithstanding division (B) or (F) of this section, a 78650
person who applies for or obtains a permit to install pursuant to 78651
rules adopted under division (F) of section 3704.03 of the Revised 78652
Code after the date actual construction of the source began shall 78653
pay a fee for the permit to install that is equal to twice the fee 78654
that otherwise would be assessed under the applicable division 78655
unless the applicant received authorization to begin construction 78656
under division (W) of section 3704.03 of the Revised Code. This 78657
division only applies to sources for which actual construction of 78658
the source begins on or after July 1, 1993. The imposition or 78659
payment of the fee established in this division does not preclude 78660
the director from taking any administrative or judicial 78661
enforcement action under this chapter, Chapter 3704., 3714., 78662
3734., or 6111. of the Revised Code, or a rule adopted under any 78663
of them, in connection with a violation of rules adopted under 78664
division (F) of section 3704.03 of the Revised Code. 78665

As used in this division, "actual construction of the source" 78666
means the initiation of physical on-site construction activities 78667
in connection with improvements to the source that are permanent 78668
in nature, including, without limitation, the installation of 78669
building supports and foundations and the laying of underground 78670
pipework. 78671

(K) Fifty cents per ton of each fee assessed under division 78672
(C) of this section on actual emissions from a source and received 78673
by the environmental protection agency pursuant to that division 78674
shall be deposited into the state treasury to the credit of the 78675
small business assistance fund created in section 3706.19 of the 78676
Revised Code. The remainder of the moneys received by the division 78677
pursuant to that division and moneys received by the agency 78678
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 78679
section shall be deposited in the state treasury to the credit of 78680

the clean air fund created in section 3704.035 of the Revised Code. 78681
78682

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 78683
or (c) of this section, a person issued a water discharge permit 78684
or renewal of a water discharge permit pursuant to Chapter 6111. 78685
of the Revised Code shall pay a fee based on each point source to 78686
which the issuance is applicable in accordance with the following 78687
schedule: 78688

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	78690
1,001 to 5000	100	78691
5,001 to 50,000	200	78692
50,001 to 100,000	300	78693
100,001 to 300,000	525	78694
over 300,000	750	78695

(b) Notwithstanding the fee schedule specified in division 78696
(L)(1)(a) of this section, the fee for a water discharge permit 78697
that is applicable to coal mining operations regulated under 78698
Chapter 1513. of the Revised Code shall be two hundred fifty 78699
dollars per mine. 78700

(c) Notwithstanding the fee schedule specified in division 78701
(L)(1)(a) of this section, the fee for a water discharge permit 78702
for a public discharger identified by I in the third character of 78703
the permittee's NPDES permit number shall not exceed seven hundred 78704
fifty dollars. 78705

(2) A person applying for a plan approval for a wastewater 78706
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 78707
of the Revised Code shall pay a fee of one hundred dollars plus 78708
sixty-five one-hundredths of one per cent of the estimated project 78709
cost through June 30, ~~2012~~ 2014, and one hundred dollars plus 78710
two-tenths of one per cent of the estimated project cost on and 78711
after July 1, ~~2012~~ 2014, except that the total fee shall not 78712

exceed fifteen thousand dollars through June 30, ~~2012~~ 2014, and 78713
five thousand dollars on and after July 1, ~~2012~~ 2014. The fee 78714
shall be paid at the time the application is submitted. 78715

(3) A person issued a modification of a water discharge 78716
permit shall pay a fee equal to one-half the fee that otherwise 78717
would be charged for a water discharge permit, except that the fee 78718
for the modification shall not exceed four hundred dollars. 78719

(4) A person who has entered into an agreement with the 78720
director under section 6111.14 of the Revised Code shall pay an 78721
administrative service fee for each plan submitted under that 78722
section for approval that shall not exceed the minimum amount 78723
necessary to pay administrative costs directly attributable to 78724
processing plan approvals. The director annually shall calculate 78725
the fee and shall notify all persons who have entered into 78726
agreements under that section, or who have applied for agreements, 78727
of the amount of the fee. 78728

(5)(a)(i) Not later than January 30, ~~2010~~ 2012, and January 78729
30, ~~2011~~ 2013, a person holding an NPDES discharge permit issued 78730
pursuant to Chapter 6111. of the Revised Code with an average 78731
daily discharge flow of five thousand gallons or more shall pay a 78732
nonrefundable annual discharge fee. Any person who fails to pay 78733
the fee at that time shall pay an additional amount that equals 78734
ten per cent of the required annual discharge fee. 78735

(ii) The billing year for the annual discharge fee 78736
established in division (L)(5)(a)(i) of this section shall consist 78737
of a twelve-month period beginning on the first day of January of 78738
the year preceding the date when the annual discharge fee is due. 78739
In the case of an existing source that permanently ceases to 78740
discharge during a billing year, the director shall reduce the 78741
annual discharge fee, including the surcharge applicable to 78742
certain industrial facilities pursuant to division (L)(5)(c) of 78743
this section, by one-twelfth for each full month during the 78744

billing year that the source was not discharging, but only if the 78745
person holding the NPDES discharge permit for the source notifies 78746
the director in writing, not later than the first day of October 78747
of the billing year, of the circumstances causing the cessation of 78748
discharge. 78749

(iii) The annual discharge fee established in division 78750
(L)(5)(a)(i) of this section, except for the surcharge applicable 78751
to certain industrial facilities pursuant to division (L)(5)(c) of 78752
this section, shall be based upon the average daily discharge flow 78753
in gallons per day calculated using first day of May through 78754
thirty-first day of October flow data for the period two years 78755
prior to the date on which the fee is due. In the case of NPDES 78756
discharge permits for new sources, the fee shall be calculated 78757
using the average daily design flow of the facility until actual 78758
average daily discharge flow values are available for the time 78759
period specified in division (L)(5)(a)(iii) of this section. The 78760
annual discharge fee may be prorated for a new source as described 78761
in division (L)(5)(a)(ii) of this section. 78762

(b) An NPDES permit holder that is a public discharger shall 78763
pay the fee specified in the following schedule: 78764

Average daily	Fee due by	
discharge flow	January 30,	
	2010 <u>2012</u> , and	
	January 30, 2011	
	<u>2013</u>	
5,000 to 49,999	\$ 200	78769
50,000 to 100,000	500	78770
100,001 to 250,000	1,050	78771
250,001 to 1,000,000	2,600	78772
1,000,001 to 5,000,000	5,200	78773
5,000,001 to 10,000,000	10,350	78774
10,000,001 to 20,000,000	15,550	78775

20,000,001 to 50,000,000	25,900	78776
50,000,001 to 100,000,000	41,400	78777
100,000,001 or more	62,100	78778

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2010 <u>2012</u> , and January 30, 2011 <u>2013</u>	
5,000 to 49,999	\$ 250	78795
50,000 to 250,000	1,200	78796
250,001 to 1,000,000	2,950	78797
1,000,001 to 5,000,000	5,850	78798
5,000,001 to 10,000,000	8,800	78799
10,000,001 to 20,000,000	11,700	78800
20,000,001 to 100,000,000	14,050	78801
100,000,001 to 250,000,000	16,400	78802
250,000,001 or more	18,700	78803

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee

billing year specified in division (L)(5)(a)(ii) of this section 78807
shall pay a nonrefundable annual surcharge of seven thousand five 78808
hundred dollars not later than January 30, ~~2010~~ 2012, and not 78809
later than January 30, ~~2011~~ 2013. Any person who fails to pay the 78810
surcharge at that time shall pay an additional amount that equals 78811
ten per cent of the amount of the surcharge. 78812

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 78813
section, a public discharger identified by I in the third 78814
character of the permittee's NPDES permit number and an industrial 78815
discharger identified by I, J, L, V, W, X, Y, or Z in the third 78816
character of the permittee's NPDES permit number shall pay a 78817
nonrefundable annual discharge fee of one hundred eighty dollars 78818
not later than January 30, ~~2010~~ 2012, and not later than January 78819
30, ~~2011~~ 2013. Any person who fails to pay the fee at that time 78820
shall pay an additional amount that equals ten per cent of the 78821
required fee. 78822

(6) Each person obtaining a national pollutant discharge 78823
elimination system general or individual permit for municipal 78824
storm water discharge shall pay a nonrefundable storm water 78825
discharge fee of one hundred dollars per square mile of area 78826
permitted. The fee shall not exceed ten thousand dollars and shall 78827
be payable on or before January 30, 2004, and the thirtieth day of 78828
January of each year thereafter. Any person who fails to pay the 78829
fee on the date specified in division (L)(6) of this section shall 78830
pay an additional amount per year equal to ten per cent of the 78831
annual fee that is unpaid. 78832

(7) The director shall transmit all moneys collected under 78833
division (L) of this section to the treasurer of state for deposit 78834
into the state treasury to the credit of the surface water 78835
protection fund created in section 6111.038 of the Revised Code. 78836

(8) As used in division (L) of this section: 78837

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2012~~ 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of

the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of service connections	Fee amount	
Not more than 49	\$ 112	78872
50 to 99	176	78873
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	78875
2,500 to 4,999	1.48	78876
5,000 to 7,499	1.42	78877
7,500 to 9,999	1.34	78878
10,000 to 14,999	1.16	78879
15,000 to 24,999	1.10	78880
25,000 to 49,999	1.04	78881
50,000 to 99,999	.92	78882
100,000 to 149,999	.86	78883
150,000 to 199,999	.80	78884
200,000 or more	.76	78885

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 112	78900

150 to 299	176	78901
300 to 749	384	78902
750 to 1,499	628	78903
1,500 to 2,999	1,268	78904
3,000 to 7,499	2,816	78905
7,500 to 14,999	5,510	78906
15,000 to 22,499	9,048	78907
22,500 to 29,999	12,430	78908
30,000 or more	16,820	78909

As used in division (M)(2) of this section, "population served" means the total number of individuals ~~receiving water from~~ having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of wells <u>or sources, other than surface water,</u> supplying system	Fee amount	
1	\$112	78922
2	112	78923
3	176	78924
4	278	78925
5	568	78926
System designated as using a surface water source	792	78928

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the

plumbing system serving the public water system. 78932

(4) A public water system designated as using a surface water 78933
source shall pay a fee of seven hundred ninety-two dollars or the 78934
amount calculated under division (M)(1) or (2) of this section, 78935
whichever is greater. 78936

(N)(1) A person applying for a plan approval for a public 78937
water supply system under section 6109.07 of the Revised Code 78938
shall pay a fee of one hundred fifty dollars plus thirty-five 78939
hundredths of one per cent of the estimated project cost, except 78940
that the total fee shall not exceed twenty thousand dollars 78941
through June 30, ~~2012~~ 2014, and fifteen thousand dollars on and 78942
after July 1, ~~2012~~ 2014. The fee shall be paid at the time the 78943
application is submitted. 78944

(2) A person who has entered into an agreement with the 78945
director under division (A)(2) of section 6109.07 of the Revised 78946
Code shall pay an administrative service fee for each plan 78947
submitted under that section for approval that shall not exceed 78948
the minimum amount necessary to pay administrative costs directly 78949
attributable to processing plan approvals. The director annually 78950
shall calculate the fee and shall notify all persons that have 78951
entered into agreements under that division, or who have applied 78952
for agreements, of the amount of the fee. 78953

(3) Through June 30, ~~2012~~ 2014, the following fee, on a per 78954
survey basis, shall be charged any person for services rendered by 78955
the state in the evaluation of laboratories and laboratory 78956
personnel for compliance with accepted analytical techniques and 78957
procedures established pursuant to Chapter 6109. of the Revised 78958
Code for determining the qualitative characteristics of water: 78959

microbiological		78960
MMO-MUG	\$2,000	78961
MF	2,100	78962

MMO-MUG and MF	2,550	78963
organic chemical	5,400	78964
trace metals	5,400	78965
standard chemistry	2,800	78966
limited chemistry	1,550	78967

On and after July 1, ~~2012~~ 2014, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	78970
organic chemicals	3,500	78971
trace metals	3,500	78972
standard chemistry	1,800	78973
limited chemistry	1,000	78974

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2012~~ 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or

wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2012~~ 2014, and twenty-five dollars on and after December 1, ~~2012~~ 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2012~~ 2014:

Class A operator	\$35	79001
Class I operator	60	79002
Class II operator	75	79003
Class III operator	85	79004
Class IV operator	100	79005

On and after December 1, ~~2012~~ 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25	79008
Class I operator	\$45	79009
Class II operator	55	79010
Class III operator	65	79011
Class IV operator	75	79012

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25	79016
Class I operator	35	79017
Class II operator	45	79018
Class III operator	55	79019
Class IV operator	65	79020

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following

schedule:		79025
Class A operator	\$45	79026
Class I operator	55	79027
Class II operator	65	79028
Class III operator	75	79029
Class IV operator	85	79030

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or

treatment capacity of the facility pursuant to Chapter 3734. of 79057
the Revised Code shall pay a fee of ten dollars per thousand cubic 79058
yards of disposal or treatment capacity, or one thousand dollars, 79059
whichever is greater, except that the total fee for any such 79060
permit shall not exceed eighty thousand dollars. A person issued a 79061
modification of a permit for a solid waste disposal facility or an 79062
infectious waste treatment facility that does not involve an 79063
increase in the total disposal or treatment capacity of the 79064
facility shall pay a fee of one thousand dollars. A person issued 79065
a permit to install a new, or modify an existing, solid waste 79066
transfer facility under that chapter shall pay a fee of two 79067
thousand five hundred dollars. A person issued a permit to install 79068
a new or to modify an existing solid waste incineration or 79069
composting facility, or an existing infectious waste treatment 79070
facility using incineration as its principal method of treatment, 79071
under that chapter shall pay a fee of one thousand dollars. The 79072
increases in the permit fees under this division resulting from 79073
the amendments made by Amended Substitute House Bill 592 of the 79074
117th general assembly do not apply to any person who submitted an 79075
application for a permit to install a new, or modify an existing, 79076
solid waste disposal facility under that chapter prior to 79077
September 1, 1987; any such person shall pay the permit fee 79078
established in this division as it existed prior to June 24, 1988. 79079
In addition to the applicable permit fee under this division, a 79080
person issued a permit to install or modify a solid waste facility 79081
or an infectious waste treatment facility under that chapter who 79082
fails to pay the permit fee to the director in compliance with 79083
division (V) of this section shall pay an additional ten per cent 79084
of the amount of the fee for each week that the permit fee is 79085
late. 79086

Permit and late payment fees paid to the director under this 79087
division shall be credited to the general revenue fund. 79088

(R)(1) A person issued a registration certificate for a scrap
tire collection facility under section 3734.75 of the Revised Code
shall pay a fee of two hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new
scrap tire storage facility under section 3734.76 of the Revised
Code shall pay a fee of three hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage
facility under section 3734.76 of the Revised Code shall pay a fee
of one thousand dollars, except that if the facility is owned or
operated by a motor vehicle salvage dealer licensed under Chapter
4738. of the Revised Code, the person shall pay a fee of fifty
dollars.

(4) A person issued a permit for a scrap tire monocell or
monofill facility under section 3734.77 of the Revised Code shall
pay a fee of ten dollars per thousand cubic yards of disposal
capacity or one thousand dollars, whichever is greater, except
that the total fee for any such permit shall not exceed eighty
thousand dollars.

(5) A person issued a registration certificate for a scrap
tire recovery facility under section 3734.78 of the Revised Code
shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery
facility under section 3734.78 of the Revised Code shall pay a fee
of one thousand dollars.

(7) In addition to the applicable registration certificate or

permit fee under divisions (R)(1) to (6) of this section, a person 79120
issued a registration certificate or permit for any such scrap 79121
tire facility who fails to pay the registration certificate or 79122
permit fee to the director in compliance with division (V) of this 79123
section shall pay an additional ten per cent of the amount of the 79124
fee for each week that the fee is late. 79125

(8) The registration certificate, permit, and late payment 79126
fees paid to the director under divisions (R)(1) to (7) of this 79127
section shall be credited to the scrap tire management fund 79128
created in section 3734.82 of the Revised Code. 79129

(S)(1) Except as provided by divisions (L), (M), (N), (O), 79130
(P), and (S)(2) of this section, division (A)(2) of section 79131
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 79132
and rules adopted under division (T)(1) of this section, any 79133
person applying for a registration certificate under section 79134
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 79135
variance, or plan approval under Chapter 3734. of the Revised Code 79136
shall pay a nonrefundable fee of fifteen dollars at the time the 79137
application is submitted. 79138

Except as otherwise provided, any person applying for a 79139
permit, variance, or plan approval under Chapter 6109. or 6111. of 79140
the Revised Code shall pay a nonrefundable fee of one hundred 79141
dollars at the time the application is submitted through June 30, 79142
~~2012~~ 2014, and a nonrefundable fee of fifteen dollars at the time 79143
the application is submitted on and after July 1, ~~2012~~ 2014. 79144
~~Through~~ Except as provided in division (S)(3) of this section, 79145
through June 30, ~~2012~~ 2014, any person applying for a national 79146
pollutant discharge elimination system permit under Chapter 6111. 79147
of the Revised Code shall pay a nonrefundable fee of two hundred 79148
dollars at the time of application for the permit. On and after 79149
July 1, ~~2012~~ 2014, such a person shall pay a nonrefundable fee of 79150
fifteen dollars at the time of application. 79151

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration

certificate, permit, variance, or plan approval for which an 79184
application fee is established under division (S)(1) of this 79185
section shall not be reviewed or processed until the applicable 79186
application fee, and any other fees established under this 79187
division, are paid. 79188

(2) Division (S)(1) of this section does not apply to an 79189
application for a registration certificate for a scrap tire 79190
collection or storage facility submitted under section 3734.75 or 79191
3734.76 of the Revised Code, as applicable, if the owner or 79192
operator of the facility or proposed facility is a motor vehicle 79193
salvage dealer licensed under Chapter 4738. of the Revised Code. 79194

(3) A person applying for coverage under a national pollutant 79195
discharge elimination system general discharge permit for 79196
household sewage treatment systems shall pay the following fees: 79197

(a) A nonrefundable fee of two hundred dollars at the time of 79198
application for initial permit coverage; 79199

(b) A nonrefundable fee of one hundred dollars at the time of 79200
application for a renewal of permit coverage. 79201

(T) The director may adopt, amend, and rescind rules in 79202
accordance with Chapter 119. of the Revised Code that do all of 79203
the following: 79204

(1) Prescribe fees to be paid by applicants for and holders 79205
of any license, permit, variance, plan approval, or certification 79206
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 79207
the Revised Code that are not specifically established in this 79208
section. The fees shall be designed to defray the cost of 79209
processing, issuing, revoking, modifying, denying, and enforcing 79210
the licenses, permits, variances, plan approvals, and 79211
certifications. 79212

The director shall transmit all moneys collected under rules 79213
adopted under division (T)(1) of this section pursuant to Chapter 79214

6109. of the Revised Code to the treasurer of state for deposit 79215
into the drinking water protection fund created in section 6109.30 79216
of the Revised Code. 79217

The director shall transmit all moneys collected under rules 79218
adopted under division (T)(1) of this section pursuant to Chapter 79219
6111. of the Revised Code to the treasurer of state for deposit 79220
into the surface water protection fund created in section 6111.038 79221
of the Revised Code. 79222

(2) Exempt the state and political subdivisions thereof, 79223
including education facilities or medical facilities owned by the 79224
state or a political subdivision, or any person exempted from 79225
taxation by section 5709.07 or 5709.12 of the Revised Code, from 79226
any fee required by this section; 79227

(3) Provide for the waiver of any fee, or any part thereof, 79228
otherwise required by this section whenever the director 79229
determines that the imposition of the fee would constitute an 79230
unreasonable cost of doing business for any applicant, class of 79231
applicants, or other person subject to the fee; 79232

(4) Prescribe measures that the director considers necessary 79233
to carry out this section. 79234

(U) When the director reasonably demonstrates that the direct 79235
cost to the state associated with the issuance of a permit to 79236
install, license, variance, plan approval, or certification 79237
exceeds the fee for the issuance or review specified by this 79238
section, the director may condition the issuance or review on the 79239
payment by the person receiving the issuance or review of, in 79240
addition to the fee specified by this section, the amount, or any 79241
portion thereof, in excess of the fee specified under this 79242
section. The director shall not so condition issuances for which 79243
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 79244
section. 79245

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V

permit, permit revision, or permit renewal, including the 79277
development of an applicable requirement as part of the processing 79278
of a permit, permit revision, or permit renewal; 79279

(c) Administering the permit program, including the 79280
supporting and tracking of permit applications, compliance 79281
certification, and related data entry; 79282

(d) Determining which sources are subject to the program and 79283
implementing and enforcing the terms of any Title V permit, not 79284
including any court actions or other formal enforcement actions; 79285

(e) Emission and ambient monitoring; 79286

(f) Modeling, analyses, or demonstrations; 79287

(g) Preparing inventories and tracking emissions; 79288

(h) Providing direct and indirect support to small business 79289
stationary sources to determine and meet their obligations under 79290
the federal Clean Air Act pursuant to the small business 79291
stationary source technical and environmental compliance 79292
assistance program required by section 507 of that act and 79293
established in sections 3704.18, 3704.19, and 3706.19 of the 79294
Revised Code. 79295

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 79296
of this section, each sewage sludge facility shall pay a 79297
nonrefundable annual sludge fee equal to three dollars and fifty 79298
cents per dry ton of sewage sludge, including the dry tons of 79299
sewage sludge in materials derived from sewage sludge, that the 79300
sewage sludge facility treats or disposes of in this state. The 79301
annual volume of sewage sludge treated or disposed of by a sewage 79302
sludge facility shall be calculated using the first day of January 79303
through the thirty-first day of December of the calendar year 79304
preceding the date on which payment of the fee is due. 79305

(2)(a) Except as provided in division (Y)(2)(d) of this 79306

section, each sewage sludge facility shall pay a minimum annual
sewage sludge fee of one hundred dollars. 79307
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(b) The annual sludge fee required to be paid by a sewage
sludge facility that treats or disposes of exceptional quality
sludge in this state shall be thirty-five per cent less per dry
ton of exceptional quality sludge than the fee assessed under
division (Y)(1) of this section, subject to the following
exceptions: 79309
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(i) Except as provided in division (Y)(2)(d) of this section,
a sewage sludge facility that treats or disposes of exceptional
quality sludge shall pay a minimum annual sewage sludge fee of one
hundred dollars. 79315
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(ii) A sewage sludge facility that treats or disposes of
exceptional quality sludge shall not be required to pay the annual
sludge fee for treatment or disposal in this state of exceptional
quality sludge generated outside of this state and contained in
bags or other containers not greater than one hundred pounds in
capacity. 79319
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A thirty-five per cent reduction for exceptional quality
sludge applies to the maximum annual fees established under
division (Y)(3) of this section. 79325
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(c) A sewage sludge facility that transfers sewage sludge to
another sewage sludge facility in this state for further treatment
prior to disposal in this state shall not be required to pay the
annual sludge fee for the tons of sewage sludge that have been
transferred. In such a case, the sewage sludge facility that
disposes of the sewage sludge shall pay the annual sludge fee.
However, the facility transferring the sewage sludge shall pay the
one-hundred-dollar minimum fee required under division (Y)(2)(a)
of this section. 79328
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In the case of a sewage sludge facility that treats sewage 79337

sludge in this state and transfers it out of this state to another 79338
entity for disposal, the sewage sludge facility in this state 79339
shall be required to pay the annual sludge fee for the tons of 79340
sewage sludge that have been transferred. 79341

(d) A sewage sludge facility that generates sewage sludge 79342
resulting from an average daily discharge flow of less than five 79343
thousand gallons per day is not subject to the fees assessed under 79344
division (Y) of this section. 79345

(3) No sewage sludge facility required to pay the annual 79346
sludge fee shall be required to pay more than the maximum annual 79347
fee for each disposal method that the sewage sludge facility uses. 79348
The maximum annual fee does not include the additional amount that 79349
may be charged under division (Y)(5) of this section for late 79350
payment of the annual sludge fee. The maximum annual fee for the 79351
following methods of disposal of sewage sludge is as follows: 79352

(a) Incineration: five thousand dollars; 79353

(b) Preexisting land reclamation project or disposal in a 79354
landfill: five thousand dollars; 79355

(c) Land application, land reclamation, surface disposal, or 79356
any other disposal method not specified in division (Y)(3)(a) or 79357
(b) of this section: twenty thousand dollars. 79358

(4)(a) In the case of an entity that generates sewage sludge 79359
or a sewage sludge facility that treats sewage sludge and 79360
transfers the sewage sludge to an incineration facility for 79361
disposal, the incineration facility, and not the entity generating 79362
the sewage sludge or the sewage sludge facility treating the 79363
sewage sludge, shall pay the annual sludge fee for the tons of 79364
sewage sludge that are transferred. However, the entity or 79365
facility generating or treating the sewage sludge shall pay the 79366
one-hundred-dollar minimum fee required under division (Y)(2)(a) 79367
of this section. 79368

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall

issue with the notification a new invoice to the person 79401
identifying the amount of the annual sludge fee assessed and 79402
stating the first day of July as the deadline for payment. 79403

Not later than the first day of July, any person who is 79404
required to do so shall pay the annual sludge fee. Any person who 79405
is required to pay the fee, but who fails to do so on or before 79406
that date shall pay an additional amount that equals ten per cent 79407
of the required annual sludge fee. 79408

(6) The director shall transmit all moneys collected under 79409
division (Y) of this section to the treasurer of state for deposit 79410
into the surface water protection fund created in section 6111.038 79411
of the Revised Code. The moneys shall be used to defray the costs 79412
of administering and enforcing provisions in Chapter 6111. of the 79413
Revised Code and rules adopted under it that govern the use, 79414
storage, treatment, or disposal of sewage sludge. 79415

(7) Beginning in fiscal year 2001, and every two years 79416
thereafter, the director shall review the total amount of moneys 79417
generated by the annual sludge fees to determine if that amount 79418
exceeded six hundred thousand dollars in either of the two 79419
preceding fiscal years. If the total amount of moneys in the fund 79420
exceeded six hundred thousand dollars in either fiscal year, the 79421
director, after review of the fee structure and consultation with 79422
affected persons, shall issue an order reducing the amount of the 79423
fees levied under division (Y) of this section so that the 79424
estimated amount of moneys resulting from the fees will not exceed 79425
six hundred thousand dollars in any fiscal year. 79426

If, upon review of the fees under division (Y)(7) of this 79427
section and after the fees have been reduced, the director 79428
determines that the total amount of moneys collected and 79429
accumulated is less than six hundred thousand dollars, the 79430
director, after review of the fee structure and consultation with 79431
affected persons, may issue an order increasing the amount of the 79432

fees levied under division (Y) of this section so that the 79433
estimated amount of moneys resulting from the fees will be 79434
approximately six hundred thousand dollars. Fees shall never be 79435
increased to an amount exceeding the amount specified in division 79436
(Y)(7) of this section. 79437

Notwithstanding section 119.06 of the Revised Code, the 79438
director may issue an order under division (Y)(7) of this section 79439
without the necessity to hold an adjudicatory hearing in 79440
connection with the order. The issuance of an order under this 79441
division is not an act or action for purposes of section 3745.04 79442
of the Revised Code. 79443

(8) As used in division (Y) of this section: 79444

(a) "Sewage sludge facility" means an entity that performs 79445
treatment on or is responsible for the disposal of sewage sludge. 79446

(b) "Sewage sludge" means a solid, semi-solid, or liquid 79447
residue generated during the treatment of domestic sewage in a 79448
treatment works as defined in section 6111.01 of the Revised Code. 79449
"Sewage sludge" includes, but is not limited to, scum or solids 79450
removed in primary, secondary, or advanced wastewater treatment 79451
processes. "Sewage sludge" does not include ash generated during 79452
the firing of sewage sludge in a sewage sludge incinerator, grit 79453
and screenings generated during preliminary treatment of domestic 79454
sewage in a treatment works, animal manure, residue generated 79455
during treatment of animal manure, or domestic septage. 79456

(c) "Exceptional quality sludge" means sewage sludge that 79457
meets all of the following qualifications: 79458

(i) Satisfies the class A pathogen standards in 40 C.F.R. 79459
503.32(a); 79460

(ii) Satisfies one of the vector attraction reduction 79461
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 79462

- (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13; 79463
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- (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. 79465
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- (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. 79467
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- (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. 79470
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- (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil. 79473
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- (g) "Land reclamation" means the returning of disturbed land to productive use. 79478
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- (h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites. 79480
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- (i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device. 79484
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- (j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway. 79488
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- (k) "Annual sludge fee" means the fee assessed under division 79492

(Y)(1) of this section. 79493

(1) "Landfill" means a sanitary landfill facility, as defined 79494
in rules adopted under section 3734.02 of the Revised Code, that 79495
is licensed under section 3734.05 of the Revised Code. 79496

(m) "Preexisting land reclamation project" means a 79497
property-specific land reclamation project that has been in 79498
continuous operation for not less than five years pursuant to 79499
approval of the activity by the director and includes the 79500
implementation of a community outreach program concerning the 79501
activity. 79502

Sec. 3746.02. (A) Nothing in this chapter applies to any of 79503
the following: 79504

(1) Property for which a voluntary action under this chapter 79505
is precluded by federal law or regulations adopted under federal 79506
law, including, without limitation, any of the following federal 79507
laws or regulations adopted thereunder: 79508

(a) The "Federal Water Pollution Control Act Amendments of 79509
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 79510

(b) The "Resource Conservation and Recovery Act of 1976," 90 79511
Stat. 2806, 42 U.S.C.A. 6921, as amended; 79512

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 79513
15 U.S.C.A. 2601, as amended; 79514

(d) The "Comprehensive Environmental Response, Compensation, 79515
and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as 79516
amended; 79517

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 79518
U.S.C.A. 300(f), as amended. 79519

(2) Those portions of property where closure of a hazardous 79520
waste facility or solid waste facility is required under Chapter 79521

3734. of the Revised Code or rules adopted under it; 79522

(3) ~~Property or~~ Except for a class C release as defined in 79523
section 3737.87 of the Revised Code, properties regardless of 79524
ownership that are subject to remediation rules adopted under the 79525
authority of the division of fire marshal in the department of 79526
commerce, including remediation rules adopted under sections 79527
3737.88, 3737.882, and 3737.889 of the Revised Code; 79528

(4) Property that is subject to Chapter 1509. of the Revised 79529
Code; 79530

(5) Any other property if the director of environmental 79531
protection has issued a letter notifying the owner or operator of 79532
the property that ~~he~~ the director will issue an enforcement order 79533
under Chapter 3704., 3734., or 6111. of the Revised Code, a 79534
release or threatened release of a hazardous substance or 79535
petroleum from or at the property poses a substantial threat to 79536
public health or safety or the environment, and the person subject 79537
to the order does not present sufficient evidence to the director 79538
that ~~he~~ the person has entered into the voluntary action program 79539
under this chapter and is proceeding expeditiously to address that 79540
threat. For the purposes of this division, the evidence 79541
constituting sufficient evidence of entry into the voluntary 79542
action program under this chapter shall be defined by the director 79543
by rules adopted under section 3746.04 of the Revised Code. Until 79544
such time as the director has adopted those rules, the director, 79545
at a minimum, shall consider the existence of a contract with a 79546
certified professional to appropriately respond to the threat 79547
named in the director's letter informing the person of ~~his~~ the 79548
director's intent to issue an enforcement order and the 79549
availability of financial resources to complete the contract to be 79550
sufficient evidence of entry into the program. 79551

(B) The application of any provision of division (A) of this 79552
section to a portion of property does not preclude participation 79553

in the voluntary action program under this chapter in connection 79554
with other portions of the property where those provisions do not 79555
apply. 79556

(C) As used in this section, "property" means any parcel of 79557
real property, or portion thereof, and any improvements thereto. 79558

Sec. 3750.081. (A) Notwithstanding any provision in this 79559
chapter to the contrary, an owner or operator of a facility that 79560
is regulated under Chapter 1509. of the Revised Code who has filed 79561
a log in accordance with section 1509.10 of the Revised Code and a 79562
production statement in accordance with section 1509.11 of the 79563
Revised Code shall be deemed to have satisfied all of the 79564
inventory, notification, listing, and other submission and filing 79565
requirements established under this chapter, except for the 79566
release reporting requirements established under section 3750.06 79567
of the Revised Code. 79568

(B) The emergency response commission and every local 79569
emergency planning committee and fire department in this state 79570
shall establish a means by which to access, view, and retrieve 79571
information, through the use of the internet or a computer disk, 79572
from the electronic database maintained by the division of ~~mineral~~ 79573
oil and gas resources management in the department of natural 79574
resources in accordance with section 1509.23 of the Revised Code. 79575
With respect to facilities regulated under Chapter 1509. of the 79576
Revised Code, the database shall be the means of providing and 79577
receiving the information described in division (A) of this 79578
section. 79579

Sec. 3767.32. (A) No person, regardless of intent, shall 79580
deposit litter or cause litter to be deposited on any public 79581
property, on private property not owned by ~~him~~ the person, or in 79582
or on waters of the state unless one of the following applies: 79583

(1) The person is directed to do so by a public official as 79584
part of a litter collection drive; 79585

(2) Except as provided in division (B) of this section, the 79586
person deposits the litter in a litter receptacle in a manner that 79587
prevents its being carried away by the elements; 79588

(3) The person is issued a permit or license covering the 79589
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 79590

(B) No person, without privilege to do so, shall knowingly 79591
deposit litter, or cause it to be deposited, in a litter 79592
receptacle located on any public property or on any private 79593
property not owned by ~~him~~ the person unless one of the following 79594
applies: 79595

(1) The litter was generated or located on the property on 79596
which the litter receptacle is located; 79597

(2) The person is directed to do so by a public official as 79598
part of a litter collection drive; 79599

(3) The person is directed to do so by a person whom ~~he~~ the 79600
person reasonably believes to have the privilege to use the litter 79601
receptacle; 79602

(4) The litter consists of any of the following: 79603

(a) The contents of a litter bag or container of a type and 79604
size customarily carried and used in a motor vehicle; 79605

(b) The contents of an ash tray of a type customarily 79606
installed or carried and used in a motor vehicle; 79607

(c) Beverage containers and food sacks, wrappings, and 79608
containers of a type and in an amount that reasonably may be 79609
expected to be generated during routine commuting or business or 79610
recreational travel by a motor vehicle; 79611

(d) Beverage containers, food sacks, wrappings, containers, 79612
and other materials of a type and in an amount that reasonably may 79613

be expected to be generated during a routine day by a person and 79614
deposited in a litter receptacle by a casual passerby. 79615

(C)(1) As used in division (B)(1) of this section, "public 79616
property" includes any private property open to the public for the 79617
conduct of business, the provision of a service, or upon the 79618
payment of a fee, but does not include any private property to 79619
which the public otherwise does not have a right of access. 79620

(2) As used in division (B)(4) of this section, "casual 79621
passerby" means a person who does not have depositing litter in a 79622
litter receptacle as ~~his~~ the person's primary reason for traveling 79623
to or by the property on which the litter receptacle is located. 79624

(D) As used in this section: 79625

(1) "Litter" means garbage, trash, waste, rubbish, ashes, 79626
cans, bottles, wire, paper, cartons, boxes, automobile parts, 79627
furniture, glass, or anything else of an unsightly or unsanitary 79628
nature. 79629

(2) "Deposit" means to throw, drop, discard, or place. 79630

(3) "Litter receptacle" means a dumpster, trash can, trash 79631
bin, garbage can, or similar container in which litter is 79632
deposited for removal. 79633

(E) This section may be enforced by any sheriff, deputy 79634
sheriff, police officer of a municipal corporation, police 79635
constable or officer of a township, or township or joint police 79636
district, wildlife officer, park officer, forest officer, preserve 79637
officer, conservancy district police officer, inspector of 79638
nuisances of a county, or any other law enforcement officer within 79639
~~his~~ the law enforcement officer's jurisdiction. 79640

Sec. 3769.08. (A) Any person holding a permit to conduct a 79641
horse-racing meeting may provide a place in the race meeting 79642
grounds or enclosure at which the permit holder may conduct and 79643

supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars

wagered, or any part of that amount; 79675

(2) Two per cent of the next one hundred thousand dollars 79676
wagered, or any part of that amount; 79677

(3) Three per cent of the next one hundred thousand dollars 79678
wagered, or any part of that amount; 79679

(4) Four per cent of all sums over four hundred thousand 79680
dollars wagered. 79681

Except as otherwise provided in section 3769.089 of the 79682
Revised Code, each permit holder authorized to conduct 79683
thoroughbred racing shall use for purse money a sum equal to fifty 79684
per cent of the pari-mutuel revenues retained by the permit holder 79685
as a commission after payment of the state tax. This fifty per 79686
cent payment shall be in addition to the purse distribution from 79687
breakage specified in this section. 79688

Subject to division (M) of this section, from the moneys paid 79689
to the tax commissioner by thoroughbred racing permit holders, 79690
one-half of one per cent of the total of all moneys so wagered on 79691
a racing day shall be paid into the Ohio fairs fund created by 79692
section 3769.082 of the Revised Code, one and one-eighth per cent 79693
of the total of all moneys so wagered on a racing day shall be 79694
paid into the Ohio thoroughbred race fund created by section 79695
3769.083 of the Revised Code, and one-quarter of one per cent of 79696
the total of all moneys wagered on a racing day by each permit 79697
holder shall be paid into the state racing commission operating 79698
fund created by section 3769.03 of the Revised Code. The required 79699
payment to the state racing commission operating fund does not 79700
apply to county and independent fairs and agricultural societies. 79701
The remaining moneys may be retained by the permit holder, except 79702
as provided in this section with respect to the odd cents 79703
redistribution. Amounts paid into the PASSPORT nursing home 79704
franchise permit fee fund pursuant to this section and section 79705

3769.26 of the Revised Code shall be used solely for the support 79706
of the PASSPORT program as determined in appropriations made by 79707
the general assembly. If the PASSPORT program is abolished, the 79708
amount that would have been paid to the PASSPORT nursing home 79709
franchise permit fee fund under this chapter shall be paid to the 79710
general revenue fund of the state. As used in this chapter, 79711
"PASSPORT program" means the PASSPORT program created under 79712
section 173.40 of the Revised Code. 79713

The total amount paid to the Ohio thoroughbred race fund 79714
under this section and division (A) of section 3769.087 of the 79715
Revised Code shall not exceed by more than six per cent the total 79716
amount paid to this fund under this section and that section 79717
during the immediately preceding calendar year. 79718

Each year, the total amount calculated for payment into the 79719
Ohio fairs fund under this division, division (C) of this section, 79720
and division (A) of section 3769.087 of the Revised Code shall be 79721
an amount calculated using the percentages specified in this 79722
division, division (C) of this section, and division (A) of 79723
section 3769.087 of the Revised Code. 79724

A permit holder may contract with a thoroughbred horsemen's 79725
organization for the organization to act as a representative of 79726
all thoroughbred owners and trainers participating in a 79727
horse-racing meeting conducted by the permit holder. A 79728
"thoroughbred horsemen's organization" is any corporation or 79729
association that represents, through membership or otherwise, more 79730
than one-half of the aggregate of all thoroughbred owners and 79731
trainers who were licensed and actively participated in racing 79732
within this state during the preceding calendar year. Except as 79733
otherwise provided in this paragraph, any moneys received by a 79734
thoroughbred horsemen's organization shall be used exclusively for 79735
the benefit of thoroughbred owners and trainers racing in this 79736
state through the administrative purposes of the organization, 79737

benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness or quarter horse racing, out of the amount retained that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;

(2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys

wagered on that racing day shall be paid into the Ohio fairs fund; 79769
from the moneys paid to the tax commissioner by permit holders 79770
authorized to conduct harness racing, five-eighths of one per cent 79771
of all moneys wagered on that racing day shall be paid into the 79772
Ohio standardbred development fund; and from the moneys paid to 79773
the tax commissioner by permit holders authorized to conduct 79774
quarter horse racing, five-eighths of one per cent of all moneys 79775
wagered on that racing day shall be paid into the Ohio quarter 79776
horse development fund. 79777

(D) In addition, subject to division (M) of this section, 79778
beginning on January 1, 1996, from the money paid to the tax 79779
commissioner as a tax under this section and division (A) of 79780
section 3769.087 of the Revised Code by harness horse permit 79781
holders, one-half of one per cent of the amount wagered on a 79782
racing day shall be paid into the Ohio standardbred development 79783
fund. Beginning January 1, 1998, the payment to the Ohio 79784
standardbred development fund required under this division does 79785
not apply to county agricultural societies or independent 79786
agricultural societies. 79787

The total amount paid to the Ohio standardbred development 79788
fund under this division, division (C) of this section, and 79789
division (A) of section 3769.087 of the Revised Code and the total 79790
amount paid to the Ohio quarter horse development fund under this 79791
division and division (A) of that section shall not exceed by more 79792
than six per cent the total amount paid into the fund under this 79793
division, division (C) of this section, and division (A) of 79794
section 3769.087 of the Revised Code in the immediately preceding 79795
calendar year. 79796

(E) Subject to division (M) of this section, from the money 79797
paid as a tax under this chapter by harness and quarter horse 79798
permit holders, one-quarter of one per cent of the total of all 79799
moneys wagered on a racing day by each permit holder shall be paid 79800

into the state racing commission operating fund created by section 79801
3769.03 of the Revised Code. This division does not apply to 79802
county and independent fairs and agricultural societies. 79803

(F) Except as otherwise provided in section 3769.089 of the 79804
Revised Code, each permit holder authorized to conduct harness 79805
racing shall pay to the harness horsemen's purse pool a sum equal 79806
to fifty per cent of the pari-mutuel revenues retained by the 79807
permit holder as a commission after payment of the state tax. This 79808
fifty per cent payment is to be in addition to the purse 79809
distribution from breakage specified in this section. 79810

(G) In addition, each permit holder authorized to conduct 79811
harness racing shall be allowed to retain the odd cents of all 79812
redistribution to be made on all mutual contributions exceeding a 79813
sum equal to the next lowest multiple of ten. 79814

Forty per cent of that portion of that total sum of such odd 79815
cents shall be used by the permit holder for purse money for Ohio 79816
sired, bred, and owned colts, for purse money for Ohio bred 79817
horses, and for increased purse money for horse races. Upon the 79818
formation of the corporation described in section 3769.21 of the 79819
Revised Code to establish a harness horsemen's health and 79820
retirement fund, twenty-five per cent of that portion of that 79821
total sum of odd cents shall be paid at the close of each racing 79822
day by the permit holder to that corporation to establish and fund 79823
the health and retirement fund. Until that corporation is formed, 79824
that twenty-five per cent shall be paid at the close of each 79825
racing day by the permit holder to the tax commissioner or the tax 79826
commissioner's agent in the county seat of the county in which the 79827
permit holder operates race meetings. The remaining thirty-five 79828
per cent of that portion of that total sum of odd cents shall be 79829
retained by the permit holder. 79830

(H) In addition, each permit holder authorized to conduct 79831
thoroughbred racing shall be allowed to retain the odd cents of 79832

all redistribution to be made on all mutuel contributions 79833
exceeding a sum equal to the next lowest multiple of ten. Twenty 79834
per cent of that portion of that total sum of such odd cents shall 79835
be used by the permit holder for increased purse money for horse 79836
races. Upon the formation of the corporation described in section 79837
3769.21 of the Revised Code to establish a thoroughbred horsemen's 79838
health and retirement fund, forty-five per cent of that portion of 79839
that total sum of odd cents shall be paid at the close of each 79840
racing day by the permit holder to that corporation to establish 79841
and fund the health and retirement fund. Until that corporation is 79842
formed, that forty-five per cent shall be paid by the permit 79843
holder to the tax commissioner or the tax commissioner's agent in 79844
the county seat of the county in which the permit holder operates 79845
race meetings, at the close of each racing day. The remaining 79846
thirty-five per cent of that portion of that total sum of odd 79847
cents shall be retained by the permit holder. 79848

(I) In addition, each permit holder authorized to conduct 79849
quarter horse racing shall be allowed to retain the odd cents of 79850
all redistribution to be made on all mutuel contributions 79851
exceeding a sum equal to the next lowest multiple of ten, subject 79852
to a tax of twenty-five per cent on that portion of the total sum 79853
of such odd cents that is in excess of two thousand dollars during 79854
a calendar year, which tax shall be paid at the close of each 79855
racing day by the permit holder to the tax commissioner or the tax 79856
commissioner's agent in the county seat of the county within which 79857
the permit holder operates race meetings. Forty per cent of that 79858
portion of that total sum of such odd cents shall be used by the 79859
permit holder for increased purse money for horse races. The 79860
remaining thirty-five per cent of that portion of that total sum 79861
of odd cents shall be retained by the permit holder. 79862

(J)(1) To encourage the improvement of racing facilities for 79863
the benefit of the public, breeders, and horse owners, and to 79864

increase the revenue to the state from the increase in pari-mutuel 79865
wagering resulting from those improvements, the taxes paid by a 79866
permit holder to the state as provided for in this chapter shall 79867
be reduced by three-fourths of one per cent of the total amount 79868
wagered for those permit holders who make capital improvements to 79869
existing race tracks or construct new race tracks. The percentage 79870
of the reduction that may be taken each racing day shall equal 79871
seventy-five per cent of the taxes levied under divisions (B) and 79872
(C) of this section and section 3769.087 of the Revised Code, and 79873
division (F)(2) of section 3769.26 of the Revised Code, as 79874
applicable, divided by the calculated amount each fund should 79875
receive under divisions (B) and (C) of this section and section 79876
3769.087 of the Revised Code, and division (F)(2) of section 79877
3769.26 of the Revised Code and the reduction provided for in this 79878
division. If the resulting percentage is less than one, that 79879
percentage shall be multiplied by the amount of the reduction 79880
provided for in this division. Otherwise, the permit holder shall 79881
receive the full reduction provided for in this division. The 79882
amount of the allowable reduction not received shall be carried 79883
forward and applied against future tax liability. After any 79884
reductions expire, any reduction carried forward shall be treated 79885
as a reduction as provided for in this division. 79886

If more than one permit holder is authorized to conduct 79887
racing at the facility that is being built or improved, the cost 79888
of the new race track or capital improvement shall be allocated 79889
between or among all the permit holders in the ratio that the 79890
permit holders' number of racing days bears to the total number of 79891
racing days conducted at the facility. 79892

A reduction for a new race track or a capital improvement 79893
shall start from the day racing is first conducted following the 79894
date actual construction of the new race track or each capital 79895
improvement is completed and the construction cost has been 79896

approved by the racing commission, unless otherwise provided in 79897
this section. A reduction for a new race track or a capital 79898
improvement shall continue for a period of twenty-five years for 79899
new race tracks and for fifteen years for capital improvements if 79900
the construction of the capital improvement or new race track 79901
commenced prior to March 29, 1988, and for a period of ten years 79902
for new race tracks or capital improvements if the construction of 79903
the capital improvement or new race track commenced on or after 79904
March 29, 1988, but before ~~the effective date of this amendment~~ 79905
June 6, 2001, or until the total tax reduction reaches seventy per 79906
cent of the approved cost of the new race track or capital 79907
improvement, as allocated to each permit holder, whichever occurs 79908
first. A reduction for a new race track or a capital improvement 79909
approved after ~~the effective date of this amendment~~ June 6, 2001, 79910
shall continue until the total tax reduction reaches one hundred 79911
per cent of the approved cost of the new race track or capital 79912
improvement, as allocated to each permit holder. 79913

A reduction granted for a new race track or a capital 79914
improvement, the application for which was approved by the racing 79915
commission after March 29, 1988, but before ~~the effective date of~~ 79916
~~this amendment~~ June 6, 2001, shall not commence nor shall the 79917
ten-year period begin to run until all prior tax reductions with 79918
respect to the same race track have ended. The total tax reduction 79919
because of capital improvements shall not during any one year 79920
exceed for all permit holders using any one track three-fourths of 79921
one per cent of the total amount wagered, regardless of the number 79922
of capital improvements made. Several capital improvements to a 79923
race track may be consolidated in an application if the racing 79924
commission approved the application prior to March 29, 1988. No 79925
permit holder may receive a tax reduction for a capital 79926
improvement approved by the racing commission on or after March 79927
29, 1988, at a race track until all tax reductions have ended for 79928
all prior capital improvements approved by the racing commission 79929

under this section or section 3769.20 of the Revised Code at that 79930
race track. If there are two or more permit holders operating 79931
meetings at the same track, they may consolidate their 79932
applications. The racing commission shall notify the tax 79933
commissioner when the reduction of tax begins and when it ends. 79934

Each fiscal year the racing commission shall submit a report 79935
to the tax commissioner, the office of budget and management, and 79936
the legislative service commission. The report shall identify each 79937
capital improvement project undertaken under this division and in 79938
progress at each race track, indicate the total cost of each 79939
project, state the tax reduction that resulted from each project 79940
during the immediately preceding fiscal year, estimate the tax 79941
reduction that will result from each project during the current 79942
fiscal year, state the total tax reduction that resulted from all 79943
such projects at all race tracks during the immediately preceding 79944
fiscal year, and estimate the total tax reduction that will result 79945
from all such projects at all race tracks during the current 79946
fiscal year. 79947

(2) In order to qualify for the reduction in tax, a permit 79948
holder shall apply to the racing commission in such form as the 79949
commission may require and shall provide full details of the new 79950
race track or capital improvement, including a schedule for its 79951
construction and completion, and set forth the costs and expenses 79952
incurred in connection with it. The racing commission shall not 79953
approve an application unless the permit holder shows that a 79954
contract for the new race track or capital improvement has been 79955
let under an unrestricted competitive bidding procedure, unless 79956
the contract is exempted by the controlling board because of its 79957
unusual nature. In determining whether to approve an application, 79958
the racing commission shall consider whether the new race track or 79959
capital improvement will promote the safety, convenience, and 79960
comfort of the racing public and horse owners and generally tend 79961

towards the improvement of racing in this state. 79962

(3) If a new race track or capital improvement is approved by 79963
the racing commission and construction has started, the tax 79964
reduction may be authorized by the commission upon presentation of 79965
copies of paid bills in excess of one hundred thousand dollars or 79966
ten per cent of the approved cost, whichever is greater. After the 79967
initial authorization, the permit holder shall present copies of 79968
paid bills. If the permit holder is in substantial compliance with 79969
the schedule for construction and completion of the new race track 79970
or capital improvement, the racing commission may authorize the 79971
continuation of the tax reduction upon the presentation of the 79972
additional paid bills. The total amount of the tax reduction 79973
authorized shall not exceed the percentage of the approved cost of 79974
the new race track or capital improvement specified in division 79975
(J)(1) of this section. The racing commission may terminate any 79976
tax reduction immediately if a permit holder fails to complete the 79977
new race track or capital improvement, or to substantially comply 79978
with the schedule for construction and completion of the new race 79979
track or capital improvement. If a permit holder fails to complete 79980
a new race track or capital improvement, the racing commission 79981
shall order the permit holder to repay to the state the total 79982
amount of tax reduced. The normal tax paid by the permit holder 79983
shall be increased by three-fourths of one per cent of the total 79984
amount wagered until the total amount of the additional tax 79985
collected equals the total amount of tax reduced. 79986

(4) As used in this section: 79987

(a) "Capital improvement" means an addition, replacement, or 79988
remodeling of a structural unit of a race track facility costing 79989
at least one hundred thousand dollars, including, but not limited 79990
to, the construction of barns used exclusively for the race track 79991
facility, backstretch facilities for horsemen, paddock facilities, 79992
new pari-mutuel and totalizator equipment and appurtenances to 79993

that equipment purchased by the track, new access roads, new 79994
parking areas, the complete reconstruction, reshaping, and 79995
leveling of the racing surface and appurtenances, the installation 79996
of permanent new heating or air conditioning, roof replacement or 79997
restoration, installations of a permanent nature forming a part of 79998
the track structure, and construction of buildings that are 79999
located on a permit holder's premises. "Capital improvement" does 80000
not include the cost of replacement of equipment that is not 80001
permanently installed, ordinary repairs, painting, and maintenance 80002
required to keep a race track facility in ordinary operating 80003
condition. 80004

(b) "New race track" includes the reconstruction of a race 80005
track damaged by fire or other cause that has been declared by the 80006
racing commission, as a result of the damage, to be an inadequate 80007
facility for the safe operation of horse racing. 80008

(c) "Approved cost" includes all debt service and interest 80009
costs that are associated with a capital improvement or new race 80010
track and that the racing commission approves for a tax reduction 80011
under division (J) of this section. 80012

(5) The racing commission shall not approve an application 80013
for a tax reduction under this section if it has reasonable cause 80014
to believe that the actions or negligence of the permit holder 80015
substantially contributed to the damage suffered by the track due 80016
to fire or other cause. The racing commission shall obtain any 80017
data or information available from a fire marshal, law enforcement 80018
official, or insurance company concerning any fire or other damage 80019
suffered by a track, prior to approving an application for a tax 80020
reduction. 80021

(6) The approved cost to which a tax reduction applies shall 80022
be determined by generally accepted accounting principles and 80023
verified by an audit of the permit holder's records upon 80024
completion of the project by the racing commission, or by an 80025

independent certified public accountant selected by the permit holder and approved by the commission. 80026
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(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the ~~PASSPORT~~ nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society. 80028
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(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the 80051
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harness track permit holders in the most recent year for which 80058
final figures are available, it results in a sum that 80059
substantially equals the same amount of tax paid by the tax 80060
commissioner during that year into the Ohio fairs fund from taxes 80061
paid by thoroughbred permit holders. This division does not apply 80062
to county and independent fairs and agricultural societies. 80063

(M) Twenty-five per cent of the taxes levied on thoroughbred 80064
racing permit holders, harness racing permit holders, and quarter 80065
horse racing permit holders under this section, division (A) of 80066
section 3769.087 of the Revised Code, and division (F)(2) of 80067
section 3769.26 of the Revised Code shall be paid into the 80068
~~PASSPORT~~ nursing home franchise permit fee fund. The tax 80069
commissioner shall pay any money remaining, after the payment into 80070
the ~~PASSPORT~~ nursing home franchise permit fee fund and the 80071
reductions provided for in division (J) of this section and in 80072
section 3769.20 of the Revised Code, into the Ohio fairs fund, 80073
Ohio thoroughbred race fund, Ohio standardbred development fund, 80074
Ohio quarter horse fund, and state racing commission operating 80075
fund as prescribed in this section and division (A) of section 80076
3769.087 of the Revised Code. The tax commissioner shall 80077
thereafter use and apply the balance of the money paid as a tax by 80078
any permit holder to cover any shortage in the accounts of such 80079
funds resulting from an insufficient payment as a tax by any other 80080
permit holder. The moneys received by the tax commissioner shall 80081
be deposited weekly and paid by the tax commissioner into the 80082
funds to cover the total aggregate amount due from all permit 80083
holders to the funds, as calculated under this section and 80084
division (A) of section 3769.087 of the Revised Code, as 80085
applicable. If, after the payment into the ~~PASSPORT~~ nursing home 80086
franchise permit fee fund, sufficient funds are not available from 80087
the tax deposited by the tax commissioner to pay the required 80088
amounts into the Ohio fairs fund, Ohio standardbred development 80089
fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and 80090

the state racing commission operating fund, the tax commissioner 80091
shall prorate on a proportional basis the amount paid to each of 80092
the funds. Any shortage to the funds as a result of a proration 80093
shall be applied against future deposits for the same calendar 80094
year when funds are available. After this application, the tax 80095
commissioner shall pay any remaining money paid as a tax by all 80096
permit holders into the ~~PASSPORT~~ nursing home franchise permit fee 80097
fund. This division does not apply to permit holders conducting 80098
racing at the course of an agricultural exposition or fair as 80099
described in division (K) of this section. 80100

Sec. 3769.20. (A) To encourage the renovation of existing 80101
racing facilities for the benefit of the public, breeders, and 80102
horse owners and to increase the revenue to the state from the 80103
increase in pari-mutuel wagering resulting from such improvement, 80104
the taxes paid by a permit holder to the state, in excess of the 80105
amount paid into the ~~PASSPORT~~ nursing home franchise permit fee 80106
fund, shall be reduced by one per cent of the total amount wagered 80107
for those permit holders who carry out a major capital improvement 80108
project. The percentage of the reduction that may be taken each 80109
racing day shall equal seventy-five per cent of the amount of the 80110
taxes levied under divisions (B) and (C) of section 3769.08, 80111
section 3769.087, and division (F)(2) of section 3769.26 of the 80112
Revised Code, as applicable, divided by the calculated amount each 80113
fund should receive under divisions (B) and (C) of section 80114
3769.08, section 3769.087, and division (F)(2) of section 3769.26 80115
of the Revised Code and the reduction provided for in this 80116
section. If the resulting percentage is less than one, that 80117
percentage shall be multiplied by the amount of the reduction 80118
provided for in this section. Otherwise, the permit holder shall 80119
receive the full reduction provided for in this section. The 80120
amount of the allowable reduction not received shall be carried 80121
forward and added to any other reduction balance and applied 80122

against future tax liability. After any reductions expire, any 80123
reduction carried forward shall be treated as a reduction as 80124
provided for in this section. If the amount of allowable reduction 80125
exceeds the amount of taxes derived from a permit holder, the 80126
amount of the allowable reduction not used may be carried forward 80127
and applied against future tax liability. 80128

If more than one permit holder is authorized to conduct 80129
racing at the facility that is being improved, the cost of the 80130
major capital improvement project shall be allocated between or 80131
among all the permit holders in the ratio that each permit 80132
holder's number of racing days bears to the total number of racing 80133
days conducted at the facility. 80134

A reduction for a major capital improvement project shall 80135
start from the day racing is first conducted following the date on 80136
which the major capital improvement project is completed and the 80137
construction cost has been approved by the state racing 80138
commission, except as otherwise provided in division (E) of this 80139
section, and shall continue until the total tax reduction equals 80140
the cost of the major capital improvement project plus debt 80141
service applicable to the project. In no event, however, shall any 80142
tax reduction, excluding any reduction balances, be permitted 80143
under this section after December 31, ~~2014~~ 2017. The total tax 80144
reduction because of the major capital improvement project shall 80145
not during any one year exceed for all permit holders using any 80146
one track one per cent of the total amount wagered. The racing 80147
commission shall notify the tax commissioner when the reduction of 80148
tax begins and when it ends. 80149

(B) Each fiscal year, the racing commission shall submit a 80150
report to the tax commissioner, the office of budget and 80151
management, and the legislative service commission. The report 80152
shall identify each capital improvement project undertaken under 80153

this section and in progress at each race track, indicate the 80154
total cost of each project, state the tax reduction that resulted 80155
from each project during the immediately preceding fiscal year, 80156
estimate the tax reduction that will result from each project 80157
during the current fiscal year, state the total tax reduction that 80158
resulted from all such projects at all race tracks during the 80159
immediately preceding fiscal year, and estimate the total tax 80160
reduction that will result from all such projects at all race 80161
tracks during the current fiscal year. 80162

(C) The tax reduction granted pursuant to this section shall 80163
be in addition to any tax reductions for capital improvements and 80164
new race tracks provided for in section 3769.08 of the Revised 80165
Code and approved by the racing commission. 80166

(D) In order to qualify for the reduction in tax, a permit 80167
holder shall apply to the racing commission in such form as the 80168
commission may require and shall provide full details of the major 80169
capital improvement project, including plans and specifications, a 80170
schedule for the project's construction and completion, and a 80171
breakdown of proposed costs. In addition, the permit holder shall 80172
have commenced construction of the major capital improvement 80173
project or shall have had the application for the project approved 80174
by the racing commission prior to March 29, 1988. The racing 80175
commission shall not approve an application unless the permit 80176
holder shows that a contract for the major capital improvement 80177
project has been let under an unrestricted competitive bidding 80178
procedure, unless the contract is exempted by the controlling 80179
board because of its unusual nature. In determining whether to 80180
approve an application, the racing commission shall consider 80181
whether the major capital improvement project will promote the 80182
safety, convenience, and comfort of the racing public and horse 80183
owners and generally tend toward the improvement of racing in this 80184
state. 80185

(E) If the major capital improvement project is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of five hundred thousand dollars. After the initial authorization, the permit holder shall present copies of paid bills in the amount of not less than five hundred thousand dollars. If the permit holder is in substantial compliance with the schedule for construction and completion of the major capital improvement project, the racing commission may authorize the continuance of the tax reduction upon the presentation of the additional paid bills in increments of five hundred thousand dollars. The racing commission may terminate the tax reduction if a permit holder fails to complete the major capital improvement project or fails to comply substantially with the schedule for construction and completion of the major capital improvement project. If the time for completion of the major capital improvement project is delayed by acts of God, strikes, or the unavailability of labor or materials, the time for completion as set forth in the schedule shall be extended by the period of the delay. If a permit holder fails to complete the major capital improvement project, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced, unless the permit holder has spent at least six million dollars on the project. The normal tax paid by the permit holder under section 3769.08 of the Revised Code shall be increased by one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced. Any action taken by the racing commission pursuant to this section in terminating the tax adjustment or requiring repayment of the amount of tax reduced shall be subject to Chapter 119. of the Revised Code.

(F) As used in this section, "major capital improvement project" means the renovation, reconstruction, or remodeling,

costing at least six million dollars, of a race track facility, 80219
including, but not limited to, the construction of barns used 80220
exclusively for that race track facility, backstretch facilities 80221
for horsemen, paddock facilities, pari-mutuel and totalizator 80222
equipment and appurtenances to that equipment purchased by the 80223
track, new access roads, new parking areas, the complete 80224
reconstruction, reshaping, and leveling of the racing surface and 80225
appurtenances, grandstand enclosure, installation of permanent new 80226
heating or air conditioning, roof replacement, and installations 80227
of a permanent nature forming a part of the track structure. 80228

(G) The cost and expenses to which the tax reduction granted 80229
under this section applies shall be determined by generally 80230
accepted accounting principles and be verified by an audit of the 80231
permit holder's records, upon completion of the major capital 80232
improvement project, either by the racing commission or by an 80233
independent certified public accountant selected by the permit 80234
holder and approved by the commission. 80235

(H) This section and section 3769.201 of the Revised Code 80236
govern any tax reduction granted to a permit holder for the cost 80237
to the permit holder of any cleanup, repair, or improvement 80238
required as a result of damage caused by the 1997 Ohio river flood 80239
to the place, track, or enclosure for which the permit is issued. 80240

Sec. 3769.26. (A)(1) Except as otherwise provided in division 80241
(B) of this section, each track in existence on September 27, 80242
1994, regardless of the number of permit holders authorized to 80243
conduct race meetings at the track, may establish, with the 80244
approval of the state racing commission and the appropriate local 80245
legislative authority, not more than two satellite facilities at 80246
which it may conduct pari-mutuel wagering on horse races conducted 80247
either inside or outside this state and simulcast by a simulcast 80248
host to the satellite facilities. 80249

(2) Prior to a track's establishing satellite facilities 80250
under this section, the permit holders at that track shall agree 80251
among themselves regarding their respective rights and obligations 80252
with respect to those satellite facilities. 80253

(3)(a) Any track that desires to establish a satellite 80254
facility shall provide written notification of its intent to the 80255
state racing commission and to the appropriate local legislative 80256
authority that is required to approve the satellite facility, 80257
together with detailed plans and specifications for the satellite 80258
facility. The commission shall deliver copies of this notification 80259
to all other tracks in this state, and the commission shall, 80260
within forty-five days after receiving the notification, hold a 80261
hearing on the track's intent to establish a satellite facility. 80262
At this hearing the commission shall consider the evidence 80263
presented and determine whether the request for establishment of a 80264
satellite facility shall be approved. 80265

The commission shall not approve a track's request to 80266
establish a satellite facility if the owner of the premises where 80267
the satellite facility is proposed to be located or if the 80268
proposed operator of the satellite facility has been convicted of 80269
or has pleaded guilty to a gambling offense that is a felony or 80270
any other felony under the laws of this state, any other state, or 80271
the United States that the commission determines to be related to 80272
fitness to be the owner of such a premises or to be the operator 80273
of a satellite facility. As used in division (A)(3)(a) of this 80274
section, "gambling offense" has the same meaning as in section 80275
2915.01 of the Revised Code and "operator" means the individual 80276
who is responsible for the day-to-day operations of a satellite 80277
facility. The commission shall conduct a background investigation 80278
on each person who is the owner of a premises where a satellite 80279
facility is proposed to be located or who is proposed to be the 80280
operator or an employee of a satellite facility. The commission 80281

shall adopt rules in accordance with Chapter 119. of the Revised 80282
Code that specify the specific information the commission shall 80283
collect in conducting such a background investigation. 80284

No track shall knowingly contract with a person as the owner 80285
of the premises where a satellite facility is located, or 80286
knowingly employ a person as the operator or an employee of a 80287
satellite facility, who has been convicted of or pleaded guilty to 80288
a gambling offense that is a felony or any other felony under the 80289
laws of this state, any other state, or the United States that the 80290
commission determines to be related to fitness to be the owner of 80291
such a premises or to be the operator or an employee of a 80292
satellite facility. The commission may impose a fine in an amount 80293
not to exceed ten thousand dollars on any track that violates any 80294
of these prohibitions. 80295

(b) Each track that receives the notification described in 80296
division (A)(3)(a) of this section shall notify the commission and 80297
the track that desires to establish the satellite facility, within 80298
thirty days after receiving the notification from the commission, 80299
indicating whether or not it desires to participate in the joint 80300
ownership of the facility. Ownership shall be distributed equally 80301
among the tracks that choose to participate in the joint ownership 80302
of the facility unless the participating tracks agree to and 80303
contract otherwise. Tracks that fail to respond to the commission 80304
and the track that desires to establish the satellite facility 80305
within this thirty-day period regarding the ownership of the 80306
particular satellite facility are not eligible to participate in 80307
its ownership. 80308

(B) If, within three years after September 27, 1994, a track 80309
in existence on September 27, 1994, does not establish both of the 80310
satellite facilities it is authorized to establish under division 80311
(A) of this section, another track, with the approval of the 80312
racing commission, may establish in accordance with this section a 80313

number of additional satellite facilities that does not exceed the 80314
number of satellite facilities that the first track did not 80315
establish. However, no more than fourteen satellite facilities may 80316
be established in this state. 80317

(C) Except as otherwise provided in this division, each 80318
permit holder in this state shall allow the races that it 80319
conducts, and the races conducted outside this state that it 80320
receives as a simulcast host, to be simulcast to all satellite 80321
facilities operating in this state and shall take all action 80322
necessary to supply its simulcast and wagering information to 80323
these satellite facilities. A permit holder at a track where the 80324
average daily amount wagered for all race meetings during calendar 80325
year 1990 did not exceed two hundred fifty thousand dollars may 80326
elect not to simulcast its races to the satellite facilities. If a 80327
permit holder at such a track chooses to simulcast its races to 80328
satellite facilities, it shall allow its races to be simulcast to 80329
all satellite facilities operating in this state. Except as 80330
otherwise provided in this division, each satellite facility shall 80331
receive simulcasts of and conduct pari-mutuel wagering on all live 80332
racing programs being conducted at any track in this state and on 80333
all agreed simulcast racing programs, as provided in division (D) 80334
of section 3769.089 of the Revised Code, conducted in other states 80335
that are received by simulcast in this state, without regard to 80336
the breed of horse competing in the race or the time of day of the 80337
race. 80338

No satellite facility may receive simulcasts of horse races 80339
during the same hours that a county fair or independent fair 80340
located within the same county as the satellite facility is 80341
conducting pari-mutuel wagering on horse races at that county or 80342
independent fair. 80343

Except as otherwise provided in this division, the commission 80344
shall not approve the establishment of a satellite facility within 80345

a radius of fifty miles of any track. The commission may approve 80346
the establishment of a satellite facility at a location within a 80347
radius of at least thirty-five but not more than fifty miles from 80348
one or more tracks if all of the holders of permits issued for 80349
those tracks consent in writing to the establishment of the 80350
satellite facility. The commission may approve the establishment 80351
of a satellite facility at a location within a radius of 80352
thirty-five miles of more than one race track if all holders of 80353
permits issued for those tracks consent in writing to the 80354
establishment of the satellite facility and, if the tracks are 80355
located completely within one county and the proposed satellite 80356
facility will be located within that county, if both the 80357
legislative authority of the municipal corporation in that county 80358
with the largest population, and the appropriate legislative 80359
authority that is required to approve the satellite facility under 80360
division (A)(1) of this section, approve the establishment of the 80361
new satellite facility. The commission may approve the 80362
establishment of a satellite facility at a location within a 80363
radius of less than twenty miles from an existing satellite 80364
facility if the owner of the existing satellite facility consents 80365
in writing to the establishment of the new satellite facility. 80366

A satellite facility shall not receive simulcasts of horse 80367
races conducted outside this state on any day when no simulcast 80368
host is operating. 80369

(D) Each simulcast host is responsible for paying all costs 80370
associated with the up-link for simulcasts. Each satellite 80371
facility is responsible for paying all costs associated with the 80372
reception of simulcasts and the operation of the satellite 80373
facility. 80374

(E) All money wagered at the simulcast host, and all money 80375
wagered at all satellite facilities on races simulcast from the 80376
simulcast host, shall be included in a common pari-mutuel pool at 80377

the simulcast host. Except as otherwise provided in division 80378
(F)(6) of this section, the payment shall be the same for all 80379
winning tickets whether a wager is placed at a simulcast host or a 80380
satellite facility. Wagers placed at a satellite facility shall 80381
conform in denomination, character, terms, conditions, and in all 80382
other respects to wagers placed at the simulcast host for the same 80383
race. 80384

(F)(1) As used in division (F) of this section, "effective 80385
rate" means the effective gross tax percentage applicable at the 80386
simulcast host, determined in accordance with sections 3769.08 and 80387
3769.087 of the Revised Code, after combining the money wagered at 80388
the simulcast host with the money wagered at satellite facilities 80389
on races simulcast from the host track. 80390

(2) For the purposes of calculating the amount of taxes to be 80391
paid and the amount of commissions to be retained by permit 80392
holders, fifty per cent of the amount wagered at satellite 80393
facilities on a live racing program simulcast from a simulcast 80394
host shall be allocated to the permit holder's live race wagering 80395
at that simulcast host that conducts the live racing program, and 80396
fifty per cent of the amount wagered at satellite facilities on 80397
simulcast racing programs conducted outside this state shall be 80398
allocated to, and apportioned equally among, the permit holders 80399
acting as simulcast hosts for the out-of-state simulcast racing 80400
programs. The remainder of the amount wagered at a satellite 80401
facility on races simulcast from a simulcast host shall be 80402
allocated to the satellite facility. In computing the tax due on 80403
the amount allocated to the satellite facility, if there is more 80404
than one simulcast host for out-of-state simulcast racing 80405
programs, the effective rate applied by the satellite facility 80406
shall be the tax rate applicable to the simulcast host that pays 80407
the highest effective rate under section 3769.08 of the Revised 80408
Code on such simulcast racing programs. 80409

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the ~~PASSPORT~~ nursing home franchise permit fee fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under

division (F)(4) of this section, the satellite facility shall 80442
retain an amount equal to two and three-eighths per cent of the 80443
amount wagered that day on simulcast racing programs and the 80444
balance shall be divided as follows: 80445

(a) One-half shall be paid to the owner of the satellite 80446
facility; 80447

(b) One-half shall be paid to the state racing commission for 80448
deposit into the Ohio combined simulcast horse racing purse fund. 80449

(6) In addition to the commission retained under this 80450
section, a satellite facility shall retain two and one-half per 80451
cent of the amount that would otherwise be paid on each winning 80452
wager unless the retention of this amount would either cause or 80453
add to a minus pool. As used in division (F)(6) of this section, 80454
"minus pool" means a wagering pool in which a winning wager is 80455
paid off at less than one hundred ten per cent of the amount of 80456
the wager. The amount retained shall be paid each racing day to 80457
the tax commissioner for deposit into the ~~PASSPORT~~ nursing home
franchise permit fee fund. 80458
80459

(7) At the close of each day, each satellite facility shall 80460
pay, by check, draft, or money order, or by wire transfer of 80461
funds, out of the money retained on that day to the collection and 80462
settlement agent the required fee to be paid by the simulcast host 80463
to the tracks, racing associations, or state regulatory agencies 80464
located outside this state for simulcasts into this state computed 80465
and based on one-half of the amount wagered at the satellite 80466
facility that day on interstate simulcast racing programs. 80467

(G) No license, fee, or excise tax, other than as specified 80468
in division (F)(6) of this section, shall be assessed upon or 80469
collected from a satellite facility, the owners of a satellite 80470
facility, or the holders of permits issued for a track that has 80471
established a satellite facility by any county, township, 80472

municipal corporation, district, or other body having the 80473
authority to assess or collect a tax or fee. 80474

(H) In no case shall that portion of the commissions 80475
designated for purses from satellite facilities be less than that 80476
portion of those commissions designated for purses at the 80477
simulcast host. 80478

(I) It is the intention of the general assembly in enacting 80479
this section not to adversely affect the amounts paid into the 80480
Ohio thoroughbred race fund created under section 3769.083 of the 80481
Revised Code. Therefore, each track that acts as a simulcast host 80482
under this section shall calculate, on a semi-annual basis during 80483
calendar years 1994, 1995, and 1996, its average daily 80484
contribution to the Ohio thoroughbred race fund created under 80485
section 3769.083 of the Revised Code on those days on which the 80486
track conducted live horse racing. If this average daily 80487
contribution to the fund is less than the average daily 80488
contribution from the same track to the fund during the same 80489
six-month period of calendar year 1992, there shall be contributed 80490
to the fund an amount equal to the average daily shortfall 80491
multiplied by the number of days of live racing conducted during 80492
the six-month period in calendar year 1994, 1995, or 1996, as 80493
applicable. The amount of such contribution shall be allocated 80494
among the simulcast host, the purse program at the simulcast host, 80495
and the satellite facilities for which the track served as the 80496
simulcast host, on a pro rata basis in proportion to the amounts 80497
contributed by them to the fund during such six-month period in 80498
calendar year 1994, 1995, or 1996, as applicable. 80499

Sec. 3770.05. (A) As used in this section, "person" means any 80500
person, association, corporation, partnership, club, trust, 80501
estate, society, receiver, trustee, person acting in a fiduciary 80502
or representative capacity, instrumentality of the state or any of 80503

its political subdivisions, or any other combination of 80504
individuals meeting the requirements set forth in this section or 80505
established by rule or order of the state lottery commission. 80506

(B) The director of the state lottery commission may license 80507
any person as a lottery sales agent. No license shall be issued to 80508
any person or group of persons to engage in the sale of lottery 80509
tickets as the person's or group's sole occupation or business. 80510

Before issuing any license to a lottery sales agent, the 80511
director shall consider all of the following: 80512

(1) The financial responsibility and security of the 80513
applicant and the applicant's business or activity; 80514

(2) The accessibility of the applicant's place of business or 80515
activity to the public; 80516

(3) The sufficiency of existing licensed agents to serve the 80517
public interest; 80518

(4) The volume of expected sales by the applicant; 80519

(5) Any other factors pertaining to the public interest, 80520
convenience, or trust. 80521

(C) Except as otherwise provided in division (F) of this 80522
section, the director of the state lottery commission shall refuse 80523
to grant, or shall suspend or revoke, a license if the applicant 80524
or licensee: 80525

(1) Has been convicted of a felony or has been convicted of a 80526
crime involving moral turpitude; 80527

(2) Has been convicted of an offense that involves illegal 80528
gambling; 80529

(3) Has been found guilty of fraud or misrepresentation in 80530
any connection; 80531

(4) Has been found to have violated any rule or order of the 80532

commission; or 80533

(5) Has been convicted of illegal trafficking in supplemental 80534
nutrition assistance program benefits. 80535

(D) Except as otherwise provided in division (F) of this 80536
section, the director of the state lottery commission shall refuse 80537
to grant, or shall suspend or revoke, a license if the applicant 80538
or licensee is a corporation and any of the following applies: 80539

(1) Any of the corporation's directors, officers, or 80540
controlling shareholders has been found guilty of any of the 80541
activities specified in divisions (C)(1) to (5) of this section; 80542

(2) It appears to the director of the state lottery 80543
commission that, due to the experience, character, or general 80544
fitness of any director, officer, or controlling shareholder of 80545
the corporation, the granting of a license as a lottery sales 80546
agent would be inconsistent with the public interest, convenience, 80547
or trust; 80548

(3) The corporation is not the owner or lessee of the 80549
business at which it would conduct a lottery sales agency pursuant 80550
to the license applied for; 80551

(4) Any person, firm, association, or corporation other than 80552
the applicant or licensee shares or will share in the profits of 80553
the applicant or licensee, other than receiving dividends or 80554
distributions as a shareholder, or participates or will 80555
participate in the management of the affairs of the applicant or 80556
licensee. 80557

(E)(1) The director of the state lottery commission shall 80558
refuse to grant a license to an applicant for a lottery sales 80559
agent license and shall revoke a lottery sales agent license if 80560
the applicant or licensee is or has been convicted of a violation 80561
of division (A) or (C)(1) of section 2913.46 of the Revised Code. 80562

(2) The director shall refuse to grant a license to an applicant for a lottery sales agent license that is a corporation and shall revoke the lottery sales agent license of a corporation if the corporation is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(F) The director of the state lottery commission shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request the criminal records of any person to whom a lottery sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause those fingerprint cards to be forwarded to the bureau of criminal identification and investigation, to the federal bureau of investigation, or to both bureaus. The commission shall assume the cost of obtaining the fingerprint cards.

The director shall pay to each agency supplying criminal records for each investigation a reasonable fee, as determined by the agency.

The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (5) and (D)(1) to (4) of this section may be issued a license and establishing requirements for those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay fees to the state lottery commission, ~~at the time the~~ 80594
~~application is submitted, a fee in an amount that the director of~~ 80595
~~the state lottery commission determines~~ if required by rule 80596
adopted by the director under Chapter 119. of the Revised Code and 80597
~~that~~ the controlling board approves the fees; 80598

(b) Prior to approval of the application, obtain a surety 80599
bond in an amount the director determines by rule adopted under 80600
Chapter 119. of the Revised Code or, alternatively, with the 80601
director's approval, deposit the same amount into a dedicated 80602
account for the benefit of the state lottery. The director also 80603
may approve the obtaining of a surety bond to cover part of the 80604
amount required, together with a dedicated account deposit to 80605
cover the remainder of the amount required. 80606

A surety bond may be with any company that complies with the 80607
bonding and surety laws of this state and the requirements 80608
established by rules of the commission pursuant to this chapter. A 80609
dedicated account deposit shall be conducted in accordance with 80610
policies and procedures the director establishes. 80611

A surety bond, dedicated account, or both, as applicable, may 80612
be used to pay for the lottery sales agent's failure to make 80613
prompt and accurate payments for lottery ticket sales, for missing 80614
or stolen lottery tickets, ~~or~~ for damage to equipment or materials 80615
issued to the lottery sales agent, or to pay for expenses the 80616
commission incurs in connection with the lottery sales agent's 80617
license. 80618

(2) A lottery sales agent license is effective for one year. 80619

A licensed lottery sales agent, on or before the date 80620
established by the director, shall renew the agent's license and 80621
provide at that time evidence to the director that the surety 80622
bond, dedicated account deposit, or both, required under division 80623
(G)(1)(b) of this section has been renewed or is active, whichever 80624

applies. 80625

Before the commission renews a lottery sales agent license, 80626
the lottery sales agent shall submit a renewal fee to the 80627
commission ~~in an amount that the director determines, if one is~~ 80628
required by rule adopted by the director under Chapter 119. of the 80629
Revised Code and ~~that~~ the controlling board approves the renewal 80630
fee. The renewal fee shall not exceed the actual cost of 80631
administering the license renewal and processing changes reflected 80632
in the renewal application. The renewal of the license is 80633
effective for up to one year. 80634

(3) A lottery sales agent license shall be complete, 80635
accurate, and current at all times during the term of the license. 80636
Any changes to an original license application or a renewal 80637
application may subject the applicant or lottery sales agent, as 80638
applicable, to paying an administrative fee that shall be in an 80639
amount that the director determines by rule adopted under Chapter 80640
119. of the Revised Code, that the controlling board approves, and 80641
that shall not exceed the actual cost of administering and 80642
processing the changes to an application. 80643

(4) The relationship between the commission and a lottery 80644
sales agent is one of trust. A lottery sales agent collects funds 80645
on behalf of the commission through the sale of lottery tickets 80646
for which the agent receives a compensation. 80647

(H) Pending a final resolution of any question arising under 80648
this section, the director of the state lottery commission may 80649
issue a temporary lottery sales agent license, subject to the 80650
terms and conditions the director considers appropriate. 80651

(I) If a lottery sales agent's rental payments for the 80652
lottery sales agent's premises are determined, in whole or in 80653
part, by the amount of retail sales the lottery sales agent makes, 80654
and if the rental agreement does not expressly provide that the 80655

amount of those retail sales includes the amounts the lottery 80656
sales agent receives from lottery ticket sales, only the amounts 80657
the lottery sales agent receives as compensation from the state 80658
lottery commission for selling lottery tickets shall be considered 80659
to be amounts the lottery sales agent receives from the retail 80660
sales the lottery sales agent makes, for the purpose of computing 80661
the lottery sales agent's rental payments. 80662

Sec. 3772.032. (A) The permanent joint committee on gaming 80663
and wagering is established. The committee consists of six 80664
members. The speaker of the house of representatives shall appoint 80665
to the committee three members of the house of representatives and 80666
the president of the senate shall appoint to the committee three 80667
members of the senate. Not more than two members appointed from 80668
each chamber may be members of the same political party. The 80669
chairperson shall be from the opposite ~~party~~ house as the 80670
chairperson of the joint committee on agency rule review. If the 80671
chairperson is to be from the house of representatives, the 80672
speaker of the house of representatives shall designate a member 80673
as the chairperson and the president of the senate shall designate 80674
a member as the vice-chairperson. If the chairperson is to be from 80675
the senate, the president of the senate shall designate a member 80676
as the chairperson and the speaker of the house of representatives 80677
shall designate a member as the vice-chairperson. 80678

(B) The committee shall: 80679

(1) Review all constitutional amendments, laws, and rules 80680
governing the operation and administration of casino gaming and 80681
all authorized gaming and wagering activities and recommend to the 80682
general assembly and commission any changes it may find desirable 80683
with respect to the language, structure, and organization of those 80684
amendments, laws, or rules; 80685

(2) Make an annual report to the governor and to the general 80686

assembly with respect ~~of~~ to the operation and administration of 80687
casino gaming; 80688

(3) Review all changes of fees and penalties as provided in 80689
this chapter and rules adopted thereunder; and 80690

(4) Study all proposed changes to the constitution and laws 80691
of this state and to the rules adopted by the commission governing 80692
the operation and administration of casino gaming, and report to 80693
the general assembly on their adequacy and desirability as a 80694
matter of public policy. 80695

(C) Any study, or any expense incurred, in furtherance of the 80696
committee's objectives shall be paid for from, or out of, the 80697
casino control commission fund or other appropriation provided by 80698
law. The members shall receive no additional compensation, but 80699
shall be reimbursed for actual and necessary expenses incurred in 80700
the performance of their official duties. 80701

Sec. 3772.062. (A) The executive director of the commission 80702
shall enter into an agreement with the department of alcohol and 80703
drug addiction services under which the department provides a 80704
program of gambling and addiction services on behalf of the 80705
commission. 80706

(B) The executive director of the commission, in conjunction 80707
with the department of alcohol and drug addiction services and the 80708
state lottery commission, shall establish, operate, and publicize 80709
an in-state, toll-free telephone number Ohio residents may call to 80710
obtain basic information about problem gambling, the gambling 80711
addiction services available to problem gamblers, and how a 80712
problem gambler may obtain help. The telephone number shall be 80713
staffed twenty-four hours per day, seven days a week, to respond 80714
to inquiries and provide that information. The costs of 80715
establishing, operating, and publicizing the telephone number 80716
shall be paid for with money in the problem casino gambling and 80717

additions fund. 80718

Sec. 3781.06. (A)(1) Any building that may be used as a place 80719
of resort, assembly, education, entertainment, lodging, dwelling, 80720
trade, manufacture, repair, storage, traffic, or occupancy by the 80721
public, any residential building, and all other buildings or parts 80722
and appurtenances of those buildings erected within this state, 80723
shall be so constructed, erected, equipped, and maintained that 80724
they shall be safe and sanitary for their intended use and 80725
occupancy. 80726

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 80727
Revised Code shall be construed to limit the power of the ~~public~~ 80728
~~health council~~ manufactured homes commission to adopt rules ~~of~~ 80729
~~uniform application~~ governing manufactured home parks pursuant to 80730
section ~~3733.02~~ 4781.04 of the Revised Code. 80731

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 80732
Code do not apply to either of the following: 80733

(1) Buildings or structures that are incident to the use for 80734
agricultural purposes of the land on which the buildings or 80735
structures are located, provided those buildings or structures are 80736
not used in the business of retail trade. For purposes of this 80737
division, a building or structure is not considered used in the 80738
business of retail trade if fifty per cent or more of the gross 80739
income received from sales of products in the building or 80740
structure by the owner or operator is from sales of products 80741
produced or raised in a normal crop year on farms owned or 80742
operated by the seller. 80743

(2) Existing single-family, two-family, and three-family 80744
detached dwelling houses for which applications have been 80745
submitted to the director of job and family services pursuant to 80746
section 5104.03 of the Revised Code for the purposes of operating 80747
type A family day-care homes as defined in section 5104.01 of the 80748

Revised Code. 80749

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the Revised Code: 80750

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry. 80751

(2) "Building" means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances. 80752

(3) "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section 4501.01 of the Revised Code. 80753

(4) "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards. 80754

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(5) "Permanent foundation" means permanent masonry, concrete, 80780
or a footing or foundation approved by the manufactured homes 80781
commission pursuant to Chapter 4781. of the Revised Code, to which 80782
a manufactured or mobile home may be affixed. 80783

(6) "Permanently sited manufactured home" means a 80784
manufactured home that meets all of the following criteria: 80785

(a) The structure is affixed to a permanent foundation and is 80786
connected to appropriate facilities; 80787

(b) The structure, excluding any addition, has a width of at 80788
least twenty-two feet at one point, a length of at least 80789
twenty-two feet at one point, and a total living area, excluding 80790
garages, porches, or attachments, of at least nine hundred square 80791
feet; 80792

(c) The structure has a minimum 3:12 residential roof pitch, 80793
conventional residential siding, and a six-inch minimum eave 80794
overhang, including appropriate guttering; 80795

(d) The structure was manufactured after January 1, 1995; 80796

(e) The structure is not located in a manufactured home park 80797
as defined by section ~~3733.01~~ 4781.01 of the Revised Code. 80798

(7) "Safe," with respect to a building, means it is free from 80799
danger or hazard to the life, safety, health, or welfare of 80800
persons occupying or frequenting it, or of the public and from 80801
danger of settlement, movement, disintegration, or collapse, 80802
whether such danger arises from the methods or materials of its 80803
construction or from equipment installed therein, for the purpose 80804
of lighting, heating, the transmission or utilization of electric 80805
current, or from its location or otherwise. 80806

(8) "Sanitary," with respect to a building, means it is free 80807
from danger or hazard to the health of persons occupying or 80808
frequenting it or to that of the public, if such danger arises 80809

from the method or materials of its construction or from any 80810
equipment installed therein, for the purpose of lighting, heating, 80811
ventilating, or plumbing. 80812

(9) "Residential building" means a one-family, two-family, or 80813
three-family dwelling house, and any accessory structure 80814
incidental to that dwelling house. "Residential building" includes 80815
a one-family, two-family, or three-family dwelling house that is 80816
used as a model to promote the sale of a similar dwelling house. 80817
"Residential building" does not include an industrialized unit as 80818
defined by division (C)(3) of this section, a manufactured home as 80819
defined by division (C)(4) of this section, or a mobile home as 80820
defined by division (O) of section 4501.01 of the Revised Code. 80821

(10) "Nonresidential building" means any building that is not 80822
a residential building or a manufactured or mobile home. 80823

(11) "Accessory structure" means a structure that is attached 80824
to a residential building and serves the principal use of the 80825
residential building. "Accessory structure" includes, but is not 80826
limited to, a garage, porch, or screened-in patio. 80827

Sec. 3781.183. If the board of building standards adopts 80828
rules under sections 3781.06 to 3781.18 of the Revised Code 80829
concerning the requirements an adult group home seeking licensure 80830
as an adult care facility must meet under section ~~3722.02~~ 5119.71 80831
of the Revised Code, the board shall adopt the rules in 80832
consultation with the directors of mental health and of aging and 80833
any interested party designated by the directors of mental health 80834
and of aging. 80835

Sec. 3791.043. If the board of building standards adopts 80836
rules under section 3791.04 of the Revised Code concerning the 80837
requirements an adult group home seeking licensure as an adult 80838
care facility must meet under section ~~3722.02~~ 5119.71 of the 80839

Revised Code, the board shall adopt the rules in consultation with 80840
the directors of mental health and aging and any interested party 80841
designated by the directors of mental health and aging. 80842

Sec. 3793.04. The department of alcohol and drug addiction 80843
services shall develop, administer, and revise as necessary a 80844
comprehensive statewide alcohol and drug addiction services plan 80845
for the implementation of this chapter. The plan shall emphasize 80846
abstinence from the use of alcohol and drugs of abuse as the 80847
primary goal of alcohol and drug addiction services. The council 80848
on alcohol and drug addiction services shall advise the department 80849
in the development and implementation of the plan. 80850

The plan shall provide for the allocation and distribution of 80851
~~state and federal~~ funds appropriated to the department by the 80852
general assembly for ~~service~~ services furnished by alcohol and 80853
drug addiction programs under contract with boards of alcohol, 80854
drug addiction, and mental health services ~~and for distribution of~~ 80855
~~the funds to such boards~~. The ~~plan~~ department shall exclude from 80856
the allocation and distribution any funds that are transferred to 80857
the department of job and family services to pay the nonfederal 80858
share of alcohol and drug addiction services covered by the 80859
medicaid program. 80860

The plan shall specify the methodology that the department 80861
will use for determining how the funds will be allocated and 80862
distributed. A portion of the funds shall be allocated on the 80863
basis of the ratio of the population of each alcohol, drug 80864
addiction, and mental health service district to the total 80865
population of the state as determined from the most recent federal 80866
census or the most recent official estimate made by the United 80867
States census bureau. 80868

The plan shall ensure that alcohol and drug addiction 80869
services of a high quality are accessible to, and responsive to 80870

the needs of, all persons, especially those who are members of 80871
underserved groups, including, but not limited to, African 80872
Americans, Hispanics, native Americans, Asians, juvenile and adult 80873
offenders, women, and persons with special services needs due to 80874
age or disability. The plan shall include a program to promote and 80875
protect the rights of those who receive services. 80876

To aid in formulating the plan and in evaluating the 80877
effectiveness and results of alcohol and drug addiction services, 80878
the department, in consultation with the department of mental 80879
health, shall establish and maintain an information system or 80880
systems. The department of alcohol and drug addiction services 80881
shall specify the information that must be provided by boards of 80882
alcohol, drug addiction, and mental health services and by alcohol 80883
and drug addiction programs for inclusion in the system. The 80884
department shall not collect any personal information from the 80885
boards except as required or permitted by state or federal law for 80886
purposes related to payment, health care operations, program and 80887
service evaluation, reporting activities, research, system 80888
administration, and oversight. 80889

In consultation with boards, programs, and persons receiving 80890
services, the department shall establish guidelines for the use of 80891
~~state and federal~~ funds allocated and distributed under this 80892
section and for the boards' development of plans for services 80893
required by sections 340.033 and 3793.05 of the Revised Code. 80894

In any fiscal year, the department shall spend, or allocate 80895
to boards, for methadone maintenance programs or any similar 80896
programs not more than eight per cent of the total amount 80897
appropriated to the department for the fiscal year. 80898

Sec. 3793.06. (A) ~~The department of alcohol and drug~~ 80899
~~addiction services shall evaluate and certify all~~ Each alcohol and 80900
drug addiction ~~programs in the state. Each~~ program shall apply to 80901

the department of alcohol and drug addiction services for 80902
certification. No program shall be eligible to receive state or 80903
federal funds unless it has been certified by the department. 80904

(B) No person shall represent in any manner that a program is 80905
certified by the department if the program is not certified at the 80906
time the representation is made. 80907

(C) Pursuant to Chapter 119. of the Revised Code and in 80908
consultation with members or representatives of boards of alcohol, 80909
drug addiction, and mental health services, programs, individuals 80910
who receive alcohol and drug addiction services, and the 80911
department of mental health, the department shall adopt rules that 80912
establish all of the following: 80913

(1) Minimum standards for the operation of programs, 80914
including, but not limited to, the following: 80915

(a) Requirements regarding physical facilities of programs; 80916

(b) Requirements with regard to health, safety, adequacy, and 80917
cultural specificity and sensitivity; 80918

(c) Requirements regarding the rights of recipients of 80919
services and procedures to protect these rights. 80920

(2) Standards for evaluating programs; 80921

(3) Standards and procedures for granting full or conditional 80922
certification to a program; 80923

(4) Standards and procedures for revoking the certification 80924
of a program that does not continue to meet the minimum standards 80925
established pursuant to this section. 80926

(D) Rules adopted under division (C) of this section shall 80927
specify the limitations to be placed on a program that is granted 80928
conditional certification. 80929

(E) The department may visit and evaluate any program to 80930
determine whether it meets the minimum standards for certification 80931

established pursuant to division (C) of this section. In the case 80932
of a program that has a contract with or proposes to contract with 80933
a board of alcohol, drug addiction, and mental health services, 80934
the department shall conduct the visit and evaluation in 80935
cooperation with the board. ~~¶~~ 80936

(F) Subject to section 3793.061 of the Revised Code, the 80937
department shall determine whether an applicant's program meets 80938
the minimum standards for certification. If the department 80939
determines that the program meets the minimum standards, it shall 80940
certify or recertify the program. 80941

~~(F)~~ (G) If the department determines that a program that has 80942
a contract with a board or proposes to contract with a board does 80943
not meet the minimum standards for certification, it shall 80944
identify the areas in which the program does not meet the 80945
standards, specify what action is necessary to meet the standards, 80946
and offer technical assistance to the board to enable it to assist 80947
the program in meeting the standards. The department shall give 80948
the program a reasonable time within which to demonstrate that the 80949
program meets the minimum standards or to bring the program into 80950
compliance with the standards. If the department concludes that 80951
the program continues to fail to meet minimum standards, it shall 80952
deny certification and may request that the board reallocate the 80953
funds that the board is allocating to that program to another 80954
program that is certified. If the board does not reallocate the 80955
funds within a reasonable time, the department may withhold from 80956
the board the funds that the board is allocating to the program 80957
and allocate the funds directly to a recovery program certified by 80958
the department. 80959

The department shall adopt rules pursuant to Chapter 119. of 80960
the Revised Code to implement this division. The rules shall 80961
specify the notice and hearing procedures to be followed prior to 80962
denial of certification or reallocation of funds. 80963

~~(G)~~(H) The department may withhold from a board all or part 80964
of the state and federal funds allocated for a program certified 80965
under this section in the event of failure of that program to 80966
comply with this chapter, Chapter 340. of the Revised Code, rules 80967
adopted by the department, or other provisions of state or federal 80968
law, including federal regulations. 80969

If the department proposes to withhold funds, it shall 80970
identify the areas of the program's noncompliance and the action 80971
necessary to achieve compliance and shall offer technical 80972
assistance to the board to enable it to assist the program to 80973
achieve compliance. The department shall allow a reasonable time 80974
within which the board or program shall demonstrate that the 80975
program is in compliance or the program shall bring itself into 80976
compliance. Before withholding funds, the department shall hold a 80977
hearing on the question of whether the program is in, or can be 80978
brought into, compliance. If, based on the hearing and other 80979
evidence, the department determines that compliance has not been, 80980
or cannot be, achieved, the department may withhold the funds and 80981
allocate all or part of the withheld funds to a certified program 80982
that is in compliance. That program shall use the funds to provide 80983
the services of the program that is not in compliance, until such 80984
time as it is in compliance. 80985

The department shall establish rules pursuant to Chapter 119. 80986
of the Revised Code to implement this division. 80987

~~(H)~~(I) The department shall maintain a current list of 80988
alcohol and drug addiction programs certified by the department 80989
under division (A) of this section and shall provide a copy of the 80990
current list to a judge of a court of common pleas who requests a 80991
copy for the use of the judge under division (H) of section 80992
2925.03 of the Revised Code. The list of certified alcohol and 80993
drug addiction programs shall identify each certified program by 80994
its name, its address, and the county in which it is located. 80995

Sec. 3793.061. (A) In lieu of a determination by the 80996
department of alcohol and drug addiction services of whether an 80997
alcohol and drug addiction program satisfies the standards for 80998
certification under section 3793.06 of the Revised Code, the 80999
department shall accept appropriate accreditation of an 81000
applicant's alcohol and other drug addiction services, integrated 81001
mental health and alcohol and other drug addiction services, or 81002
integrated alcohol and other drug addiction and physical health 81003
services being provided in this state from any of the following 81004
national accrediting organizations as evidence that the applicant 81005
satisfies the standards for certification: 81006

(1) The joint commission; 81007

(2) The commission on accreditation of rehabilitation 81008
facilities; 81009

(3) The council on accreditation. 81010

(B) If the department determines that an applicant's 81011
accreditation is current, is appropriate for the program for which 81012
the applicant is seeking certification, and the applicant meets 81013
any other requirements established under this section or in rules 81014
adopted under this section, the department shall certify or 81015
recertify the program. Except as provided in division (C)(2) of 81016
this section, the department shall issue the certification or 81017
recertification without further evaluation of the program. 81018

(C) For purposes of this section, all of the following apply: 81019

(1) The department may review the accrediting organizations 81020
listed in division (A) of this section to evaluate whether the 81021
accreditation standards and processes used by the organizations 81022
are consistent with service delivery models the department 81023
considers appropriate for alcohol and other drug addiction 81024
services, physical health services, or both. The department may 81025

communicate to an accrediting organization any identified 81026
concerns, trends, needs, and recommendations. 81027

(2) The department may visit or otherwise evaluate an alcohol 81028
and drug addiction program at any time based on cause, including 81029
complaints made by or on behalf of consumers and confirmed or 81030
alleged deficiencies brought to the attention of the department. 81031

(3) The department shall require an alcohol and drug 81032
addiction program to notify the department not later than ten days 81033
after any change in the program's accreditation status. The 81034
program may notify the department by providing a copy of the 81035
relevant document the program received from the accrediting 81036
organization. 81037

(4) The department shall require an alcohol and drug 81038
addiction program to submit to the department reports of major 81039
unusual incidents. 81040

(5) The department may require an alcohol and drug addiction 81041
program to submit to the department cost reports pertaining to the 81042
program. 81043

(D) The department shall adopt rules in accordance with 81044
Chapter 119. of the Revised Code to implement this section. In 81045
adopting the rules, the department shall do all of the following: 81046

(1) Specify the documentation that must be submitted as 81047
evidence of holding appropriate accreditation; 81048

(2) Establish a process by which the department may review 81049
the accreditation standards and processes used by the national 81050
accrediting organizations listed in division (A) of this section; 81051

(3) Specify the circumstances under which reports of major 81052
unusual incidents and program cost reports must be submitted to 81053
the department; 81054

(4) Specify the circumstances under which the department may 81055

visit or otherwise evaluate an alcohol and drug addiction program 81056
for cause; 81057

(5) Establish a process by which the department, based on 81058
deficiencies identified as a result of visiting or evaluating an 81059
alcohol drug addiction program under division (C)(2) of this 81060
section, may take any of a range of corrective actions, with the 81061
most stringent being revocation of the program's certification. 81062

Sec. 3793.21. (A) As used in this section, "administrative 81063
function" means a function related to one or more of the 81064
following: 81065

(1) Continuous quality improvement; 81066

(2) Utilization review; 81067

(3) Resource development; 81068

(4) Fiscal administration; 81069

(5) General administration; 81070

(6) Any other function related to administration that is 81071
required by Chapter 340. of the Revised Code. 81072

(B) Each board of alcohol, drug addiction, and mental health 81073
services shall submit an annual report to the department of 81074
alcohol and drug addiction services specifying how the board used 81075
~~state and federal~~ the funds allocated and distributed to the 81076
board, ~~according to the methodology the department specifies~~ under 81077
section 3793.04 of the Revised Code, for administrative functions 81078
in the year preceding the report's submission. The director of 81079
alcohol and drug addiction shall establish the date by which the 81080
report must be submitted each year. 81081

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of 81082
the Revised Code do not apply to the following: 81083

(A) Policies offering coverage that is regulated under 81084
Chapters 3935. and 3937. of the Revised Code; 81085

(B) An employer's self-insurance plan and any of its 81086
administrators, as defined in section 3959.01 of the Revised Code, 81087
to the extent that federal law supersedes, preempts, prohibits, or 81088
otherwise precludes the application of any provisions of those 81089
sections to the plan and its administrators; 81090

(C) A third-party payer for coverage provided under the 81091
medicare advantage program operated under Title XVIII of the 81092
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 81093
amended; 81094

(D) A third-party payer for coverage provided under the 81095
medicaid program operated under Title XIX of the "Social Security 81096
Act," except that if a federal waiver applied for under section 81097
5111.178 of the Revised Code is granted or the director of job and 81098
family services determines that this provision can be implemented 81099
without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of 81100
the Revised Code apply to claims submitted electronically or 81101
non-electronically that are made with respect to coverage of 81102
medicaid recipients by health insuring corporations licensed under 81103
Chapter 1751. of the Revised Code, instead of the prompt payment 81104
requirements of 42 C.F.R. 447.46; 81105

(E) A third-party payer for coverage provided under the 81106
tricare program offered by the United States department of 81107
defense. 81108

~~(F) A third party payer for coverage provided under the 81109
children's buy in program established under sections 5101.5211 to 81110
5101.5216 of the Revised Code. 81111~~

Sec. 3901.56. An insurer may offer a wellness or health 81112
improvement program that provides rewards or incentives, including 81113

merchandise; gift cards; debit cards; premium discounts or rebates; contributions to a health savings account; modifications to copayment, deductible, or coinsurance amounts; or any combination of these incentives, to encourage participation or to reward participation in the program. 81114
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A wellness or health improvement program offered by an insurer under this section shall not be construed to violate division (E) of section 1751.31 or division (G) of section 3901.21 of the Revised Code if the program is disclosed in the policy or plan. 81119
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The insured may be required to provide verification, such as a statement from their physician, that a medical condition makes it unreasonably difficult or medically inadvisable for the individual to participate in the wellness or health improvement program. 81124
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Nothing in this section shall prohibit an insurer from offering incentives or rewards to members for adherence to wellness or health improvement programs if otherwise allowed by federal law. 81129
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Nothing under division (C)(1) of section 3923.571 or section 3924.25 of the Revised Code shall be construed as prohibiting an insurer from offering a wellness or health improvement program or restricting the amount an employee is charged for coverage under a group policy after the application of any premium discounts or rebates, or modifying otherwise applicable copayments or deductibles for adherence to wellness or health improvement programs. 81133
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For purposes of this section, "insurer" means a life insurance company, sickness and accident insurer, multiple employer welfare association, public employee benefit plan, or health insuring corporation. 81141
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Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the Revised Code:

(A) "Admitted assets" means investment in assets which will be admitted by the superintendent of insurance pursuant to the law of this state.

(B) "Affiliate" has the same meaning as "affiliate of" or "affiliated with," as defined in section 3901.32 of the Revised Code.

(C) "Assets" means all property, real and personal, of every nature and kind whatsoever or any interest therein.

~~(C)~~(D) "Ancillary state" means any state other than a domiciliary state.

~~(D)~~(E) "Commodity contract" means any of the following:

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended, or a board of trade outside the United States;

(2) An agreement that is subject to regulation under section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(3) An agreement or transaction that is subject to regulation under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 6c(b), as amended, and that is commonly known to the commodities trade as a commodity option;

(4) Any combination of agreements or transactions described in division (E) of this section;

(5) Any option to enter into an agreement or transaction

described in division (E) of this section. 81174

(F) "Creditor" means a person having any claim, whether 81175
matured or unmatured, liquidated or unliquidated, secured or 81176
unsecured, absolute, fixed, or contingent. 81177

~~(E)~~(G) "Delinquency proceeding" means any proceeding 81178
commenced against an insurer for the purpose of liquidating, 81179
rehabilitating, reorganizing, or conserving the insurer, and any 81180
summary proceeding under section 3903.09 or 3903.10 of the Revised 81181
Code. "Formal delinquency proceeding" means any liquidation or 81182
rehabilitation proceeding. 81183

~~(F)~~(H) "Doing business" includes any of the following acts, 81184
whether effected by mail or otherwise: 81185

(1) The issuance or delivery of contracts of insurance to 81186
persons resident in this state; 81187

(2) The solicitation of applications for such contracts, or 81188
other negotiations preliminary to the execution of such contracts; 81189

(3) The collection of premiums, membership fees, assessments, 81190
or other consideration for such contracts; 81191

(4) The transaction of matters subsequent to execution of 81192
such contracts and arising out of them; 81193

(5) Operating under a license or certificate of authority, as 81194
an insurer, issued by the department of insurance. 81195

~~(G)~~(I) "Domiciliary state" means the state in which an 81196
insurer is incorporated or organized, or, in the case of an alien 81197
insurer, its state of entry. 81198

~~(H)~~(J) "Fair consideration" is given for property or 81199
obligation when either of the following apply: 81200

(1) When in exchange for such property or obligation, as a 81201
fair equivalent therefor, and in good faith, property is conveyed, 81202
services are rendered, an obligation is incurred, or an antecedent 81203

debt is satisfied; 81204

(2) When such property or obligation is received in good 81205
faith to secure a present advance or antecedent debt in an amount 81206
not disproportionately small as compared to the value of the 81207
property or obligation obtained. 81208

~~(I)~~(K) "Foreign country" means any other jurisdiction not in 81209
any state. 81210

~~(J)~~(L) "Forward contract" has the same meaning as in the 81211
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81212
1821(e)(8)(D), as now and hereafter amended. 81213

(M) "Guaranty association" means the Ohio insurance guaranty 81214
association created by section 3955.06 of the Revised Code and any 81215
other similar entity hereafter created by the general assembly for 81216
the payment of claims of insolvent insurers. "Foreign guaranty 81217
association" means any similar entities now in existence in or 81218
hereafter created by the legislature of any other state. 81219

~~(K)~~(N) "Insolvency" or "insolvent" means: 81220

(1) For an insurer issuing only assessable fire insurance 81221
policies either of the following: 81222

(a) The inability to pay any obligation within thirty days 81223
after it becomes payable; 81224

(b) If an assessment is made within thirty days after such 81225
date, the inability to pay the obligation thirty days following 81226
the date specified in the first assessment notice issued after the 81227
date of loss. 81228

(2) For any other insurer, that it is unable to pay its 81229
obligations when they are due, or when its admitted assets do not 81230
exceed its liabilities plus the greater of either of the 81231
following: 81232

(a) Any capital and surplus required by law for its 81233

organization; 81234

(b) The total par or stated value of its authorized and 81235
issued capital stock. 81236

(3) As to any insurer licensed to do business in this state 81237
as of the effective date of sections 3903.01 to 3903.59 of the 81238
Revised Code that does not meet the standard established under 81239
division ~~(K)~~(N)(2) of this section, the term "insolvency" or 81240
"insolvent" means, for a period not to exceed three years from the 81241
effective date of sections 3903.01 to 3903.59 of the Revised Code, 81242
that it is unable to pay its obligations when they are due or that 81243
its admitted assets do not exceed its liabilities plus any 81244
required capital contribution ordered by the superintendent under 81245
provisions of Title XXXIX of the Revised Code. 81246

(4) For purposes of divisions ~~(K)~~(N)(2) to (4) of this 81247
section, "liabilities" includes, but is not limited to, reserves 81248
required by statute or by rules of the superintendent or specific 81249
requirements imposed by the superintendent upon a subject company 81250
at the time of admission or subsequent thereto. 81251

~~(L)~~(O) "Insurer" means any person who has done, purports to 81252
do, is doing, or is licensed to do an insurance business, and is 81253
or has been subject to the authority of, or to liquidation, 81254
rehabilitation, reorganization, supervision, or conservation by, 81255
any insurance commissioner, superintendent, or equivalent 81256
official. For purposes of sections 3903.01 to 3903.59 of the 81257
Revised Code, any other persons included under section 3903.03 of 81258
the Revised Code are deemed to be insurers. 81259

~~(M)~~(P) "Netting agreement" means: 81260

(1) A contract or agreement, including a master agreement, 81261
and any terms and conditions incorporated by reference in such a 81262
contract or agreement, that provides for the netting, liquidation, 81263
setoff, termination, acceleration, or close out under or in 81264

connection with a qualified financial contract, or any present or 81265
future payment or delivery obligations or entitlements under a 81266
qualified financial contract, including liquidation or close-out 81267
values relating to those obligations or entitlements; 81268

(2) A master agreement, together with all schedules, 81269
confirmations, definitions, and addenda to the agreement and 81270
transactions under the agreement, which shall be treated as one 81271
netting agreement, and any bridge agreement for one or more master 81272
agreements; 81273

(3) Any security agreement or arrangement, credit support 81274
document, or guarantee or reimbursement obligation related to any 81275
contract or agreement described in division (P) of this section. 81276

Any contract or agreement described in division (P) of this 81277
section relating to agreements or transactions that are not 81278
qualified financial contracts shall be deemed to be a netting 81279
agreement only with respect to those agreements or transactions 81280
that are qualified financial contracts. 81281

(Q) "Preferred claim" means any claim with respect to which 81282
the terms of sections 3903.01 to 3903.59 of the Revised Code 81283
accord priority of payment from the assets of the insurer. 81284

~~(N)~~(R) "Qualified financial contract" means any commodity 81285
contract, forward contract, repurchase agreement, securities 81286
contract, swap agreement, and any similar agreement that the 81287
superintendent may determine by rule or order to be a qualified 81288
financial contract for purposes of this chapter. 81289

(S) "Reciprocal state" means any state other than this state 81290
in which in substance and effect division (A) of section 3903.18, 81291
and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the 81292
Revised Code are in force, in which provisions are in force 81293
requiring that the superintendent or equivalent official be the 81294
receiver, liquidator, rehabilitator, or conservator of a 81295

delinquent insurer, and in which some provision exists for the 81296
avoidance of fraudulent conveyances and preferential transfers. 81297

~~(O)~~(T) "Repurchase agreement" has the same meaning as in the 81298
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81299
1821(e)(8)(D), as now and hereafter amended. 81300

(U) "Secured claim" means any claim secured by mortgage, 81301
trust deed, security agreement, pledge, deposit as security, 81302
escrow, or otherwise, but not including special deposit claims or 81303
claims against assets. The term also includes claims which have 81304
become liens upon specific assets by reason of judicial process. 81305

~~(P)~~(V) "Securities contract" has the same meaning as in the 81306
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81307
1821(e)(8)(D), as now and hereafter amended. 81308

(W) "Special deposit claim" means any claim secured by a 81309
deposit made pursuant to statute for the security or benefit of a 81310
limited class or classes of persons, but not including any claim 81311
secured by assets. 81312

~~(Q)~~(X) "State" has the meaning set forth in division (G) of 81313
section 1.59 of the Revised Code. 81314

~~(R)~~(Y) "Superintendent" or "superintendent of insurance" 81315
means the superintendent of insurance of this state, or, when the 81316
context requires, the superintendent or commissioner of insurance, 81317
or equivalent official, of another state. 81318

~~(S)~~(Z) "Swap agreement" has the same meaning as in the 81319
federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 81320
1821(e)(8)(D), as now and hereafter amended. 81321

(AA) "Transfer" includes the sale and every other and 81322
different mode, direct or indirect, of disposing of or of parting 81323
with property or with an interest in property, or with the 81324
possession of property or of fixing a lien upon property or upon 81325

an interest in property, absolutely or conditionally, voluntarily, 81326
or by or without judicial proceedings. The retention of a security 81327
title to property delivered to a debtor shall be deemed a transfer 81328
suffered by the debtor. 81329

Sec. 3903.301. (A) Notwithstanding any other provision under 81330
sections 3903.01 to 3903.59 of the Revised Code, no person shall 81331
be stayed or prohibited from exercising any of the following 81332
rights: 81333

(1) A contractual right to cause the termination, 81334
liquidation, acceleration, or close out of obligations under, or 81335
in connection with, a netting agreement or qualified financial 81336
contract with an insurer because of either of the following: 81337

(a) The insolvency, financial condition, or default of the 81338
insurer at any time; 81339

(b) The commencement of a formal delinquency proceeding under 81340
sections 3903.01 to 3903.59 of the Revised Code. 81341

(2) Any right under a pledge, security, collateral, 81342
reimbursement, or guarantee agreement or arrangement or any 81343
similar security arrangement or credit enhancement relating to a 81344
netting agreement or qualified financial contract; 81345

(3) Subject to section 3903.30 of the Revised Code, any right 81346
to set off or net out any termination value, payment amount, or 81347
other transfer obligation arising under or in connection with a 81348
qualified financial contract in which the counterparty or its 81349
guarantor is organized under the laws of the United States, a 81350
state, or a foreign jurisdiction that the securities valuation 81351
office of the national association of insurance commissioners 81352
approves as eligible for netting. 81353

(B) If a counterparty to a netting agreement or qualified 81354
financial contract with an insurer that is subject to a proceeding 81355

under sections 3903.01 to 3903.59 of the Revised Code terminates, liquidates, accelerates, or closes out the agreement or contract, damages shall be measured as of the date or dates of the termination, liquidation, acceleration, or close out. The amount of a claim for damages shall be actual direct compensatory damages. 81356
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(C) Upon termination of a netting agreement or qualified financial contract, any net or settlement amount that a nondefaulting party owes to an insurer against which an application or petition has been filed under sections 3903.01 to 3903.59 of the Revised Code shall be transferred to, or on the order of, the receiver for the insurer. 81362
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This division applies regardless of whether the insurer is the defaulting party and applies notwithstanding any walkaway clause in the netting agreement or qualified financial contract. 81368
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For purposes of this division, a limited two-way payment or first method provision in a netting agreement or qualified financial contract with a defaulting insurer shall be deemed to be a full two-way payment or second method provision as against the defaulting insurer. 81371
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Any property or amount transferred under this division shall be a general asset of the insurer except to the extent it is subject to a secondary lien or encumbrance, or to rights of netting or setoff. 81376
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(D) In transferring a netting agreement or qualified financial contract of an insurer that is subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code, the receiver shall do either of the following: 81380
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(1) Transfer to one party, other than an insurer subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code, all netting agreements and qualified financial contracts between a 81384
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counterparty, or any affiliate of the counterparty, and the 81387
insurer that is the subject of the proceeding. The transfer shall 81388
include all rights and obligations of each party under each 81389
netting agreement and qualified financial contract, and all 81390
property, including any guarantees or other credit enhancement, 81391
securing any claims of the parties under each agreement or 81392
contract. 81393

(2) Transfer none of the netting agreements or qualified 81394
financial contracts, including the rights, obligations, and 81395
property associated with those agreements and contracts as 81396
described in division (D)(1) of this section, with respect to the 81397
counterparty and any affiliate of the counterparty. 81398

(E) If a receiver transfers a netting agreement or qualified 81399
financial contract, the receiver shall use its best efforts to 81400
notify any person who is a party to the transferred agreement or 81401
contract of the transfer by noon, of the receiver's local time, on 81402
the business day following the transfer. 81403

(F)(1) Notwithstanding any other provision of sections 81404
3903.01 to 3903.59 of the Revised Code and except as otherwise 81405
provided in division (F)(2) of this section, a receiver shall not 81406
avoid a transfer of money or other property that is made before 81407
the commencement of a formal delinquency proceeding under sections 81408
3903.01 to 3903.59 of the Revised Code and that arises under or in 81409
connection with either of the following: 81410

(a) A netting agreement or qualified financial contract; 81411

(b) Any pledge, security, collateral, or guarantee agreement 81412
or other similar security arrangement or credit support document 81413
relating to a netting agreement or qualified financial contract. 81414

(2) A receiver may avoid a transfer under sections 3903.26 to 81415
3903.28 of the Revised Code if the transfer was made with actual 81416
intent to hinder, delay, or defraud the insurer, a receiver 81417

appointed for the insurer, or existing or future creditors. 81418

(G)(1) In exercising any right of disaffirmance or 81419
repudiation with respect to a netting agreement or qualified 81420
financial contract to which an insurer is a party, the receiver 81421
for the insurer shall do either of the following: 81422

(a) Disaffirm or repudiate all netting agreements and 81423
qualified financial contracts between the insurer and a 81424
counterparty or any affiliate of the counterparty; 81425

(b) Disaffirm or repudiate none of those netting agreements 81426
or qualified financial contracts with respect to the counterparty 81427
or any affiliate of the counterparty. 81428

(2) Notwithstanding any other provision of sections 3903.01 81429
to 3903.59 of the Revised Code, if a counterparty's claim against 81430
the estate of the insurer arising from the receiver's 81431
disaffirmance or repudiation of a netting agreement or qualified 81432
financial contract has not been previously affirmed in the 81433
liquidation or immediately preceding conservation or 81434
rehabilitation case, that claim shall be considered as if it had 81435
arisen before the filing date of the petition for liquidation. If 81436
a conservation or rehabilitation proceeding is converted to a 81437
liquidation proceeding, that claim shall be considered as if it 81438
had arisen before the filing date of the petition for conservation 81439
or rehabilitation. The amount of the claim shall be the actual 81440
direct compensatory damages determined as of the date of the 81441
disaffirmance or repudiation. 81442

(H) All rights of a counterparty under sections 3903.01 to 81443
3903.59 of the Revised Code shall apply to netting agreements and 81444
qualified financial contracts entered into on behalf of the 81445
general account or separate accounts if the assets of each 81446
separate account are available only to counterparties to netting 81447
agreements and qualified financial contracts entered into on 81448

behalf of that separate account. 81449

(I) This section shall not apply to the affiliates of an insurer that is the subject of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code. 81450
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(J) As used in this section: 81453

(1) "Actual direct compensatory damages" includes normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering. 81454
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(2) "Business day" means any day, excluding Saturday, Sunday, and any day on which the New York stock exchange or the federal reserve bank of New York is closed. 81461
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(3) "Contractual right" includes any of the following: 81464

(a) Any right set forth in a rule or bylaw of a derivatives clearing organization, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(9)(A), as amended; a multilateral clearing organization; a national securities exchange; a national securities association; a securities clearing agency; a contract market designated under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a derivatives transaction execution facility, including a swap execution facility, registered under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a security-based swap execution facility registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78a et seq., as amended; or a board of trade, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(2); 81465
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(b) Any right set forth in a resolution of the governing board of any entity listed in division (J)(3)(a) of this section; 81478
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(c) Any right, regardless of whether evidenced in writing, arising under statutory law, common law, or law merchant, or by reason of normal business practice. 81480
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(4) "Receiver" means a receiver, conservator, rehabilitator, or liquidator, as applicable. 81483
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(5) "Walkaway clause" means a provision under which a party to a netting agreement or qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract is not obligated to pay or does not have a payment obligation extinguished under the agreement or contract, in whole or in part, solely because the party is a nondefaulting party. 81485
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Sec. 3923.28. (A) Every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only, and delivered, issued for delivery, or renewed in this state on or after January 1, 1979, and that provides coverage for mental or emotional disorders, shall provide benefits for services on an outpatient basis for each eligible person under the policy who resides in this state for mental or emotional disorders, or for evaluations, that are at least equal to five hundred fifty dollars in any calendar year or twelve-month period. The services shall be legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under 81494
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Chapter 4723. of the Revised Code whose nursing specialty is 81511
mental health, whether performed in an office, in a hospital, or 81512
in a community mental health facility so long as the hospital or 81513
community mental health facility is approved by the joint 81514
commission on accreditation of healthcare organizations, the 81515
council on accreditation for children and family services, or the 81516
rehabilitation accreditation commission, ~~or, until two years after~~ 81517
~~June 6, 2001, certified by the department of mental health as~~ 81518
~~being in compliance with standards established under division (H)~~ 81519
~~of section 5119.01 of the Revised Code.~~ 81520

(B) Outpatient benefits offered under division (A) of this 81521
section shall be subject to reasonable contract limitations and 81522
may be subject to reasonable deductibles and co-insurance costs. 81523
Persons entitled to such benefit under more than one service or 81524
insurance contract may be limited to a single 81525
five-hundred-fifty-dollar outpatient benefit for services under 81526
all contracts. 81527

(C) In order to qualify for participation under division (A) 81528
of this section, every facility specified in such division shall 81529
have in effect a plan for utilization review and a plan for peer 81530
review and every person specified in such division shall have in 81531
effect a plan for peer review. Such plans shall have the purpose 81532
of ensuring high quality patient care and effective and efficient 81533
utilization of available health facilities and services. 81534

(D) Nothing in this section shall be construed to require an 81535
insurer to pay benefits which are greater than usual, customary, 81536
and reasonable. 81537

(E)(1) Services performed under the clinical supervision of a 81538
health care professional identified in division (A) of this 81539
section, in order to be reimbursable under the coverage required 81540
in division (A) of this section, shall meet both of the following 81541
requirements: 81542

(a) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(b) The plan shall be reviewed and approved by the health care professional every three months.

(2) Payment of benefits for services reimbursable under division (E)(1) of this section shall not be restricted to services described in the treatment plan or conditioned upon standards of clinical supervision that are more restrictive than standards of a health care professional described in division (A) of this section, which at least equal the requirements of division (E)(1) of this section.

(F) The benefits provided by this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.281 of the Revised Code for diagnostic and treatment services for biologically based mental illnesses. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3923.281. (A) As used in this section:

(1) "Biologically based mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(2) "Policy of sickness and accident insurance" has the same meaning as in section 3923.01 of the Revised Code, but excludes any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of not longer

than six months, supplemental benefit, or other policy that 81573
provides coverage for specific diseases or accidents only; any 81574
policy that provides coverage for workers' compensation claims 81575
compensable pursuant to Chapters 4121. and 4123. of the Revised 81576
Code; and any policy that provides coverage to beneficiaries 81577
enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 81578
(1935), 42 U.S.C.A. 301, as amended, known as the medical 81579
assistance program or medicaid, as provided by the Ohio department 81580
of job and family services under Chapter 5111. of the Revised 81581
Code; ~~and any policy that provides coverage to beneficiaries~~ 81582
~~enrolled in the children's buy in program established under~~ 81583
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 81584

(B) Notwithstanding section 3901.71 of the Revised Code, and 81585
subject to division (E) of this section, every policy of sickness 81586
and accident insurance shall provide benefits for the diagnosis 81587
and treatment of biologically based mental illnesses on the same 81588
terms and conditions as, and shall provide benefits no less 81589
extensive than, those provided under the policy of sickness and 81590
accident insurance for the treatment and diagnosis of all other 81591
physical diseases and disorders, if both of the following apply: 81592

(1) The biologically based mental illness is clinically 81593
diagnosed by a physician authorized under Chapter 4731. of the 81594
Revised Code to practice medicine and surgery or osteopathic 81595
medicine and surgery; a psychologist licensed under Chapter 4732. 81596
of the Revised Code; a professional clinical counselor, 81597
professional counselor, or independent social worker licensed 81598
under Chapter 4757. of the Revised Code; or a clinical nurse 81599
specialist licensed under Chapter 4723. of the Revised Code whose 81600
nursing specialty is mental health. 81601

(2) The prescribed treatment is not experimental or 81602
investigational, having proven its clinical effectiveness in 81603
accordance with generally accepted medical standards. 81604

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

(D) Nothing in this section shall be construed as prohibiting a sickness and accident insurance company from taking any of the following actions:

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services;

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses;

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary;

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance.

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply:

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental

illnesses for a period of at least six months independently caused 81636
the insurer's costs for claims and administrative expenses for the 81637
coverage of all other physical diseases and disorders to increase 81638
by more than one per cent per year. 81639

(2) The insurer submits a signed letter from an independent 81640
member of the American academy of actuaries to the superintendent 81641
of insurance opining that the increase described in division 81642
(E)(1) of this section could reasonably justify an increase of 81643
more than one per cent in the annual premiums or rates charged by 81644
the insurer for the coverage of all other physical diseases and 81645
disorders. 81646

(3) The superintendent of insurance makes the following 81647
determinations from the documentation and opinion submitted 81648
pursuant to divisions (E)(1) and (2) of this section: 81649

(a) Incurred claims for diagnostic and treatment services for 81650
biologically based mental illnesses for a period of at least six 81651
months independently caused the insurer's costs for claims and 81652
administrative expenses for the coverage of all other physical 81653
diseases and disorders to increase by more than one per cent per 81654
year. 81655

(b) The increase in costs reasonably justifies an increase of 81656
more than one per cent in the annual premiums or rates charged by 81657
the insurer for the coverage of all other physical diseases and 81658
disorders. 81659

Any determination made by the superintendent under this 81660
division is subject to Chapter 119. of the Revised Code. 81661

Sec. 3923.30. Every person, the state and any of its 81662
instrumentalities, any county, township, school district, or other 81663
political subdivisions and any of its instrumentalities, and any 81664
municipal corporation and any of its instrumentalities, which 81665

provides payment for health care benefits for any of its employees 81666
resident in this state, which benefits are not provided by 81667
contract with an insurer qualified to provide sickness and 81668
accident insurance, or a health insuring corporation, shall 81669
include the following benefits in its plan of health care benefits 81670
commencing on or after January 1, 1979: 81671

(A) If such plan of health care benefits provides payment for 81672
the treatment of mental or nervous disorders, then such plan shall 81673
provide benefits for services on an outpatient basis for each 81674
eligible employee and dependent for mental or emotional disorders, 81675
or for evaluations, that are at least equal to the following: 81676

(1) Payments not less than five hundred fifty dollars in a 81677
twelve-month period, for services legally performed by or under 81678
the clinical supervision of a physician authorized under Chapter 81679
4731. of the Revised Code to practice medicine and surgery or 81680
osteopathic medicine and surgery; a psychologist licensed under 81681
Chapter 4732. of the Revised Code; a professional clinical 81682
counselor, professional counselor, or independent social worker 81683
licensed under Chapter 4757. of the Revised Code; or a clinical 81684
nurse specialist licensed under Chapter 4723. of the Revised Code 81685
whose nursing specialty is mental health, whether performed in an 81686
office, in a hospital, or in a community mental health facility so 81687
long as the hospital or community mental health facility is 81688
approved by the joint commission on accreditation of healthcare 81689
organizations, the council on accreditation for children and 81690
family services, or the rehabilitation accreditation commission, 81691
~~or, until two years after June 6, 2001, certified by the~~ 81692
~~department of mental health as being in compliance with standards~~ 81693
~~established under division (H) of section 5119.01 of the Revised~~ 81694
~~Code;~~ 81695

(2) Such benefit shall be subject to reasonable limitations, 81696
and may be subject to reasonable deductibles and co-insurance 81697

costs. 81698

(3) In order to qualify for participation under this 81699
division, every facility specified in this division shall have in 81700
effect a plan for utilization review and a plan for peer review 81701
and every person specified in this division shall have in effect a 81702
plan for peer review. Such plans shall have the purpose of 81703
ensuring high quality patient care and effective and efficient 81704
utilization of available health facilities and services. 81705

(4) Such payment for benefits shall not be greater than 81706
usual, customary, and reasonable. 81707

(5)(a) Services performed by or under the clinical 81708
supervision of a health care professional identified in division 81709
(A)(1) of this section, in order to be reimbursable under the 81710
coverage required in division (A) of this section, shall meet both 81711
of the following requirements: 81712

(i) The services shall be performed in accordance with a 81713
treatment plan that describes the expected duration, frequency, 81714
and type of services to be performed; 81715

(ii) The plan shall be reviewed and approved by the health 81716
care professional every three months. 81717

(b) Payment of benefits for services reimbursable under 81718
division (A)(5)(a) of the section shall not be restricted to 81719
services described in the treatment plan or conditioned upon 81720
standards of a licensed physician or licensed psychologist, which 81721
at least equal the requirements of division (A)(5)(a) of this 81722
section. 81723

(B) Payment for benefits for alcoholism treatment for 81724
outpatient, inpatient, and intermediate primary care for each 81725
eligible employee and dependent that are at least equal to the 81726
following: 81727

(1) Payments not less than five hundred fifty dollars in a 81728
twelve-month period for services legally performed by or under the 81729
clinical supervision of a health care professional identified in 81730
division (A)(1) of this section, whether performed in an office, 81731
or in a hospital or a community mental health facility or 81732
alcoholism treatment facility so long as the hospital, community 81733
mental health facility, or alcoholism treatment facility is 81734
approved by the joint commission on accreditation of hospitals or 81735
certified by the department of health; 81736

(2) The benefits provided under this division shall be 81737
subject to reasonable limitations and may be subject to reasonable 81738
deductibles and co-insurance costs. 81739

(3) A health care professional shall every three months 81740
certify a patient's need for continued services performed by such 81741
facilities. 81742

(4) In order to qualify for participation under this 81743
division, every facility specified in this division shall have in 81744
effect a plan for utilization review and a plan for peer review 81745
and every person specified in this division shall have in effect a 81746
plan for peer review. Such plans shall have the purpose of 81747
ensuring high quality patient care and efficient utilization of 81748
available health facilities and services. Such person or 81749
facilities shall also have in effect a program of rehabilitation 81750
or a program of rehabilitation and detoxification. 81751

(5) Nothing in this section shall be construed to require 81752
reimbursement for benefits which is greater than usual, customary, 81753
and reasonable. 81754

(C) The benefits provided by division (A) of this section for 81755
mental and emotional disorders shall not be reduced by the cost of 81756
benefits provided pursuant to section 3923.282 of the Revised Code 81757
for diagnostic and treatment services for biologically based 81758

mental illness. This section does not apply to benefits for 81759
diagnostic and treatment services for biologically based mental 81760
illnesses. 81761

Sec. 3924.10. (A) The board of directors of the Ohio health 81762
reinsurance program may make recommendations to the superintendent 81763
of insurance, and the superintendent may adopt or amend by rule 81764
adopted in accordance with Chapter 119. of the Revised Code, the 81765
OHC basic, standard, and carrier reimbursement plans which, when 81766
offered by a carrier, are eligible for reinsurance under the 81767
program. The superintendent shall establish the form and level of 81768
coverage to be made available by carriers in their OHC plans. The 81769
plans shall include benefit levels, deductibles, coinsurance 81770
factors, exclusions, and limitations for the plans. The forms and 81771
levels of coverage shall specify which components of health 81772
benefit plans offered by a carrier may be reinsured. The OHC plans 81773
are subject to division (C) of section 3924.02 of the Revised Code 81774
and to the provisions in Chapters 1751., 1753., 3923., and any 81775
other chapter of the Revised Code that require coverage or the 81776
offer of coverage of a health care service or benefit. 81777

(B) Prior to adopting any rule that makes changes to the OHC 81778
basic or standard plan, the superintendent shall conduct an 81779
actuarial analysis of the cost impact of the proposed rule. ~~The~~ 81780
~~superintendent may consider recommendations of the Ohio health~~ 81781
~~care coverage and quality council established under section~~ 81782
~~3923.90 of the Revised Code.~~ The plans may include cost 81783
containment features including any of the following: 81784

(1) Utilization review of health care services, including 81785
review of the medical necessity of hospital and physician 81786
services; 81787

(2) Case management benefit alternatives; 81788

(3) Selective contracting with hospitals, physicians, and 81789

other health care providers;	81790
(4) Reasonable benefit differentials applicable to participating and nonparticipating providers;	81791 81792
(5) Employee assistance program options that provide preventive and early intervention mental health and substance abuse services;	81793 81794 81795
(6) Other provisions for the cost-effective management of the plans.	81796 81797
(C) OHC plans established for use by health insuring corporations shall be consistent with the basic method of operation of such corporations.	81798 81799 81800
(D) Each carrier shall certify to the superintendent of insurance, in the form and manner prescribed by the superintendent, that the OHC plans filed by the carrier are in substantial compliance with the provisions of the OHC plans designed or adopted under this section. Upon receipt by the superintendent of the certification, the carrier may use the certified plans.	81801 81802 81803 81804 81805 81806 81807
(E) Each carrier shall, on and after sixty days after the date that the program becomes operational and as a condition of transacting business in this state, renew coverage provided to any individual or group under its OHC plans.	81808 81809 81810 81811
(F) The OHC plans in effect as of June 1, 2009, shall remain in effect until those plans are amended or new plans are adopted in accordance with this section.	81812 81813 81814
Sec. 3937.41. (A) As used in this section:	81815
(1) "Ambulance" has the same meaning as in section 4765.01 of the Revised Code and also includes private ambulance companies under contract to a municipal corporation, township, or county.	81816 81817 81818

(2) "Emergency vehicle" means any of the following:	81819
(a) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a municipal, township, or county department or public utility corporation and that is identified as such as required by law, the director of public safety, or local authorities;	81820 81821 81822 81823 81824
(b) Any motor vehicle, as defined in section 4511.01 of the Revised Code, when commandeered by a police officer;	81825 81826
(c) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a qualified nonprofit corporation police department established pursuant to section 1702.80 of the Revised Code and that is identified as an emergency vehicle;	81827 81828 81829 81830 81831
(d) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a proprietary police department or security department of a hospital operated by a public hospital agency or a nonprofit hospital agency that employs police officers under section 4973.17 of the Revised Code, and that is identified as an emergency vehicle.	81832 81833 81834 81835 81836 81837
(3) "Firefighter" means any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township.	81838 81839 81840
(4) "Law enforcement officer" means any of the following:	81841
(a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, police officer of a township or joint township police district, state highway patrol trooper, or member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code;	81842 81843 81844 81845 81846 81847
(b) A police officer employed by a qualified nonprofit police	81848

department pursuant to section 1702.80 of the Revised Code, or 81849
police officer employed by a proprietary police department or 81850
security department of a hospital operated by a public hospital 81851
agency or nonprofit hospital agency pursuant to section 4973.17 of 81852
the Revised Code; 81853

(c) An officer, agent, or employee of the state or any of its 81854
agencies, instrumentalities, or political subdivisions, upon whom, 81855
by statute, a duty to conserve the peace or to enforce all or 81856
certain laws is imposed and the authority to arrest violators is 81857
conferred, within the limits of that statutory duty and authority; 81858

(d) A veterans' home police officer appointed under section 81859
5907.02 of the Revised Code; 81860

(e) A member of a police force employed by a regional transit 81861
authority under division (Y) of section 306.35 of the Revised 81862
Code. 81863

(5) "Motor vehicle accident" means any accident involving a 81864
motor vehicle which results in bodily injury to any person, or 81865
damage to the property of any person. 81866

(6) "Investigator" means an investigator of the bureau of 81867
criminal identification and investigation as defined in section 81868
2903.11 of the Revised Code. 81869

(B) No insurer shall consider the circumstance that an 81870
applicant or policyholder has been involved in a motor vehicle 81871
accident while in the pursuit of the applicant's or policyholder's 81872
official duties as a law enforcement officer, firefighter, 81873
investigator, or operator of an emergency vehicle or ambulance, 81874
while operating a vehicle engaged in mowing or snow and ice 81875
removal as a county, township, or department of transportation 81876
employee, or while operating a vehicle while engaged in the 81877
pursuit of the applicant's or policyholder's official duties as a 81878
member of the motor carrier enforcement unit of the state highway 81879

patrol under section 5503.34 of the Revised Code, as a basis for 81880
doing either of the following: 81881

(1) Refusing to issue or deliver a policy of insurance upon a 81882
private automobile, or increasing the rate to be charged for such 81883
a policy; 81884

(2) Increasing the premium rate, canceling, or failing to 81885
renew an existing policy of insurance upon a private automobile. 81886

(C) Any applicant or policyholder affected by an action of an 81887
insurer in violation of this section may appeal to the 81888
superintendent of insurance. After a hearing held upon not less 81889
than ten days' notice to the applicant or policyholder and to the 81890
insurer and if the superintendent determines that the insurer has 81891
violated this section, the superintendent may direct the issuance 81892
of a policy, decrease the premium rate on a policy, or reinstate 81893
insurance coverage. 81894

(D) The employer of the law enforcement officer, firefighter, 81895
investigator, or operator of an emergency vehicle or ambulance, 81896
operator of a vehicle engaged in mowing or snow and ice removal, 81897
or operator of a vehicle who is a member of the motor carrier 81898
enforcement unit, except as otherwise provided in division (F) of 81899
this section, shall certify to the state highway patrol or law 81900
enforcement agency that investigates the accident whether the 81901
officer, firefighter, investigator, or operator of an emergency 81902
vehicle or ambulance, operator of a vehicle engaged in mowing or 81903
snow and ice removal, or operator of a vehicle who is a member of 81904
the motor carrier enforcement unit, was engaged in the performance 81905
of the person's official duties as such employee at the time of 81906
the accident. The employer shall designate an official authorized 81907
to make the certifications. The state highway patrol or law 81908
enforcement agency shall include the certification in any report 81909
of the accident forwarded to the department of public safety 81910
pursuant to sections 5502.11 and 5502.12 of the Revised Code and 81911

shall forward the certification to the department if received 81912
after the report of the accident has been forwarded to the 81913
department. The registrar of motor vehicles shall not include an 81914
accident in a certified abstract of information under division (A) 81915
of section 4509.05 of the Revised Code, if the person involved has 81916
been so certified as having been engaged in the performance of the 81917
person's official duties at the time of the accident. 81918

(E) Division (B) of this section does not apply to an insurer 81919
whose policy covers the motor vehicle at the time the motor 81920
vehicle is involved in an accident described in division (B) of 81921
this section. 81922

(F) Division (B) of this section does not apply if an 81923
applicant or policyholder, on the basis of the applicant's or 81924
policyholder's involvement in an accident described in that 81925
division, is convicted of or pleads guilty or no contest to a 81926
violation of section 4511.19 of the Revised Code or a municipal 81927
OVI ordinance as defined in section 4511.181 of the Revised Code. 81928

Sec. 3963.01. As used in this chapter: 81929

(A) "Affiliate" means any person or entity that has ownership 81930
or control of a contracting entity, is owned or controlled by a 81931
contracting entity, or is under common ownership or control with a 81932
contracting entity. 81933

(B) "Basic health care services" has the same meaning as in 81934
division (A) of section 1751.01 of the Revised Code, except that 81935
it does not include any services listed in that division that are 81936
provided by a pharmacist or nursing home. 81937

(C) "Contracting entity" means any person that has a primary 81938
business purpose of contracting with participating providers for 81939
the delivery of health care services. 81940

(D) "Credentialing" means the process of assessing and 81941

validating the qualifications of a provider applying to be 81942
approved by a contracting entity to provide basic health care 81943
services, specialty health care services, or supplemental health 81944
care services to enrollees. 81945

(E) "Edit" means adjusting one or more procedure codes billed 81946
by a participating provider on a claim for payment or a practice 81947
that results in any of the following: 81948

(1) Payment for some, but not all of the procedure codes 81949
originally billed by a participating provider; 81950

(2) Payment for a different procedure code than the procedure 81951
code originally billed by a participating provider; 81952

(3) A reduced payment as a result of services provided to an 81953
enrollee that are claimed under more than one procedure code on 81954
the same service date. 81955

(F) "Electronic claims transport" means to accept and 81956
digitize claims or to accept claims already digitized, to place 81957
those claims into a format that complies with the electronic 81958
transaction standards issued by the United States department of 81959
health and human services pursuant to the "Health Insurance 81960
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 81961
U.S.C. 1320d, et seq., as those electronic standards are 81962
applicable to the parties and as those electronic standards are 81963
updated from time to time, and to electronically transmit those 81964
claims to the appropriate contracting entity, payer, or 81965
third-party administrator. 81966

(G) "Enrollee" means any person eligible for health care 81967
benefits under a health benefit plan, including an eligible 81968
recipient of medicaid under Chapter 5111. of the Revised Code, and 81969
includes all of the following terms: 81970

(1) "Enrollee" and "subscriber" as defined by section 1751.01 81971
of the Revised Code; 81972

(2) "Member" as defined by section 1739.01 of the Revised Code;	81973 81974
(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;	81975 81976
(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.	81977 81978
(H) "Health care contract" means a contract entered into, materially amended, or renewed between a contracting entity and a participating provider for the delivery of basic health care services, specialty health care services, or supplemental health care services to enrollees.	81979 81980 81981 81982 81983
(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.	81984 81985 81986
(J) "Material amendment" means an amendment to a health care contract that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:	81987 81988 81989 81990 81991 81992
(1) A decrease in payment or compensation resulting solely from a change in a published fee schedule upon which the payment or compensation is based and the date of applicability is clearly identified in the contract;	81993 81994 81995 81996
(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;	81997 81998 81999 82000
(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability	82001 82002

of which is clearly identified in the contract;	82003
(4) Changes to an existing prior authorization,	82004
precertification, notification, or referral program that do not	82005
substantially increase the provider's administrative expense;	82006
(5) Changes to an edit program or to specific edits if the	82007
participating provider is provided notice of the changes pursuant	82008
to division (A)(1) of section 3963.04 of the Revised Code and the	82009
notice includes information sufficient for the provider to	82010
determine the effect of the change;	82011
(6) Changes to a health care contract described in division	82012
(B) of section 3963.04 of the Revised Code.	82013
(K) "Participating provider" means a provider that has a	82014
health care contract with a contracting entity and is entitled to	82015
reimbursement for health care services rendered to an enrollee	82016
under the health care contract.	82017
(L) "Payer" means any person that assumes the financial risk	82018
for the payment of claims under a health care contract or the	82019
reimbursement for health care services provided to enrollees by	82020
participating providers pursuant to a health care contract.	82021
(M) "Primary enrollee" means a person who is responsible for	82022
making payments for participation in a health care plan or an	82023
enrollee whose employment or other status is the basis of	82024
eligibility for enrollment in a health care plan.	82025
(N) "Procedure codes" includes the American medical	82026
association's current procedural terminology code, the American	82027
dental association's current dental terminology, and the centers	82028
for medicare and medicaid services health care common procedure	82029
coding system.	82030
(O) "Product" means one of the following types of categories	82031
of coverage for which a participating provider may be obligated to	82032

provide health care services pursuant to a health care contract:	82033
(1) A health maintenance organization or other product	82034
provided by a health insuring corporation;	82035
(2) A preferred provider organization;	82036
(3) Medicare;	82037
(4) Medicaid or the children's buy in program established	82038
under section 5101.5211 to 5101.5216 of the Revised Code;	82039
(5) Workers' compensation.	82040
(P) "Provider" means a physician, podiatrist, dentist,	82041
chiropractor, optometrist, psychologist, physician assistant,	82042
advanced practice nurse, occupational therapist, massage	82043
therapist, physical therapist, professional counselor,	82044
professional clinical counselor, hearing aid dealer, orthotist,	82045
prosthetist, home health agency, hospice care program, or	82046
hospital, or a provider organization or physician-hospital	82047
organization that is acting exclusively as an administrator on	82048
behalf of a provider to facilitate the provider's participation in	82049
health care contracts. "Provider" does not mean a pharmacist,	82050
pharmacy, nursing home, or a provider organization or	82051
physician-hospital organization that leases the provider	82052
organization's or physician-hospital organization's network to a	82053
third party or contracts directly with employers or health and	82054
welfare funds.	82055
(Q) "Specialty health care services" has the same meaning as	82056
in section 1751.01 of the Revised Code, except that it does not	82057
include any services listed in division (B) of section 1751.01 of	82058
the Revised Code that are provided by a pharmacist or a nursing	82059
home.	82060
(R) "Supplemental health care services" has the same meaning	82061
as in division (B) of section 1751.01 of the Revised Code, except	82062

that it does not include any services listed in that division that 82063
are provided by a pharmacist or nursing home. 82064

Sec. 3963.11. (A) No contracting entity shall do any of the 82065
following: 82066

(1) Offer to a provider ~~other than a hospital~~ a health care 82067
contract that includes a most favored nation clause; 82068

(2) Enter into a health care contract with a provider ~~other~~ 82069
~~than a hospital~~ that includes a most favored nation clause; 82070

(3) Amend or renew an existing health care contract 82071
previously entered into with a provider ~~other than a hospital~~ so 82072
that the contract as amended or renewed adds or continues to 82073
include a most favored nation clause. 82074

~~(B) This section shall not go into effect until three years~~ 82075
~~after the effective date of this section.~~ 82076

~~(C)~~(B) As used in this section: 82077

(1) "Contracting entity," "health care contract," "health 82078
care services," "participating provider," and "provider" have the 82079
same meanings as in section 3963.01 of the Revised Code. 82080

(2) "Most favored nation clause" means a provision in a 82081
health care contract that does any of the following: 82082

(a) Prohibits, or grants a contracting entity an option to 82083
prohibit, the participating provider from contracting with another 82084
contracting entity to provide health care services at a lower 82085
price than the payment specified in the contract; 82086

(b) Requires, or grants a contracting entity an option to 82087
require, the participating provider to accept a lower payment in 82088
the event the participating provider agrees to provide health care 82089
services to any other contracting entity at a lower price; 82090

(c) Requires, or grants a contracting entity an option to 82091

require, termination or renegotiation of the existing health care 82092
contract in the event the participating provider agrees to provide 82093
health care services to any other contracting entity at a lower 82094
price; 82095

(d) Requires the participating provider to disclose the 82096
participating provider's contractual reimbursement rates with 82097
other contracting entities. 82098

Sec. 4113.11. (A) As specified in division (B) of this 82099
section and except as provided in divisions (C) and ~~(F)~~(E) of this 82100
section, all employers that employ ten or more employees shall 82101
adopt and maintain a cafeteria plan that allows the employer's 82102
employees to pay for health insurance coverage by a salary 82103
reduction arrangement as permitted under section 125 of the 82104
Internal Revenue Code. 82105

(B) Employers shall comply with the requirements of division 82106
(A) of this section as follows: 82107

(1) For employers that employ more than five hundred 82108
employees, by not later than January 1, 2011, or six months after 82109
the superintendent of insurance adopts rules as required by 82110
division ~~(E)~~(D) of this section, whichever is later; 82111

(2) For employers that employ one hundred fifty to five 82112
hundred employees, by not later than July 1, 2011, or twelve 82113
months after the superintendent adopts rules as required by 82114
division ~~(E)~~(D) of this section, whichever is later; 82115

(3) For employers that employ ten to one hundred forty-nine 82116
employees, by not later than January 1, 2012, or eighteen months 82117
after the superintendent adopts rules as required by division 82118
~~(E)~~(D) of this section, whichever is later. 82119

(C) This section shall not apply to employers that, through 82120
other means than provided under this section, offer health 82121

insurance coverage, reimburse for health insurance coverage, or 82122
provide employees with opportunities to pay for health insurance 82123
with pre-tax dollars through other salary reduction arrangements. 82124

~~(D) The health care coverage and quality council created 82125
under section 3923.90 of the Revised Code shall make 82126
recommendations to the superintendent for both of the following: 82127~~

~~(1) Development of strategies to educate, assist, and conduct 82128
outreach to employers to simplify administrative processes with 82129
respect to creating and maintaining cafeteria plans, including, 82130
but not limited to, providing employers with model cafeteria plan 82131
documents and technical assistance on creating and maintaining 82132
cafeteria plans that conform with state and federal law; 82133~~

~~(2) Development of strategies to educate, assist, and conduct 82134
outreach to employees with respect to finding, selecting, and 82135
purchasing a health insurance plan to be paid for through their 82136
employer's cafeteria plan under this section. 82137~~

~~(E)(1) The superintendent shall adopt rules in accordance 82138
with Chapter 119. of the Revised Code to implement and enforce 82139
this section, including the strategies recommended by the council 82140
pursuant to division (D) of this section. 82141~~

(2) Prior to adopting rules under this division, the 82142
superintendent shall consult any federal agency that has oversight 82143
of cafeteria plans and employee welfare benefit plans, including 82144
the internal revenue service and the United States department of 82145
labor, and receive written confirmation that the rules adopted 82146
will permit employers to establish cafeteria plans in accordance 82147
with federal law. The written confirmation shall include a 82148
determination that individual policies purchased pursuant to this 82149
section do not need to comply with the group market rules 82150
established by the "Health Insurance Portability and 82151
Accountability Act of 1996." 82152

~~(F)~~(E) The requirement provided in division (A) of this 82153
section does not apply if the superintendent does not receive 82154
written confirmation pursuant to division ~~(E)~~(D)(2) of this 82155
section that individual policies purchased pursuant to this 82156
section do not need to comply with the group market rules 82157
established by the "Health Insurance Portability and 82158
Accountability Act of 1996." 82159

~~(G)~~(F) Nothing in this section shall be construed as 82160
requiring an employer to establish a cafeteria plan in a manner 82161
that would violate federal law, including the "Employee Retirement 82162
Income Security Act of 1974," the "Consolidated Omnibus Budget 82163
Reconciliation Act of 1985," or the "Health Insurance Portability 82164
and Accountability Act of 1996." 82165

~~(H)~~(G) As used in this section: 82166

(1) "Cafeteria plan" has the same meaning as in section 125 82167
of the Internal Revenue Code. 82168

(2) "Employer" has the same meaning as in section 4113.51 of 82169
the Revised Code. 82170

(3) "Employee" means an individual employed for consideration 82171
who works twenty-five or more hours per week or who renders any 82172
other standard of service generally accepted by custom or 82173
specified by contract as full-time employment, except for a public 82174
employee employed by a township or municipal corporation. In that 82175
case, "employee" means an individual hired with the expectation 82176
that the employee will work more than one thousand five hundred 82177
hours in any year unless full-time employment is defined 82178
differently in an applicable collective bargaining agreement. 82179

Sec. 4113.61. (A)(1) If a subcontractor or material supplier 82180
submits an application or request for payment or an invoice for 82181
materials to a contractor in sufficient time to allow the 82182

contractor to include the application, request, or invoice in the 82183
contractor's own pay request submitted to an owner, the 82184
contractor, within ten calendar days after receipt of payment from 82185
the owner for improvements to property, shall pay to the: 82186

(a) Subcontractor, an amount that is equal to the percentage 82187
of completion of the subcontractor's contract allowed by the owner 82188
for the amount of labor or work performed; 82189

(b) Material supplier, an amount that is equal to all or that 82190
portion of the invoice for materials which represents the 82191
materials furnished by the material supplier. 82192

The contractor may reduce the amount paid by any retainage 82193
provision contained in the contract, invoice, or purchase order 82194
between the contractor and the subcontractor or material supplier, 82195
and may withhold amounts that may be necessary to resolve disputed 82196
liens or claims involving the work or labor performed or material 82197
furnished by the subcontractor or material supplier. 82198

If the contractor fails to comply with division (A)(1) of 82199
this section, the contractor shall pay the subcontractor or 82200
material supplier, in addition to the payment due, interest in the 82201
amount of eighteen per cent per annum of the payment due, 82202
beginning on the eleventh day following the receipt of payment 82203
from the owner and ending on the date of full payment of the 82204
payment due plus interest to the subcontractor or material 82205
supplier. 82206

(2) If a lower tier subcontractor or lower tier material 82207
supplier submits an application or request for payment or an 82208
invoice for materials to a subcontractor, material supplier, or 82209
other lower tier subcontractor or lower tier material supplier in 82210
sufficient time to allow the subcontractor, material supplier, or 82211
other lower tier subcontractor or lower tier material supplier to 82212
include the application, request, or invoice in the 82213

subcontractor's, material supplier's, or other lower tier 82214
subcontractor's or lower tier material supplier's own pay request 82215
submitted to a contractor, other subcontractor, material supplier, 82216
lower tier subcontractor, or lower tier material supplier, the 82217
subcontractor, material supplier, or other lower tier 82218
subcontractor or lower tier material supplier, within ten calendar 82219
days after receipt of payment from the contractor, other 82220
subcontractor, material supplier, lower tier subcontractor, or 82221
lower tier material supplier for improvements to property, shall 82222
pay to the: 82223

(a) Lower tier subcontractor, an amount that is equal to the 82224
percentage of completion of the lower tier subcontractor's 82225
contract allowed by the owner for the amount of labor or work 82226
performed; 82227

(b) Lower tier material supplier, an amount that is equal to 82228
all or that portion of the invoice for materials which represents 82229
the materials furnished by the lower tier material supplier. 82230

The subcontractor, material supplier, lower tier 82231
subcontractor, or lower tier material supplier may reduce the 82232
amount paid by any retainage provision contained in the contract, 82233
invoice, or purchase order between the subcontractor, material 82234
supplier, lower tier subcontractor, or lower tier material 82235
supplier and the lower tier subcontractor or lower tier material 82236
supplier, and may withhold amounts that may be necessary to 82237
resolve disputed liens or claims involving the work or labor 82238
performed or material furnished by the lower tier subcontractor or 82239
lower tier material supplier. 82240

If the subcontractor, material supplier, lower tier 82241
subcontractor, or lower tier material supplier fails to comply 82242
with division (A)(2) of this section, the subcontractor, material 82243
supplier, lower tier subcontractor, or lower tier material 82244
supplier shall pay the lower tier subcontractor or lower tier 82245

material supplier, in addition to the payment due, interest in the 82246
amount of eighteen per cent per annum of the payment due, 82247
beginning on the eleventh day following the receipt of payment 82248
from the contractor, other subcontractor, material supplier, lower 82249
tier subcontractor, or lower tier material supplier and ending on 82250
the date of full payment of the payment due plus interest to the 82251
lower tier subcontractor or lower tier material supplier. 82252

(3) If a contractor receives any final retainage from the 82253
owner for improvements to property, the contractor shall pay from 82254
that retainage each subcontractor and material supplier the 82255
subcontractor's or material supplier's proportion of the 82256
retainage, within ten calendar days after receipt of the retainage 82257
from the owner, or within the time period provided in a contract, 82258
invoice, or purchase order between the contractor and the 82259
subcontractor or material supplier, whichever time period is 82260
shorter, provided that the contractor has determined that the 82261
subcontractor's or material supplier's work, labor, and materials 82262
have been satisfactorily performed or furnished and that the owner 82263
has approved the subcontractor's or material supplier's work, 82264
labor, and materials. 82265

If the contractor fails to pay a subcontractor or material 82266
supplier within the appropriate time period, the contractor shall 82267
pay the subcontractor or material supplier, in addition to the 82268
retainage due, interest in the amount of eighteen per cent per 82269
annum of the retainage due, beginning on the eleventh day 82270
following the receipt of the retainage from the owner and ending 82271
on the date of full payment of the retainage due plus interest to 82272
the subcontractor or material supplier. 82273

(4) If a subcontractor, material supplier, lower tier 82274
subcontractor, or lower tier material supplier receives any final 82275
retainage from the contractor or other subcontractor, lower tier 82276
subcontractor, or lower tier material supplier for improvements to 82277

property, the subcontractor, material supplier, lower tier 82278
subcontractor, or lower tier material supplier shall pay from that 82279
retainage each lower tier subcontractor or lower tier the lower 82280
tier subcontractor's or lower tier material supplier's proportion 82281
of the retainage, within ten calendar days after receipt of 82282
payment from the contractor or other subcontractor, lower tier 82283
subcontractor, or lower tier material supplier, or within the time 82284
period provided in a contract, invoice, or purchase order between 82285
the subcontractor, material supplier, lower tier subcontractor, or 82286
lower tier material supplier and the lower tier subcontractor or 82287
lower tier material supplier, whichever time period is shorter, 82288
provided that the subcontractor, material supplier, lower tier 82289
subcontractor, or lower tier material supplier has determined that 82290
the lower tier subcontractor's or lower tier material supplier's 82291
work, labor, and materials have been satisfactorily performed or 82292
furnished and that the owner has approved the lower tier 82293
subcontractor's or lower tier material supplier's work, labor, and 82294
materials. 82295

If the subcontractor, material supplier, lower tier 82296
subcontractor, or lower tier material supplier fails to pay the 82297
lower tier subcontractor or lower tier material supplier within 82298
the appropriate time period, the subcontractor, material supplier, 82299
lower tier subcontractor, or lower tier material supplier shall 82300
pay the lower tier subcontractor or lower tier material supplier, 82301
in addition to the retainage due, interest in the amount of 82302
eighteen per cent per annum of the retainage due, beginning on the 82303
eleventh day following the receipt of the retainage from the 82304
contractor or other subcontractor, lower tier subcontractor, or 82305
lower tier material supplier and ending on the date of full 82306
payment of the retainage due plus interest to the lower tier 82307
subcontractor or lower tier material supplier. 82308

(5) A contractor, subcontractor, or lower tier subcontractor 82309

shall pay a laborer wages due within ten days of payment of any 82310
application or request for payment or the receipt of any retainage 82311
from an owner, contractor, subcontractor, or lower tier 82312
subcontractor. 82313

If the contractor, subcontractor, or lower tier subcontractor 82314
fails to pay the laborer wages due within the appropriate time 82315
period, the contractor, subcontractor, or lower tier subcontractor 82316
shall pay the laborer, in addition to the wages due, interest in 82317
the amount of eighteen per cent per annum of the wages due, 82318
beginning on the eleventh day following the receipt of payment 82319
from the owner, contractor, subcontractor, or lower tier 82320
subcontractor and ending on the date of full payment of the wages 82321
due plus interest to the laborer. 82322

(B)(1) If a contractor, subcontractor, material supplier, 82323
lower tier subcontractor, or lower tier material supplier has not 82324
made payment in compliance with division (A)(1), (2), (3), (4), or 82325
(5) of this section within thirty days after payment is due, a 82326
subcontractor, material supplier, lower tier subcontractor, lower 82327
tier material supplier, or laborer may file a civil action to 82328
recover the amount due plus the interest provided in those 82329
divisions. If the court finds in the civil action that a 82330
contractor, subcontractor, material supplier, lower tier 82331
subcontractor, or lower tier material supplier has not made 82332
payment in compliance with those divisions, the court shall award 82333
the interest specified in those divisions, in addition to the 82334
amount due. Except as provided in division (B)(3) of this section, 82335
the court shall award the prevailing party reasonable attorney 82336
fees and court costs. 82337

(2) In making a determination to award attorney fees under 82338
division (B)(1) of this section, the court shall consider all 82339
relevant factors, including but not limited to the following: 82340

(a) The presence or absence of good faith allegations or 82341

defenses asserted by the parties; 82342

(b) The proportion of the amount of recovery as it relates to 82343
the amount demanded; 82344

(c) The nature of the services rendered and the time expended 82345
in rendering the services. 82346

(3) The court shall not award attorney fees under division 82347
(B)(1) of this section if the court determines, following a 82348
hearing on the payment of attorney fees, that the payment of 82349
attorney fees to the prevailing party would be inequitable. 82350

(C) This section does not apply to any construction or 82351
improvement of any single-, two-, or three-family detached 82352
dwelling houses. 82353

(D)(1) No provision of this section regarding entitlement to 82354
interest, attorney fees, or court costs may be waived by agreement 82355
and any such term in any contract or agreement is void and 82356
unenforceable as against public policy. 82357

(2) This section shall not be construed as impairing or 82358
affecting, in any way, the terms and conditions of any contract, 82359
invoice, purchase order, or any other agreement between a 82360
contractor and a subcontractor or a material supplier or between a 82361
subcontractor and another subcontractor, a material supplier, a 82362
lower tier subcontractor, or a lower tier material supplier, 82363
except that if such terms and conditions contain time periods 82364
which are longer than any of the time periods specified in 82365
divisions (A)(1), (2), (3), (4), and (5) of this section or 82366
interest at a percentage less than the interest stated in those 82367
divisions, then the provisions of this section shall prevail over 82368
such terms and conditions. 82369

(E) Notwithstanding the definition of lower tier material 82370
supplier in this section, a person is not a lower tier material 82371
supplier unless the materials supplied by the person are: 82372

(1) Furnished with the intent, as evidenced by the contract of sale, the delivery order, delivery to the site, or by other evidence that the materials are to be used on a particular structure or improvement;	82373 82374 82375 82376
(2) Incorporated in the improvement or consumed as normal wastage in the course of the improvement; or	82377 82378
(3) Specifically fabricated for incorporation in the improvement and not readily resalable in the ordinary course of the fabricator's business even if not actually incorporated in the improvement.	82379 82380 82381 82382
(F) As used in this section:	82383
(1) "Contractor" means any person who undertakes to construct, alter, erect, improve, repair, demolish, remove, dig, or drill any part of a structure or improvement under a contract with an owner, or a "construction manager" <u>or "construction manager at risk" as that term is those terms are defined in section 9.33 of the Revised Code, or a "design-build firm" as that term is defined in section 153.65 of the Revised Code.</u>	82384 82385 82386 82387 82388 82389 82390
(2) "Laborer," "material supplier," "subcontractor," and "wages" have the same meanings as in section 1311.01 of the Revised Code.	82391 82392 82393
(3) "Lower tier subcontractor" means a subcontractor who is not in privity of contract with a contractor but is in privity of contract with another subcontractor.	82394 82395 82396
(4) "Lower tier material supplier" means a material supplier who is not in privity of contract with a contractor but is in privity of contract with another subcontractor or a material supplier.	82397 82398 82399 82400
(5) "Wages due" means the wages due to a laborer as of the date a contractor or subcontractor receives payment for any	82401 82402

application or request for payment or retainage from any owner, 82403
contractor, or subcontractor. 82404

(6) "Owner" includes the state, and a county, township, 82405
municipal corporation, school district, or other political 82406
subdivision of the state, and any public agency, authority, board, 82407
commission, instrumentality, or special district of or in the 82408
state or a county, township, municipal corporation, school 82409
district, or other political subdivision of the state, and any 82410
officer or agent thereof and relates to all the interests either 82411
legal or equitable, which a person may have in the real estate 82412
upon which improvements are made, including interests held by any 82413
person under contracts of purchase, whether in writing or 82414
otherwise. 82415

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the 82416
Revised Code: 82417

(A) "Public authority" means any officer, board, or 82418
commission of the state, or any political subdivision of the 82419
state, authorized to enter into a contract for the construction of 82420
a public improvement or to construct the same by the direct 82421
employment of labor, or any institution supported in whole or in 82422
part by public funds and said sections apply to expenditures of 82423
such institutions made in whole or in part from public funds. 82424

(B) "Construction" means ~~either~~ any of the following: 82425

(1) ~~Any~~ Except as provided in division (B)(3) of this 82426
section, any new construction of ~~any~~ a public improvement, the 82427
total overall project cost of which is fairly estimated to be more 82428
than ~~fifty thousand dollars adjusted biennially by the director of~~ 82429
~~commerce pursuant to section 4115.034 of the Revised Code~~ the 82430
following amounts and performed by other than full-time employees 82431
who have completed their probationary periods in the classified 82432
service of a public authority+; 82433

(a) One hundred twenty-five thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter; 82434
82435
82436

(b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter; 82437
82438
82439

(c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires. 82440
82441
82442

(2) ~~Any~~ Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any a public improvement, the total overall project cost of which is fairly estimated to be more than fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority; 82443
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82451

(a) Thirty-eight thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter; 82452
82453

(b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter; 82454
82455
82456

(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires. 82457
82458

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 82459
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82461
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4115.034 of the Revised Code and performed by other than full-time 82465
employees who have completed their probationary periods in the 82466
classified service of a public authority; 82467

(4) Any reconstruction, enlargement, alteration, repair, 82468
remodeling, renovation, or painting of a public improvement that 82469
involves roads, streets, alleys, sewers, ditches, and other works 82470
connected to road or bridge construction, the total overall 82471
project cost of which is fairly estimated to be more than 82472
twenty-three thousand four hundred forty-seven dollars adjusted 82473
biennially by the director of commerce pursuant to section 82474
4115.034 of the Revised code and performed by other than full-time 82475
employees who have completed their probationary periods in the 82476
classified service of a public authority. 82477

(C) "Public improvement" includes all buildings, roads, 82478
streets, alleys, sewers, ditches, sewage disposal plants, water 82479
works, and all other structures or works constructed by a public 82480
authority of the state or any political subdivision thereof or by 82481
any person who, pursuant to a contract with a public authority, 82482
constructs any structure for a public authority of the state or a 82483
political subdivision thereof. When a public authority rents or 82484
leases a newly constructed structure within six months after 82485
completion of such construction, all work performed on such 82486
structure to suit it for occupancy by a public authority is a 82487
"public improvement." "Public improvement" does not include an 82488
improvement authorized by section 1515.08 of the Revised Code that 82489
is constructed pursuant to a contract with a soil and water 82490
conservation district, as defined in section 1515.01 of the 82491
Revised Code, or performed as a result of a petition filed 82492
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, 82493
wherein no less than seventy-five per cent of the project is 82494
located on private land and no less than seventy-five per cent of 82495
the cost of the improvement is paid for by private property owners 82496

pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.	82497 82498
(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.	82499 82500
(E) "Prevailing wages" means the sum of the following:	82501
(1) The basic hourly rate of pay;	82502
(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;	82503 82504 82505
(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:	82506 82507 82508 82509 82510 82511
(a) Medical or hospital care or insurance to provide such;	82512
(b) Pensions on retirement or death or insurance to provide such;	82513 82514
(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;	82515 82516 82517
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	82518 82519
(e) Life insurance;	82520
(f) Disability and sickness insurance;	82521
(g) Accident insurance;	82522
(h) Vacation and holiday pay;	82523
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and	82524 82525

mechanics affected; 82526

(j) Other bona fide fringe benefits. 82527

None of the benefits enumerated in division (E)(3) of this 82528
section may be considered in the determination of prevailing wages 82529
if federal, state, or local law requires contractors or 82530
subcontractors to provide any of such benefits. 82531

(F) "Interested party," with respect to a particular contract 82532
for construction of a public improvement, means: 82533

(1) Any person who submits a bid for the purpose of securing 82534
the award of a the contract ~~for construction of the public~~ 82535
~~improvement~~; 82536

(2) Any person acting as a subcontractor of a person 82537
~~mentioned~~ described in division (F)(1) of this section; 82538

(3) Any bona fide organization of labor which has as members 82539
or is authorized to represent employees of a person ~~mentioned~~ 82540
described in division (F)(1) or (2) of this section and which 82541
exists, in whole or in part, for the purpose of negotiating with 82542
employers concerning the wages, hours, or terms and conditions of 82543
employment of employees; 82544

(4) Any association having as members any of the persons 82545
~~mentioned~~ described in division (F)(1) or (2) of this section. 82546

(G) Except as used in division (A) of this section, "officer" 82547
means an individual who has an ownership interest or holds an 82548
office of trust, command, or authority in a corporation, business 82549
trust, partnership, or association. 82550

Sec. 4115.033. No public authority shall subdivide a public 82551
improvement project into component parts or projects, the cost of 82552
which is fairly estimated to be less than the threshold levels set 82553
forth in ~~divisions~~ division (B)(1) ~~and (2)~~ of section 4115.03 of 82554
the Revised Code, unless the projects are conceptually separate 82555

and unrelated to each other, or encompass independent and 82556
unrelated needs of the public authority. 82557

Sec. 4115.034. On January 1, 1996, and the first day of 82558
January of every even-numbered year thereafter, the director of 82559
commerce shall adjust the threshold levels for which public 82560
improvement projects are subject to sections 4115.03 to 4115.16 of 82561
the Revised Code as set forth in divisions (B)~~(1)~~(3) and ~~(2)~~(4) of 82562
section 4115.03 of the Revised Code. The director shall adjust 82563
those amounts according to the average increase or decrease for 82564
each of the two years immediately preceding the adjustment as set 82565
forth in the United States department of commerce, bureau of the 82566
census implicit price deflator for construction, provided that no 82567
increase or decrease for any year shall exceed three per cent of 82568
the threshold level in existence at the time of the adjustment. 82569

Sec. 4115.04. (A)(1) Every public authority authorized to 82570
contract for or construct with its own forces a public 82571
improvement, before advertising for bids or undertaking such 82572
construction with its own forces, shall have the director of 82573
commerce determine the prevailing rates of wages of mechanics and 82574
laborers in accordance with section 4115.05 of the Revised Code 82575
for the class of work called for by the public improvement, in the 82576
locality where the work is to be performed. Except as provided in 82577
division (A)(2) of this section, that schedule of wages shall be 82578
attached to and made part of the specifications for the work, and 82579
shall be printed on the bidding blanks where the work is done by 82580
contract. A copy of the bidding blank shall be filed with the 82581
director before the contract is awarded. A minimum rate of wages 82582
for common laborers, on work coming under the jurisdiction of the 82583
department of transportation, shall be fixed in each county of the 82584
state by the department of transportation, in accordance with 82585
section 4115.05 of the Revised Code. 82586

(2) In the case of contracts that are administered by the department of natural resources, the director of natural resources or the director's designee shall include language in the contracts requiring wage rate determinations and updates to be obtained directly from the department of commerce through electronic or other means as appropriate. Contracts that include this requirement are exempt from the requirements established in division (A)(1) of this section that involve attaching the schedule of wages to the specifications for the work, making the schedule part of those specifications, and printing the schedule on the bidding blanks where the work is done by contract.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided that the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of

the Revised Code if none of the funds used in constructing the 82618
improvements are the proceeds of bonds or other obligations that 82619
are secured by the full faith and credit of the state, a county, a 82620
township, or a municipal corporation and none of the funds used in 82621
constructing the improvements, including funds used to repay any 82622
amounts borrowed to construct the improvements, are funds that 82623
have been appropriated for that purpose by the state, a board of 82624
county commissioners, a township, or a municipal corporation from 82625
funds generated by the levy of a tax, provided that a county 82626
hospital or municipal hospital may elect to apply sections 4115.03 82627
to 4115.16 of the Revised Code to a public improvement undertaken 82628
by, or under contract for, the hospital; 82629

(5) Any project described in divisions (D)(1)(a) to (D)(1)(e) 82630
of section 176.05 of the Revised Code; 82631

(6) Public improvements undertaken by, or under contract for, 82632
a port authority as defined in section 4582.01 or 4582.21 of the 82633
Revised Code; 82634

(7) Any portion of a public improvement undertaken and 82635
completed solely with labor donated by the individuals performing 82636
the labor, by a labor organization and its members, or by a 82637
contractor or subcontractor that donates all labor and materials 82638
for that portion of the public improvement project. 82639

(C) Under no circumstances shall a public authority apply the 82640
prevailing wage requirements of this chapter to a public 82641
improvement that is exempt under division (B)(3) of this section. 82642

Sec. 4115.05. The prevailing rate of wages to be paid for a 82643
legal day's work, as prescribed in section 4115.04 of the Revised 82644
Code, to laborers, workers, or mechanics upon public works shall 82645
not be less at any time during the life of a contract for the 82646
public work than the prevailing rate of wages then payable in the 82647
same trade or occupation in the locality where such public work is 82648

being performed, under collective bargaining agreements or 82649
understandings, between employers and bona fide organizations of 82650
labor in force at the date the contract for the public work, 82651
relating to the trade or occupation, was made, and collective 82652
bargaining agreements or understandings successor thereto. 82653

Serving laborers, helpers, assistants and apprentices shall 82654
not be classified as common labor and shall be paid not less at 82655
any time during the life of a contract for the public work than 82656
the prevailing rate of wages then payable for such labor in the 82657
locality where the public work is being performed, under or as a 82658
result of collective bargaining agreements or understandings 82659
between employers and bona fide organizations of labor in force at 82660
the date the contract for the public work, requiring the 82661
employment of serving laborers, helpers, assistants, or 82662
apprentices, was made, and collective bargaining agreements or 82663
understandings successor thereto. 82664

Apprentices will be permitted to work only under a bona fide 82665
apprenticeship program if such program exists and is registered 82666
with the Ohio apprenticeship council. 82667

The allowable ratio of apprentices to skilled workers 82668
permitted to work shall not be greater than the ratio allowed the 82669
contractor or subcontractor in the collective bargaining agreement 82670
or understanding referred to in this section under which the work 82671
is being performed. A contractor, subcontractor, or public 82672
authority that exceeds the permissible ratio of apprentices to 82673
skilled workers by two or fewer apprentices for not more than two 82674
days in any thirty-day period shall not be found in violation of 82675
this provision with regard to that excess number of apprentices. 82676

For purposes of establishing the prevailing rate of wages, a 82677
labor organization that is a party to a collective bargaining 82678
agreement, contract, or understanding, including any successor 82679
agreement, contract, or understanding, that establishes wages for 82680

a trade or occupation typically employed on public improvements 82681
shall file with the director of commerce all relevant portions of 82682
any such agreement, contract, or understanding to which the labor 82683
organization is a party. The filing shall occur within ninety days 82684
after the agreement, contract, or understanding is executed, 82685
except that the relevant portion of any agreement, contract, or 82686
understanding to which a labor organization is a party on the 82687
effective date of this amendment shall be filed within ninety days 82688
after the effective date of this amendment. The labor organization 82689
shall certify under penalty of law that the portion of the 82690
agreement, contract, or understanding filed under this section 82691
contains, in full, all provisions of the agreement, contract, or 82692
understanding concerning wages paid to persons and the apprentice 82693
to skilled worker ratio under the agreement, contract, or 82694
understanding. 82695

In the event there is no such collective bargaining agreement 82696
or understanding in the immediate locality, then the prevailing 82697
rates of wages in the nearest locality in which such collective 82698
bargaining agreements or understandings are in effect shall be the 82699
prevailing rate of wages, in such locality, for the various 82700
occupations covered by sections 4115.03 to 4115.16 of the Revised 82701
Code. 82702

The prevailing rate of wages to be paid for a legal day's 82703
work, to laborers, workers, or mechanics, upon any material to be 82704
used in or in connection with a public work, shall be not less 82705
than the prevailing rate of wages payable for a day's work in the 82706
same trade or occupation in the locality within the state where 82707
such public work is being performed and where the material in its 82708
final or completed form is to be situated, erected, or used. 82709

Every contract for a public work shall contain a provision 82710
that each laborer, worker, or mechanic, employed by such 82711
contractor, subcontractor, or other person about or upon such 82712

public work, shall be paid the prevailing rate of wages provided 82713
in this section. 82714

No contractor or subcontractor under a contract for a public 82715
work shall sublet any of the work covered by such contract unless 82716
specifically authorized to do so by the contract. 82717

Where contracts are not awarded or construction undertaken 82718
within ninety days from the date of the establishment of the 82719
prevailing rate of wages, there shall be a redetermination of the 82720
prevailing rate of wages before the contract is awarded. ~~Upon~~ 82721
~~receipt from the director of commerce of a notice of a change in~~ 82722
~~prevailing wage rates, a~~ A public authority shall, within seven 82723
working days after ~~receipt thereof~~ receiving from the director a 82724
notice of a change in the prevailing wage rate, notify all 82725
affected contractors and subcontractors with whom the public 82726
authority has contracts for a public improvement of the changes 82727
and require the contractors to make the necessary adjustments in 82728
the prevailing wage rates. 82729

If, upon receipt of the relevant portions of a collective 82730
bargaining agreement, contract, or understanding, the director 82731
determines that the prevailing wage rate has changed in the 82732
locality in which an ongoing project is being constructed, any 82733
change in that rate shall take effect two weeks after the director 82734
receives the relevant portions of the agreement, contract, or 82735
understanding showing that the prevailing wage rate has changed. 82736

If the director determines that a contractor or subcontractor 82737
has violated sections 4115.03 to 4115.16 of the Revised Code 82738
because the public authority has not notified the contractor or 82739
subcontractor as required by this section, the public authority is 82740
liable for any back wages, fines, damages, court costs, and 82741
attorney's fees associated with the enforcement of said sections 82742
by the director for the period of time running until the public 82743
authority gives the required notice to the contractor or 82744

subcontractor. 82745

On the occasion of the first pay date under a contract, the 82746
contractor or subcontractor shall furnish each employee not 82747
covered by a collective bargaining agreement or understanding 82748
between employers and bona fide organizations of labor with 82749
individual written notification of the job classification to which 82750
the employee is assigned, the prevailing wage determined to be 82751
applicable to that classification, separated into the hourly rate 82752
of pay and the fringe payments, and the identity of the prevailing 82753
wage coordinator appointed by the public authority. The contractor 82754
or subcontractor shall furnish the same notification to each 82755
affected employee every time the job classification of the 82756
employee is changed. 82757

Sec. 4115.10. (A) No person, firm, corporation, or public 82758
authority that constructs a public improvement with its own 82759
forces, the total overall project cost of which is fairly 82760
estimated to be more than the amounts set forth in division (B)~~(1)~~ 82761
~~or (2)~~ of section 4115.03 of the Revised Code, adjusted biennially 82762
by the director of commerce pursuant to section 4115.034 of the 82763
Revised Code, as appropriate, shall violate the wage provisions of 82764
sections 4115.03 to 4115.16 of the Revised Code, or suffer, 82765
permit, or require any employee to work for less than the rate of 82766
wages so fixed, or violate the provisions of section 4115.07 of 82767
the Revised Code. Any employee upon any public improvement, except 82768
an employee to whom or on behalf of whom restitution is made 82769
pursuant to division (C) of section 4115.13 of the Revised Code, 82770
who is paid less than the fixed rate of wages applicable thereto 82771
may recover from such person, firm, corporation, or public 82772
authority that constructs a public improvement with its own forces 82773
the difference between the fixed rate of wages and the amount paid 82774
to the employee and in addition thereto a sum equal to twenty-five 82775
per cent of that difference. The person, firm, corporation, or 82776

public authority who fails to pay the rate of wages so fixed also 82777
shall pay a penalty to the director of seventy-five per cent of 82778
the difference between the fixed rate of wages and the amount paid 82779
to the employees on the public improvement. The director shall 82780
deposit all moneys received from penalties paid to the director 82781
pursuant to this section into the ~~penalty enforcement~~ labor 82782
operating fund, ~~which is hereby created in the state treasury~~. The 82783
director shall use the fund for the enforcement of sections 82784
4115.03 to 4115.16 of the Revised Code. The employee may file suit 82785
for recovery within ninety days of the director's determination of 82786
a violation of sections 4115.03 to 4115.16 of the Revised Code or 82787
is barred from further action under this division. Where the 82788
employee prevails in a suit, the employer shall pay the costs and 82789
reasonable attorney's fees allowed by the court. 82790

(B) Any employee upon any public improvement who is paid less 82791
than the prevailing rate of wages applicable thereto may file a 82792
complaint in writing with the director upon a form furnished by 82793
the director. The complaint shall include documented evidence to 82794
demonstrate that the employee was paid less than the prevailing 82795
wage in violation of this chapter. Upon receipt of a properly 82796
completed written complaint of any employee paid less than the 82797
prevailing rate of wages applicable, the director shall take an 82798
assignment of a claim in trust for the assigning employee and 82799
bring any legal action necessary to collect the claim. The 82800
employer shall pay the costs and reasonable attorney's fees 82801
allowed by the court if the employer is found in violation of 82802
sections 4115.03 to 4115.16 of the Revised Code. 82803

(C) If after investigation pursuant to section 4115.13 of the 82804
Revised Code, the director determines there is a violation of 82805
sections 4115.03 to 4115.16 of the Revised Code and a period of 82806
sixty days has elapsed from the date of the determination, and if: 82807

(1) No employee has brought suit pursuant to division (A) of 82808

this section; 82809

(2) No employee has requested that the director take an 82810
assignment of a wage claim pursuant to division (B) of this 82811
section. 82812

The director shall bring any legal action necessary to 82813
collect any amounts owed to employees and the director. The 82814
director shall pay over to the affected employees the amounts 82815
collected to which the affected employees are entitled under 82816
division (A) of this section. In any action in which the director 82817
prevails, the employer shall pay the costs and reasonable 82818
attorney's fees allowed by the court. 82819

(D) Where persons are employed and their rate of wages has 82820
been determined as provided in section 4115.04 of the Revised 82821
Code, no person, either for self or any other person, shall 82822
request, demand, or receive, either before or after the person is 82823
engaged, that the person so engaged pay back, return, donate, 82824
contribute, or give any part or all of the person's wages, salary, 82825
or thing of value, to any person, upon the statement, 82826
representation, or understanding that failure to comply with such 82827
request or demand will prevent the procuring or retaining of 82828
employment, and no person shall, directly or indirectly, aid, 82829
request, or authorize any other person to violate this section. 82830
This division does not apply to any agent or representative of a 82831
duly constituted labor organization acting in the collection of 82832
dues or assessments of such organization. 82833

(E) The director shall enforce sections 4115.03 to 4115.16 of 82834
the Revised Code. 82835

(F) For the purpose of supplementing existing resources and 82836
to assist in enforcing division (E) of this section, the director 82837
may contract with a person registered as a public accountant under 82838
Chapter 4701. of the Revised Code to conduct an audit of a person, 82839

firm, corporation, or public authority. 82840

(G) No contractor or subcontractor shall be responsible for 82841
the payment of the penalties provided in division (A) of this 82842
section resulting from a violation of sections 4115.03 to 4115.16 82843
of the Revised Code by its subcontractor, provided that the 82844
contractor or subcontractor has made a good faith effort to ensure 82845
that its subcontractor complied with the requirements of sections 82846
4115.03 to 4115.16 of the Revised Code. 82847

Sec. 4115.101. There is hereby created the prevailing wage 82848
custodial fund, which shall be in the custody of the treasurer of 82849
state but shall not be part of the state treasury. The director of 82850
commerce shall deposit to the fund all money paid by employers to 82851
the director that are held in trust for employees to whom 82852
prevailing wages are due and owing. The director shall make 82853
disbursements from the fund in accordance with this chapter to 82854
employees affected by violations of this chapter. If the director 82855
determines that any funds in the prevailing wage custodial fund 82856
are not returnable to employees as required under this section, 82857
then the director shall certify to the treasurer of state the 82858
amount of the funds that are not returnable. Upon the receipt of a 82859
certification from the director in accordance with this section, 82860
the treasurer of state shall transfer the certified amount of the 82861
funds from the prevailing wage custodial fund to the labor 82862
operating fund. 82863

Sec. 4115.13. (A) Upon the director's own motion or within 82864
five days of the filing of a properly completed complaint under 82865
section 4115.10 or 4115.16 of the Revised Code, the director of 82866
commerce, or a representative designated by the director, shall 82867
investigate any alleged violation of sections 4115.03 to 4115.16 82868
of the Revised Code. 82869

(B) At the conclusion of the investigation, the director or a designated representative shall make a ~~recommendation~~ determination as to whether the alleged violation was committed. If the director or designated representative ~~recommends~~ determines that the alleged violation was an intentional violation, the director or designated representative shall give written notice by certified mail of that ~~recommendation~~ determination to the contractor, subcontractor, or officer of the contractor or subcontractor which also shall state that the contractor, subcontractor, or officer of the contractor or subcontractor may file with the director an appeal of the ~~recommendation~~ determination within thirty days after the date the notice was received. If the contractor, subcontractor, or officer of the contractor or subcontractor timely appeals the ~~recommendation~~ determination, within sixty days of the filing of the appeal, the director or designated representative shall schedule the appeal for a hearing. If the contractor, subcontractor, or officer of the contractor or subcontractor fails to timely appeal the ~~recommendation~~ determination, the director or designated representative shall adopt the ~~recommendation~~ determination as a finding of fact for purposes of division (D) of this section. The director or designated representative, in the performance of any duty or execution of any power prescribed by sections 4115.03 to 4115.16 of the Revised Code, may hold hearings, and such hearings shall be held within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed, or in Franklin county, whichever county the person alleged to have committed the violation chooses. For the purpose of the hearing, the director may designate a hearing examiner who shall, after notice to all interested parties, conduct a hearing and make findings of fact and recommendations to the director. The director shall make a decision, which shall be sent to the affected parties. The director or designated representative may

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make decisions, based upon findings of fact, as are found 82903
necessary to enforce sections 4115.03 to 4115.16 of the Revised 82904
Code. 82905

(C) If any underpayment by a contractor or subcontractor was 82906
the result of a misinterpretation of the statute, or an erroneous 82907
preparation of the payroll documents, the director or designated 82908
representative may make a decision ordering the employer to make 82909
restitution to the employees, or on their behalf, the plans, 82910
funds, or programs for any type of fringe benefits described in 82911
the applicable wage determination. In accordance with the finding 82912
of the director that any underpayment was the result of a 82913
misinterpretation of the statute, or an erroneous preparation of 82914
the payroll documents, employers who make restitution are not 82915
subject to any further proceedings pursuant to sections 4115.03 to 82916
4115.16 of the Revised Code. 82917

If a contractor's or subcontractor's underpayment to an 82918
employee is less than one thousand dollars, the contractor or 82919
subcontractor is not subject to any further proceedings under 82920
sections 4115.03 to 4115.16 of the Revised Code for that 82921
underpayment if the contractor or subcontractor makes full 82922
restitution to the affected employee. 82923

(D) If the director or designated representative makes a 82924
decision, based upon findings of fact, that a contractor, 82925
subcontractor, or officer of a contractor or subcontractor has 82926
intentionally violated sections 4115.03 to 4115.16 of the Revised 82927
Code, the contractor, subcontractor, or officer of a contractor or 82928
subcontractor is prohibited from contracting directly or 82929
indirectly with any public authority for the construction of a 82930
public improvement or from performing any work on the same as 82931
provided in section 4115.133 of the Revised Code. A contractor, 82932
subcontractor, or officer of a contractor or subcontractor may 82933
appeal the decision, within sixty days after the decision, to the 82934

court of common pleas of the county in which the first hearing 82935
involving the violation was heard. If the contractor, 82936
subcontractor, or officer of a contractor or subcontractor does 82937
not timely appeal the ~~recommendation~~ determination of the director 82938
or designated representative under division (B) of this section, 82939
the contractor, subcontractor, or officer of a contractor or 82940
subcontractor may appeal the findings of fact, within sixty days 82941
after the ~~recommendations~~ determinations are adopted as findings 82942
of fact, to the court of common pleas within the county in which 82943
the violation of sections 4115.03 to 4115.16 of the Revised Code 82944
is alleged to have been committed or in Franklin county, whichever 82945
county the person alleged to have committed the violation chooses. 82946

(E) No appeal to the court from the decision of the director 82947
may be had by the contractor or subcontractor unless the 82948
contractor or subcontractor files a bond with the court in the 82949
amount of the restitution, conditioned upon payment should the 82950
decision of the director be upheld. 82951

(F) No statement of a contractor, subcontractor, or officer 82952
of a contractor or subcontractor and no determination, 82953
recommendation, or finding of fact issued under this section is 82954
admissible as evidence in a criminal action brought under this 82955
chapter against the contractor, subcontractor, or officer of a 82956
contractor or subcontractor. 82957

(G) In determining whether a contractor, subcontractor, or 82958
officer of a contractor or subcontractor intentionally violated 82959
sections 4115.03 to 4115.16 of the Revised Code, the director may 82960
consider as evidence either of the following: 82961

(1) The fact that the director, prior to the commission of 82962
the violation under consideration, issued notification to the 82963
contractor, subcontractor, or officer of a contractor or 82964
subcontractor of the same or a similar violation, provided that 82965
the commission of the same or a similar violation of sections 82966

4115.03 to 4115.16 of the Revised Code at a subsequent time does 82967
not create a presumption that the subsequent violation was 82968
intentional; 82969

(2) The fact that, prior to the commission of the violation, 82970
the contractor, subcontractor, or officer of a contractor or 82971
subcontractor used reasonable efforts to ascertain the correct 82972
interpretation of sections 4115.03 to 4115.16 of the Revised Code 82973
from the director or 4115.04 or 4115.131 of the Revised Code, 82974
provided that a violation is presumed not to be intentional where 82975
a contractor, subcontractor, or officer of a contractor or 82976
subcontractor complies with a decision the director or designated 82977
representative issues pursuant to a request made under section 82978
4115.131 of the Revised Code. 82979

(H) As used in this section, "intentional violation" means a 82980
willful, knowing, or deliberate failure to comply with any 82981
provision of sections 4115.03 to 4115.16 of the Revised Code, and 82982
includes, but is not limited to, the following actions when 82983
conducted in the manner described in this division: 82984

(1) An intentional failure to submit reports as required 82985
under division (C) of section 4115.071 of the Revised Code or 82986
knowingly submitting false or erroneous reports; 82987

(2) An intentional misclassification of employees for the 82988
purpose of reducing wages; 82989

(3) An intentional misclassification of employees as 82990
independent contractors or as apprentices; 82991

(4) An intentional failure to pay the prevailing wage; 82992

(5) An intentional failure to comply with the allowable ratio 82993
of apprentices to skilled workers as required under section 82994
4115.05 of the Revised Code and by rules adopted by the director 82995
pursuant to section 4115.12 of the Revised Code; 82996

(6) Intentionally allowing an officer of a contractor or subcontractor who is known to be prohibited from contracting directly or indirectly with a public authority for the construction of a public improvement or from performing any work on the same pursuant to section 4115.133 of the Revised Code to perform work on a public improvement.

Sec. 4115.16. (A) An interested party may file a complaint with the director of commerce alleging a specific violation of sections 4115.03 to 4115.16 of the Revised Code by a specific contractor or subcontractor. The complaint shall be in writing on a form furnished by the director and shall include sufficient evidence to justify the complaint. The director, upon receipt of a properly completed complaint, shall investigate pursuant to section 4115.13 of the Revised Code. The director shall not investigate any complaint filed under this section that fails to allege a specific violation or that lacks sufficient evidence to justify the complaint. If the director determines that no violation has occurred or that the violation was not intentional, the interested party may appeal the decision to the court of common pleas of the county where the violation is alleged to have occurred.

(B) ~~If~~ Except as otherwise provided in this section, the director or the designated representative shall conclude the investigation conducted under section 4115.13 of the Revised Code and make a determination not later than one hundred twenty days after the complaint is filed. The director or the designated representative may take additional time, of up to ninety days, to conclude the investigation and make a determination if the parties to the complaint are given notice of the extension before the initial one-hundred-twenty-day period expires. The director or the designated representative may take more time than that which is provided in this section to conclude the investigation and make a

determination if the director, or the designated representative, 83029
and all parties to the complaint agree to a different time frame. 83030

If the director has not ruled on the merits of the complaint 83031
within ~~sixty days after its filing,~~ the time provided under this 83032
section the interested party may file a complaint in the court of 83033
common pleas of the county in which the violation is alleged to 83034
have occurred. The complaint may make the contracting public 83035
authority a party to the action, but not the director. 83036
Contemporaneous with service of the complaint, the interested 83037
party shall deliver a copy of the complaint to the director. Upon 83038
receipt thereof, the director shall cease investigating or 83039
otherwise acting upon the complaint filed pursuant to division (A) 83040
of this section. The court in which the complaint is filed 83041
pursuant to this division shall hear and decide the case, and upon 83042
finding that a violation has occurred, shall make such orders as 83043
will prevent further violation and afford to injured persons the 83044
relief specified under sections 4115.03 to 4115.16 of the Revised 83045
Code. The court's finding that a violation has occurred shall have 83046
the same consequences as a like determination by the director. The 83047
court may order the director to take such action as will prevent 83048
further violation and afford to injured persons the remedies 83049
specified under sections 4115.03 to 4115.16 of the Revised Code. 83050
Upon receipt of any order of the court pursuant to this section, 83051
the director shall undertake enforcement action without further 83052
investigation or hearings. 83053

(C) The director shall make available to the parties to any 83054
appeal or action pursuant to this section all files, documents, 83055
affidavits, or other information in the director's possession that 83056
pertain to the matter. The rules generally applicable to civil 83057
actions in the courts of this state shall govern all appeals or 83058
actions under this section. Any determination of a court under 83059
this section is subject to appellate review. 83060

(D) Where, pursuant to this section, a court finds a violation of sections 4115.03 to 4115.16 of the Revised Code, the court shall award attorney fees and court costs to the prevailing party. In the event the court finds that no violation has occurred, the court may award court costs and ~~attorney~~ fees to the prevailing party, other than to the director or the public authority, where the court finds the action brought was unreasonable or without foundation, even though not brought in subjective bad faith.

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, or any institution supported in whole or in part by public funds, authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor. "Public authority" shall not mean any municipal corporation that has adopted a charter under sections three and seven of article XVIII of the Ohio ~~constitution~~ Constitution, unless the specific contract for a public improvement includes state funds appropriated for the purposes of that public improvement.

(B) "Construction" means all of the following:

(1) Any new construction of any public improvement performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement performed by other than full-time employees who have completed their probationary period in the classified civil service of a

public authority; 83092

(3) Construction on any project, facility, or project 83093
facility to which section ~~122.452~~, 122.80, ~~165.031~~, 166.02, 83094
~~1551.13~~, or 1728.07, ~~or 3706.042~~ of the Revised Code applies; 83095

(4) Construction on any project as defined in section 122.39 83096
of the Revised Code, any project as defined in section 165.01 of 83097
the Revised Code, any energy resource development facility as 83098
defined in section 1551.01 of the Revised Code, or any project as 83099
defined in section 3706.01 of the Revised Code. 83100

(C) "Public improvement" means all buildings, roads, streets, 83101
alleys, sewers, ditches, sewage disposal plants, water works, and 83102
other structures or works constructed by a public authority or by 83103
any person who, pursuant to a contract with a public authority, 83104
constructs any structure or work for a public authority. When a 83105
public authority rents or leases a newly constructed structure 83106
within six months after completion of its construction, all work 83107
performed on that structure to suit it for occupancy by a public 83108
authority is a "public improvement." 83109

(D) "Interested party," with respect to a particular public 83110
improvement, means all of the following: 83111

(1) Any person who submits a bid for the purpose of securing 83112
the award of a contract for the public improvement; 83113

(2) Any person acting as a subcontractor of a person 83114
mentioned in division (D)(1) of this section; 83115

(3) Any association having as members any of the persons 83116
mentioned in division (D)(1) or (2) of this section; 83117

(4) Any employee of a person mentioned in division (D)(1), 83118
(2), or (3) of this section; 83119

(5) Any individual who is a resident of the jurisdiction of 83120
the public authority for whom products or services for a public 83121

improvement are being procured or for whom work on a public 83122
improvement is being performed. 83123

Sec. 4117.01. As used in this chapter: 83124

(A) "Person," in addition to those included in division (C) 83125
of section 1.59 of the Revised Code, includes employee 83126
organizations, public employees, and public employers. 83127

(B) "Public employer" means the state or any political 83128
subdivision of the state located entirely within the state, 83129
including, without limitation, any municipal corporation with a 83130
population of at least five thousand according to the most recent 83131
federal decennial census; county; township with a population of at 83132
least five thousand in the unincorporated area of the township 83133
according to the most recent federal decennial census; school 83134
district; governing authority of a community school established 83135
under Chapter 3314. of the Revised Code; college preparatory 83136
boarding school established under Chapter 3328. of the Revised 83137
Code or its operator; state institution of higher learning; public 83138
or special district; state agency, authority, commission, or 83139
board; or other branch of public employment. "Public employer" 83140
does not include the nonprofit corporation formed under section 83141
187.01 of the Revised Code. 83142

(C) "Public employee" means any person holding a position by 83143
appointment or employment in the service of a public employer, 83144
including any person working pursuant to a contract between a 83145
public employer and a private employer and over whom the national 83146
labor relations board has declined jurisdiction on the basis that 83147
the involved employees are employees of a public employer, except: 83148

(1) Persons holding elective office; 83149

(2) Employees of the general assembly and employees of any 83150
other legislative body of the public employer whose principal 83151

duties are directly related to the legislative functions of the	83152
body;	83153
(3) Employees on the staff of the governor or the chief	83154
executive of the public employer whose principal duties are	83155
directly related to the performance of the executive functions of	83156
the governor or the chief executive;	83157
(4) Persons who are members of the Ohio organized militia,	83158
while training or performing duty under section 5919.29 or 5923.12	83159
of the Revised Code;	83160
(5) Employees of the state employment relations board,	83161
including those employees of the state employment relations board	83162
utilized by the state personnel board of review in the exercise of	83163
the powers and the performance of the duties and functions of the	83164
state personnel board of review;	83165
(6) Confidential employees;	83166
(7) Management level employees;	83167
(8) Employees and officers of the courts, assistants to the	83168
attorney general, assistant prosecuting attorneys, and employees	83169
of the clerks of courts who perform a judicial function;	83170
(9) Employees of a public official who act in a fiduciary	83171
capacity, appointed pursuant to section 124.11 of the Revised	83172
Code;	83173
(10) Supervisors;	83174
(11) Students whose primary purpose is educational training,	83175
including graduate assistants or associates, residents, interns,	83176
or other students working as part-time public employees less than	83177
fifty per cent of the normal year in the employee's bargaining	83178
unit;	83179
(12) Employees of county boards of election;	83180
(13) Seasonal and casual employees as determined by the state	83181

employment relations board;	83182
(14) Part-time faculty members of an institution of higher education;	83183 83184
(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	83185 83186 83187 83188 83189 83190
(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	83191 83192 83193
(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005.	83194 83195 83196 83197
(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.	83198 83199 83200 83201 83202
(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.	83203 83204 83205
(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided	83206 83207 83208 83209 83210 83211 83212

that: 83213

(1) Employees of school districts who are department 83214
chairpersons or consulting teachers shall not be deemed 83215
supervisors; 83216

(2) With respect to members of a police or fire department, 83217
no person shall be deemed a supervisor except the chief of the 83218
department or those individuals who, in the absence of the chief, 83219
are authorized to exercise the authority and perform the duties of 83220
the chief of the department. Where prior to June 1, 1982, a public 83221
employer pursuant to a judicial decision, rendered in litigation 83222
to which the public employer was a party, has declined to engage 83223
in collective bargaining with members of a police or fire 83224
department on the basis that those members are supervisors, those 83225
members of a police or fire department do not have the rights 83226
specified in this chapter for the purposes of future collective 83227
bargaining. The state employment relations board shall decide all 83228
disputes concerning the application of division (F)(2) of this 83229
section. 83230

(3) With respect to faculty members of a state institution of 83231
higher education, heads of departments or divisions are 83232
supervisors; however, no other faculty member or group of faculty 83233
members is a supervisor solely because the faculty member or group 83234
of faculty members participate in decisions with respect to 83235
courses, curriculum, personnel, or other matters of academic 83236
policy; 83237

(4) No teacher as defined in section 3319.09 of the Revised 83238
Code shall be designated as a supervisor or a management level 83239
employee unless the teacher is employed under a contract governed 83240
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 83241
is assigned to a position for which a license deemed to be for 83242
administrators under state board rules is required pursuant to 83243
section 3319.22 of the Revised Code. 83244

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently,

whether during or after the expiration of the term or extended 83277
term of a collective bargaining agreement or during or after the 83278
pendency of the settlement procedures set forth in section 4117.14 83279
of the Revised Code. 83280

(J) "Professional employee" means any employee engaged in 83281
work that is predominantly intellectual, involving the consistent 83282
exercise of discretion and judgment in its performance and 83283
requiring knowledge of an advanced type in a field of science or 83284
learning customarily acquired by a prolonged course in an 83285
institution of higher learning or a hospital, as distinguished 83286
from a general academic education or from an apprenticeship; or an 83287
employee who has completed the courses of specialized intellectual 83288
instruction and is performing related work under the supervision 83289
of a professional person to become qualified as a professional 83290
employee. 83291

(K) "Confidential employee" means any employee who works in 83292
the personnel offices of a public employer and deals with 83293
information to be used by the public employer in collective 83294
bargaining; or any employee who works in a close continuing 83295
relationship with public officers or representatives directly 83296
participating in collective bargaining on behalf of the employer. 83297

(L) "Management level employee" means an individual who 83298
formulates policy on behalf of the public employer, who 83299
responsibly directs the implementation of policy, or who may 83300
reasonably be required on behalf of the public employer to assist 83301
in the preparation for the conduct of collective negotiations, 83302
administer collectively negotiated agreements, or have a major 83303
role in personnel administration. Assistant superintendents, 83304
principals, and assistant principals whose employment is governed 83305
by section 3319.02 of the Revised Code are management level 83306
employees. With respect to members of a faculty of a state 83307
institution of higher education, no person is a management level 83308

employee because of the person's involvement in the formulation or 83309
implementation of academic or institution policy. 83310

(M) "Wages" means hourly rates of pay, salaries, or other 83311
forms of compensation for services rendered. 83312

(N) "Member of a police department" means a person who is in 83313
the employ of a police department of a municipal corporation as a 83314
full-time regular police officer as the result of an appointment 83315
from a duly established civil service eligibility list or under 83316
section 737.15 or 737.16 of the Revised Code, a full-time deputy 83317
sheriff appointed under section 311.04 of the Revised Code, a 83318
township constable appointed under section 509.01 of the Revised 83319
Code, or a member of a township or joint police district police 83320
department appointed under section 505.49 of the Revised Code. 83321

(O) "Members of the state highway patrol" means highway 83322
patrol troopers and radio operators appointed under section 83323
5503.01 of the Revised Code. 83324

(P) "Member of a fire department" means a person who is in 83325
the employ of a fire department of a municipal corporation or a 83326
township as a fire cadet, full-time regular firefighter, or 83327
promoted rank as the result of an appointment from a duly 83328
established civil service eligibility list or under section 83329
505.38, 709.012, or 737.22 of the Revised Code. 83330

(Q) "Day" means calendar day. 83331

Sec. 4117.03. (A) Public employees have the right to: 83332

(1) Form, join, assist, or participate in, or refrain from 83333
forming, joining, assisting, or participating in, except as 83334
otherwise provided in Chapter 4117. of the Revised Code, any 83335
employee organization of their own choosing; 83336

(2) Engage in other concerted activities for the purpose of 83337
collective bargaining or other mutual aid and protection; 83338

(3) Representation by an employee organization; 83339

(4) Bargain collectively with their public employers to 83340
determine wages, hours, terms and other conditions of employment 83341
and the continuation, modification, or deletion of an existing 83342
provision of a collective bargaining agreement, and enter into 83343
collective bargaining agreements; 83344

(5) Present grievances and have them adjusted, without the 83345
intervention of the bargaining representative, as long as the 83346
adjustment is not inconsistent with the terms of the collective 83347
bargaining agreement then in effect and as long as the bargaining 83348
representatives have the opportunity to be present at the 83349
adjustment. 83350

(B) Persons on active duty or acting in any capacity as 83351
members of the organized militia do not have collective bargaining 83352
rights. 83353

(C) Except as provided in division (D) of this section, 83354
nothing in Chapter 4117. of the Revised Code prohibits public 83355
employers from electing to engage in collective bargaining, to 83356
meet and confer, to hold discussions, or to engage in any other 83357
form of collective negotiations with public employees who are not 83358
subject to Chapter 4117. of the Revised Code pursuant to division 83359
(C) of section 4117.01 of the Revised Code. 83360

(D) A public employer shall not engage in collective 83361
bargaining or other forms of collective negotiations with the 83362
employees of county boards of elections referred to in division 83363
(C)(12) of section 4117.01 of the Revised Code. 83364

(E) Employees of public schools may bargain collectively for 83365
health care benefits; ~~however, all health care benefits shall~~ 83366
~~include best practices prescribed by the school employees health~~ 83367
~~care board, in accordance with section 9.901 of the Revised Code.~~ 83368

Sec. 4121.03. (A) The governor shall appoint from among the 83369
members of the industrial commission the chairperson of the 83370
industrial commission. The chairperson shall serve as chairperson 83371
at the pleasure of the governor. The chairperson is the head of 83372
the commission and its chief executive officer. 83373

(B) The chairperson shall appoint, after consultation with 83374
other commission members and obtaining the approval of at least 83375
one other commission member, an executive director of the 83376
commission. The executive director shall serve at the pleasure of 83377
the chairperson. The executive director, under the direction of 83378
the chairperson, shall perform all of the following duties: 83379

(1) Act as chief administrative officer for the commission; 83380

(2) Ensure that all commission personnel follow the rules of 83381
the commission; 83382

(3) Ensure that all orders, awards, and determinations are 83383
properly heard and signed, prior to attesting to the documents; 83384

(4) Coordinate, to the fullest extent possible, commission 83385
activities with the bureau of workers' compensation activities; 83386

(5) Do all things necessary for the efficient and effective 83387
implementation of the duties of the commission. 83388

The responsibilities assigned to the executive director of 83389
the commission do not relieve the chairperson from final 83390
responsibility for the proper performance of the acts specified in 83391
this division. 83392

(C) The chairperson shall do all of the following: 83393

(1) Except as otherwise provided in this division, employ, 83394
promote, supervise, remove, and establish the compensation of all 83395
employees as needed in connection with the performance of the 83396
commission's duties under this chapter and Chapters 4123., 4127., 83397
and 4131. of the Revised Code and may assign to them their duties 83398

to the extent necessary to achieve the most efficient performance 83399
of its functions, and to that end may establish, change, or 83400
abolish positions, and assign and reassign duties and 83401
responsibilities of every employee of the commission. The civil 83402
service status of any person employed by the commission prior to 83403
November 3, 1989, is not affected by this section. Personnel 83404
employed by the bureau or the commission who are subject to 83405
Chapter 4117. of the Revised Code shall retain all of their rights 83406
and benefits conferred pursuant to that chapter as it presently 83407
exists or is hereafter amended and nothing in this chapter or 83408
Chapter 4123. of the Revised Code shall be construed as 83409
eliminating or interfering with Chapter 4117. of the Revised Code 83410
or the rights and benefits conferred under that chapter to public 83411
employees or to any bargaining unit. 83412

(2) Hire district and staff hearing officers after 83413
consultation with other commission members and obtaining the 83414
approval of at least one other commission member; 83415

(3) Hire staff and district hearing officers when the 83416
chairperson finds appropriate after obtaining the approval of at 83417
least one other commission member; 83418

(4) Maintain the office for the commission in Columbus; 83419

(5) To the maximum extent possible, use electronic data 83420
processing equipment for the issuance of orders immediately 83421
following a hearing, scheduling of hearings and medical 83422
examinations, tracking of claims, retrieval of information, and 83423
any other matter within the commission's jurisdiction, and shall 83424
provide and input information into the electronic data processing 83425
equipment as necessary to effect the success of the claims 83426
tracking system established pursuant to division (B)(15) of 83427
section 4121.121 of the Revised Code; 83428

(6) Exercise all administrative and nonadjudicatory powers 83429

and duties conferred upon the commission by Chapters 4121., 4123., 83430
4127., and 4131. of the Revised Code; 83431

(7) Approve all contracts for special services. 83432

(D) The chairperson is responsible for all administrative 83433
matters and may secure for the commission facilities, equipment, 83434
and supplies necessary to house the commission, any employees, and 83435
files and records under the commission's control and to discharge 83436
any duty imposed upon the commission by law, the expense thereof 83437
to be audited and paid in the same manner as other state expenses. 83438
For that purpose, the chairperson, separately from the budget 83439
prepared by the administrator of workers' compensation ~~and the~~ 83440
~~budget prepared by the director of the workers' compensation~~ 83441
~~council~~, shall prepare and submit to the office of budget and 83442
management a budget for each biennium according to sections 83443
101.532 and 107.03 of the Revised Code. The budget submitted shall 83444
cover the costs of the commission and staff and district hearing 83445
officers in the discharge of any duty imposed upon the 83446
chairperson, the commission, and hearing officers by law. 83447

(E) A majority of the commission constitutes a quorum to 83448
transact business. No vacancy impairs the rights of the remaining 83449
members to exercise all of the powers of the commission, so long 83450
as a majority remains. Any investigation, inquiry, or hearing that 83451
the commission may hold or undertake may be held or undertaken by 83452
or before any one member of the commission, or before one of the 83453
deputies of the commission, except as otherwise provided in this 83454
chapter and Chapters 4123., 4127., and 4131. of the Revised Code. 83455
Every order made by a member, or by a deputy, when approved and 83456
confirmed by a majority of the members, and so shown on its record 83457
of proceedings, is the order of the commission. The commission may 83458
hold sessions at any place within the state. The commission is 83459
responsible for all of the following: 83460

(1) Establishing the overall adjudicatory policy and 83461

management of the commission under this chapter and Chapters 83462
4123., 4127., and 4131. of the Revised Code, except for those 83463
administrative matters within the jurisdiction of the chairperson, 83464
bureau of workers' compensation, and the administrator of workers' 83465
compensation under those chapters; 83466

(2) Hearing appeals and reconsiderations under this chapter 83467
and Chapters 4123., 4127., and 4131. of the Revised Code; 83468

(3) Engaging in rulemaking where required by this chapter or 83469
Chapter 4123., 4127., or 4131. of the Revised Code. 83470

Sec. 4121.12. (A) There is hereby created the bureau of 83471
workers' compensation board of directors consisting of eleven 83472
members to be appointed by the governor with the advice and 83473
consent of the senate. One member shall be an individual who, on 83474
account of the individual's previous vocation, employment, or 83475
affiliations, can be classed as a representative of employees; two 83476
members shall be individuals who, on account of their previous 83477
vocation, employment, or affiliations, can be classed as 83478
representatives of employee organizations and at least one of 83479
these two individuals shall be a member of the executive committee 83480
of the largest statewide labor federation; three members shall be 83481
individuals who, on account of their previous vocation, 83482
employment, or affiliations, can be classed as representatives of 83483
employers, one of whom represents self-insuring employers, one of 83484
whom is a state fund employer who employs one hundred or more 83485
employees, and one of whom is a state fund employer who employs 83486
less than one hundred employees; two members shall be individuals 83487
who, on account of their vocation, employment, or affiliations, 83488
can be classed as investment and securities experts who have 83489
direct experience in the management, analysis, supervision, or 83490
investment of assets and are residents of this state; one member 83491
who shall be a certified public accountant; one member who shall 83492

be an actuary who is a member in good standing with the American 83493
academy of actuaries or who is an associate or fellow with the 83494
casualty actuarial society; and one member shall represent the 83495
public and also be an individual who, on account of the 83496
individual's previous vocation, employment, or affiliations, 83497
cannot be classed as either predominantly representative of 83498
employees or of employers. The governor shall select the 83499
chairperson of the board who shall serve as chairperson at the 83500
pleasure of the governor. 83501

None of the members of the board, within one year immediately 83502
preceding the member's appointment, shall have been employed by 83503
the bureau of workers' compensation or by any person, partnership, 83504
or corporation that has provided to the bureau services of a 83505
financial or investment nature, including the management, 83506
analysis, supervision, or investment of assets. 83507

(B) Of the initial appointments made to the board, the 83508
governor shall appoint the member who represents employees, one 83509
member who represents employers, and the member who represents the 83510
public to a term ending one year after June 11, 2007; one member 83511
who represents employers, one member who represents employee 83512
organizations, one member who is an investment and securities 83513
expert, and the member who is a certified public accountant to a 83514
term ending two years after June 11, 2007; and one member who 83515
represents employers, one member who represents employee 83516
organizations, one member who is an investment and securities 83517
expert, and the member who is an actuary to a term ending three 83518
years after June 11, 2007. Thereafter, terms of office shall be 83519
for three years, with each term ending on the same day of the same 83520
month as did the term that it succeeds. Each member shall hold 83521
office from the date of the member's appointment until the end of 83522
the term for which the member was appointed. 83523

Members may be reappointed. Any member appointed to fill a 83524

vacancy occurring prior to the expiration date of the term for 83525
which the member's predecessor was appointed shall hold office as 83526
a member for the remainder of that term. A member shall continue 83527
in office subsequent to the expiration date of the member's term 83528
until a successor takes office or until a period of sixty days has 83529
elapsed, whichever occurs first. 83530

(C) In making appointments to the board, the governor shall 83531
select the members from the list of names submitted by the 83532
workers' compensation board of directors nominating committee 83533
pursuant to this division. The nominating committee shall submit 83534
to the governor a list containing four separate names for each of 83535
the members on the board. Within fourteen days after the 83536
submission of the list, the governor shall appoint individuals 83537
from the list. 83538

At least thirty days prior to a vacancy occurring as a result 83539
of the expiration of a term and within thirty days after other 83540
vacancies occurring on the board, the nominating committee shall 83541
submit an initial list containing four names for each vacancy. 83542
Within fourteen days after the submission of the initial list, the 83543
governor either shall appoint individuals from that list or 83544
request the nominating committee to submit another list of four 83545
names for each member the governor has not appointed from the 83546
initial list, which list the nominating committee shall submit to 83547
the governor within fourteen days after the governor's request. 83548
The governor then shall appoint, within seven days after the 83549
submission of the second list, one of the individuals from either 83550
list to fill the vacancy for which the governor has not made an 83551
appointment from the initial list. If the governor appoints an 83552
individual to fill a vacancy occurring as a result of the 83553
expiration of a term, the individual appointed shall begin serving 83554
as a member of the board when the term for which the individual's 83555
predecessor was appointed expires or immediately upon appointment 83556

by the governor, whichever occurs later. With respect to the 83557
filling of vacancies, the nominating committee shall provide the 83558
governor with a list of four individuals who are, in the judgment 83559
of the nominating committee, the most fully qualified to accede to 83560
membership on the board. 83561

In order for the name of an individual to be submitted to the 83562
governor under this division, the nominating committee shall 83563
approve the individual by an affirmative vote of a majority of its 83564
members. 83565

(D) All members of the board shall receive their reasonable 83566
and necessary expenses pursuant to section 126.31 of the Revised 83567
Code while engaged in the performance of their duties as members 83568
and also shall receive an annual salary not to exceed sixty 83569
thousand dollars in total, payable on the following basis: 83570

(1) Except as provided in division (D)(2) of this section, a 83571
member shall receive two thousand five hundred dollars during a 83572
month in which the member attends one or more meetings of the 83573
board and shall receive no payment during a month in which the 83574
member attends no meeting of the board. 83575

(2) A member may receive no more than thirty thousand dollars 83576
per year to compensate the member for attending meetings of the 83577
board, regardless of the number of meetings held by the board 83578
during a year or the number of meetings in excess of twelve within 83579
a year that the member attends. 83580

(3) Except as provided in division (D)(4) of this section, if 83581
a member serves on the workers' compensation audit committee, 83582
workers' compensation actuarial committee, or the workers' 83583
compensation investment committee, the member shall receive two 83584
thousand five hundred dollars during a month in which the member 83585
attends one or more meetings of the committee on which the member 83586
serves and shall receive no payment during any month in which the 83587

member attends no meeting of that committee. 83588

(4) A member may receive no more than thirty thousand dollars 83589
per year to compensate the member for attending meetings of any of 83590
the committees specified in division (D)(3) of this section, 83591
regardless of the number of meetings held by a committee during a 83592
year or the number of committees on which a member serves. 83593

The chairperson of the board shall set the meeting dates of 83594
the board as necessary to perform the duties of the board under 83595
this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of 83596
the Revised Code. The board shall meet at least twelve times a 83597
year. The administrator of workers' compensation shall provide 83598
professional and clerical assistance to the board, as the board 83599
considers appropriate. 83600

(E) Before entering upon the duties of office, each appointed 83601
member of the board shall take an oath of office as required by 83602
sections 3.22 and 3.23 of the Revised Code and file in the office 83603
of the secretary of state the bond required under section 4121.127 83604
of the Revised Code. 83605

(F) The board shall: 83606

(1) Establish the overall administrative policy for the 83607
bureau for the purposes of this chapter and Chapters 4123., 4125., 83608
4127., 4131., and 4167. of the Revised Code; 83609

(2) Review progress of the bureau in meeting its cost and 83610
quality objectives and in complying with this chapter and Chapters 83611
4123., 4125., 4127., 4131., and 4167. of the Revised Code; 83612

(3) Submit an annual report to the president of the senate, 83613
the speaker of the house of representatives, and the governor, ~~and~~ 83614
~~the workers' compensation council~~ and include all of the following 83615
in that report: 83616

(a) An evaluation of the cost and quality objectives of the 83617

bureau;	83618
(b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as of the last day of the fiscal year;	83619 83620 83621 83622
(c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the fiscal year immediately preceding the date of the report;	83623 83624 83625 83626 83627
(d) The following information for each of the six consecutive fiscal years occurring previous to the report:	83628 83629
(i) A schedule of the net assets available for compensation and benefits;	83630 83631
(ii) The annual cost of the payment of compensation and benefits;	83632 83633
(iii) Annual administrative expenses incurred;	83634
(iv) Annual employer premiums allocated for the provision of compensation and benefits.	83635 83636
(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.	83637 83638 83639 83640 83641
(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.	83642 83643 83644
(5) Study issues as requested by the administrator or the governor;	83645 83646
(6) Contract with all of the following:	83647

- (a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates; 83648
83649
83650
- (b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties; 83651
83652
- (c) An independent fiduciary counsel to assist the board in the performance of its duties. 83653
83654
- (7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code. 83655
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- (8) Review and publish the investment policy no less than annually and make copies available to interested parties. 83659
83660
- (9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to the investment policy approved by the board. 83661
83662
83663
- (10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class; 83664
83665
83666
- (11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class; 83667
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- (12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives, ~~and the workers' compensation council.~~ 83672
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83675
- (13) Advise and consent on all of the following: 83676
- (a) Administrative rules the administrator submits to it 83677

pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(c) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:

(a) An orientation component for newly appointed members;

(b) A continuing education component for board members who have served for at least one year;

(c) A curriculum that includes education about each of the following topics:	83708
	83709
(i) Board member duties and responsibilities;	83710
(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;	83711
	83712
(iii) Ethics;	83713
(iv) Governance processes and procedures;	83714
(v) Actuarial soundness;	83715
(vi) Investments;	83716
(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.	83717
	83718
(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;	83719
	83720
	83721
(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.	83722
	83723
	83724
(G) The board may do both of the following:	83725
(1) Vote to close any investment class;	83726
(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.	83727
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(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be	83732
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deemed vacant. The vacancy shall be filled in the same manner as 83737
the original appointment. A person who has pleaded guilty to or 83738
been convicted of an offense of that nature is ineligible to be a 83739
member of the board. A member who receives a bill of indictment 83740
for any of the offenses specified in this section shall be 83741
automatically suspended from the board pending resolution of the 83742
criminal matter. 83743

(I) For the purposes of division (G)(1) of section 121.22 of 83744
the Revised Code, the meeting between the governor and the board 83745
to review the administrator's performance as required under 83746
division (F)(15) of this section shall be considered a meeting 83747
regarding the employment of the administrator. 83748

Sec. 4121.121. (A) There is hereby created the bureau of 83749
workers' compensation, which shall be administered by the 83750
administrator of workers' compensation. A person appointed to the 83751
position of administrator shall possess significant management 83752
experience in effectively managing an organization or 83753
organizations of substantial size and complexity. A person 83754
appointed to the position of administrator also shall possess a 83755
minimum of five years of experience in the field of workers' 83756
compensation insurance or in another insurance industry, except as 83757
otherwise provided when the conditions specified in division (C) 83758
of this section are satisfied. The governor shall appoint the 83759
administrator as provided in section 121.03 of the Revised Code, 83760
and the administrator shall serve at the pleasure of the governor. 83761
The governor shall fix the administrator's salary on the basis of 83762
the administrator's experience and the administrator's 83763
responsibilities and duties under this chapter and Chapters 4123., 83764
4125., 4127., 4131., and 4167. of the Revised Code. The governor 83765
shall not appoint to the position of administrator any person who 83766
has, or whose spouse has, given a contribution to the campaign 83767
committee of the governor in an amount greater than one thousand 83768

dollars during the two-year period immediately preceding the date 83769
of the appointment of the administrator. 83770

The administrator shall hold no other public office and shall 83771
devote full time to the duties of administrator. Before entering 83772
upon the duties of the office, the administrator shall take an 83773
oath of office as required by sections 3.22 and 3.23 of the 83774
Revised Code, and shall file in the office of the secretary of 83775
state, a bond signed by the administrator and by surety approved 83776
by the governor, for the sum of fifty thousand dollars payable to 83777
the state, conditioned upon the faithful performance of the 83778
administrator's duties. 83779

(B) The administrator is responsible for the management of 83780
the bureau and for the discharge of all administrative duties 83781
imposed upon the administrator in this chapter and Chapters 4123., 83782
4125., 4127., 4131., and 4167. of the Revised Code, and in the 83783
discharge thereof shall do all of the following: 83784

(1) Perform all acts and exercise all authorities and powers, 83785
discretionary and otherwise that are required of or vested in the 83786
bureau or any of its employees in this chapter and Chapters 4123., 83787
4125., 4127., 4131., and 4167. of the Revised Code, except the 83788
acts and the exercise of authority and power that is required of 83789
and vested in the bureau of workers' compensation board of 83790
directors or the industrial commission pursuant to those chapters. 83791
The treasurer of state shall honor all warrants signed by the 83792
administrator, or by one or more of the administrator's employees, 83793
authorized by the administrator in writing, or bearing the 83794
facsimile signature of the administrator or such employee under 83795
sections 4123.42 and 4123.44 of the Revised Code. 83796

(2) Employ, direct, and supervise all employees required in 83797
connection with the performance of the duties assigned to the 83798
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 83799
and 4167. of the Revised Code, including an actuary, and may 83800

establish job classification plans and compensation for all 83801
employees of the bureau provided that this grant of authority 83802
shall not be construed as affecting any employee for whom the 83803
state employment relations board has established an appropriate 83804
bargaining unit under section 4117.06 of the Revised Code. All 83805
positions of employment in the bureau are in the classified civil 83806
service except those employees the administrator may appoint to 83807
serve at the administrator's pleasure in the unclassified civil 83808
service pursuant to section 124.11 of the Revised Code. The 83809
administrator shall fix the salaries of employees the 83810
administrator appoints to serve at the administrator's pleasure, 83811
including the chief operating officer, staff physicians, and other 83812
senior management personnel of the bureau and shall establish the 83813
compensation of staff attorneys of the bureau's legal section and 83814
their immediate supervisors, and take whatever steps are necessary 83815
to provide adequate compensation for other staff attorneys. 83816

The administrator may appoint a person who holds a certified 83817
position in the classified service within the bureau to a position 83818
in the unclassified service within the bureau. A person appointed 83819
pursuant to this division to a position in the unclassified 83820
service shall retain the right to resume the position and status 83821
held by the person in the classified service immediately prior to 83822
the person's appointment in the unclassified service, regardless 83823
of the number of positions the person held in the unclassified 83824
service. An employee's right to resume a position in the 83825
classified service may only be exercised when the administrator 83826
demotes the employee to a pay range lower than the employee's 83827
current pay range or revokes the employee's appointment to the 83828
unclassified service. An employee forfeits the right to resume a 83829
position in the classified service when the employee is removed 83830
from the position in the unclassified service due to incompetence, 83831
inefficiency, dishonesty, drunkenness, immoral conduct, 83832
insubordination, discourteous treatment of the public, neglect of 83833

duty, violation of this chapter or Chapter 124., 4123., 4125., 83834
4127., 4131., or 4167. of the Revised Code, violation of the rules 83835
of the director of administrative services or the administrator, 83836
any other failure of good behavior, any other acts of misfeasance, 83837
malfeasance, or nonfeasance in office, or conviction of a felony. 83838
An employee also forfeits the right to resume a position in the 83839
classified service upon transfer to a different agency. 83840

Reinstatement to a position in the classified service shall 83841
be to a position substantially equal to that position in the 83842
classified service held previously, as certified by the department 83843
of administrative services. If the position the person previously 83844
held in the classified service has been placed in the unclassified 83845
service or is otherwise unavailable, the person shall be appointed 83846
to a position in the classified service within the bureau that the 83847
director of administrative services certifies is comparable in 83848
compensation to the position the person previously held in the 83849
classified service. Service in the position in the unclassified 83850
service shall be counted as service in the position in the 83851
classified service held by the person immediately prior to the 83852
person's appointment in the unclassified service. When a person is 83853
reinstated to a position in the classified service as provided in 83854
this division, the person is entitled to all rights, status, and 83855
benefits accruing to the position during the person's time of 83856
service in the position in the unclassified service. 83857

(3) Reorganize the work of the bureau, its sections, 83858
departments, and offices to the extent necessary to achieve the 83859
most efficient performance of its functions and to that end may 83860
establish, change, or abolish positions and assign and reassign 83861
duties and responsibilities of every employee of the bureau. All 83862
persons employed by the commission in positions that, after 83863
November 3, 1989, are supervised and directed by the administrator 83864
under this section are transferred to the bureau in their 83865

respective classifications but subject to reassignment and 83866
reclassification of position and compensation as the administrator 83867
determines to be in the interest of efficient administration. The 83868
civil service status of any person employed by the commission is 83869
not affected by this section. Personnel employed by the bureau or 83870
the commission who are subject to Chapter 4117. of the Revised 83871
Code shall retain all of their rights and benefits conferred 83872
pursuant to that chapter as it presently exists or is hereafter 83873
amended and nothing in this chapter or Chapter 4123. of the 83874
Revised Code shall be construed as eliminating or interfering with 83875
Chapter 4117. of the Revised Code or the rights and benefits 83876
conferred under that chapter to public employees or to any 83877
bargaining unit. 83878

(4) Provide offices, equipment, supplies, and other 83879
facilities for the bureau. 83880

(5) Prepare and submit to the board information the 83881
administrator considers pertinent or the board requires, together 83882
with the administrator's recommendations, in the form of 83883
administrative rules, for the advice and consent of the board, for 83884
classifications of occupations or industries, for premium rates 83885
and contributions, for the amount to be credited to the surplus 83886
fund, for rules and systems of rating, rate revisions, and merit 83887
rating. The administrator shall obtain, prepare, and submit any 83888
other information the board requires for the prompt and efficient 83889
discharge of its duties. 83890

(6) Keep the accounts required by division (A) of section 83891
4123.34 of the Revised Code and all other accounts and records 83892
necessary to the collection, administration, and distribution of 83893
the workers' compensation funds and shall obtain the statistical 83894
and other information required by section 4123.19 of the Revised 83895
Code. 83896

(7) Exercise the investment powers vested in the 83897

administrator by section 4123.44 of the Revised Code in accordance 83898
with the investment policy approved by the board pursuant to 83899
section 4121.12 of the Revised Code and in consultation with the 83900
chief investment officer of the bureau of workers' compensation. 83901
The administrator shall not engage in any prohibited investment 83902
activity specified by the board pursuant to division (F)(9) of 83903
section 4121.12 of the Revised Code and shall not invest in any 83904
type of investment specified in divisions (B)(1) to (10) of 83905
section 4123.442 of the Revised Code. All business shall be 83906
transacted, all funds invested, all warrants for money drawn and 83907
payments made, and all cash and securities and other property 83908
held, in the name of the bureau, or in the name of its nominee, 83909
provided that nominees are authorized by the administrator solely 83910
for the purpose of facilitating the transfer of securities, and 83911
restricted to the administrator and designated employees. 83912

(8) Make contracts for and supervise the construction of any 83913
project or improvement or the construction or repair of buildings 83914
under the control of the bureau. 83915

(9) Purchase supplies, materials, equipment, and services; 83916
make contracts for, operate, and superintend the telephone, other 83917
telecommunication, and computer services for the use of the 83918
bureau; and make contracts in connection with office reproduction, 83919
forms management, printing, and other services. Notwithstanding 83920
sections 125.12 to 125.14 of the Revised Code, the administrator 83921
may transfer surplus computers and computer equipment directly to 83922
an accredited public school within the state. The computers and 83923
computer equipment may be repaired or refurbished prior to the 83924
transfer. 83925

(10) Prepare and submit to the board an annual budget for 83926
internal operating purposes for the board's approval. The 83927
administrator also shall, separately from the budget the 83928
industrial commission submits ~~and from the budget the director of~~ 83929

~~the workers' compensation council submits~~, prepare and submit to 83930
the director of budget and management a budget for each biennium. 83931
The budgets submitted to the board and the director shall include 83932
estimates of the costs and necessary expenditures of the bureau in 83933
the discharge of any duty imposed by law. 83934

(11) As promptly as possible in the course of efficient 83935
administration, decentralize and relocate such of the personnel 83936
and activities of the bureau as is appropriate to the end that the 83937
receipt, investigation, determination, and payment of claims may 83938
be undertaken at or near the place of injury or the residence of 83939
the claimant and for that purpose establish regional offices, in 83940
such places as the administrator considers proper, capable of 83941
discharging as many of the functions of the bureau as is 83942
practicable so as to promote prompt and efficient administration 83943
in the processing of claims. All active and inactive lost-time 83944
claims files shall be held at the service office responsible for 83945
the claim. A claimant, at the claimant's request, shall be 83946
provided with information by telephone as to the location of the 83947
file pertaining to the claimant's claim. The administrator shall 83948
ensure that all service office employees report directly to the 83949
director for their service office. 83950

(12) Provide a written binder on new coverage where the 83951
administrator considers it to be in the best interest of the risk. 83952
The administrator, or any other person authorized by the 83953
administrator, shall grant the binder upon submission of a request 83954
for coverage by the employer. A binder is effective for a period 83955
of thirty days from date of issuance and is nonrenewable. Payroll 83956
reports and premium charges shall coincide with the effective date 83957
of the binder. 83958

(13) Set standards for the reasonable and maximum handling 83959
time of claims payment functions, ensure, by rules, the impartial 83960
and prompt treatment of all claims and employer risk accounts, and 83961

establish a secure, accurate method of time stamping all incoming 83962
mail and documents hand delivered to bureau employees. 83963

(14) Ensure that all employees of the bureau follow the 83964
orders and rules of the commission as such orders and rules relate 83965
to the commission's overall adjudicatory policy-making and 83966
management duties under this chapter and Chapters 4123., 4127., 83967
and 4131. of the Revised Code. 83968

(15) Manage and operate a data processing system with a 83969
common data base for the use of both the bureau and the commission 83970
and, in consultation with the commission, using electronic data 83971
processing equipment, shall develop a claims tracking system that 83972
is sufficient to monitor the status of a claim at any time and 83973
that lists appeals that have been filed and orders or 83974
determinations that have been issued pursuant to section 4123.511 83975
or 4123.512 of the Revised Code, including the dates of such 83976
filings and issuances. 83977

(16) Establish and maintain a medical section within the 83978
bureau. The medical section shall do all of the following: 83979

(a) Assist the administrator in establishing standard medical 83980
fees, approving medical procedures, and determining eligibility 83981
and reasonableness of the compensation payments for medical, 83982
hospital, and nursing services, and in establishing guidelines for 83983
payment policies which recognize usual, customary, and reasonable 83984
methods of payment for covered services; 83985

(b) Provide a resource to respond to questions from claims 83986
examiners for employees of the bureau; 83987

(c) Audit fee bill payments; 83988

(d) Implement a program to utilize, to the maximum extent 83989
possible, electronic data processing equipment for storage of 83990
information to facilitate authorizations of compensation payments 83991
for medical, hospital, drug, and nursing services; 83992

(e) Perform other duties assigned to it by the administrator. 83993

(17) Appoint, as the administrator determines necessary, 83994
panels to review and advise the administrator on disputes arising 83995
over a determination that a health care service or supply provided 83996
to a claimant is not covered under this chapter or Chapter 4123., 83997
4127., or 4131. of the Revised Code or is medically unnecessary. 83998
If an individual health care provider is involved in the dispute, 83999
the panel shall consist of individuals licensed pursuant to the 84000
same section of the Revised Code as such health care provider. 84001

(18) Pursuant to section 4123.65 of the Revised Code, approve 84002
applications for the final settlement of claims for compensation 84003
or benefits under this chapter and Chapters 4123., 4127., and 84004
4131. of the Revised Code as the administrator determines 84005
appropriate, except in regard to the applications of self-insuring 84006
employers and their employees. 84007

(19) Comply with section 3517.13 of the Revised Code, and 84008
except in regard to contracts entered into pursuant to the 84009
authority contained in section 4121.44 of the Revised Code, comply 84010
with the competitive bidding procedures set forth in the Revised 84011
Code for all contracts into which the administrator enters 84012
provided that those contracts fall within the type of contracts 84013
and dollar amounts specified in the Revised Code for competitive 84014
bidding and further provided that those contracts are not 84015
otherwise specifically exempt from the competitive bidding 84016
procedures contained in the Revised Code. 84017

(20) Adopt, with the advice and consent of the board, rules 84018
for the operation of the bureau. 84019

(21) Prepare and submit to the board information the 84020
administrator considers pertinent or the board requires, together 84021
with the administrator's recommendations, in the form of 84022
administrative rules, for the advice and consent of the board, for 84023

the health partnership program and the qualified health plan 84024
system, as provided in sections 4121.44, 4121.441, and 4121.442 of 84025
the Revised Code. 84026

(C) The administrator, with the advice and consent of the 84027
senate, shall appoint a chief operating officer who has a minimum 84028
of five years of experience in the field of workers' compensation 84029
insurance or in another similar insurance industry if the 84030
administrator does not possess such experience. The chief 84031
operating officer shall not commence the chief operating officer's 84032
duties until after the senate consents to the chief operating 84033
officer's appointment. The chief operating officer shall serve in 84034
the unclassified civil service of the state. 84035

Sec. 4121.125. (A) The bureau of workers' compensation board 84036
of directors, based upon recommendations of the workers' 84037
compensation actuarial committee, may contract with one or more 84038
outside actuarial firms and other professional persons, as the 84039
board determines necessary, to assist the board in measuring the 84040
performance of Ohio's workers' compensation system and in 84041
comparing Ohio's workers' compensation system to other state and 84042
private workers' compensation systems. The board, actuarial firm 84043
or firms, and professional persons shall make such measurements 84044
and comparisons using accepted insurance industry standards, 84045
including, but not limited to, standards promulgated by the 84046
National Council on Compensation Insurance. 84047

(B) The board may contract with one or more outside firms to 84048
conduct management and financial audits of the workers' 84049
compensation system, including audits of the reserve fund 84050
belonging to the state insurance fund, and to establish objective 84051
quality management principles and methods by which to review the 84052
performance of the workers' compensation system. 84053

(C) The board shall do all of the following: 84054

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the ~~workers' compensation council and the~~ standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation on or before the first day of November following the year for which the valuation was made;

(4) Have an actuary or a person who provides actuarial services under the supervision of an actuary, at such time as the board determines, and at least once during the five-year period that commences on September 10, 2007, and once within each five-year period thereafter, conduct an actuarial investigation of the experience of employers, the mortality, service, and injury rate of employees, and the payment of temporary total disability, permanent partial disability, and permanent total disability under sections 4123.56 to 4123.58 of the Revised Code to update the actuarial assumptions used in the report required by division (C)(1) of this section;

(5) Submit the report required under division (F) of this section to the ~~council and the~~ standing committees of the house of representatives and the senate with primary responsibility for

workers' compensation legislation not later than the first day of 84087
November following the fifth year of the period that the report 84088
covers; 84089

(6) Have prepared by or under the supervision of an actuary 84090
an actuarial analysis of any introduced legislation expected to 84091
have a measurable financial impact on the workers' compensation 84092
system; 84093

(7) Submit the report required under division (G) of this 84094
section to the legislative service commission, and the standing 84095
committees of the house of representatives and the senate with 84096
primary responsibility for workers' compensation legislation, ~~and~~ 84097
~~the council~~ not later than sixty days after the date of 84098
introduction of the legislation. 84099

(D) The administrator of workers' compensation and the 84100
industrial commission shall compile information and provide access 84101
to records of the bureau and the industrial commission to the 84102
board to the extent necessary for fulfillment of both of the 84103
following requirements: 84104

(1) Conduct of the measurements and comparisons described in 84105
division (A) of this section; 84106

(2) Conduct of the management and financial audits and 84107
establishment of the principles and methods described in division 84108
(B) of this section. 84109

(E) The firm or person with whom the board contracts pursuant 84110
to division (C)(1) of this section shall prepare a report of the 84111
valuation and submit the report to the board. The firm or person 84112
shall include all of the following information in the report that 84113
is required under division (C)(1) of this section: 84114

(1) A summary of the compensation and benefit provisions 84115
evaluated; 84116

(2) A description of the actuarial assumptions and actuarial cost method used in the valuation;	84117 84118
(3) A schedule showing the effect of any changes in the compensation and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.	84119 84120 84121 84122
(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:	84123 84124 84125 84126 84127 84128 84129 84130 84131
(1) A summary of relevant decrement and economic assumption experience;	84132 84133
(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C)(1) of this section;	84134 84135 84136
(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.	84137 84138
(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:	84139 84140 84141 84142 84143 84144 84145 84146
(1) A summary of the statutory changes being evaluated;	84147

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	84148 84149
(3) A description of the participant group or groups included in the report;	84150 84151
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.	84152 84153 84154 84155 84156 84157 84158
(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	84159 84160 84161 84162
(H) The board may, at any time, request an actuary to make any studies or actuarial valuations to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.	84163 84164 84165 84166 84167
(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.	84168 84169 84170 84171 84172 84173
(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve	84174 84175 84176 84177 84178

malfeasance, misfeasance, or nonfeasance on the part of the 84179
administrator. The board and the workers' compensation audit 84180
committee may request and review internal audits conducted by the 84181
internal auditor. 84182

(K) The administrator shall pay the expenses incurred by the 84183
board to effectively fulfill its duties and exercise its powers 84184
under this section as the administrator pays other operating 84185
expenses of the bureau. 84186

Sec. 4121.128. The attorney general shall be the legal 84187
adviser of the bureau of workers' compensation board of directors 84188
~~and the workers' compensation council.~~ 84189

Sec. 4121.44. (A) The administrator of workers' compensation 84190
shall oversee the implementation of the Ohio workers' compensation 84191
qualified health plan system as established under section 4121.442 84192
of the Revised Code. 84193

(B) The administrator shall direct the implementation of the 84194
health partnership program administered by the bureau as set forth 84195
in section 4121.441 of the Revised Code. To implement the health 84196
partnership program, the bureau: 84197

(1) Shall certify one or more external vendors, which shall 84198
be known as "managed care organizations," to provide medical 84199
management and cost containment services in the health partnership 84200
program for a period of two years beginning on the date of 84201
certification, consistent with the standards established under 84202
this section; 84203

(2) May recertify external vendors for additional periods of 84204
two years; and 84205

(3) May integrate the certified vendors with bureau staff and 84206
existing bureau services for purposes of operation and training to 84207
allow the bureau to assume operation of the health partnership 84208

program at the conclusion of the certification periods set forth 84209
in division (B)(1) or (2) of this section. 84210

(C) Any vendor selected shall demonstrate all of the 84211
following: 84212

(1) Arrangements and reimbursement agreements with a 84213
substantial number of the medical, professional and pharmacy 84214
providers currently being utilized by claimants. 84215

(2) Ability to accept a common format of medical bill data in 84216
an electronic fashion from any provider who wishes to submit 84217
medical bill data in that form. 84218

(3) A computer system able to handle the volume of medical 84219
bills and willingness to customize that system to the bureau's 84220
needs and to be operated by the vendor's staff, bureau staff, or 84221
some combination of both staffs. 84222

(4) A prescription drug system where pharmacies on a 84223
statewide basis have access to the eligibility and pricing, at a 84224
discounted rate, of all prescription drugs. 84225

(5) A tracking system to record all telephone calls from 84226
claimants and providers regarding the status of submitted medical 84227
bills so as to be able to track each inquiry. 84228

(6) Data processing capacity to absorb all of the bureau's 84229
medical bill processing or at least that part of the processing 84230
which the bureau arranges to delegate. 84231

(7) Capacity to store, retrieve, array, simulate, and model 84232
in a relational mode all of the detailed medical bill data so that 84233
analysis can be performed in a variety of ways and so that the 84234
bureau and its governing authority can make informed decisions. 84235

(8) Wide variety of software programs which translate medical 84236
terminology into standard codes, and which reveal if a provider is 84237
manipulating the procedures codes, commonly called "unbundling." 84238

(9) Necessary professional staff to conduct, at a minimum, 84239
authorizations for treatment, medical necessity, utilization 84240
review, concurrent review, post-utilization review, and have the 84241
attendant computer system which supports such activity and 84242
measures the outcomes and the savings. 84243

(10) Management experience and flexibility to be able to 84244
react quickly to the needs of the bureau in the case of required 84245
change in federal or state requirements. 84246

(D)(1) Information contained in a vendor's application for 84247
certification in the health partnership program, and other 84248
information furnished to the bureau by a vendor for purposes of 84249
obtaining certification or to comply with performance and 84250
financial auditing requirements established by the administrator, 84251
is for the exclusive use and information of the bureau in the 84252
discharge of its official duties, and shall not be open to the 84253
public or be used in any court in any proceeding pending therein, 84254
unless the bureau is a party to the action or proceeding, but the 84255
information may be tabulated and published by the bureau in 84256
statistical form for the use and information of other state 84257
departments and the public. No employee of the bureau, except as 84258
otherwise authorized by the administrator, shall divulge any 84259
information secured by the employee while in the employ of the 84260
bureau in respect to a vendor's application for certification or 84261
in respect to the business or other trade processes of any vendor 84262
to any person other than the administrator or to the employee's 84263
superior. 84264

(2) Notwithstanding the restrictions imposed by division 84265
(D)(1) of this section, the governor, members of select or 84266
standing committees of the senate or house of representatives, the 84267
auditor of state, the attorney general, or their designees, 84268
pursuant to the authority granted in this chapter and Chapter 84269
4123. of the Revised Code, may examine any vendor application or 84270

other information furnished to the bureau by the vendor. None of 84271
those individuals shall divulge any information secured in the 84272
exercise of that authority in respect to a vendor's application 84273
for certification or in respect to the business or other trade 84274
processes of any vendor to any person. 84275

(E) On and after January 1, 2001, a vendor shall not be any 84276
insurance company holding a certificate of authority issued 84277
pursuant to Title XXXIX of the Revised Code or any health insuring 84278
corporation holding a certificate of authority under Chapter 1751. 84279
of the Revised Code. 84280

(F) The administrator may limit freedom of choice of health 84281
care provider or supplier by requiring, beginning with the period 84282
set forth in division (B)(1) or (2) of this section, that 84283
claimants shall pay an appropriate out-of-plan copayment for 84284
selecting a medical provider not within the health partnership 84285
program as provided for in this section. 84286

(G) The administrator, six months prior to the expiration of 84287
the bureau's certification or recertification of the vendor or 84288
vendors as set forth in division (B)(1) or (2) of this section, 84289
may certify and provide evidence to the governor, the speaker of 84290
the house of representatives, and the president of the senate that 84291
the existing bureau staff is able to match or exceed the 84292
performance and outcomes of the external vendor or vendors and 84293
that the bureau should be permitted to internally administer the 84294
health partnership program upon the expiration of the 84295
certification or recertification as set forth in division (B)(1) 84296
or (2) of this section. 84297

(H) The administrator shall establish and operate a bureau of 84298
workers' compensation health care data program. The administrator 84299
shall develop reporting requirements from all employees, employers 84300
and medical providers, medical vendors, and plans that participate 84301
in the workers' compensation system. The administrator shall do 84302

all of the following: 84303

(1) Utilize the collected data to measure and perform 84304
comparison analyses of costs, quality, appropriateness of medical 84305
care, and effectiveness of medical care delivered by all 84306
components of the workers' compensation system. 84307

(2) Compile data to support activities of the selected vendor 84308
or vendors and to measure the outcomes and savings of the health 84309
partnership program. 84310

(3) Publish and report compiled data on the measures of 84311
outcomes and savings of the health partnership program and submit 84312
the report to the president of the senate, the speaker of the 84313
house of representatives, and the governor, ~~and the workers'~~ 84314
~~compensation council~~ with the annual report prepared under 84315
division (F)(3) of section 4121.12 of the Revised Code. The 84316
administrator shall protect the confidentiality of all proprietary 84317
pricing data. 84318

(I) Any rehabilitation facility the bureau operates is 84319
eligible for inclusion in the Ohio workers' compensation qualified 84320
health plan system or the health partnership program under the 84321
same terms as other providers within health care plans or the 84322
program. 84323

(J) In areas outside the state or within the state where no 84324
qualified health plan or an inadequate number of providers within 84325
the health partnership program exist, the administrator shall 84326
permit employees to use a nonplan or nonprogram health care 84327
provider and shall pay the provider for the services or supplies 84328
provided to or on behalf of an employee for an injury or 84329
occupational disease that is compensable under this chapter or 84330
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 84331
schedule the administrator adopts. 84332

(K) No health care provider, whether certified or not, shall 84333

charge, assess, or otherwise attempt to collect from an employee, 84334
employer, a managed care organization, or the bureau any amount 84335
for covered services or supplies that is in excess of the allowed 84336
amount paid by a managed care organization, the bureau, or a 84337
qualified health plan. 84338

(L) The administrator shall permit any employer or group of 84339
employers who agree to abide by the rules adopted under this 84340
section and sections 4121.441 and 4121.442 of the Revised Code to 84341
provide services or supplies to or on behalf of an employee for an 84342
injury or occupational disease that is compensable under this 84343
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 84344
through qualified health plans of the Ohio workers' compensation 84345
qualified health plan system pursuant to section 4121.442 of the 84346
Revised Code or through the health partnership program pursuant to 84347
section 4121.441 of the Revised Code. No amount paid under the 84348
qualified health plan system pursuant to section 4121.442 of the 84349
Revised Code by an employer who is a state fund employer shall be 84350
charged to the employer's experience or otherwise be used in 84351
merit-rating or determining the risk of that employer for the 84352
purpose of the payment of premiums under this chapter, and if the 84353
employer is a self-insuring employer, the employer shall not 84354
include that amount in the paid compensation the employer reports 84355
under section 4123.35 of the Revised Code. 84356

Sec. 4123.27. Information contained in the annual statement 84357
provided for in section 4123.26 of the Revised Code, and such 84358
other information as may be furnished to the bureau of workers' 84359
compensation by employers in pursuance of that section, is for the 84360
exclusive use and information of the bureau in the discharge of 84361
its official duties, and shall not be open to the public nor be 84362
used in any court in any action or proceeding pending therein 84363
unless the bureau is a party to the action or proceeding; but the 84364
information contained in the statement may be tabulated and 84365

published by the bureau in statistical form for the use and 84366
information of other state departments and the public. No person 84367
in the employ of the bureau, except those who are authorized by 84368
the administrator of workers' compensation, shall divulge any 84369
information secured by the person while in the employ of the 84370
bureau in respect to the transactions, property, claim files, 84371
records, or papers of the bureau or in respect to the business or 84372
mechanical, chemical, or other industrial process of any company, 84373
firm, corporation, person, association, partnership, or public 84374
utility to any person other than the administrator or to the 84375
superior of such employee of the bureau. 84376

Notwithstanding the restrictions imposed by this section, the 84377
governor, select or standing committees of the general assembly, 84378
the auditor of state, the attorney general, or their designees, 84379
pursuant to the authority granted in this chapter and Chapter 84380
4121. of the Revised Code, may examine any records, claim files, 84381
or papers in possession of the industrial commission or the 84382
bureau. They also are bound by the privilege that attaches to 84383
these papers. 84384

The administrator shall report to the director of job and 84385
family services or to the county director of job and family 84386
services the name, address, and social security number or other 84387
identification number of any person receiving workers' 84388
compensation whose name or social security number or other 84389
identification number is the same as that of a person required by 84390
a court or child support enforcement agency to provide support 84391
payments to a recipient or participant of public assistance, as 84392
that term is defined in section 5101.181 of the Revised Code, and 84393
whose name is submitted to the administrator by the director under 84394
section 5101.36 of the Revised Code. The administrator also shall 84395
inform the director of the amount of workers' compensation paid to 84396
the person during such period as the director specifies. 84397

Within fourteen days after receiving from the director of job 84398
and family services a list of the names and social security 84399
numbers of recipients or participants of public assistance 84400
pursuant to section 5101.181 of the Revised Code, the 84401
administrator shall inform the auditor of state of the name, 84402
current or most recent address, and social security number of each 84403
person receiving workers' compensation pursuant to this chapter 84404
whose name and social security number are the same as that of a 84405
person whose name or social security number was submitted by the 84406
director. The administrator also shall inform the auditor of state 84407
of the amount of workers' compensation paid to the person during 84408
such period as the director specifies. 84409

The bureau and its employees, except for purposes of 84410
furnishing the auditor of state with information required by this 84411
section, shall preserve the confidentiality of recipients or 84412
participants of public assistance in compliance with ~~division (A)~~ 84413
~~of~~ section 5101.181 of the Revised Code. 84414

~~For the purposes of this section, "public assistance" means 84415
medical assistance provided through the medical assistance program 84416
established under section 5111.01 of the Revised Code, Ohio works 84417
first provided under Chapter 5107. of the Revised Code, 84418
prevention, retention, and contingency benefits and services 84419
provided under Chapter 5108. of the Revised Code, or disability 84420
financial assistance provided under Chapter 5115. of the Revised 84421
Code. 84422~~

Sec. 4123.341. The administrative costs of the industrial 84423
commission, ~~the workers' compensation council,~~ the bureau of 84424
workers' compensation board of directors, and the bureau of 84425
workers' compensation shall be those costs and expenses that are 84426
incident to the discharge of the duties and performance of the 84427
activities of the industrial commission, ~~the council,~~ the board, 84428

and the bureau under this chapter and Chapters 4121., 4125., 84429
4127., 4131., and 4167. of the Revised Code, and all such costs 84430
shall be borne by the state and by other employers amenable to 84431
this chapter as follows: 84432

(A) In addition to the contribution required of the state 84433
under sections 4123.39 and 4123.40 of the Revised Code, the state 84434
shall contribute the sum determined to be necessary under section 84435
4123.342 of the Revised Code. 84436

(B) The director of budget and management may allocate the 84437
state's share of contributions in the manner the director finds 84438
most equitably apportions the costs. 84439

(C) The counties and taxing districts therein shall 84440
contribute such sum as may be required under section 4123.342 of 84441
the Revised Code. 84442

(D) The private employers shall contribute the sum required 84443
under section 4123.342 of the Revised Code. 84444

Sec. 4123.342. (A) The administrator of workers' compensation 84445
shall allocate among counties and taxing districts therein as a 84446
class, the state and its instrumentalities as a class, private 84447
employers who are insured under the private fund as a class, and 84448
self-insuring employers as a class their fair shares of the 84449
administrative costs which are to be borne by such employers under 84450
division (D) of section 4123.341 of the Revised Code, separately 84451
allocating to each class those costs solely attributable to the 84452
activities of the industrial commission, ~~those costs solely~~ 84453
~~attributable to the activities of the workers' compensation~~ 84454
~~council,~~ and those costs solely attributable to the activities of 84455
the bureau of workers' compensation board of directors, and the 84456
bureau of workers' compensation in respect of the class, 84457
allocating to any combination of classes those costs attributable 84458
to the activities of the industrial commission, ~~council,~~ board, or 84459

bureau in respect of the classes, and allocating to all four 84460
classes those costs attributable to the activities of the 84461
industrial commission, ~~council~~, board, and bureau in respect of 84462
all classes. The administrator shall separately calculate each 84463
employer's assessment in the class, except self-insuring 84464
employers, on the basis of the following three factors: payroll, 84465
paid compensation, and paid medical costs of the employer for 84466
those costs solely attributable to the activities of the board and 84467
the bureau. The administrator shall separately calculate each 84468
employer's assessment in the class, except self-insuring 84469
employers, on the basis of the following three factors: payroll, 84470
paid compensation, and paid medical costs of the employer for 84471
those costs solely attributable to the activities of the 84472
industrial commission. ~~The administrator shall separately~~ 84473
~~calculate each employer's assessment in the class, except~~ 84474
~~self-insuring employers, on the basis of the following three~~ 84475
~~factors: payroll, paid compensation, and paid medical costs of the~~ 84476
~~employer for those costs solely attributable to the activities of~~ 84477
~~the council.~~ The administrator shall separately calculate each 84478
self-insuring employer's assessment in accordance with section 84479
4123.35 of the Revised Code for those costs solely attributable to 84480
the activities of the board and the bureau. The administrator 84481
shall separately calculate each self-insuring employer's 84482
assessment in accordance with section 4123.35 of the Revised Code 84483
for those costs solely attributable to the activities of the 84484
industrial commission. ~~The administrator shall separately~~ 84485
~~calculate each self-insuring employer's assessment in accordance~~ 84486
~~with section 4123.35 of the Revised Code for those costs solely~~ 84487
~~attributable to the activities of the council.~~ In a timely manner, 84488
the industrial commission shall provide to the administrator, the 84489
information necessary for the administrator to allocate and 84490
calculate, with the approval of the chairperson of the industrial 84491
commission, for each class of employer as described in this 84492

division, the costs solely attributable to the activities of the 84493
industrial commission. ~~In a timely manner, the director of the~~ 84494
~~workers' compensation council shall submit to the administrator~~ 84495
~~the information necessary for the administrator to allocate and~~ 84496
~~calculate, with the approval of the director, for each class of~~ 84497
~~employer as described in this division, the costs solely~~ 84498
~~attributable to the activities of the council.~~ 84499

(B) The administrator shall divide the administrative cost 84500
assessments collected by the administrator into ~~three~~ two 84501
administrative assessment accounts within the state insurance 84502
fund. One of the administrative assessment accounts shall consist 84503
of the administrative cost assessment collected by the 84504
administrator for the industrial commission. ~~One of the~~ 84505
~~administrative assessment accounts shall consist of the~~ 84506
~~administrative cost assessment collected by the administrator for~~ 84507
~~the council.~~ One of the administrative assessment accounts shall 84508
consist of the administrative cost assessments collected by the 84509
administrator for the bureau and the board. The administrator may 84510
invest the administrative cost assessments in these accounts on 84511
behalf of the bureau, ~~the council,~~ and the industrial commission 84512
as authorized in section 4123.44 of the Revised Code. In a timely 84513
manner, the administrator shall provide to the industrial 84514
commission ~~and the council~~ the information and reports the 84515
commission ~~or council, as applicable,~~ deems necessary for the 84516
commission ~~or the council, as applicable,~~ to monitor the receipts 84517
and the disbursements from the administrative assessment account 84518
for the industrial commission ~~or the administrative assessment~~ 84519
~~account for the council, as applicable.~~ 84520

(C) The administrator or the administrator's designee shall 84521
transfer moneys as necessary from the administrative assessment 84522
account identified for the bureau and the board to the workers' 84523
compensation fund for the use of the bureau and the board. As 84524

necessary and upon the authorization of the industrial commission, 84525
the administrator or the administrator's designee shall transfer 84526
moneys from the administrative assessment account identified for 84527
the industrial commission to the industrial commission operating 84528
fund created under section 4121.021 of the Revised Code. To the 84529
extent that the moneys collected by the administrator in any 84530
fiscal biennium of the state equal the sum appropriated by the 84531
general assembly for administrative costs of the industrial 84532
commission, board, and bureau for the biennium ~~and the~~ 84533
~~administrative costs approved by the workers' compensation~~ 84534
~~council~~, the moneys shall be paid into the workers' compensation 84535
fund, and the industrial commission operating fund of the state, 84536
~~the workers' compensation council fund, and the workers'~~ 84537
~~compensation council remuneration fund,~~ as appropriate, and any 84538
remainder shall be retained in those funds and applied to reduce 84539
the amount collected during the next biennium. 84540

~~(D) As necessary and upon authorization of the director of~~ 84541
~~the council, the administrator or the administrator's designee~~ 84542
~~shall transfer moneys from the administrative assessment account~~ 84543
~~identified for the council to the workers' compensation council~~ 84544
~~fund created in division (C) of section 4121.79 of the Revised~~ 84545
~~Code.~~ 84546

~~(E)~~ Sections 4123.41, 4123.35, and 4123.37 of the Revised 84547
Code apply to the collection of assessments from public and 84548
private employers respectively, except that for boards of county 84549
hospital trustees that are self-insuring employers, only those 84550
provisions applicable to the collection of assessments for private 84551
employers apply. 84552

Sec. 4123.35. (A) Except as provided in this section, every 84553
employer mentioned in division (B)(2) of section 4123.01 of the 84554
Revised Code, and every publicly owned utility shall pay 84555

semiannually in the months of January and July into the state 84556
insurance fund the amount of annual premium the administrator of 84557
workers' compensation fixes for the employment or occupation of 84558
the employer, the amount of which premium to be paid by each 84559
employer to be determined by the classifications, rules, and rates 84560
made and published by the administrator. The employer shall pay 84561
semiannually a further sum of money into the state insurance fund 84562
as may be ascertained to be due from the employer by applying the 84563
rules of the administrator, and a receipt or certificate 84564
certifying that payment has been made, along with a written notice 84565
as is required in section 4123.54 of the Revised Code, shall be 84566
mailed immediately to the employer by the bureau of workers' 84567
compensation. The receipt or certificate is prima-facie evidence 84568
of the payment of the premium, and the proper posting of the 84569
notice constitutes the employer's compliance with the notice 84570
requirement mandated in section 4123.54 of the Revised Code. 84571

The bureau of workers' compensation shall verify with the 84572
secretary of state the existence of all corporations and 84573
organizations making application for workers' compensation 84574
coverage and shall require every such application to include the 84575
employer's federal identification number. 84576

An employer as defined in division (B)(2) of section 4123.01 84577
of the Revised Code who has contracted with a subcontractor is 84578
liable for the unpaid premium due from any subcontractor with 84579
respect to that part of the payroll of the subcontractor that is 84580
for work performed pursuant to the contract with the employer. 84581

Division (A) of this section providing for the payment of 84582
premiums semiannually does not apply to any employer who was a 84583
subscriber to the state insurance fund prior to January 1, 1914, 84584
or who may first become a subscriber to the fund in any month 84585
other than January or July. Instead, the semiannual premiums shall 84586
be paid by those employers from time to time upon the expiration 84587

of the respective periods for which payments into the fund have 84588
been made by them. 84589

The administrator shall adopt rules to permit employers to 84590
make periodic payments of the semiannual premium due under this 84591
division. The rules shall include provisions for the assessment of 84592
interest charges, where appropriate, and for the assessment of 84593
penalties when an employer fails to make timely premium payments. 84594
An employer who timely pays the amounts due under this division is 84595
entitled to all of the benefits and protections of this chapter. 84596
Upon receipt of payment, the bureau immediately shall mail a 84597
receipt or certificate to the employer certifying that payment has 84598
been made, which receipt is prima-facie evidence of payment. 84599
Workers' compensation coverage under this chapter continues 84600
uninterrupted upon timely receipt of payment under this division. 84601

Every public employer, except public employers that are 84602
self-insuring employers under this section, shall comply with 84603
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 84604
regard to the contribution of moneys to the public insurance fund. 84605

(B) Employers who will abide by the rules of the 84606
administrator and who may be of sufficient financial ability to 84607
render certain the payment of compensation to injured employees or 84608
the dependents of killed employees, and the furnishing of medical, 84609
surgical, nursing, and hospital attention and services and 84610
medicines, and funeral expenses, equal to or greater than is 84611
provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 84612
to 4123.67 of the Revised Code, and who do not desire to insure 84613
the payment thereof or indemnify themselves against loss sustained 84614
by the direct payment thereof, upon a finding of such facts by the 84615
administrator, may be granted the privilege to pay individually 84616
compensation, and furnish medical, surgical, nursing, and hospital 84617
services and attention and funeral expenses directly to injured 84618
employees or the dependents of killed employees, thereby being 84619

granted status as a self-insuring employer. The administrator may 84620
charge employers who apply for the status as a self-insuring 84621
employer a reasonable application fee to cover the bureau's costs 84622
in connection with processing and making a determination with 84623
respect to an application. 84624

All employers granted status as self-insuring employers shall 84625
demonstrate sufficient financial and administrative ability to 84626
assure that all obligations under this section are promptly met. 84627
The administrator shall deny the privilege where the employer is 84628
unable to demonstrate the employer's ability to promptly meet all 84629
the obligations imposed on the employer by this section. 84630

(1) The administrator shall consider, but is not limited to, 84631
the following factors, where applicable, in determining the 84632
employer's ability to meet all of the obligations imposed on the 84633
employer by this section: 84634

(a) The employer employs a minimum of five hundred employees 84635
in this state; 84636

(b) The employer has operated in this state for a minimum of 84637
two years, provided that an employer who has purchased, acquired, 84638
or otherwise succeeded to the operation of a business, or any part 84639
thereof, situated in this state that has operated for at least two 84640
years in this state, also shall qualify; 84641

(c) Where the employer previously contributed to the state 84642
insurance fund or is a successor employer as defined by bureau 84643
rules, the amount of the buyout, as defined by bureau rules; 84644

(d) The sufficiency of the employer's assets located in this 84645
state to insure the employer's solvency in paying compensation 84646
directly; 84647

(e) The financial records, documents, and data, certified by 84648
a certified public accountant, necessary to provide the employer's 84649
full financial disclosure. The records, documents, and data 84650

include, but are not limited to, balance sheets and profit and 84651
loss history for the current year and previous four years. 84652

(f) The employer's organizational plan for the administration 84653
of the workers' compensation law; 84654

(g) The employer's proposed plan to inform employees of the 84655
change from a state fund insurer to a self-insuring employer, the 84656
procedures the employer will follow as a self-insuring employer, 84657
and the employees' rights to compensation and benefits; and 84658

(h) The employer has either an account in a financial 84659
institution in this state, or if the employer maintains an account 84660
with a financial institution outside this state, ensures that 84661
workers' compensation checks are drawn from the same account as 84662
payroll checks or the employer clearly indicates that payment will 84663
be honored by a financial institution in this state. 84664

The administrator may waive the requirements of divisions 84665
(B)(1)(a) and (b) of this section and the requirement of division 84666
(B)(1)(e) of this section that the financial records, documents, 84667
and data be certified by a certified public accountant. The 84668
administrator shall adopt rules establishing the criteria that an 84669
employer shall meet in order for the administrator to waive the 84670
requirement of division (B)(1)(e) of this section. Such rules may 84671
require additional security of that employer pursuant to division 84672
(E) of section 4123.351 of the Revised Code. 84673

The administrator shall not grant the status of self-insuring 84674
employer to the state, except that the administrator may grant the 84675
status of self-insuring employer to a state institution of higher 84676
education, excluding its hospitals, that meets the requirements of 84677
division (B)(2) of this section. 84678

(2) When considering the application of a public employer, 84679
except for a board of county commissioners described in division 84680
(G) of section 4123.01 of the Revised Code, a board of a county 84681

hospital, or a publicly owned utility, the administrator shall 84682
verify that the public employer satisfies all of the following 84683
requirements as the requirements apply to that public employer: 84684

(a) For the two-year period preceding application under this 84685
section, the public employer has maintained an unvoted debt 84686
capacity equal to at least two times the amount of the current 84687
annual premium established by the administrator under this chapter 84688
for that public employer for the year immediately preceding the 84689
year in which the public employer makes application under this 84690
section. 84691

(b) For each of the two fiscal years preceding application 84692
under this section, the unreserved and undesignated year-end fund 84693
balance in the public employer's general fund is equal to at least 84694
five per cent of the public employer's general fund revenues for 84695
the fiscal year computed in accordance with generally accepted 84696
accounting principles. 84697

(c) For the five-year period preceding application under this 84698
section, the public employer, to the extent applicable, has 84699
complied fully with the continuing disclosure requirements 84700
established in rules adopted by the United States securities and 84701
exchange commission under 17 C.F.R. 240.15c 2-12. 84702

(d) For the five-year period preceding application under this 84703
section, the public employer has not had its local government fund 84704
distribution withheld on account of the public employer being 84705
indebted or otherwise obligated to the state. 84706

(e) For the five-year period preceding application under this 84707
section, the public employer has not been under a fiscal watch or 84708
fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 84709
of the Revised Code. 84710

(f) For the public employer's fiscal year preceding 84711
application under this section, the public employer has obtained 84712

an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G)

of section 4123.01 of the Revised Code, as an employer, that will 84744
abide by the rules of the administrator and that may be of 84745
sufficient financial ability to render certain the payment of 84746
compensation to injured employees or the dependents of killed 84747
employees, and the furnishing of medical, surgical, nursing, and 84748
hospital attention and services and medicines, and funeral 84749
expenses, equal to or greater than is provided for in sections 84750
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised 84751
Code, and that does not desire to insure the payment thereof or 84752
indemnify itself against loss sustained by the direct payment 84753
thereof, upon a finding of such facts by the administrator, may be 84754
granted the privilege to pay individually compensation, and 84755
furnish medical, surgical, nursing, and hospital services and 84756
attention and funeral expenses directly to injured employees or 84757
the dependents of killed employees, thereby being granted status 84758
as a self-insuring employer. The administrator may charge a board 84759
of county commissioners described in division (G) of section 84760
4123.01 of the Revised Code that applies for the status as a 84761
self-insuring employer a reasonable application fee to cover the 84762
bureau's costs in connection with processing and making a 84763
determination with respect to an application. All employers 84764
granted such status shall demonstrate sufficient financial and 84765
administrative ability to assure that all obligations under this 84766
section are promptly met. The administrator shall deny the 84767
privilege where the employer is unable to demonstrate the 84768
employer's ability to promptly meet all the obligations imposed on 84769
the employer by this section. The administrator shall consider, 84770
but is not limited to, the following factors, where applicable, in 84771
determining the employer's ability to meet all of the obligations 84772
imposed on the board as an employer by this section: 84773

(1) The board as an employer employs a minimum of five 84774
hundred employees in this state; 84775

- (2) The board has operated in this state for a minimum of two years; 84776
84777
- (3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules; 84778
84779
84780
- (4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly; 84781
84782
84783
- (5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years. 84784
84785
84786
84787
84788
- (6) The board's organizational plan for the administration of the workers' compensation law; 84789
84790
- (7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits; 84791
84792
84793
84794
- (8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state; 84795
84796
84797
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84800
- (9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator. 84801
84802
84803
- (D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of 84804
84805

the Revised Code, that is sufficient to compel, or secure to 84806
injured employees, or to the dependents of employees killed, the 84807
payment of compensation and expenses, which shall in no event be 84808
less than that paid or furnished out of the state insurance fund 84809
in similar cases to injured employees or to dependents of killed 84810
employees whose employers contribute to the fund, except when an 84811
employee of the employer, who has suffered the loss of a hand, 84812
arm, foot, leg, or eye prior to the injury for which compensation 84813
is to be paid, and thereafter suffers the loss of any other of the 84814
members as the result of any injury sustained in the course of and 84815
arising out of the employee's employment, the compensation to be 84816
paid by the self-insuring employer is limited to the disability 84817
suffered in the subsequent injury, additional compensation, if 84818
any, to be paid by the bureau out of the surplus created by 84819
section 4123.34 of the Revised Code. 84820

(E) In addition to the requirements of this section, the 84821
administrator shall make and publish rules governing the manner of 84822
making application and the nature and extent of the proof required 84823
to justify a finding of fact by the administrator as to granting 84824
the status of a self-insuring employer, which rules shall be 84825
general in their application, one of which rules shall provide 84826
that all self-insuring employers shall pay into the state 84827
insurance fund such amounts as are required to be credited to the 84828
surplus fund in division (B) of section 4123.34 of the Revised 84829
Code. The administrator may adopt rules establishing requirements 84830
in addition to the requirements described in division (B)(2) of 84831
this section that a public employer shall meet in order to qualify 84832
for self-insuring status. 84833

Employers shall secure directly from the bureau central 84834
offices application forms upon which the bureau shall stamp a 84835
designating number. Prior to submission of an application, an 84836
employer shall make available to the bureau, and the bureau shall 84837

review, the information described in division (B)(1) of this 84838
section, and public employers shall make available, and the bureau 84839
shall review, the information necessary to verify whether the 84840
public employer meets the requirements listed in division (B)(2) 84841
of this section. An employer shall file the completed application 84842
forms with an application fee, which shall cover the costs of 84843
processing the application, as established by the administrator, 84844
by rule, with the bureau at least ninety days prior to the 84845
effective date of the employer's new status as a self-insuring 84846
employer. The application form is not deemed complete until all 84847
the required information is attached thereto. The bureau shall 84848
only accept applications that contain the required information. 84849

(F) The bureau shall review completed applications within a 84850
reasonable time. If the bureau determines to grant an employer the 84851
status as a self-insuring employer, the bureau shall issue a 84852
statement, containing its findings of fact, that is prepared by 84853
the bureau and signed by the administrator. If the bureau 84854
determines not to grant the status as a self-insuring employer, 84855
the bureau shall notify the employer of the determination and 84856
require the employer to continue to pay its full premium into the 84857
state insurance fund. The administrator also shall adopt rules 84858
establishing a minimum level of performance as a criterion for 84859
granting and maintaining the status as a self-insuring employer 84860
and fixing time limits beyond which failure of the self-insuring 84861
employer to provide for the necessary medical examinations and 84862
evaluations may not delay a decision on a claim. 84863

(G) The administrator shall adopt rules setting forth 84864
procedures for auditing the program of self-insuring employers. 84865
The bureau shall conduct the audit upon a random basis or whenever 84866
the bureau has grounds for believing that a self-insuring employer 84867
is not in full compliance with bureau rules or this chapter. 84868

The administrator shall monitor the programs conducted by 84869

self-insuring employers, to ensure compliance with bureau 84870
requirements and for that purpose, shall develop and issue to 84871
self-insuring employers standardized forms for use by the 84872
self-insuring employer in all aspects of the self-insuring 84873
employers' direct compensation program and for reporting of 84874
information to the bureau. 84875

The bureau shall receive and transmit to the self-insuring 84876
employer all complaints concerning any self-insuring employer. In 84877
the case of a complaint against a self-insuring employer, the 84878
administrator shall handle the complaint through the 84879
self-insurance division of the bureau. The bureau shall maintain a 84880
file by employer of all complaints received that relate to the 84881
employer. The bureau shall evaluate each complaint and take 84882
appropriate action. 84883

The administrator shall adopt as a rule a prohibition against 84884
any self-insuring employer from harassing, dismissing, or 84885
otherwise disciplining any employee making a complaint, which rule 84886
shall provide for a financial penalty to be levied by the 84887
administrator payable by the offending self-insuring employer. 84888

(H) For the purpose of making determinations as to whether to 84889
grant status as a self-insuring employer, the administrator may 84890
subscribe to and pay for a credit reporting service that offers 84891
financial and other business information about individual 84892
employers. The costs in connection with the bureau's subscription 84893
or individual reports from the service about an applicant may be 84894
included in the application fee charged employers under this 84895
section. 84896

(I) The administrator, notwithstanding other provisions of 84897
this chapter, may permit a self-insuring employer to resume 84898
payment of premiums to the state insurance fund with appropriate 84899
credit modifications to the employer's basic premium rate as such 84900
rate is determined pursuant to section 4123.29 of the Revised 84901

Code. 84902

(J) On the first day of July of each year, the administrator 84903
shall calculate separately each self-insuring employer's 84904
assessments for the safety and hygiene fund, administrative costs 84905
pursuant to section 4123.342 of the Revised Code, and for the 84906
portion of the surplus fund under division (B) of section 4123.34 84907
of the Revised Code that is not used for handicapped 84908
reimbursement, on the basis of the paid compensation attributable 84909
to the individual self-insuring employer according to the 84910
following calculation: 84911

(1) The total assessment against all self-insuring employers 84912
as a class for each fund and for the administrative costs for the 84913
year that the assessment is being made, as determined by the 84914
administrator, divided by the total amount of paid compensation 84915
for the previous calendar year attributable to all amenable 84916
self-insuring employers; 84917

(2) Multiply the quotient in division (J)(1) of this section 84918
by the total amount of paid compensation for the previous calendar 84919
year that is attributable to the individual self-insuring employer 84920
for whom the assessment is being determined. Each self-insuring 84921
employer shall pay the assessment that results from this 84922
calculation, unless the assessment resulting from this calculation 84923
falls below a minimum assessment, which minimum assessment the 84924
administrator shall determine on the first day of July of each 84925
year with the advice and consent of the bureau of workers' 84926
compensation board of directors, in which event, the self-insuring 84927
employer shall pay the minimum assessment. 84928

In determining the total amount due for the total assessment 84929
against all self-insuring employers as a class for each fund and 84930
the administrative assessment, the administrator shall reduce 84931
proportionately the total for each fund and assessment by the 84932
amount of money in the self-insurance assessment fund as of the 84933

date of the computation of the assessment. 84934

The administrator shall calculate the assessment for the 84935
portion of the surplus fund under division (B) of section 4123.34 84936
of the Revised Code that is used for handicapped reimbursement in 84937
the same manner as set forth in divisions (J)(1) and (2) of this 84938
section except that the administrator shall calculate the total 84939
assessment for this portion of the surplus fund only on the basis 84940
of those self-insuring employers that retain participation in the 84941
handicapped reimbursement program and the individual self-insuring 84942
employer's proportion of paid compensation shall be calculated 84943
only for those self-insuring employers who retain participation in 84944
the handicapped reimbursement program. The administrator, as the 84945
administrator determines appropriate, may determine the total 84946
assessment for the handicapped portion of the surplus fund in 84947
accordance with sound actuarial principles. 84948

The administrator shall calculate the assessment for the 84949
portion of the surplus fund under division (B) of section 4123.34 84950
of the Revised Code that under division (D) of section 4121.66 of 84951
the Revised Code is used for rehabilitation costs in the same 84952
manner as set forth in divisions (J)(1) and (2) of this section, 84953
except that the administrator shall calculate the total assessment 84954
for this portion of the surplus fund only on the basis of those 84955
self-insuring employers who have not made the election to make 84956
payments directly under division (D) of section 4121.66 of the 84957
Revised Code and an individual self-insuring employer's proportion 84958
of paid compensation only for those self-insuring employers who 84959
have not made that election. 84960

The administrator shall calculate the assessment for the 84961
portion of the surplus fund under division (B) of section 4123.34 84962
of the Revised Code that is used for reimbursement to a 84963
self-insuring employer under division (H) of section 4123.512 of 84964
the Revised Code in the same manner as set forth in divisions 84965

(J)(1) and (2) of this section except that the administrator shall 84966
calculate the total assessment for this portion of the surplus 84967
fund only on the basis of those self-insuring employers that 84968
retain participation in reimbursement to the self-insuring 84969
employer under division (H) of section 4123.512 of the Revised 84970
Code and the individual self-insuring employer's proportion of 84971
paid compensation shall be calculated only for those self-insuring 84972
employers who retain participation in reimbursement to the 84973
self-insuring employer under division (H) of section 4123.512 of 84974
the Revised Code. 84975

An employer who no longer is a self-insuring employer in this 84976
state or who no longer is operating in this state, shall continue 84977
to pay assessments for administrative costs and for the portion of 84978
the surplus fund under division (B) of section 4123.34 of the 84979
Revised Code that is not used for handicapped reimbursement, based 84980
upon paid compensation attributable to claims that occurred while 84981
the employer was a self-insuring employer within this state. 84982

~~(K) The administrator shall deposit any moneys received from 84983
a self-insuring employer for the self-insuring employer's 84984
assessment to pay the costs solely attributable to the workers' 84985
compensation council into the administrative assessment account 84986
described in division (B) of section 4123.342 of the Revised Code 84987
for the administrative cost assessment collected by the 84988
administrator for the council. There is hereby created in the 84989
state treasury the self-insurance assessment fund. All investment 84990
earnings of the fund shall be deposited in the fund. The 84991
administrator shall use the money in the self-insurance assessment 84992
fund only for administrative costs as specified in section 84993
4123.341 of the Revised Code. 84994~~

(L) Every self-insuring employer shall certify, in affidavit 84995
form subject to the penalty for perjury, to the bureau the amount 84996
of the self-insuring employer's paid compensation for the previous 84997

calendar year. In reporting paid compensation paid for the 84998
previous year, a self-insuring employer shall exclude from the 84999
total amount of paid compensation any reimbursement the 85000
self-insuring employer receives in the previous calendar year from 85001
the surplus fund pursuant to section 4123.512 of the Revised Code 85002
for any paid compensation. The self-insuring employer also shall 85003
exclude from the paid compensation reported any amount recovered 85004
under section 4123.931 of the Revised Code and any amount that is 85005
determined not to have been payable to or on behalf of a claimant 85006
in any final administrative or judicial proceeding. The 85007
self-insuring employer shall exclude such amounts from the paid 85008
compensation reported in the reporting period subsequent to the 85009
date the determination is made. The administrator shall adopt 85010
rules, in accordance with Chapter 119. of the Revised Code, that 85011
provide for all of the following: 85012

(1) Establishing the date by which self-insuring employers 85013
must submit such information and the amount of the assessments 85014
provided for in division (J) of this section for employers who 85015
have been granted self-insuring status within the last calendar 85016
year; 85017

(2) If an employer fails to pay the assessment when due, the 85018
administrator may add a late fee penalty of not more than five 85019
hundred dollars to the assessment plus an additional penalty 85020
amount as follows: 85021

(a) For an assessment from sixty-one to ninety days past due, 85022
the prime interest rate, multiplied by the assessment due; 85023

(b) For an assessment from ninety-one to one hundred twenty 85024
days past due, the prime interest rate plus two per cent, 85025
multiplied by the assessment due; 85026

(c) For an assessment from one hundred twenty-one to one 85027
hundred fifty days past due, the prime interest rate plus four per 85028

cent, multiplied by the assessment due; 85029

(d) For an assessment from one hundred fifty-one to one 85030
hundred eighty days past due, the prime interest rate plus six per 85031
cent, multiplied by the assessment due; 85032

(e) For an assessment from one hundred eighty-one to two 85033
hundred ten days past due, the prime interest rate plus eight per 85034
cent, multiplied by the assessment due; 85035

(f) For each additional thirty-day period or portion thereof 85036
that an assessment remains past due after it has remained past due 85037
for more than two hundred ten days, the prime interest rate plus 85038
eight per cent, multiplied by the assessment due. 85039

(3) An employer may appeal a late fee penalty and penalty 85040
assessment to the administrator. 85041

For purposes of division (L)(2) of this section, "prime 85042
interest rate" means the average bank prime rate, and the 85043
administrator shall determine the prime interest rate in the same 85044
manner as a county auditor determines the average bank prime rate 85045
under section 929.02 of the Revised Code. 85046

The administrator shall include any assessment and penalties 85047
that remain unpaid for previous assessment periods in the 85048
calculation and collection of any assessments due under this 85049
division or division (J) of this section. 85050

(M) As used in this section, "paid compensation" means all 85051
amounts paid by a self-insuring employer for living maintenance 85052
benefits, all amounts for compensation paid pursuant to sections 85053
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 85054
4123.64 of the Revised Code, all amounts paid as wages in lieu of 85055
such compensation, all amounts paid in lieu of such compensation 85056
under a nonoccupational accident and sickness program fully funded 85057
by the self-insuring employer, and all amounts paid by a 85058
self-insuring employer for a violation of a specific safety 85059

standard pursuant to Section 35 of Article II, Ohio Constitution 85060
and section 4121.47 of the Revised Code. 85061

(N) Should any section of this chapter or Chapter 4121. of 85062
the Revised Code providing for self-insuring employers' 85063
assessments based upon compensation paid be declared 85064
unconstitutional by a final decision of any court, then that 85065
section of the Revised Code declared unconstitutional shall revert 85066
back to the section in existence prior to November 3, 1989, 85067
providing for assessments based upon payroll. 85068

(O) The administrator may grant a self-insuring employer the 85069
privilege to self-insure a construction project entered into by 85070
the self-insuring employer that is scheduled for completion within 85071
six years after the date the project begins, and the total cost of 85072
which is estimated to exceed one hundred million dollars or, for 85073
employers described in division (R) of this section, if the 85074
construction project is estimated to exceed twenty-five million 85075
dollars. The administrator may waive such cost and time criteria 85076
and grant a self-insuring employer the privilege to self-insure a 85077
construction project regardless of the time needed to complete the 85078
construction project and provided that the cost of the 85079
construction project is estimated to exceed fifty million dollars. 85080
A self-insuring employer who desires to self-insure a construction 85081
project shall submit to the administrator an application listing 85082
the dates the construction project is scheduled to begin and end, 85083
the estimated cost of the construction project, the contractors 85084
and subcontractors whose employees are to be self-insured by the 85085
self-insuring employer, the provisions of a safety program that is 85086
specifically designed for the construction project, and a 85087
statement as to whether a collective bargaining agreement 85088
governing the rights, duties, and obligations of each of the 85089
parties to the agreement with respect to the construction project 85090
exists between the self-insuring employer and a labor 85091

organization. 85092

A self-insuring employer may apply to self-insure the 85093
employees of either of the following: 85094

(1) All contractors and subcontractors who perform labor or 85095
work or provide materials for the construction project; 85096

(2) All contractors and, at the administrator's discretion, a 85097
substantial number of all the subcontractors who perform labor or 85098
work or provide materials for the construction project. 85099

Upon approval of the application, the administrator shall 85100
mail a certificate granting the privilege to self-insure the 85101
construction project to the self-insuring employer. The 85102
certificate shall contain the name of the self-insuring employer 85103
and the name, address, and telephone number of the self-insuring 85104
employer's representatives who are responsible for administering 85105
workers' compensation claims for the construction project. The 85106
self-insuring employer shall post the certificate in a conspicuous 85107
place at the site of the construction project. 85108

The administrator shall maintain a record of the contractors 85109
and subcontractors whose employees are covered under the 85110
certificate issued to the self-insured employer. A self-insuring 85111
employer immediately shall notify the administrator when any 85112
contractor or subcontractor is added or eliminated from inclusion 85113
under the certificate. 85114

Upon approval of the application, the self-insuring employer 85115
is responsible for the administration and payment of all claims 85116
under this chapter and Chapter 4121. of the Revised Code for the 85117
employees of the contractor and subcontractors covered under the 85118
certificate who receive injuries or are killed in the course of 85119
and arising out of employment on the construction project, or who 85120
contract an occupational disease in the course of employment on 85121
the construction project. For purposes of this chapter and Chapter 85122

4121. of the Revised Code, a claim that is administered and paid 85123
in accordance with this division is considered a claim against the 85124
self-insuring employer listed in the certificate. A contractor or 85125
subcontractor included under the certificate shall report to the 85126
self-insuring employer listed in the certificate, all claims that 85127
arise under this chapter and Chapter 4121. of the Revised Code in 85128
connection with the construction project for which the certificate 85129
is issued. 85130

A self-insuring employer who complies with this division is 85131
entitled to the protections provided under this chapter and 85132
Chapter 4121. of the Revised Code with respect to the employees of 85133
the contractors and subcontractors covered under a certificate 85134
issued under this division for death or injuries that arise out 85135
of, or death, injuries, or occupational diseases that arise in the 85136
course of, those employees' employment on that construction 85137
project, as if the employees were employees of the self-insuring 85138
employer, provided that the self-insuring employer also complies 85139
with this section. No employee of the contractors and 85140
subcontractors covered under a certificate issued under this 85141
division shall be considered the employee of the self-insuring 85142
employer listed in that certificate for any purposes other than 85143
this chapter and Chapter 4121. of the Revised Code. Nothing in 85144
this division gives a self-insuring employer authority to control 85145
the means, manner, or method of employment of the employees of the 85146
contractors and subcontractors covered under a certificate issued 85147
under this division. 85148

The contractors and subcontractors included under a 85149
certificate issued under this division are entitled to the 85150
protections provided under this chapter and Chapter 4121. of the 85151
Revised Code with respect to the contractor's or subcontractor's 85152
employees who are employed on the construction project which is 85153
the subject of the certificate, for death or injuries that arise 85154

out of, or death, injuries, or occupational diseases that arise in 85155
the course of, those employees' employment on that construction 85156
project. 85157

The contractors and subcontractors included under a 85158
certificate issued under this division shall identify in their 85159
payroll records the employees who are considered the employees of 85160
the self-insuring employer listed in that certificate for purposes 85161
of this chapter and Chapter 4121. of the Revised Code, and the 85162
amount that those employees earned for employment on the 85163
construction project that is the subject of that certificate. 85164
Notwithstanding any provision to the contrary under this chapter 85165
and Chapter 4121. of the Revised Code, the administrator shall 85166
exclude the payroll that is reported for employees who are 85167
considered the employees of the self-insuring employer listed in 85168
that certificate, and that the employees earned for employment on 85169
the construction project that is the subject of that certificate, 85170
when determining those contractors' or subcontractors' premiums or 85171
assessments required under this chapter and Chapter 4121. of the 85172
Revised Code. A self-insuring employer issued a certificate under 85173
this division shall include in the amount of paid compensation it 85174
reports pursuant to division (L) of this section, the amount of 85175
paid compensation the self-insuring employer paid pursuant to this 85176
division for the previous calendar year. 85177

Nothing in this division shall be construed as altering the 85178
rights of employees under this chapter and Chapter 4121. of the 85179
Revised Code as those rights existed prior to September 17, 1996. 85180
Nothing in this division shall be construed as altering the rights 85181
devolved under sections 2305.31 and 4123.82 of the Revised Code as 85182
those rights existed prior to September 17, 1996. 85183

As used in this division, "privilege to self-insure a 85184
construction project" means privilege to pay individually 85185
compensation, and to furnish medical, surgical, nursing, and 85186

hospital services and attention and funeral expenses directly to 85187
injured employees or the dependents of killed employees. 85188

(P) A self-insuring employer whose application is granted 85189
under division (O) of this section shall designate a safety 85190
professional to be responsible for the administration and 85191
enforcement of the safety program that is specifically designed 85192
for the construction project that is the subject of the 85193
application. 85194

A self-insuring employer whose application is granted under 85195
division (O) of this section shall employ an ombudsperson for the 85196
construction project that is the subject of the application. The 85197
ombudsperson shall have experience in workers' compensation or the 85198
construction industry, or both. The ombudsperson shall perform all 85199
of the following duties: 85200

(1) Communicate with and provide information to employees who 85201
are injured in the course of, or whose injury arises out of 85202
employment on the construction project, or who contract an 85203
occupational disease in the course of employment on the 85204
construction project; 85205

(2) Investigate the status of a claim upon the request of an 85206
employee to do so; 85207

(3) Provide information to claimants, third party 85208
administrators, employers, and other persons to assist those 85209
persons in protecting their rights under this chapter and Chapter 85210
4121. of the Revised Code. 85211

A self-insuring employer whose application is granted under 85212
division (O) of this section shall post the name of the safety 85213
professional and the ombudsperson and instructions for contacting 85214
the safety professional and the ombudsperson in a conspicuous 85215
place at the site of the construction project. 85216

(Q) The administrator may consider all of the following when 85217

deciding whether to grant a self-insuring employer the privilege	85218
to self-insure a construction project as provided under division	85219
(O) of this section:	85220
(1) Whether the self-insuring employer has an organizational	85221
plan for the administration of the workers' compensation law;	85222
(2) Whether the safety program that is specifically designed	85223
for the construction project provides for the safety of employees	85224
employed on the construction project, is applicable to all	85225
contractors and subcontractors who perform labor or work or	85226
provide materials for the construction project, and has as a	85227
component, a safety training program that complies with standards	85228
adopted pursuant to the "Occupational Safety and Health Act of	85229
1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing	85230
management and employee involvement;	85231
(3) Whether granting the privilege to self-insure the	85232
construction project will reduce the costs of the construction	85233
project;	85234
(4) Whether the self-insuring employer has employed an	85235
ombudsperson as required under division (P) of this section;	85236
(5) Whether the self-insuring employer has sufficient surety	85237
to secure the payment of claims for which the self-insuring	85238
employer would be responsible pursuant to the granting of the	85239
privilege to self-insure a construction project under division (O)	85240
of this section.	85241
(R) As used in divisions (O), (P), and (Q), "self-insuring	85242
employer" includes the following employers, whether or not they	85243
have been granted the status of being a self-insuring employer	85244
under division (B) of this section:	85245
(1) A state institution of higher education;	85246
(2) A school district;	85247

(3) A county school financing district;	85248
(4) An educational service center;	85249
(5) A community school established under Chapter 3314. of the Revised Code;	85250 85251
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	85252 85253
(S) As used in this section:	85254
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	85255 85256
(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.	85257 85258 85259 85260 85261 85262 85263
Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of benefits required by the federal act.	85264 85265 85266 85267 85268 85269 85270 85271
(B)(1) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.	85272 85273 85274 85275 85276 85277

(2) The Beginning July 1, 2011, and ending June 30, 2013, the 85278
director of natural resources annually may request the 85279
administrator of workers' compensation to transfer a portion of 85280
the investment earnings credited to the coal-workers 85281
pneumoconiosis fund as provided in this division. If the 85282
administrator receives a request from the director, the 85283
administrator of workers' compensation may, on the first day of 85284
July, or as soon as possible after that date, shall transfer a 85285
portion of from the investment earnings credited to the 85286
coal-workers pneumoconiosis fund an amount not to exceed three 85287
million dollars to the mine safety fund created in section 1561.24 85288
of the Revised Code for the purposes specified in that section and 85289
an amount not to exceed one million five hundred thousand dollars 85290
to the coal mining administration and reclamation reserve fund 85291
created in section 1513.181 of the Revised Code for the purposes 85292
specified in that section. The administrator, with the advice and 85293
consent of the bureau of workers' compensation board of directors, 85294
shall adopt rules governing the transfer in order to ensure the 85295
solvency of the coal-workers pneumoconiosis fund. For that 85296
purpose, the rules may establish tests based on measures of net 85297
assets, liabilities, expenses, interest, dividend income, or other 85298
factors that the administrator determines appropriate that may be 85299
applied prior to a transfer. 85300

(C) The administrator shall have the same powers to invest 85301
any of the surplus or reserve belonging to the coal-workers 85302
pneumoconiosis fund as are delegated to the administrator under 85303
section 4123.44 of the Revised Code with respect to the state 85304
insurance fund. 85305

(D) If the administrator determines that reinsurance of the 85306
risks of the coal-workers pneumoconiosis fund is necessary to 85307
assure solvency of the fund, the administrator may: 85308

(1) Enter into contracts for the purchase of reinsurance 85309

coverage of the risks of the fund with any company or agency 85310
authorized by law to issue contracts of reinsurance; 85311

(2) Pay the cost of reinsurance from the fund; 85312

(3) Include the costs of reinsurance as a liability and 85313
estimated liability of the fund. 85314

Sec. 4141.031. The director of the department of job and 85315
family services shall appoint a migrant agricultural ombudsperson 85316
as provided in section ~~3733.49~~ 3733.43 of the Revised Code. 85317

Sec. 4141.08. (A) There is hereby created an unemployment 85318
compensation advisory council appointed as follows: 85319

(1) Three members who on account of their vocation, 85320
employment, or affiliations can be classed as representative of 85321
employers and three members who on account of their vocation, 85322
employment, or affiliation can be classed as representatives of 85323
employees appointed by the governor with the advice and consent of 85324
the senate. All appointees shall be persons whose training and 85325
experience qualify them to deal with the difficult problems of 85326
unemployment compensation, particularly with respect to the legal, 85327
accounting, actuarial, economic, and social aspects of 85328
unemployment compensation; 85329

(2) The chairpersons of the standing committees of the senate 85330
and the house of representatives to which legislation pertaining 85331
to Chapter 4141. of the Revised Code is customarily referred; 85332

(3) Two members of the senate appointed by the president of 85333
the senate; and 85334

(4) Two members of the house of representatives appointed by 85335
the speaker of the house of representatives. 85336

The speaker and the president shall arrange that of the six 85337
legislative members appointed to the council, not more than three 85338

are members of the same political party. 85339

(B) Members appointed by the governor shall serve for a term 85340
of four years, each term ending on the same day as the date of 85341
their original appointment. Legislative members shall serve during 85342
the session of the general assembly to which they are elected and 85343
for as long as they are members of the general assembly. Vacancies 85344
shall be filled in the same manner as the original appointment but 85345
only for the unexpired part of a term. 85346

(C) Members of the council shall serve without salary but, 85347
notwithstanding section 101.26 of the Revised Code, shall be paid 85348
a meeting stipend of fifty dollars per day each and their actual 85349
and necessary expenses while engaged in the performance of their 85350
duties as members of the council which shall be paid from funds 85351
allocated to pay the expenses of the council pursuant to this 85352
section. 85353

(D) The council shall organize itself and select a 85354
chairperson or co-chairpersons and other officers and committees 85355
as it considers necessary. Seven members constitute a quorum and 85356
the council may act only upon the affirmative vote of seven 85357
members. The council shall meet at least once each calendar 85358
quarter but it may meet more often as the council considers 85359
necessary or at the request of the chairperson. 85360

(E) The council may employ professional and clerical 85361
assistance as it considers necessary and may request of the 85362
director of job and family services assistance as it considers 85363
necessary. The director shall furnish the council with office and 85364
meeting space as requested by the council. 85365

(F) The director shall pay the operating expenses of the 85366
council ~~as determined by the council~~ from moneys in the 85367
unemployment compensation special administrative fund established 85368
in section 4141.11 of the Revised Code. 85369

(G) The council shall have access to only the records of the 85370
department of job and family services that are necessary for the 85371
administration of this chapter and to the reasonable services of 85372
the employees of the department. It may request the director, or 85373
any of the employees appointed by the director, or any employer or 85374
employee subject to this chapter, to appear before it and to 85375
testify relative to the functioning of this chapter and to other 85376
relevant matters. The council may conduct research of its own, 85377
make and publish reports, and recommend to the director, the 85378
unemployment compensation review commission, the governor, or the 85379
general assembly needed changes in this chapter, or in the rules 85380
of the department as it considers necessary. 85381

Sec. 4141.11. There is hereby created in the state treasury 85382
the unemployment compensation special administrative fund. The 85383
fund shall consist of all interest collected on delinquent 85384
contributions pursuant to this chapter, all fines and forfeitures 85385
collected under this chapter, and all court costs and interest 85386
paid or collected in connection with the repayment of fraudulently 85387
obtained benefits pursuant to section 4141.35 of the Revised Code. 85388
All interest earned on the money in the fund shall be retained in 85389
the fund and shall not be credited or transferred to any other 85390
fund or account, except as provided in division (B) of this 85391
section. All moneys which are deposited or paid into this fund may 85392
be used by: 85393

(A) The director of job and family services ~~with the approval~~ 85394
~~of the unemployment compensation advisory council~~ whenever it 85395
appears that such use is necessary for: 85396

(1) The proper administration of this chapter and no federal 85397
funds are available for the specific purpose for which the 85398
expenditure is to be made, provided the moneys are not substituted 85399
for appropriations from federal funds, which in the absence of 85400

such moneys would be available; 85401

(2) The proper administration of this chapter for which 85402
purpose appropriations from federal funds have been requested and 85403
approved but not received, provided the fund would be reimbursed 85404
upon receipt of the federal appropriation; 85405

(3) To the extent possible, the repayment to the unemployment 85406
compensation administration fund of moneys found by the proper 85407
agency of the United States to have been lost or expended for 85408
purposes other than, or an amount in excess of, those found 85409
necessary by the proper agency of the United States for the 85410
administration of this chapter. 85411

(B) The director or the director's deputy whenever it appears 85412
that such use is necessary for the payment of refunds or 85413
adjustments of interest, fines, forfeitures, or court costs 85414
erroneously collected and paid into this fund pursuant to this 85415
chapter. 85416

(C) The director, to pay state disaster unemployment benefits 85417
pursuant to section 4141.292 of the Revised Code. ~~The director~~ 85418
~~need not have prior approval from the council to make these~~ 85419
~~payments.~~ 85420

(D) The director, to pay any costs attributable to the 85421
director that are associated with the sale of real property under 85422
section 4141.131 of the Revised Code. ~~The director need not have~~ 85423
~~prior approval from the council to make these payments.~~ 85424

Whenever the balance in the unemployment compensation special 85425
administrative fund is considered to be excessive by the ~~council~~ 85426
director, the director shall request the director of budget and 85427
management to transfer to the unemployment compensation fund the 85428
amount considered to be excessive. Any balance in the unemployment 85429
compensation special administrative fund shall not lapse at any 85430
time, but shall be continuously available to the director of ~~jobs~~ 85431

job and family services ~~or to the council~~ for expenditures 85432
consistent with this chapter. 85433

Sec. 4141.33. (A) "Seasonal employment" means employment of 85434
individuals hired primarily to perform services in an industry 85435
which because of climatic conditions or because of the seasonal 85436
nature of such industry it is customary to operate only during 85437
regularly recurring periods of forty weeks or less in any 85438
consecutive fifty-two weeks. "Seasonal employer" means an employer 85439
determined by the director of job and family services to be an 85440
employer whose operations and business, with the exception of 85441
certain administrative and maintenance operations, are 85442
substantially all in a seasonal industry. Any employer who claims 85443
to have seasonal employment in a seasonal industry may file with 85444
the director a written application for classification of such 85445
employment as seasonal. Whenever in any industry it is customary 85446
to operate because of climatic conditions or because of the 85447
seasonal nature of such industry only during regularly recurring 85448
periods of forty weeks or less duration, benefits shall be payable 85449
only during the longest seasonal periods which the best practice 85450
of such industry will reasonably permit. The director shall 85451
determine, after investigation, hearing, and due notice, whether 85452
the industry is seasonal and, if seasonal, establish seasonal 85453
periods for such seasonal employer. Until such determination by 85454
the director, no industry or employment shall be deemed seasonal. 85455

(B) When the director has determined such seasonal periods, 85456
the director shall also establish the proportionate number of 85457
weeks of employment and earnings required to qualify for seasonal 85458
benefit rights in place of the weeks of employment and earnings 85459
requirement stipulated in division (R) of section 4141.01 and 85460
section 4141.30 of the Revised Code, and the proportionate number 85461
of weeks for which seasonal benefits may be paid. An individual 85462
whose base period employment consists of only seasonal employment 85463

for a single seasonal employer and who meets the employment and 85464
earnings requirements determined by the director pursuant to this 85465
division will have benefit rights determined in accordance with 85466
this division. Benefit charges for such seasonal employment shall 85467
be computed and charged in accordance with division (D) of section 85468
4141.24 of the Revised Code. The director may adopt rules for 85469
implementation of this section. 85470

(C) ~~An~~ Subject to division (E) of this section, an individual 85471
whose base period employment consists of either seasonal 85472
employment with two or more seasonal employers or both seasonal 85473
employment and nonseasonal employment with employers subject to 85474
this chapter, will have benefit rights determined in accordance 85475
with division (R) of section 4141.01 and section 4141.30 of the 85476
Revised Code. Benefit charges for both seasonal and nonseasonal 85477
employment shall be computed and charged in accordance with 85478
division (D) of section 4141.24 of the Revised Code. The total 85479
seasonal and nonseasonal benefits during a benefit year cannot 85480
exceed twenty-six times the weekly benefit amount. 85481

(D) Benefits shall not be paid to any individual on the basis 85482
of any services, substantially all of which consist of 85483
participating in sports or athletic events or training or 85484
preparing to so participate, for any week which commences during 85485
the period between two successive sport seasons, or similar 85486
periods, if the individual performed services in the first of the 85487
seasons, or similar periods, and there is a reasonable assurance 85488
that the individual will perform services in the later of the 85489
seasons, or similar periods. 85490

~~(1)~~ (E) Effective October 30, 2011, benefits shall not be paid 85491
to any individual on the basis of any services performed in 85492
seasonal employment for any week that commences during the period 85493
between two successive seasonal work periods if the individual 85494
performed services in the first of the seasonal work periods and 85495

there is a reasonable assurance that the individual will perform services in the later of the seasonal work periods. 85496
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(F) The term "reasonable assurance" as used in this ~~division~~ section means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season or seasonal work period. 85498
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~~(2)~~(G) The director shall adopt rules concerning the eligibility for benefits of individuals under this ~~division~~ section. 85502
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Sec. 4301.01. (A) As used in the Revised Code: 85505

(1) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" include wine even if it contains less than four per cent of alcohol by volume, mixed beverages even if they contain less than four per cent of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol. 85506
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(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the Revised Code, "sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to section 4301.21 of the Revised Code. "Sale" and "sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the 85516
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division of liquor control authorizing the sale of the beer or 85527
intoxicating liquor, but no solicitor shall solicit any such 85528
orders until the solicitor has been registered with the division 85529
pursuant to section 4303.25 of the Revised Code. 85530

(3) "Vehicle" includes all means of transportation by land, 85531
by water, or by air, and everything made use of in any way for 85532
such transportation. 85533

(B) As used in this chapter: 85534

(1) "Alcohol" means ethyl alcohol, whether rectified or 85535
diluted with water or not, whatever its origin may be, and 85536
includes synthetic ethyl alcohol. "Alcohol" does not include 85537
denatured alcohol and wood alcohol. 85538

(2) "Beer" includes all beverages brewed or fermented wholly 85539
or in part from malt products and containing one-half of one per 85540
cent or more, but not more than ~~twelve~~ eighteen per cent, of 85541
alcohol by volume. 85542

(3) "Wine" includes all liquids fit to use for beverage 85543
purposes containing not less than one-half of one per cent of 85544
alcohol by volume and not more than twenty-one per cent of alcohol 85545
by volume, which is made from the fermented juices of grapes, 85546
fruits, or other agricultural products, except that as used in 85547
sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the 85548
Revised Code, and, for purposes of determining the rate of the tax 85549
that applies, division (B) of section 4301.43 of the Revised Code, 85550
"wine" does not include cider. 85551

(4) "Mixed beverages," such as bottled and prepared cordials, 85552
cocktails, and highballs, are products obtained by mixing any type 85553
of whiskey, neutral spirits, brandy, gin, or other distilled 85554
spirits with, or over, carbonated or plain water, pure juices from 85555
flowers and plants, and other flavoring materials. The completed 85556
product shall contain not less than one-half of one per cent of 85557

alcohol by volume and not more than twenty-one per cent of alcohol 85558
by volume. 85559

(5) "Spirituous liquor" includes all intoxicating liquors 85560
containing more than twenty-one per cent of alcohol by volume. 85561

(6) "Sealed container" means any container having a capacity 85562
of not more than one hundred twenty-eight fluid ounces, the 85563
opening of which is closed to prevent the entrance of air. 85564

(7) "Person" includes firms and corporations. 85565

(8) "Manufacture" includes all processes by which beer or 85566
intoxicating liquor is produced, whether by distillation, 85567
rectifying, fortifying, blending, fermentation, or brewing, or in 85568
any other manner. 85569

(9) "Manufacturer" means any person engaged in the business 85570
of manufacturing beer or intoxicating liquor. 85571

(10) "Wholesale distributor" and "distributor" means a person 85572
engaged in the business of selling to retail dealers for purposes 85573
of resale. 85574

(11) "Hotel" has the same meaning as in section 3731.01 of 85575
the Revised Code, subject to the exceptions mentioned in section 85576
3731.03 of the Revised Code. 85577

(12) "Restaurant" means a place located in a permanent 85578
building provided with space and accommodations wherein, in 85579
consideration of the payment of money, hot meals are habitually 85580
prepared, sold, and served at noon and evening, as the principal 85581
business of the place. "Restaurant" does not include pharmacies, 85582
confectionery stores, lunch stands, night clubs, and filling 85583
stations. 85584

(13) "Club" means a corporation or association of individuals 85585
organized in good faith for social, recreational, benevolent, 85586
charitable, fraternal, political, patriotic, or athletic purposes, 85587

which is the owner, lessor, or occupant of a permanent building or 85588
part of a permanent building operated solely for those purposes, 85589
membership in which entails the prepayment of regular dues, and 85590
includes the place so operated. 85591

(14) "Night club" means a place operated for profit, where 85592
food is served for consumption on the premises and one or more 85593
forms of amusement are provided or permitted for a consideration 85594
that may be in the form of a cover charge or may be included in 85595
the price of the food and beverages, or both, purchased by 85596
patrons. 85597

(15) "At retail" means for use or consumption by the 85598
purchaser and not for resale. 85599

(16) "Pharmacy" means an establishment, as defined in section 85600
4729.01 of the Revised Code, that is under the management or 85601
control of a licensed pharmacist in accordance with section 85602
4729.27 of the Revised Code. 85603

(17) "Enclosed shopping center" means a group of retail sales 85604
and service business establishments that face into an enclosed 85605
mall, share common ingress, egress, and parking facilities, and 85606
are situated on a tract of land that contains an area of not less 85607
than five hundred thousand square feet. "Enclosed shopping center" 85608
also includes not more than one business establishment that is 85609
located within a free-standing building on such a tract of land, 85610
so long as the sale of beer and intoxicating liquor on the tract 85611
of land was approved in an election held under former section 85612
4301.353 of the Revised Code. 85613

(18) "Controlled access alcohol and beverage cabinet" means a 85614
closed container, either refrigerated, in whole or in part, or 85615
nonrefrigerated, access to the interior of which is restricted by 85616
means of a device that requires the use of a key, magnetic card, 85617
or similar device and from which beer, intoxicating liquor, other 85618

beverages, or food may be sold. 85619

(19) "Community facility" means either of the following: 85620

(a) Any convention, sports, or entertainment facility or 85621
complex, or any combination of these, that is used by or 85622
accessible to the general public and that is owned or operated in 85623
whole or in part by the state, a state agency, or a political 85624
subdivision of the state or that is leased from, or located on 85625
property owned by or leased from, the state, a state agency, a 85626
political subdivision of the state, or a convention facilities 85627
authority created pursuant to section 351.02 of the Revised Code; 85628

(b) An area designated as a community entertainment district 85629
pursuant to section 4301.80 of the Revised Code. 85630

(20) "Low-alcohol beverage" means any brewed or fermented 85631
malt product, or any product made from the fermented juices of 85632
grapes, fruits, or other agricultural products, that contains 85633
either no alcohol or less than one-half of one per cent of alcohol 85634
by volume. The beverages described in division (B)(20) of this 85635
section do not include a soft drink such as root beer, birch beer, 85636
or ginger beer. 85637

(21) "Cider" means all liquids fit to use for beverage 85638
purposes that contain one-half of one per cent of alcohol by 85639
volume, but not more than six per cent of alcohol by weight, and 85640
that are made through the normal alcoholic fermentation of the 85641
juice of sound, ripe apples, including, without limitation, 85642
flavored, sparkling, or carbonated cider and cider made from pure 85643
condensed apple must. 85644

(22) "Sales area or territory" means an exclusive geographic 85645
area or territory that is assigned to a particular A or B permit 85646
holder and that either has one or more political subdivisions as 85647
its boundaries or consists of an area of land with readily 85648
identifiable geographic boundaries. "Sales area or territory" does 85649

not include, however, any particular retail location in an 85650
exclusive geographic area or territory that had been assigned to 85651
another A or B permit holder before April 9, 2001. 85652

Sec. 4301.12. The division of liquor control shall provide 85653
for the custody, safekeeping, and deposit of all moneys, checks, 85654
and drafts received by it or any of its employees or agents prior 85655
to paying them to the treasurer of state as provided by section 85656
113.08 of the Revised Code. 85657

A sum equal to three dollars and thirty-eight cents for each 85658
gallon of spirituous liquor sold by the division, JobsOhio, or a 85659
designee of JobsOhio during the period covered by the payment 85660
shall be paid into the state treasury to the credit of the general 85661
revenue fund. All moneys received from permit fees, except B-2a 85662
and S permit fees from B-2a and S permit holders who do not also 85663
hold A-2 permits, shall be paid to the credit of the undivided 85664
liquor permit fund established by section 4301.30 of the Revised 85665
Code. 85666

Except as otherwise provided by law, all moneys collected 85667
under Chapters 4301. and 4303. of the Revised Code shall be paid 85668
by the division into the state treasury to the credit of the 85669
liquor control fund, which is hereby created. In addition, revenue 85670
resulting from any contracts with the department of commerce 85671
pertaining to the responsibilities and operations described in 85672
this chapter may be credited to the fund. Amounts in the liquor 85673
control fund may be used to pay the operating expenses of the 85674
liquor control commission. 85675

Whenever, in the judgment of the director of budget and 85676
management, the amount in the liquor control fund is in excess of 85677
that needed to meet the maturing obligations of the division, as 85678
working capital for its further operations, to pay the operating 85679
expenses of the commission, and for the alcohol testing program 85680

under section 3701.143 of the Revised Code, the director shall 85681
transfer the excess to the credit of the general revenue fund. If 85682
the director determines that the amount in the liquor control fund 85683
is insufficient, the director may transfer money from the general 85684
revenue fund to the liquor control fund. 85685

Sec. 4301.17. (A)(1) Subject to local option as provided in 85686
sections 4301.32 to 4301.40 of the Revised Code, five state liquor 85687
stores or agencies may be established in each county. One 85688
additional store may be established in any county for each twenty 85689
thousand of population of that county or major fraction thereof in 85690
excess of the first forty thousand, according to the last 85691
preceding federal decennial census or according to the population 85692
estimates certified by the department of development between 85693
decennial censuses. A person engaged in a mercantile business may 85694
act as the agent for the division of liquor control for the sale 85695
of spirituous liquor in a municipal corporation, in the 85696
unincorporated area of a township, or in an area designated and 85697
approved as a resort area under section 4303.262 of the Revised 85698
Code. The division shall fix the compensation for such an agent in 85699
the manner it considers best, but the compensation shall not 85700
exceed seven per cent of the gross sales made by the agent in any 85701
one year. 85702

(2) The division shall adopt rules in accordance with Chapter 85703
119. of the Revised Code governing the allocation and equitable 85704
distribution of agency store contracts. The division shall comply 85705
with the rules when awarding a contract under division (A)(1) of 85706
this section. 85707

(3) Except as otherwise provided in this section, no 85708
mercantile business that sells beer or intoxicating liquor for 85709
consumption on the premises under a permit issued by the division 85710
shall operate an agency store at the premises. An agency to which 85711

a D-1 permit has been issued may offer for sale tasting samples of 85712
beer, an agency to which a D-2 permit has been issued may offer 85713
for sale tasting samples of wine and mixed beverages, and an 85714
agency to which a D-5 permit has been issued may offer for sale 85715
tasting samples of beer, wine, ~~and~~ mixed beverages, ~~but not~~ and 85716
spirituous liquor. An agency store may offer for sale tasting 85717
samples of spirituous liquor in accordance with rules adopted by 85718
the division. A tasting sample shall not be sold for the purpose 85719
of general consumption. As used in this section, "tasting sample" 85720
means either of the following: 85721

(a) In the case of beer, wine, and mixed beverages, a small 85722
amount of beer, wine, or mixed beverages that is provided in not 85723
more than four servings of not more than two ounces each to an 85724
authorized purchaser and that allows the purchaser to determine, 85725
by tasting only, the quality and character of the beverage; 85726

(b) In the case of spirituous liquor, a small amount of 85727
spirituous liquor that is provided in not more than four servings 85728
of not more than a quarter ounce of spirituous liquor and one 85729
ounce of nonalcoholic mixer each to an authorized purchaser and 85730
that allows the purchaser to determine, by tasting only, the 85731
quality and character of the beverage. 85732

(B) When an agency contract is proposed, when an existing 85733
agency contract is assigned, when an existing agency proposes to 85734
relocate, or when an existing agency is relocated and assigned, 85735
before entering into any contract, consenting to any assignment, 85736
or consenting to any relocation, the division shall notify the 85737
legislative authority of the municipal corporation in which the 85738
agency store is to be located, or the board of county 85739
commissioners and the board of township trustees of the county and 85740
the township in which the agency store is to be located if the 85741
agency store is to be located outside the corporate limits of a 85742
municipal corporation, of the proposed contract, assignment, or 85743

relocation, and an opportunity shall be provided officials or 85744
employees of the municipal corporation or county and township for 85745
a complete hearing upon the advisability of entering into the 85746
contract or consenting to the assignment or relocation. When the 85747
division sends notice to the legislative authority of the 85748
political subdivision, the division shall notify, by certified 85749
mail or by personal service, the chief peace officer of the 85750
political subdivision, who may appear and testify, either in 85751
person or through a representative, at any hearing held on the 85752
advisability of entering into the contract or consenting to the 85753
assignment or relocation. 85754

If the proposed agency store, the assignment of an agency 85755
contract, or the relocation of an agency store would be located 85756
within five hundred feet of a school, church, library, public 85757
playground, or township park, the division shall not enter into an 85758
agency contract until it has provided notice of the proposed 85759
contract to the authorities in control of the school, church, 85760
library, public playground, or township park and has provided 85761
those authorities with an opportunity for a complete hearing upon 85762
the advisability of entering into the contract. If an agency store 85763
so located is operating under an agency contract, the division may 85764
consent to relocation of the agency store or to the assignment of 85765
that contract to operate an agency store at the same location. The 85766
division may also consent to the assignment of an existing agency 85767
contract simultaneously with the relocation of the agency store. 85768
In any such assignment or relocation, the assignee and the 85769
location shall be subject to the same requirements that the 85770
existing location met at the time that the contract was first 85771
entered into as well as any additional requirements imposed by the 85772
division in rules adopted by the superintendent of liquor control. 85773
The division shall not consent to an assignment or relocation of 85774
an agency store until it has notified the authorities in control 85775
of the school, church, library, public playground, or township 85776

park and has provided those authorities with an opportunity for a complete hearing upon the advisability of consenting to the assignment or relocation.

Any hearing provided for in this division shall be held in the central office of the division, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, the board of township trustees, or the authorities in control of the school, church, library, public playground, or township park, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this section shall be in writing and shall contain a clause providing for the termination of the contract at will by the division upon its giving ninety days' notice in writing to the agent of its intention to do so. Any agency contract may include a clause requiring the agent to report to the appropriate law enforcement agency the name and address of any individual under twenty-one years of age who attempts to make an illegal purchase.

An agent may engage in the selling of beer, mixed beverages, and wine pursuant to permits issued to the agent under Chapter 4303. of the Revised Code.

The division shall issue a C-1 and C-2 permit to each agent who prior to November 1, 1994, had not been issued both of these permits, notwithstanding the population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission and notwithstanding the requirements of section 4303.31 of the Revised Code. The location of a C-1 or C-2 permit issued to such an agent shall not be transferred. The division shall revoke any C-1 or C-2 permit issued to an agent under this paragraph if the agent no longer operates an agency store.

The division may enter into agreements with the department of development to implement a minority loan program to provide low-interest loans to minority business enterprises, as defined in section 122.71 of the Revised Code, that are awarded liquor agency contracts or assignments.

(D) If the division closes a state liquor store and replaces that store with an agency store, any employees of the division employed at that state liquor store who lose their jobs at that store as a result shall be given preference by the agent who operates the agency store in filling any vacancies that occur among the agent's employees, if that preference does not conflict with the agent's obligations pursuant to a collective bargaining agreement.

If the division closes a state liquor store and replaces the store with an agency store, any employees of the division employed at the state liquor store who lose their jobs at that store as a result may displace other employees as provided in sections 124.321 to 124.328 of the Revised Code. If an employee cannot displace other employees and is laid off, the employee shall be reinstated in another job as provided in sections 124.321 to 124.328 of the Revised Code, except that the employee's rights of reinstatement in a job at a state liquor store shall continue for a period of two years after the date of the employee's layoff and shall apply to jobs at state liquor stores located in the employee's layoff jurisdiction and any layoff jurisdiction adjacent to the employee's layoff jurisdiction.

(E) The division shall require every agent to give bond with surety to the satisfaction of the division, in the amount the division fixes, conditioned for the faithful performance of the agent's duties as prescribed by the division.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of

the Revised Code: 85840

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 85841
fluid ounces. 85842

(2) "Sale" or "sell" includes exchange, barter, gift, 85843
distribution, and, except with respect to A-4 permit holders, 85844
offer for sale. 85845

(B) For the purposes of providing revenues for the support of 85846
the state and encouraging the grape industries in the state, a tax 85847
is hereby levied on the sale or distribution of wine in Ohio, 85848
except for known sacramental purposes, at the rate of thirty cents 85849
per wine gallon for wine containing not less than four per cent of 85850
alcohol by volume and not more than fourteen per cent of alcohol 85851
by volume, ninety-eight cents per wine gallon for wine containing 85852
more than fourteen per cent but not more than twenty-one per cent 85853
of alcohol by volume, one dollar and eight cents per wine gallon 85854
for vermouth, and one dollar and forty-eight cents per wine gallon 85855
for sparkling and carbonated wine and champagne, the tax to be 85856
paid by the holders of A-2 and B-5 permits or by any other person 85857
selling or distributing wine upon which no tax has been paid. From 85858
the tax paid under this section on wine, vermouth, and sparkling 85859
and carbonated wine and champagne, the treasurer of state shall 85860
credit to the Ohio grape industries fund created under section 85861
924.54 of the Revised Code a sum equal to one cent per gallon for 85862
each gallon upon which the tax is paid. 85863

(C) For the purpose of providing revenues for the support of 85864
the state, there is hereby levied a tax on prepared and bottled 85865
highballs, cocktails, cordials, and other mixed beverages at the 85866
rate of one dollar and twenty cents per wine gallon to be paid by 85867
holders of A-4 permits or by any other person selling or 85868
distributing those products upon which no tax has been paid. Only 85869
one sale of the same article shall be used in computing the amount 85870
of tax due. The tax on mixed beverages to be paid by holders of 85871

A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2009~~ 2011, through June 30, ~~2011~~ 2013, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4301.62. (A) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) ~~In a state liquor~~ Except as provided in division (C) of this section, in an agency store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of

liquor control;	85902
(3) In any other public place;	85903
(4) Except as provided in division (D) or (E) of this	85904
section, while operating or being a passenger in or on a motor	85905
vehicle on any street, highway, or other public or private	85906
property open to the public for purposes of vehicular travel or	85907
parking;	85908
(5) Except as provided in division (D) or (E) of this	85909
section, while being in or on a stationary motor vehicle on any	85910
street, highway, or other public or private property open to the	85911
public for purposes of vehicular travel or parking.	85912
(C)(1) A person may have in the person's possession an opened	85913
container of any of the following:	85914
(a) Beer or intoxicating liquor that has been lawfully	85915
purchased for consumption on the premises where bought from the	85916
holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a,	85917
D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j,	85918
D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or	85919
F-8 permit;	85920
(b) Beer, wine, or mixed beverages served for consumption on	85921
the premises by the holder of an F-3 permit or wine served for	85922
consumption on the premises by the holder of an F-4 or F-6 permit;	85923
(c) Beer or intoxicating liquor consumed on the premises of a	85924
convention facility as provided in section 4303.201 of the Revised	85925
Code;	85926
(d) Beer or intoxicating liquor to be consumed during	85927
tastings and samplings approved by rule of the liquor control	85928
commission;	85929
(e) <u>A tasting sample of spirituous liquor, as defined in</u>	85930
<u>section 4301.17 of the Revised Code, to be consumed in an agency</u>	85931

store. 85932

(2) A person may have in the person's possession on an F 85933
liquor permit premises an opened container of beer or intoxicating 85934
liquor that was not purchased from the holder of the F permit if 85935
the premises for which the F permit is issued is a music festival 85936
and the holder of the F permit grants permission for that 85937
possession on the premises during the period for which the F 85938
permit is issued. As used in this division, "music festival" means 85939
a series of outdoor live musical performances, extending for a 85940
period of at least three consecutive days and located on an area 85941
of land of at least forty acres. 85942

(3)(a) A person may have in the person's possession on a D-2 85943
liquor permit premises an opened or unopened container of wine 85944
that was not purchased from the holder of the D-2 permit if the 85945
premises for which the D-2 permit is issued is an outdoor 85946
performing arts center, the person is attending an orchestral 85947
performance, and the holder of the D-2 permit grants permission 85948
for the possession and consumption of wine in certain 85949
predesignated areas of the premises during the period for which 85950
the D-2 permit is issued. 85951

(b) As used in division (C)(3)(a) of this section: 85952

(i) "Orchestral performance" means a concert comprised of a 85953
group of not fewer than forty musicians playing various musical 85954
instruments. 85955

(ii) "Outdoor performing arts center" means an outdoor 85956
performing arts center that is located on not less than one 85957
hundred fifty acres of land and that is open for performances from 85958
the first day of April to the last day of October of each year. 85959

(4) A person may have in the person's possession an opened or 85960
unopened container of beer or intoxicating liquor at an outdoor 85961
location at which the person is attending an orchestral 85962

performance as defined in division (C)(3)(b)(i) of this section if 85963
the person with supervision and control over the performance 85964
grants permission for the possession and consumption of beer or 85965
intoxicating liquor in certain predesignated areas of that outdoor 85966
location. 85967

(5) A person may have in the person's possession on an F-9 85968
liquor permit premises an opened or unopened container of beer or 85969
intoxicating liquor that was not purchased from the holder of the 85970
F-9 permit if the person is attending an orchestral performance 85971
and the holder of the F-9 permit grants permission for the 85972
possession and consumption of beer or intoxicating liquor in 85973
certain predesignated areas of the premises during the period for 85974
which the F-9 permit is issued. 85975

As used in division (C)(5) of this section, "orchestral 85976
performance" has the same meaning as in division (C)(3)(b) of this 85977
section. 85978

(D) This section does not apply to a person who pays all or a 85979
portion of the fee imposed for the use of a chauffeured limousine 85980
pursuant to a prearranged contract, or the guest of the person, 85981
when all of the following apply: 85982

(1) The person or guest is a passenger in the limousine. 85983

(2) The person or guest is located in the limousine, but is 85984
not occupying a seat in the front compartment of the limousine 85985
where the operator of the limousine is located. 85986

(3) The limousine is located on any street, highway, or other 85987
public or private property open to the public for purposes of 85988
vehicular travel or parking. 85989

(E) An opened bottle of wine that was purchased from the 85990
holder of a permit that authorizes the sale of wine for 85991
consumption on the premises where sold is not an opened container 85992
for the purposes of this section if both of the following apply: 85993

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.80. (A) As used in this section, "community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (1) Hotels;
- (2) Restaurants;
- (3) Retail sales establishments;
- (4) Enclosed shopping centers;
- (5) Museums;
- (6) Performing arts theaters;
- (7) Motion picture theaters;
- (8) Night clubs;
- (9) Convention facilities;
- (10) Sports facilities;

(11) Entertainment facilities or complexes;	86022
(12) Any combination of the establishments described in division (A)(1) to (11) of this section that provide similar services to the community.	86023 86024 86025
(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a community entertainment district shall contain all of the following:	86026 86027 86028 86029 86030 86031 86032 86033 86034 86035 86036 86037 86038
(1) The applicant's name and address;	86039
(2) A map or survey of the proposed community entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;	86040 86041 86042
(3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed community improvement district and any other establishments located in the proposed community entertainment district that are not described in division (A) of this section;	86043 86044 86045 86046 86047 86048
(4) If some or all of the establishments within the proposed community entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments;	86049 86050 86051 86052

(5) Evidence that the uses of land within the proposed 86053
community entertainment district are in accord with the municipal 86054
corporation's or township's master zoning plan or map; 86055

(6) A certificate from a surveyor or engineer licensed under 86056
Chapter 4733. of the Revised Code indicating that the area 86057
encompassed by the proposed community entertainment district 86058
contains no less than twenty contiguous acres; 86059

(7) A handling and processing fee to accompany the 86060
application, payable to the applicable municipal corporation or 86061
township, in an amount determined by that municipal corporation or 86062
township. 86063

(C) An application described in division (B) of this section 86064
relating to an area located in a municipal corporation shall be 86065
addressed and submitted to the mayor of the municipal corporation 86066
in which the area described in the application is located. The 86067
mayor, within thirty days after receiving the application, shall 86068
submit the application with the mayor's recommendation to the 86069
legislative authority of the municipal corporation. An application 86070
described in division (B) of this section relating to an area 86071
located in the unincorporated area of a township shall be 86072
addressed and submitted to the board of township trustees of the 86073
township in whose unincorporated area the area described in the 86074
application is located. The application is a public record for 86075
purposes of section 149.43 of the Revised Code upon its receipt by 86076
the mayor or board of township trustees. 86077

Within thirty days after it receives the application and the 86078
mayor's recommendations relating to the application, the 86079
legislative authority of the municipal corporation, by notice 86080
published once a week for two consecutive weeks in ~~at least~~ one 86081
newspaper of general circulation in the municipal corporation or 86082
as provided in section 7.16 of the Revised Code, shall notify the 86083
public that the application is on file in the office of the clerk 86084

of the municipal corporation and is available for inspection by 86085
the public during regular business hours. Within thirty days after 86086
it receives the application, the board of township trustees, by 86087
notice published once a week for two consecutive weeks in ~~at least~~ 86088
one newspaper of general circulation in the township or as 86089
provided in section 7.16 of the Revised Code, shall notify the 86090
public that the application is on file in the office of the 86091
township fiscal officer and is available for inspection by the 86092
public during regular business hours. The notice shall also 86093
indicate the date and time of any public hearing by the 86094
legislative authority or board of township trustees on the 86095
application. 86096

Within seventy-five days after the date the application is 86097
filed with the mayor of a municipal corporation, the legislative 86098
authority of the municipal corporation by ordinance or resolution 86099
shall approve or disapprove the application based on whether the 86100
proposed community entertainment district does or will 86101
substantially contribute to entertainment, retail, educational, 86102
sporting, social, cultural, or arts opportunities for the 86103
community. The community considered shall at a minimum include the 86104
municipal corporation in which the community is located. Any 86105
approval of an application shall be by an affirmative majority 86106
vote of the legislative authority. 86107

Within seventy-five days after the date the application is 86108
filed with a board of township trustees, the board by resolution 86109
shall approve or disapprove the application based on whether the 86110
proposed community entertainment district does or will 86111
substantially contribute to entertainment, retail, educational, 86112
sporting, social, cultural, or arts opportunities for the 86113
community. The community considered shall at a minimum include the 86114
township in which the community is located. Any approval of an 86115
application shall be by an affirmative majority vote of the board 86116

of township trustees. 86117

If the legislative authority or board of township trustees 86118
disapproves the application, the applicant may make changes in the 86119
application to secure its approval by the legislative authority or 86120
board of township trustees. Any area approved by the legislative 86121
authority or board of township trustees constitutes a community 86122
entertainment district, and a local option election may be 86123
conducted in the district, as a type of community facility, under 86124
section 4301.356 of the Revised Code. 86125

(D) All or part of an area designated as a community 86126
entertainment district may lose this designation as provided in 86127
this division. The legislative authority of a municipal 86128
corporation in which a community entertainment district is 86129
located, or the board of township trustees of the township in 86130
whose unincorporated area a community entertainment district is 86131
located, after giving notice of its proposed action by publication 86132
once a week for two consecutive weeks in ~~at least~~ one newspaper of 86133
general circulation in the municipal corporation or township or as 86134
provided in section 7.16 of the Revised Code, may determine by 86135
ordinance or resolution in the case of the legislative authority 86136
of a municipal corporation, or by resolution in the case of a 86137
board of township trustees of a township, that all or part of the 86138
area fails to meet the standards described in this section for 86139
designation of an area as a community entertainment district. If 86140
the legislative authority or board so determines, the area 86141
designated in the ordinance or resolution no longer constitutes a 86142
community entertainment district. 86143

Sec. 4301.81. (A) As used in this section: 86144

(1) "Revitalization district" means a bounded area that 86145
includes or will include a combination of entertainment, retail, 86146
educational, sporting, social, cultural, or arts establishments 86147

within close proximity to some or all of the following types of	86148
establishments within the district, or other types of	86149
establishments similar to these:	86150
(a) Hotels;	86151
(b) Restaurants;	86152
(c) Retail sales establishments;	86153
(d) Enclosed shopping centers;	86154
(e) Museums;	86155
(f) Performing arts theaters;	86156
(g) Motion picture theaters;	86157
(h) Night clubs;	86158
(i) Convention facilities;	86159
(j) Sports facilities;	86160
(k) Entertainment facilities or complexes;	86161
(1) Any combination of the establishments described in	86162
divisions (A)(1)(a) to (k) of this section that provide similar	86163
services to the community.	86164
(2) "Municipal corporation" means a municipal corporation	86165
with a population of less than one hundred thousand.	86166
(3) "Township" means a township with a population in its	86167
unincorporated area of less than one hundred thousand.	86168
(B) Any owner of property located in a municipal corporation	86169
seeking to have that property, or that property and other	86170
surrounding property, designated as a revitalization district	86171
shall file an application seeking this designation with the mayor	86172
of the municipal corporation in which that property is located.	86173
Any owner of property located in the unincorporated area of a	86174
township seeking to have that property, or that property and other	86175

surrounding property, designated as a revitalization district 86176
shall file an application seeking this designation with the board 86177
of township trustees of the township in whose unincorporated area 86178
that property is located. An application to designate an area as a 86179
revitalization district shall contain all of the following: 86180

(1) The applicant's name and address; 86181

(2) A map or survey of the proposed revitalization district 86182
in sufficient detail to identify the boundaries of the district 86183
and the property owned by the applicant; 86184

(3) A general statement of the nature and types of 86185
establishments described in division (A) of this section that are 86186
or will be located within the proposed revitalization district and 86187
any other establishments located in the proposed revitalization 86188
district that are not described in division (A) of this section; 86189

(4) If some or all of the establishments within the proposed 86190
revitalization district have not yet been developed, the proposed 86191
time frame for completing the development of these establishments; 86192

(5) Evidence that the uses of land within the proposed 86193
revitalization district are in accord with the municipal 86194
corporation's or township's master zoning plan or map; and 86195

(6) A handling and processing fee to accompany the 86196
application, payable to the applicable municipal corporation or 86197
township, in an amount determined by that municipal corporation or 86198
township. 86199

(C) An application relating to an area located in a municipal 86200
corporation shall be addressed and submitted to the mayor of the 86201
municipal corporation in which the area described in the 86202
application is located. The mayor, within thirty days after 86203
receiving the application, shall submit the application with the 86204
mayor's recommendation to the legislative authority of the 86205
municipal corporation. An application relating to an area located 86206

in the unincorporated area of a township shall be addressed and 86207
submitted to the board of township trustees of the township in 86208
whose unincorporated area the area described in the application is 86209
located. The application is a public record for purposes of 86210
section 149.43 of the Revised Code upon its receipt by the mayor 86211
or board of township trustees. 86212

Within thirty days after it receives the application and the 86213
mayor's recommendations relating to the application, the 86214
legislative authority of the municipal corporation, by notice 86215
published once a week for two consecutive weeks in ~~at least~~ one 86216
newspaper of general circulation in the municipal corporation or 86217
as provided in section 7.16 of the Revised Code, shall notify the 86218
public that the application is on file in the office of the clerk 86219
of the municipal corporation and is available for inspection by 86220
the public during regular business hours. Within thirty days after 86221
it receives the application, the board of township trustees, by 86222
notice published once a week for two consecutive weeks in ~~at least~~ 86223
one newspaper of general circulation in the township or as 86224
provided in section 7.16 of the Revised Code, shall notify the 86225
public that the application is on file in the office of the 86226
township fiscal officer and is available for inspection by the 86227
public during regular business hours. The notice shall also 86228
indicate the date and time of any public hearing by the municipal 86229
legislative authority or board of township trustees on the 86230
application. 86231

Within seventy-five days after the date the application is 86232
filed with the mayor of a municipal corporation, the legislative 86233
authority of the municipal corporation by ordinance or resolution 86234
shall approve or disapprove the application based on whether the 86235
proposed revitalization district does or will substantially 86236
contribute to entertainment, retail, educational, sporting, 86237
social, cultural, or arts opportunities for the community. The 86238

community considered shall at a minimum include the municipal 86239
corporation in which the community is located. Any approval of an 86240
application shall be by an affirmative majority vote of the 86241
legislative authority. Not more than one revitalization district 86242
shall be designated within the municipal corporation. 86243

Within seventy-five days after the date the application is 86244
filed with a board of township trustees, the board by resolution 86245
shall approve or disapprove the application based on whether the 86246
proposed revitalization district does or will substantially 86247
contribute to entertainment, retail, educational, sporting, 86248
social, cultural, or arts opportunities for the community. The 86249
community considered shall at a minimum include the township in 86250
which the community is located. Any approval of an application 86251
shall be by an affirmative majority vote of the board of township 86252
trustees. Not more than one revitalization district shall be 86253
designated within the unincorporated area of the township. 86254

If the municipal legislative authority or board of township 86255
trustees disapproves the application, the applicant may make 86256
changes in the application to secure its approval by the 86257
legislative authority or board of township trustees. Any area 86258
approved by the legislative authority or board of township 86259
trustees constitutes a revitalization district, and a local option 86260
election may be conducted in the district, as a type of community 86261
facility, under section 4301.356 of the Revised Code. 86262

(D) All or part of an area designated as a revitalization 86263
district may lose this designation as provided in this division. 86264
The legislative authority of a municipal corporation in which a 86265
revitalization district is located, or the board of township 86266
trustees of the township in whose unincorporated area a 86267
revitalization district is located, after giving notice of its 86268
proposed action by publication once a week for two consecutive 86269
weeks in ~~at least~~ one newspaper of general circulation in the 86270

municipal corporation or township or as provided in section 7.16 86271
of the Revised Code, may determine by ordinance or resolution in 86272
the case of the legislative authority of a municipal corporation, 86273
or by resolution in the case of a board of township trustees of a 86274
township, that all or part of the area fails to meet the standards 86275
described in this section for designation of an area as a 86276
revitalization district. If the legislative authority or board so 86277
determines, the area designated in the ordinance or resolution no 86278
longer constitutes a revitalization district. 86279

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 86280
manufacture beer and sell beer products in bottles or containers 86281
for home use and to retail and wholesale permit holders under 86282
rules ~~promulgated~~ adopted by the division of liquor control. In 86283
addition, an A-1 permit holder may sell beer and beer products 86284
manufactured on the premises at retail, by individual drink in a 86285
glass or from a container, for consumption on the premises where 86286
sold. The fee for this permit is three thousand nine hundred six 86287
dollars for each plant during the year covered by the permit. 86288

Sec. 4303.209. (A)(1) The division of liquor control may 86289
issue an F-9 permit to a nonprofit corporation that operates a 86290
park on property leased from a municipal corporation or a 86291
nonprofit corporation that provides or manages entertainment 86292
programming pursuant to an agreement with a nonprofit corporation 86293
that operates a park on property leased from a municipal 86294
corporation to sell beer or intoxicating liquor by the individual 86295
drink at specific events conducted within the park property and 86296
appurtenant streets, but only if, and only at times at which, the 86297
sale of beer and intoxicating liquor on the premises is otherwise 86298
permitted by law. Additionally, an F-9 permit may be issued only 86299
if the park property is located in a county that has a population 86300
of between one million one hundred thousand and one million two 86301

hundred thousand on the effective date of this section. 86302

(2) The division may issue separate F-9 permits to a 86303
nonprofit corporation that operates a park on property leased from 86304
a municipal corporation and a nonprofit corporation that provides 86305
or manages entertainment programming pursuant to an agreement with 86306
a nonprofit corporation that operates a park on property leased 86307
from a municipal corporation to be effective during the same time 86308
period. However, the permit privileges may be exercised by only 86309
one of the holders of an F-9 permit at specific events. The other 86310
holder of an F-9 permit shall certify to the division that it will 86311
not exercise its permit privileges during that specific event. 86312

(3) The premises on which an F-9 permit will be used shall be 86313
clearly defined and sufficiently restricted to allow proper 86314
supervision of the permit's use by state and local law enforcement 86315
officers. Sales under an F-9 permit shall be confined to the same 86316
hours permitted to the holder of a D-3 permit. 86317

(4) The fee for an F-9 permit is one thousand seven hundred 86318
dollars. An F-9 permit is effective for a period not to exceed 86319
nine months as specified in the permit. An F-9 permit is not 86320
transferable or renewable. However, the holder of an F-9 permit 86321
may apply for a new F-9 permit at any time. The holder of an F-9 86322
permit shall make sales only at those specific events about which 86323
the permit holder has notified in advance the division of liquor 86324
control, the department of public safety, and the chief, sheriff, 86325
or other principal peace officer of the local law enforcement 86326
agencies having jurisdiction over the premises. 86327

(B)(1) An application for the issuance of an F-9 permit is 86328
subject to the notice and hearing requirements established in 86329
division (A) of section 4303.26 of the Revised Code. 86330

(2) The liquor control commission shall adopt rules under 86331
Chapter 119. of the Revised Code necessary to administer this 86332

section. 86333

(C) No F-9 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-9 permit and on any officer, agent, or employee of that permit holder. 86334
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Sec. 4313.01. As used in this chapter: 86338

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund. 86339
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(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code. 86354
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(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for 86360
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therein, but excluding the sum required by the second paragraph of 86364
section 4301.12 of the Revised Code, as in effect on May 2, 1980, 86365
to be paid into the state treasury, provided that from and after 86366
the initial transfer of the enterprise acquisition project to 86367
JobsOhio and until the transfer back to the state under division 86368
(D) of section 4313.02 of the Revised Code, the reference in 86369
division (B)(4) of section 4301.10 of the Revised Code to all 86370
costs and expenses of the division and also an adequate working 86371
capital reserve for the division shall be to all costs and 86372
expenses of JobsOhio and providing an adequate working capital 86373
reserve for JobsOhio. 86374

(D) "Transfer" means an assignment and sale, conveyance, 86375
granting of a franchise, lease, or transfer of all or an interest. 86376

(E) "Transfer agreement" means the agreement entered into 86377
between the state and JobsOhio providing for the transfer of the 86378
enterprise acquisition project pursuant to section 4313.02 of the 86379
Revised Code and any amendments or supplements thereto. 86380

Sec. 4313.02. (A) The state may transfer to JobsOhio, and 86381
JobsOhio may accept the transfer of, all or a portion of the 86382
enterprise acquisition project for a transfer price payable by 86383
JobsOhio to the state. Any such transfer shall be treated as an 86384
absolute conveyance and true sale of the interest in the 86385
enterprise acquisition project purported to be conveyed for all 86386
purposes, and not as a pledge or other security interest. The 86387
characterization of any such transfer as a true sale and absolute 86388
conveyance shall not be negated or adversely affected by the 86389
acquisition or retention by the state of a residual or 86390
reversionary interest in the enterprise acquisition project, the 86391
participation of any state officer or employee as a member or 86392
officer of JobsOhio or any subsidiary of JobsOhio, any regulatory 86393
responsibility of an officer or employee of the state, including 86394

the authority to collect amounts to be received in connection 86395
therewith, or the retention of the state of any legal title to or 86396
interest in any portion of the enterprise acquisition project for 86397
the purpose of regulatory activities. An absolute conveyance and 86398
true sale or lease shall exist under this section regardless of 86399
whether JobsOhio has any recourse against the state or the 86400
treatment or characterization of the transfer as a financing for 86401
any purpose. Upon and following the transfer, the state shall not 86402
have any right, title, or interest in the enterprise acquisition 86403
project so transferred other than any residual interest that may 86404
be described in the transfer agreement pursuant to the following 86405
paragraph and division (D) of this section. Any determination of 86406
the fair market value of the enterprise acquisition project 86407
reflected in the transfer agreement shall be conclusive and 86408
binding on the state and JobsOhio. 86409

Any transfer of the enterprise acquisition project that is a 86410
lease or grant of a franchise shall be for a term not to exceed 86411
twenty-five years. Any transfer of the enterprise acquisition 86412
project that is an assignment and sale, conveyance, or other 86413
transfer shall contain a provision that the state shall have the 86414
option to have conveyed or transferred back to it, at no cost, the 86415
enterprise acquisition project, as it then exists, no later than 86416
twenty-five years after the original transfer authorized in the 86417
transfer agreement on such other terms as shall be provided in the 86418
transfer agreement. 86419

The exercise of the powers granted by this section will be 86420
for the benefit of the people of the state. All or any portion of 86421
the enterprise acquisition project transferred pursuant to the 86422
transfer agreement that would be exempt from real property taxes 86423
or assessments or real property taxes or assessments in the 86424
absence of such transfer shall, as it may from time to time exist 86425
thereafter, remain exempt from real property taxes or assessments 86426

levied by the state and its subdivisions to the same extent as if 86427
not transferred. The gross receipts and income of JobsOhio derived 86428
from the enterprise acquisition project shall be exempt from 86429
taxation levied by the state and its subdivisions, including, but 86430
not limited to, the taxes levied pursuant to Chapters 718., 5739., 86431
5741., 5747., and 5751. of the Revised Code. Any transfer from the 86432
state to JobsOhio of the enterprise acquisition project, or item 86433
included or to be included in the project, shall be exempt from 86434
the taxes levied pursuant to Chapters 5739. and 5741. of the 86435
Revised Code. 86436

(B) The proceeds of any transfer under division (A) of this 86437
section may be expended as provided in the transfer agreement for 86438
any one or more of the following purposes: 86439

(1) Funding, payment, or defeasance of outstanding bonds 86440
issued pursuant to Chapters 151. and 166. of the Revised Code and 86441
secured by pledged liquor profits as defined in section 151.40 of 86442
the Revised Code; 86443

(2) Deposit into the general revenue fund; 86444

(3) Deposit into the clean Ohio revitalization fund created 86445
pursuant to section 122.658 of the Revised Code, the innovation 86446
Ohio loan fund created pursuant to section 166.16 of the Revised 86447
Code, the research and development loan fund created pursuant to 86448
section 166.20 of the Revised Code, the logistics and distribution 86449
infrastructure fund created pursuant to section 166.26 of the 86450
Revised Code, the advanced energy research and development fund 86451
created pursuant to section 3706.27 of the Revised Code, and the 86452
advanced energy research and development taxable fund created 86453
pursuant to section 3706.27 of the Revised Code; 86454

(4) Conveyance to JobsOhio for the purposes for which it was 86455
created. 86456

(C)(1) The state may covenant, pledge, and agree in the 86457

transfer agreement, with and for the benefit of JobsOhio, that it shall maintain statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or

otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section. 86490
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(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or provision therefor, of all obligations supported by a pledge of spirituous liquor profits. 86498
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(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other 86509
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assistance. The division of liquor control shall manage and 86522
actively supervise the activities required or authorized under 86523
sections 4301.10 and 4301.17 of the Revised Code as those sections 86524
exist on the effective date of this section, including, but not 86525
limited to, controlling the traffic in beer and intoxicating 86526
liquor in this state and fixing the wholesale and retail prices at 86527
which the various classes, varieties, and brands of spirituous 86528
liquor are sold. 86529

(F) The transfer agreement shall require JobsOhio to pay for 86530
the operations of the division of liquor control with regard to 86531
the spirituous liquor merchandising operations of the division. 86532
The payments from JobsOhio shall be deposited into the state 86533
treasury to the credit of the liquor control fund created in 86534
section 4301.12 of the Revised Code. 86535

(G) The transaction and transfer provided for under this 86536
section shall comply with all applicable provisions of the Ohio 86537
Constitution. 86538

Sec. 4503.03. (A)(1)(a) The registrar of motor vehicles may 86539
designate the county auditor in each county a deputy registrar. If 86540
the population of a county is forty thousand or less according to 86541
the last federal census and if the county auditor is designated by 86542
the registrar as a deputy registrar, no other person need be 86543
designated in the county to act as a deputy registrar. 86544

(b) The registrar may designate a clerk of a court of common 86545
pleas as a deputy registrar if the population of the county is 86546
forty thousand or less according to the last federal census. In a 86547
county with a population greater than forty thousand but not more 86548
than fifty thousand according to the last federal census, the 86549
clerk of a court of common pleas is eligible to act as a deputy 86550
registrar and may participate in the competitive selection process 86551
for the award of a deputy registrar contract by applying in the 86552

same manner as any other person. All fees collected and retained 86553
by a clerk for conducting deputy registrar services shall be paid 86554
into the county treasury to the credit of the certificate of title 86555
administration fund created under section 325.33 of the Revised 86556
Code. 86557

(c) In all other instances, the registrar shall contract with 86558
one or more other persons in each county to act as deputy 86559
registrars. Notwithstanding the county population restrictions in 86560
division (A)(1)(b) of this section, if no person applies to act 86561
under contract as a deputy registrar in a county and the county 86562
auditor is not designated as a deputy registrar, the registrar may 86563
ask the clerk of a court of common pleas to serve as the deputy 86564
registrar for that county. 86565

(2) Deputy registrars shall accept applications for the 86566
annual license tax for any vehicle not taxed under section 4503.63 86567
of the Revised Code and shall assign distinctive numbers in the 86568
same manner as the registrar. Such deputies shall be located in 86569
such locations in the county as the registrar sees fit. There 86570
shall be at least one deputy registrar in each county. 86571

Deputy registrar contracts are subject to the provisions of 86572
division (B) of section 125.081 of the Revised Code. 86573

(B) The registrar shall not contract with any person to act 86574
as a deputy registrar if the person or, where applicable, the 86575
person's spouse or a member of the person's immediate family has 86576
made, within the current calendar year or any one of the previous 86577
three calendar years, one or more contributions totaling in excess 86578
of one hundred dollars to any person or entity included in 86579
division (A)(2) of section 4503.033 of the Revised Code. As used 86580
in this division, "immediate family" has the same meaning as in 86581
division (D) of section 102.01 of the Revised Code, and "entity" 86582
includes any political party and any "continuing association" as 86583
defined in division (B)(4) of section 3517.01 of the Revised Code 86584

or "political action committee" as defined in division (B)(8) of 86585
that section that is primarily associated with that political 86586
party. For purposes of this division, contributions to any 86587
continuing association or any political action committee that is 86588
primarily associated with a political party shall be aggregated 86589
with contributions to that political party. 86590

The contribution limitations contained in this division do 86591
not apply to any county auditor or clerk of a court of common 86592
pleas. A county auditor or clerk of a court of common pleas is not 86593
required to file the disclosure statement or pay the filing fee 86594
required under section 4503.033 of the Revised Code. The 86595
limitations of this division also do not apply to a deputy 86596
registrar who, subsequent to being awarded a deputy registrar 86597
contract, is elected to an office of a political subdivision. 86598

The registrar shall not contract with either of the following 86599
to act as a deputy registrar: 86600

(1) Any elected public official other than a county auditor 86601
or, as authorized by division (A)(1)(b) of this section, a clerk 86602
of a court of common pleas, acting in an official capacity, except 86603
that, the registrar shall continue and may renew a contract with 86604
any deputy registrar who, subsequent to being awarded a deputy 86605
registrar contract, is elected to an office of a political 86606
subdivision; 86607

(2) Any person holding a current, valid contract to conduct 86608
motor vehicle inspections under section 3704.14 of the Revised 86609
Code. 86610

As used in division (B) of this section, "political 86611
subdivision" has the same meaning as in section 3501.01 of the 86612
Revised Code. 86613

(C)(1) Except as provided in division (C)(2) of this section, 86614
deputy registrars are independent contractors and neither they nor 86615

their employees are employees of this state, except that nothing 86616
in this section shall affect the status of county auditors or 86617
clerks of courts of common pleas as public officials, nor the 86618
status of their employees as employees of any of the counties of 86619
this state, which are political subdivisions of this state. Each 86620
deputy registrar shall be responsible for the payment of all 86621
unemployment compensation premiums, all workers' compensation 86622
premiums, social security contributions, and any and all taxes for 86623
which the deputy registrar is legally responsible. Each deputy 86624
registrar shall comply with all applicable federal, state, and 86625
local laws requiring the withholding of income taxes or other 86626
taxes from the compensation of the deputy registrar's employees. 86627
Each deputy registrar shall maintain during the entire term of the 86628
deputy registrar's contract a policy of business liability 86629
insurance satisfactory to the registrar and shall hold the 86630
department of public safety, the director of public safety, the 86631
bureau of motor vehicles, and the registrar harmless upon any and 86632
all claims for damages arising out of the operation of the deputy 86633
registrar agency. 86634

(2) For purposes of Chapter 4141. of the Revised Code, 86635
determinations concerning the employment of deputy registrars and 86636
their employees shall be made under Chapter 4141. of the Revised 86637
Code. 86638

(D)(1) With the approval of the director, the registrar shall 86639
adopt rules governing the terms of the contract between the 86640
registrar and each deputy registrar and specifications for the 86641
services to be performed. The rules shall include specifications 86642
relating to the amount of bond to be given as provided in this 86643
section; the size and location of the deputy's office; and the 86644
leasing of equipment necessary to conduct the vision screenings 86645
required under section 4507.12 of the Revised Code and training in 86646
the use of the equipment. The specifications shall permit and 86647

encourage every deputy registrar to inform the public of the 86648
location of the deputy registrar's office and hours of operation 86649
by means of public service announcements and allow any deputy 86650
registrar to advertise in regard to the operation of the deputy 86651
registrar's office. The rules also shall include specifications 86652
for the hours the deputy's office is to be open to the public and 86653
shall require as a minimum that one deputy's office in each county 86654
be open to the public for at least four hours each weekend, 86655
provided that if only one deputy's office is located within the 86656
boundary of the county seat, that office is the office that shall 86657
be open for the four-hour period each weekend, and that every 86658
deputy's office in each county shall be open to the public until 86659
six-thirty p.m. on at least one weeknight each week. The rules 86660
also shall include specifications providing that every deputy in 86661
each county, upon request, provide any person with information 86662
about the location and office hours of all deputy registrars in 86663
the county and that every deputy prominently display within the 86664
deputy's office, the toll-free telephone number of the bureau. The 86665
rules shall not prohibit the award of a deputy registrar contract 86666
to a nonprofit corporation formed under the laws of this state. 86667
The rules shall prohibit any deputy registrar from operating more 86668
than one such office at any time, except that the rules may permit 86669
a nonprofit corporation formed for the purposes of providing 86670
automobile-related services to its members or the public and that 86671
provides such services from more than one location in this state 86672
to operate a deputy registrar office at any such location, 86673
provided that the nonprofit corporation operates no more than one 86674
deputy registrar office in any one county. The rules may include 86675
such other specifications as the registrar and director consider 86676
necessary to provide a high level of service. 86677

~~The rules shall establish procedures for a deputy registrar 86678
who requests such authority to collect reinstatement fees under 86679
sections 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 86680~~

~~4510.72, and 4511.191 of the Revised Code and to transmit the 86681
reinstatement fees and two dollars of the service fee collected 86682
under those sections. The registrar shall ensure that, not later 86683
than January 1, 2012, at least one deputy registrar in each county 86684
has the necessary equipment and is able to accept reinstatement 86685
fees. The registrar shall deposit the service fees received from a 86686
deputy registrar under those sections into the state bureau of 86687
motor vehicles fund created in section 4501.25 of the Revised Code 86688
and shall use the money for deputy registrar equipment necessary 86689
in connection with accepting reinstatement fees. 86690~~

(2) As a daily adjustment, the bureau of motor vehicles shall 86691
credit to a deputy registrar three dollars and fifty cents for 86692
each damaged license plate or validation sticker the deputy 86693
registrar replaces as a service to a member of the public. 86694

(3) With the prior approval of the registrar, each deputy 86695
registrar may conduct at the location of the deputy registrar's 86696
office any business that is consistent with the functions of a 86697
deputy registrar and that is not specifically mandated or 86698
authorized by this or another chapter of the Revised Code or by 86699
implementing rules of the registrar. 86700

In accordance with guidelines the director of public safety 86701
shall establish, a deputy registrar may operate or contract for 86702
the operation of a vending machine at a deputy registrar location 86703
if products of the vending machine are consistent with the 86704
functions of a deputy registrar. 86705

(4) As used in this section and in section 4507.01 of the 86706
Revised Code, "nonprofit corporation" has the same meaning as in 86707
section 1702.01 of the Revised Code. 86708

(E) Unless otherwise terminated and except for interim 86709
contracts of less than one year, contracts with deputy registrars 86710
shall be for a term of at least two years, but no more than three 86711

years, and all contracts effective on or after July 1, 1996, shall 86712
be for a term of more than two years, but not more than three 86713
years. All contracts with deputy registrars shall expire on the 86714
last Saturday of June in the year of their expiration. The auditor 86715
of state may examine the accounts, reports, systems, and other 86716
data of each deputy registrar at least every two years. The 86717
registrar, with the approval of the director, shall immediately 86718
remove a deputy who violates any provision of the Revised Code 86719
related to the duties as a deputy, any rule adopted by the 86720
registrar, or a term of the deputy's contract with the registrar. 86721
The registrar also may remove a deputy who, in the opinion of the 86722
registrar, has engaged in any conduct that is either unbecoming to 86723
one representing this state or is inconsistent with the efficient 86724
operation of the deputy's office. 86725

If the registrar, with the approval of the director, 86726
determines that there is good cause to believe that a deputy 86727
registrar or a person proposing for a deputy registrar contract 86728
has engaged in any conduct that would require the denial or 86729
termination of the deputy registrar contract, the registrar may 86730
require the production of books, records, and papers as the 86731
registrar determines are necessary, and may take the depositions 86732
of witnesses residing within or outside the state in the same 86733
manner as is prescribed by law for the taking of depositions in 86734
civil actions in the court of common pleas, and for that purpose 86735
the registrar may issue a subpoena for any witness or a subpoena 86736
duces tecum to compel the production of any books, records, or 86737
papers, directed to the sheriff of the county where the witness 86738
resides or is found. Such a subpoena shall be served and returned 86739
in the same manner as a subpoena in a criminal case is served and 86740
returned. The fees of the sheriff shall be the same as that 86741
allowed in the court of common pleas in criminal cases. Witnesses 86742
shall be paid the fees and mileage provided for under section 86743
119.094 of the Revised Code. The fees and mileage shall be paid 86744

from the fund in the state treasury for the use of the agency in 86745
the same manner as other expenses of the agency are paid. 86746

In any case of disobedience or neglect of any subpoena served 86747
on any person or the refusal of any witness to testify to any 86748
matter regarding which the witness lawfully may be interrogated, 86749
the court of common pleas of any county where the disobedience, 86750
neglect, or refusal occurs or any judge of that court, on 86751
application by the registrar, shall compel obedience by attachment 86752
proceedings for contempt, as in the case of disobedience of the 86753
requirements of a subpoena issued from that court, or a refusal to 86754
testify in that court. 86755

Nothing in this division shall be construed to require a 86756
hearing of any nature prior to the termination of any deputy 86757
registrar contract by the registrar, with the approval of the 86758
director, for cause. 86759

(F) Except as provided in section 2743.03 of the Revised 86760
Code, no court, other than the court of common pleas of Franklin 86761
county, has jurisdiction of any action against the department of 86762
public safety, the director, the bureau, or the registrar to 86763
restrain the exercise of any power or authority, or to entertain 86764
any action for declaratory judgment, in the selection and 86765
appointment of, or contracting with, deputy registrars. Neither 86766
the department, the director, the bureau, nor the registrar is 86767
liable in any action at law for damages sustained by any person 86768
because of any acts of the department, the director, the bureau, 86769
or the registrar, or of any employee of the department or bureau, 86770
in the performance of official duties in the selection and 86771
appointment of, and contracting with, deputy registrars. 86772

(G) The registrar shall assign to each deputy registrar a 86773
series of numbers sufficient to supply the demand at all times in 86774
the area the deputy registrar serves, and the registrar shall keep 86775
a record in the registrar's office of the numbers within the 86776

series assigned. Each deputy shall be required to give bond in the amount of at least twenty-five thousand dollars, or in such higher amount as the registrar determines necessary, based on a uniform schedule of bond amounts established by the registrar and determined by the volume of registrations handled by the deputy. The form of the bond shall be prescribed by the registrar. The bonds required of deputy registrars, in the discretion of the registrar, may be individual or schedule bonds or may be included in any blanket bond coverage carried by the department.

(H) Each deputy registrar shall keep a file of each application received by the deputy and shall register that motor vehicle with the name and address of its owner.

(I) Upon request, a deputy registrar shall make the physical inspection of a motor vehicle and issue the physical inspection certificate required in section 4505.061 of the Revised Code.

(J) Each deputy registrar shall file a report ~~semi-annually~~ semiannually with the registrar of motor vehicles listing the number of applicants for licenses the deputy has served, the number of voter registration applications the deputy has completed and transmitted to the board of elections, and the number of voter registration applications declined.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined 86807
in division (C)(5) of section 3781.06 of the Revised Code. 86808

(b) The home is located on land that is owned by the owner of 86809
the home. 86810

(c) The certificate of title has been inactivated by the 86811
clerk of the court of common pleas that issued it, pursuant to 86812
division (H) of section 4505.11 of the Revised Code. 86813

(2) The manufactured or mobile home acquired situs in the 86814
state or ownership in the home was transferred before January 1, 86815
2000, and all of the following apply: 86816

(a) The home is affixed to a permanent foundation as defined 86817
in division (C)(5) of section 3781.06 of the Revised Code. 86818

(b) The home is located on land that is owned by the owner of 86819
the home. 86820

(c) The owner of the home has elected to have the home taxed 86821
as real property and, pursuant to section 4505.11 of the Revised 86822
Code, has surrendered the certificate of title to the auditor of 86823
the county containing the taxing district in which the home has 86824
its situs, together with proof that all taxes have been paid. 86825

(d) The county auditor has placed the home on the real 86826
property tax list and delivered the certificate of title to the 86827
clerk of the court of common pleas that issued it and the clerk 86828
has inactivated the certificate. 86829

(C)(1) Any mobile or manufactured home that is not taxed as 86830
real property as provided in division (B) of this section is 86831
subject to an annual manufactured home tax, payable by the owner, 86832
for locating the home in this state. The tax as levied in this 86833
section is for the purpose of supplementing the general revenue 86834
funds of the local subdivisions in which the home has its situs 86835
pursuant to this section. 86836

(2) The year for which the manufactured home tax is levied 86837
commences on the first day of January and ends on the following 86838
thirty-first day of December. The state shall have the first lien 86839
on any manufactured or mobile home on the list for the amount of 86840
taxes, penalties, and interest charged against the owner of the 86841
home under this section. The lien of the state for the tax for a 86842
year shall attach on the first day of January to a home that has 86843
acquired situs on that date. The lien for a home that has not 86844
acquired situs on the first day of January, but that acquires 86845
situs during the year, shall attach on the next first day of 86846
January. The lien shall continue until the tax, including any 86847
penalty or interest, is paid. 86848

(3)(a) The situs of a manufactured or mobile home located in 86849
this state on the first day of January is the local taxing 86850
district in which the home is located on that date. 86851

(b) The situs of a manufactured or mobile home not located in 86852
this state on the first day of January, but located in this state 86853
subsequent to that date, is the local taxing district in which the 86854
home is located thirty days after it is acquired or first enters 86855
this state. 86856

(4) The tax is collected by and paid to the county treasurer 86857
of the county containing the taxing district in which the home has 86858
its situs. 86859

(D) The manufactured home tax shall be computed and assessed 86860
by the county auditor of the county containing the taxing district 86861
in which the home has its situs as follows: 86862

(1) On a home that acquired situs in this state prior to 86863
January 1, 2000: 86864

(a) By multiplying the assessable value of the home by the 86865
tax rate of the taxing district in which the home has its situs, 86866
and deducting from the product thus obtained any reduction 86867

authorized under section 4503.065 of the Revised Code. The tax 86868
levied under this formula shall not be less than thirty-six 86869
dollars, unless the home qualifies for a reduction in assessable 86870
value under section 4503.065 of the Revised Code, in which case 86871
there shall be no minimum tax and the tax shall be the amount 86872
calculated under this division. 86873

(b) The assessable value of the home shall be forty per cent 86874
of the amount arrived at by the following computation: 86875

(i) If the cost to the owner, or market value at time of 86876
purchase, whichever is greater, of the home includes the 86877
furnishings and equipment, such cost or market value shall be 86878
multiplied according to the following schedule: 86879

For the first calendar year			86880
in which the			86881
home is owned by the			86882
current owner	x	80%	86883
2nd calendar year	x	75%	86884
3rd "	x	70%	86885
4th "	x	65%	86886
5th "	x	60%	86887
6th "	x	55%	86888
7th "	x	50%	86889
8th "	x	45%	86890
9th "	x	40%	86891
10th and each year thereafter	x	35%	86892

The first calendar year means any period between the first 86893
day of January and the thirty-first day of December of the first 86894
year. 86895

(ii) If the cost to the owner, or market value at the time of 86896
purchase, whichever is greater, of the home does not include the 86897
furnishings and equipment, such cost or market value shall be 86898
multiplied according to the following schedule: 86899

For the first calendar year			86900
in which the			86901
home is owned by the			86902
current owner	x	95%	86903
2nd calendar year	x	90%	86904
3rd "	x	85%	86905
4th "	x	80%	86906
5th "	x	75%	86907
6th "	x	70%	86908
7th "	x	65%	86909
8th "	x	60%	86910
9th "	x	55%	86911
10th and each year thereafter	x	50%	86912

The first calendar year means any period between the first 86913
day of January and the thirty-first day of December of the first 86914
year. 86915

(2) On a home in which ownership was transferred or that 86916
first acquired situs in this state on or after January 1, 2000: 86917

(a) By multiplying the assessable value of the home by the 86918
effective tax rate, as defined in section 323.08 of the Revised 86919
Code, for residential real property of the taxing district in 86920
which the home has its situs, and deducting from the product thus 86921
obtained the reductions required or authorized under section 86922
319.302, division (B) of section 323.152, or section 4503.065 of 86923
the Revised Code. 86924

(b) The assessable value of the home shall be thirty-five per 86925
cent of its true value as determined under division (L) of this 86926
section. 86927

(3) On or before the fifteenth day of January each year, the 86928
county auditor shall record the assessable value and the amount of 86929
tax on the manufactured or mobile home on the tax list and deliver 86930
a duplicate of the list to the county treasurer. In the case of an 86931

emergency as defined in section 323.17 of the Revised Code, the 86932
tax commissioner, by journal entry, may extend the times for 86933
delivery of the duplicate for an additional fifteen days upon 86934
receiving a written application from the county auditor regarding 86935
an extension for the delivery of the duplicate, or from the county 86936
treasurer regarding an extension of the time for the billing and 86937
collection of taxes. The application shall contain a statement 86938
describing the emergency that will cause the unavoidable delay and 86939
must be received by the tax commissioner on or before the last day 86940
of the month preceding the day delivery of the duplicate is 86941
otherwise required. When an extension is granted for delivery of 86942
the duplicate, the time period for payment of taxes shall be 86943
extended for a like period of time. When a delay in the closing of 86944
a tax collection period becomes unavoidable, the tax commissioner, 86945
upon application by the county auditor and county treasurer, may 86946
order the time for payment of taxes to be extended if the tax 86947
commissioner determines that penalties have accrued or would 86948
otherwise accrue for reasons beyond the control of the taxpayers 86949
of the county. The order shall prescribe the final extended date 86950
for payment of taxes for that collection period. 86951

(4) After January 1, 1999, the owner of a manufactured or 86952
mobile home taxed pursuant to division (D)(1) of this section may 86953
elect to have the home taxed pursuant to division (D)(2) of this 86954
section by filing a written request with the county auditor of the 86955
taxing district in which the home is located on or before the 86956
first day of December of any year. Upon the filing of the request, 86957
the county auditor shall determine whether all taxes levied under 86958
division (D)(1) of this section have been paid, and if those taxes 86959
have been paid, the county auditor shall tax the manufactured or 86960
mobile home pursuant to division (D)(2) of this section commencing 86961
in the next tax year. 86962

(5) A manufactured or mobile home that acquired situs in this 86963

state prior to January 1, 2000, shall be taxed pursuant to 86964
division (D)(2) of this section if no manufactured home tax had 86965
been paid for the home and the home was not exempted from taxation 86966
pursuant to division (E) of this section for the year for which 86967
the taxes were not paid. 86968

(6)(a) Immediately upon receipt of any manufactured home tax 86969
duplicate from the county auditor, but not less than twenty days 86970
prior to the last date on which the first one-half taxes may be 86971
paid without penalty as prescribed in division (F) of this 86972
section, the county treasurer shall cause to be prepared and 86973
mailed or delivered to each person charged on that duplicate with 86974
taxes, or to an agent designated by such person, the tax bill 86975
prescribed by the tax commissioner under division (D)(7) of this 86976
section. When taxes are paid by installments, the county treasurer 86977
shall mail or deliver to each person charged on such duplicate or 86978
the agent designated by that person a second tax bill showing the 86979
amount due at the time of the second tax collection. The second 86980
half tax bill shall be mailed or delivered at least twenty days 86981
prior to the close of the second half tax collection period. A 86982
change in the mailing address of any tax bill shall be made in 86983
writing to the county treasurer. Failure to receive a bill 86984
required by this section does not excuse failure or delay to pay 86985
any taxes shown on the bill or, except as provided in division 86986
(B)(1) of section 5715.39 of the Revised Code, avoid any penalty, 86987
interest, or charge for such delay. 86988

(b) After delivery of the copy of the delinquent manufactured 86989
home tax list under division (H) of this section, the county 86990
treasurer may prepare and mail to each person in whose name a home 86991
is listed an additional tax bill showing the total amount of 86992
delinquent taxes charged against the home as shown on the list. 86993
The tax bill shall include a notice that the interest charge 86994
prescribed by division (G) of this section has begun to accrue. 86995

(7) Each tax bill prepared and mailed or delivered under 86996
division (D)(6) of this section shall be in the form and contain 86997
the information required by the tax commissioner. The commissioner 86998
may prescribe different forms for each county and may authorize 86999
the county auditor to make up tax bills and tax receipts to be 87000
used by the county treasurer. The tax bill shall not contain or be 87001
mailed or delivered with any information or material that is not 87002
required by this section or that is not authorized by section 87003
321.45 of the Revised Code or by the tax commissioner. In addition 87004
to the information required by the commissioner, each tax bill 87005
shall contain the following information: 87006

(a) The taxes levied and the taxes charged and payable 87007
against the manufactured or mobile home; 87008

(b) The following notice: "Notice: If the taxes are not paid 87009
within sixty days after the county auditor delivers the delinquent 87010
manufactured home tax list to the county treasurer, you and your 87011
home may be subject to collection proceedings for tax 87012
delinquency." Failure to provide such notice has no effect upon 87013
the validity of any tax judgment to which a home may be subjected. 87014

(c) In the case of manufactured or mobile homes taxed under 87015
division (D)(2) of this section, the following additional 87016
information: 87017

(i) The effective tax rate. The words "effective tax rate" 87018
shall appear in boldface type. 87019

(ii) The following notice: "Notice: If the taxes charged 87020
against this home have been reduced by the 2-1/2 per cent tax 87021
reduction for residences occupied by the owner but the home is not 87022
a residence occupied by the owner, the owner must notify the 87023
county auditor's office not later than March 31 of the year for 87024
which the taxes are due. Failure to do so may result in the owner 87025
being convicted of a fourth degree misdemeanor, which is 87026

punishable by imprisonment up to 30 days, a fine up to \$250, or 87027
both, and in the owner having to repay the amount by which the 87028
taxes were erroneously or illegally reduced, plus any interest 87029
that may apply. 87030

If the taxes charged against this home have not been reduced 87031
by the 2-1/2 per cent tax reduction and the home is a residence 87032
occupied by the owner, the home may qualify for the tax reduction. 87033
To obtain an application for the tax reduction or further 87034
information, the owner may contact the county auditor's office at 87035
..... (insert the address and telephone number of the county 87036
auditor's office)." 87037

(E)(1) A manufactured or mobile home is not subject to this 87038
section when any of the following applies: 87039

(a) It is taxable as personal property pursuant to section 87040
5709.01 of the Revised Code. Any manufactured or mobile home that 87041
is used as a residence shall be subject to this section and shall 87042
not be taxable as personal property pursuant to section 5709.01 of 87043
the Revised Code. 87044

(b) It bears a license plate issued by any state other than 87045
this state unless the home is in this state in excess of an 87046
accumulative period of thirty days in any calendar year. 87047

(c) The annual tax has been paid on the home in this state 87048
for the current year. 87049

(d) The tax commissioner has determined, pursuant to section 87050
5715.27 of the Revised Code, that the property is exempt from 87051
taxation, or would be exempt from taxation under Chapter 5709. of 87052
the Revised Code if it were classified as real property. 87053

(2) A travel trailer or park trailer, as these terms are 87054
defined in section 4501.01 of the Revised Code, is not subject to 87055
this section if it is unused or unoccupied and stored at the 87056
owner's normal place of residence or at a recognized storage 87057

facility. 87058

(3) A travel trailer or park trailer, as these terms are 87059
defined in section 4501.01 of the Revised Code, is subject to this 87060
section and shall be taxed as a manufactured or mobile home if it 87061
has a situs longer than thirty days in one location and is 87062
connected to existing utilities, unless either of the following 87063
applies: 87064

(a) The situs is in a state facility or a camping or park 87065
area as defined in division (C), (Q), (S), or (V) of section 87066
3729.01 of the Revised Code. 87067

(b) The situs is in a camping or park area that is a tract of 87068
land that has been limited to recreational use by deed or zoning 87069
restrictions and subdivided for sale of five or more individual 87070
lots for the express or implied purpose of occupancy by either 87071
self-contained recreational vehicles as defined in division (T) of 87072
section 3729.01 of the Revised Code or by dependent recreational 87073
vehicles as defined in division (D) of section 3729.01 of the 87074
Revised Code. 87075

(F) Except as provided in division (D)(3) of this section, 87076
the manufactured home tax is due and payable as follows: 87077

(1) When a manufactured or mobile home has a situs in this 87078
state, as provided in this section, on the first day of January, 87079
one-half of the amount of the tax is due and payable on or before 87080
the first day of March and the balance is due and payable on or 87081
before the thirty-first day of July. At the option of the owner of 87082
the home, the tax for the entire year may be paid in full on the 87083
first day of March. 87084

(2) When a manufactured or mobile home first acquires a situs 87085
in this state after the first day of January, no tax is due and 87086
payable for that year. 87087

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) 87088

of this section, if one-half of the current taxes charged under 87089
this section against a manufactured or mobile home, together with 87090
the full amount of any delinquent taxes, are not paid on or before 87091
the first day of March in that year, or on or before the last day 87092
for such payment as extended pursuant to section 4503.063 of the 87093
Revised Code, a penalty of ten per cent shall be charged against 87094
the unpaid balance of such half of the current taxes. If the total 87095
amount of all such taxes is not paid on or before the thirty-first 87096
day of July, next thereafter, or on or before the last day for 87097
payment as extended pursuant to section 4503.063 of the Revised 87098
Code, a like penalty shall be charged on the balance of the total 87099
amount of the unpaid current taxes. 87100

(b) After a valid delinquent tax contract that includes 87101
unpaid current taxes from a first-half collection period described 87102
in division (F) of this section has been entered into under 87103
section 323.31 of the Revised Code, no ten per cent penalty shall 87104
be charged against such taxes after the second-half collection 87105
period while the delinquent tax contract remains in effect. On the 87106
day a delinquent tax contract becomes void, the ten per cent 87107
penalty shall be charged against such taxes and shall equal the 87108
amount of penalty that would have been charged against unpaid 87109
current taxes outstanding on the date on which the second-half 87110
penalty would have been charged thereon under division (G)(1)(a) 87111
of this section if the contract had not been in effect. 87112

(2)(a) On the first day of the month following the last day 87113
the second installment of taxes may be paid without penalty 87114
beginning in 2000, interest shall be charged against and computed 87115
on all delinquent taxes other than the current taxes that became 87116
delinquent taxes at the close of the last day such second 87117
installment could be paid without penalty. The charge shall be for 87118
interest that accrued during the period that began on the 87119
preceding first day of December and ended on the last day of the 87120

month that included the last date such second installment could be 87121
paid without penalty. The interest shall be computed at the rate 87122
per annum prescribed by section 5703.47 of the Revised Code and 87123
shall be entered as a separate item on the delinquent manufactured 87124
home tax list compiled under division (H) of this section. 87125

(b) On the first day of December beginning in 2000, the 87126
interest shall be charged against and computed on all delinquent 87127
taxes. The charge shall be for interest that accrued during the 87128
period that began on the first day of the month following the last 87129
date prescribed for the payment of the second installment of taxes 87130
in the current year and ended on the immediately preceding last 87131
day of November. The interest shall be computed at the rate per 87132
annum prescribed by section 5703.47 of the Revised Code and shall 87133
be entered as a separate item on the delinquent manufactured home 87134
tax list. 87135

(c) After a valid undertaking has been entered into for the 87136
payment of any delinquent taxes, no interest shall be charged 87137
against such delinquent taxes while the undertaking remains in 87138
effect in compliance with section 323.31 of the Revised Code. If a 87139
valid undertaking becomes void, interest shall be charged against 87140
the delinquent taxes for the periods that interest was not 87141
permitted to be charged while the undertaking was in effect. The 87142
interest shall be charged on the day the undertaking becomes void 87143
and shall equal the amount of interest that would have been 87144
charged against the unpaid delinquent taxes outstanding on the 87145
dates on which interest would have been charged thereon under 87146
divisions (G)(1) and (2) of this section had the undertaking not 87147
been in effect. 87148

(3) If the full amount of the taxes due at either of the 87149
times prescribed by division (F) of this section is paid within 87150
ten days after such time, the county treasurer shall waive the 87151
collection of and the county auditor shall remit one-half of the 87152

penalty provided for in this division for failure to make that 87153
payment by the prescribed time. 87154

(4) The treasurer shall compile and deliver to the county 87155
auditor a list of all tax payments the treasurer has received as 87156
provided in division (G)(3) of this section. The list shall 87157
include any information required by the auditor for the remission 87158
of the penalties waived by the treasurer. The taxes so collected 87159
shall be included in the settlement next succeeding the settlement 87160
then in process. 87161

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall 87162
compile annually a "delinquent manufactured home tax list" 87163
consisting of homes the county treasurer's records indicate have 87164
taxes that were not paid within the time prescribed by divisions 87165
(D)(3) and (F) of this section, have taxes that remain unpaid from 87166
prior years, or have unpaid tax penalties or interest that have 87167
been assessed. 87168

(2) Within thirty days after the settlement under division 87169
(H)(2) of section 321.24 of the Revised Code ~~beginning in 2000,~~ 87170
the county auditor shall deliver a copy of the delinquent 87171
manufactured home tax list to the county treasurer. The auditor 87172
shall update and publish the delinquent manufactured home tax list 87173
annually in the same manner as delinquent real property tax lists 87174
are published. The county auditor ~~shall~~ may apportion the cost of 87175
publishing the list among taxing districts in proportion to the 87176
amount of delinquent manufactured home taxes so published that 87177
each taxing district is entitled to receive upon collection of 87178
those taxes, or the county auditor may charge the owner of a home 87179
on the list a flat fee established under section 319.54 of the 87180
Revised Code for the cost of publishing the list and, if the fee 87181
is not paid, may place the fee upon the delinquent manufactured 87182
home tax list as a lien on the listed home, to be collected as 87183
other manufactured home taxes. 87184

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the county treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the county treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy or sale on execution in the enforcement of the judgment.

Upon the filing of an entry of confirmation of sale or an order of forfeiture in a proceeding brought under this division, title to the manufactured or mobile home shall be in the purchaser. The clerk of courts shall issue a certificate of title to the purchaser upon presentation of proof of filing of the entry of confirmation or order and, in the case of a forfeiture, presentation of the county auditor's certificate of sale.

(I) The total amount of taxes collected shall be distributed 87217
in the following manner: four per cent shall be allowed as 87218
compensation to the county auditor for the county auditor's 87219
service in assessing the taxes; two per cent shall be allowed as 87220
compensation to the county treasurer for the services the county 87221
treasurer renders as a result of the tax levied by this section. 87222
Such amounts shall be paid into the county treasury, to the credit 87223
of the county general revenue fund, on the warrant of the county 87224
auditor. Fees to be paid to the credit of the real estate 87225
assessment fund shall be collected pursuant to division (C) of 87226
section 319.54 of the Revised Code and paid into the county 87227
treasury, on the warrant of the county auditor. The balance of the 87228
taxes collected shall be distributed among the taxing subdivisions 87229
of the county in which the taxes are collected and paid in the 87230
same ratio as those taxes were collected for the benefit of the 87231
taxing subdivision. The taxes levied and revenues collected under 87232
this section shall be in lieu of any general property tax and any 87233
tax levied with respect to the privilege of using or occupying a 87234
manufactured or mobile home in this state except as provided in 87235
sections 4503.04 and 5741.02 of the Revised Code. 87236

(J) An agreement to purchase or a bill of sale for a 87237
manufactured home shall show whether or not the furnishings and 87238
equipment are included in the purchase price. 87239

(K) If the county treasurer and the county prosecuting 87240
attorney agree that an item charged on the delinquent manufactured 87241
home tax list is uncollectible, they shall certify that 87242
determination and the reasons to the county board of revision. If 87243
the board determines the amount is uncollectible, it shall certify 87244
its determination to the county auditor, who shall strike the item 87245
from the list. 87246

(L)(1) The county auditor shall appraise at its true value 87247
any manufactured or mobile home in which ownership is transferred 87248

or which first acquires situs in this state on or after January 1, 87249
2000, and any manufactured or mobile home the owner of which has 87250
elected, under division (D)(4) of this section, to have the home 87251
taxed under division (D)(2) of this section. The true value shall 87252
include the value of the home, any additions, and any fixtures, 87253
but not any furnishings in the home. In determining the true value 87254
of a manufactured or mobile home, the auditor shall consider all 87255
facts and circumstances relating to the value of the home, 87256
including its age, its capacity to function as a residence, any 87257
obsolete characteristics, and other factors that may tend to prove 87258
its true value. 87259

(2)(a) If a manufactured or mobile home has been the subject 87260
of an arm's length sale between a willing seller and a willing 87261
buyer within a reasonable length of time prior to the 87262
determination of true value, the county auditor shall consider the 87263
sale price of the home to be the true value for taxation purposes. 87264

(b) The sale price in an arm's length transaction between a 87265
willing seller and a willing buyer shall not be considered the 87266
true value of the home if either of the following occurred after 87267
the sale: 87268

(i) The home has lost value due to a casualty. 87269

(ii) An addition or fixture has been added to the home. 87270

(3) The county auditor shall have each home viewed and 87271
appraised at least once in each six-year period in the same year 87272
in which real property in the county is appraised pursuant to 87273
Chapter 5713. of the Revised Code, and shall update the appraised 87274
values in the third calendar year following the appraisal. The 87275
person viewing or appraising a home may enter the home to 87276
determine by actual view any additions or fixtures that have been 87277
added since the last appraisal. In conducting the appraisals and 87278
establishing the true value, the auditor shall follow the 87279

procedures set forth for appraising real property in sections 87280
5713.01 and 5713.03 of the Revised Code. 87281

(4) The county auditor shall place the true value of each 87282
home on the manufactured home tax list upon completion of an 87283
appraisal. 87284

(5)(a) If the county auditor changes the true value of a 87285
home, the auditor shall notify the owner of the home in writing, 87286
delivered by mail or in person. The notice shall be given at least 87287
thirty days prior to the issuance of any tax bill that reflects 87288
the change. Failure to receive the notice does not invalidate any 87289
proceeding under this section. 87290

(b) Any owner of a home or any other person or party listed 87291
in division (A)(1) of section 5715.19 of the Revised Code may file 87292
a complaint against the true value of the home as appraised under 87293
this section. The complaint shall be filed with the county auditor 87294
on or before the thirty-first day of March of the current tax year 87295
or the date of closing of the collection for the first half of 87296
manufactured home taxes for the current tax year, whichever is 87297
later. The auditor shall present to the county board of revision 87298
all complaints filed with the auditor under this section. The 87299
board shall hear and investigate the complaint and may take action 87300
on it as provided under sections 5715.11 to 5715.19 of the Revised 87301
Code. 87302

(c) If the county board of revision determines, pursuant to a 87303
complaint against the valuation of a manufactured or mobile home 87304
filed under this section, that the amount of taxes, assessments, 87305
or other charges paid was in excess of the amount due based on the 87306
valuation as finally determined, then the overpayment shall be 87307
refunded in the manner prescribed in section 5715.22 of the 87308
Revised Code. 87309

(d) Payment of all or part of a tax under this section for 87310

any year for which a complaint is pending before the county board 87311
of revision does not abate the complaint or in any way affect the 87312
hearing and determination thereof. 87313

(M) If the county auditor determines that any tax or other 87314
charge or any part thereof has been erroneously charged as a 87315
result of a clerical error as defined in section 319.35 of the 87316
Revised Code, the county auditor shall call the attention of the 87317
county board of revision to the erroneous charges. If the board 87318
finds that the taxes or other charges have been erroneously 87319
charged or collected, it shall certify the finding to the auditor. 87320
Upon receipt of the certification, the auditor shall remove the 87321
erroneous charges on the manufactured home tax list or delinquent 87322
manufactured home tax list in the same manner as is prescribed in 87323
section 319.35 of the Revised Code for erroneous charges against 87324
real property, and refund any erroneous charges that have been 87325
collected, with interest, in the same manner as is prescribed in 87326
section 319.36 of the Revised Code for erroneous charges against 87327
real property. 87328

(N) As used in this section and section 4503.061 of the 87329
Revised Code: 87330

(1) "Manufactured home taxes" includes taxes, penalties, and 87331
interest charged under division (C) or (G) of this section and any 87332
penalties charged under division (G) or (H)(5) of section 4503.061 87333
of the Revised Code. 87334

(2) "Current taxes" means all manufactured home taxes charged 87335
against a manufactured or mobile home that have not appeared on 87336
the manufactured home tax list for any prior year. Current taxes 87337
become delinquent taxes if they remain unpaid after the last day 87338
prescribed for payment of the second installment of current taxes 87339
without penalty, whether or not they have been certified 87340
delinquent. 87341

(3) "Delinquent taxes" means: 87342

(a) Any manufactured home taxes that were charged against a 87343
manufactured or mobile home for a prior year, including any 87344
penalties or interest charged for a prior year and the costs of 87345
publication under division (H)(2) of this section, and that remain 87346
unpaid; 87347

(b) Any current manufactured home taxes charged against a 87348
manufactured or mobile home that remain unpaid after the last day 87349
prescribed for payment of the second installment of current taxes 87350
without penalty, whether or not they have been certified 87351
delinquent, including any penalties or interest and the costs of 87352
publication under division (H)(2) of this section. 87353

Sec. 4503.061. (A) All manufactured and mobile homes shall be 87354
listed on either the real property tax list or the manufactured 87355
home tax list of the county in which the home has situs. Each 87356
owner shall follow the procedures in this section to identify the 87357
home to the county auditor of the county containing the taxing 87358
district in which the home has situs so that the auditor may place 87359
the home on the appropriate tax list. 87360

(B) When a manufactured or mobile home first acquires situs 87361
in this state and is subject to real property taxation pursuant to 87362
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 87363
owner shall present to the auditor of the county containing the 87364
taxing district in which the home has its situs the certificate of 87365
title for the home, together with proof that all taxes due have 87366
been paid and proof that a relocation notice was obtained for the 87367
home if required under this section. Upon receiving the 87368
certificate of title and the required proofs, the auditor shall 87369
place the home on the real property tax list and proceed to treat 87370
the home as other properties on that list. After the auditor has 87371
placed the home on the tax list of real and public utility 87372

property, the auditor shall deliver the certificate of title to 87373
the clerk of the court of common pleas that issued it pursuant to 87374
section 4505.11 of the Revised Code, and the clerk shall 87375
inactivate the certificate of title. 87376

(C)(1) When a manufactured or mobile home subject to a 87377
manufactured home tax is relocated to or first acquires situs in 87378
any county that has adopted a permanent manufactured home 87379
registration system, as provided in division (F) of this section, 87380
the owner, within thirty days after the home is relocated or first 87381
acquires situs under section 4503.06 of the Revised Code, shall 87382
register the home with the county auditor of the county containing 87383
the taxing district in which the home has its situs. For the first 87384
registration in each county of situs, the owner or vendee in 87385
possession shall present to the county auditor an Ohio certificate 87386
of title, certified copy of the certificate of title, or 87387
memorandum certificate of title as such are required by law, and 87388
proof, as required by the county auditor, that the home, if it has 87389
previously been occupied and is being relocated, has been 87390
previously registered, that all taxes due and required to be paid 87391
under division (H)(1) of this section before a relocation notice 87392
may be issued have been paid, and that a relocation notice was 87393
obtained for the home if required by division (H) of this section. 87394
If the owner or vendee does not possess the Ohio certificate of 87395
title, certified copy of the certificate of title, or memorandum 87396
certificate of title at the time the owner or vendee first 87397
registers the home in a county, the county auditor shall register 87398
the home without presentation of the document, but the owner or 87399
vendee shall present the certificate of title, certified copy of 87400
the certificate of title, or memorandum certificate of title to 87401
the county auditor within fourteen days after the owner or vendee 87402
obtains possession of the document. 87403

(2) When a manufactured or mobile home is registered for the 87404

first time in a county and when the total tax due has been paid as 87405
required by division (F) of section 4503.06 of the Revised Code or 87406
divisions (E) and (H) of this section, the county treasurer shall 87407
note by writing or by a stamp on the certificate of title, 87408
certified copy of certificate of title, or memorandum certificate 87409
of title that the home has been registered and that the taxes due, 87410
if any, have been paid for the preceding five years and for the 87411
current year. The treasurer shall then issue a certificate 87412
evidencing registration and a decal to be displayed on the street 87413
side of the home. The certificate is valid in any county in this 87414
state during the year for which it is issued. 87415

(3) For each year thereafter, the county treasurer shall 87416
issue a tax bill stating the amount of tax due under section 87417
4503.06 of the Revised Code, as provided in division (D)(6) of 87418
that section. When the total tax due has been paid as required by 87419
division (F) of that section, the county treasurer shall issue a 87420
certificate evidencing registration that shall be valid in any 87421
county in this state during the year for which the certificate is 87422
issued. 87423

(4) The permanent decal issued under this division is valid 87424
during the period of ownership, except that when a manufactured 87425
home is relocated in another county the owner shall apply for a 87426
new registration as required by this section and section 4503.06 87427
of the Revised Code. 87428

(D)(1) All owners of manufactured or mobile homes subject to 87429
the manufactured home tax being relocated to or having situs in a 87430
county that has not adopted a permanent registration system, as 87431
provided in division (F) of this section, shall register the home 87432
within thirty days after the home is relocated or first acquires 87433
situs under section 4503.06 of the Revised Code and thereafter 87434
shall annually register the home with the county auditor of the 87435
county containing the taxing district in which the home has its 87436

situs. 87437

(2) Upon the annual registration, the county treasurer shall 87438
issue a tax bill stating the amount of annual manufactured home 87439
tax due under section 4503.06 of the Revised Code, as provided in 87440
division (D)(6) of that section. When a manufactured or mobile 87441
home is registered and when the tax for the current one-half year 87442
has been paid as required by division (F) of that section, the 87443
county treasurer shall issue a certificate evidencing registration 87444
and a decal. The certificate and decal are valid in any county in 87445
this state during the year for which they are issued. The decal 87446
shall be displayed on the street side of the home. 87447

(3) For the first annual registration in each county of 87448
situs, the county auditor shall require the owner or vendee to 87449
present an Ohio certificate of title, certified copy of the 87450
certificate of title, or memorandum certificate of title as such 87451
are required by law, and proof, as required by the county auditor, 87452
that the manufactured or mobile home has been previously 87453
registered, if such registration was required, that all taxes due 87454
and required to be paid under division (H)(1) of this section 87455
before a relocation notice may be issued have been paid, and that 87456
a relocation notice was obtained for the home if required by 87457
division (H) of this section. If the owner or vendee does not 87458
possess the Ohio certificate of title, certified copy of the 87459
certificate of title, or memorandum certificate of title at the 87460
time the owner or vendee first registers the home in a county, the 87461
county auditor shall register the home without presentation of the 87462
document, but the owner or vendee shall present the certificate of 87463
title, certified copy of the certificate of title, or memorandum 87464
certificate of title to the county auditor within fourteen days 87465
after the owner or vendee obtains possession of the document. When 87466
the county treasurer receives the tax payment, the county 87467
treasurer shall note by writing or by a stamp on the certificate 87468

of title, certified copy of the certificate of title, or 87469
memorandum certificate of title that the home has been registered 87470
for the current year and that the manufactured home taxes due, if 87471
any, have been paid for the preceding five years and for the 87472
current year. 87473

(4) For subsequent annual registrations, the auditor may 87474
require the owner or vendee in possession to present an Ohio 87475
certificate of title, certified copy of the certificate of title, 87476
or memorandum certificate of title to the county treasurer upon 87477
payment of the manufactured home tax that is due. 87478

(E)(1) Upon the application to transfer ownership of a 87479
manufactured or mobile home for which manufactured home taxes are 87480
paid pursuant to division (C) of section 4503.06 of the Revised 87481
Code the clerk of the court of common pleas shall not issue any 87482
certificate of title that does not contain or have attached both 87483
of the following: 87484

(a) An endorsement of the county treasurer stating that the 87485
home has been registered for each year of ownership and that all 87486
manufactured home taxes imposed pursuant to section 4503.06 of the 87487
Revised Code have been paid or that no tax is due; 87488

(b) An endorsement of the county auditor that the 87489
manufactured home transfer tax imposed pursuant to section 322.06 87490
of the Revised Code and any fees imposed under division (G) of 87491
section 319.54 of the Revised Code have been paid. 87492

(2) If all the taxes have not been paid, the clerk shall 87493
notify the vendee to contact the county treasurer of the county 87494
containing the taxing district in which the home has its situs at 87495
the time of the proposed transfer. The county treasurer shall then 87496
collect all the taxes that are due for the year of the transfer 87497
and all previous years not exceeding a total of five years. The 87498
county treasurer shall distribute that part of the collection owed 87499

to the county treasurer of other counties if the home had its 87500
situs in another county during a particular year when the unpaid 87501
tax became due and payable. The burden to prove the situs of the 87502
home in the years that the taxes were not paid is on the 87503
transferor of the home. Upon payment of the taxes, the county 87504
auditor shall remove all remaining taxes from the manufactured 87505
home tax list and the delinquent manufactured home tax list, and 87506
the county treasurer shall release all liens for such taxes. The 87507
clerk of courts shall issue a certificate of title, free and clear 87508
of all liens for manufactured home taxes, to the transferee of the 87509
home. 87510

(3) Once the transfer is complete and the certificate of 87511
title has been issued, the transferee shall register the 87512
manufactured or mobile home pursuant to division (C) or (D) of 87513
this section with the county auditor of the county containing the 87514
taxing district in which the home remains after the transfer or, 87515
if the home is relocated to another county, with the county 87516
auditor of the county to which the home is relocated. The 87517
transferee need not pay the annual tax for the year of acquisition 87518
if the original owner has already paid the annual tax for that 87519
year. 87520

(F) The county auditor may adopt a permanent registration 87521
system and issue a permanent decal with the first registration as 87522
prescribed by the tax commissioner. 87523

(G) When any manufactured or mobile home required to be 87524
registered by this section is not registered, the county auditor 87525
shall impose a penalty of one hundred dollars upon the owner and 87526
deposit the amount to the credit of the county real estate 87527
assessment fund to be used to pay the costs of administering this 87528
section and section 4503.06 of the Revised Code. If unpaid, the 87529
penalty shall constitute a lien on the home and shall be added by 87530
the county auditor to the manufactured home tax list for 87531

collection. 87532

(H)(1) Except as otherwise provided in this division, before 87533
moving a manufactured or mobile home on public roads from one 87534
address within this state to another address within or outside 87535
this state, the owner of the home shall obtain a relocation 87536
notice, as provided by this section, from the auditor of the 87537
county in which the home is located if the home is currently 87538
subject to taxation pursuant to section 4503.06 of the Revised 87539
Code. The auditor shall charge five dollars for the notice, and 87540
deposit the amount to the credit of the county real estate 87541
assessment fund to be used to pay the costs of administering this 87542
section and section 4503.06 of the Revised Code. The auditor shall 87543
not issue a relocation notice unless all taxes owed on the home 87544
under section 4503.06 of the Revised Code that were first charged 87545
to the home during the period of ownership of the owner seeking 87546
the relocation notice have been paid. If the home is being moved 87547
by a new owner of the home or by a party taking repossession of 87548
the home, the auditor shall not issue a relocation notice unless 87549
all of the taxes due for the preceding five years and for the 87550
current year have been paid. A relocation notice issued by a 87551
county auditor is valid until the last day of December of the year 87552
in which it was issued. 87553

If the home is being moved by a sheriff, police officer, 87554
constable, bailiff, or manufactured home park operator, as defined 87555
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 87556
any of these persons, for purposes of removal from a manufactured 87557
home park and storage, sale, or destruction under section 1923.14 87558
of the Revised Code, the auditor shall issue a relocation notice 87559
without requiring payment of any taxes owed on the home under 87560
section 4503.06 of the Revised Code. 87561

(2) If a manufactured or mobile home is not yet subject to 87562
taxation under section 4503.06 of the Revised Code, the owner of 87563

the home shall obtain a relocation notice from the dealer of the 87564
home. Within thirty days after the manufactured or mobile home is 87565
purchased, the dealer of the home shall provide the auditor of the 87566
county in which the home is to be located written notice of the 87567
name of the purchaser of the home, the registration number or 87568
vehicle identification number of the home, and the address or 87569
location to which the home is to be moved. The county auditor 87570
shall provide to each manufactured and mobile home dealer, without 87571
charge, a supply of relocation notices to be distributed to 87572
purchasers pursuant to this section. 87573

(3) The notice shall be in the form of a one-foot square 87574
yellow sign with the words "manufactured home relocation notice" 87575
printed prominently on it. The name of the owner of the home, the 87576
home's registration number or vehicle identification number, the 87577
county and the address or location to which the home is being 87578
moved, and the county in which the notice is issued shall also be 87579
entered on the notice. 87580

(4) The relocation notice must be attached to the rear of the 87581
home when the home is being moved on a public road. Except as 87582
provided in divisions (H)(1) and (5) of this section, no person 87583
shall drive a motor vehicle moving a manufactured or mobile home 87584
on a public road from one address to another address within this 87585
state unless a relocation notice is attached to the rear of the 87586
home. 87587

(5) If the county auditor determines that a manufactured or 87588
mobile home has been moved without a relocation notice as required 87589
under this division, the auditor shall impose a penalty of one 87590
hundred dollars upon the owner of the home and upon the person who 87591
moved the home and deposit the amount to the credit of the county 87592
real estate assessment fund to pay the costs of administering this 87593
section and section 4503.06 of the Revised Code. If the home was 87594
relocated from one county in this state to another county in this 87595

state and the county auditor of the county to which the home was 87596
relocated imposes the penalty, that county auditor, upon 87597
collection of the penalty, shall cause an amount equal to the 87598
penalty to be transmitted from the county real estate assessment 87599
fund to the county auditor of the county from which the home was 87600
relocated, who shall deposit the amount to the credit of the 87601
county real estate assessment fund. If the penalty on the owner is 87602
unpaid, the penalty shall constitute a lien on the home and the 87603
auditor shall add the penalty to the manufactured home tax list 87604
for collection. If the county auditor determines that a dealer 87605
that has sold a manufactured or mobile home has failed to timely 87606
provide the information required under this division, the auditor 87607
shall impose a penalty upon the dealer in the amount of one 87608
hundred dollars. The penalty shall be credited to the county real 87609
estate assessment fund and used to pay the costs of administering 87610
this section and section 4503.06 of the Revised Code. 87611

(I) Whoever violates division (H)(4) of this section is 87612
guilty of a minor misdemeanor. 87613

Sec. 4503.062. (A) Every operator of a manufactured home 87614
court, or manufactured home park, as defined in section ~~3733.01~~ 87615
4781.01 of the Revised Code, or when there is no operator, every 87616
owner of property used for such purposes on which three or more 87617
manufactured or mobile homes are located, shall keep a register of 87618
all manufactured and mobile homes that make use of the court, 87619
park, or property. The register shall contain all of the 87620
following: 87621

(1) The name of the owner and all inhabitants of each home; 87622

(2) The ages of all inhabitants of each home; 87623

(3) The permanent and temporary post office addresses of all 87624
inhabitants of each home; 87625

(4) The license number of each home;	87626
(5) The state issuing each such license;	87627
(6) The date of arrival and of departure of each home;	87628
(7) The make and model of each home, if known and if either	87629
of the following applies:	87630
(a) The home enters the court, park, or property on or after	87631
January 1, 2003.	87632
(b) Ownership of the home in the court or park, or on the	87633
property, is transferred on or after January 1, 2003.	87634
(B) The register shall be open to inspection by the county	87635
auditor, the county treasurer, agents of the auditor or treasurer,	87636
and all law enforcement agencies at all times.	87637
(C) Any person who fails to comply with this section shall be	87638
fined not less than twenty-five nor more than one hundred dollars.	87639
Sec. 4503.235. (A) If division (G) of section 4511.19 or	87640
division (B) (C) of section 4511.193 of the Revised Code requires a	87641
court, as part of the sentence of an offender who is convicted of	87642
or pleads guilty to a violation of division (A) of section 4511.19	87643
of the Revised Code or as a sanction for an offender who is	87644
convicted of or pleaded guilty to a violation of a municipal OVI	87645
ordinance, to order the immobilization of a vehicle for a	87646
specified period of time, notwithstanding the requirement, the	87647
court in its discretion may determine not to order the	87648
immobilization of the vehicle if both of the following apply:	87649
(1) Prior to the issuance of the order of immobilization, a	87650
family or household member of the offender files a motion with the	87651
court identifying the vehicle and requesting that the	87652
immobilization order not be issued on the ground that the family	87653
or household member is completely dependent on the vehicle for the	87654
necessities of life and that the immobilization of the vehicle	87655

would be an undue hardship to the family or household member. 87656

(2) The court determines that the family or household member 87657
who files the motion is completely dependent on the vehicle for 87658
the necessities of life and that the immobilization of the vehicle 87659
would be an undue hardship to the family or household member. 87660

(B) If a court pursuant to division (A) of this section 87661
determines not to order the immobilization of a vehicle that 87662
otherwise would be required pursuant to division (G) of section 87663
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised 87664
Code, the court shall issue an order that waives the 87665
immobilization that otherwise would be required pursuant to either 87666
of those divisions. The immobilization waiver order shall be in 87667
effect for the period of time for which the immobilization of the 87668
vehicle otherwise would have been required under division (G) of 87669
section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the 87670
Revised Code if the immobilization waiver order had not been 87671
issued, subject to division (D) of this section. The 87672
immobilization waiver order shall specify the period of time for 87673
which it is in effect. The court shall provide a copy of an 87674
immobilization waiver order to the offender and to the family or 87675
household member of the offender who filed the motion requesting 87676
that the immobilization order not be issued and shall place a copy 87677
of the immobilization waiver order in the record in the case. The 87678
court shall impose an immobilization waiver fee in the amount of 87679
fifty dollars. The court shall determine whether the fee is to be 87680
paid by the offender or by the family or household member. The 87681
clerk of the court shall deposit all of the fees collected during 87682
a month on or before the twenty-third day of the following month 87683
into the county or municipal indigent drivers alcohol treatment 87684
fund under the control of that court, as created by the county or 87685
municipal corporation under division (F) of section 4511.191 of 87686
the Revised Code. 87687

(C) If a court pursuant to division (B) of this section 87688
issues an immobilization waiver order, the order shall identify 87689
the family or household member who requested the order and the 87690
vehicle to which the order applies, shall identify the family or 87691
household members who are permitted to operate the vehicle, and 87692
shall identify the offender and specify that the offender is not 87693
permitted to operate the vehicle. The immobilization waiver order 87694
shall require that the family or household member display on the 87695
vehicle to which the order applies restricted license plates that 87696
are issued under section 4503.231 of the Revised Code for the 87697
entire period for which the immobilization of the vehicle 87698
otherwise would have been required under division (G) of section 87699
4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code 87700
if the immobilization waiver order had not been issued. 87701

(D) A family or household member who is permitted to operate 87702
a vehicle under an immobilization waiver order issued under this 87703
section shall not permit the offender to operate the vehicle. If a 87704
family or household member who is permitted to operate a vehicle 87705
under an immobilization waiver order issued under this section 87706
permits the offender to operate the vehicle, both of the following 87707
apply: 87708

(1) The court that issued the immobilization waiver order 87709
shall terminate that order and shall issue an immobilization order 87710
in accordance with section 4503.233 of the Revised Code that 87711
applies to the vehicle, and the immobilization order shall be in 87712
effect for the remaining period of time for which the 87713
immobilization of the vehicle otherwise would have been required 87714
under division (G) of section 4511.19 or division ~~(B)~~(C) of 87715
section 4511.193 of the Revised Code if the immobilization waiver 87716
order had not been issued. 87717

(2) The conduct of the family or household member in 87718
permitting the offender to operate the vehicle is a violation of 87719

section 4511.203 of the Revised Code. 87720

(E) No offender shall operate a motor vehicle subject to an 87721
immobilization waiver order. Whoever violates this division is 87722
guilty of operating a motor vehicle in violation of an 87723
immobilization waiver, a misdemeanor of the first degree. 87724

(F) "Family or household member" has the same meaning as in 87725
section 2919.25 of the Revised Code, except that the person must 87726
be currently residing with the offender. 87727

Sec. 4503.70. The owner or lessee of any passenger car, 87728
noncommercial motor vehicle, recreational vehicle, or other 87729
vehicle of a class approved by the registrar of motor vehicles who 87730
is a member in good standing of the grand lodge of free and 87731
accepted masons of Ohio may apply to the registrar for the 87732
registration of the vehicle and issuance of freemason license 87733
plates. The application for freemason license plates may be 87734
combined with a request for a special reserved license plate under 87735
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 87736
the completed application, presentation by the applicant of 87737
satisfactory evidence showing that the applicant is a member in 87738
good standing of the grand lodge of free and accepted masons of 87739
Ohio, and compliance by the applicant with this section, the 87740
registrar shall issue to the applicant the appropriate vehicle 87741
registration and a set of freemason license plates with a 87742
validation sticker or a validation sticker alone when required by 87743
section 4503.191 of the Revised Code. 87744

In addition to the letters and numbers ordinarily inscribed 87745
thereon, freemason license plates shall be inscribed with 87746
identifying words and a symbol or logo designed by the grand lodge 87747
of free and accepted masons of Ohio and approved by the registrar. 87748
Freemason license plates shall bear county identification stickers 87749
that identify the county of registration by name or number. 87750

Freemason license plates and validation stickers shall be 87751
issued upon payment of the regular license fee required by section 87752
4503.04 of the Revised Code, payment of any local motor vehicle 87753
license tax levied under Chapter 4504. of the Revised Code, 87754
payment of an additional fee of ten dollars, and compliance with 87755
all other applicable laws relating to the registration of motor 87756
vehicles. If the application for freemason license plates is 87757
combined with a request for a special reserved license plate under 87758
section 4503.40 or 4503.42 of the Revised Code, the license plates 87759
and validation sticker shall be issued upon payment of the fees 87760
and taxes contained in this section and the additional fee 87761
prescribed under section 4503.40 or 4503.42 of the Revised Code. 87762
The additional fee of ten dollars shall be for the purpose of 87763
compensating the bureau of motor vehicles for additional services 87764
required in the issuing of freemason license plates, and shall be 87765
transmitted by the registrar to the treasurer of state for deposit 87766
into the state treasury to the credit of the state bureau of motor 87767
vehicles fund created by section 4501.25 of the Revised Code. 87768

Sec. 4503.93. (A) The owner or lessee of any passenger car, 87769
noncommercial motor vehicle, recreational vehicle, or other 87770
vehicle of a class approved by the registrar of motor vehicles may 87771
apply to the registrar for the registration of the vehicle and 87772
issuance of Ohio "volunteer" license plates. The application for 87773
Ohio "volunteer" license plates may be combined with a request for 87774
a special reserved license plate under section 4503.40 or 4503.42 87775
of the Revised Code. Upon receipt of the completed application and 87776
compliance with divisions (B) and (C) of this section, the 87777
registrar shall issue to the applicant the appropriate vehicle 87778
registration and a set of Ohio "volunteer" license plates with a 87779
validation sticker or a validation sticker alone when required by 87780
section 4503.191 of the Revised Code. 87781

In addition to the letters and numbers ordinarily inscribed 87782

on license plates, Ohio "volunteer" license plates shall be 87783
inscribed with words and markings designed by the Ohio ~~community~~ 87784
commission on service ~~council~~ and volunteerism created by section 87785
121.40 of the Revised Code and approved by the registrar. Ohio 87786
"volunteer" license plates shall bear county identification 87787
stickers that identify the county of registration by name or 87788
number. 87789

(B) Ohio "volunteer" license plates and a validation sticker, 87790
or a validation sticker alone, shall be issued upon receipt of a 87791
contribution as provided in division (C) of this section and upon 87792
payment of the regular license tax prescribed in section 4503.04 87793
of the Revised Code, any applicable motor vehicle tax levied under 87794
Chapter 4504. of the Revised Code, any applicable additional fee 87795
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 87796
bureau of motor vehicles fee of ten dollars, and compliance with 87797
all other applicable laws relating to the registration of motor 87798
vehicles. 87799

(C)(1) For each application for registration and registration 87800
renewal received under this section, the registrar shall collect a 87801
contribution of fifteen dollars. The registrar shall transmit this 87802
contribution to the treasurer of state for deposit in the Ohio 87803
~~community~~ commission on service ~~council~~ and volunteerism gifts and 87804
donations fund created by section 121.403 of the Revised Code. The 87805
~~council~~ commission shall use all such contributions for the 87806
purposes described in divisions (B)(2) and (3) of that section. 87807

(2) The registrar shall deposit the bureau of motor vehicles 87808
fee of ten dollars specified in division (B) of this section, 87809
which is for the purpose of compensating the bureau for the 87810
additional services required in issuing Ohio "volunteer" license 87811
plates, in the state bureau of motor vehicles fund created in 87812
section 4501.25 of the Revised Code. 87813

Sec. 4504.02. For the purpose of paying the costs of 87814
enforcing and administering the tax provided for in this section; 87815
and for planning, constructing, improving, maintaining, and 87816
repairing public roads, highways, and streets; maintaining and 87817
repairing bridges and viaducts; paying the county's portion of the 87818
costs and expenses of cooperating with the department of 87819
transportation in the planning, improvement, and construction of 87820
state highways; paying the county's portion of the compensation, 87821
damages, cost, and expenses of planning, constructing, 87822
reconstructing, improving, maintaining, and repairing roads; 87823
paying any costs apportioned to the county under section 4907.47 87824
of the Revised Code; paying debt service charges on notes or bonds 87825
of the county issued for such purposes; paying all or part of the 87826
costs and expenses of municipal corporations in planning, 87827
constructing, reconstructing, improving, maintaining, and 87828
repairing highways, roads, and streets designated as necessary or 87829
conducive to the orderly and efficient flow of traffic within and 87830
through the county pursuant to section 4504.03 of the Revised 87831
Code; purchasing, erecting, and maintaining street and traffic 87832
signs and markers; purchasing, erecting, and maintaining traffic 87833
lights and signals; and to supplement revenue already available 87834
for such purposes, any county by resolution adopted by its board 87835
of county commissioners may levy an annual license tax, in 87836
addition to the tax levied by sections 4503.02, 4503.07, and 87837
4503.18 of the Revised Code, upon the operation of motor vehicles 87838
on the public roads or highways. Such tax shall be at the rate of 87839
five dollars per motor vehicle on all motor vehicles the district 87840
of registration of which, as defined in section 4503.10 of the 87841
Revised Code, is located in the county levying the tax and shall 87842
be in addition to the taxes at the rates specified in sections 87843
4503.04 and 4503.16 of the Revised Code, subject to reductions in 87844
the manner provided in section 4503.11 of the Revised Code and the 87845

exemptions provided in sections 4503.16, 4503.17, 4503.171, 87846
4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code. 87847

Prior to the adoption of any resolution under this section, 87848
the board of county commissioners shall conduct two public 87849
hearings thereon, the second hearing to be not less than three nor 87850
more than ten days after the first. Notice of the date, time, and 87851
place of such hearings shall be given by publication in a 87852
newspaper of general circulation in the county or as provided in 87853
section 7.16 of the Revised Code, once a week on the same day of 87854
the week for two consecutive weeks, the second publication being 87855
not less than ten nor more than thirty days prior to the first 87856
hearing. 87857

No resolution under this section shall become effective 87858
sooner than thirty days following its adoption, and such 87859
resolution is subject to a referendum as provided in sections 87860
305.31 to 305.41 of the Revised Code, unless such resolution is 87861
adopted as an emergency measure necessary for the immediate 87862
preservation of the public peace, health, or safety, in which case 87863
it shall go into immediate effect. Such emergency measure must 87864
receive an affirmative vote of all of the members of the board of 87865
county commissioners, and shall state the reasons for such 87866
necessity. A resolution may direct the board of elections to 87867
submit the question of levying the tax to the electors of the 87868
county at the next primary or general election in the county 87869
occurring not less than seventy-five days after such resolution is 87870
certified to the board; no such resolution shall go into effect 87871
unless approved by a majority of those voting upon it. 87872

Sec. 4504.021. The question of repeal of a county permissive 87873
tax adopted as an emergency measure pursuant to section 4504.02, 87874
4504.15, or 4504.16 of the Revised Code may be initiated by filing 87875
with the board of elections of the county not less than ninety 87876

days before the general election in any year a petition requesting 87877
that an election be held on such question. Such petition shall be 87878
signed by qualified electors residing in the county equal in 87879
number to ten per cent of those voting for governor at the most 87880
recent gubernatorial election. 87881

After determination by it that such petition is valid, the 87882
board of elections shall submit the question to the electors of 87883
the county at the next general election. The election shall be 87884
conducted, canvassed, and certified in the same manner as regular 87885
elections for county offices in the county. Notice of the election 87886
shall be published in a newspaper of general circulation in the 87887
district, or as provided in section 7.16 of the Revised Code, once 87888
a week for two consecutive weeks prior to the election ~~and, if.~~ If 87889
the board of elections operates and maintains a web site, notice 87890
of the election also shall be posted on that web site for thirty 87891
days prior to the election. The notice shall state the purpose, 87892
time, and place of the election. The form of the ballot cast at 87893
such election shall be prescribed by the secretary of state. The 87894
question covered by such petition shall be submitted as a separate 87895
proposition, but it may be printed on the same ballot with any 87896
other proposition submitted at the same election other than the 87897
election of officers. If a majority of the qualified electors 87898
voting on the question of repeal approve the repeal, the result of 87899
the election shall be certified immediately after the canvass by 87900
the board of elections to the county commissioners, who shall 87901
thereupon, after the current year, cease to levy the tax. 87902

Sec. 4504.15. For the purpose of paying the costs of 87903
enforcing and administering the tax provided for in this section; 87904
for the various purposes stated in section 4504.02 of the Revised 87905
Code; and to supplement revenue already available for those 87906
purposes, any county may, by resolution adopted by its board of 87907
county commissioners, levy an annual license tax, that shall be in 87908

addition to the tax levied by sections 4503.02, 4503.07, and 87909
4503.18 of the Revised Code, upon the operation of motor vehicles 87910
upon the public roads and highways. The tax shall be at the rate 87911
of five dollars per motor vehicle on all motor vehicles the 87912
district of registration of which, as defined in section 4503.10 87913
of the Revised Code, is located in the county levying the tax but 87914
is not located within any municipal corporation levying the tax 87915
authorized by section 4504.17 of the Revised Code, and shall be in 87916
addition to the taxes at the rates specified in sections 4503.04 87917
and 4503.16 of the Revised Code, subject to reductions in the 87918
manner provided in section 4503.11 of the Revised Code and the 87919
exemptions provided in sections 4503.16, 4503.17, 4503.171, 87920
4503.41, and 4503.43 of the Revised Code. 87921

Prior to the adoption of any resolution under this section, 87922
the board of county commissioners shall conduct two public 87923
hearings thereon, the second hearing to be not less than three nor 87924
more than ten days after the first. Notice of the date, time, and 87925
place of such hearings shall be given by publication in a 87926
newspaper of general circulation in the county, or as provided in 87927
section 7.16 of the Revised Code, once a week for two consecutive 87928
weeks, ~~the.~~ The second publication ~~being~~ shall be not less than 87929
ten nor more than thirty days prior to the first hearing. 87930

No resolution under this section shall become effective 87931
sooner than thirty days following its adoption, and such 87932
resolution is subject to a referendum as provided in sections 87933
305.31 to 305.41 of the Revised Code, unless the resolution is 87934
adopted as an emergency measure necessary for the immediate 87935
preservation of the public peace, health, or safety, in which case 87936
it shall go into immediate effect. The emergency measure must 87937
receive an affirmative vote of all of the members of the board of 87938
county commissioners, and shall state the reasons for the 87939
necessity. A resolution may direct the board of elections to 87940

submit the question of levying the tax to the electors of the 87941
county at the next primary or general election occurring not less 87942
than ninety days after the resolution is certified to the board; 87943
no such resolution shall go into effect unless approved by a 87944
majority of those voting upon it. A county is not required to 87945
enact the tax authorized by section 4504.02 of the Revised Code in 87946
order to levy the tax authorized by this section, but no county 87947
may have in effect the tax authorized by this section if it 87948
repeals the tax authorized by section 4504.02 of the Revised Code 87949
after April 1, 1987. 87950

Sec. 4504.16. For the purpose of paying the costs of 87951
enforcing and administering the tax provided for in this section; 87952
for the various purposes stated in section 4504.02 of the Revised 87953
Code; and to supplement revenue already available for those 87954
purposes, any county that currently levies the tax authorized by 87955
section 4504.15 of the Revised Code may, by resolution adopted by 87956
its board of county commissioners, levy an annual license tax, 87957
that shall be in addition to the tax levied by that section and by 87958
sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon 87959
the operation of motor vehicles upon the public roads and 87960
highways. The tax shall be at the rate of five dollars per motor 87961
vehicle on all motor vehicles the district of registration of 87962
which, as defined in section 4503.10 of the Revised Code, is 87963
located in the county levying the tax but is not located within 87964
any municipal corporation levying the tax authorized by section 87965
4504.171 of the Revised Code, and shall be in addition to the 87966
taxes at the rates specified in sections 4503.04 and 4503.16 of 87967
the Revised Code, subject to reductions in the manner provided in 87968
section 4503.11 of the Revised Code and the exemptions provided in 87969
sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the 87970
Revised Code. 87971

Prior to the adoption of any resolution under this section, 87972

the board of county commissioners shall conduct two public 87973
hearings thereon, the second hearing to be not less than three nor 87974
more than ten days after the first. Notice of the date, time, and 87975
place of such hearings shall be given by publication in a 87976
newspaper of general circulation in the county, or as provided in 87977
section 7.16 of the Revised Code, once a week for two consecutive 87978
weeks, ~~the~~. The second publication being shall be not less than 87979
ten nor more than thirty days prior to the first hearing. 87980

No resolution under this section shall become effective 87981
sooner than thirty days following its adoption, and such 87982
resolution is subject to a referendum as provided in sections 87983
305.31 to 305.41 of the Revised Code, unless the resolution is 87984
adopted as an emergency measure necessary for the immediate 87985
preservation of the public peace, health, or safety, in which case 87986
it shall go into immediate effect. The emergency measure must 87987
receive an affirmative vote of all of the members of the board of 87988
county commissioners, and shall state the reasons for the 87989
necessity. A resolution may direct the board of elections to 87990
submit the question of levying the tax to the electors of the 87991
county at the next primary or general election occurring not less 87992
than ninety days after the resolution is certified to the board; 87993
no such resolution shall go into effect unless approved by a 87994
majority of those voting upon it. 87995

Nothing in this section or in section 4504.15 of the Revised 87996
Code shall be interpreted as preventing a county from levying the 87997
county motor vehicle license taxes authorized by such sections in 87998
a single resolution. 87999

Sec. 4504.18. For the purpose of paying the costs and 88000
expenses of enforcing and administering the tax provided for in 88001
this section; for the construction, reconstruction, improvement, 88002
maintenance, and repair of township roads, bridges, and culverts; 88003

for purchasing, erecting, and maintaining traffic signs, markers, 88004
lights, and signals; for purchasing road machinery and equipment, 88005
and planning, constructing, and maintaining suitable buildings to 88006
house such equipment; for paying any costs apportioned to the 88007
township under section 4907.47 of the Revised Code; and to 88008
supplement revenue already available for such purposes, the board 88009
of township trustees may levy an annual license tax, in addition 88010
to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the 88011
Revised Code, upon the operation of motor vehicles on the public 88012
roads and highways in the unincorporated territory of the 88013
township. The tax shall be at the rate of five dollars per motor 88014
vehicle on all motor vehicles the owners of which reside in the 88015
unincorporated area of the township and shall be in addition to 88016
the taxes at the rates specified in sections 4503.04 and 4503.16 88017
of the Revised Code, subject to reductions in the manner provided 88018
in section 4503.11 of the Revised Code and the exemptions provided 88019
in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of 88020
the Revised Code. 88021

Prior to the adoption of any resolution under this section, 88022
the board of township trustees shall conduct two public hearings 88023
thereon, the second hearing to be not less than three nor more 88024
than ten days after the first. Notice of the date, time, and place 88025
of such hearings shall be given by publication in a newspaper of 88026
general circulation in the township or as provided in section 7.16 88027
of the Revised Code, once a week on the same day of the week for 88028
two consecutive weeks, the second publication being not less than 88029
ten nor more than thirty days prior to the first hearing. 88030

No resolution under this section shall become effective 88031
sooner than thirty days following its adoption, and such 88032
resolution is subject to a referendum in the same manner, except 88033
as to the form of the petition, as provided in division (H) of 88034
section 519.12 of the Revised Code for a proposed amendment to a 88035

township zoning resolution. In addition, a petition under this 88036
section shall be governed by the rules specified in section 88037
3501.38 of the Revised Code. No resolution levying a tax under 88038
this section for which a referendum vote has been requested shall 88039
go into effect unless approved by a majority of those voting upon 88040
it. 88041

A township license tax levied under this section shall 88042
continue in effect until repealed. 88043

Sec. 4505.181. (A) Notwithstanding ~~divisions (A)(2), (5), and~~ 88044
~~(6) of~~ section 4505.18 of the Revised Code, a motor vehicle dealer 88045
or person acting on behalf of a motor vehicle dealer may display, 88046
offer for sale, or sell a used motor vehicle and a manufactured 88047
housing dealer or person acting on behalf of a manufactured 88048
housing dealer may display, offer for sale, or sell a used 88049
manufactured home or used mobile home without having first 88050
obtained a certificate of title for the vehicle in the name of the 88051
dealer ~~as required by this chapter if the dealer or person acting~~ 88052
~~on behalf of the dealer complies with divisions (A)(1)(a) and (2)~~ 88053
~~of this section, or divisions (A)(1)(b) and (2) of~~ by complying 88054
with this section, as follows: 88055

(1)(a) The dealer or person acting on behalf of the dealer 88056
shall possess a bill of sale for each used motor vehicle, used 88057
manufactured home, and used mobile home proposed to be displayed, 88058
offered for sale, or sold under this section or a properly 88059
executed power of attorney or other related documents from the 88060
prior owner of the motor vehicle, manufactured home, or mobile 88061
home giving the dealer or person acting on behalf of the dealer 88062
authority to have a certificate of title to the motor vehicle, 88063
manufactured home, or mobile home issued in the name of the 88064
dealer, and shall retain copies of all such documents in the 88065
dealer's or person's files until such time as a certificate of 88066

title in the dealer's name is issued for each such motor vehicle, 88067
manufactured home, or mobile home by the clerk of the court of 88068
common pleas. Such documents shall be available for inspection by 88069
the bureau of motor vehicles and the manufactured homes commission 88070
during normal business hours. 88071

~~(2) If the dealer has been licensed as a motor vehicle dealer~~ 88072
~~or manufactured housing dealer for less than the three year period~~ 88073
~~prior to the date on which the dealer or person acting on behalf~~ 88074
~~of the dealer displays, offers for sale, or sells the used motor~~ 88075
~~vehicle for which the dealer has not obtained a certificate of~~ 88076
~~title in the name of the dealer, or if the attorney general has~~ 88077
~~paid a retail purchaser of the dealer or a secured party under~~ 88078
~~division ~~(C)~~(D), (E), or (G) of this section within three years~~ 88079
~~prior to such date, the dealer ~~posts~~ shall post with the attorney~~ 88080
~~general's office in favor of this state a bond of a surety company~~ 88081
~~authorized to do business in this state, in an amount of not less~~ 88082
~~than twenty-five thousand dollars, to be used solely for the~~ 88083
~~purpose of compensating retail purchasers of motor vehicles,~~ 88084
~~manufactured homes, or mobile homes who suffer damages due to~~ 88085
~~failure of the dealer or person acting on behalf of the dealer to~~ 88086
~~comply with this section. Failure to post a bond constitutes a~~ 88087
~~deceptive act or practice in connection with a consumer~~ 88088
~~transaction and is a violation of section 1345.02 of the Revised~~ 88089
~~Code. The dealer's surety shall notify the registrar and attorney~~ 88090
~~general when a bond of a motor vehicle dealer is canceled and~~ 88091
~~shall notify the manufactured homes commission and the attorney~~ 88092
~~general when a bond of a manufactured housing dealer is canceled.~~ 88093
~~Such notification of cancellation shall include the effective date~~ 88094
~~of and reason for cancellation.~~ 88095

~~(b) If the dealer has been licensed as a motor vehicle dealer~~ 88096
~~or manufactured housing dealer for longer than the three year~~ 88097
~~period prior to the date on which the dealer or person acting on~~ 88098

~~behalf of the dealer displays, offers for sale, or sells the used 88099
motor vehicle, used manufactured home, or used mobile home for 88100
which the dealer has not obtained a certificate of title in the 88101
name of the dealer and the attorney general has not paid a retail 88102
purchaser of the dealer under division (C) of this section within 88103
three years prior to such date, the dealer pays one hundred fifty 88104
dollars to the attorney general for deposit into the title defect 88105
recision fund created by section 1345.52 of the Revised Code. 88106~~

~~(2) The dealer or person acting on behalf of the dealer 88107
possesses a bill of sale for each motor vehicle, used manufactured 88108
home, and used mobile home proposed to be displayed, offered for 88109
sale, or sold under this section and a properly executed power of 88110
attorney or other related documents from the prior owner of the 88111
motor vehicle, manufactured home, or mobile home giving the dealer 88112
or person acting on behalf of the dealer authority to have a 88113
certificate of title to the motor vehicle, manufactured home, or 88114
mobile home issued in the name of the dealer, and retains copies 88115
of all such documents in the dealer's or person's files until such 88116
time as a certificate of title in the dealer's name is issued for 88117
each such motor vehicle, manufactured home, or mobile home by the 88118
clerk of the court of common pleas. Such documents shall be 88119
available for inspection by the bureau of motor vehicles and the 88120
manufactured homes commission during normal business hours. 88121~~

(B) If a retail purchaser purchases a used motor vehicle, 88122
used manufactured home, or used mobile home for which the dealer, 88123
pursuant to and in accordance with division (A) of this section, 88124
does not have a certificate of title issued in the name of the 88125
dealer at the time of the sale, the retail purchaser has an 88126
unconditional right to demand the dealer rescind the transaction 88127
and the dealer has an obligation to refund to the retail purchaser 88128
the full purchase price of the vehicle, if one of the following 88129
applies: 88130

(1) The dealer fails, on or before the fortieth day following the date of the sale, to obtain a title in the name of the retail purchaser. 88131
88132
88133

(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement. 88134
88135
88136
88137

(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser. 88138
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(4) The title for the vehicle indicates that it is a "buyback" vehicle as defined in section 1345.71 of the Revised Code, and the fact that it is a "buyback" vehicle was not disclosed to the retail purchaser in the written purchase agreement. 88140
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(5) The motor vehicle is a used manufactured home or used mobile home, as defined by section 5739.021 4781.01 of the Revised Code, that has been repossessed under Chapter 1309. or 1317. of the Revised Code, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the fortieth day after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later. 88145
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(C)(1) If any of the circumstances circumstance described in divisions division (B)(1) to (4) of this section applies, a retail purchaser or the retail purchaser's representative shall notify provide the dealer and afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price 88157
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notice of the motor vehicle request for rescision. Such 88162
notification shall occur not later than sixty days from the date 88163
the motor vehicle is titled in the name of the retail purchaser. 88164
The dealer shall have the opportunity to comply with the dealer's 88165
obligation to refund the full purchase price of the motor vehicle. 88166
Reimbursement shall be only in such a manner as to reimburse the 88167
retail purchaser any money the retail purchaser actually paid and, 88168
in the case of a lender of the retail purchaser, the amount paid 88169
by the lender to purchase the contract or finance the sale of the 88170
vehicle. If a vehicle was taken in trade as a down payment, the 88171
dealer shall return the vehicle to the consumer, unless the dealer 88172
remitted payment to a third party to satisfy any security 88173
interest. If the dealer remitted payment, the dealer shall 88174
reimburse the purchaser the value of the vehicle, as evidenced by 88175
the bill of sale. 88176

(2) If any of the circumstances described in divisions 88177
(B)(2), (3), or (4) of this section apply, a retail purchaser or 88178
the retail purchaser's representative shall provide notice to the 88179
dealer of a request for rescision. Such notification shall occur 88180
not later than one hundred eighty days from the date the vehicle 88181
is titled in the name of the retail purchaser. Upon timely 88182
notification, the dealer shall have the opportunity to comply with 88183
the dealer's obligation to refund the full purchase price of the 88184
motor vehicle. Reimbursement shall be only in such a manner as to 88185
reimburse the retail purchaser any money the retail purchaser 88186
actually paid and, in the case of a lender of the retail 88187
purchaser, the amount paid by the lender to purchase the contract 88188
or finance the sale of the vehicle. If a vehicle was taken in 88189
trade as a down payment, the dealer shall return the vehicle to 88190
the consumer, unless the dealer remitted payment to a third party 88191
to satisfy any security interest. If the dealer remitted payment, 88192
the dealer shall reimburse the purchaser the value of the vehicle, 88193
as evidenced by the bill of sale. 88194

(3) If any of the circumstances described in division (B)(5) of this section apply, a retail purchaser or the retail purchaser's representative shall notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to rescind the manufactured home or mobile home transaction. 88195
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(4) If the retail purchaser does not deliver notice to the dealer within the applicable time period specified in division (C)(1), (2), or (3) of this section, the retail purchaser shall not be entitled to any recovery or have any cause of action under this section. 88200
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(5) Nothing in ~~this~~ division (C) of this section shall be construed as prohibiting the dealer and the retail purchaser or their representatives from negotiating a compromise resolution that is satisfactory to both parties. 88205
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~~(C)~~(D) If a retail purchaser notifies a dealer of one or more of the circumstances listed in division (B) of this section within the applicable time period specified in division (C)(1), (2), or (3) of this section and the dealer fails to ~~refund to~~ comply with the retail purchaser the full purchase price requirements for rescision as prescribed in division (C) of the vehicle this section or reach a satisfactory compromise with the retail purchaser within ~~three~~ seven business days of presentation of the retail purchaser's rescision claim, the retail purchaser may apply to the attorney general for payment from the fund of the full purchase price to the retail purchaser. 88209
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~~(D)~~(E)(1) Upon application by a retail purchaser for payment from the fund, if the attorney general is satisfied that one or more of the circumstances contained in divisions (B)(1) to ~~(4)~~(5) of this section exist, and notification has been given within the applicable time period specified in division (C)(1), (2), or (3) of this section, the attorney general shall cause at maximum the full purchase price of the vehicle, manufactured home, or mobile 88220
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home plus the cost of any additional temporary license placards to 88227
be paid to the retail purchaser from the fund after. The attorney 88228
general may require delivery of the vehicle, manufactured home, or 88229
mobile home to the attorney general prior to reimbursement from 88230
the fund. Reimbursement shall be only in such a manner as to do 88231
either of the following: 88232

(a) Reimburse the retail purchaser any money the retail 88233
purchaser actually paid and, in the case of a lender of the retail 88234
purchaser, the amount paid by the lender to purchase the contract 88235
or finance the sale of the vehicle; 88236

(b) If the retail purchaser wishes to retain the vehicle, the 88237
attorney general, in the attorney general's sole discretion, may 88238
pay a lienholder of record or other holder of a secured interest 88239
in such manner that title can be transferred to the retail 88240
purchaser free of encumbrances, other than a security interest 88241
granted by the retail purchaser at the time of vehicle purchase. 88242

(2) The attorney general, in the attorney general's sole 88243
discretion, also may cause the cost of additional temporary 88244
license placards to be paid from the fund. The 88245

(F) The attorney general may sell or otherwise dispose of any 88246
used motor vehicle, manufactured home, or mobile home that is 88247
delivered to the attorney general under this section, and may 88248
collect the proceeds of any bond posted under division (A) of this 88249
section by a dealer who has failed to comply with division ~~(C)~~(D) 88250
of this section. The proceeds from all such sales and collections 88251
shall be deposited into the title defect recision fund for use as 88252
specified in section 1345.52 of the Revised Code. 88253

~~(E) Failure by a dealer to comply with division (A) or (B) of~~ 88254
~~this section constitutes a deceptive act or practice in connection~~ 88255
~~with a consumer transaction, and is a violation of section 1345.02~~ 88256
~~of the Revised Code.~~ 88257

~~(F)(G)~~ If a dealer fails to submit payment of a secured interest on a trade-in vehicle as agreed to by the dealer and retail purchaser and none of the circumstances in divisions (B)(1) to (5) apply, the retail purchaser may apply to the attorney general for payment to the secured creditor from the fund. The attorney general shall demand immediate payment from the dealer and if payment has not been made or is not immediately forthcoming, the attorney general may cause an amount equal to that which the dealer agreed to pay to the secured creditor to be paid from the fund, along with any additional interest and late fees resulting from the dealer's failure to pay the secured creditor in a timely manner.

(H) The remedy provided in this section to retail purchasers is in addition to any remedies otherwise available to the retail purchaser for the same conduct of the dealer or person acting on behalf of the dealer under federal law or the laws of this state or a political subdivision of this state.

~~(G)~~ All motor vehicle dealers licensed under Chapter 4517. of the Revised Code and manufactured housing dealers licensed under Chapter 4781. of the Revised Code shall pay to the attorney general for deposit into (I) If, at any time during any calendar year, the balance in the title defect recision fund the amount described in division (A)(1)(b) of this section beginning with the ealendar year during which this section becomes effective and each year subsequent to that year until the balance in the fund is not less than three hundred thousand dollars. All such dealers also shall pay to, the attorney general for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars may assess all motor vehicle dealers licensed under Chapter 4517. of the Revised Code and all manufactured housing dealers licensed under Chapter 4781. of the Revised Code one hundred fifty dollars

for deposit into the title defect rescission fund until the balance 88290
in the fund reaches three hundred thousand dollars. A notice of 88291
assessment shall be sent to each dealer at its licensed location. 88292

If a motor vehicle dealer or manufactured housing dealer 88293
fails to comply with this division, the attorney general may bring 88294
a civil action in a court of competent jurisdiction to collect the 88295
amount the dealer failed to pay to the attorney general for 88296
deposit into the fund. 88297

(J) Nothing in this section shall be construed as providing 88298
for payment of attorney fees to the retail purchaser. 88299

(K) As used in this section: 88300

(1) "Full purchase price" means the contract price, including 88301
charges for dealer installed options and accessories, all finance, 88302
credit insurance, and service contract charges incurred by the 88303
retail purchaser, all sales tax, license and registration fees, 88304
and the amount of any negative equity that was not already paid by 88305
the dealer to a third party to satisfy a lien, as reflected in the 88306
contract. 88307

(2) "Retail purchaser" means a person, other than a motor 88308
vehicle dealer or a manufactured housing dealer, who in good faith 88309
purchases a used motor vehicle for purposes other than resale. 88310

Sec. 4506.071. On receipt of a notice pursuant to section 88311
3123.54 of the Revised Code, the registrar of motor vehicles shall 88312
comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the 88313
Revised Code and any applicable rules adopted under section 88314
3123.63 of the Revised Code with respect to a commercial driver's 88315
license or commercial driver's temporary instruction permit issued 88316
pursuant to this chapter. 88317

Sec. 4507.111. On receipt of a notice pursuant to section 88318
3123.54 of the Revised Code, the registrar of motor vehicles shall 88319

comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to any driver's or commercial license or permit, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit issued by this state that is the subject of the notice.

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) of this section, when the license of any person is suspended pursuant to any provision of the Revised Code other than division (G) of section 4511.19 of the Revised Code and other than section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, the trial judge may impound the identification license plates of any motor vehicle registered in the name of the person.

(B)(1) When the license of any person is suspended pursuant to division (G)(1)(a) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record or the mayor of the mayor's court that suspended the license may impound the identification license plates of any motor vehicle registered in the name of the person.

(2) When the license of any person is suspended pursuant to division (G)(1)(b) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record that suspended the license shall order the impoundment of the identification license plates of the motor

vehicle the offender was operating at the time of the offense and 88351
the immobilization of that vehicle in accordance with section 88352
4503.233 and division (G)(1)(b) of section 4511.19 or division 88353
~~(B)~~(C)(2)(a) of section 4511.193 of the Revised Code and may 88354
impound the identification license plates of any other motor 88355
vehicle registered in the name of the person whose license is 88356
suspended. 88357

(3) When the license of any person is suspended pursuant to 88358
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 88359
Code, or pursuant to section 4510.07 of the Revised Code for a 88360
municipal OVI offense when the suspension is equivalent in length 88361
to the suspension under division (G) of section 4511.19 of the 88362
Revised Code that is specified in this division, the trial judge 88363
of the court of record that suspended the license shall order the 88364
criminal forfeiture to the state of the motor vehicle the offender 88365
was operating at the time of the offense in accordance with 88366
section 4503.234 and division (G)(1)(c), (d), or (e) of section 88367
4511.19 or division ~~(B)~~(C)(2)(b) of section 4511.193 of the 88368
Revised Code and may impound the identification license plates of 88369
any other motor vehicle registered in the name of the person whose 88370
license is suspended. 88371

(C)(1) When a person is convicted of or pleads guilty to a 88372
violation of section 4510.14 of the Revised Code or a 88373
substantially equivalent municipal ordinance and division (B)(1) 88374
or (2) of section 4510.14 or division (C)(1) or (2) of section 88375
4510.161 of the Revised Code applies, the trial judge of the court 88376
of record or the mayor of the mayor's court that imposes sentence 88377
shall order the immobilization of the vehicle the person was 88378
operating at the time of the offense and the impoundment of its 88379
identification license plates in accordance with section 4503.233 88380
and division (B)(1) or (2) of section 4510.14 or division (C)(1) 88381
or (2) of section 4510.161 of the Revised Code and may impound the 88382

identification license plates of any other vehicle registered in 88383
the name of that person. 88384

(2) When a person is convicted of or pleads guilty to a 88385
violation of section 4510.14 of the Revised Code or a 88386
substantially equivalent municipal ordinance and division (B)(3) 88387
of section 4510.14 or division (C)(3) of section 4510.161 of the 88388
Revised Code applies, the trial judge of the court of record that 88389
imposes sentence shall order the criminal forfeiture to the state 88390
of the vehicle the person was operating at the time of the offense 88391
in accordance with section 4503.234 and division (B)(3) of section 88392
4510.14 or division (C)(3) of section 4510.161 of the Revised Code 88393
and may impound the identification license plates of any other 88394
vehicle registered in the name of that person. 88395

(D)~~(1)~~ When a person is convicted of or pleads guilty to a 88396
violation of division (A) of section 4510.16 of the Revised Code 88397
or a substantially equivalent municipal ordinance, division (B) of 88398
section 4510.16 or division (B) of section 4510.161 of the Revised 88399
Code applies in determining whether the immobilization of the 88400
vehicle the person was operating at the time of the offense and 88401
the impoundment of its identification license plates or the 88402
criminal forfeiture to the state of the vehicle the person was 88403
operating at the time of the offense is authorized or required. 88404
The trial judge of the court of record or the mayor of the mayor's 88405
court that imposes sentence may impound the identification license 88406
plates of any other vehicle registered in the name of that person. 88407

(E)(1) When a person is convicted of or pleads guilty to a 88408
violation of section 4511.203 of the Revised Code and the person 88409
is sentenced pursuant to division (C)(1) or (2) of section 88410
4511.203 of the Revised Code, the trial judge of the court of 88411
record or the mayor of the mayor's court that imposes sentence 88412
shall order the immobilization of the vehicle that was involved in 88413
the commission of the offense and the impoundment of its 88414

identification license plates in accordance with division (C)(1) 88415
or (2) of section 4511.203 and section 4503.233 of the Revised 88416
Code and may impound the identification license plates of any 88417
other vehicle registered in the name of that person. 88418

(2) When a person is convicted of or pleads guilty to a 88419
violation of section 4511.203 of the Revised Code and the person 88420
is sentenced pursuant to division (C)(3) of section 4511.203 of 88421
the Revised Code, the trial judge of the court of record or the 88422
mayor of the mayor's court that imposes sentence shall order the 88423
criminal forfeiture to the state of the vehicle that was involved 88424
in the commission of the offense in accordance with division 88425
(C)(3) of section 4511.203 and section 4503.234 of the Revised 88426
Code and may impound the identification license plates of any 88427
other vehicle registered in the name of that person. 88428

(F) Except as provided in section 4503.233 or 4503.234 of the 88429
Revised Code, when the certificate of registration, the 88430
identification license plates, or both have been impounded, 88431
division (B) of section 4507.02 of the Revised Code is applicable. 88432

(G) As used in this section, "municipal OVI offense" has the 88433
same meaning as in section 4511.181 of the Revised Code. 88434

Sec. 4507.1612. The registrar of motor vehicles shall not 88435
restore any operating privileges or reissue a probationary 88436
driver's license, restricted license, driver's license, or 88437
probationary commercial driver's license suspended under section 88438
2923.122 of the Revised Code until the person whose license was 88439
suspended pays a reinstatement fee of thirty dollars to the 88440
registrar ~~or an eligible deputy registrar. In addition, each~~ 88441
~~deputy registrar shall collect a service fee of ten dollars to~~ 88442
~~compensate the deputy registrar for services performed under this~~ 88443
~~section. The deputy registrar shall retain eight dollars of the~~ 88444
~~service fee and shall transmit the reinstatement fee, plus two~~ 88445

~~dollars of the service fee, to the registrar in the manner the registrar shall determine.~~ 88446
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The bureau of motor vehicles shall pay all fees collected under this section into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 88448
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Sec. 4507.45. If a person's driver's license, commercial driver's license, or nonresident operating privilege is suspended, disqualified, or canceled for an indefinite period of time or for a period of at least ninety days, and if at the end of the period of suspension, disqualification, or cancellation the person is eligible to have the license or privilege reinstated, the registrar of motor vehicles ~~or an eligible deputy registrar~~ shall collect a reinstatement fee of forty dollars when the person requests reinstatement. ~~In addition, each deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.~~ However, the registrar ~~or an eligible deputy registrar~~ shall not collect the fee prescribed by this section if a different driver's license, commercial driver's license, or nonresident operating privilege reinstatement fee is prescribed by law. 88452
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The registrar shall deposit ten dollars of each forty-dollar fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code and thirty dollars of each fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 88470
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Sec. 4509.101. (A)(1) No person shall operate, or permit the 88476
operation of, a motor vehicle in this state, unless proof of 88477
financial responsibility is maintained continuously throughout the 88478
registration period with respect to that vehicle, or, in the case 88479
of a driver who is not the owner, with respect to that driver's 88480
operation of that vehicle. 88481

(2) Whoever violates division (A)(1) of this section shall be 88482
subject to the following civil penalties: 88483

(a) Subject to divisions (A)(2)(b) and (c) of this section, a 88484
class E suspension of the person's driver's license, commercial 88485
driver's license, temporary instruction permit, probationary 88486
license, or nonresident operating privilege for the period of time 88487
specified in division (B)(5) of section 4510.02 of the Revised 88488
Code and impoundment of the person's license. The court may grant 88489
limited driving privileges to the person only if the person 88490
presents proof of financial responsibility and has complied with 88491
division (A)(5) of this section. 88492

(b) If, within five years of the violation, the person's 88493
operating privileges are again suspended and the person's license 88494
again is impounded for a violation of division (A)(1) of this 88495
section, a class C suspension of the person's driver's license, 88496
commercial driver's license, temporary instruction permit, 88497
probationary license, or nonresident operating privilege for the 88498
period of time specified in division (B)(3) of section 4510.02 of 88499
the Revised Code. The court may grant limited driving privileges 88500
to the person only if the person presents proof of financial 88501
responsibility and has complied with division (A)(5) of this 88502
section, and no court may grant limited driving privileges for the 88503
first fifteen days of the suspension. 88504

(c) If, within five years of the violation, the person's 88505
operating privileges are suspended and the person's license is 88506

impounded two or more times for a violation of division (A)(1) of 88507
this section, a class B suspension of the person's driver's 88508
license, commercial driver's license, temporary instruction 88509
permit, probationary license, or nonresident operating privilege 88510
for the period of time specified in division (B)(2) of section 88511
4510.02 of the Revised Code. No court may grant limited driving 88512
privileges during the suspension. 88513

(d) In addition to the suspension of an owner's license under 88514
division (A)(2)(a), (b), or (c) of this section, the suspension of 88515
the rights of the owner to register the motor vehicle and the 88516
impoundment of the owner's certificate of registration and license 88517
plates until the owner complies with division (A)(5) of this 88518
section. 88519

(3) A person to whom this state has issued a certificate of 88520
registration for a motor vehicle or a license to operate a motor 88521
vehicle or who is determined to have operated any motor vehicle or 88522
permitted the operation in this state of a motor vehicle owned by 88523
the person shall be required to verify the existence of proof of 88524
financial responsibility covering the operation of the motor 88525
vehicle or the person's operation of the motor vehicle under any 88526
of the following circumstances: 88527

(a) The person or a motor vehicle owned by the person is 88528
involved in a traffic accident that requires the filing of an 88529
accident report under section 4509.06 of the Revised Code. 88530

(b) The person receives a traffic ticket indicating that 88531
proof of the maintenance of financial responsibility was not 88532
produced upon the request of a peace officer or state highway 88533
patrol trooper made in accordance with division (D)(2) of this 88534
section. 88535

(c) Whenever, in accordance with rules adopted by the 88536
registrar, the person is randomly selected by the registrar and 88537

requested to provide such verification. 88538

(4) An order of the registrar that suspends and impounds a 88539
license or registration, or both, shall state the date on or 88540
before which the person is required to surrender the person's 88541
license or certificate of registration and license plates. The 88542
person is deemed to have surrendered the license or certificate of 88543
registration and license plates, in compliance with the order, if 88544
the person does either of the following: 88545

(a) On or before the date specified in the order, personally 88546
delivers the license or certificate of registration and license 88547
plates, or causes the delivery of the items, to the registrar; 88548

(b) Mails the license or certificate of registration and 88549
license plates to the registrar in an envelope or container 88550
bearing a postmark showing a date no later than the date specified 88551
in the order. 88552

(5) Except as provided in division (A)(6) or (L) of this 88553
section, the registrar shall not restore any operating privileges 88554
or registration rights suspended under this section, return any 88555
license, certificate of registration, or license plates impounded 88556
under this section, or reissue license plates under section 88557
4503.232 of the Revised Code, if the registrar destroyed the 88558
impounded license plates under that section, or reissue a license 88559
under section 4510.52 of the Revised Code, if the registrar 88560
destroyed the suspended license under that section, unless the 88561
rights are not subject to suspension or revocation under any other 88562
law and unless the person, in addition to complying with all other 88563
conditions required by law for reinstatement of the operating 88564
privileges or registration rights, complies with all of the 88565
following: 88566

(a) Pays to the registrar ~~or an eligible deputy registrar~~ a 88567
financial responsibility reinstatement fee of one hundred dollars 88568

for the first violation of division (A)(1) of this section, three 88569
hundred dollars for a second violation of that division, and six 88570
hundred dollars for a third or subsequent violation of that 88571
division; 88572

(b) If the person has not voluntarily surrendered the 88573
license, certificate, or license plates in compliance with the 88574
order, pays to the registrar ~~or an eligible deputy registrar~~ a 88575
financial responsibility nonvoluntary compliance fee in an amount, 88576
not to exceed fifty dollars, determined by the registrar; 88577

(c) Files and continuously maintains proof of financial 88578
responsibility under sections 4509.44 to 4509.65 of the Revised 88579
Code; 88580

~~(d) Pays a deputy registrar a service fee of ten dollars to 88581
compensate the deputy registrar for services performed under this 88582
section. The deputy registrar shall retain eight dollars of the 88583
service fee and shall transmit the reinstatement fee, any 88584
nonvoluntary compliance fee, and two dollars of the service fee to 88585
the registrar in the manner the registrar shall determine. 88586~~

(6) If the registrar issues an order under division (A)(2) of 88587
this section resulting from the failure of a person to respond to 88588
a financial responsibility random verification request under 88589
division (A)(3)(c) of this section and the person successfully 88590
maintains an affirmative defense to a violation of section 4510.16 88591
of the Revised Code or is determined by the registrar or a deputy 88592
registrar to have been in compliance with division (A)(1) of this 88593
section at the time of the initial financial responsibility random 88594
verification request, the registrar shall do both of the 88595
following: 88596

(a) Terminate the order of suspension or impoundment; 88597

(b) Restore the operating privileges and registration rights 88598
of the person without payment of the fees established in divisions 88599

(A)(5)(a) and (b) of this section and without a requirement to 88600
file proof of financial responsibility. 88601

(B)(1) Every party required to file an accident report under 88602
section 4509.06 of the Revised Code also shall include with the 88603
report a document described in division (G)(1) of this section. 88604

If the registrar determines, within forty-five days after the 88605
report is filed, that an operator or owner has violated division 88606
(A)(1) of this section, the registrar shall do all of the 88607
following: 88608

(a) Order the impoundment, with respect to the motor vehicle 88609
involved, required under division (A)(2)(d) of this section, of 88610
the certificate of registration and license plates of any owner 88611
who has violated division (A)(1) of this section; 88612

(b) Order the suspension required under division (A)(2)(a), 88613
(b), or (c) of this section of the license of any operator or 88614
owner who has violated division (A)(1) of this section; 88615

(c) Record the name and address of the person whose 88616
certificate of registration and license plates have been impounded 88617
or are under an order of impoundment, or whose license has been 88618
suspended or is under an order of suspension; the serial number of 88619
the person's license; the serial numbers of the person's 88620
certificate of registration and license plates; and the person's 88621
social security account number, if assigned, or, where the motor 88622
vehicle is used for hire or principally in connection with any 88623
established business, the person's federal taxpayer identification 88624
number. The information shall be recorded in such a manner that it 88625
becomes a part of the person's permanent record, and assists the 88626
registrar in monitoring compliance with the orders of suspension 88627
or impoundment. 88628

(d) Send written notification to every person to whom the 88629
order pertains, at the person's last known address as shown on the 88630

records of the bureau. The person, within ten days after the date 88631
of the mailing of the notification, shall surrender to the 88632
registrar, in a manner set forth in division (A)(4) of this 88633
section, any certificate of registration and registration plates 88634
under an order of impoundment, or any license under an order of 88635
suspension. 88636

(2) The registrar shall issue any order under division (B)(1) 88637
of this section without a hearing. Any person adversely affected 88638
by the order, within ten days after the issuance of the order, may 88639
request an administrative hearing before the registrar, who shall 88640
provide the person with an opportunity for a hearing in accordance 88641
with this paragraph. A request for a hearing does not operate as a 88642
suspension of the order. The scope of the hearing shall be limited 88643
to whether the person in fact demonstrated to the registrar proof 88644
of financial responsibility in accordance with this section. The 88645
registrar shall determine the date, time, and place of any 88646
hearing, provided that the hearing shall be held, and an order 88647
issued or findings made, within thirty days after the registrar 88648
receives a request for a hearing. If requested by the person in 88649
writing, the registrar may designate as the place of hearing the 88650
county seat of the county in which the person resides or a place 88651
within fifty miles of the person's residence. The person shall pay 88652
the cost of the hearing before the registrar, if the registrar's 88653
order of suspension or impoundment is upheld. 88654

(C) Any order of suspension or impoundment issued under this 88655
section or division (B) of section 4509.37 of the Revised Code may 88656
be terminated at any time if the registrar determines upon a 88657
showing of proof of financial responsibility that the operator or 88658
owner of the motor vehicle was in compliance with division (A)(1) 88659
of this section at the time of the traffic offense, motor vehicle 88660
inspection, or accident that resulted in the order against the 88661
person. A determination may be made without a hearing. This 88662

division does not apply unless the person shows good cause for the 88663
person's failure to present satisfactory proof of financial 88664
responsibility to the registrar prior to the issuance of the 88665
order. 88666

(D)(1) For the purpose of enforcing this section, every peace 88667
officer is deemed an agent of the registrar. 88668

(a) Except as provided in division (D)(1)(b) of this section, 88669
any peace officer who, in the performance of the peace officer's 88670
duties as authorized by law, becomes aware of a person whose 88671
license is under an order of suspension, or whose certificate of 88672
registration and license plates are under an order of impoundment, 88673
pursuant to this section, may confiscate the license, certificate 88674
of registration, and license plates, and return them to the 88675
registrar. 88676

(b) Any peace officer who, in the performance of the peace 88677
officer's duties as authorized by law, becomes aware of a person 88678
whose license is under an order of suspension, or whose 88679
certificate of registration and license plates are under an order 88680
of impoundment resulting from failure to respond to a financial 88681
responsibility random verification, shall not, for that reason, 88682
arrest the owner or operator or seize the vehicle or license 88683
plates. Instead, the peace officer shall issue a citation for a 88684
violation of section 4510.16 of the Revised Code specifying the 88685
circumstances as failure to respond to a financial responsibility 88686
random verification. 88687

(2) A peace officer shall request the owner or operator of a 88688
motor vehicle to produce proof of financial responsibility in a 88689
manner described in division (G) of this section at the time the 88690
peace officer acts to enforce the traffic laws of this state and 88691
during motor vehicle inspections conducted pursuant to section 88692
4513.02 of the Revised Code. 88693

(3) A peace officer shall indicate on every traffic ticket 88694
whether the person receiving the traffic ticket produced proof of 88695
the maintenance of financial responsibility in response to the 88696
officer's request under division (D)(2) of this section. The peace 88697
officer shall inform every person who receives a traffic ticket 88698
and who has failed to produce proof of the maintenance of 88699
financial responsibility that the person must submit proof to the 88700
traffic violations bureau with any payment of a fine and costs for 88701
the ticketed violation or, if the person is to appear in court for 88702
the violation, the person must submit proof to the court. 88703

(4)(a) If a person who has failed to produce proof of the 88704
maintenance of financial responsibility appears in court for a 88705
ticketed violation, the court may permit the defendant to present 88706
evidence of proof of financial responsibility to the court at such 88707
time and in such manner as the court determines to be necessary or 88708
appropriate. In a manner prescribed by the registrar, the clerk of 88709
courts shall provide the registrar with the identity of any person 88710
who fails to submit proof of the maintenance of financial 88711
responsibility pursuant to division (D)(3) of this section. 88712

(b) If a person who has failed to produce proof of the 88713
maintenance of financial responsibility also fails to submit that 88714
proof to the traffic violations bureau with payment of a fine and 88715
costs for the ticketed violation, the traffic violations bureau, 88716
in a manner prescribed by the registrar, shall notify the 88717
registrar of the identity of that person. 88718

(5)(a) Upon receiving notice from a clerk of courts or 88719
traffic violations bureau pursuant to division (D)(4) of this 88720
section, the registrar shall order the suspension of the license 88721
of the person required under division (A)(2)(a), (b), or (c) of 88722
this section and the impoundment of the person's certificate of 88723
registration and license plates required under division (A)(2)(d) 88724
of this section, effective thirty days after the date of the 88725

mailing of notification. The registrar also shall notify the 88726
person that the person must present the registrar with proof of 88727
financial responsibility in accordance with this section, 88728
surrender to the registrar the person's certificate of 88729
registration, license plates, and license, or submit a statement 88730
subject to section 2921.13 of the Revised Code that the person did 88731
not operate or permit the operation of the motor vehicle at the 88732
time of the offense. Notification shall be in writing and shall be 88733
sent to the person at the person's last known address as shown on 88734
the records of the bureau of motor vehicles. The person, within 88735
fifteen days after the date of the mailing of notification, shall 88736
present proof of financial responsibility, surrender the 88737
certificate of registration, license plates, and license to the 88738
registrar in a manner set forth in division (A)(4) of this 88739
section, or submit the statement required under this section 88740
together with other information the person considers appropriate. 88741

If the registrar does not receive proof or the person does 88742
not surrender the certificate of registration, license plates, and 88743
license, in accordance with this division, the registrar shall 88744
permit the order for the suspension of the license of the person 88745
and the impoundment of the person's certificate of registration 88746
and license plates to take effect. 88747

(b) In the case of a person who presents, within the 88748
fifteen-day period, documents to show proof of financial 88749
responsibility, the registrar shall terminate the order of 88750
suspension and the impoundment of the registration and license 88751
plates required under division (A)(2)(d) of this section and shall 88752
send written notification to the person, at the person's last 88753
known address as shown on the records of the bureau. 88754

(c) Any person adversely affected by the order of the 88755
registrar under division (D)(5)(a) or (b) of this section, within 88756
ten days after the issuance of the order, may request an 88757

administrative hearing before the registrar, who shall provide the 88758
person with an opportunity for a hearing in accordance with this 88759
paragraph. A request for a hearing does not operate as a 88760
suspension of the order. The scope of the hearing shall be limited 88761
to whether, at the time of the hearing, the person presents proof 88762
of financial responsibility covering the vehicle and whether the 88763
person is eligible for an exemption in accordance with this 88764
section or any rule adopted under it. The registrar shall 88765
determine the date, time, and place of any hearing; provided, that 88766
the hearing shall be held, and an order issued or findings made, 88767
within thirty days after the registrar receives a request for a 88768
hearing. If requested by the person in writing, the registrar may 88769
designate as the place of hearing the county seat of the county in 88770
which the person resides or a place within fifty miles of the 88771
person's residence. Such person shall pay the cost of the hearing 88772
before the registrar, if the registrar's order of suspension or 88773
impoundment under division (D)(5)(a) or (b) of this section is 88774
upheld. 88775

(6) A peace officer may charge an owner or operator of a 88776
motor vehicle with a violation of section 4510.16 of the Revised 88777
Code when the owner or operator fails to show proof of the 88778
maintenance of financial responsibility pursuant to a peace 88779
officer's request under division (D)(2) of this section, if a 88780
check of the owner or operator's driving record indicates that the 88781
owner or operator, at the time of the operation of the motor 88782
vehicle, is required to file and maintain proof of financial 88783
responsibility under section 4509.45 of the Revised Code for a 88784
previous violation of this chapter. 88785

(7) Any forms used by law enforcement agencies in 88786
administering this section shall be prescribed, supplied, and paid 88787
for by the registrar. 88788

(8) No peace officer, law enforcement agency employing a 88789

peace officer, or political subdivision or governmental agency 88790
that employs a peace officer shall be liable in a civil action for 88791
damages or loss to persons arising out of the performance of any 88792
duty required or authorized by this section. 88793

(9) As used in this division and divisions (E) and (G) of 88794
this section, "peace officer" has the meaning set forth in section 88795
2935.01 of the Revised Code. 88796

(E) All fees, except court costs, ~~fees paid to a deputy~~ 88797
~~registrar,~~ and those portions of the financial responsibility 88798
reinstatement fees as otherwise specified in this division, 88799
collected under this section shall be paid into the state treasury 88800
to the credit of the financial responsibility compliance fund. The 88801
financial responsibility compliance fund shall be used exclusively 88802
to cover costs incurred by the bureau in the administration of 88803
this section and sections 4503.20, 4507.212, and 4509.81 of the 88804
Revised Code, and by any law enforcement agency employing any 88805
peace officer who returns any license, certificate of 88806
registration, and license plates to the registrar pursuant to 88807
division (C) of this section, except that the director of budget 88808
and management may transfer excess money from the financial 88809
responsibility compliance fund to the state bureau of motor 88810
vehicles fund if the registrar determines that the amount of money 88811
in the financial responsibility compliance fund exceeds the amount 88812
required to cover such costs incurred by the bureau or a law 88813
enforcement agency and requests the director to make the transfer. 88814

Of each financial responsibility reinstatement fee the 88815
registrar collects pursuant to division (A)(5)(a) of this section 88816
~~or receives from a deputy registrar under division (A)(5)(d) of~~ 88817
~~this section,~~ the registrar shall deposit twenty-five dollars of 88818
each one-hundred-dollar reinstatement fee, fifty dollars of each 88819
three-hundred-dollar reinstatement fee, and one hundred dollars of 88820
each six-hundred-dollar reinstatement fee into the state treasury 88821

to the credit of the indigent defense support fund created by 88822
section 120.08 of the Revised Code. 88823

All investment earnings of the financial responsibility 88824
compliance fund shall be credited to the fund. 88825

(F) Chapter 119. of the Revised Code applies to this section 88826
only to the extent that any provision in that chapter is not 88827
clearly inconsistent with this section. 88828

(G)(1) The registrar, court, traffic violations bureau, or 88829
peace officer may require proof of financial responsibility to be 88830
demonstrated by use of a standard form prescribed by the 88831
registrar. If the use of a standard form is not required, a person 88832
may demonstrate proof of financial responsibility under this 88833
section by presenting to the traffic violations bureau, court, 88834
registrar, or peace officer any of the following documents or a 88835
copy of the documents: 88836

(a) A financial responsibility identification card as 88837
provided in section 4509.103 of the Revised Code; 88838

(b) A certificate of proof of financial responsibility on a 88839
form provided and approved by the registrar for the filing of an 88840
accident report required to be filed under section 4509.06 of the 88841
Revised Code; 88842

(c) A policy of liability insurance, a declaration page of a 88843
policy of liability insurance, or liability bond, if the policy or 88844
bond complies with section 4509.20 or sections 4509.49 to 4509.61 88845
of the Revised Code; 88846

(d) A bond or certification of the issuance of a bond as 88847
provided in section 4509.59 of the Revised Code; 88848

(e) A certificate of deposit of money or securities as 88849
provided in section 4509.62 of the Revised Code; 88850

(f) A certificate of self-insurance as provided in section 88851

4509.72 of the Revised Code. 88852

(2) If a person fails to demonstrate proof of financial 88853
responsibility in a manner described in division (G)(1) of this 88854
section, the person may demonstrate proof of financial 88855
responsibility under this section by any other method that the 88856
court or the bureau, by reason of circumstances in a particular 88857
case, may consider appropriate. 88858

(3) A motor carrier certificated by the interstate commerce 88859
commission or by the public utilities commission may demonstrate 88860
proof of financial responsibility by providing a statement 88861
designating the motor carrier's operating authority and averring 88862
that the insurance coverage required by the certificating 88863
authority is in full force and effect. 88864

(4)(a) A finding by the registrar or court that a person is 88865
covered by proof of financial responsibility in the form of an 88866
insurance policy or surety bond is not binding upon the named 88867
insurer or surety or any of its officers, employees, agents, or 88868
representatives and has no legal effect except for the purpose of 88869
administering this section. 88870

(b) The preparation and delivery of a financial 88871
responsibility identification card or any other document 88872
authorized to be used as proof of financial responsibility under 88873
this division does not do any of the following: 88874

(i) Create any liability or estoppel against an insurer or 88875
surety, or any of its officers, employees, agents, or 88876
representatives; 88877

(ii) Constitute an admission of the existence of, or of any 88878
liability or coverage under, any policy or bond; 88879

(iii) Waive any defenses or counterclaims available to an 88880
insurer, surety, agent, employee, or representative in an action 88881
commenced by an insured or third-party claimant upon a cause of 88882

action alleged to have arisen under an insurance policy or surety 88883
bond or by reason of the preparation and delivery of a document 88884
for use as proof of financial responsibility. 88885

(c) Whenever it is determined by a final judgment in a 88886
judicial proceeding that an insurer or surety, which has been 88887
named on a document accepted by a court or the registrar as proof 88888
of financial responsibility covering the operation of a motor 88889
vehicle at the time of an accident or offense, is not liable to 88890
pay a judgment for injuries or damages resulting from such 88891
operation, the registrar, notwithstanding any previous contrary 88892
finding, shall forthwith suspend the operating privileges and 88893
registration rights of the person against whom the judgment was 88894
rendered as provided in division (A)(2) of this section. 88895

(H) In order for any document described in division (G)(1)(b) 88896
of this section to be used for the demonstration of proof of 88897
financial responsibility under this section, the document shall 88898
state the name of the insured or obligor, the name of the insurer 88899
or surety company, and the effective and expiration dates of the 88900
financial responsibility, and designate by explicit description or 88901
by appropriate reference all motor vehicles covered which may 88902
include a reference to fleet insurance coverage. 88903

(I) For purposes of this section, "owner" does not include a 88904
licensed motor vehicle leasing dealer as defined in section 88905
4517.01 of the Revised Code, but does include a motor vehicle 88906
renting dealer as defined in section 4549.65 of the Revised Code. 88907
Nothing in this section or in section 4509.51 of the Revised Code 88908
shall be construed to prohibit a motor vehicle renting dealer from 88909
entering into a contractual agreement with a person whereby the 88910
person renting the motor vehicle agrees to be solely responsible 88911
for maintaining proof of financial responsibility, in accordance 88912
with this section, with respect to the operation, maintenance, or 88913
use of the motor vehicle during the period of the motor vehicle's 88914

rental. 88915

(J) The purpose of this section is to require the maintenance 88916
of proof of financial responsibility with respect to the operation 88917
of motor vehicles on the highways of this state, so as to minimize 88918
those situations in which persons are not compensated for injuries 88919
and damages sustained in motor vehicle accidents. The general 88920
assembly finds that this section contains reasonable civil 88921
penalties and procedures for achieving this purpose. 88922

(K) Nothing in this section shall be construed to be subject 88923
to section 4509.78 of the Revised Code. 88924

(L)(1) The registrar may terminate any suspension imposed 88925
under this section and not require the owner to comply with 88926
divisions (A)(5)(a), (b), and (c) of this section if the registrar 88927
with or without a hearing determines that the owner of the vehicle 88928
has established by clear and convincing evidence that all of the 88929
following apply: 88930

(a) The owner customarily maintains proof of financial 88931
responsibility. 88932

(b) Proof of financial responsibility was not in effect for 88933
the vehicle on the date in question for one of the following 88934
reasons: 88935

(i) The vehicle was inoperable. 88936

(ii) The vehicle is operated only seasonally, and the date in 88937
question was outside the season of operation. 88938

(iii) A person other than the vehicle owner or driver was at 88939
fault for the lapse of proof of financial responsibility through 88940
no fault of the owner or driver. 88941

(iv) The lapse of proof of financial responsibility was 88942
caused by excusable neglect under circumstances that are not 88943
likely to recur and do not suggest a purpose to evade the 88944

requirements of this chapter. 88945

(2) The registrar may grant an owner or driver relief for a 88946
reason specified in division (L)(1)(b)(i) or (ii) of this section 88947
whenever the owner or driver is randomly selected to verify the 88948
existence of proof of financial responsibility for such a vehicle. 88949
However, the registrar may grant an owner or driver relief for a 88950
reason specified in division (L)(1)(b)(iii) or (iv) of this 88951
section only if the owner or driver has not previously been 88952
granted relief under division (L)(1)(b)(iii) or (iv) of this 88953
section. 88954

(M) The registrar shall adopt rules in accordance with 88955
Chapter 119. of the Revised Code that are necessary to administer 88956
and enforce this section. The rules shall include procedures for 88957
the surrender of license plates upon failure to maintain proof of 88958
financial responsibility and provisions relating to reinstatement 88959
of registration rights, acceptable forms of proof of financial 88960
responsibility, and verification of the existence of financial 88961
responsibility during the period of registration. 88962

Sec. 4509.81. (A) Upon receipt of a notification of violation 88963
as provided in division (C) of section 4509.80 of the Revised 88964
Code; upon failure of a timely surrender of the livery license 88965
plate sticker as required by division (D) of section 4509.80 of 88966
the Revised Code; or if the registrar of motor vehicles, upon 88967
receipt of notification from an insurer of the imminent 88968
cancellation or termination of coverage required by section 88969
4509.80 of the Revised Code, fails to receive evidence of a 88970
continuation or substitution of coverage prior to the cancellation 88971
or termination date, the registrar shall order the immediate 88972
suspension of the rights of the owner of the chauffeured limousine 88973
described in the notice to register the limousine and the 88974
impoundment of the certificate of registration and registration 88975

plates for the limousine. The registrar shall notify the owner 88976
that the owner must surrender the certificate of registration and 88977
registration plates to the registrar. The notification shall be in 88978
writing and sent to the owner at the owner's last known address as 88979
shown in the records of the bureau of motor vehicles. Proceedings 88980
under this section are deemed special, summary statutory 88981
proceedings. 88982

(B) The order of suspension and impoundment of a registration 88983
shall state the date on or before which the owner of the 88984
chauffeured limousine involved is required to surrender the 88985
certificate of registration and registration plates to the 88986
registrar. The owner shall be deemed to have surrendered the 88987
certificate of registration and registration plates if the owner 88988
causes the items to be delivered to the registrar on or before the 88989
date specified in the order or mails the items to the registrar in 88990
an envelope or container bearing a postmark showing a date no 88991
later than the date specified in the order. 88992

(C) The registrar shall not restore any registration rights 88993
suspended under this section, return any certificate of 88994
registration or registration plates impounded under this section, 88995
or reissue registration plates under section 4503.232 of the 88996
Revised Code, if the registrar destroyed the impounded 88997
registration plates under that section, unless those rights are 88998
not subject to suspension under any other law and unless the owner 88999
complies with both of the following: 89000

(1) Pays to the registrar ~~or an eligible deputy registrar~~ a 89001
financial responsibility reinstatement fee of thirty dollars. The 89002
reinstatement fee may be increased, upon approval of the 89003
controlling board, up to an amount not exceeding fifty dollars. ~~In~~ 89004
~~addition, pays a service fee of ten dollars to each deputy~~ 89005
~~registrar to compensate the deputy registrar for services~~ 89006

~~performed under this section. The deputy registrar shall retain 89007
eight dollars of the service fee and shall transmit the 89008
reinstatement fee and two dollars of the service fee to the 89009
registrar in the manner the registrar shall determine. 89010~~

(2) Files and maintains proof of financial responsibility 89011
under section 4509.80 of the Revised Code. 89012

(D) Any owner adversely affected by the order of the 89013
registrar under this section ~~may~~, within ten days after the 89014
issuance of the order, may request an administrative hearing 89015
before the registrar, who shall provide the owner with an 89016
opportunity for a hearing in accordance with this division. A 89017
request for a hearing does not operate as a suspension of the 89018
order unless the owner establishes to the satisfaction of the 89019
registrar that the operation of the owner's chauffeured limousine 89020
will be covered by proof of financial responsibility during the 89021
pendency of the appeal. The scope of the hearing shall be limited 89022
to whether the owner in fact demonstrated to the registrar proof 89023
of financial responsibility in accordance with section 4509.80 of 89024
the Revised Code. The registrar shall determine the date, time, 89025
and place of any hearing, provided that the hearing shall be held 89026
and an order issued or findings made within thirty days after the 89027
registrar receives a request for a hearing. If requested by the 89028
owner in writing, the registrar may designate as the place of 89029
hearing the county seat of the county in which the owner resides 89030
or a place within fifty miles of the owner's residence. The owner 89031
shall pay the cost of the hearing before the registrar, if the 89032
registrar's order of suspension or impoundment is upheld. 89033

(E) Any order of suspension or impoundment issued under this 89034
section may be terminated at any time if the registrar determines 89035
upon a showing of proof of financial responsibility that the owner 89036
of the limousine was in compliance with section 4509.80 of the 89037
Revised Code at the time of the incident that resulted in the 89038

order against the owner. Such a determination may be made without a hearing. 89039
89040

(F) All fees ~~except the two dollar service fee transmitted to the registrar by a deputy registrar,~~ that are collected by the registrar ~~or transmitted to the registrar~~ under this section shall be paid into the state treasury to the credit of the financial responsibility compliance fund created by section 4509.101 of the Revised Code. 89041
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(G) Chapter 119. of the Revised Code applies to this section only to the extent that any provision in that chapter is not clearly inconsistent with this section. 89047
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(H)(1) Proof of financial responsibility may be demonstrated by any of the methods authorized in section 4509.80 of the Revised Code. 89050
89051
89052

(2) Divisions (G)(4)(a) and (b) of section 4509.101 of the Revised Code apply to any finding by the registrar under this section that an owner is covered by proof of financial responsibility. 89053
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Sec. 4510.10. (A) As used in this section, "reinstatement fees" means the fees that are required under section 4507.1612, 4507.45, 4509.101, 4509.81, 4511.191, 4511.951, or any other provision of the Revised Code, or under a schedule established by the bureau of motor vehicles, in order to reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of an offender under a suspension. 89057
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(B) Reinstatement fees are those fees that compensate the bureau of motor vehicles for suspensions, cancellations, or disqualifications of a person's driving privileges and to compensate the bureau and other agencies in their administration of programs intended to reduce and eliminate threats to public 89064
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safety through education, treatment, and other activities. The 89069
registrar of motor vehicles shall not reinstate a driver's or 89070
commercial driver's license or permit or nonresident operating 89071
privilege of a person until the person has paid all reinstatement 89072
fees and has complied with all conditions for each suspension, 89073
cancellation, or disqualification incurred by that person. 89074

(C) When a municipal court or county court determines in a 89075
pending case involving an offender that the offender cannot 89076
reasonably pay reinstatement fees due and owing by the offender 89077
relative to one or more suspensions that have been or will be 89078
imposed by the bureau of motor vehicles or by a court of this 89079
state, the court, by order, may undertake an installment payment 89080
plan or a payment extension plan for the payment of reinstatement 89081
fees due and owing to the bureau in that pending case. The court 89082
shall establish an installment payment plan or a payment extension 89083
plan under this division in accordance with the requirements of 89084
divisions (D)(1) and (2) of this section. 89085

(D) Independent of the provisions of division (C) of this 89086
section, an offender who cannot reasonably pay reinstatement fees 89087
due and owing by the offender relative to a suspension that has 89088
been imposed on the offender may file a petition in the municipal 89089
court, county court, or, if the person is under the age of 89090
eighteen, the juvenile division of the court of common pleas in 89091
whose jurisdiction the person resides or, if the person is not a 89092
resident of this state, in the Franklin county municipal court or 89093
juvenile division of the Franklin county court of common pleas for 89094
an order that does either of the following, in order of 89095
preference: 89096

(1) Establishes a reasonable payment plan of not less than 89097
fifty dollars per month, to be paid by the offender to the 89098
registrar of motor vehicles ~~or an eligible deputy registrar~~, in 89099
all succeeding months until all reinstatement fees required of the 89100

~~offender are paid in full. If the person is making payments to a 89101
deputy registrar, the deputy registrar shall collect a service fee 89102
of ten dollars each time the deputy registrar collects a payment 89103
to compensate the deputy registrar for services performed under 89104
this section. The deputy registrar shall retain eight dollars of 89105
the service fee and shall transmit the reinstatement payments, 89106
plus two dollars of each service fee, to the registrar in the 89107
manner the registrar shall determine. 89108~~

(2) If the offender, but for the payment of the reinstatement 89109
fees, otherwise would be entitled to operate a vehicle in this 89110
state or to obtain reinstatement of the offender's operating 89111
privileges, permits the offender to operate a motor vehicle, as 89112
authorized by the court, until a future date upon which date all 89113
reinstatement fees must be paid in full. A payment extension 89114
granted under this division shall not exceed one hundred eighty 89115
days, and any operating privileges granted under this division 89116
shall be solely for the purpose of permitting the offender 89117
occupational or "family necessity" privileges in order to enable 89118
the offender to reasonably acquire the delinquent reinstatement 89119
fees due and owing. 89120

(E) If a municipal court, county court, or juvenile division 89121
enters an order of the type described in division (C) or division 89122
(D)(1) or (2) of this section, the court, at any time after the 89123
issuance of the order, may determine that a change of 89124
circumstances has occurred and may amend the order as justice 89125
requires, provided that the amended order also shall be an order 89126
that is permitted under division (C) or division (D)(1) or (2) of 89127
this section. 89128

(F) If a court enters an order of the type described in 89129
division (C), (D)(1), (D)(2), or (E) of this section, during the 89130
pendency of the order, the offender in relation to whom it applies 89131
is not subject to prosecution for failing to pay the reinstatement 89132

fees covered by the order. 89133

(G) Reinstatement fees are debts that may be discharged in 89134
bankruptcy. 89135

(H)(1)(a) The registrar, in accordance with Chapter 119. of 89136
the Revised Code, shall adopt rules establishing a reinstatement 89137
fee payment pilot program not later than January 1, 2013. The 89138
pilot program shall permit the registrar, with the approval of the 89139
director of public safety, to designate at least one but not more 89140
than three clerks of a municipal court or county court to collect 89141
reinstatement fees and processing fees on behalf of the registrar. 89142
The rules shall specify all of the following: 89143

(i) The reinstatement and processing fees that the clerk may 89144
collect under the program; 89145

(ii) Minimum standards the clerk is required to meet and 89146
maintain; 89147

(iii) Terms of the contract between the registrar and the 89148
clerk; 89149

(iv) The amount of bond that will be required of the clerk; 89150

(v) Requirements for employees and facilities of the clerk; 89151

(vi) Any other requirements as the registrar may prescribe. 89152

(b) In addition to the reinstatement and processing fees the 89153
clerk collects on behalf of the registrar, the clerk may collect a 89154
service fee of ten dollars. If the clerk collects such a service 89155
fee, the clerk shall collect only one service fee irrespective of 89156
the number of reinstatement and processing fees the clerk collects 89157
at any one time relative to one person. The clerk shall retain 89158
eight dollars of each service fee for the clerk's services and 89159
shall transmit the reinstatement and processing fees and the 89160
remaining two dollars of each service fee to the registrar. The 89161
registrar shall deposit the two dollars of each service fee the 89162

registrar receives from a clerk under division (H)(1)(b) of this 89163
section into the state bureau of motor vehicles fund created in 89164
section 4501.25 of the Revised Code. The rules may require a clerk 89165
who collects a reinstatement or processing fee also to collect any 89166
other valid reinstatement documents or other evidence that is 89167
submitted with the payment of the reinstatement or processing fee. 89168
The rules shall specify the time and manner in which the clerk 89169
shall transmit the fees, documents, and evidence to the registrar 89170
for final approval and clearance, as appropriate. 89171

(2) The registrar shall evaluate the effectiveness of the 89172
reinstatement fee payment pilot program for a period not to exceed 89173
one year. After completion of the evaluation, if the registrar 89174
determines that the pilot program was a success, the registrar, 89175
with the approval of the director, shall adopt any amendments to 89176
the rules adopted under division (H)(1)(a) of this section based 89177
on the evaluation that are necessary to make the pilot program 89178
permanent and to expand the pilot program as described in division 89179
(H)(2) of this section. At a minimum, the amended rules shall 89180
require the registrar to make reasonable attempts to contract with 89181
at least one clerk of a municipal or county court in each county 89182
to collect reinstatement, processing, and service fees on behalf 89183
of the registrar unless a reinstatement office already exists in 89184
that county or the registrar determines that it is not practical 89185
to enter into such a contract with a clerk of a municipal or 89186
county court in a particular county. 89187

(3) A clerk of a municipal or county court who collects 89188
reinstatement fees, processing fees, service fees, and 89189
reinstatement documents or evidence under division (H) of this 89190
section and the applicable rules may issue an order that permits a 89191
person to operate a motor vehicle for a period not exceeding 89192
thirty days pending the registrar's final determination of whether 89193
all reinstatement requirements have been met or if additional 89194

reinstatement requirements must be met before the suspension may 89195
be terminated or the reinstatement may be entered. The registrar 89196
shall send a written notice of the registrar's final determination 89197
to the person at the person's last known address as shown in the 89198
records of the bureau. 89199

Sec. 4510.22. (A) If a person who has a current valid Ohio 89200
driver's, commercial driver's license, or temporary instruction 89201
permit is charged with a violation of any provision in sections 89202
4511.01 to 4511.76, 4511.84, 4513.01 to 4513.65, or 4549.01 to 89203
4549.65 of the Revised Code that is classified as a misdemeanor of 89204
the first, second, third, or fourth degree or with a violation of 89205
any substantially equivalent municipal ordinance and if the person 89206
either fails to appear in court at the required time and place to 89207
answer the charge or pleads guilty to or is found guilty of the 89208
violation and fails within the time allowed by the court to pay 89209
the fine imposed by the court, the court shall declare the 89210
forfeiture of the person's license. Thirty days after the 89211
declaration of forfeiture, the court shall inform the registrar of 89212
motor vehicles of the forfeiture by entering information relative 89213
to the forfeiture on a form approved and furnished by the 89214
registrar and sending the form to the registrar. The court also 89215
shall forward the person's license, if it is in the possession of 89216
the court, to the registrar. 89217

The registrar shall impose a class F suspension of the 89218
person's driver's or commercial driver's license, or temporary 89219
instruction permit for the period of time specified in division 89220
(B)(6) of section 4510.02 of the Revised Code on any person who is 89221
named in a declaration received by the registrar under this 89222
section. The registrar shall send written notification of the 89223
suspension to the person at the person's last known address and, 89224
if the person is in possession of the license, order the person to 89225
surrender the person's license or permit to the registrar within 89226

forty-eight hours. 89227

No valid driver's or commercial driver's license shall be 89228
granted to the person after the suspension, unless the court 89229
having jurisdiction of the offense that led to the suspension 89230
orders that the forfeiture be terminated. The court shall order 89231
the termination of the forfeiture if the person thereafter appears 89232
to answer the charge and pays any fine imposed by the court or 89233
pays the fine originally imposed by the court. The court shall 89234
inform the registrar of the termination of the forfeiture by 89235
entering information relative to the termination on a form 89236
approved and furnished by the registrar and sending the form to 89237
the registrar. The person shall pay to the registrar of motor 89238
vehicles ~~or an eligible deputy registrar~~ a twenty-five-dollar 89239
reinstatement fee. ~~In addition, each deputy registrar shall~~ 89240
~~collect a service fee of ten dollars to compensate the deputy~~ 89241
~~registrar for services performed under this section. The deputy~~ 89242
~~registrar shall retain eight dollars of the service fee and shall~~ 89243
~~transmit the reinstatement fee, plus two dollars of the service~~ 89244
~~fee, to the registrar in the manner the registrar shall determine.~~ 89245
The registrar shall deposit fifteen dollars of the reinstatement 89246
fee into the state treasury to the credit of the state bureau of 89247
motor vehicles fund created by section 4501.25 of the Revised Code 89248
to cover the costs of the bureau in administering this section and 89249
shall deposit ten dollars of the fee into the state treasury to 89250
the credit of the indigent defense support fund created by section 89251
120.08 of the Revised Code. 89252

(B) In addition to suspending the driver's or commercial 89253
driver's license or permit of the person named in a declaration of 89254
forfeiture, the registrar, upon receipt from the court of the copy 89255
of the declaration of forfeiture, shall take any measures that may 89256
be necessary to ensure that neither the registrar nor any deputy 89257
registrar accepts any application for the registration or transfer 89258

of registration of any motor vehicle owned or leased by the person 89259
named in the declaration of forfeiture. However, for a motor 89260
vehicle leased by a person named in a declaration of forfeiture, 89261
the registrar shall not implement the preceding sentence until the 89262
registrar adopts procedures for that implementation under section 89263
4503.39 of the Revised Code. The period of denial of registration 89264
or transfer shall continue until such time as the court having 89265
jurisdiction of the offense that led to the suspension orders the 89266
forfeiture be terminated. Upon receipt by the registrar of an 89267
order terminating the forfeiture, the registrar also shall take 89268
any measures that may be necessary to permit the person to 89269
register a motor vehicle owned or leased by the person or to 89270
transfer the registration of such a motor vehicle, if the person 89271
later makes application to take such action and otherwise is 89272
eligible to register the motor vehicle or to transfer its 89273
registration. 89274

The registrar shall not be required to give effect to any 89275
declaration of forfeiture or order terminating a forfeiture 89276
provided by a court under this section unless the information 89277
contained in the declaration or order is transmitted to the 89278
registrar by means of an electronic transfer system. The registrar 89279
shall not restore the person's driving or vehicle registration 89280
privileges until the person pays the reinstatement fee as provided 89281
in this section. 89282

The period of denial relating to the issuance or transfer of 89283
a certificate of registration for a motor vehicle imposed pursuant 89284
to this division remains in effect until the person pays any fine 89285
imposed by the court relative to the offense. 89286

Sec. 4510.72. (A) A fee of thirty dollars shall be charged by 89287
the registrar of motor vehicles ~~or an eligible deputy registrar~~ 89288
for the reinstatement of any driver's license suspended pursuant 89289

to division (A) of Article IV of the compact enacted in section 89290
4510.71 of the Revised Code. ~~In addition, each deputy registrar 89291~~
~~shall collect a service fee of ten dollars to compensate the 89292~~
~~deputy registrar for services performed under this section. The 89293~~
~~deputy registrar shall retain eight dollars of the service fee and 89294~~
~~shall transmit the reinstatement fee, plus two dollars of the 89295~~
~~service fee, to the registrar in the manner the registrar shall 89296~~
~~determine. 89297~~

(B) Pursuant to division (A) of Article VI of the nonresident 89298
violin compact of 1977 enacted in section 4510.71 of the Revised 89299
Code, the director of public safety shall serve as the compact 89300
administrator for Ohio. 89301

Sec. 4511.191. (A)(1) As used in this section: 89302

(a) "Physical control" has the same meaning as in section 89303
4511.194 of the Revised Code. 89304

(b) "Alcohol monitoring device" means any device that 89305
provides for continuous alcohol monitoring, any ignition interlock 89306
device, any immobilizing or disabling device other than an 89307
ignition interlock device that is constantly available to monitor 89308
the concentration of alcohol in a person's system, or any other 89309
device that provides for the automatic testing and periodic 89310
reporting of alcohol consumption by a person and that a court 89311
orders a person to use as a sanction imposed as a result of the 89312
person's conviction of or plea of guilty to an offense. 89313

(2) Any person who operates a vehicle, streetcar, or 89314
trackless trolley upon a highway or any public or private property 89315
used by the public for vehicular travel or parking within this 89316
state or who is in physical control of a vehicle, streetcar, or 89317
trackless trolley shall be deemed to have given consent to a 89318
chemical test or tests of the person's whole blood, blood serum or 89319

plasma, breath, or urine to determine the alcohol, drug of abuse, 89320
controlled substance, metabolite of a controlled substance, or 89321
combination content of the person's whole blood, blood serum or 89322
plasma, breath, or urine if arrested for a violation of division 89323
(A) or (B) of section 4511.19 of the Revised Code, section 89324
4511.194 of the Revised Code or a substantially equivalent 89325
municipal ordinance, or a municipal OVI ordinance. 89326

(3) The chemical test or tests under division (A)(2) of this 89327
section shall be administered at the request of a law enforcement 89328
officer having reasonable grounds to believe the person was 89329
operating or in physical control of a vehicle, streetcar, or 89330
trackless trolley in violation of a division, section, or 89331
ordinance identified in division (A)(2) of this section. The law 89332
enforcement agency by which the officer is employed shall 89333
designate which of the tests shall be administered. 89334

(4) Any person who is dead or unconscious, or who otherwise 89335
is in a condition rendering the person incapable of refusal, shall 89336
be deemed to have consented as provided in division (A)(2) of this 89337
section, and the test or tests may be administered, subject to 89338
sections 313.12 to 313.16 of the Revised Code. 89339

(5)(a) If a law enforcement officer arrests a person for a 89340
violation of division (A) or (B) of section 4511.19 of the Revised 89341
Code, section 4511.194 of the Revised Code or a substantially 89342
equivalent municipal ordinance, or a municipal OVI ordinance and 89343
if the person if convicted would be required to be sentenced under 89344
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 89345
Code, the law enforcement officer shall request the person to 89346
submit, and the person shall submit, to a chemical test or tests 89347
of the person's whole blood, blood serum or plasma, breath, or 89348
urine for the purpose of determining the alcohol, drug of abuse, 89349
controlled substance, metabolite of a controlled substance, or 89350
combination content of the person's whole blood, blood serum or 89351

plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and

sent to the registrar of motor vehicles and a court pursuant to 89384
section 4511.192 of the Revised Code in regard to a person who 89385
refused to take the designated chemical test, the registrar shall 89386
enter into the registrar's records the fact that the person's 89387
driver's or commercial driver's license or permit or nonresident 89388
operating privilege was suspended by the arresting officer under 89389
this division and that section and the period of the suspension, 89390
as determined under this section. The suspension shall be subject 89391
to appeal as provided in section 4511.197 of the Revised Code. The 89392
suspension shall be for whichever of the following periods 89393
applies: 89394

(a) Except when division (B)(1)(b), (c), or (d) of this 89395
section applies and specifies a different class or length of 89396
suspension, the suspension shall be a class C suspension for the 89397
period of time specified in division (B)(3) of section 4510.02 of 89398
the Revised Code. 89399

(b) If the arrested person, within six years of the date on 89400
which the person refused the request to consent to the chemical 89401
test, had refused one previous request to consent to a chemical 89402
test or had been convicted of or pleaded guilty to one violation 89403
of division (A) or (B) of section 4511.19 of the Revised Code or 89404
one other equivalent offense, the suspension shall be a class B 89405
suspension imposed for the period of time specified in division 89406
(B)(2) of section 4510.02 of the Revised Code. 89407

(c) If the arrested person, within six years of the date on 89408
which the person refused the request to consent to the chemical 89409
test, had refused two previous requests to consent to a chemical 89410
test, had been convicted of or pleaded guilty to two violations of 89411
division (A) or (B) of section 4511.19 of the Revised Code or 89412
other equivalent offenses, or had refused one previous request to 89413
consent to a chemical test and also had been convicted of or 89414
pleaded guilty to one violation of division (A) or (B) of section 89415

4511.19 of the Revised Code or other equivalent offenses, which 89416
violation or offense arose from an incident other than the 89417
incident that led to the refusal, the suspension shall be a class 89418
A suspension imposed for the period of time specified in division 89419
(B)(1) of section 4510.02 of the Revised Code. 89420

(d) If the arrested person, within six years of the date on 89421
which the person refused the request to consent to the chemical 89422
test, had refused three or more previous requests to consent to a 89423
chemical test, had been convicted of or pleaded guilty to three or 89424
more violations of division (A) or (B) of section 4511.19 of the 89425
Revised Code or other equivalent offenses, or had refused a number 89426
of previous requests to consent to a chemical test and also had 89427
been convicted of or pleaded guilty to a number of violations of 89428
division (A) or (B) of section 4511.19 of the Revised Code or 89429
other equivalent offenses that cumulatively total three or more 89430
such refusals, convictions, and guilty pleas, the suspension shall 89431
be for five years. 89432

(2) The registrar shall terminate a suspension of the 89433
driver's or commercial driver's license or permit of a resident or 89434
of the operating privilege of a nonresident, or a denial of a 89435
driver's or commercial driver's license or permit, imposed 89436
pursuant to division (B)(1) of this section upon receipt of notice 89437
that the person has entered a plea of guilty to, or that the 89438
person has been convicted after entering a plea of no contest to, 89439
operating a vehicle in violation of section 4511.19 of the Revised 89440
Code or in violation of a municipal OVI ordinance, if the offense 89441
for which the conviction is had or the plea is entered arose from 89442
the same incident that led to the suspension or denial. 89443

The registrar shall credit against any judicial suspension of 89444
a person's driver's or commercial driver's license or permit or 89445
nonresident operating privilege imposed pursuant to section 89446
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 89447

Revised Code for a violation of a municipal OVI ordinance, any 89448
time during which the person serves a related suspension imposed 89449
pursuant to division (B)(1) of this section. 89450

(C)(1) Upon receipt of the sworn report of the law 89451
enforcement officer who arrested a person for a violation of 89452
division (A) or (B) of section 4511.19 of the Revised Code or a 89453
municipal OVI ordinance that was completed and sent to the 89454
registrar and a court pursuant to section 4511.192 of the Revised 89455
Code in regard to a person whose test results indicate that the 89456
person's whole blood, blood serum or plasma, breath, or urine 89457
contained at least the concentration of alcohol specified in 89458
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 89459
Revised Code or at least the concentration of a listed controlled 89460
substance or a listed metabolite of a controlled substance 89461
specified in division (A)(1)(j) of section 4511.19 of the Revised 89462
Code, the registrar shall enter into the registrar's records the 89463
fact that the person's driver's or commercial driver's license or 89464
permit or nonresident operating privilege was suspended by the 89465
arresting officer under this division and section 4511.192 of the 89466
Revised Code and the period of the suspension, as determined under 89467
divisions (C)(1)(a) to (d) of this section. The suspension shall 89468
be subject to appeal as provided in section 4511.197 of the 89469
Revised Code. The suspension described in this division does not 89470
apply to, and shall not be imposed upon, a person arrested for a 89471
violation of section 4511.194 of the Revised Code or a 89472
substantially equivalent municipal ordinance who submits to a 89473
designated chemical test. The suspension shall be for whichever of 89474
the following periods applies: 89475

(a) Except when division (C)(1)(b), (c), or (d) of this 89476
section applies and specifies a different period, the suspension 89477
shall be a class E suspension imposed for the period of time 89478
specified in division (B)(5) of section 4510.02 of the Revised 89479

Code. 89480

(b) The suspension shall be a class C suspension for the 89481
period of time specified in division (B)(3) of section 4510.02 of 89482
the Revised Code if the person has been convicted of or pleaded 89483
guilty to, within six years of the date the test was conducted, 89484
one violation of division (A) or (B) of section 4511.19 of the 89485
Revised Code or one other equivalent offense. 89486

(c) If, within six years of the date the test was conducted, 89487
the person has been convicted of or pleaded guilty to two 89488
violations of a statute or ordinance described in division 89489
(C)(1)(b) of this section, the suspension shall be a class B 89490
suspension imposed for the period of time specified in division 89491
(B)(2) of section 4510.02 of the Revised Code. 89492

(d) If, within six years of the date the test was conducted, 89493
the person has been convicted of or pleaded guilty to more than 89494
two violations of a statute or ordinance described in division 89495
(C)(1)(b) of this section, the suspension shall be a class A 89496
suspension imposed for the period of time specified in division 89497
(B)(1) of section 4510.02 of the Revised Code. 89498

(2) The registrar shall terminate a suspension of the 89499
driver's or commercial driver's license or permit of a resident or 89500
of the operating privilege of a nonresident, or a denial of a 89501
driver's or commercial driver's license or permit, imposed 89502
pursuant to division (C)(1) of this section upon receipt of notice 89503
that the person has entered a plea of guilty to, or that the 89504
person has been convicted after entering a plea of no contest to, 89505
operating a vehicle in violation of section 4511.19 of the Revised 89506
Code or in violation of a municipal OVI ordinance, if the offense 89507
for which the conviction is had or the plea is entered arose from 89508
the same incident that led to the suspension or denial. 89509

The registrar shall credit against any judicial suspension of 89510

a person's driver's or commercial driver's license or permit or 89511
nonresident operating privilege imposed pursuant to section 89512
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 89513
Revised Code for a violation of a municipal OVI ordinance, any 89514
time during which the person serves a related suspension imposed 89515
pursuant to division (C)(1) of this section. 89516

(D)(1) A suspension of a person's driver's or commercial 89517
driver's license or permit or nonresident operating privilege 89518
under this section for the time described in division (B) or (C) 89519
of this section is effective immediately from the time at which 89520
the arresting officer serves the notice of suspension upon the 89521
arrested person. Any subsequent finding that the person is not 89522
guilty of the charge that resulted in the person being requested 89523
to take the chemical test or tests under division (A) of this 89524
section does not affect the suspension. 89525

(2) If a person is arrested for operating a vehicle, 89526
streetcar, or trackless trolley in violation of division (A) or 89527
(B) of section 4511.19 of the Revised Code or a municipal OVI 89528
ordinance, or for being in physical control of a vehicle, 89529
streetcar, or trackless trolley in violation of section 4511.194 89530
of the Revised Code or a substantially equivalent municipal 89531
ordinance, regardless of whether the person's driver's or 89532
commercial driver's license or permit or nonresident operating 89533
privilege is or is not suspended under division (B) or (C) of this 89534
section or Chapter 4510. of the Revised Code, the person's initial 89535
appearance on the charge resulting from the arrest shall be held 89536
within five days of the person's arrest or the issuance of the 89537
citation to the person, subject to any continuance granted by the 89538
court pursuant to section 4511.197 of the Revised Code regarding 89539
the issues specified in that division. 89540

(E) When it finally has been determined under the procedures 89541
of this section and sections 4511.192 to 4511.197 of the Revised 89542

Code that a nonresident's privilege to operate a vehicle within 89543
this state has been suspended, the registrar shall give 89544
information in writing of the action taken to the motor vehicle 89545
administrator of the state of the person's residence and of any 89546
state in which the person has a license. 89547

(F) At the end of a suspension period under this section, 89548
under section 4511.194, section 4511.196, or division (G) of 89549
section 4511.19 of the Revised Code, or under section 4510.07 of 89550
the Revised Code for a violation of a municipal OVI ordinance and 89551
upon the request of the person whose driver's or commercial 89552
driver's license or permit was suspended and who is not otherwise 89553
subject to suspension, cancellation, or disqualification, the 89554
registrar shall return the driver's or commercial driver's license 89555
or permit to the person upon the occurrence of all of the 89556
conditions specified in divisions (F)(1) and (2) of this section: 89557

(1) A showing that the person has proof of financial 89558
responsibility, a policy of liability insurance in effect that 89559
meets the minimum standards set forth in section 4509.51 of the 89560
Revised Code, or proof, to the satisfaction of the registrar, that 89561
the person is able to respond in damages in an amount at least 89562
equal to the minimum amounts specified in section 4509.51 of the 89563
Revised Code. 89564

(2) Subject to the limitation contained in division (F)(3) of 89565
this section, payment by the person to the registrar ~~of motor~~ 89566
~~vehicles or an eligible deputy registrar~~ of a license 89567
reinstatement fee of four hundred seventy-five dollars, which fee 89568
shall be deposited in the state treasury and credited as follows: 89569

(a) One hundred twelve dollars and fifty cents shall be 89570
credited to the statewide treatment and prevention fund created by 89571
section 4301.30 of the Revised Code. The Money credited to the 89572
fund under this section shall be used ~~to pay the costs of driver~~ 89573
~~treatment and intervention programs operated pursuant to sections~~ 89574

~~3793.02 and 3793.10 for purposes identified in the comprehensive
statewide alcohol and drug addiction services plan developed under
section 3793.04 of the Revised Code. The director of alcohol and
drug addiction services shall determine the share of the fund that
is to be allocated to alcohol and drug addiction programs
authorized by section 3793.02 of the Revised Code, and the share
of the fund that is to be allocated to drivers' intervention
programs authorized by section 3793.10 of the Revised Code.~~

(b) Seventy-five dollars shall be credited to the reparations
fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to
the indigent drivers alcohol treatment fund, which is hereby
established in the state treasury. Except as otherwise provided in
division (F)(2)(c) of this section, moneys in the fund shall be
distributed by the department of alcohol and drug addiction
services to the county indigent drivers alcohol treatment funds,
the county juvenile indigent drivers alcohol treatment funds, and
the municipal indigent drivers alcohol treatment funds that are
required to be established by counties and municipal corporations
pursuant to division (H) of this section, and shall be used only
to pay the cost of an alcohol and drug addiction treatment program
attended by an offender or juvenile traffic offender who is
ordered to attend an alcohol and drug addiction treatment program
by a county, juvenile, or municipal court judge and who is
determined by the county, juvenile, or municipal court judge not
to have the means to pay for the person's attendance at the
program or to pay the costs specified in division (H)(4) of this
section in accordance with that division. In addition, a county,
juvenile, or municipal court judge may use moneys in the county
indigent drivers alcohol treatment fund, county juvenile indigent
drivers alcohol treatment fund, or municipal indigent drivers
alcohol treatment fund to pay for the cost of the continued use of

an alcohol monitoring device as described in divisions (H)(3) and 89607
(4) of this section. Moneys in the fund that are not distributed 89608
to a county indigent drivers alcohol treatment fund, a county 89609
juvenile indigent drivers alcohol treatment fund, or a municipal 89610
indigent drivers alcohol treatment fund under division (H) of this 89611
section because the director of alcohol and drug addiction 89612
services does not have the information necessary to identify the 89613
county or municipal corporation where the offender or juvenile 89614
offender was arrested may be transferred by the director of budget 89615
and management to the statewide treatment and prevention fund 89616
created by section 4301.30 of the Revised Code, upon certification 89617
of the amount by the director of alcohol and drug addiction 89618
services. 89619

(d) Seventy-five dollars shall be credited to the Ohio 89620
rehabilitation services commission established by section 3304.12 89621
of the Revised Code, to the services for rehabilitation fund, 89622
which is hereby established. The fund shall be used to match 89623
available federal matching funds where appropriate, and for any 89624
other purpose or program of the commission to rehabilitate people 89625
with disabilities to help them become employed and independent. 89626

(e) Seventy-five dollars shall be deposited into the state 89627
treasury and credited to the drug abuse resistance education 89628
programs fund, which is hereby established, to be used by the 89629
attorney general for the purposes specified in division (F)(4) of 89630
this section. 89631

(f) Thirty dollars shall be credited to the state bureau of 89632
motor vehicles fund created by section 4501.25 of the Revised 89633
Code. 89634

(g) Twenty dollars shall be credited to the trauma and 89635
emergency medical services grants fund created by section 4513.263 89636
of the Revised Code. 89637

(h) Fifty dollars shall be credited to the indigent drivers 89638
interlock and alcohol monitoring fund, which is hereby established 89639
in the state treasury. ~~Monies~~ Moneys in the fund shall be 89640
distributed by the department of public safety to the county 89641
indigent drivers interlock and alcohol monitoring funds, the 89642
county juvenile indigent drivers interlock and alcohol monitoring 89643
funds, and the municipal indigent drivers interlock and alcohol 89644
monitoring funds that are required to be established by counties 89645
and municipal corporations pursuant to this section, and shall be 89646
used only to pay the cost of an immobilizing or disabling device, 89647
including a certified ignition interlock device, or an alcohol 89648
monitoring device used by an offender or juvenile offender who is 89649
ordered to use the device by a county, juvenile, or municipal 89650
court judge and who is determined by the county, juvenile, or 89651
municipal court judge not to have the means to pay for the 89652
person's use of the device. 89653

(3) If a person's driver's or commercial driver's license or 89654
permit is suspended under this section, under section 4511.196 or 89655
division (G) of section 4511.19 of the Revised Code, under section 89656
4510.07 of the Revised Code for a violation of a municipal OVI 89657
ordinance or under any combination of the suspensions described in 89658
division (F)(3) of this section, and if the suspensions arise from 89659
a single incident or a single set of facts and circumstances, the 89660
person is liable for payment of, and shall be required to pay to 89661
the registrar ~~or an eligible deputy registrar~~, only one 89662
reinstatement fee of four hundred seventy-five dollars. The 89663
reinstatement fee shall be distributed by the bureau in accordance 89664
with division (F)(2) of this section. 89665

(4) The attorney general shall use amounts in the drug abuse 89666
resistance education programs fund to award grants to law 89667
enforcement agencies to establish and implement drug abuse 89668
resistance education programs in public schools. Grants awarded to 89669

a law enforcement agency under this section shall be used by the 89670
agency to pay for not more than fifty per cent of the amount of 89671
the salaries of law enforcement officers who conduct drug abuse 89672
resistance education programs in public schools. The attorney 89673
general shall not use more than six per cent of the amounts the 89674
attorney general's office receives under division (F)(2)(e) of 89675
this section to pay the costs it incurs in administering the grant 89676
program established by division (F)(2)(e) of this section and in 89677
providing training and materials relating to drug abuse resistance 89678
education programs. 89679

The attorney general shall report to the governor and the 89680
general assembly each fiscal year on the progress made in 89681
establishing and implementing drug abuse resistance education 89682
programs. These reports shall include an evaluation of the 89683
effectiveness of these programs. 89684

~~(5) In addition to the reinstatement fee under this section, 89685
if the person pays the reinstatement fee to a deputy registrar, 89686
the deputy registrar shall collect a service fee of ten dollars to 89687
compensate the deputy registrar for services performed under this 89688
section. The deputy registrar shall retain eight dollars of the 89689
service fee and shall transmit the reinstatement fee, plus two 89690
dollars of the service fee, to the registrar in the manner the 89691
registrar shall determine. 89692~~

(G) Suspension of a commercial driver's license under 89693
division (B) or (C) of this section shall be concurrent with any 89694
period of disqualification under section 3123.611 or 4506.16 of 89695
the Revised Code or any period of suspension under section 3123.58 89696
of the Revised Code. No person who is disqualified for life from 89697
holding a commercial driver's license under section 4506.16 of the 89698
Revised Code shall be issued a driver's license under Chapter 89699
4507. of the Revised Code during the period for which the 89700
commercial driver's license was suspended under division (B) or 89701

(C) of this section. No person whose commercial driver's license 89702
is suspended under division (B) or (C) of this section shall be 89703
issued a driver's license under Chapter 4507. of the Revised Code 89704
during the period of the suspension. 89705

(H)(1) Each county shall establish an indigent drivers 89706
alcohol treatment fund, each county shall establish a juvenile 89707
indigent drivers alcohol treatment fund, and each municipal 89708
corporation in which there is a municipal court shall establish an 89709
indigent drivers alcohol treatment fund. All revenue that the 89710
general assembly appropriates to the indigent drivers alcohol 89711
treatment fund for transfer to a county indigent drivers alcohol 89712
treatment fund, a county juvenile indigent drivers alcohol 89713
treatment fund, or a municipal indigent drivers alcohol treatment 89714
fund, all portions of fees that are paid under division (F) of 89715
this section and that are credited under that division to the 89716
indigent drivers alcohol treatment fund in the state treasury for 89717
a county indigent drivers alcohol treatment fund, a county 89718
juvenile indigent drivers alcohol treatment fund, or a municipal 89719
indigent drivers alcohol treatment fund, all portions of 89720
additional costs imposed under section 2949.094 of the Revised 89721
Code that are specified for deposit into a county, county 89722
juvenile, or municipal indigent drivers alcohol treatment fund by 89723
that section, and all portions of fines that are specified for 89724
deposit into a county or municipal indigent drivers alcohol 89725
treatment fund by section 4511.193 of the Revised Code shall be 89726
deposited into that county indigent drivers alcohol treatment 89727
fund, county juvenile indigent drivers alcohol treatment fund, or 89728
municipal indigent drivers alcohol treatment fund. The portions of 89729
the fees paid under division (F) of this section that are to be so 89730
deposited shall be determined in accordance with division (H)(2) 89731
of this section. Additionally, all portions of fines that are paid 89732
for a violation of section 4511.19 of the Revised Code or of any 89733
prohibition contained in Chapter 4510. of the Revised Code, and 89734

that are required under section 4511.19 or any provision of 89735
Chapter 4510. of the Revised Code to be deposited into a county 89736
indigent drivers alcohol treatment fund or municipal indigent 89737
drivers alcohol treatment fund shall be deposited into the 89738
appropriate fund in accordance with the applicable division of the 89739
section or provision. 89740

(2) That portion of the license reinstatement fee that is 89741
paid under division (F) of this section and that is credited under 89742
that division to the indigent drivers alcohol treatment fund shall 89743
be deposited into a county indigent drivers alcohol treatment 89744
fund, a county juvenile indigent drivers alcohol treatment fund, 89745
or a municipal indigent drivers alcohol treatment fund as follows: 89746

(a) Regarding a suspension imposed under this section, that 89747
portion of the fee shall be deposited as follows: 89748

(i) If the fee is paid by a person who was charged in a 89749
county court with the violation that resulted in the suspension or 89750
in the imposition of the court costs, the portion shall be 89751
deposited into the county indigent drivers alcohol treatment fund 89752
under the control of that court; 89753

(ii) If the fee is paid by a person who was charged in a 89754
juvenile court with the violation that resulted in the suspension 89755
or in the imposition of the court costs, the portion shall be 89756
deposited into the county juvenile indigent drivers alcohol 89757
treatment fund established in the county served by the court; 89758

(iii) If the fee is paid by a person who was charged in a 89759
municipal court with the violation that resulted in the suspension 89760
or in the imposition of the court costs, the portion shall be 89761
deposited into the municipal indigent drivers alcohol treatment 89762
fund under the control of that court. 89763

(b) Regarding a suspension imposed under section 4511.19 of 89764
the Revised Code or under section 4510.07 of the Revised Code for 89765

a violation of a municipal OVI ordinance, that portion of the fee 89766
shall be deposited as follows: 89767

(i) If the fee is paid by a person whose license or permit 89768
was suspended by a county court, the portion shall be deposited 89769
into the county indigent drivers alcohol treatment fund under the 89770
control of that court; 89771

(ii) If the fee is paid by a person whose license or permit 89772
was suspended by a municipal court, the portion shall be deposited 89773
into the municipal indigent drivers alcohol treatment fund under 89774
the control of that court. 89775

(3) Expenditures from a county indigent drivers alcohol 89776
treatment fund, a county juvenile indigent drivers alcohol 89777
treatment fund, or a municipal indigent drivers alcohol treatment 89778
fund shall be made only upon the order of a county, juvenile, or 89779
municipal court judge and only for payment of the cost of an 89780
assessment or the cost of the attendance at an alcohol and drug 89781
addiction treatment program of a person who is convicted of, or 89782
found to be a juvenile traffic offender by reason of, a violation 89783
of division (A) of section 4511.19 of the Revised Code or a 89784
substantially similar municipal ordinance, who is ordered by the 89785
court to attend the alcohol and drug addiction treatment program, 89786
and who is determined by the court to be unable to pay the cost of 89787
the assessment or the cost of attendance at the treatment program 89788
or for payment of the costs specified in division (H)(4) of this 89789
section in accordance with that division. The alcohol and drug 89790
addiction services board or the board of alcohol, drug addiction, 89791
and mental health services established pursuant to section 340.02 89792
or 340.021 of the Revised Code and serving the alcohol, drug 89793
addiction, and mental health service district in which the court 89794
is located shall administer the indigent drivers alcohol treatment 89795
program of the court. When a court orders an offender or juvenile 89796
traffic offender to obtain an assessment or attend an alcohol and 89797

drug addiction treatment program, the board shall determine which 89798
program is suitable to meet the needs of the offender or juvenile 89799
traffic offender, and when a suitable program is located and space 89800
is available at the program, the offender or juvenile traffic 89801
offender shall attend the program designated by the board. A 89802
reasonable amount not to exceed five per cent of the amounts 89803
credited to and deposited into the county indigent drivers alcohol 89804
treatment fund, the county juvenile indigent drivers alcohol 89805
treatment fund, or the municipal indigent drivers alcohol 89806
treatment fund serving every court whose program is administered 89807
by that board shall be paid to the board to cover the costs it 89808
incurs in administering those indigent drivers alcohol treatment 89809
programs. 89810

In addition, upon exhaustion of moneys in the indigent 89811
drivers interlock and alcohol monitoring fund for the use of an 89812
alcohol monitoring device, a county, juvenile, or municipal court 89813
judge may use moneys in the county indigent drivers alcohol 89814
treatment fund, county juvenile indigent drivers alcohol treatment 89815
fund, or municipal indigent drivers alcohol treatment fund in the 89816
following manners: 89817

(a) If the source of the moneys was an appropriation of the 89818
general assembly, a portion of a fee that was paid under division 89819
(F) of this section, a portion of a fine that was specified for 89820
deposit into the fund by section 4511.193 of the Revised Code, or 89821
a portion of a fine that was paid for a violation of section 89822
4511.19 of the Revised Code or of a provision contained in Chapter 89823
4510. of the Revised Code that was required to be deposited into 89824
the fund, to pay for the continued use of an alcohol monitoring 89825
device by an offender or juvenile traffic offender, in conjunction 89826
with a treatment program approved by the department of alcohol and 89827
drug addiction services, when such use is determined clinically 89828
necessary by the treatment program and when the court determines 89829

that the offender or juvenile traffic offender is unable to pay 89830
all or part of the daily monitoring or cost of the device; 89831

(b) If the source of the moneys was a portion of an 89832
additional court cost imposed under section 2949.094 of the 89833
Revised Code, to pay for the continued use of an alcohol 89834
monitoring device by an offender or juvenile traffic offender when 89835
the court determines that the offender or juvenile traffic 89836
offender is unable to pay all or part of the daily monitoring or 89837
cost of the device. The moneys may be used for a device as 89838
described in this division if the use of the device is in 89839
conjunction with a treatment program approved by the department of 89840
alcohol and drug addiction services, when the use of the device is 89841
determined clinically necessary by the treatment program, but the 89842
use of a device is not required to be in conjunction with a 89843
treatment program approved by the department in order for the 89844
moneys to be used for the device as described in this division. 89845

(4) If a county, juvenile, or municipal court determines, in 89846
consultation with the alcohol and drug addiction services board or 89847
the board of alcohol, drug addiction, and mental health services 89848
established pursuant to section 340.02 or 340.021 of the Revised 89849
Code and serving the alcohol, drug addiction, and mental health 89850
district in which the court is located, that the funds in the 89851
county indigent drivers alcohol treatment fund, the county 89852
juvenile indigent drivers alcohol treatment fund, or the municipal 89853
indigent drivers alcohol treatment fund under the control of the 89854
court are more than sufficient to satisfy the purpose for which 89855
the fund was established, as specified in divisions (H)(1) to (3) 89856
of this section, the court may declare a surplus in the fund. If 89857
the court declares a surplus in the fund, the court may expend the 89858
amount of the surplus in the fund for: 89859

(a) Alcohol and drug abuse assessment and treatment of 89860
persons who are charged in the court with committing a criminal 89861

offense or with being a delinquent child or juvenile traffic 89862
offender and in relation to whom both of the following apply: 89863

(i) The court determines that substance abuse was a 89864
contributing factor leading to the criminal or delinquent activity 89865
or the juvenile traffic offense with which the person is charged. 89866

(ii) The court determines that the person is unable to pay 89867
the cost of the alcohol and drug abuse assessment and treatment 89868
for which the surplus money will be used. 89869

(b) All or part of the cost of purchasing alcohol monitoring 89870
devices to be used in conjunction with division (H)(3) of this 89871
section, upon exhaustion of moneys in the indigent drivers 89872
interlock and alcohol monitoring fund for the use of an alcohol 89873
monitoring device. 89874

(5) For the purpose of determining as described in division 89875
(F)(2)(c) of this section whether an offender does not have the 89876
means to pay for the offender's attendance at an alcohol and drug 89877
addiction treatment program or whether an alleged offender or 89878
delinquent child is unable to pay the costs specified in division 89879
(H)(4) of this section, the court shall use the indigent client 89880
eligibility guidelines and the standards of indigency established 89881
by the state public defender to make the determination. 89882

(6) The court shall identify and refer any alcohol and drug 89883
addiction program that is not certified under section 3793.06 of 89884
the Revised Code and that is interested in receiving amounts from 89885
the surplus in the fund declared under division (H)(4) of this 89886
section to the department of alcohol and drug addiction services 89887
in order for the program to become a certified alcohol and drug 89888
addiction program. The department shall keep a record of applicant 89889
referrals received pursuant to this division and shall submit a 89890
report on the referrals each year to the general assembly. If a 89891
program interested in becoming certified makes an application to 89892

become certified pursuant to section 3793.06 of the Revised Code, 89893
the program is eligible to receive surplus funds as long as the 89894
application is pending with the department. The department of 89895
alcohol and drug addiction services must offer technical 89896
assistance to the applicant. If the interested program withdraws 89897
the certification application, the department must notify the 89898
court, and the court shall not provide the interested program with 89899
any further surplus funds. 89900

(7)(a) Each alcohol and drug addiction services board and 89901
board of alcohol, drug addiction, and mental health services 89902
established pursuant to section 340.02 or 340.021 of the Revised 89903
Code shall submit to the department of alcohol and drug addiction 89904
services an annual report for each indigent drivers alcohol 89905
treatment fund in that board's area. 89906

(b) The report, which shall be submitted not later than sixty 89907
days after the end of the state fiscal year, shall provide the 89908
total payment that was made from the fund, including the number of 89909
indigent consumers that received treatment services and the number 89910
of indigent consumers that received an alcohol monitoring device. 89911
The report shall identify the treatment program and expenditure 89912
for an alcohol monitoring device for which that payment was made. 89913
The report shall include the fiscal year balance of each indigent 89914
drivers alcohol treatment fund located in that board's area. In 89915
the event that a surplus is declared in the fund pursuant to 89916
division (H)(4) of this section, the report also shall provide the 89917
total payment that was made from the surplus moneys and identify 89918
the treatment program and expenditure for an alcohol monitoring 89919
device for which that payment was made. The department may require 89920
additional information necessary to complete the comprehensive 89921
statewide alcohol and drug addiction services plan as required by 89922
section 3793.04 of the Revised Code. 89923

(c) If a board is unable to obtain adequate information to 89924

develop the report to submit to the department for a particular 89925
indigent drivers alcohol treatment fund, the board shall submit a 89926
report detailing the effort made in obtaining the information. 89927

(I)(1) Each county shall establish an indigent drivers 89928
interlock and alcohol monitoring fund and a juvenile indigent 89929
drivers interlock and alcohol treatment fund, and each municipal 89930
corporation in which there is a municipal court shall establish an 89931
indigent drivers interlock and alcohol monitoring fund. All 89932
revenue that the general assembly appropriates to the indigent 89933
drivers interlock and alcohol monitoring fund for transfer to a 89934
county indigent drivers interlock and alcohol monitoring fund, a 89935
county juvenile indigent drivers interlock and alcohol monitoring 89936
fund, or a municipal indigent drivers interlock and alcohol 89937
monitoring fund, all portions of license reinstatement fees that 89938
are paid under division (F)(2) of this section and that are 89939
credited under that division to the indigent drivers interlock and 89940
alcohol monitoring fund in the state treasury, and all portions of 89941
fines that are paid under division (G) of section 4511.19 of the 89942
Revised Code and that are credited by division (G)(5)(e) of that 89943
section to the indigent drivers interlock and alcohol monitoring 89944
fund in the state treasury shall be deposited in the appropriate 89945
fund in accordance with division (I)(2) of this section. 89946

(2) That portion of the license reinstatement fee that is 89947
paid under division (F) of this section and that portion of the 89948
fine paid under division (G) of section 4511.19 of the Revised 89949
Code and that is credited under either division to the indigent 89950
drivers interlock and alcohol monitoring fund shall be deposited 89951
into a county indigent drivers interlock and alcohol monitoring 89952
fund, a county juvenile indigent drivers interlock and alcohol 89953
monitoring fund, or a municipal indigent drivers interlock and 89954
alcohol monitoring fund as follows: 89955

(a) If the fee or fine is paid by a person who was charged in 89956

a county court with the violation that resulted in the suspension 89957
or fine, the portion shall be deposited into the county indigent 89958
drivers interlock and alcohol monitoring fund under the control of 89959
that court. 89960

(b) If the fee or fine is paid by a person who was charged in 89961
a juvenile court with the violation that resulted in the 89962
suspension or fine, the portion shall be deposited into the county 89963
juvenile indigent drivers interlock and alcohol monitoring fund 89964
established in the county served by the court. 89965

(c) If the fee or fine is paid by a person who was charged in 89966
a municipal court with the violation that resulted in the 89967
suspension, the portion shall be deposited into the municipal 89968
indigent drivers interlock and alcohol monitoring fund under the 89969
control of that court. 89970

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed 89971
for a violation of a municipal OVI ordinance shall be deposited 89972
into the municipal or county indigent drivers alcohol treatment 89973
fund created pursuant to division (H) of section 4511.191 of the 89974
Revised Code in accordance with this section and section 733.40, 89975
divisions (A) ~~and~~, (B), ~~and~~ (C) of section 1901.024, division (F) 89976
of section 1901.31, or division (C) of section 1907.20 of the 89977
Revised Code. Regardless of whether the fine is imposed by a 89978
municipal court, a mayor's court, or a juvenile court, if the fine 89979
was imposed for a violation of an ordinance of a municipal 89980
corporation that is within the jurisdiction of a county-operated 89981
municipal court or a municipal court that is not a county-operated 89982
municipal court, the twenty-five dollars that is subject to this 89983
section shall be deposited into the indigent drivers alcohol 89984
treatment fund of the county in which that municipal corporation 89985
is located if the municipal court that has jurisdiction over that 89986
municipal corporation is a county-operated municipal court or of 89987

the municipal corporation in which is located the municipal court 89988
that has jurisdiction over that municipal corporation if that 89989
municipal court is not a county-operated municipal court. 89990

Regardless of whether the fine is imposed by a county court, a 89991
mayor's court, or a juvenile court, if the fine was imposed for a 89992
violation of an ordinance of a municipal corporation that is 89993
within the jurisdiction of a county court, the twenty-five dollars 89994
that is subject to this section shall be deposited into the 89995
indigent drivers alcohol treatment fund of the county in which is 89996
located the county court that has jurisdiction over that municipal 89997
corporation. The deposit shall be made in accordance with section 89998
733.40, divisions (A) ~~and~~, (B), and (C) of section 1901.024, 89999
division (F) of section 1901.31, or division (C) of section 90000
1907.20 of the Revised Code. 90001

(B) Any court cost imposed as a result of a violation of a 90002
municipal ordinance that is a moving violation and designated for 90003
an indigent drivers alcohol treatment fund established pursuant to 90004
division (H) of section 4511.191 of the Revised Code shall be 90005
deposited into the municipal or county indigent drivers alcohol 90006
treatment fund created pursuant to division (H) of section 90007
4511.191 of the Revised Code in accordance with this section and 90008
section 733.40, divisions (A), (B), and (C) of section 1901.024, 90009
division (F) of section 1901.31, or division (C) of section 90010
1907.20 of the Revised Code. Regardless of whether the court cost 90011
is imposed by a municipal court, a mayor's court, or a juvenile 90012
court, if the court cost was imposed for a violation of an 90013
ordinance of a municipal corporation that is within the 90014
jurisdiction of a county-operated municipal court or a municipal 90015
court that is not a county-operated municipal court, the court 90016
cost that is subject to this section shall be deposited into the 90017
indigent drivers alcohol treatment fund of the county in which 90018
that municipal corporation is located if the municipal court that 90019

has jurisdiction over that municipal corporation is a 90020
county-operated municipal court or of the municipal corporation in 90021
which is located the municipal court that has jurisdiction over 90022
that municipal corporation if that municipal court is not a 90023
county-operated municipal court. Regardless of whether the court 90024
cost is imposed by a county court, a mayor's court, or a juvenile 90025
court, if the court cost was imposed for a violation of an 90026
ordinance of a municipal corporation that is within the 90027
jurisdiction of a county court, the court cost that is subject to 90028
this section shall be deposited into the indigent drivers alcohol 90029
treatment fund of the county in which is located the county court 90030
that has jurisdiction over that municipal corporation. The deposit 90031
shall be made in accordance with section 733.40, divisions (A), 90032
(B), and (C) of section 1901.024, division (F) of section 1901.31, 90033
or division (C) of section 1907.20 of the Revised Code. 90034

(C)(1) The requirements and sanctions imposed by divisions 90035
~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive 90036
from the state's exclusive authority over the registration and 90037
titling of motor vehicles and do not comprise a part of the 90038
criminal sentence to be imposed upon a person who violates a 90039
municipal OVI ordinance. 90040

(2) If a person is convicted of or pleads guilty to a 90041
violation of a municipal OVI ordinance, if the vehicle the 90042
offender was operating at the time of the offense is registered in 90043
the offender's name, and if, within six years of the current 90044
offense, the offender has been convicted of or pleaded guilty to 90045
one or more violations of division (A) or (B) of section 4511.19 90046
of the Revised Code or one or more other equivalent offenses, the 90047
court, in addition to and independent of any sentence that it 90048
imposes upon the offender for the offense, shall do whichever of 90049
the following is applicable: 90050

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of 90051

this section, if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation described in division ~~(B)~~(C)(2) of this section, the court shall order the immobilization for ninety days of that vehicle and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(b) If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations described in division ~~(B)~~(C)(2) of this section, or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the state of that vehicle. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

(D) As used in this section, "county-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

Sec. 4513.39. (A) The state highway patrol and sheriffs or their deputies shall exercise, to the exclusion of all other peace officers except within municipal corporations and except as specified in division (B) of this section and division (E) of section 2935.03 of the Revised Code, the power to make arrests for violations on all state highways, of sections 4503.11, 4503.21, 4511.14 to 4511.16, 4511.20 to 4511.23, 4511.26 to 4511.40, 4511.42 to 4511.48, 4511.58, 4511.59, 4511.62 to 4511.71, 4513.03 to 4513.13, 4513.15 to 4513.22, 4513.24 to 4513.34, 4549.01,

4549.08 to 4549.12, and 4549.62 of the Revised Code. 90083

(B) A member of the police force of a township police 90084
district created under section 505.48 of the Revised Code or of a 90085
joint police district created under section 505.482 of the Revised 90086
Code, and a township constable appointed pursuant to section 90087
509.01 of the Revised Code, who has received a certificate from 90088
the Ohio peace officer training commission under section 109.75 of 90089
the Revised Code, shall exercise the power to make arrests for 90090
violations of those sections listed in division (A) of this 90091
section, other than sections 4513.33 and 4513.34 of the Revised 90092
Code, as follows: 90093

(1) If the population of the township that created the 90094
township or joint police district served by the member's police 90095
force or the township that is served by the township constable is 90096
fifty thousand or less, the member or constable shall exercise 90097
that power on those portions of all state highways, except those 90098
highways included as part of the interstate system, as defined in 90099
section 5516.01 of the Revised Code, that are located within the 90100
township or joint police district, in the case of a member of a 90101
township or joint police district police force, or within the 90102
unincorporated territory of the township, in the case of a 90103
township constable; 90104

(2) If the population of the township that created the 90105
township or joint police district served by the member's police 90106
force or the township that is served by the township constable is 90107
greater than fifty thousand, the member or constable shall 90108
exercise that power on those portions of all state highways and 90109
highways included as part of the interstate highway system, as 90110
defined in section 5516.01 of the Revised Code, that are located 90111
within the township or joint police district, in the case of a 90112
member of a township or joint police district police force, or 90113
within the unincorporated territory of the township, in the case 90114

of a township constable. 90115

Sec. 4513.60. (A)(1) The sheriff of a county or chief of 90116
police of a municipal corporation, township, or township or joint 90117
police district, within the sheriff's or chief's respective 90118
territorial jurisdiction, upon complaint of any person adversely 90119
affected, may order into storage any motor vehicle, other than an 90120
abandoned junk motor vehicle as defined in section 4513.63 of the 90121
Revised Code, that has been left on private residential or private 90122
agricultural property for at least four hours without the 90123
permission of the person having the right to the possession of the 90124
property. The sheriff or chief of police, upon complaint of the 90125
owner of a repair garage or place of storage, may order into 90126
storage any motor vehicle, other than an abandoned junk motor 90127
vehicle, that has been left at the garage or place of storage for 90128
a longer period than that agreed upon. The place of storage shall 90129
be designated by the sheriff or chief of police. When ordering a 90130
motor vehicle into storage pursuant to this division, a sheriff or 90131
chief of police, whenever possible, shall arrange for the removal 90132
of the motor vehicle by a private tow truck operator or towing 90133
company. Subject to division (C) of this section, the owner of a 90134
motor vehicle that has been removed pursuant to this division may 90135
recover the vehicle only in accordance with division (E) of this 90136
section. 90137

(2) Divisions (A)(1) to (3) of this section do not apply to 90138
any private residential or private agricultural property that is 90139
established as a private tow-away zone in accordance with division 90140
(B) of this section. 90141

(3) As used in divisions (A)(1) and (2) of this section, 90142
"private residential property" means private property on which is 90143
located one or more structures that are used as a home, residence, 90144
or sleeping place by one or more persons, if no more than three 90145

separate households are maintained in the structure or structures. 90146
"Private residential property" does not include any private 90147
property on which is located one or more structures that are used 90148
as a home, residence, or sleeping place by two or more persons, if 90149
more than three separate households are maintained in the 90150
structure or structures. 90151

(B)(1) The owner of private property may establish a private 90152
tow-away zone only if all of the following conditions are 90153
satisfied: 90154

(a) The owner posts on the owner's property a sign, that is 90155
at least eighteen inches by twenty-four inches in size, that is 90156
visible from all entrances to the property, and that contains at 90157
least all of the following information: 90158

(i) A notice that the property is a private tow-away zone and 90159
that vehicles not authorized to park on the property will be towed 90160
away; 90161

(ii) The telephone number of the person from whom a 90162
towed-away vehicle can be recovered, and the address of the place 90163
to which the vehicle will be taken and the place from which it may 90164
be recovered; 90165

(iii) A statement that the vehicle may be recovered at any 90166
time during the day or night upon the submission of proof of 90167
ownership and the payment of a towing charge, in an amount not to 90168
exceed ninety dollars, and a storage charge, in an amount not to 90169
exceed twelve dollars per twenty-four-hour period; except that the 90170
charge for towing shall not exceed one hundred fifty dollars, and 90171
the storage charge shall not exceed twenty dollars per 90172
twenty-four-hour period, if the vehicle has a manufacturer's gross 90173
vehicle weight rating in excess of ten thousand pounds and is a 90174
truck, bus, or a combination of a commercial tractor and trailer 90175
or semitrailer. 90176

(b) The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted, and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (B)(1) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (B)(1)(a)(iii) of this section, and the owner, subject to division (C) of this section, may recover a vehicle that has been so removed only in accordance with division (E) of this section.

(3) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall remove, or shall cause the removal and storage of, any vehicle pursuant to division (B)(2) of this section by an unlicensed tow truck or unlicensed tow truck operator.

(4) Divisions (B)(1) to (3) of this section do not affect or limit the operation of division (A) of this section or sections 4513.61 to 4513.65 of the Revised Code as they relate to property other than private property that is established as a private tow-away zone under division (B)(1) of this section.

(C) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (A)(1) of this section

or of a vehicle that is being removed under authority of division 90209
(B)(2) of this section arrives after the motor vehicle or vehicle 90210
has been prepared for removal, but prior to its actual removal 90211
from the property, the owner or operator shall be given the 90212
opportunity to pay a fee of not more than one-half of the charge 90213
for the removal of motor vehicles under division (A)(1) of this 90214
section or of vehicles under division (B)(2) of this section, 90215
whichever is applicable, that normally is assessed by the person 90216
who has prepared the motor vehicle or vehicle for removal, in 90217
order to obtain release of the motor vehicle or vehicle. Upon 90218
payment of that fee, the motor vehicle or vehicle shall be 90219
released to the owner or operator, and upon its release, the owner 90220
or operator immediately shall move it so that: 90221

(1) If the motor vehicle was ordered into storage pursuant to 90222
division (A)(1) of this section, it is not on the private 90223
residential or private agricultural property without the 90224
permission of the person having the right to possession of the 90225
property, or is not at the garage or place of storage without the 90226
permission of the owner, whichever is applicable. 90227

(2) If the vehicle was being removed under authority of 90228
division (B)(2) of this section, it is not parked on the private 90229
property established as a private tow-away zone without the 90230
consent of the owner or in violation of any posted parking 90231
condition or regulation. 90232

(D)(1) If an owner of private property that is established as 90233
a private tow-away zone in accordance with division (B)(1) of this 90234
section or the authorized agent of such an owner removes or causes 90235
the removal of a vehicle from that property under authority of 90236
division (B)(2) of this section, the owner or agent promptly shall 90237
notify the police department of the municipal corporation, 90238
township, or township or joint police district in which the 90239
property is located, of the removal, the vehicle's license number, 90240

make, model, and color, the location from which it was removed, 90241
the date and time of its removal, the telephone number of the 90242
person from whom it may be recovered, and the address of the place 90243
to which it has been taken and from which it may be recovered. 90244

(2) Each county sheriff and each chief of police of a 90245
municipal corporation, township, or township or joint police 90246
district shall maintain a record of motor vehicles that the 90247
sheriff or chief orders into storage pursuant to division (A)(1) 90248
of this section and of vehicles removed from private property in 90249
the sheriff's or chief's jurisdiction that is established as a 90250
private tow-away zone of which the sheriff or chief has received 90251
notice under division (D)(1) of this section. The record shall 90252
include an entry for each such motor vehicle or vehicle that 90253
identifies the motor vehicle's or vehicle's license number, make, 90254
model, and color, the location from which it was removed, the date 90255
and time of its removal, the telephone number of the person from 90256
whom it may be recovered, and the address of the place to which it 90257
has been taken and from which it may be recovered. Any information 90258
in the record that pertains to a particular motor vehicle or 90259
vehicle shall be provided to any person who, either in person or 90260
pursuant to a telephone call, identifies self as the owner or 90261
operator of the motor vehicle or vehicle and requests information 90262
pertaining to its location. 90263

(3) Any person who registers a complaint that is the basis of 90264
a sheriff's or police chief's order for the removal and storage of 90265
a motor vehicle under division (A)(1) of this section shall 90266
provide the identity of the law enforcement agency with which the 90267
complaint was registered to any person who identifies self as the 90268
owner or operator of the motor vehicle and requests information 90269
pertaining to its location. 90270

(E) The owner of a motor vehicle that is ordered into storage 90271
pursuant to division (A)(1) of this section or of a vehicle that 90272

is removed under authority of division (B)(2) of this section may 90273
reclaim it upon payment of any expenses or charges incurred in its 90274
removal, in an amount not to exceed ninety dollars, and storage, 90275
in an amount not to exceed twelve dollars per twenty-four-hour 90276
period; except that the charge for towing shall not exceed one 90277
hundred fifty dollars, and the storage charge shall not exceed 90278
twenty dollars per twenty-four-hour period, if the vehicle has a 90279
manufacturer's gross vehicle weight rating in excess of ten 90280
thousand pounds and is a truck, bus, or a combination of a 90281
commercial tractor and trailer or semitrailer. Presentation of 90282
proof of ownership, which may be evidenced by a certificate of 90283
title to the motor vehicle or vehicle also shall be required for 90284
reclamation of the vehicle. If a motor vehicle that is ordered 90285
into storage pursuant to division (A)(1) of this section remains 90286
unclaimed by the owner for thirty days, the procedures established 90287
by sections 4513.61 and 4513.62 of the Revised Code shall apply. 90288

(F) No person shall remove, or cause the removal of, any 90289
vehicle from private property that is established as a private 90290
tow-away zone under division (B)(1) of this section other than in 90291
accordance with division (B)(2) of this section, and no person 90292
shall remove, or cause the removal of, any motor vehicle from any 90293
other private property other than in accordance with division 90294
(A)(1) of this section or sections 4513.61 to 4513.65 of the 90295
Revised Code. 90296

(G) Whoever violates division (B)(3) or (F) of this section 90297
is guilty of a minor misdemeanor. 90298

Sec. 4513.61. The sheriff of a county or chief of police of a 90299
municipal corporation, township, or township or joint police 90300
district, within the sheriff's or chief's respective territorial 90301
jurisdiction, or a state highway patrol trooper, upon notification 90302
to the sheriff or chief of police of such action and of the 90303

location of the place of storage, may order into storage any motor 90304
vehicle, including an abandoned junk motor vehicle as defined in 90305
section 4513.63 of the Revised Code, that has come into the 90306
possession of the sheriff, chief of police, or state highway 90307
patrol trooper as a result of the performance of the sheriff's, 90308
chief's, or trooper's duties or that has been left on a public 90309
street or other property open to the public for purposes of 90310
vehicular travel, or upon or within the right-of-way of any road 90311
or highway, for forty-eight hours or longer without notification 90312
to the sheriff or chief of police of the reasons for leaving the 90313
motor vehicle in such place, except that when such a motor vehicle 90314
constitutes an obstruction to traffic it may be ordered into 90315
storage immediately. The sheriff or chief of police shall 90316
designate the place of storage of any motor vehicle so ordered 90317
removed. 90318

The sheriff or chief of police immediately shall cause a 90319
search to be made of the records of the bureau of motor vehicles 90320
to ascertain the owner and any lienholder of a motor vehicle 90321
ordered into storage by the sheriff or chief of police, or by a 90322
state highway patrol trooper, and, if known, shall send or cause 90323
to be sent notice to the owner or lienholder at the owner's or 90324
lienholder's last known address by certified mail with return 90325
receipt requested, that the motor vehicle will be declared a 90326
nuisance and disposed of if not claimed within ten days of the 90327
date of mailing of the notice. The owner or lienholder of the 90328
motor vehicle may reclaim it upon payment of any expenses or 90329
charges incurred in its removal and storage, and presentation of 90330
proof of ownership, which may be evidenced by a certificate of 90331
title or memorandum certificate of title to the motor vehicle. If 90332
the owner or lienholder of the motor vehicle reclaims it after a 90333
search of the records of the bureau has been conducted and after 90334
notice has been sent to the owner or lienholder as described in 90335
this section, and the search was conducted by the owner of the 90336

place of storage or the owner's employee, and the notice was sent 90337
to the motor vehicle owner by the owner of the place of storage or 90338
the owner's employee, the owner or lienholder shall pay to the 90339
place of storage a processing fee of twenty-five dollars, in 90340
addition to any expenses or charges incurred in the removal and 90341
storage of the vehicle. 90342

If the owner or lienholder makes no claim to the motor 90343
vehicle within ten days of the date of mailing of the notice, and 90344
if the vehicle is to be disposed of at public auction as provided 90345
in section 4513.62 of the Revised Code, the sheriff or chief of 90346
police, without charge to any party, shall file with the clerk of 90347
courts of the county in which the place of storage is located an 90348
affidavit showing compliance with the requirements of this 90349
section. Upon presentation of the affidavit, the clerk, without 90350
charge, shall issue a salvage certificate of title, free and clear 90351
of all liens and encumbrances, to the sheriff or chief of police. 90352
If the vehicle is to be disposed of to a motor vehicle salvage 90353
dealer or other facility as provided in section 4513.62 of the 90354
Revised Code, the sheriff or chief of police shall execute in 90355
triplicate an affidavit, as prescribed by the registrar of motor 90356
vehicles, describing the motor vehicle and the manner in which it 90357
was disposed of, and that all requirements of this section have 90358
been complied with. The sheriff or chief of police shall retain 90359
the original of the affidavit for the sheriff's or chief's 90360
records, and shall furnish two copies to the motor vehicle salvage 90361
dealer or other facility. Upon presentation of a copy of the 90362
affidavit by the motor vehicle salvage dealer, the clerk of 90363
courts, within thirty days of the presentation, shall issue to 90364
such owner a salvage certificate of title, free and clear of all 90365
liens and encumbrances. 90366

Whenever a motor vehicle salvage dealer or other facility 90367
receives an affidavit for the disposal of a motor vehicle as 90368

provided in this section, the dealer or facility shall not be 90369
required to obtain an Ohio certificate of title to the motor 90370
vehicle in the dealer's or facility's own name if the vehicle is 90371
dismantled or destroyed and both copies of the affidavit are 90372
delivered to the clerk of courts. 90373

Sec. 4513.62. Unclaimed motor vehicles ordered into storage 90374
pursuant to division (A)(1) of section 4513.60 or section 4513.61 90375
of the Revised Code shall be disposed of at the order of the 90376
sheriff of the county or the chief of police of the municipal 90377
corporation, township, or township or joint police district to a 90378
motor vehicle salvage dealer or scrap metal processing facility as 90379
defined in section 4737.05 of the Revised Code, or to any other 90380
facility owned by or under contract with the county, municipal 90381
corporation, or township, for the disposal of such motor vehicles, 90382
or shall be sold by the sheriff, chief of police, or licensed 90383
auctioneer at public auction, after giving notice thereof by 90384
advertisement, published once a week for two successive weeks in a 90385
newspaper of general circulation in the county or as provided in 90386
section 7.16 of the Revised Code. Any moneys accruing from the 90387
disposition of an unclaimed motor vehicle that are in excess of 90388
the expenses resulting from the removal and storage of the vehicle 90389
shall be credited to the general fund of the county, ~~the~~ municipal 90390
corporation, ~~or the~~ township, or joint police district, as the 90391
case may be. 90392

Sec. 4513.63. "Abandoned junk motor vehicle" means any motor 90393
vehicle meeting all of the following requirements: 90394

(A) Left on private property for forty-eight hours or longer 90395
without the permission of the person having the right to the 90396
possession of the property, on a public street or other property 90397
open to the public for purposes of vehicular travel or parking, or 90398
upon or within the right-of-way of any road or highway, for 90399

forty-eight hours or longer; 90400

(B) Three years old, or older; 90401

(C) Extensively damaged, such damage including but not 90402
limited to any of the following: missing wheels, tires, motor, or 90403
transmission; 90404

(D) Apparently inoperable; 90405

(E) Having a fair market value of one thousand five hundred 90406
dollars or less. 90407

The sheriff of a county or chief of police of a municipal 90408
corporation, township, or township or joint police district, 90409
within the sheriff's or chief's respective territorial 90410
jurisdiction, or a state highway patrol trooper, upon notification 90411
to the sheriff or chief of police of such action, shall order any 90412
abandoned junk motor vehicle to be photographed by a law 90413
enforcement officer. The officer shall record the make of motor 90414
vehicle, the serial number when available, and shall also detail 90415
the damage or missing equipment to substantiate the value of one 90416
thousand five hundred dollars or less. The sheriff or chief of 90417
police shall thereupon immediately dispose of the abandoned junk 90418
motor vehicle to a motor vehicle salvage dealer as defined in 90419
section 4738.01 of the Revised Code or a scrap metal processing 90420
facility as defined in section 4737.05 of the Revised Code which 90421
is under contract to the county, township, or municipal 90422
corporation, or to any other facility owned by or under contract 90423
with the county, township, or municipal corporation for the 90424
destruction of such motor vehicles. The records and photograph 90425
relating to the abandoned junk motor vehicle shall be retained by 90426
the law enforcement agency ordering the disposition of such 90427
vehicle for a period of at least two years. The law enforcement 90428
agency shall execute in quadruplicate an affidavit, as prescribed 90429
by the registrar of motor vehicles, describing the motor vehicle 90430

and the manner in which it was disposed of, and that all 90431
requirements of this section have been complied with, and, within 90432
thirty days of disposing of the vehicle, shall sign and file the 90433
affidavit with the clerk of courts of the county in which the 90434
motor vehicle was abandoned. The clerk of courts shall retain the 90435
original of the affidavit for the clerk's files, shall furnish one 90436
copy thereof to the registrar, one copy to the motor vehicle 90437
salvage dealer or other facility handling the disposal of the 90438
vehicle, and one copy to the law enforcement agency ordering the 90439
disposal, who shall file such copy with the records and photograph 90440
relating to the disposal. Any moneys arising from the disposal of 90441
an abandoned junk motor vehicle shall be deposited in the general 90442
fund of the county, township, or the municipal corporation, as the 90443
case may be. 90444

Notwithstanding section 4513.61 of the Revised Code, any 90445
motor vehicle meeting the requirements of divisions (C), (D), and 90446
(E) of this section which has remained unclaimed by the owner or 90447
lienholder for a period of ten days or longer following 90448
notification as provided in section 4513.61 of the Revised Code 90449
may be disposed of as provided in this section. 90450

Sec. 4513.64. (A) No person shall willfully leave an 90451
abandoned junk motor vehicle as defined in section 4513.63 of the 90452
Revised Code on private property for more than seventy-two hours 90453
without the permission of the person having the right to the 90454
possession of the property, or on a public street or other 90455
property open to the public for purposes of vehicular travel or 90456
parking, or upon or within the right-of-way of any road or 90457
highway, for forty-eight hours or longer without notification to 90458
the sheriff of the county or chief of police of the municipal 90459
corporation, township, or township or joint police district of the 90460
reasons for leaving the motor vehicle in such place. 90461

For purposes of this section, the fact that a motor vehicle 90462
has been so left without permission or notification is prima-facie 90463
evidence of abandonment. 90464

Nothing contained in sections 4513.60, 4513.61, and 4513.63 90465
of the Revised Code shall invalidate the provisions of municipal 90466
ordinances or township resolutions regulating or prohibiting the 90467
abandonment of motor vehicles on streets, highways, public 90468
property, or private property within municipal corporations or 90469
townships. 90470

(B) Whoever violates this section is guilty of a minor 90471
misdemeanor and shall also be assessed any costs incurred by the 90472
county, township, joint police district, or municipal corporation 90473
in disposing of the abandoned junk motor vehicle that is the basis 90474
of the violation, less any money accruing to the county, ~~to the~~ 90475
township, joint police district, or ~~to the~~ municipal corporation 90476
from this disposal of the vehicle. 90477

Sec. 4513.66. (A) If a motor vehicle accident occurs on any 90478
highway, public street, or other property open to the public for 90479
purposes of vehicular travel and if any motor vehicle, cargo, or 90480
personal property that has been damaged or spilled as a result of 90481
the motor vehicle accident is blocking the highway, street, or 90482
other property or is otherwise endangering public safety, the 90483
sheriff of the county, or the chief of police of the municipal 90484
corporation, township, or township or joint police district, in 90485
which the accident occurred, a state highway patrol trooper, or 90486
the chief of the fire department having jurisdiction where the 90487
accident occurred may, without consent of the owner but with the 90488
approval of the law enforcement agency conducting any 90489
investigation of the accident, remove the motor vehicle if the 90490
motor vehicle is unoccupied, cargo, or personal property from the 90491
portion of the highway, public street, or property ordinarily used 90492

for vehicular travel on the highway, public street, or other 90493
property open to the public for purposes of vehicular travel. 90494

(B)(1) Except as provided in division (B)(2) or (3) of this 90495
section, no employee of the department of transportation, sheriff, 90496
deputy sheriff, chief of police or police officer of a municipal 90497
corporation, township, or township or joint police district, state 90498
highway patrol trooper, chief of a fire department, or fire 90499
fighter who authorizes or participates in the removal of any 90500
unoccupied motor vehicle, cargo, or personal property as 90501
authorized by division (A) of this section is liable in civil 90502
damages for any injury, death, or loss to person or property that 90503
results from the removal of that unoccupied motor vehicle, cargo, 90504
or personal property. Except as provided in division (B)(2) or (3) 90505
of this section, if the department of transportation or a sheriff, 90506
chief of police of a municipal corporation, township, or township 90507
or joint police district, head of the state highway patrol, or 90508
chief of a fire department authorizes, employs, or arranges to 90509
have a private tow truck operator or towing company remove any 90510
unoccupied motor vehicle, cargo, or personal property as 90511
authorized by division (A) of this section, that private tow truck 90512
operator or towing company is not liable in civil damages for any 90513
injury, death, or loss to person or property that results from the 90514
removal of that unoccupied motor vehicle, cargo, or personal 90515
property, and the department of transportation, sheriff, chief of 90516
police, head of the state highway patrol, or fire department chief 90517
is not liable in civil damages for any injury, death, or loss to 90518
person or property that results from the private tow truck 90519
operator or towing company's removal of that unoccupied motor 90520
vehicle, cargo, or personal property. 90521

(2) Division (B)(1) of this section does not apply to any 90522
person or entity involved in the removal of an unoccupied motor 90523
vehicle, cargo, or personal property pursuant to division (A) of 90524

this section if that removal causes or contributes to the release 90525
of a hazardous material or to structural damage to the roadway. 90526

(3) Division (B)(1) of this section does not apply to a 90527
private tow truck operator or towing company that was not 90528
authorized, employed, or arranged by the department of 90529
transportation, a sheriff, a chief of police of a municipal 90530
corporation, township, or township or joint police district, the 90531
head of the state highway patrol, or a chief of a fire department 90532
or to a private tow truck operator or towing company that was 90533
authorized, employed, or arranged by the department of 90534
transportation, a sheriff, a chief of police of a municipal 90535
corporation, township, or township or joint police district, the 90536
head of the state highway patrol, or a chief of a fire department 90537
to perform the removal of the unoccupied motor vehicle, cargo, or 90538
personal property and the private tow truck operator or towing 90539
company performed the removal in a reckless or willful manner. 90540

(C) As used in this section, "hazardous material" has the 90541
same meaning as in section 2305.232 of the Revised Code. 90542

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the 90543
Revised Code: 90544

(A) "Persons" includes individuals, firms, partnerships, 90545
associations, joint stock companies, corporations, and any 90546
combinations of individuals. 90547

(B) "Motor vehicle" means motor vehicle as defined in section 90548
4501.01 of the Revised Code and also includes "all-purpose 90549
vehicle" and "off-highway motorcycle" as those terms are defined 90550
in section 4519.01 of the Revised Code. "Motor vehicle" does not 90551
include a snowmobile as defined in section 4519.01 of the Revised 90552
Code or manufactured and mobile homes. 90553

(C) "New motor vehicle" means a motor vehicle, the legal 90554

title to which has never been transferred by a manufacturer, 90555
remanufacturer, distributor, or dealer to an ultimate purchaser. 90556

(D) "Ultimate purchaser" means, with respect to any new motor 90557
vehicle, the first person, other than a dealer purchasing in the 90558
capacity of a dealer, who in good faith purchases such new motor 90559
vehicle for purposes other than resale. 90560

(E) "Business" includes any activities engaged in by any 90561
person for the object of gain, benefit, or advantage either direct 90562
or indirect. 90563

(F) "Engaging in business" means commencing, conducting, or 90564
continuing in business, or liquidating a business when the 90565
liquidator thereof holds self out to be conducting such business; 90566
making a casual sale or otherwise making transfers in the ordinary 90567
course of business when the transfers are made in connection with 90568
the disposition of all or substantially all of the transferor's 90569
assets is not engaging in business. 90570

(G) "Retail sale" or "sale at retail" means the act or 90571
attempted act of selling, bartering, exchanging, or otherwise 90572
disposing of a motor vehicle to an ultimate purchaser for use as a 90573
consumer. 90574

(H) "Retail installment contract" includes any contract in 90575
the form of a note, chattel mortgage, conditional sales contract, 90576
lease, agreement, or other instrument payable in one or more 90577
installments over a period of time and arising out of the retail 90578
sale of a motor vehicle. 90579

(I) "Farm machinery" means all machines and tools used in the 90580
production, harvesting, and care of farm products. 90581

(J) "Dealer" or "motor vehicle dealer" means any new motor 90582
vehicle dealer, any motor vehicle leasing dealer, and any used 90583
motor vehicle dealer. 90584

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer ~~or manufacturer-home broker~~ to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a

person other than a new motor vehicle dealer, used motor vehicle 90617
dealer, motor vehicle salvage dealer, as defined in division (A) 90618
of section 4738.01 of the Revised Code, salesperson, motor vehicle 90619
auction owner, manufacturer, or distributor acting in the capacity 90620
of a dealer, salesperson, auction owner, manufacturer, or 90621
distributor, to a person who purchases the motor vehicle for use 90622
as a consumer. 90623

(P) "Motor vehicle show" means a display of current models of 90624
motor vehicles whereby the primary purpose is the exhibition of 90625
competitive makes and models in order to provide the general 90626
public the opportunity to review and inspect various makes and 90627
models of motor vehicles at a single location. 90628

(Q) "Motor vehicle auction owner" means any person who is 90629
engaged wholly or in part in the business of auctioning motor 90630
vehicles, but does not mean a construction equipment auctioneer or 90631
a construction equipment auction licensee. 90632

(R) "Manufacturer" means a person who manufactures, 90633
assembles, or imports motor vehicles, including motor homes, but 90634
does not mean a person who only assembles or installs a body, 90635
special equipment unit, finishing trim, or accessories on a motor 90636
vehicle chassis supplied by a manufacturer or distributor. 90637

(S) "Tent-type fold-out camping trailer" means any vehicle 90638
intended to be used, when stationary, as a temporary shelter with 90639
living and sleeping facilities, and that is subject to the 90640
following properties and limitations: 90641

(1) A minimum of twenty-five per cent of the fold-out portion 90642
of the top and sidewalls combined must be constructed of canvas, 90643
vinyl, or other fabric, and form an integral part of the shelter. 90644

(2) When folded, the unit must not exceed: 90645

(a) Fifteen feet in length, exclusive of bumper and tongue; 90646

(b) Sixty inches in height from the point of contact with the ground;	90647 90648
(c) Eight feet in width;	90649
(d) One ton gross weight at time of sale.	90650
(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.	90651 90652 90653 90654 90655 90656
(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.	90657 90658 90659 90660
(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	90661 90662 90663 90664 90665
(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.	90666 90667 90668 90669
(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.	90670 90671 90672
(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.	90673 90674 90675
(Z) "Factory representative" means a representative employed	90676

by a manufacturer, remanufacturer, or by a factory branch 90677
primarily for the purpose of promoting the sale of its motor 90678
vehicles, parts, or accessories to dealers or for supervising or 90679
contacting its dealers or prospective dealers. 90680

(AA) "Administrative or executive management" means those 90681
individuals who are not subject to federal wage and hour laws. 90682

(BB) "Good faith" means honesty in the conduct or transaction 90683
concerned and the observance of reasonable commercial standards of 90684
fair dealing in the trade as is defined in section 1301.201 of the 90685
Revised Code, including, but not limited to, the duty to act in a 90686
fair and equitable manner so as to guarantee freedom from 90687
coercion, intimidation, or threats of coercion or intimidation; 90688
provided however, that recommendation, endorsement, exposition, 90689
persuasion, urging, or argument shall not be considered to 90690
constitute a lack of good faith. 90691

(CC) "Coerce" means to compel or attempt to compel by failing 90692
to act in good faith or by threat of economic harm, breach of 90693
contract, or other adverse consequences. Coerce does not mean to 90694
argue, urge, recommend, or persuade. 90695

(DD) "Relevant market area" means any area within a radius of 90696
ten miles from the site of a potential new dealership, except that 90697
for manufactured home or recreational vehicle dealerships the 90698
radius shall be twenty-five miles. The ten-mile radius shall be 90699
measured from the dealer's established place of business that is 90700
used exclusively for the purpose of selling, displaying, offering 90701
for sale, or dealing in motor vehicles. 90702

(EE) "Wholesale" or "at wholesale" means the act or attempted 90703
act of selling, bartering, exchanging, or otherwise disposing of a 90704
motor vehicle to a transferee for the purpose of resale and not 90705
for ultimate consumption by that transferee. 90706

(FF) "Motor vehicle wholesaler" means any person licensed as 90707

a dealer under the laws of another state and engaged in the 90708
business of selling, displaying, or offering for sale used motor 90709
vehicles, at wholesale, but does not mean any motor vehicle dealer 90710
as defined in this section. 90711

(GG)(1) "Remanufacturer" means a person who assembles or 90712
installs passenger seating, walls, a roof elevation, or a body 90713
extension on a conversion van with the motor vehicle chassis 90714
supplied by a manufacturer or distributor, a person who modifies a 90715
truck chassis supplied by a manufacturer or distributor for use as 90716
a public safety or public service vehicle, a person who modifies a 90717
motor vehicle chassis supplied by a manufacturer or distributor 90718
for use as a limousine or hearse, or a person who modifies an 90719
incomplete motor vehicle cab and chassis supplied by a new motor 90720
vehicle dealer or distributor for use as a tow truck, but does not 90721
mean either of the following: 90722

(a) A person who assembles or installs passenger seating, a 90723
roof elevation, or a body extension on a recreational vehicle as 90724
defined in division (Q) and referred to in division (B) of section 90725
4501.01 of the Revised Code; 90726

(b) A person who assembles or installs special equipment or 90727
accessories for handicapped persons, as defined in section 4503.44 90728
of the Revised Code, upon a motor vehicle chassis supplied by a 90729
manufacturer or distributor. 90730

(2) For the purposes of division (GG)(1) of this section, 90731
"public safety vehicle or public service vehicle" means a fire 90732
truck, ambulance, school bus, street sweeper, garbage packing 90733
truck, or cement mixer, or a mobile self-contained facility 90734
vehicle. 90735

(3) For the purposes of division (GG)(1) of this section, 90736
"limousine" means a motor vehicle, designed only for the purpose 90737
of carrying nine or fewer passengers, that a person modifies by 90738

cutting the original chassis, lengthening the wheelbase by forty 90739
inches or more, and reinforcing the chassis in such a way that all 90740
modifications comply with all applicable federal motor vehicle 90741
safety standards. No person shall qualify as or be deemed to be a 90742
remanufacturer who produces limousines unless the person has a 90743
written agreement with the manufacturer of the chassis the person 90744
utilizes to produce the limousines to complete properly the 90745
remanufacture of the chassis into limousines. 90746

(4) For the purposes of division (GG)(1) of this section, 90747
"hearse" means a motor vehicle, designed only for the purpose of 90748
transporting a single casket, that is equipped with a compartment 90749
designed specifically to carry a single casket that a person 90750
modifies by cutting the original chassis, lengthening the 90751
wheelbase by ten inches or more, and reinforcing the chassis in 90752
such a way that all modifications comply with all applicable 90753
federal motor vehicle safety standards. No person shall qualify as 90754
or be deemed to be a remanufacturer who produces hearses unless 90755
the person has a written agreement with the manufacturer of the 90756
chassis the person utilizes to produce the hearses to complete 90757
properly the remanufacture of the chassis into hearses. 90758

(5) For the purposes of division (GG)(1) of this section, 90759
"mobile self-contained facility vehicle" means a mobile classroom 90760
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, 90761
testing laboratory, and mobile display vehicle, each of which is 90762
designed for purposes other than for passenger transportation and 90763
other than the transportation or displacement of cargo, freight, 90764
materials, or merchandise. A vehicle is remanufactured into a 90765
mobile self-contained facility vehicle in part by the addition of 90766
insulation to the body shell, and installation of all of the 90767
following: a generator, electrical wiring, plumbing, holding 90768
tanks, doors, windows, cabinets, shelving, and heating, 90769
ventilating, and air conditioning systems. 90770

(6) For the purposes of division (GG)(1) of this section, 90771
"tow truck" means both of the following: 90772

(a) An incomplete cab and chassis that are purchased by a 90773
remanufacturer from a new motor vehicle dealer or distributor of 90774
the cab and chassis and on which the remanufacturer then installs 90775
in a permanent manner a wrecker body it purchases from a 90776
manufacturer or distributor of wrecker bodies, installs an 90777
emergency flashing light pylon and emergency lights upon the mast 90778
of the wrecker body or rooftop, and installs such other related 90779
accessories and equipment, including push bumpers, front grille 90780
guards with pads and other custom-ordered items such as painting, 90781
special lettering, and safety striping so as to create a complete 90782
motor vehicle capable of lifting and towing another motor vehicle. 90783

(b) An incomplete cab and chassis that are purchased by a 90784
remanufacturer from a new motor vehicle dealer or distributor of 90785
the cab and chassis and on which the remanufacturer then installs 90786
in a permanent manner a car carrier body it purchases from a 90787
manufacturer or distributor of car carrier bodies, installs an 90788
emergency flashing light pylon and emergency lights upon the 90789
rooftop, and installs such other related accessories and 90790
equipment, including push bumpers, front grille guards with pads 90791
and other custom-ordered items such as painting, special 90792
lettering, and safety striping. 90793

As used in division (GG)(6)(b) of this section, "car carrier 90794
body" means a mechanical or hydraulic apparatus capable of lifting 90795
and holding a motor vehicle on a flat level surface so that one or 90796
more motor vehicles can be transported, once the car carrier is 90797
permanently installed upon an incomplete cab and chassis. 90798

(HH) "Operating as a new motor vehicle dealership" means 90799
engaging in activities such as displaying, offering for sale, and 90800
selling new motor vehicles at retail, operating a service facility 90801
to perform repairs and maintenance on motor vehicles, offering for 90802

sale and selling motor vehicle parts at retail, and conducting all 90803
other acts that are usual and customary to the operation of a new 90804
motor vehicle dealership. For the purposes of this chapter only, 90805
possession of either a valid new motor vehicle dealer franchise 90806
agreement or a new motor vehicle dealers license, or both of these 90807
items, is not evidence that a person is operating as a new motor 90808
vehicle dealership. 90809

(II) "Outdoor power equipment" means garden and small utility 90810
tractors, walk-behind and riding mowers, chainsaws, and tillers. 90811

(JJ) "Remote service facility" means premises that are 90812
separate from a licensed new motor vehicle dealer's sales facility 90813
by not more than one mile and that are used by the dealer to 90814
perform repairs, warranty work, recall work, and maintenance on 90815
motor vehicles pursuant to a franchise agreement entered into with 90816
a manufacturer of motor vehicles. A remote service facility shall 90817
be deemed to be part of the franchise agreement and is subject to 90818
all the rights, duties, obligations, and requirements of Chapter 90819
4517. of the Revised Code that relate to the performance of motor 90820
vehicle repairs, warranty work, recall work, and maintenance work 90821
by new motor vehicle dealers. 90822

(KK) "Recreational vehicle" has the same meaning as in 90823
section 4501.01 of the Revised Code. 90824

(LL) "Construction equipment auctioneer" means a person who 90825
holds both a valid ~~auctioneer's~~ auction firm license issued under 90826
Chapter 4707. of the Revised Code and a valid construction 90827
equipment auction license issued under this chapter. 90828

(MM) "Large construction or transportation equipment" means 90829
vehicles having a gross vehicle weight rating of more than ten 90830
thousand pounds and includes road rollers, traction engines, power 90831
shovels, power cranes, commercial cars and trucks, or farm trucks, 90832
and other similar vehicles obtained primarily from the 90833

construction, mining, transportation or farming industries. 90834

Sec. 4517.02. (A) Except as otherwise provided in this 90835
section, no person shall do any of the following: 90836

(1) Engage in the business of displaying or selling at retail 90837
new motor vehicles or assume to engage in that business, unless 90838
the person is licensed as a new motor vehicle dealer under 90839
sections 4517.01 to 4517.45 of the Revised Code, or is a 90840
salesperson licensed under those sections and employed by a 90841
licensed new motor vehicle dealer; 90842

(2) Engage in the business of offering for sale, displaying 90843
for sale, or selling at retail or wholesale used motor vehicles or 90844
assume to engage in that business, unless the person is licensed 90845
as a dealer under sections 4517.01 to 4517.45 of the Revised Code, 90846
is a salesperson licensed under those sections and employed by a 90847
licensed used motor vehicle dealer or licensed new motor vehicle 90848
dealer, or the person holds a construction equipment auction 90849
license issued under section 4517.17 of the Revised Code; 90850

(3) Engage in the business of regularly making available, 90851
offering to make available, or arranging for another person to use 90852
a motor vehicle, in the manner described in division (M) of 90853
section 4517.01 of the Revised Code, unless the person is licensed 90854
as a motor vehicle leasing dealer under sections 4517.01 to 90855
4517.45 of the Revised Code; 90856

(4) Engage in the business of motor vehicle auctioning or 90857
assume to engage in that business, unless the person is licensed 90858
as a motor vehicle auction owner under sections 4517.01 to 4517.45 90859
of the Revised Code and the person uses an auctioneer who is 90860
licensed under Chapter 4707. of the Revised Code to conduct the 90861
motor vehicle auctions or the person holds a construction 90862
equipment auction license issued under section 4517.17 of the 90863
Revised Code; 90864

(5) Engage in the business of distributing motor vehicles or 90865
assume to engage in that business, unless the person is licensed 90866
as a distributor under sections 4517.01 to 4517.45 of the Revised 90867
Code; 90868

(6) Make more than five casual sales of motor vehicles in a 90869
twelve-month period, commencing with the day of the month in which 90870
the first such sale is made, nor provide a location or space for 90871
the sale of motor vehicles at a flea market, without obtaining a 90872
license as a dealer under sections 4517.01 to 4517.45 of the 90873
Revised Code, provided that nothing in this section shall be 90874
construed to prohibit the disposition without a license of a motor 90875
vehicle originally acquired and held for purposes other than sale, 90876
rental, or lease to an employee, retiree, officer, or director of 90877
the person making the disposition, to a corporation affiliated 90878
with the person making the disposition, or to a person licensed 90879
under sections 4517.01 to 4517.45 of the Revised Code; 90880

(7) Engage in the business of auctioning both large 90881
construction or transportation equipment and also motor vehicles 90882
incident thereto, unless the person is a construction equipment 90883
auctioneer or the person is licensed as a motor vehicle auction 90884
owner and the person uses an auctioneer who is licensed under 90885
Chapter 4707. of the Revised Code to conduct the auction. 90886

(B) Nothing in this section shall be construed to require an 90887
auctioneer licensed under sections 4707.01 to 4707.19 of the 90888
Revised Code, to obtain a motor vehicle salesperson's license 90889
under sections 4517.01 to 4517.45 of the Revised Code when 90890
conducting an auction sale for a licensed motor vehicle dealer on 90891
the dealer's premises, or when conducting an auction sale for a 90892
licensed motor vehicle auction owner; nor shall such an auctioneer 90893
be required to obtain a motor vehicle auction owner's license 90894
under sections 4517.01 to 4517.45 of the Revised Code when engaged 90895
in auctioning for a licensed motor vehicle auction owner. 90896

The establishment of a construction equipment auction license 90897
by Am. Sub. H.B. 114 of the 129th general assembly shall not in 90898
any way modify, limit, or restrict in any manner the conduct of 90899
auctions by persons licensed under Chapter 4707. of the Revised 90900
Code who are acting in compliance with that chapter. 90901

(C) Sections 4517.01 to 4517.45 of the Revised Code do not 90902
apply to any of the following: 90903

(1) Persons engaging in the business of selling commercial 90904
tractors, trailers, or semitrailers incidentally to engaging 90905
primarily in business other than the selling or leasing of motor 90906
vehicles; 90907

(2) Mortgagees selling at retail only those motor vehicles 90908
that have come into their possession by a default in the terms of 90909
a mortgage contract; 90910

(3) The leasing, rental, and interchange of motor vehicles 90911
used directly in the rendition of a public utility service by 90912
regulated motor carriers. 90913

(D) When a partnership licensed under sections 4517.01 to 90914
4517.45 of the Revised Code is dissolved by death, the surviving 90915
partners may operate under the license for a period of sixty days, 90916
and the heirs or representatives of deceased persons and receivers 90917
or trustees in bankruptcy appointed by any competent authority may 90918
operate under the license of the person succeeded in possession by 90919
that heir, representative, receiver, or trustee in bankruptcy. 90920

(E) No remanufacturer shall engage in the business of selling 90921
at retail any new motor vehicle without having written authority 90922
from the manufacturer or distributor of the vehicle to sell new 90923
motor vehicles and to perform repairs under the terms of the 90924
manufacturer's or distributor's new motor vehicle warranty, 90925
unless, at the time of the sale of the vehicle, each customer is 90926
furnished with a binding agreement ensuring that the customer has 90927

the right to have the vehicle serviced or repaired by a new motor 90928
vehicle dealer who is franchised to sell and service vehicles of 90929
the same line-make as the chassis of the remanufactured vehicle 90930
purchased by the customer and whose service or repair facility is 90931
located within either twenty miles of the remanufacturer's 90932
location and place of business or twenty miles of the customer's 90933
residence or place of business. If there is no such new motor 90934
vehicle dealer located within twenty miles of the remanufacturer's 90935
location and place of business or the customer's residence or 90936
place of business, the binding agreement furnished to the customer 90937
may be with the new motor vehicle dealer who is franchised to sell 90938
and service vehicles of the same line-make as the chassis of the 90939
remanufactured vehicle purchased by the customer and whose service 90940
or repair facility is located nearest to the remanufacturer's 90941
location and place of business or the customer's residence or 90942
place of business. Additionally, at the time of sale of any 90943
vehicle, each customer of the remanufacturer shall be furnished 90944
with a warranty issued by the remanufacturer for a term of at 90945
least one year. 90946

(F) Except as otherwise provided in this division, whoever 90947
violates this section is guilty of a minor misdemeanor and shall 90948
be subject to a mandatory fine of one hundred dollars. If the 90949
offender previously has been convicted of or pleaded guilty to a 90950
violation of this section, whoever violates this section is guilty 90951
of a misdemeanor of the first degree and shall be subject to a 90952
mandatory fine of one thousand dollars. 90953

Sec. 4517.04. Each person applying for a new motor vehicle 90954
dealer's license shall ~~annually~~ biennially make out and deliver to 90955
the registrar of motor vehicles, before the first day of April, 90956
and upon a blank to be furnished by the registrar for that 90957
purpose, a separate application for license for each county in 90958
which the business of selling new motor vehicles is to be 90959

conducted. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name of applicant and location of principal place of business;

(B) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(C) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(D) The county in which the business is to be conducted and the address of each place of business therein;

(E) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that shall be sufficient to establish to the satisfaction of the registrar the reputation in business of the applicant;

(F) A statement showing whether the applicant has previously applied for a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any such license that was revoked or suspended;

(G) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license,~~ distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(H) A statement of the makes of new motor vehicles to be 90991
handled. 90992

The statement required by division (E) of this section shall 90993
indicate whether the applicant or, if applicable, any of the 90994
applicant's owners, partners, officers, or directors, 90995
individually, or as owner, partner, officer, or director of a 90996
business entity, has been convicted of, pleaded guilty, or pleaded 90997
no contest, in a criminal action, or had a judgment rendered 90998
against ~~him~~ the person in a civil action for, a violation of 90999
sections 4549.41 to 4549.46 of the Revised Code, of any 91000
substantively comparable provisions of the law of any other state, 91001
or of subchapter IV of the "Motor Vehicle Information and Cost 91002
Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 91003

A true copy of the contract, agreement, or understanding the 91004
applicant has entered into or is about to enter into with the 91005
manufacturer or distributor of the new motor vehicles the 91006
applicant will handle shall be filed with the application. If the 91007
contract, agreement, or understanding is not in writing, a written 91008
statement of all the terms thereof shall be filed. Each such copy 91009
or statement shall bear a certificate signed by each party to the 91010
contract, agreement, or understanding, to the effect that the copy 91011
or statement is true and complete and contains all of the 91012
agreements made or about to be made between the parties. 91013

The application also shall be accompanied by a photograph, as 91014
prescribed by the registrar, of each place of business operated, 91015
or to be operated, by the applicant. 91016

Sec. 4517.09. Each person applying for a salesperson's 91017
license shall ~~annually~~ biennially make out and deliver to the 91018
registrar of motor vehicles, before the first day of July and upon 91019
a blank to be furnished by the registrar for that purpose, an 91020
application for license. The application shall be in the form 91021

prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name and post-office address of the applicant;

(B) Name and post-office address of the motor vehicle dealer ~~or manufactured home broker~~ for whom the applicant intends to act as salesperson;

(C) A statement of the applicant's previous history, record, and association, that shall be sufficient to establish to the satisfaction of the registrar the applicant's reputation in business;

(D) A statement as to whether the applicant intends to engage in any occupation or business other than that of a motor vehicle salesperson;

(E) A statement as to whether the applicant has ever had any previous application refused, and whether the applicant has previously had a license revoked or suspended;

(F) A statement as to whether the applicant was an employee of or salesperson for a dealer ~~or manufactured home broker~~ whose license was suspended or revoked;

(G) A statement of the motor vehicle dealer ~~or manufactured home broker~~ named therein, designating the applicant as the dealer's ~~or broker's~~ salesperson.

The statement required by division (C) of this section shall indicate whether the applicant individually, or as an owner, partner, officer, or director of a business entity, has been convicted of, or pleaded guilty to, in a criminal action, or had a judgment rendered against the applicant in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other

state, or of subchapter IV of the "Motor Vehicle Information and 91052
Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 91053

Sec. 4517.10. At the time the registrar of motor vehicles 91054
grants the application of any person for a license as motor 91055
vehicle dealer, motor vehicle leasing dealer, ~~manufactured home~~ 91056
~~broker~~, distributor, motor vehicle auction owner, or motor vehicle 91057
salesperson, the registrar shall issue to the person a license. 91058
The registrar shall prescribe different forms for the licenses of 91059
motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured~~ 91060
~~home brokers~~, distributors, motor vehicle auction owners, and 91061
motor vehicle salespersons, and all licenses shall include the 91062
name and post-office address of the person licensed. 91063

The fee for a motor vehicle dealer's license, and a motor 91064
vehicle leasing dealer's license, ~~and a manufactured home broker's~~ 91065
~~license~~ shall be fifty dollars, and the. In addition to the 91066
license fee, the registrar shall collect from each applicant for 91067
an initial motor vehicle dealer's license and motor vehicle 91068
leasing dealer's license a separate fee in an amount equal to the 91069
last assessment required by section 4505.181 of the Revised Code 91070
for all motor vehicle dealers and motor vehicle leasing dealers. 91071
The registrar shall deposit the separate fee into the state 91072
treasury to the credit of the title defect rescission fund created 91073
in section 1345.52 of the Revised Code. The fee for a 91074
salesperson's license shall be ten dollars. The fee for a motor 91075
vehicle auction owner's license shall be one hundred dollars for 91076
each location. The fee for a distributor's license shall be one 91077
hundred dollars for each distributorship. In all cases, the fee 91078
shall accompany the application for license. 91079

The registrar may require each applicant for a license issued 91080
under this chapter to pay an additional fee, which shall be used 91081
by the registrar to pay the costs of obtaining a record of any 91082

arrests and convictions of the applicant from the Ohio bureau of 91083
identification and investigation. The amount of the fee shall be 91084
equal to that paid by the registrar to obtain such record. 91085

If a motor vehicle dealer, or a motor vehicle leasing dealer, 91086
~~or a manufactured home broker,~~ has more than one place of business 91087
in the county, the dealer ~~or the broker~~ shall make application, in 91088
such form as the registrar prescribes, for a certified copy of the 91089
license issued to the dealer ~~or manufactured home broker~~ for each 91090
place of business operated. In the event of the loss, mutilation, 91091
or destruction of a license issued under sections 4517.01 to 91092
4517.65 of the Revised Code, any licensee may make application to 91093
the registrar, in such form as the registrar prescribes, for a 91094
duplicate copy thereof. The fee for a certified or duplicate copy 91095
of a motor vehicle dealer's, motor vehicle leasing dealer's, 91096
~~manufactured home broker's,~~ distributor's, or auction owner's 91097
license, is two dollars, and the fee for a duplicate copy of a 91098
salesperson's license is one dollar. All fees for such copies 91099
shall accompany the applications. 91100

Beginning on ~~the effective date of this amendment~~ September 91101
16, 2004, all motor vehicle dealers' licenses, motor vehicle 91102
leasing dealers' licenses, ~~manufactured home broker's licenses,~~ 91103
distributors' licenses, auction owners' licenses, and all 91104
salespersons' licenses issued or renewed shall expire biennially 91105
on a day within the two-year cycle that is prescribed by the 91106
registrar, unless sooner suspended or revoked. Before the first 91107
day after the day prescribed by the registrar in the year that the 91108
license expires, each licensed motor vehicle dealer, motor vehicle 91109
leasing dealer, ~~manufactured home broker,~~ distributor, and auction 91110
owner and each licensed salesperson, in the year in which the 91111
license will expire, shall file an application, in such form as 91112
the registrar prescribes, for the renewal of such license. The fee 91113
~~provided in this section for the original~~ renewing a motor vehicle 91114

dealer's license and a motor vehicle leasing dealer's license 91115
shall be fifty dollars. The fee for renewing a salesperson's 91116
license shall be ten dollars. The fee for renewing a motor vehicle 91117
auction owner's license shall be one hundred dollars for each 91118
location. The fee for renewing a distributor's license shall be 91119
one hundred dollars for each distributorship. In all cases the 91120
license renewal fee shall accompany the renewal application. 91121
91122

Any salesperson's license shall be suspended upon the 91123
termination, suspension, or revocation of the license of the motor 91124
vehicle dealer ~~or manufactured home broker~~ for whom the 91125
salesperson is acting, or upon the salesperson leaving the service 91126
of the motor vehicle dealer ~~or manufactured home broker~~; provided 91127
that upon the termination, suspension, or revocation of the 91128
license of the motor vehicle dealer ~~or manufactured home broker~~ 91129
for whom the salesperson is acting, or upon the salesperson 91130
leaving the service of a licensed motor vehicle dealer ~~or~~ 91131
~~manufactured home broker~~, the licensed salesperson, upon entering 91132
the service of any other licensed motor vehicle dealer ~~or~~ 91133
~~manufactured home broker~~, shall make application to the registrar, 91134
in such form as the registrar prescribes, to have the 91135
salesperson's license reinstated, transferred, and registered as a 91136
salesperson for the other dealer ~~or broker~~. If the information 91137
contained in the application is satisfactory to the registrar, the 91138
registrar shall have the salesperson's license reinstated, 91139
transferred, and registered as a salesperson for the other dealer 91140
~~or broker~~. The fee for the reinstatement and transfer of license 91141
shall be two dollars. No license issued to a motor vehicle dealer, 91142
motor vehicle leasing dealer, auction owner, ~~manufactured home~~ 91143
~~broker~~, or salesperson, under sections 4517.01 to 4517.65 of the 91144
Revised Code shall be transferable to any other person. 91145

Each motor vehicle dealer, motor vehicle leasing dealer, 91146

~~manufactured home broker~~, distributor, and auction owner shall 91147
keep the license or a certified copy thereof and, in the case of a 91148
dealer ~~or broker~~, a current list of the dealer's ~~or the broker's~~ 91149
licensed salespersons, showing the names, addresses, and serial 91150
numbers of their licenses, posted in a conspicuous place in each 91151
place of business. Each salesperson shall carry the salesperson's 91152
license or a certified copy thereof and shall exhibit such license 91153
or copy upon demand to any inspector of the bureau of motor 91154
vehicles, state highway patrol trooper, police officer, or person 91155
with whom the salesperson seeks to transact business as a motor 91156
vehicle salesperson. 91157

The notice of refusal to grant a license shall disclose the 91158
reason for refusal. 91159

Sec. 4517.12. (A) The registrar of motor vehicles shall deny 91160
the application of any person for a license as a motor vehicle 91161
dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or 91162
motor vehicle auction owner and refuse to issue the license if the 91163
registrar finds that the applicant: 91164

(1) Has made any false statement of a material fact in the 91165
application; 91166

(2) Has not complied with sections 4517.01 to 4517.45 of the 91167
Revised Code; 91168

(3) Is of bad business repute or has habitually defaulted on 91169
financial obligations; 91170

(4) Is engaged or will engage in the business of selling at 91171
retail any new motor vehicles without having written authority 91172
from the manufacturer or distributor thereof to sell new motor 91173
vehicles and to perform repairs under the terms of the 91174
manufacturer's or distributor's new motor vehicle warranty, except 91175
as provided in division (C) of this section and except that a 91176

person who assembles or installs special equipment or accessories 91177
for handicapped persons, as defined in section 4503.44 of the 91178
Revised Code, upon a motor vehicle chassis supplied by a 91179
manufacturer or distributor shall not be denied a license pursuant 91180
to division (A)(4) of this section; 91181

(5) Has been guilty of a fraudulent act in connection with 91182
selling or otherwise dealing in, or leasing, motor vehicles, or in 91183
connection with brokering manufactured homes; 91184

(6) Has entered into or is about to enter into a contract or 91185
agreement with a manufacturer or distributor of motor vehicles 91186
that is contrary to sections 4517.01 to 4517.45 of the Revised 91187
Code; 91188

(7) Is insolvent; 91189

(8) Is of insufficient responsibility to ensure the prompt 91190
payment of any final judgments that might reasonably be entered 91191
against the applicant because of the transaction of business as a 91192
motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured~~ 91193
~~home broker,~~ or motor vehicle auction owner during the period of 91194
the license applied for, or has failed to satisfy any such 91195
judgment; 91196

(9) Has no established place of business that, where 91197
applicable, is used or will be used for the purpose of selling, 91198
displaying, offering for sale, dealing in, or leasing motor 91199
vehicles at the location for which application is made; 91200

(10) Has, less than twelve months prior to making 91201
application, been denied a motor vehicle dealer's, motor vehicle 91202
leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle 91203
auction owner's license, or has any such license revoked. 91204

(B) If the applicant is a corporation or partnership, the 91205
registrar may refuse to issue a license if any officer, director, 91206
or partner of the applicant has been guilty of any act or omission 91207

that would be cause for refusing or revoking a license issued to 91208
such officer, director, or partner as an individual. The 91209
registrar's finding may be based upon facts contained in the 91210
application or upon any other information the registrar may have. 91211
Immediately upon denying an application for any of the reasons in 91212
this section, the registrar shall enter a final order together 91213
with the registrar's findings and certify the same to the motor 91214
vehicle dealers' and salespersons' licensing board. 91215

(C) Notwithstanding division (A)(4) of this section, the 91216
registrar shall not deny the application of any person and refuse 91217
to issue a license if the registrar finds that the applicant is 91218
engaged or will engage in the business of selling at retail any 91219
new motor vehicles and demonstrates all of the following in the 91220
form prescribed by the registrar: 91221

(1) That the applicant has posted a bond, surety, or 91222
certificate of deposit with the registrar in an amount not less 91223
than one hundred thousand dollars for the protection and benefit 91224
of the applicant's customers except that a new motor vehicle 91225
dealer who is not exclusively engaged in the business of selling 91226
remanufactured vehicles shall not be required to post the bond, 91227
surety, or certificate of deposit otherwise required by division 91228
(C)(1) of this section; 91229

~~(2) That, at the time of the sale of the vehicle, each 91230
customer of the applicant will be furnished with a binding 91231
agreement ensuring that the customer has the right to have the 91232
vehicle serviced or repaired by a new motor vehicle dealer who is 91233
licensed to sell and service vehicles of the same line make as the 91234
chassis of the remanufactured vehicle purchased by the customer 91235
and whose service or repair facility is located within either 91236
twenty miles of the applicant's location and place of business or 91237
twenty miles of the customer's residence or place of business. If 91238
there is no such new motor vehicle dealer located within twenty 91239~~

~~miles of the applicant's location and place of business or the 91240
customer's residence or place of business, the binding agreement 91241
furnished to the customer may be with the new motor vehicle dealer 91242
who is franchised to sell and service vehicles of the same 91243
line make as the chassis of the remanufactured vehicle purchased 91244
by the customer and whose service or repair facility is located 91245
nearest to the remanufacturer's location and place of business or 91246
the customer's residence or place of business. 91247~~

~~(3) That, at the time of the sale of the vehicle, each 91248
customer of the applicant will be furnished with a warranty issued 91249
by the remanufacturer for a term of at least one year; 91250~~

~~(4)(3) That the applicant provides and maintains at the 91251
applicant's location and place of business a permanent facility 91252
with all of the following: 91253~~

~~(a) A showroom with space, under roof, for the display of at 91254
least one new motor vehicle; 91255~~

~~(b) A service and parts facility for remanufactured vehicles; 91256~~

~~(c) Full-time service and parts personnel with the proper 91257
training and technical expertise to service the remanufactured 91258
vehicles sold by the applicant. 91259~~

Sec. 4517.13. The registrar of motor vehicles shall deny the 91260
application of any person for a license as a distributor and 91261
refuse to issue the license if the registrar finds that the 91262
applicant: 91263

~~(A) Has made any false statement of a material fact in the 91264
application; 91265~~

~~(B) Has not complied with sections 4517.01 to 4517.45 of the 91266
Revised Code; 91267~~

~~(C) Is of bad business repute or has habitually defaulted on 91268
financial obligations; 91269~~

(D) Is engaged or will engage in the business of distributing 91270
any new motor vehicle without having the authority of a contract 91271
with the manufacturer of the vehicle; 91272

(E) Has been guilty of a fraudulent act in connection with 91273
selling or otherwise dealing in motor vehicles; 91274

(F) Has entered into or is about to enter into a contract or 91275
agreement with a manufacturer of motor vehicles that is contrary 91276
to sections 4517.01 to 4517.45 of the Revised Code; 91277

(G) Is insolvent; 91278

(H) Is of insufficient responsibility to ensure the prompt 91279
payment of any financial judgment that might reasonably be entered 91280
against the applicant because of the transaction of business as a 91281
distributor during the period of the license applied for, or has 91282
failed to satisfy any such judgment; 91283

(I) Has no established place of business that, where 91284
applicable, is used or will be used exclusively for the purpose of 91285
distributing new motor vehicles at the location for which 91286
application is made; 91287

(J) Has, less than twelve months prior to making application, 91288
been denied a distributor's, motor vehicle dealer's, motor vehicle 91289
leasing dealer's, ~~manufactured home broker's,~~ or motor vehicle 91290
auction owner's license, or had any such license revoked. 91291

If the applicant is a corporation or partnership, the 91292
registrar may refuse to issue a license if any officer, director, 91293
employee, or partner of the applicant has been guilty of any act 91294
or omission that would be cause for refusing or revoking a license 91295
issued to such officer, director, employee, or partner as an 91296
individual. The registrar's finding may be based upon facts 91297
contained in the application or upon any other information the 91298
registrar may have. Immediately upon denying an application for 91299
any of the reasons in this section, the registrar shall enter a 91300

final order together with the registrar's findings and certify the 91301
same to the motor vehicle dealers board. 91302

Sec. 4517.14. The registrar of motor vehicles shall deny the 91303
application of any person for a license as a salesperson and 91304
refuse to issue the license if the registrar finds that the 91305
applicant: 91306

(A) Has made any false statement of a material fact in the 91307
application; 91308

(B) Has not complied with sections 4517.01 to 4517.45 of the 91309
Revised Code; 91310

(C) Is of bad business repute or has habitually defaulted on 91311
financial obligations; 91312

(D) Has been guilty of a fraudulent act in connection with 91313
selling or otherwise dealing in motor vehicles; 91314

(E) Has not been designated to act as salesperson for a motor 91315
vehicle dealer ~~or manufactured home broker~~ licensed to do business 91316
in this state under section 4517.10 of the Revised Code, or 91317
intends to act as salesperson for more than one licensed motor 91318
vehicle dealer ~~or manufactured home broker~~ at the same time, 91319
except that a licensed salesperson may act as a salesperson at any 91320
licensed dealership owned or operated by the same ~~corporation~~ 91321
company, regardless of the county in which the dealership's 91322
facility is located; 91323

(F) Holds a current motor vehicle dealer's ~~or manufactured~~ 91324
~~home broker's~~ license issued under section 4517.10 of the Revised 91325
Code, and intends to act as salesperson for another licensed motor 91326
vehicle dealer ~~or manufactured home broker~~; 91327

(G) Has, less than twelve months prior to making application, 91328
been denied a salesperson's license or had a salesperson's license 91329
revoked. 91330

The registrar may refuse to issue a salesperson's license to an applicant who was salesperson for, or in the employ of, a motor vehicle dealer ~~or manufactured home broker~~ at the time the dealer's ~~or broker's~~ license was revoked. The registrar's finding may be based upon any statement contained in the application or upon any facts within the registrar's knowledge, and, immediately upon refusing to issue a salesperson's license, the registrar shall enter a final order and shall certify the final order together with his findings to the motor vehicle dealers board.

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or distributor shall notify the registrar of motor vehicles concerning any change in status as a dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ or distributor during the period for which the dealer, ~~broker,~~ or distributor is licensed, if the change of status concerns any of the following:

(1) Personnel of owners, partners, officers, or directors;

(2) Location of office or principal place of business;

(3) In the case of a motor vehicle dealer, any contract or agreement with any manufacturer or distributor; and in the case of a distributor, any contract or agreement with any manufacturer.

(B) The notification required by division (A) of this section shall be made by filing with the registrar, within fifteen days after the change of status, a supplemental statement in a form prescribed by the registrar showing in what respect the status has been changed. If the change involves a change in any contract or agreement between any manufacturer or distributor, and dealer, or any manufacturer and distributor, the supplemental statement shall be accompanied by such copies of contracts, statements, and certificates as would have been required by sections 4517.01 to 4517.45 of the Revised Code if the change had occurred prior to

the licensee's application for license. 91362

The motor vehicle dealers board may adopt a rule exempting 91363
from the notification requirement of division (A)(1) of this 91364
section any dealer if stock in the dealer or its parent company is 91365
publicly traded and if there are public records with state or 91366
federal agencies that provide the information required by division 91367
(A)(1) of this section. 91368

(C) Whoever violates this section is guilty of a misdemeanor 91369
of the fourth degree. 91370

Sec. 4517.24. (A) No two motor vehicle dealers shall engage 91371
in business at the same location, unless they agree to be jointly, 91372
severally, and personally liable for any liability arising from 91373
their engaging in business at the same location. The agreement 91374
shall be filed with the motor vehicle dealers board, and shall 91375
also be made a part of the articles of incorporation of each such 91376
dealer filed with the secretary of state. Whenever the board has 91377
reason to believe that a dealer who has entered into such an 91378
agreement has revoked the agreement but continues to engage in 91379
business at the same location, the board shall revoke the dealer's 91380
license. 91381

~~(B) This section does not apply to two or more motor vehicle 91382
dealers engaged in the business of selling new or used 91383
manufactured or mobile homes in the same manufactured home park. 91384~~

~~(C) Whoever violates this section is guilty of a misdemeanor 91385
of the fourth degree. 91386~~

Sec. 4517.44. (A) No manufacturer or distributor of motor 91387
vehicles, dealer in motor vehicles, ~~or manufactured home broker,~~ 91388
nor any owner, proprietor, person in control, or keeper of any 91389
garage, stable, shop, or other place of business, shall fail to 91390
keep or cause to be kept any record required by law. 91391

(B) Whoever violates this section is guilty of a minor 91392
misdemeanor. 91393

Sec. 4549.17. (A) No law enforcement officer employed by a 91394
law enforcement agency of a municipal corporation, township, or 91395
joint ~~township~~ police district shall issue any citation, summons, 91396
or ticket for a violation of section 4511.21 of the Revised Code 91397
or a substantially similar municipal ordinance or for a violation 91398
of section 5577.04 of the Revised Code or a substantially similar 91399
municipal ordinance, if all of the following apply: 91400

(1) The citation, summons, or ticket would be issued for a 91401
violation described in division (A) of this section that occurs on 91402
a freeway that is part of the interstate system; 91403

(2) The municipal corporation, township, or joint ~~township~~ 91404
police district that employs the law enforcement officer has less 91405
than eight hundred eighty yards of the freeway that is part of the 91406
interstate system within its jurisdiction; 91407

(3) The law enforcement officer must travel outside the 91408
boundaries of the municipal corporation, township, or joint 91409
~~township~~ police district that employs ~~him~~ the officer in order to 91410
enter onto the freeway; 91411

(4) The law enforcement officer travels onto the freeway for 91412
the primary purpose of issuing citations, summonses, or tickets 91413
for violations of section 4511.21 of the Revised Code or a 91414
substantially similar municipal ordinance or for violations of 91415
section 5577.04 of the Revised Code or a substantially similar 91416
municipal ordinance. 91417

(B) As used in this section, "interstate system" has the same 91418
meaning as in section 5516.01 of the Revised Code. 91419

Sec. 4561.21. (A) The director of transportation shall 91420
deposit all aircraft transfer fees in the state treasury to the 91421

credit of the general fund. 91422

(B) The director shall deposit all aircraft license taxes and 91423
fines in the state treasury to the credit of the airport 91424
assistance fund, which is hereby created. Money in the fund shall 91425
be used for maintenance and capital improvements to publicly owned 91426
airports and to pay operating costs associated with the office of 91427
aviation of the department of transportation. For maintenance and 91428
capital improvements to publicly owned airports, ~~and~~ the director 91429
shall distribute the money to eligible recipients in accordance 91430
with such procedures, guidelines, and criteria as the director 91431
shall establish. 91432

Sec. 4582.12. (A)(1) Except as otherwise provided in division 91433
(E) of section 307.671 of the Revised Code, division (A) of this 91434
section does not apply to a port authority educational and 91435
cultural facility acquired, constructed, and equipped pursuant to 91436
a cooperative agreement entered into under section 307.671 of the 91437
Revised Code. 91438

(2)(a) Except as provided in division (C) of this section, 91439
when the cost of a contract for the construction of any building, 91440
structure, or other improvement undertaken by a port authority 91441
involves an expenditure exceeding the higher of one hundred 91442
thousand dollars or the amount as adjusted under division 91443
(A)(2)(b) of this section and the port authority is the 91444
contracting entity, the port authority shall make a written 91445
contract after notice calling for bids for the award of the 91446
contract has been given by publication twice, with at least seven 91447
days between publications, in a newspaper of general circulation 91448
in the area of the jurisdiction of the port authority. Each such 91449
contract shall be let to the lowest responsive and responsible 91450
bidder in accordance with section 9.312 of the Revised Code. Every 91451
contract let shall be in writing and if the contract involves work 91452

or construction, it shall be accompanied by or shall refer to 91453
plans and specifications for the work to be done, prepared for and 91454
approved by the port authority, signed by an authorized officer of 91455
the port authority and by the contractor, and shall be executed in 91456
triplicate. 91457

Each bid shall be awarded in accordance with sections 153.54, 91458
153.57, and 153.571 of the Revised Code. 91459

The port authority may reject any and all bids. 91460

(b) On January 1, 2012, and the first day of January of every 91461
even-numbered year thereafter, the director of commerce shall 91462
adjust the threshold level for contracts subject to the bidding 91463
requirements contained in division (A)(2)(a) of this section. The 91464
director shall adjust this amount according to the average 91465
increase for each of the two years immediately preceding the 91466
adjustment as set forth in the producer price index for material 91467
and supply inputs for new nonresidential construction as 91468
determined by the bureau of labor statistics of the United States 91469
department of labor or, if that index no longer is published, a 91470
generally available comparable index. If there is no resulting 91471
increase, the threshold shall remain the same until the next 91472
scheduled adjustment on the first day of January of the next 91473
even-numbered year. 91474

(B) The board of directors of a port authority by rule may 91475
provide criteria for the negotiation and award without competitive 91476
bidding of any contract as to which the port authority is the 91477
contracting entity for the construction of any building, 91478
structure, or other improvement under any of the following 91479
circumstances: 91480

(1) There exists a real and present emergency that threatens 91481
damage or injury to persons or property of the port authority or 91482
other persons, provided that a statement specifying the nature of 91483

the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of division (A) of this section.

(C)(1) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

~~(D) No contract for the construction or repair of any~~

~~building, structure, or other improvement and no loan agreement 91515
for the borrowing of funds for any such improvement undertaken by 91516
a port authority, where the port authority is the contracting 91517
entity, shall be executed unless laborers and mechanics employed 91518
on such improvements are paid at the prevailing rates of wages of 91519
laborers and mechanics for the class of work called for by the 91520
improvement. The wages shall be determined in accordance with the 91521
requirements of Chapter 4115. of the Revised Code for the 91522
determination of prevailing wage rates, provided that the 91523
requirements of this section do not apply where the federal 91524
government or any of its agencies furnishes by loan or grant all 91525
or any part of the funds used in connection with such project and 91526
prescribes predetermined minimum wages to be paid to the laborers 91527
and mechanics. 91528~~

Sec. 4582.31. (A) A port authority created in accordance with 91529
section 4582.22 of the Revised Code may: 91530

(1) Adopt bylaws for the regulation of its affairs and the 91531
conduct of its business; 91532

(2) Adopt an official seal; 91533

(3) Maintain a principal office within its jurisdiction, and 91534
maintain such branch offices as it may require; 91535

(4) Acquire, construct, furnish, equip, maintain, repair, 91536
sell, exchange, lease to or from, or lease with an option to 91537
purchase, convey other interests in real or personal property, or 91538
any combination thereof, related to, useful for, or in furtherance 91539
of any authorized purpose and operate any property in connection 91540
with transportation, recreational, governmental operations, or 91541
cultural activities; 91542

(5) Straighten, deepen, and improve any channel, river, 91543
stream, or other water course or way which may be necessary or 91544

proper in the development of the facilities of a port authority; 91545

(6) Make available the use or services of any port authority 91546
facility to one or more persons, one or more governmental 91547
agencies, or any combination thereof; 91548

(7) Issue bonds or notes for the acquisition, construction, 91549
furnishing, or equipping of any port authority facility or other 91550
permanent improvement that a port authority is authorized to 91551
acquire, construct, furnish, or equip, in compliance with Chapter 91552
133. of the Revised Code, except that such bonds or notes may only 91553
be issued pursuant to a vote of the electors residing within the 91554
area of jurisdiction of the port authority. The net indebtedness 91555
incurred by a port authority shall never exceed two per cent of 91556
the total value of all property within the territory comprising 91557
the port authority as listed and assessed for taxation. 91558

(8) Issue port authority revenue bonds beyond the limit of 91559
bonded indebtedness provided by law, payable solely from revenues 91560
as provided in section 4582.48 of the Revised Code, for the 91561
purpose of providing funds to pay the costs of any port authority 91562
facility or facilities or parts thereof; 91563

(9) Apply to the proper authorities of the United States 91564
pursuant to appropriate law for the right to establish, operate, 91565
and maintain foreign trade zones and establish, operate, and 91566
maintain foreign trade zones and to acquire, exchange, sell, lease 91567
to or from, lease with an option to purchase, or operate 91568
facilities, land, or property therefor in accordance with the 91569
"Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 91570
81u; 91571

(10) Enjoy and possess the same rights, privileges, and 91572
powers granted municipal corporations under sections 721.04 to 91573
721.11 of the Revised Code; 91574

(11) Maintain such funds as it considers necessary; 91575

(12) Direct its agents or employees, when properly identified 91576
in writing, and after at least five days' written notice, to enter 91577
upon lands within the confines of its jurisdiction in order to 91578
make surveys and examinations preliminary to location and 91579
construction of works for the purposes of the port authority, 91580
without liability of the port authority or its agents or employees 91581
except for actual damage done; 91582

(13) Promote, advertise, and publicize the port authority and 91583
its facilities; provide information to shippers and other 91584
commercial interests; and appear before rate-making authorities to 91585
represent and promote the interests of the port authority; 91586

(14) Adopt rules, not in conflict with general law, it finds 91587
necessary or incidental to the performance of its duties and the 91588
execution of its powers under sections 4582.21 to 4582.54 of the 91589
Revised Code. Any such rule shall be posted at no less than five 91590
public places in the port authority, as determined by the board of 91591
directors, for a period of not fewer than fifteen days, and shall 91592
be available for public inspection at the principal office of the 91593
port authority during regular business hours. No person shall 91594
violate any lawful rule adopted and posted as provided in this 91595
division. 91596

(15) Do any of the following, in regard to any interests in 91597
any real or personal property, or any combination thereof, 91598
including, without limitation, machinery, equipment, plants, 91599
factories, offices, and other structures and facilities related 91600
to, useful for, or in furtherance of any authorized purpose, for 91601
such consideration and in such manner, consistent with Article 91602
VIII of the Ohio Constitution, as the board in its sole discretion 91603
may determine: 91604

(a) Loan moneys to any person or governmental entity for the 91605
acquisition, construction, furnishing, and equipping of the 91606
property; 91607

(b) Acquire, construct, maintain, repair, furnish, and equip the property; 91608
91609

(c) Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity; 91610
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(d) Guarantee the obligations of any person or governmental entity. 91614
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A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority. 91616
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(16) Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board of directors shall specify the consideration and any terms for the sale, lease, or conveyance of other interests in real and personal property. Any determination made by the board under this division shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids. 91621
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(17) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections 163.01 to 163.22 of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose. However, nothing contained in sections 4582.201 to 4582.59 of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, 91629
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cable operator, or common carrier, which property or facilities 91639
are necessary and convenient in the operation of the agency or 91640
political subdivision, public utility, cable operator, or common 91641
carrier, unless provision is made for the restoration, relocation, 91642
or duplication of such property or facilities, or upon the 91643
election of the agency or political subdivision, public utility, 91644
cable operator, or common carrier, for the payment of 91645
compensation, if any, at the sole cost of the port authority, 91646
provided that: 91647

(a) If any restoration or duplication proposed to be made 91648
under this section involves a relocation of the property or 91649
facilities, the new facilities and location shall be of at least 91650
comparable utilitarian value and effectiveness and shall not 91651
impair the ability of the public utility, cable operator, or 91652
common carrier to compete in its original area of operation; 91653

(b) If any restoration or duplication made under this section 91654
involves a relocation of the property or facilities, the port 91655
authority shall acquire no interest or right in or to the 91656
appropriated property or facilities, except as provided in 91657
division (A)(15) of this section, until the relocated property or 91658
facilities are available for use and until marketable title 91659
thereto has been transferred to the public utility, cable 91660
operator, or common carrier. 91661

As used in division (A)(17) of this section, "cable operator" 91662
has the same meaning as in the "Cable Communications Policy Act of 91663
1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as 91664
amended by the "Telecommunications Act of 1996," Pub. L. No. 91665
104-104, 110 Stat. 56. 91666

(18)(a) Make and enter into all contracts and agreements and 91667
execute all instruments necessary or incidental to the performance 91668
of its duties and the execution of its powers under sections 91669
4582.21 to 4582.59 of the Revised Code. 91670

(b)(i) Except as provided in division (A)(18)(c) of this section, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(18)(b)(ii) of this section, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code. The port authority may reject any and all bids.

(ii) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(18)(b)(i) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting

increase, the threshold shall remain the same until the next 91703
scheduled adjustment on the first day of January of the next 91704
even-numbered year. 91705

(c) The board of directors by rule may provide criteria for 91706
the negotiation and award without competitive bidding of any 91707
contract as to which the port authority is the contracting entity 91708
for the construction of any building or structure or other 91709
improvement under any of the following circumstances: 91710

(i) There exists a real and present emergency that threatens 91711
damage or injury to persons or property of the port authority or 91712
other persons, provided that a statement specifying the nature of 91713
the emergency that is the basis for the negotiation and award of a 91714
contract without competitive bidding shall be signed by the 91715
officer of the port authority that executes that contract at the 91716
time of the contract's execution and shall be attached to the 91717
contract. 91718

(ii) A commonly recognized industry or other standard or 91719
specification does not exist and cannot objectively be articulated 91720
for the improvement. 91721

(iii) The contract is for any energy conservation measure as 91722
defined in section 307.041 of the Revised Code. 91723

(iv) With respect to material to be incorporated into the 91724
improvement, only a single source or supplier exists for the 91725
material. 91726

(v) A single bid is received by the port authority after 91727
complying with the provisions of division (A)(18)(b) of this 91728
section. 91729

(d)(i) If a contract is to be negotiated and awarded without 91730
competitive bidding for the reason set forth in division 91731
(A)(18)(c)(ii) of this section, the port authority shall publish a 91732
notice calling for technical proposals ~~at least~~ twice, with at 91733

least seven days between publications, in a newspaper of general 91734
circulation in the area of the port authority or as provided in 91735
section 7.16 of the Revised Code. After receipt of the technical 91736
proposals, the port authority may negotiate with and award a 91737
contract for the improvement to the proposer making the proposal 91738
considered to be the most advantageous to the port authority. 91739

(ii) If a contract is to be negotiated and awarded without 91740
competitive bidding for the reason set forth in division 91741
(A)(18)(c)(iv) of this section, any construction activities 91742
related to the incorporation of the material into the improvement 91743
also may be provided without competitive bidding by the source or 91744
supplier of that material. 91745

(e)(i) Any purchase, exchange, sale, lease, lease with an 91746
option to purchase, conveyance of other interests in, or other 91747
contract with a person or governmental entity that pertains to the 91748
acquisition, construction, maintenance, repair, furnishing, 91749
equipping, or operation of any real or personal property, or any 91750
combination thereof, related to, useful for, or in furtherance of 91751
an activity contemplated by Section 13 or 16 of Article VIII, Ohio 91752
Constitution, shall be made in such manner and subject to such 91753
terms and conditions as may be determined by the board of 91754
directors in its discretion. 91755

(ii) Division (A)(18)(e)(i) of this section applies to all 91756
contracts that are subject to the division, notwithstanding any 91757
other provision of law that might otherwise apply, including, 91758
without limitation, any requirement of notice, any requirement of 91759
competitive bidding or selection, or any requirement for the 91760
provision of security. 91761

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not 91762
apply to either of the following: any contract secured by or to be 91763
paid from moneys raised by taxation or the proceeds of obligations 91764
secured by a pledge of moneys raised by taxation; or any contract 91765

secured exclusively by or to be paid exclusively from the general 91766
revenues of the port authority. For the purposes of this section, 91767
any revenues derived by the port authority under a lease or other 91768
agreement that, by its terms, contemplates the use of amounts 91769
payable under the agreement either to pay the costs of the 91770
improvement that is the subject of the contract or to secure 91771
obligations of the port authority issued to finance costs of such 91772
improvement, are excluded from general revenues. 91773

(19) Employ managers, superintendents, and other employees 91774
and retain or contract with consulting engineers, financial 91775
consultants, accounting experts, architects, attorneys, and any 91776
other consultants and independent contractors as are necessary in 91777
its judgment to carry out this chapter, and fix the compensation 91778
thereof. All expenses thereof shall be payable from any available 91779
funds of the port authority or from funds appropriated for that 91780
purpose by a political subdivision creating or participating in 91781
the creation of the port authority. 91782

(20) Receive and accept from any state or federal agency 91783
grants and loans for or in aid of the construction of any port 91784
authority facility or for research and development with respect to 91785
port authority facilities, and receive and accept aid or 91786
contributions from any source of money, property, labor, or other 91787
things of value, to be held, used, and applied only for the 91788
purposes for which the grants and contributions are made; 91789

(21) Engage in research and development with respect to port 91790
authority facilities; 91791

(22) Purchase fire and extended coverage and liability 91792
insurance for any port authority facility and for the principal 91793
office and branch offices of the port authority, insurance 91794
protecting the port authority and its officers and employees 91795
against liability for damage to property or injury to or death of 91796
persons arising from its operations, and any other insurance the 91797

port authority may agree to provide under any resolution 91798
authorizing its port authority revenue bonds or in any trust 91799
agreement securing the same; 91800

(23) Charge, alter, and collect rentals and other charges for 91801
the use or services of any port authority facility as provided in 91802
section 4582.43 of the Revised Code; 91803

(24) Provide coverage for its employees under Chapters 145., 91804
4123., and 4141. of the Revised Code; 91805

(25) Do all acts necessary or proper to carry out the powers 91806
expressly granted in sections 4582.21 to 4582.59 of the Revised 91807
Code. 91808

(B) Any instrument by which real property is acquired 91809
pursuant to this section shall identify the agency of the state 91810
that has the use and benefit of the real property as specified in 91811
section 5301.012 of the Revised Code. 91812

(C) Whoever violates division (A)(14) of this section is 91813
guilty of a minor misdemeanor. 91814

Sec. 4585.10. The officer holding a writ for the sale of a 91815
watercraft, its apparel, or furniture, before ~~he proceeds~~ 91816
proceeding to sell it, shall give public notice of the time and 91817
place of sale for at least ten days previous thereto or as 91818
provided in section 7.16 of the Revised Code, by advertisement in 91819
a newspaper ~~published~~ of general circulation in the county, and by 91820
advertisement posted in at least five public places in the county. 91821
Such sales shall be conducted, and the court shall have the same 91822
power over them as sales upon execution. 91823

Sec. 4705.021. (A) As used in this section: 91824

(1) "Disciplinary counsel" means the disciplinary counsel 91825
appointed by the board of commissioners on grievances and 91826

discipline of the supreme court under the Rules for the Government 91827
of the Bar of Ohio. 91828

(2) "Certified grievance committee" means a duly constituted 91829
and organized committee of the Ohio state bar association or of 91830
one or more local bar associations of the state that complies with 91831
the criteria set forth in rule V, section 3 of the Rules for the 91832
Government of the Bar of Ohio. 91833

(3) "Child support order" has the same meaning as in section 91834
3119.01 of the Revised Code. 91835

(B) If an individual who has been admitted to the bar by 91836
order of the supreme court in compliance with its published rules 91837
is determined pursuant to sections 3123.01 to 3123.07 of the 91838
Revised Code by a court or child support enforcement agency to be 91839
in default under a support order being administered or handled by 91840
a child support enforcement agency, that agency may send a notice 91841
listing the name and social security number or other 91842
identification number of the individual and a certified copy of 91843
the court or agency determination that the individual is in 91844
default to the secretary of the board of commissioners on 91845
grievances and discipline of the supreme court and to either the 91846
disciplinary counsel or the president, secretary, and chairperson 91847
of each certified grievance committee if both of the following are 91848
the case: 91849

(1) At least ninety days have elapsed since the final and 91850
enforceable determination of default; 91851

(2) In the preceding ninety days, the obligor has failed to 91852
pay at least fifty per cent of the arrearage through means other 91853
than those described in sections 3123.81 to 3123.85 of the Revised 91854
Code. 91855

Sec. 4725.34. (A) The state board of optometry shall charge 91856

the following nonrefundable fees:	91857
(1) One hundred ten <u>thirty</u> dollars for application for a certificate of licensure;	91858 91859
(2) Twenty-five <u>Forty-five</u> dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;	91860 91861 91862 91863 91864
(3) One hundred ten <u>thirty</u> dollars for renewal of a certificate of licensure;	91865 91866
(4) Twenty-five <u>Forty-five</u> dollars for renewal of a topical ocular pharmaceutical agents certificate;	91867 91868
(5) Twenty-five <u>Forty-five</u> dollars for renewal of a therapeutic pharmaceutical agents certificate;	91869 91870
(6) Seventy-five <u>One hundred twenty-five</u> dollars for late completion <u>or submission, or both,</u> of continuing optometric education;	91871 91872 91873
(7) Seventy-five <u>One hundred twenty-five</u> dollars for late renewal of one or more certificates that have expired;	91874 91875
(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;	91876 91877 91878 91879
(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;	91880 91881 91882
(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;	91883 91884
(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the	91885 91886

board and providing rosters of currently licensed optometrists. 91887
Such fees shall be established at a regular meeting of the board 91888
and shall comply with any applicable guidelines or policies set by 91889
the department of administrative services or the office of budget 91890
and management. 91891

(B) The board, subject to the approval of the controlling 91892
board, may establish fees in excess of the amounts specified in 91893
division (A) of this section if the fees do not exceed the amounts 91894
specified by more than fifty per cent. 91895

(C) All receipts of the board, from any source, shall be 91896
deposited in the state treasury to the credit of the occupational 91897
licensing and regulatory fund. 91898

Sec. 4725.48. (A) Any person who desires to engage in optical 91899
dispensing, except as provided in section 4725.47 of the Revised 91900
Code, shall file a properly completed written application for an 91901
examination with the Ohio optical dispensers board or with the 91902
testing service the board has contracted with pursuant to section 91903
4725.49 of the Revised Code. The application for examination shall 91904
be made on a form provided by the board or testing service and 91905
shall be accompanied by an examination fee the board shall 91906
establish by rule. Applicants must return the application to the 91907
board or testing service at least sixty days prior to the date the 91908
examination is scheduled to be administered. 91909

(B) Except as provided in section 4725.47 of the Revised 91910
Code, any person who desires to engage in optical dispensing shall 91911
file a properly completed written application for a license with 91912
the board with ~~the appropriate license~~ a licensure application fee 91913
~~as set forth under section 4725.50 of the Revised Code~~ of fifty 91914
dollars. 91915

No person shall be eligible to apply for a license under this 91916
division, unless the person is at least eighteen years of age, is 91917

of good moral character, is free of contagious or infectious 91918
disease, has received a passing score, as determined by the board, 91919
on the examination administered under division (A) of this 91920
section, is a graduate of an accredited high school of any state, 91921
or has received an equivalent education and has successfully 91922
completed either of the following: 91923

(1) Two years of supervised experience under a licensed 91924
dispensing optician, optometrist, or physician engaged in the 91925
practice of ophthalmology, up to one year of which may be 91926
continuous experience of not less than thirty hours a week in an 91927
optical laboratory; 91928

(2) A two-year college level program in optical dispensing 91929
that has been approved by the board and that includes, but is not 91930
limited to, courses of study in mathematics, science, English, 91931
anatomy and physiology of the eye, applied optics, ophthalmic 91932
optics, measurement and inspection of lenses, lens grinding and 91933
edging, ophthalmic lens design, keratometry, and the fitting and 91934
adjusting of spectacle lenses and frames and contact lenses, 91935
including methods of fitting contact lenses and post-fitting care. 91936

(C) Any person who desires to obtain a license to practice as 91937
an ocularist shall file a properly completed written application 91938
with the board accompanied by the appropriate fee and proof that 91939
the applicant has met the requirements for licensure. The board 91940
shall establish, by rule, the application fee and the minimum 91941
requirements for licensure, including education, examination, or 91942
experience standards recognized by the board as national standards 91943
for ocularists. The board shall issue a license to practice as an 91944
ocularist to an applicant who satisfies the requirements of this 91945
division and rules adopted pursuant to this division. 91946

Sec. 4725.50. (A) Except for a person who qualifies for 91947
licensure as an ocularist, each person who qualifies for licensure 91948

under sections 4725.40 to 4725.59 of the Revised Code shall 91949
receive from the Ohio optical dispensers board, under its seal, a 91950
certificate of licensure entitling ~~him~~ the person to practice as a 91951
licensed spectacle dispensing optician, licensed contact lens 91952
dispensing optician, or a licensed spectacle-contact lens 91953
dispensing optician. The appropriate certificate of licensure 91954
shall be issued by the board no later than sixty days after it has 91955
notified the applicant of ~~his~~ the applicant's approval for 91956
licensure. 91957

~~(B) The licensure fee shall be fifty dollars for applications 91958
submitted in January through March; thirty seven dollars and fifty 91959
cents, in April through June; twenty five dollars, in July through 91960
September; and twelve dollars and fifty cents, in October through 91961
December. 91962~~

~~(C)~~ Each licensed dispensing optician shall display ~~his~~ the 91963
licensed dispensing optician's certificate of licensure in a 91964
conspicuous place in ~~his~~ the licensed dispensing optician's office 91965
or place of business. If a licensed dispensing optician maintains 91966
more than one office or place of business, ~~he~~ the licensed 91967
dispensing optician shall display a duplicate copy of such 91968
certificate at each location. The board shall issue duplicate 91969
copies of the appropriate certificate of licensure for this 91970
purpose upon the filing of an application form therefor and the 91971
payment of a five-dollar fee for each duplicate copy. 91972

Sec. 4725.52. Any licensed dispensing optician may supervise 91973
a maximum of three apprentices who shall be permitted to engage in 91974
optical dispensing only under the supervision of the licensed 91975
dispensing optician. 91976

~~A person serving~~ To serve as an apprentice, a person shall 91977
register ~~annually~~ with the Ohio optical dispensers board either on 91978
a form provided by the board or in the form of a statement giving 91979

the name and address of the supervising licensed dispensing 91980
optician, the location at which the apprentice will be employed, 91981
and any other information required by the board. ~~Each registrant~~ 91982
For the duration of the apprenticeship, the apprentice shall 91983
register annually on the form provided by the board or in the form 91984
of a statement. 91985

Each apprentice shall pay a an initial registration fee of 91986
~~ten~~ twenty dollars. For each registration renewal thereafter, each 91987
apprentice shall pay a registration renewal fee of twenty dollars. 91988

A person who is gaining experience under the supervision of a 91989
licensed optometrist or ophthalmologist that would qualify ~~him~~ the 91990
person under division (B)(1) of section 4725.48 of the Revised 91991
Code to take the examination for optical dispensing is not 91992
required to register with the board. 91993

Sec. 4725.57. An applicant for licensure as a licensed 91994
dispensing optician who is licensed or registered in another state 91995
shall be accorded the full privileges of practice within this 91996
state, upon the payment of a ~~seventy-five~~ fifty-dollar fee and the 91997
submission of a certified copy of the license or certificate 91998
issued by such other state, without the necessity of examination, 91999
if the board determines that the applicant meets the ~~criteria of~~ 92000
~~division (A) of section 4725.48 of the Revised Code and further~~ 92001
~~determines that the educational background or experience of the~~ 92002
~~applicant satisfies the~~ remaining requirements of division (B) of 92003
section 4725.48 of the Revised Code. The board may require that 92004
the applicant have received a passing score, as determined by the 92005
board, on an examination that is substantially the same as the 92006
examination described in division (A) of section 4725.48 of the 92007
Revised Code. 92008

Sec. 4729.52. (A) A person desiring to be registered as a 92009

wholesale distributor of dangerous drugs shall file with the 92010
executive director of the state board of pharmacy a verified 92011
application containing such information as the board requires of 92012
the applicant relative to the qualifications to be registered as a 92013
wholesale distributor of dangerous drugs set forth in section 92014
4729.53 of the Revised Code and the rules adopted under that 92015
section. The board shall register as a wholesale distributor of 92016
dangerous drugs each applicant who has paid the required 92017
registration fee, if the board determines that the applicant meets 92018
the qualifications to be registered as a wholesale distributor of 92019
dangerous drugs set forth in section 4729.53 of the Revised Code 92020
and the rules adopted under that section. 92021

(B) The board may register and issue to a person who does not 92022
reside in this state a registration certificate as a wholesale 92023
distributor of dangerous drugs if the person possesses a current 92024
and valid wholesale distributor of dangerous drugs registration 92025
certificate or license issued by another state that has 92026
qualifications for licensure or registration comparable to the 92027
registration requirements in this state and pays the required 92028
registration fee. 92029

(C) All registration certificates issued pursuant to this 92030
section are effective for a period of twelve months from the first 92031
day of July of each year. A registration certificate shall be 92032
renewed annually by the board for a like period, pursuant to this 92033
section and the standard renewal procedure of Chapter 4745. of the 92034
Revised Code. A person desiring to renew a registration 92035
certificate shall submit an application for renewal and pay the 92036
required renewal fee before the first day of July each year. 92037

(D) Each registration certificate and its application shall 92038
describe not more than one establishment or place where the 92039
registrant or applicant may engage in the sale of dangerous drugs 92040
at wholesale. No registration certificate shall authorize or 92041

permit the wholesale distributor of dangerous drugs named therein 92042
to engage in the sale of drugs at wholesale or to maintain 92043
possession, custody, or control of dangerous drugs for any purpose 92044
other than for the registrant's own use and consumption at any 92045
establishment or place other than that described in the 92046
certificate. 92047

(E)(1) The registration fee is ~~one~~ seven hundred fifty 92048
dollars and shall accompany each application for registration. The 92049
registration renewal fee is ~~one~~ seven hundred fifty dollars and 92050
shall accompany each renewal application. 92051

A registration certificate that has not been renewed in any 92052
year by the first day of August may be reinstated upon payment of 92053
the renewal fee and a penalty of ~~fifty-five~~ one hundred fifty 92054
dollars. 92055

(2) Renewal fees and penalties assessed under division (E)(1) 92056
of this section shall not be returned if the applicant fails to 92057
qualify for renewal. 92058

(F) The registration of any person as a wholesale distributor 92059
of dangerous drugs subjects the person and the person's agents and 92060
employees to the jurisdiction of the board and to the laws of this 92061
state for the purpose of the enforcement of this chapter and the 92062
rules of the board. However, the filing of an application for 92063
registration as a wholesale distributor of dangerous drugs by, or 92064
on behalf of, any person or the registration of any person as a 92065
wholesale distributor of dangerous drugs shall not, of itself, 92066
constitute evidence that the person is doing business within this 92067
state. 92068

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 92069
Revised Code: 92070

(A)(1) "Clinical laboratory services" means either of the 92071

following: 92072

(a) Any examination of materials derived from the human body 92073
for the purpose of providing information for the diagnosis, 92074
prevention, or treatment of any disease or impairment or for the 92075
assessment of health; 92076

(b) Procedures to determine, measure, or otherwise describe 92077
the presence or absence of various substances or organisms in the 92078
body. 92079

(2) "Clinical laboratory services" does not include the mere 92080
collection or preparation of specimens. 92081

(B) "Designated health services" means any of the following: 92082

(1) Clinical laboratory services; 92083

(2) Home health care services; 92084

(3) Outpatient prescription drugs. 92085

(C) "Fair market value" means the value in arms-length 92086
transactions, consistent with general market value and: 92087

(1) With respect to rentals or leases, the value of rental 92088
property for general commercial purposes, not taking into account 92089
its intended use; 92090

(2) With respect to a lease of space, not adjusted to reflect 92091
the additional value the prospective lessee or lessor would 92092
attribute to the proximity or convenience to the lessor if the 92093
lessor is a potential source of referrals to the lessee. 92094

(D) "Governmental health care program" means any program 92095
providing health care benefits that is administered by the federal 92096
government, this state, or a political subdivision of this state, 92097
including the medicare program established under Title XVIII of 92098
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 92099
as amended, health care coverage for public employees, health care 92100
benefits administered by the bureau of workers' compensation, and 92101

the medicaid program established under Chapter 5111. of the 92102
Revised Code, ~~and the children's buy in program established under~~ 92103
~~sections 5101.5211 to 5101.5216 of the Revised Code.~~ 92104

(E)(1) "Group practice" means a group of two or more holders 92105
of certificates under this chapter legally organized as a 92106
partnership, professional corporation or association, limited 92107
liability company, foundation, nonprofit corporation, faculty 92108
practice plan, or similar group practice entity, including an 92109
organization comprised of a nonprofit medical clinic that 92110
contracts with a professional corporation or association of 92111
physicians to provide medical services exclusively to patients of 92112
the clinic in order to comply with section 1701.03 of the Revised 92113
Code and including a corporation, limited liability company, 92114
partnership, or professional association described in division (B) 92115
of section 4731.226 of the Revised Code formed for the purpose of 92116
providing a combination of the professional services of 92117
optometrists who are licensed, certificated, or otherwise legally 92118
authorized to practice optometry under Chapter 4725. of the 92119
Revised Code, chiropractors who are licensed, certificated, or 92120
otherwise legally authorized to practice chiropractic or 92121
acupuncture under Chapter 4734. of the Revised Code, psychologists 92122
who are licensed, certificated, or otherwise legally authorized to 92123
practice psychology under Chapter 4732. of the Revised Code, 92124
registered or licensed practical nurses who are licensed, 92125
certificated, or otherwise legally authorized to practice nursing 92126
under Chapter 4723. of the Revised Code, pharmacists who are 92127
licensed, certificated, or otherwise legally authorized to 92128
practice pharmacy under Chapter 4729. of the Revised Code, 92129
physical therapists who are licensed, certificated, or otherwise 92130
legally authorized to practice physical therapy under sections 92131
4755.40 to 4755.56 of the Revised Code, occupational therapists 92132
who are licensed, certificated, or otherwise legally authorized to 92133
practice occupational therapy under sections 4755.04 to 4755.13 of 92134

the Revised Code, mechanotherapists who are licensed, 92135
certificated, or otherwise legally authorized to practice 92136
mechanotherapy under section 4731.151 of the Revised Code, and 92137
doctors of medicine and surgery, osteopathic medicine and surgery, 92138
or podiatric medicine and surgery who are licensed, certificated, 92139
or otherwise legally authorized for their respective practices 92140
under this chapter, to which all of the following apply: 92141

(a) Each physician who is a member of the group practice 92142
provides substantially the full range of services that the 92143
physician routinely provides, including medical care, 92144
consultation, diagnosis, or treatment, through the joint use of 92145
shared office space, facilities, equipment, and personnel. 92146

(b) Substantially all of the services of the members of the 92147
group are provided through the group and are billed in the name of 92148
the group and amounts so received are treated as receipts of the 92149
group. 92150

(c) The overhead expenses of and the income from the practice 92151
are distributed in accordance with methods previously determined 92152
by members of the group. 92153

(d) The group practice meets any other requirements that the 92154
state medical board applies in rules adopted under section 4731.70 92155
of the Revised Code. 92156

(2) In the case of a faculty practice plan associated with a 92157
hospital with a medical residency training program in which 92158
physician members may provide a variety of specialty services and 92159
provide professional services both within and outside the group, 92160
as well as perform other tasks such as research, the criteria in 92161
division (E)(1) of this section apply only with respect to 92162
services rendered within the faculty practice plan. 92163

(F) "Home health care services" and "immediate family" have 92164
the same meanings as in the rules adopted under section 4731.70 of 92165

the Revised Code.	92166
(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	92167 92168
(H) A "referral" includes both of the following:	92169
(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;	92170 92171 92172 92173
(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.	92174 92175 92176
(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.	92177 92178
Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program established under Chapter 5111. of the Revised Code or the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code , the auditor of state also shall report the amount to the department of job and family services.	92179 92180 92181 92182 92183 92184 92185 92186 92187 92188 92189 92190 92191 92192
The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.	92193 92194 92195

Sec. 4733.15. (A) Registration expires ~~annually~~ on the last 92196
day of December ~~following initial registration or renewal of~~ 92197
~~registration 2011~~, and becomes invalid on that date unless renewed 92198
~~pursuant to this section and the standard renewal procedure of~~ 92199
~~sections 4745.01 to 4745.03 of the Revised Code. For renewals~~ 92200
after that date, registration expires biennially on the last day 92201
of December following initial registration or renewal of 92202
registration and becomes invalid on that date unless renewed. 92203
Renewal may be effected ~~at any time prior to the date of~~ 92204
~~expiration for a period of one year~~ by the applicant's payment to 92205
the treasurer of state of a fee of ~~twenty~~ forty dollars for a 92206
renewal of registration as either a professional engineer or 92207
professional surveyor and, ~~for renewals for calendar year 2008 and~~ 92208
~~thereafter~~, demonstration of completion of the continuing 92209
professional development requirements of section 4733.151 of the 92210
Revised Code. When notified as required in this section, a 92211
registrant's failure to renew registration shall not deprive the 92212
registrant of the right of renewal within the following twelve 92213
months, but the fee to renew a registration within twelve months 92214
after expiration shall be increased fifty per cent, and the 92215
registrant shall certify completion of continuing professional 92216
development hours as required in section 4733.151 of the Revised 92217
Code. 92218

The state board of registration for professional engineers 92219
and surveyors may, upon request, waive the payment of renewal fees 92220
or the completion of continuing professional development 92221
requirements for a registrant during the period when the 92222
registrant is on active duty in connection with any branch of the 92223
armed forces of the United States. 92224

(B) Each certificate of authorization issued pursuant to 92225
section 4733.16 of the Revised Code shall authorize the holder to 92226
provide professional engineering or professional surveying 92227

services, through the registered professional engineer or 92228
professional surveyor designated as being in responsible charge of 92229
the professional engineering or professional surveying practice, 92230
from the date of issuance until the last day of June next 92231
succeeding the date upon which the certificate was issued, unless 92232
the certificate has been revoked or suspended for cause as 92233
provided in section 4733.20 of the Revised Code or has been 92234
suspended pursuant to section 3123.47 of the Revised Code. 92235

(C) If a registrant fails to renew registration as provided 92236
under division (A) of this section, renewal and reinstatement may 92237
be effected under rules the board adopts regarding requirements 92238
for reexamination or reapplication, and reinstatement penalty 92239
fees. The board may require a registrant who fails to renew 92240
registration to complete ~~those~~ the required hours of continuing 92241
professional development ~~required from the effective date of this~~ 92242
~~section,~~ as a condition of renewal and reinstatement if the 92243
registrant seeks renewal and reinstatement under this division ~~on~~ 92244
~~or after January 1, 2009.~~ 92245

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the 92246
last day of December 2011, each registrant for renewal ~~for~~ 92247
~~calendar year 2008 and thereafter~~ shall have completed, ~~within the~~ 92248
~~preceding~~ in calendar year 2011, at least fifteen hours of 92249
continuing professional development for professional engineers and 92250
surveyors. Thereafter, each registrant shall complete at least 92251
thirty hours of continuing professional development during the 92252
two-year period immediately preceding the biennial renewal 92253
expiration date. 92254

(B) The continuing professional development requirement may 92255
be satisfied by coursework or activities dealing with technical, 92256
ethical, or managerial topics relevant to the practice of 92257
engineering or surveying. A registrant may earn continuing 92258

professional development hours by completing or teaching 92259
university or college level coursework, attending seminars, 92260
workshops, or conferences, authoring relevant published papers, 92261
articles, or books, receiving patent awards, or actively 92262
participating in professional or technical societies serving the 92263
engineering or surveying professions. 92264

In the case of the board disputing the content of any credit 92265
hours or coursework, then the board shall presume as a matter of 92266
law that any credit hours submitted by a registrant, or any 92267
coursework or activity submitted for approval, complies with this 92268
section if submitted and if a statement signed by a current 92269
registrant not otherwise participating in the event, affirms that 92270
the material is relevant to the registrant's practice and will 92271
assist the registrant's development in the profession. 92272

Credit for university or college level coursework shall be 92273
based on the credit established by the university or college. One 92274
semester hour as established by the university or college shall be 92275
the equivalent of forty-five hours of continuing professional 92276
development, and one quarter hour as established by the university 92277
or college shall be the equivalent of thirty hours of continuing 92278
professional development. 92279

Credit for seminars, workshops, or conferences offering 92280
continuing education units shall be based on the units awarded by 92281
the organization presenting the seminar, workshop, or conference. 92282
A registrant may earn ten continuing professional development 92283
hours for each continuing education unit awarded. Each hour of 92284
attendance at a seminar, workshop, or conference for which no 92285
continuing education units are offered shall be the equivalent of 92286
one continuing professional development hour. 92287

A registrant may earn two continuing professional development 92288
hours for each year of service as an officer or active committee 92289
member of a professional or technical society or association that 92290

represents registrants or entities composed of registrants. A 92291
registrant may earn ten continuing professional development hours 92292
for authoring relevant published papers, articles, or books. A 92293
registrant may earn ten continuing professional development hours 92294
for each such published paper, article, or book. A registrant may 92295
earn ten continuing professional development hours for each patent 92296
award. 92297

(C) A person registered as both a professional engineer and 92298
professional surveyor shall complete at least ~~five~~ ten of the 92299
~~fifteen~~ thirty hours required under division (A) of this section 92300
in engineering-related coursework or activities and at least ~~five~~ 92301
ten of those ~~fifteen~~ thirty hours in surveying-related coursework 92302
or activities. 92303

(D) A registrant is exempt from the continuing professional 92304
development requirements of this section during the first calendar 92305
year of registration. 92306

(E) A registrant who completes more than ~~fifteen~~ thirty hours 92307
of approved coursework or activities in ~~any calendar year a~~ 92308
biennial renewal period may carry forward to the next ~~calendar~~ 92309
~~year~~ biennial renewal period a maximum of fifteen of the excess 92310
hours. 92311

(F) A registrant shall maintain records to demonstrate 92312
completion of the continuing professional development requirements 92313
specified in this section for a period of ~~three~~ four calendar 92314
years beyond the year in which certification of the completion of 92315
the requirements is obtained by the registrant. The records shall 92316
include all of the following: 92317

(1) A log specifying the type of coursework or activity, its 92318
location and duration along with the instructor's name, and the 92319
number of continuing professional development hours earned; 92320

(2) Certificates of completion or other evidence verifying 92321

attendance. 92322

(G) The records specified in division (F) of this section may 92323
be audited at any time by the state board of registration for 92324
professional engineers and surveyors. If the board discovers that 92325
a registrant has failed to complete coursework or activities, it 92326
shall notify the registrant of the deficiencies and allow the 92327
registrant six months from the date of the notice to rectify the 92328
deficiencies and to provide the board with evidence of 92329
satisfactory completion of the continuing professional development 92330
requirements. If the registrant fails to provide such evidence 92331
within that six-month period, the board may revoke or suspend the 92332
registration after offering an adjudication hearing in accordance 92333
with Chapter 119. of the Revised Code. 92334

Sec. 4735.01. As used in this chapter: 92335

(A) "Real estate broker" includes any person, partnership, 92336
association, limited liability company, limited liability 92337
partnership, or corporation, foreign or domestic, who for another, 92338
whether pursuant to a power of attorney or otherwise, and who for 92339
a fee, commission, or other valuable consideration, or with the 92340
intention, or in the expectation, or upon the promise of receiving 92341
or collecting a fee, commission, or other valuable consideration 92342
does any of the following: 92343

(1) Sells, exchanges, purchases, rents, or leases, or 92344
negotiates the sale, exchange, purchase, rental, or leasing of any 92345
real estate; 92346

(2) Offers, attempts, or agrees to negotiate the sale, 92347
exchange, purchase, rental, or leasing of any real estate; 92348

(3) Lists, or offers, attempts, or agrees to list, or 92349
auctions, or offers, attempts, or agrees to auction, any real 92350
estate; 92351

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;	92352 92353
(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;	92354 92355 92356 92357
(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;	92358 92359 92360
(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;	92361 92362 92363 92364
(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;	92365 92366 92367 92368 92369 92370 92371 92372 92373
(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.	92374 92375 92376
(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.	92377 92378 92379 92380 92381
(C) "Real estate salesperson" means any person associated	92382

with a licensed real estate broker to do or to deal in any acts or 92383
transactions set out or comprehended by the definition of a real 92384
estate broker, for compensation or otherwise. 92385

(D) "Institution of higher education" means either of the 92386
following: 92387

(1) A nonprofit institution as defined in section 1713.01 of 92388
the Revised Code that actually awards, rather than intends to 92389
award, degrees for fulfilling requirements of academic work beyond 92390
high school; 92391

(2) An institution operated for profit that otherwise 92392
qualifies under the definition of an institution in section 92393
1713.01 of the Revised Code and that actually awards, rather than 92394
intends to award, degrees for fulfilling requirements of academic 92395
work beyond high school. 92396

(E) "Foreign real estate" means real estate not situated in 92397
this state and any interest in real estate not situated in this 92398
state. 92399

(F) "Foreign real estate dealer" includes any person, 92400
partnership, association, limited liability company, limited 92401
liability partnership, or corporation, foreign or domestic, who 92402
for another, whether pursuant to a power of attorney or otherwise, 92403
and who for a fee, commission, or other valuable consideration, or 92404
with the intention, or in the expectation, or upon the promise of 92405
receiving or collecting a fee, commission, or other valuable 92406
consideration, does or deals in any act or transaction specified 92407
or comprehended in division (A) of this section with respect to 92408
foreign real estate. 92409

(G) "Foreign real estate salesperson" means any person 92410
associated with a licensed foreign real estate dealer to do or 92411
deal in any act or transaction specified or comprehended in 92412
division (A) of this section with respect to foreign real estate, 92413

for compensation or otherwise. 92414

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter. 92415
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(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration: 92425
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~~(1)(a)~~ With reference to real estate situated in this state ~~or any interest in it~~ owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it; 92434
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~~(2)(b)~~ As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, 92440
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will, or other instrument that has been executed in good faith 92446
creating a like bona fide fiduciary obligation; 92447

~~(3)~~(c) As a public officer while performing the officer's 92448
official duties; 92449

~~(4)~~(d) As an attorney at law in the performance of the 92450
attorney's duties; 92451

~~(5)~~(e) As a person who engages in the brokering of the sale 92452
of business assets, not including the ~~negotiation of the sale,~~ 92453
lease, exchange, or assignment of any interest in real estate; 92454

~~(6)~~(f) As a person who engages in the sale of manufactured 92455
homes as defined in division (C)(4) of section 3781.06 of the 92456
Revised Code, or of mobile homes as defined in division (O) of 92457
section 4501.01 of the Revised Code, provided the sale does not 92458
include the negotiation, sale, lease, exchange, or assignment of 92459
any interest in real estate; 92460

~~(7)~~(g) As a person who engages in the sale of commercial real 92461
estate pursuant to the requirements of section 4735.022 of the 92462
Revised Code. 92463

(2) A person, partnership, association, limited liability 92464
company, limited liability partnership, or corporation exempt 92465
under division (I)(1)(a) of this section shall be limited by the 92466
legal interest in the real estate held by that person or entity to 92467
performing any of the acts or transactions specified in or 92468
comprehended by division (A) of this section. 92469

(J) "~~Physically handicapped~~ Disabled licensee" means a person 92470
licensed pursuant to this chapter who is under a severe ~~physical~~ 92471
disability which is of such a nature as to prevent the person from 92472
being able to attend any instruction lasting at least three hours 92473
in duration. 92474

(K) "Division of real estate" may be used interchangeably 92475

with, and for all purposes has the same meaning as, "division of real estate and professional licensing." 92476
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(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be. 92478
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(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker. 92485
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(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter. 92489
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(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time. 92493
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(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, voluntary hold, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter. 92496
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(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation. 92501
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(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, 92503
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manufactured homes, or homes in a subdivision when sold, leased, 92507
or otherwise conveyed on a unit-by-unit basis, even when those 92508
units are a part of a larger building or parcel of real estate 92509
containing more than four residential units. 92510

(S) "Out-of-state commercial broker" includes any person, 92511
partnership, association, limited liability company, limited 92512
liability partnership, or corporation that is licensed to do 92513
business as a real estate broker in a jurisdiction other than 92514
Ohio. 92515

(T) "Out-of-state commercial salesperson" includes any person 92516
affiliated with an out-of-state commercial broker who is not 92517
licensed as a real estate salesperson in Ohio. 92518

(U) "Exclusive right to sell or lease listing agreement" 92519
means an agency agreement between a seller and broker that meets 92520
the requirements of section 4735.55 of the Revised Code and does 92521
both of the following: 92522

(1) Grants the broker the exclusive right to represent the 92523
seller in the sale or lease of the seller's property; 92524

(2) Provides the broker will be compensated if the broker, 92525
the seller, or any other person or entity produces a purchaser or 92526
tenant in accordance with the terms specified in the listing 92527
agreement or if the property is sold or leased during the term of 92528
the listing agreement to anyone other than to specifically 92529
exempted persons or entities. 92530

(V) "Exclusive agency agreement" means an agency agreement 92531
between a seller and broker that meets the requirements of section 92532
4735.55 of the Revised Code and does both of the following: 92533

(1) Grants the broker the exclusive right to represent the 92534
seller in the sale or lease of the seller's property; 92535

(2) Provides the broker will be compensated if the broker or 92536

any other person or entity produces a purchaser or tenant in 92537
accordance with the terms specified in the listing agreement or if 92538
the property is sold or leased during the term of the listing 92539
agreement, unless the property is sold or leased solely through 92540
the efforts of the seller or to the specifically exempted persons 92541
or entities. 92542

(W) "Exclusive purchaser agency agreement" means an agency 92543
agreement between a purchaser and broker that meets the 92544
requirements of section 4735.55 of the Revised Code and does both 92545
of the following: 92546

(1) Grants the broker the exclusive right to represent the 92547
purchaser in the purchase or lease of property; 92548

(2) Provides the broker will be compensated in accordance 92549
with the terms specified in the exclusive agency agreement or if a 92550
property is purchased or leased by the purchaser during the term 92551
of the agency agreement unless the property is specifically 92552
exempted in the agency agreement. 92553

The agreement may authorize the broker to receive 92554
compensation from the seller or the seller's agent and may provide 92555
that the purchaser is not obligated to compensate the broker if 92556
the property is purchased or leased solely through the efforts of 92557
the purchaser. 92558

(X) "Seller" means a party in a real estate transaction who 92559
is the potential transferor of property. "Seller" includes an 92560
owner of property who is seeking to sell the property and a 92561
landlord who is seeking to rent or lease property to another 92562
person. 92563

(Y) "Voluntary hold" means the license status in which a 92564
license is in the possession of the division of real estate and 92565
professional licensing for a period of not more than twelve months 92566
pursuant to section 4735.142 of the Revised Code, is not renewed 92567

in accordance with the requirements specified in this chapter or 92568
the rules adopted pursuant to it, and is not associated with a 92569
real estate broker. 92570

(Z) "Resigned" means the license status in which a license 92571
has been voluntarily surrendered to or is otherwise in the 92572
possession of the division of real estate and professional 92573
licensing, is not renewed in accordance with the requirements 92574
specified in this chapter or the rules adopted pursuant to it, and 92575
is not associated with a real estate broker. 92576

(AA) "Bona fide" means made in good faith or without purpose 92577
of circumventing license law. 92578

Sec. 4735.02. (A) Except as provided in section 4735.022 of 92579
the Revised Code, no person, partnership, association, limited 92580
liability company, limited liability partnership, or corporation 92581
shall act as a real estate broker or real estate salesperson, or 92582
advertise or assume to act as such, without first being licensed 92583
as provided in this chapter. No person, partnership, association, 92584
limited liability company, limited liability partnership, or 92585
corporation shall provide services that require a license under 92586
this chapter if the licensee's license is inactive, suspended, 92587
placed on voluntary hold, resigned, or a broker's license on 92588
deposit, or if the license has been revoked. Nothing contained in 92589
this chapter shall be construed as authorizing a real estate 92590
broker or salesperson to perform any service constituting the 92591
practice of law. 92592

(B) No partnership, association, limited liability company, 92593
limited liability partnership, or corporation holding a real 92594
estate license shall employ as an officer, director, manager, or 92595
principal employee any person previously holding a license as a 92596
real estate broker, real estate salesperson, foreign real estate 92597
dealer, or foreign real estate salesperson, whose license has been 92598

placed in inactive, voluntary hold, or resigned status, or is 92599
suspended, or revoked and who has not thereafter reactivated the 92600
license or received a new license. 92601

Sec. 4735.03. There is hereby created the Ohio real estate 92602
commission, consisting of five members who shall be appointed by 92603
the governor, with the advice and consent of the senate. Four 92604
members shall have been engaged in the real estate business as 92605
licensed real estate brokers in the state for a period of ten 92606
years immediately preceding the appointment. One member shall 92607
represent the public. Terms of office shall be for five years, 92608
commencing on the first day of July and ending on the thirtieth 92609
day of June. Each member shall hold office from the date of 92610
appointment until the end of the term for which appointed. No more 92611
than three members shall be members of any one political party and 92612
no member of the commission concurrently may be a member of the 92613
commission and the real estate appraiser board created pursuant to 92614
section 4763.02 of the Revised Code. Each member, before entering 92615
upon the duties of office, shall subscribe to and file with the 92616
secretary of state the constitutional oath of office. All 92617
vacancies which occur shall be filled in the manner prescribed for 92618
the regular appointments to the commission. Any member appointed 92619
to fill a vacancy occurring prior to the expiration of the term 92620
for which the member's predecessor was appointed shall hold office 92621
for the remainder of such term. Any member shall continue in 92622
office subsequent to the expiration date of the member's term 92623
until the member's successor takes office, or until a period of 92624
sixty days has elapsed, whichever occurs first. No member shall 92625
hold office for more than two consecutive full terms. Annually, 92626
upon the qualification of the member appointed in such year, the 92627
commission shall organize by selecting from its members a 92628
president and vice-president, and shall do all things necessary 92629
and proper to carry out and enforce this chapter. A majority of 92630

the members of the commission shall constitute a quorum, but a
lesser number may adjourn from time to time. Each member of the
commission shall receive an amount fixed pursuant to section
124.14 of the Revised Code for each day employed in the discharge
of official duties, and the member's actual and necessary expenses
incurred in the discharge of those duties.

The commission or the superintendent of real estate may
investigate complaints concerning the violation of section 4735.02
or 4735.25 of the Revised Code and may subpoena witnesses in
connection with such investigations as provided in section 4735.04
of the Revised Code. The commission or the superintendent may make
application to the appropriate court for an order enjoining the
violation of section 4735.02 or 4735.25 of the Revised Code, and
upon a showing by the commission or the superintendent that any
person, firm, partnership, association, limited liability company,
limited liability partnership, or corporation has violated or is
about to violate section 4735.02 or 4735.25 of the Revised Code,
an injunction, restraining order, or such other order as may be
appropriate shall be granted by such court.

The commission shall:

(A) Adopt canons of ethics for the real estate industry;

(B) Upon appeal by any party affected, or may upon its own
motion, review any order or application determination of the
superintendent, and may reverse, vacate, or modify any order of
the superintendent;

(C) Administer the real estate education and research fund
and hear appeals from orders of the superintendent regarding
claims against that fund or against the real estate recovery fund;

(D) Direct the superintendent on the content, scheduling,
instruction, and offerings of real estate courses for salesperson
and broker educational requirements;

(E) Disseminate to licensees and the public, information 92662
relative to commission activities and decisions; 92663

(F) Notify licensees of changes in state and federal civil 92664
rights laws pertaining to discrimination in the purchase or sale 92665
of real estate and relevant case law, and inform licensees that 92666
they are subject to disciplinary action if they do not comply with 92667
the changes; 92668

(G) Publish and furnish to public libraries and to brokers 92669
booklets on housing and remedies available to dissatisfied clients 92670
under this chapter and Chapter 4112. of the Revised Code; 92671

(H) Provide training to commission members and employees of 92672
the division of real estate and professional licensing on issues 92673
relative to the real estate industry, which may include but not be 92674
limited to investigative techniques, real estate law, and real 92675
estate practices and procedures. 92676

Sec. 4735.05. (A) The Ohio real estate commission is a part 92677
of the department of commerce for administrative purposes. The 92678
director of commerce is ex officio the executive officer of the 92679
commission, or the director may designate any employee of the 92680
department as superintendent of real estate and professional 92681
licensing to act as executive officer of the commission. 92682

The commission and the real estate appraiser board created 92683
pursuant to section 4763.02 of the Revised Code shall each submit 92684
to the director a list of three persons whom the commission and 92685
the board consider qualified to be superintendent within sixty 92686
days after the office of superintendent becomes vacant. The 92687
director shall appoint a superintendent from the lists submitted 92688
by the commission and the board, and the superintendent shall 92689
serve at the pleasure of the director. 92690

(B) The superintendent, except as otherwise provided, shall 92691

do all of the following in regard to this chapter:	92692
(1) Administer this chapter;	92693
(2) Issue all orders necessary to implement this chapter;	92694
(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;	92695 92696
(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.	92697 92698 92699 92700 92701 92702 92703
(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, <u>4735.052</u> , or 4735.18 of the Revised Code;	92704 92705 92706
(6) Administer the real estate recovery fund.	92707
(C) The superintendent may do all of the following:	92708
(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;	92709 92710 92711
(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.	92712 92713 92714 92715 92716
(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court,	92717 92718 92719 92720 92721

recommend the appointment of, an ancillary trustee who is 92722
qualified as determined by the superintendent to conclude the 92723
business transactions of the deceased, revoked, or suspended 92724
broker; 92725

(4) In conjunction with the enforcement of this chapter, when 92726
the superintendent of real estate has reasonable cause to believe 92727
that an applicant or licensee has committed a criminal offense, 92728
the superintendent of real estate may request the superintendent 92729
of the bureau of criminal identification and investigation to 92730
conduct a criminal records check of the applicant or licensee. The 92731
superintendent of the bureau of criminal identification and 92732
investigation shall obtain information from the federal bureau of 92733
investigation as part of the criminal records check of the 92734
applicant or licensee. The superintendent of real estate may 92735
assess the applicant or licensee a fee equal to the fee assessed 92736
for the criminal records check. 92737

(5) In conjunction with the enforcement of this chapter, 92738
issue advisory letters in lieu of initiating disciplinary action 92739
under section 4735.051 or 4735.052 of the Revised Code or issuing 92740
a citation under section 4735.16 or 4735.181 of the Revised Code. 92741

(D) All information that is obtained by investigators and 92742
auditors performing investigations or conducting inspections, 92743
audits, and other inquiries pursuant to division (B)(4) of this 92744
section, from licensees, complainants, or other persons, and all 92745
reports, documents, and other work products that arise from that 92746
information and that are prepared by the investigators, auditors, 92747
or other personnel of the department, shall be held in confidence 92748
by the superintendent, the investigators and auditors, and other 92749
personnel of the department. Notwithstanding division (D) of 92750
section 2317.023 of the Revised Code, all information obtained by 92751
investigators or auditors from an informal mediation meeting held 92752
pursuant to section 4735.051 of the Revised Code, including but 92753

not limited to the agreement to mediate and the accommodation 92754
agreement, shall be held in confidence by the superintendent, 92755
investigators, auditors, and other personnel of the department. 92756

(E) This section does not prevent the division of real estate 92757
and professional licensing from releasing information relating to 92758
licensees to the superintendent of financial institutions for 92759
purposes relating to the administration of sections 1322.01 to 92760
1322.12 of the Revised Code, to the superintendent of insurance 92761
for purposes relating to the administration of Chapter 3953. of 92762
the Revised Code, to the attorney general, or to local law 92763
enforcement agencies and local prosecutors. Information released 92764
by the division pursuant to this section remains confidential. 92765

Sec. 4735.052. (A) Upon receipt of a written complaint or 92766
upon the superintendent's own motion, the superintendent may 92767
investigate any person that has allegedly violated section 4735.02 92768
or 4735.25 of the Revised Code, except that the superintendent 92769
shall not initiate an investigation, pursuant to this section, of 92770
any person who held a valid license on voluntary hold or a 92771
suspended or inactive license under this chapter ~~any time during~~ 92772
~~the twelve months preceding~~ on the date of the alleged violation. 92773

(B) If, after investigation, the superintendent determines 92774
there exists reasonable evidence of a violation of section 4735.02 92775
or 4735.25 of the Revised Code, within ~~seven~~ fourteen business 92776
days after that determination, the superintendent shall send the 92777
party who is the subject of the investigation, a written notice, 92778
by regular mail, that includes all of the following information: 92779

(1) A description of the activity in which the party 92780
allegedly is engaging or has engaged that is a violation of 92781
section 4735.02 or 4735.25 of the Revised Code; 92782

(2) The applicable law allegedly violated; 92783

(3) A statement informing the party that a hearing concerning the alleged violation will be held ~~at the next regularly scheduled meeting of the Ohio real estate commission, and a statement giving the date and place of that meeting;~~

~~(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.~~

(C) ~~The commission~~ (1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to division (B)(4) of this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code. If

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties.

(4) The commission shall decide whether to impose

disciplinary sanctions upon a party for a violation of section 92815
4735.02 of the Revised Code. If the commission finds that a 92816
violation has occurred, the commission may assess a civil penalty, 92817
in an amount it determines, not to exceed one thousand dollars per 92818
violation. Each day a violation occurs or continues is a separate 92819
violation. The commission shall determine the terms of payment. 92820
The commission shall maintain a ~~transcript~~ record of the 92821
proceedings of the hearing and issue a written opinion to all 92822
parties, citing its findings and grounds for any action taken. 92823

(D) Civil penalties collected under this section shall be 92824
deposited in the real estate ~~recovery~~ operating fund, which is 92825
created in the state treasury under section ~~4735.12~~ 4735.211 of 92826
the Revised Code. 92827

(E) If a party fails to pay a civil penalty assessed pursuant 92828
to this section within the time prescribed by the commission, the 92829
superintendent shall forward to the attorney general the name of 92830
the party and the amount of the civil penalty, for the purpose of 92831
collecting that civil penalty. In addition to the civil penalty 92832
assessed pursuant to this section, the party also shall pay any 92833
fee assessed by the attorney general for collection of the civil 92834
penalty. 92835

(F) The superintendent may reserve the right to bring a civil 92836
action against a party that fails to pay a civil penalty for 92837
breach of contract in a court of competent jurisdiction. 92838

Sec. 4735.06. (A) Application for a license as a real estate 92839
broker shall be made to the superintendent of real estate on forms 92840
furnished by the superintendent and filed with the superintendent 92841
and shall be signed by the applicant or its members or officers. 92842
Each application shall state the name of the person applying and 92843
the location of the place of business for which the license is 92844
desired, and give such other information as the superintendent 92845

requires in the form of application prescribed by the 92846
superintendent. 92847

If the applicant is a partnership, limited liability company, 92848
limited liability partnership, or association, the names of all 92849
the members also shall be stated, and, if the applicant is a 92850
corporation, the names of its president and of each of its 92851
officers also shall be stated. The superintendent has the right to 92852
reject the application of any partnership, association, limited 92853
liability company, limited liability partnership, or corporation 92854
if the name proposed to be used by such partnership, association, 92855
limited liability company, limited liability partnership, or 92856
corporation is likely to mislead the public or if the name is not 92857
such as to distinguish it from the name of any existing 92858
partnership, association, limited liability company, limited 92859
liability partnership, or corporation licensed under this chapter, 92860
unless there is filed with the application the written consent of 92861
such existing partnership, association, limited liability company, 92862
limited liability partnership, or corporation, executed by a duly 92863
authorized representative of it, permitting the use of the name of 92864
such existing partnership, association, limited liability company, 92865
limited liability partnership, or corporation. 92866

(B) A fee of one hundred dollars shall accompany the 92867
application for a real estate broker's license, ~~which fee includes~~ 92868
~~the fee for the initial year of the licensing period, if a license~~ 92869
~~is issued. The initial licensing period commences at the time the~~ 92870
~~license is issued and ends on the applicant's first birthday~~ 92871
~~thereafter. However, if the applicant was an inactive or active~~ 92872
~~salesperson immediately preceding application for a broker's~~ 92873
~~license, then the initial licensing period shall commence at the~~ 92874
~~time the broker's license is issued and ends on the date the~~ 92875
~~licensee's continuing education is due as set when the applicant~~ 92876
~~was a salesperson.~~ The application fee shall be ~~retained by the~~ 92877

~~superintendent if the applicant is admitted to the examination for~~ 92878
~~the license or the examination requirement is waived, but, if an~~ 92879
~~applicant is not so admitted and a waiver is not involved,~~ 92880
~~one half of the fee shall be retained by the superintendent to~~ 92881
~~cover the expenses of processing the application and the other~~ 92882
~~one half shall be returned to the applicant nonrefundable.~~ 92883
A fee 92883
of one hundred dollars shall be charged by the superintendent for 92884
each successive application made by an applicant. In the case of 92885
issuance of a three-year license, upon passing the examination, or 92886
upon waiver of the examination requirement, if the superintendent 92887
determines it is necessary, the applicant shall submit an 92888
additional fee determined by the superintendent based upon the 92889
number of years remaining in a real estate salesperson's licensing 92890
period. 92891

(C) One dollar of each application fee for a real estate 92892
broker's license shall be credited to the real estate education 92893
and research fund, which is hereby created in the state treasury. 92894
The Ohio real estate commission may use the fund in discharging 92895
the duties prescribed in divisions (E), (F), (G), and (H) of 92896
section 4735.03 of the Revised Code and shall use it in the 92897
advancement of education and research in real estate at any 92898
institution of higher education in the state, or in contracting 92899
with any such institution or a trade organization for a particular 92900
research or educational project in the field of real estate, or in 92901
advancing loans, not exceeding ~~eight hundred~~ two thousand dollars, 92902
to applicants for salesperson licenses, to defray the costs of 92903
satisfying the educational requirements of division (F) of section 92904
4735.09 of the Revised Code. Such loans shall be made according to 92905
rules established by the commission under the procedures of 92906
Chapter 119. of the Revised Code, and they shall be repaid to the 92907
fund within three years of the time they are made. No more than 92908
ten thousand dollars shall be lent from the fund in any one year. 92909

The governor may appoint a representative from the executive 92910
branch to be a member ex officio of the commission for the purpose 92911
of advising on research requests or educational projects. The 92912
commission shall report to the general assembly on the third 92913
Tuesday after the third Monday in January of each year setting 92914
forth the total amount contained in the fund and the amount of 92915
each research grant that it has authorized and the amount of each 92916
research grant requested. A copy of all research reports shall be 92917
submitted to the state library of Ohio and the library of the 92918
legislative service commission. 92919

(D) If the superintendent, with the consent of the 92920
commission, enters into an agreement with a national testing 92921
service to administer the real estate broker's examination, 92922
pursuant to division (A) of section 4735.07 of the Revised Code, 92923
the superintendent may require an applicant to pay the testing 92924
service's examination fee directly to the testing service. If the 92925
superintendent requires the payment of the examination fee 92926
directly to the testing service, each applicant shall submit to 92927
the superintendent a processing fee in an amount determined by the 92928
Ohio real estate commission pursuant to division (A)(2) of section 92929
4735.10 of the Revised Code. 92930

Sec. 4735.07. (A) The superintendent of real estate, with the 92931
consent of the Ohio real estate commission, may enter into 92932
agreements with recognized national testing services to administer 92933
the real estate broker's examination under the superintendent's 92934
supervision and control, consistent with the requirements of this 92935
chapter as to the contents of such examination. 92936

(B) No applicant for a real estate broker's license shall 92937
take the broker's examination who has not established to the 92938
satisfaction of the superintendent that the applicant: 92939

(1) Is honest, truthful, and of good reputation; 92940

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which	92973
property was sold for another by the applicant while acting in the	92974
capacity of a real estate broker or salesperson;	92975
(b) Such equivalent experience as is defined by rules adopted	92976
by the commission.	92977
(6)(a) If licensed as a real estate salesperson prior to	92978
August 1, 2001, successfully has completed at an institution of	92979
higher education all of the following:	92980
(i) Thirty hours of classroom instruction in real estate	92981
practice;	92982
(ii) Thirty hours of classroom instruction that includes the	92983
subjects of Ohio real estate law, municipal, state, and federal	92984
civil rights law, new case law on housing discrimination,	92985
desegregation issues, and methods of eliminating the effects of	92986
prior discrimination. If feasible, the classroom instruction in	92987
Ohio real estate law shall be taught by a member of the faculty of	92988
an accredited law school. If feasible, the classroom instruction	92989
in municipal, state, and federal civil rights law, new case law on	92990
housing discrimination, desegregation issues, and methods of	92991
eliminating the effects of prior discrimination shall be taught by	92992
a staff member of the Ohio civil rights commission who is	92993
knowledgeable with respect to those subjects. The requirements of	92994
this division do not apply to an applicant who is admitted to	92995
practice before the supreme court.	92996
(iii) Thirty hours of classroom instruction in real estate	92997
appraisal;	92998
(iv) Thirty hours of classroom instruction in real estate	92999
finance;	93000
(v) Three quarter hours, or its equivalent in semester hours,	93001
in financial management;	93002

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;	93003 93004
(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;	93005 93006
(viii) Three quarter hours, or its equivalent in semester hours, in business law.	93007 93008
(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:	93009 93010 93011
(i) Forty hours of classroom instruction in real estate practice;	93012 93013
(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.	93014 93015 93016 93017 93018 93019 93020 93021 93022 93023 93024 93025 93026 93027
(iii) Twenty hours of classroom instruction in real estate appraisal;	93028 93029
(iv) Twenty hours of classroom instruction in real estate finance;	93030 93031
(v) The training in the amount of hours specified under	93032

divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section. 93033

(c) Division (B)(6)(a) or (b) of this section does not apply 93034
to any applicant who holds a valid real estate salesperson's 93035
license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), 93036
(vi), (vii), and (viii) or division (B)(6)(b)(v) of this section 93037
do not apply to any applicant who holds a valid real estate 93038
salesperson's license issued prior to January 3, 1984. 93039

(7) If licensed as a real estate salesperson on or after 93040
January 3, 1984, satisfactorily has completed a minimum of two 93041
years of post-secondary education, or its equivalent in semester 93042
or quarter hours, at an institution of higher education, and has 93043
fulfilled the requirements of division (B)(6)(a) or (b) of this 93044
section. The requirements of division (B)(6)(a) or (b) of this 93045
section may be included in the two years of post-secondary 93046
education, or its equivalent in semester or quarter hours, that is 93047
required by this division. 93048

(C) Each applicant for a broker's license shall be examined 93049
in the principles of real estate practice, Ohio real estate law, 93050
and financing and appraisal, and as to the duties of real estate 93051
brokers and real estate salespersons, the applicant's knowledge of 93052
real estate transactions and instruments relating to them, and the 93053
canons of business ethics pertaining to them. The commission from 93054
time to time shall promulgate such canons and cause them to be 93055
published in printed form. 93056

(D) Examinations shall be administered with reasonable 93057
accommodations in accordance with the requirements of the 93058
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 93059
U.S.C. 12101. The contents of an examination shall be consistent 93060
with the requirements of division (B)(6) of this section and with 93061
the other specific requirements of this section. An applicant who 93062
has completed the requirements of division (B)(6) of this section 93063
at the time of application shall be examined no later than twelve 93064

months after the applicant is notified of admission to the examination. 93065
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(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license. 93067
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(F) There shall be no limit placed on the number of times an applicant may retake the examination. 93072
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(G)(1) ~~Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months~~ after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction ~~in real estate brokerage at an institution of higher education or any other institution that shall be completed in schools, seminars, and educational institutions that is~~ are approved by the commission. ~~That instruction shall include, but not be limited to, current issues in managing a real estate company or office~~ Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code. 93074
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If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking 93088
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of any action by the superintendent if the licensee fails to 93097
submit proof of completion of the education requirements specified 93098
under division (G)(1) of this section within twelve months of the 93099
date the license is suspended. 93100

(2) If the license of a real estate broker is suspended 93101
pursuant to division (G)(1) of this section, the license of a real 93102
estate salesperson associated with that broker correspondingly is 93103
suspended pursuant to division (H) of section 4735.20 of the 93104
Revised Code. However, the suspended license of the associated 93105
real estate salesperson shall be reactivated and no fee shall be 93106
charged or collected for that reactivation if all of the following 93107
occur: 93108

(a) That broker subsequently submits satisfactory proof to 93109
the superintendent that the broker has complied with the 93110
requirements of division (G)(1) of this section and requests that 93111
the broker's license as a real estate broker be reactivated; 93112

(b) The superintendent then reactivates the broker's license 93113
as a real estate broker; 93114

(c) The associated real estate salesperson intends to 93115
continue to be associated with that broker and otherwise is in 93116
compliance with this chapter. 93117

Sec. 4735.09. (A) Application for a license as a real estate 93118
salesperson shall be made to the superintendent of real estate on 93119
forms furnished by the superintendent and signed by the applicant. 93120
The application shall be in the form prescribed by the 93121
superintendent and shall contain such information as is required 93122
by this chapter and the rules of the Ohio real estate commission. 93123
The application shall be accompanied by the recommendation of the 93124
real estate broker with whom the applicant is associated or with 93125
whom the applicant intends to be associated, certifying that the 93126
applicant is honest, truthful, and of good reputation, has not 93127

been convicted of a felony or a crime involving moral turpitude, 93128
and has not been finally adjudged by a court to have violated any 93129
municipal, state, or federal civil rights laws relevant to the 93130
protection of purchasers or sellers of real estate, which 93131
conviction or adjudication the applicant has not disclosed to the 93132
superintendent, and recommending that the applicant be admitted to 93133
the real estate salesperson examination. 93134

(B) A fee of sixty dollars shall accompany the application, 93135
which fee includes the fee for the initial year of the licensing 93136
period, if a license is issued. The initial year of the licensing 93137
period commences at the time the license is issued and ends on the 93138
applicant's first birthday thereafter. The application fee shall 93139
~~be retained by the superintendent if the applicant is admitted to~~ 93140
~~the examination for the license or the examination requirement is~~ 93141
~~waived, but, if an applicant is not so admitted and a waiver is~~ 93142
~~not involved, one half of the fee shall be retained by the~~ 93143
~~superintendent to cover the expenses of processing the application~~ 93144
~~and the other one half shall be returned to the applicant~~ 93145
nonrefundable. A fee of sixty dollars shall be charged by the 93146
superintendent for each successive application made by the 93147
applicant. One dollar of each application fee shall be credited to 93148
the real estate education and research fund. 93149

(C) There shall be no limit placed on the number of times an 93150
applicant may retake the examination. 93151

(D) The superintendent, with the consent of the commission, 93152
may enter into an agreement with a recognized national testing 93153
service to administer the real estate salesperson's examination 93154
under the superintendent's supervision and control, consistent 93155
with the requirements of this chapter as to the contents of the 93156
examination. 93157

If the superintendent, with the consent of the commission, 93158
enters into an agreement with a national testing service to 93159

administer the real estate salesperson's examination, the 93160
superintendent may require an applicant to pay the testing 93161
service's examination fee directly to the testing service. If the 93162
superintendent requires the payment of the examination fee 93163
directly to the testing service, each applicant shall submit to 93164
the superintendent a processing fee in an amount determined by the 93165
Ohio real estate commission pursuant to division (A)(1) of section 93166
4735.10 of the Revised Code. 93167

(E) The superintendent shall issue a real estate 93168
salesperson's license when satisfied that the applicant has 93169
received a passing score on each portion of the salesperson's 93170
examination as determined by rule by the real estate commission, 93171
except that the superintendent may waive one or more of the 93172
requirements of this section in the case of an applicant who is a 93173
licensed real estate salesperson in another state pursuant to a 93174
reciprocity agreement with the licensing authority of the state 93175
from which the applicant holds a valid real estate salesperson's 93176
license. 93177

(F) No applicant for a salesperson's license shall take the 93178
salesperson's examination who has not established to the 93179
satisfaction of the superintendent that the applicant: 93180

(1) Is honest, truthful, and of good reputation; 93181

(2)(a) Has not been convicted of a felony or crime of moral 93182
turpitude or, if the applicant has been so convicted, the 93183
superintendent has disregarded the conviction because the 93184
applicant has proven to the superintendent, by a preponderance of 93185
the evidence, that the applicant's activities and employment 93186
record since the conviction show that the applicant is honest, 93187
truthful, and of good reputation, and there is no basis in fact 93188
for believing that the applicant again will violate the laws 93189
involved; 93190

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

~~(6)(a) If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:~~

~~(i) Thirty hours of classroom instruction in real estate practice;~~

~~(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction~~

~~in municipal, state, and federal civil rights law, new case law on 93222
housing discrimination, desegregation issues, and methods of 93223
eliminating the effects of prior discrimination shall be taught by 93224
a staff member of the Ohio civil rights commission who is 93225
knowledgeable with respect to those subjects. The requirements of 93226
this division do not apply to an applicant who is admitted to 93227
practice before the supreme court. 93228~~

~~(iii) Thirty hours of classroom instruction in real estate 93229
appraisal; 93230~~

~~(iv) Thirty hours of classroom instruction in real estate 93231
finance. 93232~~

~~(b) Any person who has not been licensed as a real estate 93233
salesperson or broker within a four year period immediately 93234
preceding the person's current application for the salesperson's 93235
examination shall have successfully completed the classroom 93236
instruction required by division (F)(6)(a) of this section within 93237
a ten year period immediately preceding the person's current 93238
application for the salesperson's examination. 93239~~

~~(7) If beginning instruction, as determined by the 93240
superintendent, on or after August 1, 2001, has Has successfully 93241
completed at an institution of higher education all of the 93242
following: 93243~~

~~(a) Forty hours of classroom instruction in real estate 93244
practice; 93245~~

~~(b) Forty hours of classroom instruction that includes the 93246
subjects of Ohio real estate law, municipal, state, and federal 93247
civil rights law, new case law on housing discrimination, 93248
desegregation issues, and methods of eliminating the effects of 93249
prior discrimination. If feasible, the classroom instruction in 93250
Ohio real estate law shall be taught by a member of the faculty of 93251
an accredited law school. If feasible, the classroom instruction 93252~~

in municipal, state, and federal civil rights law, new case law on 93253
housing discrimination, desegregation issues, and methods of 93254
eliminating the effects of prior discrimination shall be taught by 93255
a staff member of the Ohio civil rights commission who is 93256
knowledgeable with respect to those subjects. The requirements of 93257
this division do not apply to an applicant who is admitted to 93258
practice before the supreme court. 93259

(c) Twenty hours of classroom instruction in real estate 93260
appraisal; 93261

(d) Twenty hours of classroom instruction in real estate 93262
finance. 93263

(G) ~~No~~ Any person who has not been licensed as a real estate 93264
salesperson or broker within a four-year period immediately 93265
preceding the person's current application for the salesperson's 93266
examination shall have successfully completed the prelicensure 93267
classroom instruction required by division (F)(6) of this section 93268
within a ten-year period immediately preceding the person's 93269
current application for the salesperson's examination. 93270

(H) Not earlier than the date of issue of a real estate 93271
salesperson's license to a licensee, but not later than twelve 93272
months after the date of issue of a real estate salesperson 93273
license to a licensee, the licensee shall submit proof 93274
satisfactory to the superintendent, on forms made available by the 93275
superintendent, of the completion, at an institution of higher 93276
education or any other institution of ten hours of classroom 93277
instruction that shall be completed in schools, seminars, and 93278
educational institutions approved by the commission, of ten hours 93279
of classroom instruction in real estate courses that cover current 93280
issues regarding consumers, real estate practice, ethics, and real 93281
estate law. Approval of the curriculum and providers shall be 93282
granted according to rules adopted pursuant to section 4735.10 of 93283
the Revised Code. 93284

If proof of completion of the required instruction is not 93285
submitted within twelve months of the date a license is issued 93286
under this section, the licensee's license is suspended 93287
automatically without the taking of any action by the 93288
superintendent. The superintendent immediately shall notify the 93289
broker with whom such salesperson is associated of the suspension 93290
of the salesperson's license. A salesperson whose license has been 93291
suspended under this division shall have twelve months after the 93292
date of the suspension of the salesperson's license to submit 93293
proof of successful completion of the instruction required under 93294
this division. No such license shall be reactivated by the 93295
superintendent until it is established, to the satisfaction of the 93296
superintendent, that the requirements of this division have been 93297
met and that the licensee is in compliance with this chapter. A 93298
licensee's license is revoked automatically without the taking of 93299
any action by the superintendent when the licensee fails to submit 93300
the required proof of completion of the education requirements 93301
under division ~~(G)~~(H) of this section within twelve months of the 93302
date the license is suspended. 93303

~~(H)~~(I) Examinations shall be administered with reasonable 93304
accommodations in accordance with the requirements of the 93305
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 93306
U.S.C. ~~12101~~ 12189. The contents of an examination shall be 93307
consistent with the classroom instructional requirements of 93308
division (F)(6) ~~or (7)~~ of this section. An applicant who has 93309
completed the classroom instructional requirements of division 93310
(F)(6) ~~or (7)~~ of this section at the time of application shall be 93311
examined no later than twelve months after the applicant is 93312
notified of the applicant's admission to the examination. 93313

Sec. 4735.10. (A)(1) The Ohio real estate commission may 93314
adopt reasonable rules in accordance with Chapter 119. of the 93315
Revised Code, necessary for implementing the provisions of this 93316

chapter relating, but not limited to, the following:	93317
(a) The form and manner of filing applications for license <u>licensure</u> ;	93318 93319
(b) Times and form of examination for license;	93320
(c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;	93321 93322 93323
(d) Specifying the process by which a licensee may place the licensee's license on voluntary hold or resigned status;	93324 93325
(e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;	93326 93327 93328 93329 93330
<u>(f) Clarification of the activities that require a license under this chapter.</u>	93331 93332
(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:	93333 93334 93335
(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;	93336 93337 93338 93339
(b) By not later than January 1, 2004, a <u>A</u> three-year license and a three-year license renewal system;	93340 93341
(c) Standards for the approval of <u>the ten hour postlicensure courses as required by division (H) of section 4735.07 and division (H) of section 4735.09 of the Revised Code</u> , courses of study required for licenses, or <u>courses</u> offered in preparation for license examinations, or <u>courses</u> required as continuing education	93342 93343 93344 93345 93346

for licenses.	93347
(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.	93348 93349 93350 93351 93352
(e) Requirements for trust accounts and property management accounts. The rules shall specify that:	93353 93354
(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.	93355 93356 93357 93358 93359 93360 93361
(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.	93362 93363 93364 93365
(f) Notice of renewal forms and filing deadlines;	93366
(g) Special assessments under division (A) of section 4735.12 of the Revised Code.	93367 93368
(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:	93369 93370 93371 93372
(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;	93373 93374
(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability	93375 93376

partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code; 93377
93378

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code; 93379
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93382

(4) Approval of applications of brokers to place their licenses ~~on deposit~~ in an inactive status and to become salespersons under section 4735.13 of the Revised Code; 93383
93384
93385

(5) Appointment of hearing examiners under section 119.09 of the Revised Code; 93386
93387

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code; 93388
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(7) Qualification of foreign real estate under section 4735.25 of the Revised Code. 93392
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If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose. 93394
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(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license. 93398
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Sec. 4735.13. (A) Every real estate broker licensed under 93406

this chapter shall have and maintain a definite place of business 93407
in this state. A post office box address is not a definite place 93408
of business for purposes of this section. The license of a real 93409
estate broker shall be prominently displayed in the office or 93410
place of business of the broker, and no license shall authorize 93411
the licensee to do business except from the location specified in 93412
it. If the broker maintains more than one place of business within 93413
the state, the broker shall apply for and procure a duplicate 93414
license for each branch office maintained by the broker. Each 93415
branch office shall be in the charge of a licensed broker or 93416
salesperson. The branch office license shall be prominently 93417
displayed at the branch office location. 93418

(B) The license of each real estate salesperson shall be 93419
mailed to and remain in the possession of the licensed broker with 93420
whom the salesperson is or is to be associated until the licensee 93421
places the license on inactive, voluntary hold, or resigned status 93422
or until the salesperson leaves the brokerage or is terminated. 93423
The broker shall keep each salesperson's license in a way that it 93424
can, and shall on request, be made immediately available for 93425
public inspection at the office or place of business of the 93426
broker. Except as provided in divisions (G) and (H) of this 93427
section, immediately upon the salesperson's leaving the 93428
association or termination of the association of a real estate 93429
salesperson with the broker, the broker shall return the 93430
salesperson's license to the superintendent of real estate. 93431

The failure of a broker to return the license of a real 93432
estate salesperson or broker who leaves or who is terminated, via 93433
certified mail return receipt requested, within three business 93434
days of the receipt of a written request from the superintendent 93435
for the return of the license, is prima-facie evidence of 93436
misconduct under division (A)(6) of section 4735.18 of the Revised 93437
Code. 93438

(C) Any licensee ~~who~~ shall notify the superintendent in 93439
writing within fifteen days of any of the following occurrences: 93440

(1) The licensee is convicted of a felony ~~or~~. 93441

(2) The licensee is convicted of a crime involving moral 93442
turpitude ~~or of violating~~. 93443

(3) The licensee is found to have violated any federal, 93444
state, or municipal civil rights law pertaining to discrimination 93445
in housing, ~~or any court that issues a finding of an unlawful~~. 93446

(4) The licensee is found to have engaged in a discriminatory 93447
practice pertaining to housing accommodations described in 93448
division (H) of section 4112.02 of the Revised Code ~~or that~~ 93449
convicts a. 93450

(5) The licensee ~~of a violation of~~ is found to have violated 93451
any municipal civil rights law pertaining to housing 93452
discrimination, ~~shall notify the superintendent of the conviction~~ 93453
~~or finding within fifteen days. If~~. 93454

(6) The licensee is the subject of an order by the department 93455
of commerce, the department of insurance, or the department of 93456
agriculture revoking or permanently surrendering any professional 93457
license, certificate, or registration. 93458

(7) The licensee is the subject of an order by any government 93459
agency concerning real estate, financial matters, or the 93460
performance of fiduciary duties with respect to any license, 93461
certificate, or registration. 93462

If a licensee fails to notify the superintendent within the 93463
required time, the superintendent immediately may ~~revoke~~ suspend 93464
the license of the licensee. 93465

Any court that convicts a licensee of a violation of any 93466
municipal civil rights law pertaining to housing discrimination 93467
also shall notify the Ohio civil rights commission within fifteen 93468

days of the conviction. 93469

(D) In case of any change of business location, a broker 93470
shall give notice ~~in writing~~ to the superintendent, on a form 93471
prescribed by the superintendent, within thirty days after the 93472
change of location, whereupon the superintendent shall issue new 93473
licenses for the unexpired period without charge. If a broker 93474
changes a business location without giving the required notice and 93475
without receiving new licenses that action is prima-facie evidence 93476
of misconduct under division (A)(6) of section 4735.18 of the 93477
Revised Code. 93478

(E) If a real estate broker desires to associate with another 93479
real estate broker in the capacity of a real estate salesperson, 93480
the broker shall apply to the superintendent to deposit the 93481
broker's real estate broker's license with the superintendent and 93482
for the issuance of a real estate salesperson's license. The 93483
application shall be made on a form prescribed by the 93484
superintendent and shall be accompanied by the recommendation of 93485
the real estate broker with whom the applicant intends to become 93486
associated and a fee of twenty-five dollars for the real estate 93487
salesperson's license. One dollar of the fee shall be credited to 93488
the real estate education and research fund. If the superintendent 93489
is satisfied that the applicant is honest, truthful, and of good 93490
reputation, has not been convicted of a felony or a crime 93491
involving moral turpitude, and has not been finally adjudged by a 93492
court to have violated any municipal, state, or federal civil 93493
rights laws relevant to the protection of purchasers or sellers of 93494
real estate, and that the association of the real estate broker 93495
and the applicant will be in the public interest, the 93496
superintendent shall grant the application and issue a real estate 93497
salesperson's license to the applicant. Any license so deposited 93498
with the superintendent shall be subject to this chapter. A broker 93499
who intends to deposit the broker's license with the 93500

superintendent, as provided in this section, shall give written 93501
notice of this fact in a format prescribed by the superintendent 93502
to all salespersons associated with the broker when applying to 93503
place the broker's license on deposit. 93504

(F) If a real estate broker desires to become a member or 93505
officer of a partnership, association, limited liability company, 93506
limited liability partnership, or corporation that is or intends 93507
to become a licensed real estate broker, the broker shall notify 93508
the superintendent of the broker's intentions. The notice of 93509
intention shall be on a form prescribed by the superintendent and 93510
shall be accompanied by a fee of twenty-five dollars. One dollar 93511
of the fee shall be credited to the real estate education and 93512
research fund. 93513

~~No A licensed real estate broker who is a member or officer 93514
of a partnership, association, limited liability company, limited 93515
liability partnership, or corporation ~~that is a licensed real 93516
estate broker~~ shall ~~perform any acts~~ only act as a real estate 93517
broker ~~other than as the agent of the~~ for such partnership, 93518
association, limited liability company, limited liability 93519
partnership, or corporation, ~~and such broker shall not have any 93520
real estate salespersons associated with the broker.~~ 93521~~

(G) If a real estate broker or salesperson enters the armed 93522
forces, the broker or salesperson may place the broker's or 93523
salesperson's license on deposit with the Ohio real estate 93524
commission. The licensee shall not be required to renew the 93525
license until the renewal date that follows the date of discharge 93526
from the armed forces. Any license deposited with the commission 93527
shall be subject to this chapter. Any licensee whose license is on 93528
deposit under this division and who fails to meet the continuing 93529
education requirements of section 4735.141 of the Revised Code 93530
because the licensee is in the armed forces shall satisfy the 93531
commission that the licensee has complied with the continuing 93532

education requirements within twelve months of the licensee's 93533
first birthday after discharge. The ~~commission~~ superintendent 93534
shall notify the licensee of the licensee's obligations under 93535
section 4735.141 of the Revised Code at the time the licensee 93536
applies for reactivation of the licensee's license. 93537

(H) If a licensed real estate salesperson submits an 93538
application to the superintendent to leave the association of one 93539
broker to associate with a different broker, the broker possessing 93540
the licensee's license need not return the salesperson's license 93541
to the superintendent. The superintendent may process the 93542
application regardless of whether the licensee's license is 93543
returned to the superintendent. 93544

Sec. 4735.14. (A) Each license issued under this chapter, 93545
shall be valid without further recommendation or examination until 93546
it is placed in an inactive, voluntary hold, or resigned status, 93547
is revoked or suspended, or such license expires by operation of 93548
law. 93549

(B) Except for a licensee who has placed the licensee's 93550
license on voluntary hold or resigned status pursuant to section 93551
4735.142 of the Revised Code, each licensed broker, brokerage, or 93552
salesperson shall file, on or before the date the Ohio real estate 93553
commission has adopted by rule for that licensee in accordance 93554
with division (A)(2)(f) of section 4735.10 of the Revised Code, a 93555
notice of renewal on a form prescribed by the superintendent of 93556
real estate. The notice of renewal shall be mailed by the 93557
superintendent two months prior to the filing deadline to the ~~most~~ 93558
~~current~~ personal residence address of each broker or salesperson 93559
~~as filed with the superintendent by the licensee and the place of~~ 93560
~~business address of the brokerage~~ that is on file with the 93561
division. If the licensee is a partnership, association, limited 93562
liability company, limited liability partnership, or corporation, 93563

the notice of renewal shall be mailed by the superintendent two 93564
months prior to the filing deadline to the brokerage's business 93565
address on file with the division. A licensee shall not renew the 93566
licensee's license any earlier than two months prior to the filing 93567
deadline. 93568

(C) Except as otherwise provided in division (B) of this 93569
section, the license of any real estate broker, brokerage, or 93570
salesperson that fails to file a notice of renewal on or before 93571
the filing deadline of each ensuing year shall be suspended 93572
automatically without the taking of any action by the 93573
superintendent. A suspended license may be reactivated within 93574
twelve months of the date of suspension, provided that the renewal 93575
fee plus a penalty fee of fifty per cent of the renewal fee is 93576
paid to the superintendent. Failure to reactivate the license as 93577
provided in this division shall result in automatic revocation of 93578
the license without the taking of any action by the 93579
superintendent. No person, partnership, association, corporation, 93580
limited liability company, or limited partnership shall engage in 93581
any act or acts for which a real estate license is required while 93582
that entity's license is placed in an inactive, voluntary hold, or 93583
resigned status, or is suspended, or revoked. The commission shall 93584
adopt rules in accordance with Chapter 119. of the Revised Code to 93585
provide to licensees notice of suspension or revocation or both. 93586

(D) Each licensee shall notify the commission of a change in 93587
personal residence address. A licensee's failure to notify the 93588
commission of a change in personal residence address does not 93589
negate the requirement to file the license renewal by the required 93590
deadline established by the commission by rule under division 93591
(A)(2)(f) of section 4735.10 of the Revised Code. 93592

(E) The superintendent shall not renew a license if the 93593
licensee fails to comply with section 4735.141 of the Revised Code 93594
or is otherwise not in compliance with this chapter. 93595

(F) The superintendent shall make notice of successful renewal available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

Sec. 4735.141. (A) Except as otherwise provided in this division and except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any ~~physically handicapped~~ disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the

real estate industry; municipal, state, and federal civil rights 93627
law; and canons of ethics for the real estate industry as adopted 93628
by the commission. The required proof of completion shall be 93629
submitted on or before the licensee's birthday that falls in the 93630
third year of that continuing education reporting period. A 93631
licensee who is seventy years of age or older whose license is in 93632
an inactive status is exempt from the continuing education 93633
requirements specified in this section. The commission shall adopt 93634
reasonable rules in accordance with Chapter 119. of the Revised 93635
Code to carry out the purposes of this paragraph. 93636

(B) The continuing education requirements of this section 93637
shall be completed in schools, seminars, and educational 93638
institutions approved by the commission. Such approval shall be 93639
given according to rules established by the commission under the 93640
procedures of Chapter 119. of the Revised Code, and shall not be 93641
limited to institutions providing two-year or four-year degrees. 93642
Each school, seminar, or educational institution approved under 93643
this division shall be open to all licensees on an equal basis. 93644

(C) If the requirements of this section are not met by a 93645
licensee within the period specified, the licensee's license shall 93646
be suspended automatically without the taking of any action by the 93647
superintendent. The superintendent shall notify the licensee of 93648
the license suspension, and such notification shall be sent by 93649
regular mail to the personal residence address of the licensee 93650
that is on file with the division. Any license so suspended shall 93651
remain suspended until it is reactivated by the superintendent. No 93652
such license shall be reactivated until it is established, to the 93653
satisfaction of the superintendent, that the requirements of this 93654
section have been met. If the requirements of this section are not 93655
met within twelve months from the date the license was suspended, 93656
the license shall be revoked automatically without the taking of 93657
any action by the superintendent. 93658

(D) If the license of a real estate broker is suspended 93659
pursuant to division (C) of this section, the license of a real 93660
estate salesperson associated with that broker correspondingly is 93661
suspended pursuant to division (H) of section 4735.20 of the 93662
Revised Code. ~~However, the A sole broker shall notify affiliated~~ 93663
~~salespersons of the suspension in writing within three days of~~ 93664
~~receiving the notice required by division (C) of this section.~~ 93665

(1) The suspended license of the associated real estate 93666
salesperson shall be reactivated and no fee shall be charged or 93667
collected for that reactivation if ~~all of the following occur:~~ 93668

~~(1) That that~~ that broker subsequently submits proof to the 93669
superintendent that the broker has complied with the requirements 93670
of this section and requests that the broker's license as a real 93671
estate broker be reactivated. 93672

~~(2) The, and the~~ superintendent then reactivates the broker's 93673
license as a real estate broker. 93674

~~(3) The associated real estate salesperson intends to~~ 93675
~~continue to be associated with that broker, has complied with the~~ 93676
~~requirements of this section, and otherwise is in compliance with~~ 93677
~~this chapter.~~ 93678

(2) If the real estate salesperson submits an application to 93679
leave the association of the suspended broker in order to 93680
associate with a different broker, the suspended license of the 93681
associated real estate salesperson shall be reactivated and no fee 93682
shall be charged or collected for that reactivation. The 93683
superintendent may process the application regardless of whether 93684
the licensee's license is returned to the superintendent. 93685

Any person whose license is reactivated pursuant to this 93686
division shall ~~submit proof satisfactory to the superintendent~~ 93687
~~that the person has completed thirty hours of continuing~~ 93688
~~education, as prescribed by the Ohio real estate commission, on or~~ 93689

~~before the third year following the licensee's birthday occurring~~ 93690
~~immediately after reactivation~~ comply with the requirements of 93691
this section and otherwise be in compliance with this chapter. 93692

(E) Any licensee who is a ~~physically handicapped~~ disabled 93693
licensee at any time during the last three months of the third 93694
year of the licensee's continuing education reporting period may 93695
receive an extension of time as deemed appropriate by the 93696
superintendent to submit proof to the superintendent that the 93697
licensee has satisfactorily completed the required thirty hours of 93698
continuing education. To receive an extension of time, the 93699
licensee shall submit a request to the division of real estate for 93700
the extension and proof satisfactory to the commission that the 93701
licensee was a ~~physically handicapped~~ disabled licensee at some 93702
time during the last three months of the three-year reporting 93703
period. The proof shall include, but is not limited to, a signed 93704
statement by the licensee's attending physician describing the 93705
~~physical~~ disability, certifying that the licensee's disability is 93706
of such a nature as to prevent the licensee from attending any 93707
instruction lasting at least three hours in duration, and stating 93708
the expected duration of the ~~physical~~ disability. The licensee 93709
shall request the extension and provide the physician's statement 93710
to the division no later than one month prior to the end of the 93711
licensee's three-year continuing education reporting period, 93712
unless the ~~physical~~ disability did not arise until the last month 93713
of the three-year reporting period, in which event the licensee 93714
shall request the extension and provide the physician's statement 93715
as soon as practical after the occurrence of the ~~physical~~ 93716
disability. A licensee granted an extension pursuant to this 93717
division who is no longer a ~~physically handicapped~~ disabled 93718
licensee and who submits proof of completion of the continuing 93719
education during the extension period, shall submit, for future 93720
continuing education reporting periods, proof of completion of the 93721
continuing education requirements according to the schedule 93722

established in division (A) of this section. 93723

(F) The superintendent shall not renew a license if the 93724
licensee fails to comply with this section, and the licensee shall 93725
be required to pay the penalty fee provided in section 4735.14 of 93726
the Revised Code. 93727

(G) A licensee shall submit proof of completion of the 93728
required continuing education with the licensee's notice of 93729
renewal. The proof shall be submitted in the manner provided by 93730
the superintendent. 93731

Sec. 4735.142. (A) Any person licensed under section 4735.07 93732
or 4735.09 of the Revised Code, at any time prior to the date the 93733
licensee is required to file a notice of renewal pursuant to 93734
division (B) of section 4735.14 of the Revised Code may apply to 93735
the superintendent of real estate and professional licensing to 93736
place the licensee's license on voluntary hold or a resigned 93737
status. 93738

(B) If the superintendent has placed a license on voluntary 93739
hold pursuant to a request made under division (A) of this 93740
section, the licensee who requested that the licensee's license be 93741
placed on voluntary hold may apply to the superintendent to 93742
reactivate that license within twelve months after the date the 93743
license is placed on voluntary hold. The superintendent shall 93744
reactivate that license if the licensee complies with the 93745
requirements for such reactivation that are specified in rules 93746
adopted by the Ohio real estate commission pursuant to division 93747
(A) of section 4735.10 of the Revised Code and satisfies all of 93748
the following requirements: 93749

(1) The licensee complies with the postlicensure education 93750
requirements specified in section 4735.07 or 4735.09 of the 93751
Revised Code, as applicable; 93752

(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code; 93753
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(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission. 93755
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(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve-month time period specified in that division or does not satisfy the requirements specified in that division during that twelve-month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable. 93759
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(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division ~~(G)~~(H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily resign the licensee's license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to a request made under this division wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or 93772
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in the rules adopted by the commission pursuant to division (A) of 93785
section 4735.10 of the Revised Code. 93786

(E) If placing a broker's license on voluntary hold or a 93787
resigned status will result in the closure of the broker's 93788
brokerage, the broker, within three days after applying to the 93789
superintendent to place the license on voluntary hold or a 93790
resigned status, shall provide to each salesperson associated with 93791
that broker a written notice stating that fact. 93792

(F) This section does not apply to any licensee whose license 93793
has been suspended pursuant to division (F) of section 4735.181 of 93794
the Revised Code or due to disciplinary action ordered by the 93795
commission pursuant to section 4735.051 of the Revised Code. 93796

Sec. 4735.15. (A) The nonrefundable fees for reactivation or 93797
transfer of a license shall be as follows: 93798

(1) Reactivation or transfer of a broker's license into or 93799
out of a partnership, association, limited liability company, 93800
limited liability partnership, or corporation or from one 93801
partnership, association, limited liability company, limited 93802
liability partnership, or corporation to another partnership, 93803
association, limited liability company, limited liability 93804
partnership, or corporation, twenty-five dollars. An application 93805
for such transfer shall be made to the superintendent of real 93806
estate on forms provided by the superintendent. 93807

(2) Reactivation or transfer of a license by a real estate 93808
salesperson, twenty-five dollars. 93809

(B) Except as may otherwise be specified pursuant to division 93810
(F) of this section, the nonrefundable fees for a branch office 93811
license, license renewal, late filing, and foreign real estate 93812
dealer and salesperson license are as follows per year for each 93813
year of a licensing period: 93814

(1) Branch office license, fifteen dollars;	93815
(2) Renewal of a real estate broker's license, sixty dollars.	93816
If the licensee is a partnership, association, limited liability	93817
company, limited liability partnership, or corporation, the full	93818
broker's renewal fee shall be required for each member of such	93819
partnership, association, limited liability company, limited	93820
liability partnership, or corporation that is a real estate	93821
broker. If the real estate broker has not less than eleven nor	93822
more than twenty real estate salespersons associated with the	93823
broker, an additional fee of sixty-four dollars shall be assessed	93824
to the brokerage. For every additional ten real estate	93825
salespersons or fraction of that number, the brokerage assessment	93826
fee shall be increased in the amount of thirty-seven dollars.	93827
(3) Renewal of a real estate salesperson's license,	93828
forty-five dollars;	93829
(4) Renewal of a real estate broker's or salesperson's	93830
license filed within twelve months after the licensee's renewal	93831
date, an additional late filing penalty of fifty per cent of the	93832
required fee;	93833
(5) Foreign real estate dealer's license and each renewal of	93834
the license, thirty dollars per salesperson employed by the	93835
dealer, but not less than one hundred fifty dollars;	93836
(6) Foreign real estate salesperson's license and each	93837
renewal of the license, fifty dollars.	93838
(C) All fees collected under this section shall be paid to	93839
the treasurer of state. One dollar of each such fee shall be	93840
credited to the real estate education and research fund, except	93841
that for fees that are assessed only once every three years, three	93842
dollars of each triennial fee shall be credited to the real estate	93843
education and research fund.	93844
(D) In all cases, the fee and any penalty shall accompany the	93845

application for the license, license transfer, or license 93846
reactivation or shall accompany the filing of the renewal. 93847

(E) The commission may establish by rule reasonable fees for 93848
services not otherwise established by this chapter. 93849

(F) The commission may adopt rules that provide for a 93850
reduction in the fees established in divisions (B)(2) and (3) of 93851
this section. 93852

Sec. 4735.16. (A) Every real estate broker licensed under 93853
this chapter ~~shall have and maintain a definite place of business~~ 93854
~~in this state and~~ shall erect or maintain a sign on the business 93855
premises plainly stating that the licensee is a real estate 93856
broker. If the real estate broker maintains one or more branch 93857
offices, the real estate broker shall erect or maintain a sign at 93858
each branch office plainly stating that the licensee is a real 93859
estate broker. 93860

(B)(1) Any licensed real estate broker or salesperson who 93861
advertises to buy, sell, exchange, or lease real estate, or to 93862
engage in any act regulated by this chapter, ~~including, but not~~ 93863
~~limited to, any licensed real estate broker or salesperson who~~ 93864
~~advertises to sell, exchange, or lease real estate that the~~ 93865
~~licensee owns with respect to property the licensee does not own,~~ 93866
shall be identified in the advertisement by name and ~~by indicating~~ 93867
~~that the licensee is a real estate broker or real estate~~ 93868
~~salesperson. Except a real estate salesperson who advertises the~~ 93869
~~sale, exchange, or lease of real estate that the salesperson owns~~ 93870
~~and that is not listed for sale, exchange, or lease with a real~~ 93871
~~estate broker, any real estate salesperson who advertises, as~~ 93872
~~provided in this section, also shall indicate in the advertisement~~ 93873
~~the name of the broker under whom the salesperson is licensed and~~ 93874
~~the fact that the salesperson's broker is a real estate broker.~~ 93875
~~The name of the broker shall be displayed in equal prominence with~~ 93876

the name of the salesperson in the advertisement indicate the name of the brokerage with which the licensee is affiliated. 93877
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(2) Any licensed real estate broker or sales person who advertises to sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, with respect to property that the licensee owns, shall be identified in the advertisement by name and indicate that the property is agent owned, and if the property is listed with a real estate brokerage, the advertisement shall also indicate the name of the brokerage with which the property is listed. 93879
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(3) The name of the brokerage shall be displayed in equal prominence with the name of the salesperson in the advertisement. For purposes of this section, "brokerage" means the name the real estate company or sole broker is doing business as, or if the real estate company or sole broker does not use such a name, the name of the real estate company or sole broker as licensed. 93887
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(4) A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker. 93893
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~~(3)~~(5) If any real estate broker or real estate salesperson advertises in a manner other than as provided in this section or the rules adopted under this section, that advertisement is prima-facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code. 93898
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When the superintendent determines that prima-facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following: 93903
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(a) Initiate disciplinary action under section 4735.051 of 93907

the Revised Code for a violation of division (A)(21) of section 93908
4735.18 of the Revised Code, in accordance with Chapter 119. of 93909
the Revised Code; 93910

(b) Personally, or by certified mail, serve a citation upon 93911
the licensee. 93912

(C)(1) Every citation served under this section shall give 93913
notice to the licensee of the alleged violation or violations 93914
charged and inform the licensee of the opportunity to request a 93915
hearing in accordance with Chapter 119. of the Revised Code. The 93916
citation also shall contain a statement of a fine of two hundred 93917
dollars per violation, not to exceed two thousand five hundred 93918
dollars per citation. All fines collected pursuant to this section 93919
shall be credited to the real estate recovery fund, created in the 93920
state treasury under section 4735.12 of the Revised Code. 93921

(2) If any licensee is cited three times within twelve 93922
consecutive months, the superintendent shall initiate disciplinary 93923
action pursuant to section 4735.051 of the Revised Code for any 93924
subsequent violation that occurs within the same twelve-month 93925
period. 93926

(3) If a licensee fails to request a hearing within thirty 93927
days of the date of service of the citation, or the licensee and 93928
the superintendent fail to reach an alternative agreement, the 93929
citation shall become final. 93930

(4) Unless otherwise indicated, the licensee named in a final 93931
citation must meet all requirements contained in the final 93932
citation within thirty days of the effective date of that 93933
citation. 93934

(5) The superintendent shall suspend automatically a 93935
licensee's license if the licensee fails to comply with division 93936
(C)(4) of this section. 93937

(D) A real estate broker or salesperson obtaining the 93938

signature of a party to a listing or other agreement involved in a 93939
real estate transaction shall furnish a copy of the listing or 93940
other agreement to the party immediately after obtaining the 93941
party's signature. Every broker's office shall prominently display 93942
in the same immediate area as licenses are displayed a statement 93943
that it is illegal to discriminate against any person because of 93944
race, color, religion, sex, familial status as defined in section 93945
4112.01 of the Revised Code, national origin, military status as 93946
defined in that section, disability as defined in that section, or 93947
ancestry in the sale or rental of housing or residential lots, in 93948
advertising the sale or rental of housing, in the financing of 93949
housing, or in the provision of real estate brokerage services and 93950
that blockbusting also is illegal. The statement shall bear the 93951
United States department of housing and urban development equal 93952
housing logo, shall contain the information that the broker and 93953
the broker's salespersons are licensed by the division of real 93954
estate and professional licensing and that the division can assist 93955
with any consumer complaints or inquiries, and shall explain the 93956
provisions of section 4735.12 of the Revised Code. The statement 93957
shall provide the division's address and telephone number. The 93958
Ohio real estate commission shall provide by rule for the wording 93959
and size of the statement. The pamphlet required under section 93960
4735.03 of the Revised Code shall contain the same statement that 93961
is required on the statement displayed as provided in this section 93962
and shall be made available by real estate brokers and 93963
salespersons to their clients. The commission shall provide the 93964
wording and size of the pamphlet. 93965

Sec. 4735.17. Licenses may be issued under sections 4735.01 93966
to 4735.23 of the Revised Code, to nonresidents of this state and 93967
to foreign corporations, subject to the following additional 93968
requirements: 93969

(A) The licensee, if a broker, shall maintain an active place 93970

of business in this state. A post office box is not an active 93971
place of business for purposes of this section. 93972

(B) Every nonresident applicant shall file an irrevocable 93973
consent that suits and actions may be commenced against such 93974
applicant in the proper court of any county of this state in which 93975
a cause of action may arise or in which the plaintiff may reside 93976
by the service of any process or pleading authorized by the laws 93977
of this state on the superintendent of real estate. The consent 93978
shall stipulate that such service shall be taken and held in all 93979
courts as valid and binding as if proper service had been made 93980
upon the applicant in this state. The instrument containing such 93981
consent shall be authenticated by signature or by corporate seal. 93982
All applications of firms or corporations shall be accompanied by 93983
a certified copy of the resolution of the proper officers or 93984
managing board authorizing the proper officer to execute them. A 93985
duplicate copy of any process or pleading served on the 93986
superintendent shall be immediately forwarded by certified mail to 93987
the main office of the licensee against which that process or 93988
pleading is directed. 93989

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised 93990
Code, the superintendent of real estate, upon the superintendent's 93991
own motion, may investigate the conduct of any licensee. Subject 93992
to section 4735.32 of the Revised Code, the Ohio real estate 93993
commission shall, ~~pursuant to section 4735.051 of the Revised~~ 93994
~~Code,~~ impose disciplinary sanctions upon any licensee who, whether 93995
or not acting in the licensee's capacity as a real estate broker 93996
or salesperson, or in handling the licensee's own property, is 93997
found to have been convicted of a felony or a crime of moral 93998
turpitude, and shall, ~~pursuant to section 4735.051 of the Revised~~ 93999
~~Code,~~ may impose disciplinary sanctions upon any licensee who, in 94000
the licensee's capacity as a real estate broker or salesperson, or 94001
in handling the licensee's own property, is found guilty of: 94002

(1) Knowingly making any misrepresentation;	94003
(2) Making any false promises with intent to influence, persuade, or induce;	94004 94005
(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;	94006 94007 94008
(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;	94009 94010 94011
(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;	94012 94013 94014
(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;	94015 94016
(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;	94017 94018 94019 94020 94021 94022 94023 94024 94025
(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real	94026 94027 94028 94029 94030 94031 94032 94033

estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code, having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker	94065
and undisclosed principal, or real estate salesperson and	94066
undisclosed principal, in any transaction;	94067
(16) Having guaranteed, authorized, or permitted any person	94068
to guarantee future profits which may result from the resale of	94069
real property;	94070
(17) Having <u>advertised or</u> placed a sign on any property	94071
offering it for sale or for rent without the consent of the owner	94072
or the owner's authorized agent;	94073
(18) Having induced any party to a contract of sale or lease	94074
to break such contract for the purpose of substituting in lieu of	94075
it a new contract with another principal;	94076
(19) Having negotiated the sale, exchange, or lease of any	94077
real property directly with a seller, purchaser, lessor, or tenant	94078
knowing that such seller, purchaser, lessor, or tenant is	94079
represented by another broker under a written exclusive agency	94080
agreement, exclusive right to sell or lease listing agreement, or	94081
exclusive purchaser agency agreement with respect to such property	94082
except as provided for in section 4735.75 of the Revised Code;	94083
(20) Having offered real property for sale or for lease	94084
without the knowledge and consent of the owner or the owner's	94085
authorized agent, or on any terms other than those authorized by	94086
the owner or the owner's authorized agent;	94087
(21) Having published advertising, whether printed, radio,	94088
display, or of any other nature, which was misleading or	94089
inaccurate in any material particular, or in any way having	94090
misrepresented any properties, terms, values, policies, or	94091
services of the business conducted;	94092
(22) Having knowingly withheld from or inserted in any	94093
statement of account or invoice any statement that made it	94094
inaccurate in any material particular;	94095

(23) Having published or circulated unjustified or 94096
unwarranted threats of legal proceedings which tended to or had 94097
the effect of harassing competitors or intimidating their 94098
customers; 94099

(24) Having failed to keep complete and accurate records of 94100
all transactions for a period of three years from the date of the 94101
transaction, such records to include copies of listing forms, 94102
earnest money receipts, offers to purchase and acceptances of 94103
them, records of receipts and disbursements of all funds received 94104
by the licensee as broker and incident to the licensee's 94105
transactions as such, and records required pursuant to divisions 94106
(C)(4) and (5) of section 4735.20 of the Revised Code, and any 94107
other instruments or papers related to the performance of any of 94108
the acts set forth in the definition of a real estate broker; 94109

(25) Failure of a real estate broker or salesperson to 94110
furnish all parties involved in a real estate transaction true 94111
copies of all listings and other agreements to which they are a 94112
party, at the time each party signs them; 94113

(26) Failure to maintain at all times a special or trust bank 94114
account in a depository located in this state. The account shall 94115
be noninterest-bearing, separate and distinct from any personal or 94116
other account of the broker, and, except as provided in division 94117
(A)(27) of this section, shall be used for the deposit and 94118
maintenance of all escrow funds, security deposits, and other 94119
moneys received by the broker in a fiduciary capacity. The name, 94120
account number, if any, and location of the depository wherein 94121
such special or trust account is maintained shall be submitted in 94122
writing to the superintendent. Checks drawn on such special or 94123
trust bank accounts are deemed to meet the conditions imposed by 94124
section 1349.21 of the Revised Code. Funds deposited in the trust 94125
or special account in connection with a purchase agreement shall 94126
be maintained in accordance with section 4735.24 of the Revised 94127

Code.	94128
(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.	94129 94130 94131 94132 94133 94134 94135 94136 94137 94138
Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.	94139 94140 94141
(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;	94142 94143
(29) Having an unsatisfied final judgment <u>or lien</u> in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson;	94144 94145 94146
(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;	94147 94148 94149 94150 94151 94152
(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;	94153 94154 94155
(32) Performing any service for another constituting the practice of law, as determined by any court of law;	94156 94157

(33) Having been adjudicated incompetent for the purpose of 94158
holding the license by a court, as provided in section 5122.301 of 94159
the Revised Code. A license revoked or suspended under this 94160
division shall be reactivated upon proof to the commission of the 94161
removal of the disability. 94162

(34) Having authorized or permitted a person to act as an 94163
agent in the capacity of a real estate broker, or a real estate 94164
salesperson, who was not then licensed as a real estate broker or 94165
real estate salesperson under this chapter or who was not then 94166
operating as an out-of-state commercial real estate broker or 94167
salesperson under section 4735.022 of the Revised Code; 94168

(35) Having knowingly inserted or participated in inserting 94169
any materially inaccurate term in a document, including naming a 94170
false consideration; 94171

(36) Having failed to inform the licensee's client of the 94172
existence of an offer or counteroffer or having failed to present 94173
an offer or counteroffer in a timely manner, unless otherwise 94174
instructed by the client, provided the instruction of the client 94175
does not conflict with any state or federal law; 94176

(37) Having failed to comply with section 4735.24 of the 94177
Revised Code. 94178

(B) Whenever the commission, pursuant to section 4735.051 of 94179
the Revised Code, imposes disciplinary sanctions for any violation 94180
of this section, the commission also may impose such sanctions 94181
upon the broker with whom the salesperson is affiliated if the 94182
commission finds that the broker had knowledge of the 94183
salesperson's actions that violated this section. 94184

(C) The commission shall, pursuant to section 4735.051 of the 94185
Revised Code, impose disciplinary sanctions upon any foreign real 94186
estate dealer or salesperson who, in that capacity or in handling 94187
the dealer's or salesperson's own property, is found guilty of any 94188

of the acts or omissions specified or comprehended in division (A) 94189
of this section insofar as the acts or omissions pertain to 94190
foreign real estate. If the commission imposes such sanctions upon 94191
a foreign real estate salesperson for a violation of this section, 94192
the commission also may suspend or revoke the license of the 94193
foreign real estate dealer with whom the salesperson is affiliated 94194
if the commission finds that the dealer had knowledge of the 94195
salesperson's actions that violated this section. 94196

(D) The commission may suspend, in whole or in part, the 94197
imposition of the penalty of suspension of a license under this 94198
section. 94199

~~(E) The commission immediately shall notify the real estate 94200
appraiser board of any disciplinary action taken under this 94201
section against a licensee who also is a state certified real 94202
estate appraiser under Chapter 4763. of the Revised Code. 94203~~

Sec. 4735.181. (A) No real estate broker or salesperson 94204
licensed pursuant to this chapter shall fail to comply with 94205
divisions (B) or (D) of section 4735.13, division (D) of section 94206
4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised 94207
Code or any rules adopted under those divisions or sections. 94208

(B) When the superintendent determines that a licensee has 94209
violated division (A) of this section, the superintendent may do 94210
either of the following: 94211

(1) Initiate disciplinary action under section 4735.051 of 94212
the Revised Code, in accordance with Chapter 119. of the Revised 94213
Code; 94214

(2) Personally, or by certified mail, serve a citation and 94215
impose sanctions in accordance with this section upon the 94216
licensee. 94217

(C) Every citation served under this section shall give 94218

notice to the licensee of the alleged violation or violations 94219
charged and inform the licensee of the opportunity to request a 94220
hearing in accordance with Chapter 119. of the Revised Code. The 94221
citation also shall contain a statement of a fine of up to two 94222
hundred dollars per violation. All fines collected pursuant to 94223
this section shall be credited to the real estate recovery fund, 94224
created in the state treasury under section 4735.12 of the Revised 94225
Code. 94226

(D) If any licensee is cited three times under this section 94227
within twelve consecutive months, the superintendent shall 94228
initiate disciplinary action pursuant to section 4735.051 of the 94229
Revised Code for any subsequent violation that occurs within the 94230
same twelve-month period. 94231

If a licensee fails to request a hearing within thirty days 94232
after the date of service of the citation, or the licensee and the 94233
superintendent fail to reach an alternative agreement, the 94234
citation shall become final. 94235

(E) Unless otherwise indicated, the licensee named in a final 94236
citation under this section must meet all requirements contained 94237
in the final citation within thirty days after the effective date 94238
of that citation. 94239

(F) The superintendent shall suspend automatically a 94240
licensee's license if the licensee fails to comply with division 94241
(E) of this section. 94242

Sec. 4735.182. If a check or other draft instrument used to 94243
pay any fee required under this chapter is returned to the 94244
superintendent ~~for insufficient funds~~ unpaid by the financial 94245
institution upon which it is drawn for any reason, the 94246
superintendent shall notify the ~~licensee~~ entity or person that the 94247
check or other draft instrument was returned for insufficient 94248
funds ~~and~~. 94249

(A) If the check or draft instrument was submitted by a 94250
licensee, the superintendent shall also notify the licensee that 94251
the licensee's license will be suspended unless the licensee, 94252
within fifteen days after the mailing of the notice, submits the 94253
fee and a one-hundred-dollar fee to the superintendent. If the 94254
licensee does not submit both fees within that time period, or if 94255
any check or other draft instrument used to pay either of those 94256
fees is returned to the superintendent for insufficient funds 94257
unpaid by the financial institution upon which it is drawn for any 94258
reason, the license shall be suspended immediately without a 94259
hearing and the licensee shall cease activity as a licensee under 94260
this chapter. 94261

(B) If the check or draft instrument was remitted by a person 94262
or entity applying to qualify foreign real estate or renew a 94263
property registration, the superintendent shall also notify the 94264
applicant that registration will be suspended, unless the 94265
applicant, within fifteen days after the mailing of the notice, 94266
submits the fee and a one-hundred-dollar fee to the 94267
superintendent. If the applicant does not submit both fees within 94268
that time period, or if any check or other draft instrument used 94269
to pay either of the fees is returned to the superintendent unpaid 94270
by the financial institution upon which it is drawn for any 94271
reason, the property registration shall be suspended immediately 94272
without a hearing and the applicant shall cease activity. 94273

(C) If the check or draft instrument was remitted by an 94274
applicant for licensure, that application shall automatically be 94275
rejected or approval withdrawn, unless the applicant, within 94276
fifteen days after the mailing of the notice, submits the fee and 94277
a one-hundred-dollar fee to the superintendent. If the applicant 94278
does not submit both fees within that time period, or if any check 94279
or other draft instrument used to pay either of those fees is 94280
returned to the superintendent unpaid by the financial institution 94281

upon which it is drawn for any reason, the application shall be 94282
denied or approval withdrawn. 94283

(D) If the check or draft instrument was remitted by an 94284
education course provider or course provider applicant, that 94285
application shall automatically be rejected or approval withdrawn, 94286
unless applicant, within fifteen days after the mailing of the 94287
notice, submits the fee and a one-hundred-dollar fee to the 94288
superintendent. If the applicant does not submit both fees within 94289
that time period, or if any check or other draft instrument used 94290
to pay either of those fees is returned to the superintendent 94291
unpaid by the financial institution upon which it is drawn for any 94292
reason, the application shall be denied or approval withdrawn. 94293

Sec. 4735.19. The Ohio real estate commission shall keep a 94294
record of its proceedings and, upon application of an interested 94295
party, or upon its own motion and notice to the interested 94296
parties, ~~may reverse, vacate, or modify~~ hold a hearing to consider 94297
reversing, vacating, or modifying its own orders. An application 94298
~~to the commission to reverse, vacate, or modify an order~~ shall be 94299
filed with the division within fifteen days after the mailing of 94300
the notice of the order of the commission to the interested 94301
parties ~~pursuant to section 119.09 of the Revised Code.~~ The 94302
commission may adopt rules in accordance with Chapter 119. of the 94303
Revised Code establishing the circumstances in which an interested 94304
party may request reconsideration. 94305

Any applicant, ~~licensee, or complainant,~~ respondent 94306
dissatisfied with an order of the commission may appeal in 94307
accordance with Chapter 119. of the Revised Code. 94308

Sec. 4735.20. (A) Except as provided in divisions (B), (C), 94309
and (G) of this section, no licensed real estate broker or 94310
licensed foreign real estate dealer shall pay a commission, fee, 94311

or other compensation for performing any of the acts specified in 94312
section 4735.01 of the Revised Code to any person who is not a 94313
licensed real estate broker or a licensed real estate salesperson 94314
or to any person who is not a licensed foreign real estate dealer 94315
or a licensed foreign real estate salesperson. 94316

(B) A licensed real estate broker or licensed foreign real 94317
estate dealer may pay a commission to a licensed real estate 94318
broker or licensed foreign real estate dealer of another state or 94319
country and may receive a commission from a licensed real estate 94320
broker or licensed foreign real estate dealer of another state or 94321
country, but only when done in accordance with rules adopted by 94322
the Ohio real estate commission pursuant to section 4735.10 of the 94323
Revised Code. 94324

(C) A licensed real estate broker may pay all or part of a 94325
fee, commission, or other compensation earned by an affiliated 94326
licensee to a partnership, association, limited liability company, 94327
limited liability partnership, or corporation that is not licensed 94328
as a real estate broker on the condition that all of the following 94329
conditions are satisfied: 94330

(1) At least one of the partners, members, officers, or 94331
shareholders of the unlicensed partnership, association, limited 94332
liability company, limited liability partnership, or corporation 94333
holds a valid and active license issued under this chapter. 94334

(2) At least one of the partners, members, officers, or 94335
shareholders of the unlicensed partnership, association, limited 94336
liability company, limited liability partnership, or corporation 94337
is the affiliated licensee who earned the fee, commission, or 94338
other compensation. 94339

(3) The unlicensed partnership, association, limited 94340
liability company, limited liability partnership, or corporation 94341
does not engage in any of the acts specified in division (A) of 94342

section 4735.01 of the Revised Code. 94343

(4) The broker verifies that the affiliated licensee complies 94344
with divisions (C)(1) and (2) of this section and keeps a record 94345
of this verification for a period of three years after the date of 94346
verification. 94347

(5) The broker keeps a record of all of the following 94348
information for each transaction, for a period of three years 94349
after the date of the transaction: 94350

(a) The name of the affiliated licensee who earned the fee, 94351
commission, or other compensation; 94352

(b) The amount of the fee, commission, or other compensation 94353
that was earned; 94354

(c) The name of the unlicensed partnership, association, 94355
limited liability company, limited liability partnership, or 94356
corporation to which the broker paid the affiliated licensee's 94357
fee, commission, or other compensation. 94358

(D) Compliance with division (C) of this section does not 94359
relieve a broker described in that division of any obligations to 94360
supervise an affiliated licensee, or of any other requirements of 94361
this chapter or rules adopted pursuant to this chapter. 94362

(E) Compliance with division (C) of this section does not 94363
render a broker described in that division or an affiliated 94364
licensee exempt from sections 4735.051, 4735.18, ~~or~~ and 4735.32 of 94365
the Revised Code, or immune from personal liability in a civil 94366
action against the broker or affiliated licensee for a violation 94367
of this chapter. 94368

(F) No broker shall pay a fee, commission, or other 94369
compensation that is due to an affiliated licensee to a 94370
third-party creditor of the affiliated licensee. 94371

(G) Any owner of any interest in foreign real estate may 94372

refer a prospective buyer to the person who sold the owner that 94373
foreign real estate with the expectation of receiving valuable 94374
consideration, if all of the following conditions are satisfied: 94375

(1) The person who sold the owner that foreign real estate is 94376
selling qualified foreign real estate pursuant to section 4735.25 94377
of the Revised Code. 94378

(2) Any fee, commission, or other valuable consideration 94379
promised or collected during any period consisting of twelve 94380
consecutive months does not exceed one thousand dollars. 94381

(3) The owner does not engage in referring prospective buyers 94382
of foreign real estate pursuant to this section in the ordinary 94383
course of business or as a regular business practice. 94384

(4) The owner does not show the foreign real estate, discuss 94385
terms or conditions of purchasing the foreign real estate, or 94386
otherwise participate in negotiations with regard to the offering 94387
or sale of the foreign real estate. 94388

(5) If a foreign real estate transaction is consummated with 94389
a buyer who was referred by the owner to the person who sold the 94390
owner that foreign real estate, the occurrence of the referral 94391
shall be disclosed by the person who sold the owner that foreign 94392
real estate. 94393

(H) The suspension or revocation of a real estate broker's or 94394
foreign real estate dealer's license automatically shall suspend 94395
every real estate salesperson's or foreign real estate 94396
salesperson's license granted to any person by virtue of 94397
association with the broker or dealer whose license has been 94398
suspended or revoked, pending a change of broker or dealer and the 94399
issuance of a new license. Such new license shall be issued 94400
without charges, if granted during the same year in which the 94401
original license was granted. 94402

(I) A violation of this section is cause for imposing 94403

disciplinary sanctions in accordance with the proceedings 94404
specified in sections 4735.051, 4735.18, and 4735.32 of the 94405
Revised Code. 94406

(J) For purposes of this section, "affiliated licensee" means 94407
a person who holds a valid and active license issued under this 94408
chapter and who is associated with the broker that is paying a 94409
fee, commission, or other compensation at the time that that fee, 94410
commission, or other compensation is earned. 94411

Sec. 4735.21. No right of action shall accrue to any person, 94412
partnership, association, or corporation for the collection of 94413
compensation for the performance of the acts mentioned in section 94414
4735.01 of the Revised Code, without alleging and proving that 94415
such person, partnership, association, or corporation was licensed 94416
as a real estate broker or foreign real estate dealer. Nothing 94417
contained in this section shall prevent a right of action from 94418
accruing after the expiration of a real estate or foreign real 94419
estate license if the act giving rise to the cause of action was 94420
performed by a licensee prior to such expiration. 94421

No real estate ~~salesman~~ salesperson or foreign real estate 94422
~~salesman~~ salesperson shall collect any money in connection with 94423
any real estate or foreign real estate brokerage transaction, 94424
whether as a commission, deposit, payment, rental, or otherwise, 94425
except in the name of and with the consent of the licensed real 94426
estate broker or licensed foreign real estate dealer under whom ~~he~~ 94427
the salesperson is licensed at the time the sales person earned 94428
the commission. Nor shall any real estate ~~salesman~~ salesperson or 94429
foreign real estate ~~salesman~~ salesperson commence or maintain any 94430
action for a commission or other compensation in connection with a 94431
real estate or foreign real estate brokerage transaction, against 94432
any person except a person licensed as a real estate broker or 94433
foreign real estate dealer under whom ~~he~~ the salesperson is 94434

licensed as a ~~salesman~~ salesperson at the time the cause of action
arose. 94435
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A salesperson licensed under this chapter shall not sell,
assign, or otherwise transfer the salesperson's interest in a
commission or any portion thereof to an unlicensed person or
entity. If a salesperson makes such assignment or transfer, the
broker shall not pay the transferee or assignee any portion of the
commission. No cause of action shall arise on behalf of any person
against a broker for not paying an assignee or transferee any
portion of such an assignment or transfer. 94437
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Sec. 4735.211. All fines imposed under section 4735.051 of
the Revised Code, and all fees and charges collected under
sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27,
4735.28, and 4735.29 of the Revised Code, except such fees as are
paid to the real estate education and research fund and real
estate recovery fund as provided in this chapter, shall be paid
into the state treasury to the credit of the division of real
estate operating fund, which is hereby created. All operating
expenses of the division of real estate shall be paid from the
division of real estate operating fund. 94445
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The division of real estate operating fund shall be assessed
a proportionate share of the administrative costs of the
department of commerce in accordance with procedures prescribed by
the director of commerce and approved by the director of budget
and management. Such assessments shall be paid from the division
of real estate operating fund to the division of administration
fund. 94455
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If funds in the division of real estate operating fund are
determined by the director of commerce to be in excess of those
necessary to fund all the expenses of the division in any
biennium, ~~he shall~~ the director may pay the excess funds to the
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real estate education and research fund. 94466

Sec. 4735.32. (A)(1) The Ohio real estate commission or the 94467
superintendent of real estate may commence, at any time within 94468
three years from the date on which an alleged violation of a 94469
provision of this or another chapter of the Revised Code occurred, 94470
any investigation that relates to the conduct of a licensed real 94471
estate broker, real estate salesperson, foreign real estate 94472
dealer, or foreign real estate salesperson, that is authorized 94473
pursuant to section 1349.11, 4735.051, 4735.052, or 4735.18, or 94474
any other section of the Revised Code, and that is for purposes of 94475
determining whether ~~the~~ a licensee, unlicensed person, or 94476
unlicensed entity has violated a provision of this or another 94477
chapter of the Revised Code and whether, as a consequence, ~~the~~ a 94478
licensee's license should be suspended or revoked, or other 94479
disciplinary action taken, as provided in this or another chapter 94480
of the Revised Code. If such an investigation is not commenced 94481
within the three-year period, it shall be barred, and neither the 94482
commission nor the superintendent shall suspend or revoke the 94483
license of any licensee, or take other disciplinary action against 94484
any licensee, unlicensed person, or unlicensed entity because of 94485
the alleged violation of a provision of this or another chapter of 94486
the Revised Code that could have been the subject of the barred 94487
investigation. 94488

(2) For purposes of division (A)(1) of this section, if an 94489
investigation that is authorized by section 4735.051 of the 94490
Revised Code is involved, it shall be considered to be commenced 94491
as of the date on which a person files ~~a~~ the complaint with the 94492
division of real estate ~~pursuant to division (A) of that section.~~ 94493

(B) This section does not affect any criminal or civil 94494
liability that a licensed real estate broker, real estate 94495
salesperson, foreign real estate dealer, or foreign real estate 94496

salesperson, or any unlicensed person, may have under this or 94497
another chapter of the Revised Code or under the common law of 94498
this state. 94499

Sec. 4735.55. (A) Each written agency agreement shall contain 94500
all of the following: 94501

(1) An expiration date; 94502

(2) A statement that it is illegal, pursuant to the Ohio fair 94503
housing law, division (H) of section 4112.02 of the Revised Code, 94504
and the federal fair housing law, 42 U.S.C.A. 3601, as amended, to 94505
refuse to sell, transfer, assign, rent, lease, sublease, or 94506
finance housing accommodations, refuse to negotiate for the sale 94507
or rental of housing accommodations, or otherwise deny or make 94508
unavailable housing accommodations because of race, color, 94509
religion, sex, familial status as defined in section 4112.01 of 94510
the Revised Code, ancestry, military status as defined in that 94511
section, disability as defined in that section, or national origin 94512
or to so discriminate in advertising the sale or rental of 94513
housing, in the financing of housing, or in the provision of real 94514
estate brokerage services; 94515

(3) A statement defining the practice known as "blockbusting" 94516
and stating that it is illegal; 94517

(4) A copy of the United States department of housing and 94518
urban development equal housing opportunity logotype, as set forth 94519
in 24 C.F.R. 109.30, as amended. 94520

(B) Each written agency agreement shall contain a place for 94521
the licensee and the client to sign and date the agreement. 94522

(C) A licensee shall furnish a copy of any written agency 94523
agreement to a client in a timely manner after the licensee and 94524
the client have signed and dated it. 94525

Sec. 4735.58. (A)(1) A licensee who is a purchaser's agent or 94526
a seller's subagent working with a purchaser shall present the 94527
agency disclosure statement described in section 4735.57 of the 94528
Revised Code to the purchaser and request the purchaser to sign 94529
and date the statement no later than the preparation of an offer 94530
to purchase or lease, or a written request for a proposal to 94531
lease. The licensee shall deliver the statement signed by the 94532
purchaser to the seller's agent, or to the seller if the seller is 94533
not represented by an agent. Prior to presenting the seller with 94534
either a written offer to purchase or lease, or a written request 94535
for a proposal to lease, the seller's agent, or the purchaser's 94536
agent if the seller is not represented by an agent, shall present 94537
the agency disclosure statement to the seller and request the 94538
seller to sign and date the statement. 94539

(2) A licensee shall indicate the accurate agency 94540
relationship on the agency disclosure statement. 94541

(B) A licensee selling property at auction shall, prior to 94542
the auction, verbally disclose to the audience that the licensee 94543
represents the seller in the real estate transaction. The licensee 94544
shall provide the agency disclosure statement described in section 94545
4735.57 of the Revised Code to the successful bidder prior to the 94546
bidder's signing a purchase contract. 94547

(C) Evidence that a licensee has failed to comply with this 94548
section constitutes prima-facie evidence of misconduct in 94549
violation of division (A)(6) of section 4735.18 of the Revised 94550
Code. 94551

(D) The disclosure requirements of this section do not apply 94552
in any of the following situations: 94553

(1) The rental or leasing of residential premises as defined 94554
in section 5321.01 of the Revised Code, if the rental or lease 94555
agreement can be performed in eighteen months or less; 94556

(2) The referral of a prospective purchaser or seller to another licensee; 94557
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(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code; 94559
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(4) Transactions involving the sale of a cemetery lot or a cemetery interment right. 94562
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(E) The licensee is obligated to perform all duties imposed on a real estate agent at common law except to the extent the duties are inconsistent with the duties prescribed in this chapter or are otherwise modified by agreement. 94564
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Sec. 4735.59. To change the party a licensee represents in a real estate transaction after an agency disclosure statement has been signed and dated or following verbal disclosure of the agency relationship, the licensee shall obtain written consent from the party originally represented to represent another party in the transaction. The licensee shall promptly notify all persons who had been notified of the original relationship. 94568
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The Ohio real estate commission may adopt rules in accordance with Chapter 119. of the Revised Code to provide for required disclosures when a licensee terminates an agency relationship and becomes a principal in the transaction. 94575
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Sec. 4735.62. In representing any client in an agency or subagency relationship, the licensee shall be a fiduciary of the client and shall use the licensee's best efforts to further the interest of the client including, but not limited to, doing all of the following: 94579
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(A) Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship; 94584
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(B) Performing the terms of any written agency agreement;	94587
(C) Following any lawful instructions of the client;	94588
(D) Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;	94589 94590
(E) Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, <u>as amended</u> ;	94591 94592 94593 94594 94595
(F) Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;	94596 94597 94598 94599 94600
(G) Advising the client to obtain expert advice related to material matters when necessary or appropriate;	94601 94602
(H) Accounting in a timely manner for all moneys and property received in which the client has or may have an interest;	94603 94604
(I) Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.	94605 94606 94607 94608 94609
Sec. 4735.68. (A) A licensee is not liable to any party for false information that the licensee's client provided to the licensee and that the licensee in turn provided to another party in the real estate transaction, unless the licensee had actual knowledge that the information was false or acted with reckless disregard for the truth.	94610 94611 94612 94613 94614 94615
(B) No cause of action shall arise on behalf of any person	94616

against a client for any misrepresentation a licensee made while 94617
representing that client unless the client had actual knowledge of 94618
the licensee's misrepresentation. 94619

(C) Knowledge of or information contained in a brokerage or 94620
an affiliated or past licensee's transaction records of any 94621
current or previous defect, adverse condition, or repair in real 94622
property shall not be imputed to that broker or to other licensees 94623
affiliated with that broker. No cause of action based on imputed 94624
knowledge shall accrue on behalf of any person against a broker or 94625
affiliated licensee for failure to disclose such defects, adverse 94626
condition, or repair. 94627

Sec. 4735.71. (A) No licensee or brokerage shall participate 94628
in a dual agency relationship described in section 4735.70 of the 94629
Revised Code unless both the seller and the purchaser in the 94630
transaction have full knowledge of the dual representation and 94631
consent in writing to the dual representation on the agency 94632
disclosure statement described in section 4735.57 of the Revised 94633
Code. Before a licensee obtains the consent of any party to a dual 94634
agency relationship, the licensee shall disclose to both the 94635
purchaser and the seller all relevant information necessary to 94636
enable each party to make an informed decision as to whether to 94637
consent to the dual agency relationship. If, after consent is 94638
obtained, there is a material change in the information disclosed 94639
to the purchaser and the seller, the licensee shall disclose the 94640
change of information to the purchaser and the seller and give 94641
them an opportunity to revoke their consent. 94642

(B) No brokerage shall participate in a dual agency 94643
relationship described in division (C) of section 4735.70 of the 94644
Revised Code, unless each of the following conditions is met: 94645

(1) The brokerage has established a procedure under section 94646
4735.54 of the Revised Code under which licensees, including 94647

management level licensees, who represent one client will not have 94648
access to and will not obtain confidential information concerning 94649
another client of the brokerage involved in the dual agency 94650
transaction. 94651

(2) Each licensee fulfills the licensee's duties exclusively 94652
to the licensee's client. 94653

(C) No salesperson or broker licensed under this chapter 94654
shall participate in a dual agency relationship in which the 94655
licensee is a party to the transaction, either personally or as an 94656
officer or member of a partnership, association, limited liability 94657
company, limited liability partnership, or corporation that has an 94658
interest in the real property that is the subject of the 94659
transaction or an entity that has an intention of purchasing, 94660
leasing, or exchanging the real property. 94661

Sec. 4735.74. Unless otherwise agreed in writing, a licensee 94662
owes no further duty to a client after performance of all duties 94663
or after any contract has terminated or expired, except for both 94664
of the following: 94665

(A) Providing the client with an accounting of all moneys and 94666
property relating to the transaction; 94667

(B) Keeping confidential all information received during the 94668
course of the transaction unless: 94669

(1) The client permits disclosure; 94670

(2) Disclosure is required by law or by court order; 94671

(3) The information becomes public from a source other than 94672
the licensee; 94673

(4) The information is necessary to prevent a crime the 94674
client intends to commit; 94675

(5) Disclosure is necessary to defend the brokerage or its 94676

licensees against an accusation of wrongful conduct or to 94677
establish or defend a claim that a commission is owed on a 94678
transaction. 94679

(6) Disclosure is regarding sales information requested by a 94680
registered appraiser assistant or a licensed or certified 94681
appraiser for the purposes of performing an appraisal. No cause of 94682
action shall arise on behalf of any person against a licensee for 94683
releasing information pursuant to this division. 94684

Sec. 4736.12. (A) The state board of sanitarian registration 94685
shall charge the following fees: 94686

(1) To apply as a sanitarian-in-training, eighty dollars; 94687

(2) For sanitarians-in-training to apply for registration as 94688
sanitarians, eighty dollars. The applicant shall pay this fee only 94689
once regardless of the number of times the applicant takes an 94690
examination required under section 4736.08 of the Revised Code. 94691

(3) For persons other than sanitarians-in-training to apply 94692
for registration as sanitarians, including persons meeting the 94693
requirements of section 4736.16 of the Revised Code, one hundred 94694
sixty dollars. The applicant shall pay this fee only once 94695
regardless of the number of times the applicant takes an 94696
examination required under section 4736.08 of the Revised Code. 94697

(4) The renewal fee for registered sanitarians shall be 94698
~~seventy four~~ eighty dollars. 94699

(5) The renewal fee for sanitarians-in-training shall be 94700
~~seventy four~~ eighty dollars. 94701

(6) For late application for renewal, ~~twenty seven~~ an 94702
additional fifty dollars. 94703

The board of sanitarian registration, with the approval of 94704
the controlling board, may establish fees in excess of the amounts 94705
provided in this section, provided that such fees do not exceed 94706

the amounts permitted by this section by more than fifty per cent. 94707

(B) The board of sanitarian registration shall charge 94708
separate fees for examinations as required by section 4736.08 of 94709
the Revised Code, provided that the fees are not in excess of the 94710
actual cost to the board of conducting the examinations. 94711

(C) The board of sanitarian registration may adopt rules 94712
establishing fees for all of the following: 94713

(1) Application for the registration of a training agency 94714
approved under rules adopted by the board pursuant to section 94715
4736.11 of the Revised Code and for the annual registration 94716
renewal of an approved training agency-~~i~~ 94717

(2) Application for the review of continuing education hours 94718
submitted for the board's approval by approved training agencies 94719
or by registered sanitarians or sanitarians-in-training; 94720

(3) Additional copies of pocket identification cards and wall 94721
certificates. 94722

Sec. 4740.14. (A) There is hereby created within the 94723
department of commerce the residential construction advisory 94724
committee consisting of nine persons the director of commerce 94725
appoints. ~~Of the advisory committee's members, three~~ The advisory 94726
committee shall be made up of the following members: 94727

(1) Three shall be general contractors who have recognized 94728
ability and experience in the construction of residential 94729
buildings, ~~two~~. 94730

(2) Two shall be building officials who have experience 94731
administering and enforcing a residential building code, ~~one~~. 94732

(3) One, chosen from a list of three names the Ohio fire 94733
chief's association submits, shall be from the fire service 94734
certified as a fire safety inspector who has at least ten years of 94735
experience enforcing fire or building codes, ~~one~~. 94736

(4) One shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings, ~~one.~~

(5) One shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings, ~~and one.~~

(6) One, chosen from a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

(B) ~~The director shall make appointments to the advisory committee within ninety days after May 27, 2005.~~

Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. ~~The director shall fill a vacancy~~ Vacancies shall be filed in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;	94768 94769 94770
(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;	94771 94772 94773
(4) Advise the board regarding the interpretation of the state residential building code;	94774 94775
(5) Provide other assistance the committee considers necessary;	94776 94777
(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section.	94778 94779 94780
(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following:	94781 94782 94783
(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;	94784 94785
(2) The economic reasonableness of the residential building code;	94786 94787
(3) The technical feasibility of the residential building code;	94788 94789
(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing.	94790 94791
(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.	94792 94793 94794 94795 94796 94797

(F) Members of the advisory committee shall receive no salary 94798
for the performance of their duties as members, but shall receive 94799
their actual and necessary expenses incurred in the performance of 94800
their duties as members of the advisory committee and shall 94801
receive a per diem for each day in attendance at an official 94802
meeting of the committee, to be paid from the labor operating fund 94803
in the state treasury, using fees collected in connection with 94804
residential buildings pursuant to division (F)(2) of section 94805
3781.102 of the Revised Code and deposited in that fund. 94806

(G) The advisory committee is not subject to divisions (A) 94807
and (B) of section 101.84 of the Revised Code. 94808

Sec. 4743.05. Except as otherwise provided in sections 94809
4701.20, 4723.062, 4723.082, ~~and 4729.65, 4781.121, and 4781.28~~ of 94810
the Revised Code, all money collected under Chapters 3773., 4701., 94811
4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 94812
4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 94813
4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code 94814
shall be paid into the state treasury to the credit of the 94815
occupational licensing and regulatory fund, which is hereby 94816
created for use in administering such chapters. 94817

At the end of each quarter, the director of budget and 94818
management shall transfer from the occupational licensing and 94819
regulatory fund to the nurse education assistance fund created in 94820
section 3333.28 of the Revised Code the amount certified to the 94821
director under division (B) of section 4723.08 of the Revised 94822
Code. 94823

At the end of each quarter, the director shall transfer from 94824
the occupational licensing and regulatory fund to the certified 94825
public accountant education assistance fund created in section 94826
4701.26 of the Revised Code the amount certified to the director 94827
under division (H)(2) of section 4701.10 of the Revised Code. 94828

Sec. 4757.31. (A) Subject to division (B) of this section, 94829
the counselor, social worker, and marriage and family therapist 94830
board shall establish, and may from time to time adjust, fees to 94831
be charged for the following: 94832

(1) Examination for licensure as a professional clinical 94833
counselor, professional counselor, marriage and family therapist, 94834
independent marriage and family therapist, social worker, or 94835
independent social worker; 94836

(2) Initial licenses of professional clinical counselors, 94837
professional counselors, marriage and family therapists, 94838
independent marriage and family therapists, social workers, and 94839
independent social workers, except that the board shall charge 94840
only one fee to a person who fulfills all requirements for more 94841
than one of the following initial licenses: an initial license as 94842
a social worker or independent social worker, an initial license 94843
as a professional counselor or professional clinical counselor, 94844
and an initial license as a marriage and family therapist or 94845
independent marriage and family therapist; 94846

(3) Initial certificates of registration of social work 94847
assistants; 94848

(4) Renewal and late renewal of licenses of professional 94849
clinical counselors, professional counselors, marriage and family 94850
therapists, independent marriage and family therapists, social 94851
workers, and independent social workers and renewal and late 94852
renewal of certificates of registration of social work assistants; 94853

(5) Verification, to another jurisdiction, of a license or 94854
registration issued by the board; 94855

(6) Continuing education programs offered by the board to 94856
licensees or registrants; 94857

(7) Approval of continuing education programs; 94858

(8) Approval of continuing education providers to be 94859
authorized to offer continuing education programs without prior 94860
approval from the board for each program offered; 94861

(9) Issuance of a replacement copy of any wall certificate 94862
issued by the board. 94863

(B) The fees charged under division (A)(1) of this section 94864
shall be established in amounts sufficient to cover the direct 94865
expenses incurred in examining applicants for licensure. The fees 94866
charged under divisions (A)(2) to ~~(6)~~(9) of this section shall be 94867
nonrefundable and shall be established in amounts sufficient to 94868
cover the necessary expenses in administering this chapter and 94869
rules adopted under it that are not covered by fees charged under 94870
division (A)(1) or (C) of this section. The renewal fee for a 94871
license or certificate of registration shall not be less than the 94872
initial fee for that license or certificate. The fees charged for 94873
licensure and registration and the renewal of licensure and 94874
registration may differ for the various types of licensure and 94875
registration, but shall not exceed one hundred twenty-five dollars 94876
each, unless the board determines that amounts in excess of one 94877
hundred twenty-five dollars are needed to cover its necessary 94878
expenses in administering this chapter and rules adopted under it 94879
and the amounts in excess of one hundred twenty-five dollars are 94880
approved by the controlling board. 94881

(C) All receipts of the board shall be deposited in the state 94882
treasury to the credit of the occupational licensing and 94883
regulatory fund. All vouchers of the board shall be approved by 94884
the chairperson or executive director of the board, or both, as 94885
authorized by the board. 94886

Sec. 4776.01. As used in this chapter: 94887

(A) "License" means any of the following: 94888

(1) An authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency described in division (C)(1) of this section to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(2) An authorization evidenced by a license or certificate that is issued by a licensing agency described in division (C)(2) of this section pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing agency has jurisdiction.

(B) "Licensee" means the person to whom the license is issued by a licensing agency.

(C) "Licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4755., 4757., 4759., 4760., 4761., 4762., and 4779. of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license

by reciprocity, endorsement, or similar manner of a license issued 94920
in another state. 94921

(E) "Applicant for a restored license" includes persons 94922
seeking restoration of a certificate under section 4730.14, 94923
4731.281, 4760.06, or 4762.06 of the Revised Code. 94924

(F) "Criminal records check" has the same meaning as in 94925
~~division (E) of~~ section 109.572 of the Revised Code. 94926

Sec. 4781.01. As used in this chapter: 94927

(A) "Industrialized unit" has the same meaning as in division 94928
(C)(3) of section 3781.06 of the Revised Code. 94929

(B) "Installation" means any of the following: 94930

(1) The temporary or permanent construction of stabilization, 94931
support, and anchoring systems for manufactured housing; 94932

(2) The placement and erection of a manufactured housing unit 94933
or components of a unit on a structural support system; 94934

(3) The supporting, blocking, leveling, securing, anchoring, 94935
underpinning, or adjusting of any section or component of a 94936
manufactured housing unit; 94937

(4) The joining or connecting of all sections or components 94938
of a manufactured housing unit. 94939

(C) "Manufactured home" has the same meaning as in division 94940
(C)(4) of section 3781.06 of the Revised Code. 94941

(D) "Manufactured home park" ~~has the same meaning as in~~ 94942
~~division (A) of section 3733.01 of the Revised Code~~ means any 94943
tract of land upon which three or more manufactured or mobile 94944
homes used for habitation are parked, either free of charge or for 94945
revenue purposes, and includes any roadway, building, structure, 94946
vehicle, or enclosure used or intended for use as a part of the 94947
facilities of the park. "Manufactured home park" does not include 94948

<u>any of the following:</u>	94949
<u>(1) A tract of land used solely for the storage or display</u>	94950
<u>for sale of manufactured or mobile homes or solely as a temporary</u>	94951
<u>park-camp as defined in section 3729.01 of the Revised Code;</u>	94952
<u>(2) A tract of land that is subdivided and the individual</u>	94953
<u>lots are for sale or sold for the purpose of installation of</u>	94954
<u>manufactured or mobile homes used for habitation and the roadways</u>	94955
<u>are dedicated to the local government authority;</u>	94956
<u>(3) A tract of land within an area that is subject to local</u>	94957
<u>zoning authority and subdivision requirements and is subdivided,</u>	94958
<u>and the individual lots are for sale or sold for the purpose of</u>	94959
<u>installation of manufactured or mobile homes for habitation.</u>	94960
(E) "Manufactured housing" means manufactured homes and mobile homes.	94961 94962
(F) "Manufactured housing installer" means an individual who installs manufactured housing.	94963 94964
(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code.	94965 94966
(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404.	94967 94968
(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code.	94969 94970
(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.	94971 94972 94973
(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence.	94974 94975 94976 94977 94978

(L) "Engaging in business" means commencing, conducting, or 94979
continuing in business, or liquidating a business when the 94980
liquidator thereof holds self out to be conducting such business; 94981
making a casual sale or otherwise making transfers in the ordinary 94982
course of business when the transfers are made in connection with 94983
the disposition of all or substantially all of the transferor's 94984
assets is not engaging in business. 94985

(M) "Manufactured home park operator" ~~has the same meaning as~~ 94986
~~"operator" in section 3733.01 of the Revised Code or "park~~ 94987
operator" means the person who has responsible charge of a 94988
manufactured home park and who is licensed under sections 4781.26 94989
to 4781.35 of the Revised Code. 94990

(N) "Manufactured housing broker" means any person acting as 94991
a selling agent on behalf of an owner of a manufactured home or 94992
mobile home that is subject to taxation under section 4503.06 of 94993
the Revised Code. 94994

(O) "Manufactured housing dealer" means any person engaged in 94995
the business of selling at retail, displaying, offering for sale, 94996
or dealing in manufactured homes or mobile homes. 94997

(P) "Manufacturer" means a person who manufactures, 94998
assembles, or imports manufactured homes or mobile homes. 94999

(Q) "Retail sale" or "sale at retail" means the act or 95000
attempted act of selling, bartering, exchanging, or otherwise 95001
disposing of a manufactured home or mobile home to an ultimate 95002
purchaser for use as a residence. 95003

(R) "Salesperson" means any individual employed by a 95004
manufactured housing dealer or manufactured housing broker to 95005
sell, display, and offer for sale, or deal in manufactured homes 95006
or mobile homes for a commission, compensation, or other valuable 95007
consideration, but does not mean any public officer performing 95008
official duties. 95009

(S) "Ultimate purchaser" means, with respect to any new manufactured home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

(T) "Tenant" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who does not own the home occupying the lot.

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot.

(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners.

(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident.

(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement.

(Z) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a

manufactured home park, for which plan review is required under 95041
division (A) of section 4781.31 of the Revised Code. "Development" 95042
does not include the building, construction, erection, or 95043
manufacture of any building to which section 3781.06 of the 95044
Revised Code is applicable. 95045

(AA) "Flood" or "flooding" means either of the following: 95046

(1) A general and temporary condition of partial or complete 95047
inundation of normally dry land areas from any of the following: 95048

(a) The overflow of inland or tidal waters; 95049

(b) The unusual and rapid accumulation or runoff of surface 95050
waters from any source; 95051

(c) Mudslides that are proximately caused by flooding as 95052
defined in division (AA)(1)(b) of this section and that are akin 95053
to a river of liquid and flowing mud on the surface of normally 95054
dry land areas, as when earth is carried by a current of water and 95055
deposited along the path of the current. 95056

(2) The collapse or subsidence of land along the shore of a 95057
lake or other body of water as a result of erosion or undermining 95058
that is caused by waves or currents of water exceeding anticipated 95059
cyclical levels or that is suddenly caused by an unusually high 95060
water level in a natural body of water, and that is accompanied by 95061
a severe storm, by an unanticipated force of nature, such as a 95062
flash flood, by an abnormal tidal surge, or by some similarly 95063
unusual and unforeseeable event, that results in flooding as 95064
defined in division (AA)(1)(a) of this section. 95065

(BB) "Flood plain" means the area adjoining any river, 95066
stream, watercourse, or lake that has been or may be covered by 95067
flood water. 95068

(CC) "One-hundred-year flood" means a flood having a one per 95069
cent chance of being equaled or exceeded in any given year. 95070

(DD) "One-hundred-year flood plain" means that portion of a 95071
flood plain inundated by a one-hundred-year flood. 95072

(EE) "Person" has the same meaning as in section 1.59 of the 95073
Revised Code and also includes this state, any political 95074
subdivision of this state, and any other state or local body of 95075
this state. 95076

(FF) "Substantial damage" means damage of any origin 95077
sustained by a manufactured or mobile home that is situated in a 95078
manufactured home park located in a flood plain when the cost of 95079
restoring the home to its condition before the damage occurred 95080
will equal or exceed fifty per cent of the market value of the 95081
home before the damage occurred. 95082

(GG) "Substantially alter" means a change in the layout or 95083
design of a manufactured home park, including, without limitation, 95084
the movement of utilities or changes in established streets, lots, 95085
or sites or in other facilities. In the case of manufactured home 95086
parks located within a one-hundred-year flood plain, 95087
"substantially alter" also includes changes in elevation resulting 95088
from the addition of fill, grading, or excavation that may affect 95089
flood plain management. 95090

(HH) "Tract" means a contiguous area of land that consists of 95091
one or more parcels, lots, or sites that have been separately 95092
surveyed regardless of whether the individual parcels, lots, or 95093
sites have been recorded and regardless of whether the one or more 95094
parcels, lots, or sites are under common or different ownership. 95095

Sec. 4781.02. (A) There is hereby created the manufactured 95096
homes commission which consists of nine members, with three 95097
members appointed by the governor, three members appointed by the 95098
president of the senate, and three members appointed by the 95099
speaker of the house of representatives. 95100

(B)(1) Commission members shall be residents of this state, 95101
except for members appointed pursuant to divisions (B)(3)(b) and 95102
(B)(4)(a) of this section. Members shall be selected from a list 95103
of persons the Ohio manufactured homes association, or any 95104
successor entity, recommends, except for appointments made 95105
pursuant to division (B)(2) of this section. 95106

(2) The governor shall appoint the following members: 95107

(a) One member to represent the board of building standards, 95108
who may be a member of the board or a board employee not in the 95109
classified civil service, with an initial term ending December 31, 95110
2007; 95111

(b) ~~One member to represent the department of health, who may~~ 95112
~~be a department employee not in the classified civil service, with~~ 95113
~~an initial term ending December 31, 2005~~ who is registered as a 95114
sanitarian in accordance with Chapter 4736. of the Revised Code, 95115
has experience with the regulation of manufactured homes, and is 95116
an employee of a health district described in section 3709.01 of 95117
the Revised Code; 95118

(c) One member whose primary residence is a manufactured 95119
home, with an initial term ending December 31, 2006. 95120

(3) The president of the senate shall appoint the following 95121
members: 95122

(a) Two members who are manufactured housing installers who 95123
have been actively engaged in the installation of manufactured 95124
housing for the five years immediately prior to appointment, with 95125
the initial term of one installer ending December 31, 2007, and 95126
the initial term of the other installer ending December 31, 2005. 95127

(b) One member who manufactures manufactured homes in this 95128
state or who manufactures manufactured homes in another state and 95129
ships homes into this state, to represent manufactured home 95130
manufacturers, with an initial term ending December 31, 2006. 95131

(4) The speaker of the house of representatives shall appoint the following members:

(a) One member who operates a manufactured or mobile home retail business in this state to represent manufactured housing dealers, with an initial term ending December 31, 2007;

(b) One member who is a manufactured home park operator or is employed by an operator, with an initial term ending December 31, 2005;

(c) One member to represent the Ohio manufactured home association, or any successor entity, who may be the president or executive director of the association or the successor entity, with an initial term ending December 31, 2006.

(C)(1) After the initial term, each term of office is for four years ending on the thirty-first day of December. A member holds office from the date of appointment until the end of the term. No member may serve more than two consecutive four-year terms.

(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first.

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers.

(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office.

(2) Vacancies shall be filled in the manner of the original appointment.

Sec. 4781.04. (A) The manufactured homes commission shall 95162
adopt rules pursuant to Chapter 119. of the Revised Code to do all 95163
of the following: 95164

(1) Establish uniform standards that govern the installation 95165
of manufactured housing. Not later than one hundred eighty days 95166
after the secretary of the United States department of housing and 95167
urban development adopts model standards for the installation of 95168
manufactured housing or amends those standards, the commission 95169
shall amend its standards as necessary to be consistent with, and 95170
not less stringent than, the model standards for the design and 95171
installation of manufactured housing the secretary adopts or any 95172
manufacturers' standards that the secretary determines are equal 95173
to or not less stringent than the model standards. 95174

(2) Govern the inspection of the installation of manufactured 95175
housing. The rules shall specify that the commission, any building 95176
department or personnel of any department, ~~any licensor or~~ 95177
~~personnel of any licensor,~~ or any private third party, certified 95178
pursuant to section 4781.07 of the Revised Code shall conduct all 95179
inspections of the installation of manufactured housing located in 95180
manufactured home parks to determine compliance with the uniform 95181
installation standards the commission establishes pursuant to this 95182
section. 95183

~~As used in division (A)(2) of this section, "licensor" has~~ 95184
~~the same meaning as in section 3733.01 of the Revised Code.~~ 95185

(3) Govern the design, construction, installation, approval, 95186
and inspection of foundations and the base support systems for 95187
manufactured housing. The rules shall specify that the commission, 95188
any building department or personnel of any department, ~~any~~ 95189
~~licensor or personnel of any licensor,~~ or any private third party, 95190
certified pursuant to section 4781.07 of the Revised Code shall 95191
conduct all inspections of the installation, foundations, and base 95192

support systems of manufactured housing located in manufactured 95193
home parks to determine compliance with the uniform installation 95194
standards and foundation and base support system design the 95195
commission establishes pursuant to this section. 95196

~~As used in division (A)(3) of this section, "licensor" has 95197
the same meaning as in section 3733.01 of the Revised Code. 95198~~

(4) Govern the training, experience, and education 95199
requirements for manufactured housing installers, manufactured 95200
housing dealers, manufactured housing brokers, and manufactured 95201
housing salespersons; 95202

(5) Establish a code of ethics for manufactured housing 95203
installers; 95204

(6) Govern the issuance, revocation, and suspension of 95205
licenses to manufactured housing installers; 95206

(7) Establish fees for the issuance and renewal of licenses, 95207
for conducting inspections to determine an applicant's compliance 95208
with this chapter and the rules adopted pursuant to it, and for 95209
the commission's expenses incurred in implementing this chapter; 95210

(8) Establish conditions under which a licensee may enter 95211
into contracts to fulfill the licensee's responsibilities; 95212

(9) Govern the investigation of complaints concerning any 95213
violation of this chapter or the rules adopted pursuant to it or 95214
complaints involving the conduct of any licensed manufactured 95215
housing installer or person installing manufactured housing 95216
without a license, licensed manufactured housing dealer, licensed 95217
manufactured housing broker, or manufactured housing salesperson; 95218

(10) Establish a dispute resolution program for the timely 95219
resolution of warranty issues involving new manufactured homes, 95220
disputes regarding responsibility for the correction or repair of 95221
defects in manufactured housing, and the installation of 95222

manufactured housing. The rules shall provide for the timely 95223
resolution of disputes between manufacturers, manufactured housing 95224
dealers, and installers regarding the correction or repair of 95225
defects in manufactured housing that are reported by the purchaser 95226
of the home during the one-year period beginning on the date of 95227
installation of the home. The rules also shall provide that 95228
decisions made regarding the dispute under the program are not 95229
binding upon the purchaser of the home or the other parties 95230
involved in the dispute unless the purchaser so agrees in a 95231
written acknowledgement that the purchaser signs and delivers to 95232
the program within ten business days after the decision is issued. 95233

(11) Establish the requirements and procedures for the 95234
certification of building departments and building department 95235
personnel pursuant to section 4781.07 of the Revised Code; 95236

(12) Establish fees to be charged to building departments and 95237
building department personnel applying for certification and 95238
renewal of certification pursuant to section 4781.07 of the 95239
Revised Code; 95240

(13) Develop a policy regarding the maintenance of records 95241
for any inspection authorized or conducted pursuant to this 95242
chapter. Any record maintained under division (A)(13) of this 95243
section shall be a public record under section 149.43 of the 95244
Revised Code. 95245

(14) Carry out any other provision of this chapter. 95246

(B) The manufactured homes commission shall do all of the 95247
following: 95248

(1) Prepare and administer a licensure examination to 95249
determine an applicant's knowledge of manufactured housing 95250
installation and other aspects of installation the commission 95251
determines appropriate; 95252

(2) Select, provide, or procure appropriate examination 95253

questions and answers for the licensure examination and establish	95254
the criteria for successful completion of the examination;	95255
(3) Prepare and distribute any application form this chapter	95256
requires;	95257
(4) Receive applications for licenses and renewal of licenses	95258
and issue licenses to qualified applicants;	95259
(5) Establish procedures for processing, approving, and	95260
disapproving applications for licensure;	95261
(6) Retain records of applications for licensure, including	95262
all application materials submitted and a written record of the	95263
action taken on each application;	95264
(7) Review the design and plans for manufactured housing	95265
installations, foundations, and support systems;	95266
(8) Inspect a sample of homes at a percentage the commission	95267
determines to evaluate the construction and installation of	95268
manufactured housing installations, foundations, and support	95269
systems to determine compliance with the standards the commission	95270
adopts;	95271
(9) Investigate complaints concerning violations of this	95272
chapter or the rules adopted pursuant to it, or the conduct of any	95273
manufactured housing installer, manufactured housing dealer,	95274
manufactured housing broker, or manufactured housing salesperson;	95275
(10) Determine appropriate disciplinary actions for	95276
violations of this chapter;	95277
(11) Conduct audits and inquiries of manufactured housing	95278
installers, manufactured housing dealers, and manufactured housing	95279
brokers as appropriate for the enforcement of this chapter. The	95280
commission, or any person the commission employs for the purpose,	95281
may review and audit the business records of any manufactured	95282
housing installer, dealer, or broker during normal business hours.	95283

(12) Approve an installation training course, which may be 95284
offered by the Ohio manufactured homes association or other 95285
entity; 95286

(13) Perform any function or duty necessary to administer 95287
this chapter and the rules adopted pursuant to it. 95288

(C) Nothing in this section shall be construed to limit the 95289
authority of a board of health to enforce section 3701.344 of the 95290
Revised Code or Chapters 3703., 3718., and 3781. of the Revised 95291
Code. 95292

Sec. 4781.07. (A) Pursuant to rules the manufactured homes 95293
commission adopts, the commission may certify municipal, township, 95294
and county building departments and the personnel of those 95295
departments, ~~licensors as defined in section 3733.01 of the~~ 95296
~~Revised Code and the personnel of those licensors,~~ or any private 95297
third party, to exercise the commission's enforcement authority, 95298
accept and approve plans and specifications for foundations, 95299
support systems and installations, and inspect manufactured 95300
housing foundations, support systems, and manufactured housing 95301
installations. Any certification is effective for three years. 95302

(B) Following an investigation and finding of facts that 95303
support its action, the commission may revoke or suspend 95304
certification. The commission may initiate an investigation on its 95305
own motion or the petition of a person affected by the enforcement 95306
or approval of plans. 95307

Sec. 4781.09. (A) The manufactured homes commission may deny, 95308
suspend, revoke, or refuse to renew the license of any 95309
manufactured home installer for any of the following reasons: 95310

(1) Failure to satisfy the requirements of section 4781.08 or 95311
4781.10 of the Revised Code; 95312

(2) Violation of this chapter or any rule adopted pursuant to 95313

it;	95314
(3) Making a material misstatement in an application for a license;	95315 95316
(4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer;	95317 95318 95319
(5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter;	95320 95321 95322
(6) Conviction of a felony or a crime involving moral turpitude;	95323 95324
(7) Having had a license revoked, suspended, or denied by the commission during the preceding two years;	95325 95326
(8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years;	95327 95328
(9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state.	95329 95330
(10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor.	95331 95332 95333
(B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed pursuant to division (C) of this section may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code.	95334 95335 95336 95337 95338 95339
(2) Any licensee or applicant may appeal an order made pursuant to an adjudication hearing in the manner provided in section 119.12 of the Revised Code.	95340 95341 95342
(C) As an alternative to suspending, revoking, or refusing to	95343

~~renew a manufactured housing installer's license, the commission 95344
may impose a civil penalty of not less than one hundred dollars or 95345
more than five hundred dollars per violation of this chapter or 95346
any rule adopted pursuant to it. The commission shall deposit 95347
penalties in the occupational licensing and regulatory fund 95348
pursuant to section 4743.05 of the Revised Code. 95349~~

(D) A person whose license is suspended, revoked, or not 95350
renewed may apply for a new license two years after the date on 95351
which the license was suspended, revoked, or not renewed. 95352

Sec. 4781.121. (A) The manufactured homes commission, 95353
pursuant to section 4781.04 of the Revised Code, may investigate 95354
any person who allegedly has committed a violation. If, after an 95355
investigation the commission determines that reasonable evidence 95356
exists that a person has committed a violation, within seven days 95357
after that determination, the commission shall send a written 95358
notice to that person in the same manner as prescribed in section 95359
119.07 of the Revised Code for licensees, except that the notice 95360
shall specify that a hearing will be held and specify the date, 95361
time, and place of the hearing. 95362

(B) The commission shall hold a hearing regarding the alleged 95363
violation in the same manner prescribed for an adjudication 95364
hearing under section 119.09 of the Revised Code. If the 95365
commission, after the hearing, determines that a violation has 95366
occurred, the commission, upon an affirmative vote of five of its 95367
members, may impose a fine not exceeding one thousand dollars per 95368
violation per day. The commission's determination is an order that 95369
the person may appeal in accordance with section 119.12 of the 95370
Revised Code. 95371

(C) If the person who allegedly committed a violation fails 95372
to appear for a hearing, the commission may request the court of 95373
common pleas of the county where the alleged violation occurred to 95374

compel the person to appear before the commission for a hearing. 95375

(D) If the commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the commission pursuant to section 131.02 of the Revised Code, the commission shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty. 95376
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(E) The authority provided to the commission pursuant to this section, and any fine imposed under this section, shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. Any fines collected pursuant to this section shall be used solely to administer and enforce this chapter and rules adopted under it. Any fees collected pursuant to this section shall be transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code; the fees shall be used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder. 95385
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(F) As used in this section, "violation" means a violation of section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant to section 4781.04, of the Revised Code. 95397
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Sec. 4781.14. ~~(A) Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the state, through the~~ The manufactured homes commission, has exclusive authority to regulate manufactured home installers, the installation of manufactured housing, and manufactured housing foundations and support systems in ~~the~~ this state. By enacting this chapter, it is the intent of 95400
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the general assembly to preempt municipal corporations and other 95406
political subdivisions from regulating and licensing manufactured 95407
housing installers and regulating and inspecting the installation 95408
of manufactured housing and manufactured housing foundations and 95409
support systems. 95410

~~(B) Except as provided in division (A)(3) of section 3733.02~~ 95411
~~of the Revised Code, the~~ The manufactured homes commission has 95412
exclusive power to adopt rules of uniform application throughout 95413
the state governing installation of manufactured housing, the 95414
inspection of manufactured housing foundations and support 95415
systems, the inspection of the installation of manufactured 95416
housing, the training and licensing of manufactured housing 95417
installers, and the investigation of complaints concerning 95418
manufactured housing installers. 95419

~~(C) Except as provided in division (A)(3) of section 3733.02~~ 95420
~~of the Revised Code, the~~ The rules the commission adopts pursuant 95421
to this chapter are the exclusive rules governing the installation 95422
of manufactured housing, the design, construction, and approval of 95423
foundations for manufactured housing, the licensure of 95424
manufactured home installers, and the fees charged for licensure 95425
of manufactured home installers. No political subdivision of the 95426
state or any department or agency of the state may establish any 95427
other standards governing the installation of manufactured 95428
housing, manufactured housing foundations and support systems, the 95429
licensure of manufactured housing installers, or fees charged for 95430
the licensure of manufactured housing installers. 95431

(D) Nothing in this section limits the authority of the 95432
attorney general to enforce Chapter 1345. of the Revised Code or 95433
to take any action permitted by the Revised Code against 95434
manufactured housing installers, retailers, or manufacturers. 95435

Sec. 4781.15. The remedies provided in ~~sections 4781.01 to~~ 95436
~~4781.14 of the Revised Code~~ this chapter are in addition to 95437
remedies otherwise available for the same conduct under state or 95438
local law. 95439

Sec. ~~3733.02~~ 4781.26. (A)~~(1)~~ The ~~public health council~~ 95440
manufactured homes commission, subject to Chapter 119. of the 95441
Revised Code, shall adopt, and has the exclusive power to adopt, 95442
rules of uniform application throughout the state governing the 95443
review of plans, issuance of flood plain management permits, and 95444
issuance of licenses for manufactured home parks; the location, 95445
layout, density, construction, drainage, sanitation, safety, and 95446
operation of those parks; and notices of flood events concerning, 95447
and flood protection at, those parks. The rules pertaining to 95448
flood plain management shall be consistent with and not less 95449
stringent than the flood plain management criteria of the national 95450
flood insurance program adopted under the "National Flood 95451
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 95452
amended. The rules shall not apply to the construction, erection, 95453
or manufacture of any building to which section 3781.06 of the 95454
Revised Code is applicable. 95455

~~(2)~~(B) The rules pertaining to manufactured home parks 95456
constructed after June 30, 1971, shall specify that each home must 95457
be placed on its lot to provide not less than fifteen feet between 95458
the side of one home and the side of another home, ten feet 95459
between the end of one home and the side of another home, and five 95460
feet between the ends of two homes placed end to end. 95461

~~(3)~~(C) The manufactured homes commission shall determine 95462
compliance with the installation, blocking, tiedown, foundation, 95463
and base support system standards for manufactured housing located 95464
in manufactured home parks adopted by the commission pursuant to 95465
section 4781.04 of the Revised Code. All inspections of the 95466

installation, blocking, tiedown, foundation, and base support 95467
systems of manufactured housing in a manufactured home park that 95468
the ~~department of health or a licenser~~ commission conducts shall 95469
be conducted by a person ~~who has completed an installation~~ 95470
~~training course approved by~~ the manufactured homes commission 95471
certifies pursuant to ~~division (B)(12) of~~ section 4781.04 4781.07 95472
of the Revised Code. 95473

~~As used in division (A)(3) of this section, "manufactured~~ 95474
~~housing" has the same meaning as in section 4781.01 of the Revised~~ 95475
~~Code.~~ 95476

~~(B) The public health council, in accordance with Chapter~~ 95477
~~119. of the Revised Code, shall adopt rules of uniform application~~ 95478
~~throughout the state establishing requirements and procedures in~~ 95479
~~accordance with which the director of health may authorize~~ 95480
~~licensors for the purposes of sections 3733.022 and 3733.025 of~~ 95481
~~the Revised Code. The rules shall include at least provisions~~ 95482
~~under which a licenser may enter into contracts for the purpose of~~ 95483
~~fulfilling the licenser's responsibilities under either or both of~~ 95484
~~those sections.~~ 95485

(D) The manufactured homes commission may enter into 95486
contracts for the purpose of fulfilling the commission's annual 95487
inspection responsibilities for manufactured home parks under this 95488
chapter. Boards of health of city or general health districts 95489
shall have the right of first refusal for those contracts. 95490

Sec. 3733.03 4781.27. (A)(1) On or after the first day of 95491
December, but before the first day of January of the next year, 95492
every person who intends to operate a manufactured home park shall 95493
procure a license to operate the park for the next year from the 95494
~~licenser~~ manufactured homes commission. If the applicable license 95495
fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code 95496
is not received by the ~~licenser~~ commission by the close of 95497

business on the last day of December, the applicant for the 95498
license shall pay a penalty equal to twenty-five per cent of the 95499
applicable license fee. The penalty shall accompany the license 95500
fee. If the last day of December is not a business day, the 95501
penalty attaches upon the close of business on the next business 95502
day. 95503

(2) No manufactured home park shall be maintained or operated 95504
in this state without a license. 95505

(3) No person who has received a license, upon the sale or 95506
disposition of the manufactured home park, may have the license 95507
transferred to the new operator. A person shall obtain a separate 95508
license to operate each manufactured home park. 95509

(B) Before a license is initially issued and annually 95510
thereafter, or more often if necessary, the ~~licensor~~ commission 95511
shall cause each manufactured home park to be inspected ~~relative~~ 95512
~~to~~ for compliance with sections ~~3733.01 4781.26~~ to ~~3733.08 4781.35~~ 95513
of the Revised Code and the rules adopted under those sections. A 95514
record shall be made of each inspection on a form prescribed by 95515
the ~~director of health~~ commission. 95516

(C) Each person applying for an initial license to operate a 95517
manufactured home park shall provide acceptable proof to the 95518
~~director~~ commission that adequate fire protection will be provided 95519
and that applicable fire codes will be adhered to in the 95520
construction and operation of the park. 95521

Sec. ~~3733.04 4781.28~~. The ~~licensor of a manufactured home~~ 95522
~~park~~ manufactured homes commission may charge a fee for an annual 95523
license to operate ~~such~~ a manufactured home park. The fee for a 95524
license shall be determined in accordance with section ~~3709.09~~ 95525
4781.26 of the Revised Code and shall include the cost of 95526
licensing and all inspections. 95527

~~The fee also shall include any additional amount determined~~ 95528
~~by rule of the public health council, which shall be collected and~~ 95529
~~transmitted by the board of health to the director of health~~ 95530
~~pursuant to section 3709.092 of the Revised Code and used only for~~ 95531
~~the purpose of administering and enforcing sections 3733.01 to~~ 95532
~~3733.08 of the Revised Code and the rules adopted under those~~ 95533
~~sections. The portion of any fee retained by the board of health~~ 95534
Any fees collected shall be paid into a special fund transmitted 95535
to the treasurer of state and shall be credited to the 95536
manufactured homes commission regulatory fund created in section 95537
4781.54 of the Revised Code and used only for the purpose of 95538
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 95539
4781.35 of the Revised Code and the rules adopted thereunder. 95540

Sec. ~~3733.05~~ 4781.29. ~~The licensor of the health district in~~ 95541
~~which a manufactured home park is or is to be located, in~~ 95542
~~accordance with Chapter 119. of the Revised Code, manufactured~~ 95543
~~homes commission may refuse to grant, may suspend, or may revoke~~ 95544
any license granted to any person for failure to comply with 95545
sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or 95546
with any rule adopted ~~by the public health council~~ under section 95547
~~3733.02~~ 4781.26 of the Revised Code. 95548

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under 95549
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, 95550
any operator shall have the right to rent or use each lot for the 95551
parking or placement of a manufactured home or mobile home to be 95552
used for human habitation without interruption for any period 95553
coextensive with any license or consecutive licenses issued under 95554
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code. 95555

(B) No operator of a manufactured home park shall sell 95556
individual lots in a park for eight years following the issuance 95557
of the initial license for the park unless, at the time of sale, 95558

the park fulfills all platting and subdivision requirements 95559
established by the political subdivision in which the park is 95560
located, or the political subdivision has entered into an 95561
agreement with the operator regarding platting and subdivision 95562
requirements and the operator has fulfilled the terms of that 95563
agreement. 95564

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development 95565
to occur within any portion of a manufactured home park until the 95566
plans for the development have been submitted to and reviewed and 95567
approved by the ~~director of health~~ manufactured homes commission. 95568
This division does not require that plans be submitted to the 95569
~~director~~ commission for approval for the replacement of 95570
manufactured or mobile homes on previously approved lots in a 95571
manufactured home park when no development is to occur in 95572
connection with the replacement. Within thirty days after receipt 95573
of the plans, all supporting documents and materials required to 95574
complete the review, and the applicable plan review fee 95575
established under division (D) of this section, the ~~director~~ 95576
commission shall approve or disapprove the plans. 95577

(B) Any person aggrieved by the ~~director's~~ commission's 95578
disapproval of a set of plans under division (A) of this section 95579
may request a hearing on the matter within thirty days after 95580
receipt of the ~~director's~~ commission's notice of the disapproval. 95581
The hearing shall be held in accordance with Chapter 119. of the 95582
Revised Code. Thereafter, the disapproval may be appealed in the 95583
manner provided in section 119.12 of the Revised Code. 95584

(C) The ~~director~~ commission shall establish a system by which 95585
development occurring within a manufactured home park is inspected 95586
or verified in accordance with rules adopted under ~~division (A) of~~ 95587
section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the 95588
development complies with the plans approved under division (A) of 95589

this section. 95590

(D) The ~~public health council~~ commission shall establish fees 95591
for reviewing plans under division (A) of this section and 95592
conducting inspections under division (C) of this section. 95593

(E) The ~~director~~ commission shall charge the appropriate fees 95594
established under division (D) of this section for reviewing plans 95595
under division (A) of this section and conducting inspections 95596
under division (C) of this section. All such plan review and 95597
inspection fees received by the ~~director~~ commission shall be 95598
transmitted to the treasurer of state and shall be credited to the 95599
~~general operations~~ occupational licensing and regulatory fund 95600
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 95601
credited to the fund shall be used only for the purpose of 95602
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 95603
4781.35 of the Revised Code and rules adopted under those 95604
sections. 95605

(F) Plan approvals issued under this section do not 95606
constitute an exemption from the land use and building 95607
requirements of the political subdivision in which the 95608
manufactured home park is or is to be located. 95609

Sec. ~~3733.022~~ 4781.32. (A) No person shall cause development 95610
to occur or cause the replacement of a mobile or manufactured home 95611
within any portion of a manufactured home park that is located 95612
within a one-hundred-year flood plain unless the person first 95613
obtains a permit from the ~~director of health or a licenser~~ 95614
~~authorized by the director~~ manufactured homes commission. If the 95615
development for which a permit is required under this division is 95616
to occur on a lot where a mobile or manufactured home is or is to 95617
be located, the owner of the home and the operator of the 95618
manufactured home park shall jointly obtain the permit. Each of 95619
the persons to whom a permit is jointly issued is responsible for 95620

compliance with the provisions of the approved permit that are 95621
applicable to that person. 95622

The ~~director or a licensor authorized by the director~~ 95623
commission shall disapprove an application for a permit required 95624
under this division unless the ~~director or the licensor~~ commission 95625
finds that the proposed development or replacement of a mobile or 95626
manufactured home complies with the rules adopted under ~~division~~ 95627
(A) of section ~~3733.02~~ 4781.26 of the Revised Code. No permit is 95628
required under this division for the construction, erection, or 95629
manufacture of any building to which section 3781.06 of the 95630
Revised Code applies. 95631

The ~~director or a licensor authorized by the director~~ 95632
commission may suspend or revoke a permit issued under this 95633
division for failure to comply with the rules adopted under 95634
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 95635
pertaining to flood plain management or for failure to comply with 95636
the approved permit. 95637

Any person aggrieved by the disapproval, suspension, or 95638
revocation of a permit under this division by the ~~director or by a~~ 95639
~~licensor authorized by the director~~ commission may request a 95640
hearing on the matter within thirty days after receipt of the 95641
notice of the disapproval, suspension, or revocation. The hearing 95642
shall be held in accordance with Chapter 119. of the Revised Code. 95643
Thereafter, an appeal of the disapproval, suspension, or 95644
revocation may be taken in the manner provided in section 119.12 95645
of the Revised Code. 95646

(B) The ~~public health council~~ commission shall establish fees 95647
for the issuance of permits under division (A) of this section and 95648
for necessary inspections conducted to determine compliance with 95649
those permits. 95650

(C) The ~~director or a licensor authorized by the director~~ 95651

commission shall charge the appropriate fee established under 95652
division (B) of this section for the issuance of a permit under 95653
division (A) of this section or for conducting any necessary 95654
inspection to determine compliance with the permit. If the 95655
~~director~~ commission issues such a permit or conducts such an 95656
inspection, the fee for the permit or inspection shall be 95657
transmitted to the treasurer of state and shall be credited to the 95658
~~general operations~~ occupational licensing and regulatory fund 95659
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 95660
credited to the fund shall be used ~~by the director~~ only for the 95661
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 95662
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 95663
sections. ~~If the licensor is a board of health, the permit or~~ 95664
~~inspection fee shall be deposited to the credit of the special~~ 95665
~~fund of the health district created in section 3733.04 of the~~ 95666
~~Revised Code and shall be used only for the purpose set forth in~~ 95667
~~that section.~~ 95668

Sec. ~~3733.024~~ 4781.33. (A) When a flood event affects a 95669
manufactured home park, the operator of the manufactured home 95670
park, in accordance with rules adopted under ~~division (A) of~~ 95671
section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the 95672
~~licensor having jurisdiction of the occurrence of~~ manufactured 95673
homes commission and the board of health having jurisdiction where 95674
the flood event occurred within forty-eight hours after the end of 95675
the flood event. The commission, after receiving notification, 95676
shall immediately notify the board of health. 95677

~~No person shall fail to comply with this division.~~ 95678

(B) ~~The licensor having jurisdiction where a flood event~~ 95679
~~occurred that affected a manufactured home park shall notify the~~ 95680
~~director of health of the occurrence of the flood event within~~ 95681
~~twenty four hours after being notified of the flood event under~~ 95682

~~division (A) of this section. Within forty eight hours after~~ After 95683
~~being notified of such a flood event by a licenser, the director~~ 95684
~~board of health~~ shall cause an inspection to be made of the 95685
manufactured home park named in the notice. The board of health 95686
shall issue a report of the inspection to the commission within 95687
ten days after the inspection is completed. 95688

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home 95689
that is located in a flood plain is substantially damaged, the 95690
owner of the home shall make all alterations, repairs, or changes 95691
to the home, and the operator of the manufactured home park shall 95692
make all alterations, repairs, or changes to the lot on which the 95693
home is located, that are necessary to ensure compliance with the 95694
flood plain management rules adopted under ~~division (A) of section~~ 95695
~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or 95696
changes may include, without limitation, removal of the home or 95697
other structures. 95698

No person shall fail to comply with this division. 95699

(B) No person shall cause to be performed any alteration, 95700
repair, or change required by division (A) of this section unless 95701
the person first obtains a permit from the ~~director of health or a~~ 95702
~~licenser authorized by the director~~ manufactured homes commission. 95703
~~The owner of the home and the operator of the manufactured home~~ 95704
~~park shall jointly obtain the permit required by this division.~~ 95705
~~Each of the persons to whom a permit is jointly issued is~~ 95706
~~responsible for compliance with the provisions of the approved~~ 95707
~~permit that are applicable to that person.~~ 95708

The ~~director or a licenser authorized by the director~~ 95709
commission shall disapprove an application for a permit required 95710
under this division unless the ~~director or the licenser~~ commission 95711
finds that the proposed alteration, repair, or change complies 95712
with the rules adopted under ~~division (A) of section~~ ~~3733.02~~ 95713

4781.26 of the Revised Code. No permit is required under this 95714
division for the construction, erection, or manufacture of any 95715
building to which section 3781.06 of the Revised Code applies. 95716

The ~~director or a licenser authorized by the director~~ 95717
commission may suspend or revoke a permit issued under this 95718
division for failure to comply with the rules adopted under 95719
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 95720
pertaining to flood plain management or for failure to comply with 95721
the approved permit for making alterations, repairs, or changes to 95722
the lot on which the manufactured home is located. 95723

Any person aggrieved by the disapproval, suspension, or 95724
revocation of a permit under this division by the ~~director or by a~~ 95725
~~licenser authorized by the director~~ commission may request a 95726
hearing on the matter within thirty days after receipt of the 95727
notice of the disapproval, suspension, or revocation. The hearing 95728
shall be held in accordance with Chapter 119. of the Revised Code. 95729
Thereafter, an appeal of the disapproval, suspension, or 95730
revocation may be taken in the manner provided in section 119.12 95731
of the Revised Code and for necessary inspections conducted to 95732
determine compliance with those permits. 95733

(C) The ~~public health council~~ commission shall establish fees 95734
for the issuance of permits under division (B) of this section and 95735
for necessary inspections conducted to determine compliance with 95736
those permits for making alterations, repairs, or changes to the 95737
lot on which the manufactured home is located. 95738

(D) The ~~director or a licenser authorized by the director~~ 95739
commission shall charge the appropriate fee established under 95740
division (C) of this section for the issuance of a permit under 95741
division (B) of this section or for conducting any necessary 95742
inspection to determine compliance with the permit. If the 95743
~~director~~ commission issues such a permit or conducts such an 95744
inspection, the fee for the permit or inspection shall be 95745

transmitted to the treasurer of state and shall be credited to the 95746
~~general operations~~ occupational licensing and regulatory fund 95747
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 95748
credited to the fund shall be used ~~by the director~~ only for the 95749
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 95750
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 95751
sections. ~~If the licenser is a board of health, the permit or~~ 95752
~~inspection fee shall be deposited to the credit of the special~~ 95753
~~fund of the health district created in section 3733.04 of the~~ 95754
~~Revised Code and shall be used only for the purpose set forth in~~ 95755
~~that section.~~ 95756

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections 95757
~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 95758
rules adopted thereunder. 95759

(B) The prosecuting attorney of the county, the city director 95760
of law, or the attorney general, upon complaint of the ~~licenser or~~ 95761
~~the director of health~~ manufactured homes commission, shall 95762
prosecute to termination or bring an action for injunction against 95763
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 95764
of the Revised Code or the rules adopted thereunder. 95765

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 95766
of the Revised Code, a park operator shall not retaliate against a 95767
resident by increasing the resident's rent, decreasing services 95768
that are due to the resident, refusing to renew or threatening to 95769
refuse to renew the rental agreement with the resident, or 95770
bringing or threatening to bring an action for possession of the 95771
resident's premises because: 95772

(1) The resident has complained to an appropriate 95773
governmental agency of a violation of a building, housing, health, 95774
or safety code that is applicable to the premises, and the 95775

violation materially affects health and safety;	95776
(2) The resident has complained to the park operator of any violation of section 3733.10 <u>4781.38</u> of the Revised Code;	95777 95778
(3) The resident joined with other residents for the purpose of negotiating or dealing collectively with the park operator on any of the terms and conditions of a rental agreement.	95779 95780 95781
(B) If a park operator acts in violation of division (A) of this section, the resident may:	95782 95783
(1) Use the retaliatory action of the park operator as a defense to an action by the park operator to recover possession of the premises;	95784 95785 95786
(2) Recover possession of the premises;	95787
(3) Terminate the rental agreement.	95788
In addition, the resident may recover from the park operator any actual damages together with reasonable attorneys fees.	95789 95790
(C) Nothing in division (A) of this section prohibits a park operator from increasing the rent to reflect the cost of improvements installed by the park operator in or about the premises or to reflect an increase in other costs of operation of the premises.	95791 95792 95793 95794 95795
Sec. 3733.091 <u>4781.37</u>. (A) Notwithstanding section 3733.09 <u>4781.36</u> of the Revised Code, a park operator may bring an action under Chapter 1923. of the Revised Code for possession of the premises if any of the following applies:	95796 95797 95798 95799
(1) The resident is in default in the payment of rent.	95800
(2) The violation of the applicable building, housing, health, or safety code that the resident complained of was primarily caused by any act or lack of reasonable care by the resident, by any other person in the resident's household, or by	95801 95802 95803 95804

anyone on the premises with the consent of the resident. 95805

(3) The resident is holding over the resident's term. 95806

(4) The resident is in violation of rules of the ~~public~~ 95807
~~health council~~ manufactured homes commission adopted pursuant to 95808
section ~~3733.02~~ 4781.26 of the Revised Code or rules of the 95809
manufactured home park adopted pursuant to the rules of the ~~public~~ 95810
~~health council~~ manufactured homes commission. 95811

(5) The resident has been absent from the manufactured home 95812
park for a period of thirty consecutive days prior to the 95813
commencement of the action, and the resident's manufactured home, 95814
mobile home, or recreational vehicle parked in the manufactured 95815
home park has been left unoccupied for that thirty-day period, 95816
without notice to the park operator and without payment of rent 95817
due under the rental agreement. 95818

(B) The maintenance of an action by the park operator under 95819
this section does not prevent the resident from recovering damages 95820
for any violation by the park operator of the rental agreement or 95821
of section ~~3733.10~~ 4781.38 of the Revised Code. 95822

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a 95823
rental agreement shall: 95824

(1) Comply with the requirements of all applicable building, 95825
housing, health, and safety codes which materially affect health 95826
and safety, and comply with rules of the ~~public health council~~ 95827
manufactured homes commission; 95828

(2) Make all repairs and do whatever is reasonably necessary 95829
to put and keep the premises in a fit and habitable condition; 95830

(3) Keep all common areas of the premises in a safe and 95831
sanitary condition; 95832

(4) Maintain in good and safe working order and condition all 95833
electrical and plumbing fixtures and appliances, and septic 95834

systems, sanitary and storm sewers, refuse receptacles, and well 95835
and water systems that are supplied or required to be supplied by 95836
~~him~~ the park operator; 95837

(5) Not abuse the right of access conferred by division (B) 95838
of section ~~3733.101~~ 4781.39 of the Revised Code; 95839

(6) Except in the case of emergency or if it is impracticable 95840
to do so, give the resident reasonable notice of ~~his~~ the park 95841
operator's intent to enter onto the residential premises and enter 95842
only at reasonable times. Twenty-four hours' notice shall be 95843
presumed to be a reasonable notice in the absence of evidence to 95844
the contrary. 95845

(B) If the park operator violates any provision of this 95846
section, makes a lawful entry onto the residential premises in an 95847
unreasonable manner, or makes repeated demands for entry otherwise 95848
lawful which demands have the effect of harassing the resident, 95849
the resident may recover actual damages resulting from the 95850
violation, entry, or demands and injunctive relief to prevent the 95851
recurrence of the conduct, and if ~~he~~ the resident obtains a 95852
judgment, reasonable attorneys' fees, or terminate the rental 95853
agreement. 95854

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a 95855
rental agreement shall: 95856

(1) Keep that part of the premises that the resident occupies 95857
and uses safe and sanitary; 95858

(2) Dispose of all rubbish, garbage, and other waste in a 95859
clean, safe, and sanitary manner; 95860

(3) Comply with the requirements imposed on residents by all 95861
applicable state and local housing, health, and safety codes, 95862
rules of the ~~public health council~~ manufactured homes commission, 95863
and rules of the manufactured home park; 95864

(4) Personally refrain, and forbid any other person who is on the premises with the resident's permission, from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the residential premises;

(5) Conduct self and require other persons on the premises with the resident's consent to conduct themselves in a manner that will not disturb the resident's neighbors' peaceful enjoyment of the manufactured home park.

(B) The resident shall not unreasonably withhold consent for the park operator to enter the home to inspect utility connections, or enter onto the premises in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels which are too large for the resident's mail facilities, or supply necessary or agreed services.

(C) If the resident violates any provision of this section, the park operator may recover any actual damages which result from the violation and reasonable attorneys' fees. This remedy is in addition to any right of the park operator to terminate the rental agreement, to maintain an action for the possession of the premises, or injunctive relief to compel access under division (B) of this section.

Sec. ~~3733.11~~ 4781.40. (A)(1) ~~The~~ A manufactured home park operator shall offer each home owner a written rental agreement for a manufactured home park lot for a term of one year or more that contains terms essentially the same as any alternative month-to-month rental agreement offered to current and prospective tenants and owners. The park operator shall offer the minimum one-year rental agreement to the owner prior to installation of the home in the manufactured home park or, if the home is in the manufactured home park, prior to the expiration of the owner's

existing rental agreement. 95896

(2) The park operator shall deliver the offer to the owner by 95897
certified mail, return receipt requested, or in person. If the 95898
park operator delivers the offer to the owner in person, the owner 95899
shall complete a return showing receipt of the offer. If the owner 95900
does not accept the offer, the park operator is discharged from 95901
any obligation to make any further such offers. If the owner 95902
accepts the offer, the park operator shall, at the expiration of 95903
each successive rental agreement, offer the owner another rental 95904
agreement, for a term that is mutually agreed upon, and that 95905
contains terms essentially the same as the alternative 95906
month-to-month agreement. The park operator shall deliver 95907
subsequent rental offers by ordinary mail or personal delivery. If 95908
the park operator sells the manufactured home park to another 95909
manufactured home park operator, the purchaser is bound by the 95910
rental agreements entered into by the purchaser's predecessor. 95911

(3) If the park operator sells the manufactured home park for 95912
a use other than as a manufactured home park, the park operator 95913
shall give each tenant and owner a written notification by 95914
certified mail, return receipt requested, or by handing it to the 95915
tenant or owner in person. If the park operator delivers the 95916
notification in person, the recipient shall complete a return 95917
showing receipt of the notification. This notification shall 95918
contain notice of the sale of the manufactured home park, and 95919
notice of the date by which the tenant or owner shall vacate. The 95920
date by which the tenant shall vacate shall be at least one 95921
hundred twenty days after receipt of the written notification, and 95922
the date by which the owner shall vacate shall be at least one 95923
hundred eighty days after receipt of the written notification. 95924

(B) A park operator shall fully disclose in writing all fees, 95925
charges, assessments, including rental fees, and rules prior to a 95926
tenant or owner executing a rental agreement and assuming 95927

occupancy in the manufactured home park. No fees, charges, 95928
assessments, or rental fees so disclosed may be increased nor 95929
rules changed by a park operator without specifying the date of 95930
implementation of the changed fees, charges, assessments, rental 95931
fees, or rules, which date shall be not less than thirty days 95932
after written notice of the change and its effective date to all 95933
tenants or owners in the manufactured home park, and no fee, 95934
charge, assessment, or rental fee shall be increased during the 95935
term of any tenant's or owner's rental agreement. Failure on the 95936
part of the park operator to fully disclose all fees, charges, or 95937
assessments shall prevent the park operator from collecting the 95938
undisclosed fees, charges, or assessments. If a tenant or owner 95939
refuses to pay any undisclosed fees, charges, or assessments, the 95940
refusal shall not be used by the park operator as a cause for 95941
eviction in any court. 95942

(C) A park operator shall promulgate rules governing the 95943
rental or occupancy of a lot in the manufactured home park. The 95944
rules shall not be unreasonable, arbitrary, or capricious. A copy 95945
of the rules and any amendments to them shall be delivered by the 95946
park operator to the tenant or owner prior to signing the rental 95947
agreement. A copy of the rules and any amendments to them shall be 95948
posted in a conspicuous place upon the manufactured home park 95949
grounds. 95950

(D) No park operator shall require an owner to purchase from 95951
the park operator any personal property. The park operator may 95952
determine by rule the style or quality of skirting, equipment for 95953
tying down homes, manufactured or mobile home accessories, or 95954
other equipment to be purchased by an owner from a vendor of the 95955
owner's choosing, provided that the equipment is readily available 95956
to the owner. Any such equipment shall be installed in accordance 95957
with the manufactured home park rules. 95958

(E) No park operator shall charge any owner who chooses to 95959

install an electric or gas appliance in a home an additional fee 95960
solely on the basis of the installation, unless the installation 95961
is performed by the park operator at the request of the owner, nor 95962
shall the park operator restrict the installation, service, or 95963
maintenance of the appliance, restrict the ingress or egress of 95964
repairpersons to the manufactured home park for the purpose of 95965
installation, service, or maintenance of the appliance, nor 95966
restrict the making of any interior improvement in a home, if the 95967
installation or improvement is in compliance with applicable 95968
building codes and other provisions of law and if adequate utility 95969
services are available for the installation or improvement. 95970

(F) No park operator shall require a tenant to lease or an 95971
owner to purchase a manufactured or mobile home from the park 95972
operator or any specific person as a condition of or prerequisite 95973
to entering into a rental agreement. 95974

(G) No park operator shall require an owner to use the 95975
services of the park operator or any other specific person for 95976
installation of the manufactured or mobile home on the residential 95977
premises or for the performance of any service. 95978

(H) No park operator shall: 95979

(1) Deny any owner the right to sell the owner's manufactured 95980
home within the manufactured home park if the owner gives the park 95981
operator ten days' notice of the intention to sell the home; 95982

(2) Require the owner to remove the home from the 95983
manufactured home park solely on the basis of the sale of the 95984
home; 95985

(3) Unreasonably refuse to enter into a rental agreement with 95986
a purchaser of a home located within the operator's manufactured 95987
home park; 95988

(4) Charge any tenant or owner any fee, charge, or 95989
assessment, including a rental fee, that is not set forth in the 95990

rental agreement or, if the rental agreement is oral, is not set forth in a written disclosure given to the tenant or owner prior to the tenant or owner entering into a rental agreement;

(5) Charge any owner any fee, charge, or assessment because of the transfer of ownership of a home or because a home is moved out of or into the manufactured home park, except a charge for the actual costs and expenses that are incurred by the park operator in moving the home out of or into the manufactured home park, or in installing the home in the manufactured home park and that have not been reimbursed by another tenant or owner.

(I) If the park operator violates any provision of divisions (A) to (H) of this section, the tenant or owner may recover actual damages resulting from the violation, and, if the tenant or owner obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement.

(J) No rental agreement shall require a tenant or owner to sell, lease, or sublet the tenant's or owner's interest in the rental agreement or the manufactured or mobile home that is or will be located on the lot that is the subject of the rental agreement to any specific person or through any specific person as the person's agent.

(K) No park operator shall enter into a rental agreement with the owner of a manufactured or mobile home for the use of residential premises, if the rental agreement requires the owner of the home, as a condition to the owner's renting, occupying, or remaining on the residential premises, to pay the park operator or any other person specified in the rental agreement a fee or any sum of money based on the sale of the home, unless the owner of the home uses the park operator or other person as the owner's agent in the sale of the home.

(L) A park operator and a tenant or owner may include in a

rental agreement any terms and conditions, including any term 96022
relating to rent, the duration of an agreement, and any other 96023
provisions governing the rights and obligations of the parties 96024
that are not inconsistent with or prohibited by sections 3733.09 96025
to 3733.20 of the Revised Code or any other rule of law. 96026

(M) Notwithstanding any other provision of the Revised Code, 96027
the owner of a manufactured or mobile home ~~that was previously~~ 96028
~~titled by a dealer~~ may utilize the services of a manufactured home 96029
housing dealer or broker licensed under ~~Chapter 4517. of the~~ 96030
~~Revised Code~~ this chapter or a person properly licensed under 96031
Chapter 4735. of the Revised Code to sell or lease the home. 96032

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill 96033
any obligation imposed upon ~~him~~ the park operator by section 96034
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 96035
the conditions of the premises are such that the resident 96036
reasonably believes that a park operator has failed to fulfill any 96037
such obligations, or a governmental agency has found that the 96038
premises are not in compliance with building, housing, health, or 96039
safety codes which apply to any condition of the residential 96040
premises that could materially affect the health and safety of an 96041
occupant, the resident may give notice in writing to the park 96042
operator specifying the acts, omissions, or code violations that 96043
constitute noncompliance with such provisions. The notice shall be 96044
sent to the person or place where rent is normally paid. 96045

(B) If a park operator receives the notice described in 96047
division (A) of this section and after receipt of the notice fails 96048
to remedy the condition within a reasonable time, considering the 96049
severity of the condition and the time necessary to remedy such 96050
condition, or within thirty days, whichever is sooner, and if the 96051
resident is current in rent payments due under the rental 96052

agreement, the resident may do one of the following: 96053

(1) Deposit all rent that is due and thereafter becomes due 96054
the park operator with the clerk of court of the municipal or 96055
county court having jurisdiction in the territory in which the 96056
residential premises are located; 96057

(2) Apply to the court for an order directing the park 96058
operator to remedy the condition. As part thereof, the resident 96059
may deposit rent pursuant to division (B)(1) of this section, and 96060
may apply for an order reducing the periodic rent due the park 96061
operator until such time as the park operator does remedy the 96062
condition, and may apply for an order to use the rent deposited to 96063
remedy the condition. In any order issued pursuant to this 96064
division, the court may require the resident to deposit rent with 96065
the clerk of court as provided in division (B)(1) of this section. 96066

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent 96067
with the clerk of a court as provided in section ~~3733.12~~ 4781.41 96068
of the Revised Code, the clerk shall give written notice of this 96069
fact to the park operator and to ~~his~~ the park operator's agent, if 96070
any. 96071

(B) The clerk shall place all rent deposited with ~~him~~ the 96072
clerk in a separate rent escrow account in the name of the clerk 96073
in a bank or building and loan association domiciled in this 96074
state. 96075

(C) The clerk shall keep in a separate docket an account of 96076
each deposit, with the name and address of the resident, and the 96077
name and address of the park operator and of ~~his~~ the park 96078
operator's agent, if any. 96079

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of 96080
one per cent of the amount of the rent deposited, which shall be 96081
assessed as court costs. 96082

(E) All interest that has accrued on the rent deposited by the clerk of a county court under division (B) of this section shall be paid into the treasury of the political subdivision for which the clerk performs ~~his~~ the clerk's duties. All interest that has accrued on the rent deposited by the clerk of a municipal court under division (B) of this section shall be paid into the city treasury as defined in division (B) of section 1901.03 of the Revised Code.

Sec. ~~3733.122~~ 4781.43. (A) A park operator who receives notice that rent due ~~him~~ the park operator has been deposited with a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the Revised Code, may:

(1) Apply to the clerk of court for release of the rent on the ground that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code has been remedied. The clerk shall forthwith release the rent, less costs, to the park operator if the resident gives written notice to the clerk that the condition has been remedied.

(2) Apply to the court for release of the rent on the grounds that the resident did not comply with the notice requirement of division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the resident was not current in rent payments due under the rental agreement at the time the resident initiated rent deposits with the clerk of courts under division (B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code;

(3) Apply to the court for release of the rent on the grounds that there was no violation of any obligation imposed upon the park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or by any building, housing, health, or safety code, or that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised

Code has been remedied. 96114

(B) The resident shall be named as a party to any action 96115
filed by the park operator under this section, and shall have the 96116
right to file an answer and counterclaim, as in other civil cases. 96117
A trial shall be held within sixty days of the date of filing of 96118
the park operator's complaint, unless for good cause shown the 96119
court grants a continuance. 96120

(C) If the court finds that there was no violation of any 96121
obligation imposed upon the park operator by section ~~3733.10~~ 96122
4781.38 of the Revised Code or by the rental agreement, or by any 96123
building, housing, health, or safety code, or that the condition 96124
contained in the notice given pursuant to division (A) of section 96125
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 96126
resident did not comply with the notice requirement of division 96127
(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the 96128
resident was not current in rent payments at the time the resident 96129
initiated rent deposits with the clerk of court under division 96130
(B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court 96131
shall order the release to the park operator of rent on deposit 96132
with the clerk, less costs. 96133

(D) If the court finds that the condition contained in the 96134
notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 96135
of the Revised Code was the result of an act or omission of the 96136
resident, or that the resident intentionally acted in bad faith in 96137
proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the 96138
resident shall be liable for damages caused to the park operator, 96139
and for costs, together with reasonable attorneys' fees if the 96140
resident intentionally acted in bad faith. 96141

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an 96142
action for the release of rent deposited with a clerk of court, 96143
the court may, during the pendency of the action, upon application 96144

of the park operator, release part of the rent on deposit for 96145
payment of the periodic interest on a mortgage on the premises, 96146
the periodic principal payments on a mortgage on the premises, the 96147
insurance premiums for the premises, real estate taxes on the 96148
premises, utility services, repairs, and other customary and usual 96149
costs of operating the premises. 96150

(B) In determining whether to release rent for the payments 96151
described in division (A) of this section, the court shall 96152
consider the amount of rent the park operator receives from other 96153
lots, the cost of operating these lots, and the costs which may be 96154
required to remedy the condition contained in the notice given 96155
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 96156
Code. 96157

Sec. ~~3733.13~~ 4781.45. If a resident commits a material 96158
violation of the rules of the manufactured home park, of the 96159
~~public health council~~ manufactured homes commission, or of 96160
applicable state and local health and safety codes, the park 96161
operator may deliver a written notification of the violation to 96162
the resident. The notification shall contain all of the following: 96163

(A) A description of the violation; 96164

(B) A statement that the rental agreement will terminate upon 96165
a date specified in the written notice not less than thirty days 96166
after receipt of the notice unless the resident remedies the 96167
violation; 96168

(C) A statement that the violation was material and that if a 96169
second material violation of any park or ~~public health council~~ 96170
commission rule, or any health and safety code, occurs within six 96171
months after the date of this notice, the rental agreement will 96172
terminate immediately; 96173

(D) A statement that a defense available to termination of 96174

the rental agreement for two material violations of park or ~~public~~ 96175
~~health council~~ commission rules, or of health and safety codes, is 96176
that the park rule is unreasonable, or that the park or ~~public~~ 96177
~~health council rule~~ commission, or health or safety code, is not 96178
being enforced against other manufactured home park residents, or 96179
that the two violations were not willful and not committed in bad 96180
faith. 96181

If the resident remedies the condition described in the 96182
notice, whether by repair, the payment of damages, or otherwise, 96183
the rental agreement shall not terminate. The park operator may 96184
terminate the rental agreement immediately if the resident commits 96185
a second material violation of the park or ~~public health council~~ 96186
commission rules, or of applicable state and local health and 96187
safety codes, subject to the defense that the park rule is 96188
unreasonable, that the park or ~~public health council~~ commission 96189
rule, or health or safety code, is not being enforced against 96190
other manufactured home park residents, or that the two violations 96191
were not willful and not committed in bad faith. 96192

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 96193
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code, any party may 96194
recover damages for the breach of contract or the breach of any 96195
duty that is imposed by law. 96196

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 96197
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 96198
waived by any oral or written agreement except as provided in 96199
division (F) of this section. 96200

(B) No warrant of attorney to confess judgment shall be 96201
recognized in any rental agreement or in any other agreement 96202
between a park operator and resident for the recovery of rent or 96203
damages to the residential premises. 96204

(C) No agreement to pay the park operator's or resident's attorney fees shall be recognized in any rental agreement for residential premises or in any other agreement between a park operator and resident.

(D) No agreement by a resident to the exculpation or limitation of any liability of the park operator arising under law or to indemnify the park operator for that liability or its related costs shall be recognized in any rental agreement or in any other agreement between a park operator and resident.

(E) A rental agreement, or the assignment, conveyance, trust deed, or security instrument of the park operator's interest in the rental agreement may not permit the receipt of rent free of the obligation to comply with section ~~3733.10~~ 4781.38 of the Revised Code.

(F) The park operator may agree to assume responsibility for fulfilling any duty or obligation imposed on a resident by section ~~3733.101~~ 4781.39 of the Revised Code.

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law finds a rental agreement, or any clause of it, to have been unconscionable at the time it was made, it may refuse to enforce the rental agreement or it may enforce the remainder of the rental agreement without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(B) When it is claimed or appears to the court that the rental agreement, or any clause of it, may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential

premises shall initiate any act, including termination of 96235
utilities or services, exclusion from the premises, or threat of 96236
any unlawful act, against a resident, or a resident whose right to 96237
possession has terminated, for the purpose of recovering 96238
possession of residential premises, other than as provided in 96239
Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code. 96240

(B) No park operator of residential premises shall seize the 96241
furnishings or possessions of a resident, or of a resident whose 96242
right to possession was terminated, for the purpose of recovering 96243
rent payments, other than in accordance with an order issued by a 96244
court of competent jurisdiction. 96245

(C) A park operator who violates this section is liable in a 96246
civil action for all damages caused to a resident, or to a 96247
resident whose right to possession has terminated, together with 96248
reasonable attorneys' fees. 96249

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of 96250
fifty dollars or one month's periodic rent, whichever is greater, 96251
shall bear interest on the excess at the rate of five per cent per 96252
annum if the resident remains in possession of the premises for 96253
six months or more, and shall be computed and paid annually by the 96254
park operator to the resident. 96255

(B) Upon termination of the rental agreement any property or 96256
money held by the park operator as a security deposit may be 96257
applied to the payment of past due rent and to the payment of the 96258
amount of damages that the park operator has suffered by reason of 96259
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 96260
Revised Code or the rental agreement. Any deduction from the 96261
security deposit shall be itemized and identified by the park 96262
operator in a written notice delivered to the resident together 96263
with the amount due, within thirty days after termination of the 96264
rental agreement and delivery of possession. The resident shall 96265

provide the park operator in writing with a forwarding address or 96266
new address to which the written notice and amount due from the 96267
park operator may be sent. If the resident fails to provide the 96268
park operator with the forwarding or new address as required, the 96269
resident shall not be entitled to damages or attorneys' fees under 96270
division (C) of this section. 96271

(C) If the park operator fails to comply with division (B) of 96272
this section, the resident may recover the property and money due 96273
~~him~~ the resident, together with damages in an amount equal to the 96274
amount wrongfully withheld, and reasonable attorneys' fees. 96275

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for 96276
residential premises shall contain the name and address of the 96277
owner of the residential premises and the name and address of the 96278
owner's agent, if any. If the owner or the owner's agent is a 96279
corporation, partnership, limited partnership, association, trust, 96280
or other entity, the address shall be the principal place of 96281
business in the county in which the residential premises are 96282
situated or if there is no place of business in such county then 96283
its principal place of business in this state, and shall include 96284
the name of the person in charge thereof. 96285

(B) If the rental agreement is oral, the park operator, at 96286
the commencement of the term of occupancy, shall deliver to the 96287
resident a written notice containing the information required in 96288
division (A) of this section. 96289

(C) If the park operator fails to provide the notice of the 96290
name and address of the owner and owner's agent, if any, as 96291
required under division (A) or (B) of this section, the notices to 96292
the park operator required under division (A) of sections ~~3733.12~~ 96293
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 96294
park operator and the operator's agent. 96295

(D) Every written rental agreement for residential premises 96296

shall contain the following notice in ten-point boldface type: 96297

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK 96298
OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO 96299
~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL 96300
AGREEMENTS IN MANUFACTURED HOME PARKS." 96301

If the rental agreement is oral, the park operator, at the 96302
commencement of the term of occupancy, shall deliver the notice to 96303
the resident in writing. 96304

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or 96305
continue in existence any ordinance and no township may adopt or 96306
continue in existence any resolution that is in conflict with 96307
sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, 96308
or that regulates those rights and obligations of parties to a 96309
rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to 96310
~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to 96311
~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, 96312
building, health, or safety codes of any municipal corporation or 96313
township. 96314

Sec. 4781.54. There is hereby created in the state treasury 96315
the manufactured homes commission regulatory fund. The fund shall 96316
consist of fees collected under section 4781.121 of the Revised 96317
Code and fees paid under section 4781.28 of the Revised Code and 96318
shall be used for the purposes described in those sections. 96319

Sec. 4781.99. (A) Whoever violates division (A) of section 96320
4781.16 of the Revised Code is guilty of a minor misdemeanor on a 96321
first offense and shall be subject to a mandatory fine of one 96322
hundred dollars. On a second offense, the person is guilty of a 96323
misdemeanor of the first degree and shall be subject to a 96324
mandatory fine of one thousand dollars. 96325

(B) Whoever violates section 4781.20 of the Revised Code is guilty of a minor misdemeanor. 96326
96327

(C) Whoever violates any of the following is guilty of a misdemeanor of the fourth degree: 96328
96329

(1) Division (B) or (C) of section 4781.16 of the Revised Code; 96330
96331

(2) Section 4781.22 of the Revised Code; 96332

(3) Section 4781.23 of the Revised Code; 96333

(4) Division (A) of section 4781.24 of the Revised Code; 96334

(5) Section 4781.25 of the Revised Code; 96335

(6) Division (A) of section 4781.35 of the Revised Code. 96336

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the Revised Code: 96337
96338

(A) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section ~~3733.01~~ 4781.01 of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track. 96339
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(B) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive. 96345
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(C) "Gathering lines" and the "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act and the rules adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act, including 49 C.F.R. part 192, as amended. 96347
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(D) "Intrastate pipe-line transportation" has the same meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as amended, but excludes the gathering of gas exempted by the Natural 96352
96353
96354

Gas Pipeline Safety Act. 96355

(E) "Master-meter system" means a pipe-line system that 96356
distributes gas within a contiguous property for which the system 96357
operator purchases gas for resale to consumers, including tenants. 96358
Such pipe-line system supplies consumers who purchase the gas 96359
directly through a meter, or by paying rent, or by other means. 96360
The term includes a master-meter system as defined in 49 C.F.R. 96361
191.3, as amended. The term excludes a pipeline within a 96362
manufactured home, mobile home, or a building. 96363

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 96364
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 96365
et seq., as amended. 96366

(G) "Operator" means any of the following: 96367

(1) A gas company or natural gas company as defined in 96368
section 4905.03 of the Revised Code, except that division (A)(5) 96369
of that section does not authorize the public utilities commission 96370
to relieve any producer of gas, as a gas company or natural gas 96371
company, of compliance with sections 4905.90 to 4905.96 of the 96372
Revised Code or the pipe-line safety code created under section 96373
4905.91 of the Revised Code; 96374

(2) A pipe-line company, as defined in section 4905.03 of the 96375
Revised Code, when engaged in the business of transporting gas by 96376
pipeline; 96377

(3) A public utility that is excepted from the definition of 96378
"public utility" under division (B) or (C) of section 4905.02 of 96379
the Revised Code, when engaged in supplying or transporting gas by 96380
pipeline within this state; 96381

(4) Any person that owns, operates, manages, controls, or 96382
leases any of the following: 96383

(a) Intrastate pipe-line transportation facilities within 96384

this state; 96385

(b) Gas gathering lines within this state which are not 96386
exempted by the Natural Gas Pipeline Safety Act; 96387

(c) A master-meter system within this state. 96388

"Operator" does not include an ultimate consumer who owns a 96389
service line, as defined in 49 C.F.R. 192.3, as amended, on the 96390
real property of that ultimate consumer. 96391

(H) "Operator of a master-meter system" means a person 96392
described under division ~~(F)~~(G)(4)(c) of this section. An operator 96393
of a master-meter system is not a public utility under section 96394
4905.02 or a gas or natural gas company under section 4905.03 of 96395
the Revised Code. 96396

(I) "Person" means: 96397

(1) In addition to those defined in division (C) of section 96398
1.59 of the Revised Code, a joint venture or a municipal 96399
corporation; 96400

(2) Any trustee, receiver, assignee, or personal 96401
representative of persons defined in division ~~(H)~~(I)(1) of this 96402
section. 96403

(J) "Safety audit" means the public utilities commission's 96404
audit of the premises, pipe-line facilities, and the records, 96405
maps, and other relevant documents of a master-meter system to 96406
determine the operator's compliance with sections 4905.90 to 96407
4905.96 of the Revised Code and the pipe-line safety code. 96408

(K) "Safety inspection" means any inspection, survey, or 96409
testing of a master-meter system which is authorized or required 96410
by sections 4905.90 to 4905.96 of the Revised Code and the 96411
pipe-line safety code. The term includes, but is not limited to, 96412
leak surveys, inspection of regulators and critical valves, and 96413
monitoring of cathodic protection systems, where applicable. 96414

(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended.	96415 96416
(M) "Total Mcfs of gas it supplied or delivered" means the sum of the following volumes of gas that an operator supplied or delivered, measured in units per one thousand cubic feet:	96417 96418 96419
(1) Residential sales;	96420
(2) Commercial and industrial sales;	96421
(3) Other sales to public authorities;	96422
(4) Interdepartmental sales;	96423
(5) Sales for resale;	96424
(6) Transportation of gas.	96425
Sec. 4906.01. As used in Chapter 4906. of the Revised Code:	96426
(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.	96427 96428 96429 96430
(B) <u>(1)</u> "Major utility facility" means:	96431
(1) <u>(a)</u> Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;	96432 96433 96434
(2) <u>(b)</u> An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;	96435 96436 96437
(3) <u>(c)</u> A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.	96438 96439 96440 96441
<u>(2)</u> "Major utility facility" does not include electric gas or	96442

natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, any solid waste facilities as defined in section 6123.01 of the Revised Code, or either of the following as defined by the power siting board:

(a) Electric, gas, natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the power siting board, nor gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, nor any solid waste facilities as defined in section 6123.01 of the Revised Code;

(b) Any manufacturing facility that creates byproducts that may be used in the generation of electricity.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(D) "Certificate" means a certificate of environmental compatibility and public need issued by the power siting board under section 4906.10 of the Revised Code or a construction certificate issued by the board under rules adopted under division (E) of section 4906.03 of the Revised Code.

Sec. 4911.02. (A) The consumers' counsel shall be appointed by the consumers' counsel governing board, and shall hold office at the pleasure of the board.

(B)(1) The counsel may sue or be sued and has the powers and duties granted ~~him~~ the counsel under this chapter, and all necessary powers to carry out the purposes of this chapter.

(2) Without limitation because of enumeration, the counsel: 96473

(a) Shall have all the rights and powers of any party in 96474
interest appearing before the public utilities commission 96475
regarding examination and cross-examination of witnesses, 96476
presentation of evidence, and other matters; 96477

(b) May take appropriate action with respect to residential 96478
consumer complaints concerning quality of service, service 96479
charges, and the operation of the public utilities commission; 96480

(c) May institute, intervene in, or otherwise participate in 96481
proceedings in both state and federal courts and administrative 96482
agencies on behalf of the residential consumers concerning review 96483
of decisions rendered by, or failure to act by, the public 96484
utilities commission; 96485

(d) May conduct long range studies concerning various topics 96486
relevant to the rates charged to ~~residential~~ residential consumers. 96487

(C) The counsel shall follow the policies of the state as set 96488
forth in Chapter 4929. of the Revised Code that involve supporting 96489
retail natural gas competition. 96490

Sec. 4911.021. The consumers' counsel shall not operate a 96491
telephone call center for consumer complaints. Any calls received 96492
by the consumers' counsel concerning consumer complaints shall be 96493
forwarded to the public utilities commission's call center. 96494

Sec. 4927.17. (A) Except as provided in sections 4927.07 and 96495
4927.12 of the Revised Code ~~and, if applicable, under rules 96496
adopted by the public utilities commission for the pilot program 96497
for community voicemail service created in S.B. 162 of the 128th 96498
general assembly,~~ a telephone company shall provide at least 96499
fifteen days' advance notice to its affected customers of any 96500
material change in the rates, terms, and conditions of a service 96501
and any change in the company's operations that are not 96502

transparent to customers and may impact service. 96503

(B) A telephone company shall inform its customers of the 96504
commission's toll-free number and e-mail address on all bills and 96505
disconnection notices and any residential customers of the office 96506
of the consumers' counsel's toll-free number and e-mail address on 96507
all residential bills and disconnection notices. 96508

Sec. 4928.01. (A) As used in this chapter: 96509

(1) "Ancillary service" means any function necessary to the 96510
provision of electric transmission or distribution service to a 96511
retail customer and includes, but is not limited to, scheduling, 96512
system control, and dispatch services; reactive supply from 96513
generation resources and voltage control service; reactive supply 96514
from transmission resources service; regulation service; frequency 96515
response service; energy imbalance service; operating 96516
reserve-spinning reserve service; operating reserve-supplemental 96517
reserve service; load following; back-up supply service; 96518
real-power loss replacement service; dynamic scheduling; system 96519
black start capability; and network stability service. 96520

(2) "Billing and collection agent" means a fully independent 96521
agent, not affiliated with or otherwise controlled by an electric 96522
utility, electric services company, electric cooperative, or 96523
governmental aggregator subject to certification under section 96524
4928.08 of the Revised Code, to the extent that the agent is under 96525
contract with such utility, company, cooperative, or aggregator 96526
solely to provide billing and collection for retail electric 96527
service on behalf of the utility company, cooperative, or 96528
aggregator. 96529

(3) "Certified territory" means the certified territory 96530
established for an electric supplier under sections 4933.81 to 96531
4933.90 of the Revised Code. 96532

(4) "Competitive retail electric service" means a component of retail electric service that is competitive as provided under division (B) of this section.

(5) "Electric cooperative" means a not-for-profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not-for-profit successor of such company.

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service.

(7) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code and includes an electric services company, but excludes any self-generator to the extent that it consumes electricity it so produces, sells that electricity for resale, or obtains electricity from a generating facility it hosts on its premises.

(8) "Electric load center" has the same meaning as in section 4933.81 of the Revised Code.

(9) "Electric services company" means an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

(10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code.

(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis

either in the business of supplying a noncompetitive retail 96564
electric service in this state or in the businesses of supplying 96565
both a noncompetitive and a competitive retail electric service in 96566
this state. "Electric utility" excludes a municipal electric 96567
utility or a billing and collection agent. 96568

(12) "Firm electric service" means electric service other 96569
than nonfirm electric service. 96570

(13) "Governmental aggregator" means a legislative authority 96571
of a municipal corporation, a board of township trustees, or a 96572
board of county commissioners acting as an aggregator for the 96573
provision of a competitive retail electric service under authority 96574
conferred under section 4928.20 of the Revised Code. 96575

(14) A person acts "knowingly," regardless of the person's 96576
purpose, when the person is aware that the person's conduct will 96577
probably cause a certain result or will probably be of a certain 96578
nature. A person has knowledge of circumstances when the person is 96579
aware that such circumstances probably exist. 96580

(15) "Level of funding for low-income customer energy 96581
efficiency programs provided through electric utility rates" means 96582
the level of funds specifically included in an electric utility's 96583
rates on October 5, 1999, pursuant to an order of the public 96584
utilities commission issued under Chapter 4905. or 4909. of the 96585
Revised Code and in effect on October 4, 1999, for the purpose of 96586
improving the energy efficiency of housing for the utility's 96587
low-income customers. The term excludes the level of any such 96588
funds committed to a specific nonprofit organization or 96589
organizations pursuant to a stipulation or contract. 96590

(16) "Low-income customer assistance programs" means the 96591
percentage of income payment plan program, the home energy 96592
assistance program, the home weatherization assistance program, 96593
and the targeted energy efficiency and weatherization program. 96594

(17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to receive transition revenues under this chapter.

(18) "Market power" means the ability to impose on customers a sustained price for a product or service above the price that would prevail in a competitive market.

(19) "Mercantile customer" means a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.

(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.

(21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section.

(22) "Nonfirm electric service" means electric service provided pursuant to a schedule filed under section 4905.30 of the Revised Code or pursuant to an arrangement under section 4905.31 of the Revised Code, which schedule or arrangement includes conditions that may require the customer to curtail or interrupt electric usage during nonemergency circumstances upon notification by an electric utility.

(23) "Percentage of income payment plan arrears" means funds eligible for collection through the percentage of income payment plan rider, but uncollected as of July 1, 2000.

(24) "Person" has the same meaning as in section 1.59 of the

Revised Code. 96626

(25) "Advanced energy project" means any technologies, 96627
products, activities, or management practices or strategies that 96628
facilitate the generation or use of electricity or energy and that 96629
reduce or support the reduction of energy consumption or support 96630
the production of clean, renewable energy for industrial, 96631
distribution, commercial, institutional, governmental, research, 96632
not-for-profit, or residential energy users, including, but not 96633
limited to, advanced energy resources and renewable energy 96634
resources. "Advanced energy project" also includes any project 96635
described in division (A), (B), or (C) of section 4928.621 of the 96636
Revised Code. 96637

(26) "Regulatory assets" means the unamortized net regulatory 96638
assets that are capitalized or deferred on the regulatory books of 96639
the electric utility, pursuant to an order or practice of the 96640
public utilities commission or pursuant to generally accepted 96641
accounting principles as a result of a prior commission 96642
rate-making decision, and that would otherwise have been charged 96643
to expense as incurred or would not have been capitalized or 96644
otherwise deferred for future regulatory consideration absent 96645
commission action. "Regulatory assets" includes, but is not 96646
limited to, all deferred demand-side management costs; all 96647
deferred percentage of income payment plan arrears; 96648
post-in-service capitalized charges and assets recognized in 96649
connection with statement of financial accounting standards no. 96650
109 (receivables from customers for income taxes); future nuclear 96651
decommissioning costs and fuel disposal costs as those costs have 96652
been determined by the commission in the electric utility's most 96653
recent rate or accounting application proceeding addressing such 96654
costs; the undepreciated costs of safety and radiation control 96655
equipment on nuclear generating plants owned or leased by an 96656
electric utility; and fuel costs currently deferred pursuant to 96657

the terms of one or more settlement agreements approved by the 96658
commission. 96659

(27) "Retail electric service" means any service involved in 96660
supplying or arranging for the supply of electricity to ultimate 96661
consumers in this state, from the point of generation to the point 96662
of consumption. For the purposes of this chapter, retail electric 96663
service includes one or more of the following "service 96664
components": generation service, aggregation service, power 96665
marketing service, power brokerage service, transmission service, 96666
distribution service, ancillary service, metering service, and 96667
billing and collection service. 96668

(28) "Starting date of competitive retail electric service" 96669
means January 1, 2001. 96670

(29) "Customer-generator" means a user of a net metering 96671
system. 96672

(30) "Net metering" means measuring the difference in an 96673
applicable billing period between the electricity supplied by an 96674
electric service provider and the electricity generated by a 96675
customer-generator that is fed back to the electric service 96676
provider. 96677

(31) "Net metering system" means a facility for the 96678
production of electrical energy that does all of the following: 96679

(a) Uses as its fuel either solar, wind, biomass, landfill 96680
gas, or hydropower, or uses a microturbine or a fuel cell; 96681

(b) Is located on a customer-generator's premises; 96682

(c) Operates in parallel with the electric utility's 96683
transmission and distribution facilities; 96684

(d) Is intended primarily to offset part or all of the 96685
customer-generator's requirements for electricity. 96686

(32) "Self-generator" means an entity in this state that owns 96687

or hosts on its premises an electric generation facility that 96688
produces electricity primarily for the owner's consumption and 96689
that may provide any such excess electricity to another entity, 96690
whether the facility is installed or operated by the owner or by 96691
an agent under a contract. 96692

(33) "Rate plan" means the standard service offer in effect 96693
on the effective date of the amendment of this section by S.B. 221 96694
of the 127th general assembly, July 31, 2008. 96695

(34) "Advanced energy resource" means any of the following: 96696

(a) Any method or any modification or replacement of any 96697
property, process, device, structure, or equipment that increases 96698
the generation output of an electric generating facility to the 96699
extent such efficiency is achieved without additional carbon 96700
dioxide emissions by that facility; 96701

(b) Any distributed generation system consisting of customer 96702
cogeneration of electricity and thermal output simultaneously; 96703

(c) Clean coal technology that includes a carbon-based 96704
product that is chemically altered before combustion to 96705
demonstrate a reduction, as expressed as ash, in emissions of 96706
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 96707
sulfur trioxide in accordance with the American society of testing 96708
and materials standard D1757A or a reduction of metal oxide 96709
emissions in accordance with standard D5142 of that society, or 96710
clean coal technology that includes the design capability to 96711
control or prevent the emission of carbon dioxide, which design 96712
capability the commission shall adopt by rule and shall be based 96713
on economically feasible best available technology or, in the 96714
absence of a determined best available technology, shall be of the 96715
highest level of economically feasible design capability for which 96716
there exists generally accepted scientific opinion; 96717

(d) Advanced nuclear energy technology consisting of 96718

generation III technology as defined by the nuclear regulatory 96719
commission; other, later technology; or significant improvements 96720
to existing facilities; 96721

(e) Any fuel cell used in the generation of electricity, 96722
including, but not limited to, a proton exchange membrane fuel 96723
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 96724
solid oxide fuel cell; 96725

(f) Advanced solid waste or construction and demolition 96726
debris conversion technology, including, but not limited to, 96727
advanced stoker technology, and advanced fluidized bed 96728
gasification technology, that results in measurable greenhouse gas 96729
emissions reductions as calculated pursuant to the United States 96730
environmental protection agency's waste reduction model (WARM). 96731

(g) Demand-side management and any energy efficiency 96732
improvement. 96733

(35) "Renewable energy resource" means solar photovoltaic or 96734
solar thermal energy, wind energy, power produced by a 96735
hydroelectric facility, geothermal energy, fuel derived from solid 96736
wastes, as defined in section 3734.01 of the Revised Code, through 96737
fractionation, biological decomposition, or other process that 96738
does not principally involve combustion, biomass energy, 96739
biologically derived methane gas, ~~or~~ energy derived from 96740
nontreated by-products of the pulping process or wood 96741
manufacturing process, including bark, wood chips, sawdust, and 96742
lignin in spent pulping liquors, or energy or fuel derived from 96743
algae or manure from an impacted lake district created under 96744
section 353.02 of the Revised Code. "Renewable energy resource" 96745
includes, but is not limited to, any fuel cell used in the 96746
generation of electricity, including, but not limited to, a proton 96747
exchange membrane fuel cell, phosphoric acid fuel cell, molten 96748
carbonate fuel cell, or solid oxide fuel cell; wind turbine 96749
located in the state's territorial waters of Lake Erie; methane 96750

gas emitted from an abandoned coal mine; storage facility that 96751
will promote the better utilization of a renewable energy resource 96752
that primarily generates off peak; or distributed generation 96753
system used by a customer to generate electricity from any such 96754
energy. As used in division (A)(35) of this section, 96755
"hydroelectric facility" means a hydroelectric generating facility 96756
that is located at a dam on a river, or on any water discharged to 96757
a river, that is within or bordering this state or within or 96758
bordering an adjoining state and meets all of the following 96759
standards: 96760

(a) The facility provides for river flows that are not 96761
detrimental for fish, wildlife, and water quality, including 96762
seasonal flow fluctuations as defined by the applicable licensing 96763
agency for the facility. 96764

(b) The facility demonstrates that it complies with the water 96765
quality standards of this state, which compliance may consist of 96766
certification under Section 401 of the "Clean Water Act of 1977," 96767
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 96768
not contributed to a finding by this state that the river has 96769
impaired water quality under Section 303(d) of the "Clean Water 96770
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 96771

(c) The facility complies with mandatory prescriptions 96772
regarding fish passage as required by the federal energy 96773
regulatory commission license issued for the project, regarding 96774
fish protection for riverine, anadromous, and catadromous fish. 96775

(d) The facility complies with the recommendations of the 96776
Ohio environmental protection agency and with the terms of its 96777
federal energy regulatory commission license regarding watershed 96778
protection, mitigation, or enhancement, to the extent of each 96779
agency's respective jurisdiction over the facility. 96780

(e) The facility complies with provisions of the "Endangered 96781

Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 96782
amended. 96783

(f) The facility does not harm cultural resources of the 96784
area. This can be shown through compliance with the terms of its 96785
federal energy regulatory commission license or, if the facility 96786
is not regulated by that commission, through development of a plan 96787
approved by the Ohio historic preservation office, to the extent 96788
it has jurisdiction over the facility. 96789

(g) The facility complies with the terms of its federal 96790
energy regulatory commission license or exemption that are related 96791
to recreational access, accommodation, and facilities or, if the 96792
facility is not regulated by that commission, the facility 96793
complies with similar requirements as are recommended by resource 96794
agencies, to the extent they have jurisdiction over the facility; 96795
and the facility provides access to water to the public without 96796
fee or charge. 96797

(h) The facility is not recommended for removal by any 96798
federal agency or agency of any state, to the extent the 96799
particular agency has jurisdiction over the facility. 96800

(B) For the purposes of this chapter, a retail electric 96801
service component shall be deemed a competitive retail electric 96802
service if the service component is competitive pursuant to a 96803
declaration by a provision of the Revised Code or pursuant to an 96804
order of the public utilities commission authorized under division 96805
(A) of section 4928.04 of the Revised Code. Otherwise, the service 96806
component shall be deemed a noncompetitive retail electric 96807
service. 96808

Sec. 4928.20. (A) The legislative authority of a municipal 96809
corporation may adopt an ordinance, or the board of township 96810
trustees of a township or the board of county commissioners of a 96811
county may adopt a resolution, under which, on or after the 96812

starting date of competitive retail electric service, it may 96813
aggregate in accordance with this section the retail electrical 96814
loads located, respectively, within the municipal corporation, 96815
township, or unincorporated area of the county and, for that 96816
purpose, may enter into service agreements to facilitate for those 96817
loads the sale and purchase of electricity. The legislative 96818
authority or board also may exercise such authority jointly with 96819
any other such legislative authority or board. For customers that 96820
are not mercantile customers, an ordinance or resolution under 96821
this division shall specify whether the aggregation will occur 96822
only with the prior, affirmative consent of each person owning, 96823
occupying, controlling, or using an electric load center proposed 96824
to be aggregated or will occur automatically for all such persons 96825
pursuant to the opt-out requirements of division (D) of this 96826
section. The aggregation of mercantile customers shall occur only 96827
with the prior, affirmative consent of each such person owning, 96828
occupying, controlling, or using an electric load center proposed 96829
to be aggregated. Nothing in this division, however, authorizes 96830
the aggregation of the retail electric loads of an electric load 96831
center, as defined in section 4933.81 of the Revised Code, that is 96832
located in the certified territory of a nonprofit electric 96833
supplier under sections 4933.81 to 4933.90 of the Revised Code or 96834
an electric load center served by transmission or distribution 96835
facilities of a municipal electric utility. 96836

(B) If an ordinance or resolution adopted under division (A) 96837
of this section specifies that aggregation of customers that are 96838
not mercantile customers will occur automatically as described in 96839
that division, the ordinance or resolution shall direct the board 96840
of elections to submit the question of the authority to aggregate 96841
to the electors of the respective municipal corporation, township, 96842
or unincorporated area of a county at a special election on the 96843
day of the next primary or general election in the municipal 96844
corporation, township, or county. The legislative authority or 96845

board shall certify a copy of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section that provides for automatic aggregation of customers that are not mercantile customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the

program every three years, without paying a switching fee. Any 96878
such person that opts out before the commencement of the 96879
aggregation program pursuant to the stated procedure shall default 96880
to the standard service offer provided under section 4928.14 or 96881
division (D) of section 4928.35 of the Revised Code until the 96882
person chooses an alternative supplier. 96883

(E)(1) With respect to a governmental aggregation for a 96884
municipal corporation that is authorized pursuant to divisions (A) 96885
to (D) of this section, resolutions may be proposed by initiative 96886
or referendum petitions in accordance with sections 731.28 to 96887
731.41 of the Revised Code. 96888

(2) With respect to a governmental aggregation for a township 96889
or the unincorporated area of a county, which aggregation is 96890
authorized pursuant to divisions (A) to (D) of this section, 96891
resolutions may be proposed by initiative or referendum petitions 96892
in accordance with sections 731.28 to 731.40 of the Revised Code, 96893
except that: 96894

(a) The petitions shall be filed, respectively, with the 96895
township fiscal officer or the board of county commissioners, who 96896
shall perform those duties imposed under those sections upon the 96897
city auditor or village clerk. 96898

(b) The petitions shall contain the signatures of not less 96899
than ten per cent of the total number of electors in, 96900
respectively, the township or the unincorporated area of the 96901
county who voted for the office of governor at the preceding 96902
general election for that office in that area. 96903

(F) A governmental aggregator under division (A) of this 96904
section is not a public utility engaging in the wholesale purchase 96905
and resale of electricity, and provision of the aggregated service 96906
is not a wholesale utility transaction. A governmental aggregator 96907
shall be subject to supervision and regulation by the public 96908

utilities commission only to the extent of any competitive retail 96909
electric service it provides and commission authority under this 96910
chapter. 96911

(G) This section does not apply in the case of a municipal 96912
corporation that supplies such aggregated service to electric load 96913
centers to which its municipal electric utility also supplies a 96914
noncompetitive retail electric service through transmission or 96915
distribution facilities the utility singly or jointly owns or 96916
operates. 96917

(H) A governmental aggregator shall not include in its 96918
aggregation the accounts of any of the following: 96919

(1) A customer that has opted out of the aggregation; 96920

(2) A customer in contract with a certified electric services 96921
company; 96922

(3) A customer that has a special contract with an electric 96923
distribution utility; 96924

(4) A customer that is not located within the governmental 96925
aggregator's governmental boundaries; 96926

(5) Subject to division (C) of section 4928.21 of the Revised 96927
Code, a customer who appears on the "do not aggregate" list 96928
maintained under that section. 96929

(I) Customers that are part of a governmental aggregation 96930
under this section shall be responsible only for such portion of a 96931
surcharge under section 4928.144 of the Revised Code that is 96932
proportionate to the benefits, as determined by the commission, 96933
that electric load centers within the jurisdiction of the 96934
governmental aggregation as a group receive. The proportionate 96935
surcharge so established shall apply to each customer of the 96936
governmental aggregation while the customer is part of that 96937
aggregation. If a customer ceases being such a customer, the 96938

otherwise applicable surcharge shall apply. Nothing in this 96939
section shall result in less than full recovery by an electric 96940
distribution utility of any surcharge authorized under section 96941
4928.144 of the Revised Code. 96942

(J) On behalf of the customers that are part of a 96943
governmental aggregation under this section and by filing written 96944
notice with the public utilities commission, the legislative 96945
authority that formed or is forming that governmental aggregation 96946
may elect not to receive standby service within the meaning of 96947
division (B)(2)(d) of section 4928.143 of the Revised Code from an 96948
electric distribution utility in whose certified territory the 96949
governmental aggregation is located and that operates under an 96950
approved electric security plan under that section. Upon the 96951
filing of that notice, the electric distribution utility shall not 96952
charge any such customer to whom competitive retail electric 96953
generation service is provided by another supplier under the 96954
governmental aggregation for the standby service. Any such 96955
consumer that returns to the utility for competitive retail 96956
electric service shall pay the market price of power incurred by 96957
the utility to serve that consumer plus any amount attributable to 96958
the utility's cost of compliance with the alternative energy 96959
resource provisions of section 4928.64 of the Revised Code to 96960
serve the consumer. Such market price shall include, but not be 96961
limited to, capacity and energy charges; all charges associated 96962
with the provision of that power supply through the regional 96963
transmission organization, including, but not limited to, 96964
transmission, ancillary services, congestion, and settlement and 96965
administrative charges; and all other costs incurred by the 96966
utility that are associated with the procurement, provision, and 96967
administration of that power supply, as such costs may be approved 96968
by the commission. The period of time during which the market 96969
price and alternative energy resource amount shall be so assessed 96970
on the consumer shall be from the time the consumer so returns to 96971

the electric distribution utility until the expiration of the 96972
electric security plan. However, if that period of time is 96973
expected to be more than two years, the commission may reduce the 96974
time period to a period of not less than two years. 96975

(K) The commission shall adopt rules to encourage and promote 96976
large-scale governmental aggregation in this state. For that 96977
purpose, the commission shall conduct an immediate review of any 96978
rules it has adopted for the purpose of this section that are in 96979
effect on the effective date of the amendment of this section by 96980
S.B. 221 of the 127th general assembly, July 31, 2008. Further, 96981
within the context of an electric security plan under section 96982
4928.143 of the Revised Code, the commission shall consider the 96983
effect on large-scale governmental aggregation of any 96984
nonbypassable generation charges, however collected, that would be 96985
established under that plan, except any nonbypassable generation 96986
charges that relate to any cost incurred by the electric 96987
distribution utility, the deferral of which has been authorized by 96988
the commission prior to the effective date of the amendment of 96989
this section by S.B. 221 of the 127th general assembly, July 31, 96990
2008. 96991

Sec. 4929.26. (A)(1) The legislative authority of a municipal 96992
corporation may adopt an ordinance, or the board of township 96993
trustees of a township or the board of county commissioners of a 96994
county may adopt a resolution, under which, in accordance with 96995
this section and except as otherwise provided in division (A)(2) 96996
of this section, the legislative authority or board may aggregate 96997
automatically, subject to the opt-out requirements of division (D) 96998
of this section, competitive retail natural gas service for the 96999
retail natural gas loads that are located, respectively, within 97000
the municipal corporation, township, or unincorporated area of the 97001
county and for which there is a choice of supplier of that service 97002
as a result of revised schedules approved under division (C) of 97003

section 4929.29 of the Revised Code, a rule or order adopted or 97004
issued by the commission under Chapter 4905. of the Revised Code, 97005
or an exemption granted by the commission under sections 4929.04 97006
to 4929.08 of the Revised Code. An ordinance or a resolution 97007
adopted under this section shall expressly state that it is 97008
adopted pursuant to the authority conferred by this section. The 97009
legislative authority or board also may exercise its authority 97010
under this section jointly with any other such legislative 97011
authority or board. For the purpose of the aggregation, the 97012
legislative authority or board may enter into service agreements 97013
to facilitate the sale and purchase of the service for the retail 97014
natural gas loads. 97015

(2)(a) No aggregation under an ordinance or resolution 97016
adopted under division (A)(1) of this section shall include the 97017
retail natural gas load of any person that meets any of the 97018
following criteria: 97019

(i) The person is both a distribution service customer and a 97020
mercantile customer on the date of commencement of service to the 97021
aggregated load, or the person becomes a distribution service 97022
customer after that date and also is a mercantile customer. 97023

(ii) The person is supplied with commodity sales service 97024
pursuant to a contract with a retail natural gas supplier that is 97025
in effect on the effective date of the ordinance or resolution. 97026

(iii) The person is supplied with commodity sales service as 97027
part of a retail natural gas load aggregation provided for 97028
pursuant to a rule or order adopted or issued by the commission 97029
under this chapter or Chapter 4905. of the Revised Code. 97030

(b) Nothing in division (A)(2)(a) of this section precludes a 97031
governmental aggregation under this section from permitting the 97032
retail natural gas load of a person described in division 97033
(A)(2)(a) of this section from being included in the aggregation 97034

upon the expiration of any contract or aggregation as described in 97035
division (A)(2)(a)(ii) or (iii) of this section or upon the person 97036
no longer being a customer as described in division (A)(2)(a)(i) 97037
of this section or qualifying to be included in an aggregation 97038
described under division (A)(2)(a)(iii) of this section. 97039

(B) An ordinance or resolution adopted under division (A) of 97040
this section shall direct the board of elections to submit the 97041
question of the authority to aggregate to the electors of the 97042
respective municipal corporation, township, or unincorporated area 97043
of a county at a special election on the day of the next primary 97044
or general election in the municipal corporation, township, or 97045
county. The legislative authority or board shall certify a copy of 97046
the ordinance or resolution to the board of elections not less 97047
than ninety days before the day of the special election. No 97048
ordinance or resolution adopted under division (A) of this section 97049
that provides for an election under this division shall take 97050
effect unless approved by a majority of the electors voting upon 97051
the ordinance or resolution at the election held pursuant to this 97052
division. 97053

(C) Upon the applicable requisite authority under divisions 97054
(A) and (B) of this section, the legislative authority or board 97055
shall develop a plan of operation and governance for the 97056
aggregation program so authorized. Before adopting a plan under 97057
this division, the legislative authority or board shall hold at 97058
least two public hearings on the plan. Before the first hearing, 97059
the legislative authority or board shall publish notice of the 97060
hearings once a week for two consecutive weeks in a newspaper of 97061
general circulation in the jurisdiction or as provided in section 97062
7.16 of the Revised Code. The notice shall summarize the plan and 97063
state the date, time, and location of each hearing. 97064

(D) No legislative authority or board, pursuant to an 97065
ordinance or resolution under divisions (A) and (B) of this 97066

section, shall aggregate any retail natural gas load located 97067
within its jurisdiction unless it in advance clearly discloses to 97068
the person whose retail natural gas load is to be so aggregated 97069
that the person will be enrolled automatically in the aggregation 97070
and will remain so enrolled unless the person affirmatively elects 97071
by a stated procedure not to be so enrolled. The disclosure shall 97072
state prominently the rates, charges, and other terms and 97073
conditions of enrollment. The stated procedure shall allow any 97074
person enrolled in the aggregation the opportunity to opt out of 97075
the aggregation every two years, without paying a switching fee. 97076
Any such person that opts out of the aggregation pursuant to the 97077
stated procedure shall default to the natural gas company 97078
providing distribution service for the person's retail natural gas 97079
load, until the person chooses an alternative supplier. 97080

(E)(1) With respect to a governmental aggregation for a 97081
municipal corporation that is authorized pursuant to divisions (A) 97082
to (D) of this section, resolutions may be proposed by initiative 97083
or referendum petitions in accordance with sections 731.28 to 97084
731.41 of the Revised Code. 97085

(2) With respect to a governmental aggregation for a township 97086
or the unincorporated area of a county, which aggregation is 97087
authorized pursuant to divisions (A) to (D) of this section, 97088
resolutions may be proposed by initiative or referendum petitions 97089
in accordance with sections 731.28 to 731.40 of the Revised Code, 97090
except that: 97091

(a) The petitions shall be filed, respectively, with the 97092
township fiscal officer or the board of county commissioners, who 97093
shall perform those duties imposed under those sections upon the 97094
city auditor or village clerk. 97095

(b) The petitions shall contain the signatures of not less 97096
than ten per cent of the total number of electors in the township 97097
or the unincorporated area of the county, respectively, who voted 97098

for the office of governor at the preceding general election for 97099
that office in that area. 97100

(F) A governmental aggregator under division (A) of this 97101
section is not a public utility engaging in the wholesale purchase 97102
and resale of natural gas, and provision of the aggregated service 97103
is not a wholesale utility transaction. A governmental aggregator 97104
shall be subject to supervision and regulation by the public 97105
utilities commission only to the extent of any competitive retail 97106
natural gas service it provides and commission authority under 97107
this chapter. 97108

Sec. 4929.27. (A)(1) The legislative authority of a municipal 97109
corporation may adopt an ordinance, or the board of township 97110
trustees of a township or the board of county commissioners of a 97111
county may adopt a resolution, under which, in accordance with 97112
this section and except as otherwise provided in division (A)(2) 97113
of this section, the legislative authority or board may aggregate, 97114
with the prior consent of each person whose retail natural gas 97115
load is proposed to be aggregated, competitive retail natural gas 97116
service for any such retail natural gas load that is located, 97117
respectively, within the municipal corporation, township, or 97118
unincorporated area of the county and for which there is a choice 97119
of supplier of that service as a result of revised schedules 97120
approved under division (C) of section 4929.29 of the Revised 97121
Code, a rule or order adopted or issued by the commission under 97122
Chapter 4905. of the Revised Code, or an exemption granted by the 97123
commission under sections 4929.04 to 4929.08 of the Revised Code. 97124
An ordinance or a resolution adopted under this section shall 97125
expressly state that it is adopted pursuant to the authority 97126
conferred by this section. The legislative authority or board also 97127
may exercise such authority jointly with any other such 97128
legislative authority or board. For the purpose of the 97129
aggregation, the legislative authority or board may enter into 97130

service agreements to facilitate the sale and purchase of the 97131
service for the retail natural gas loads. 97132

(2)(a) No aggregation under an ordinance or resolution 97133
adopted under division (A)(1) of this section shall include the 97134
retail natural gas load of any person that meets either of the 97135
following criteria: 97136

(i) The person is supplied with commodity sales service 97137
pursuant to a contract with a retail natural gas supplier that is 97138
in effect on the effective date of the ordinance or resolution. 97139

(ii) The person is supplied with commodity sales service as 97140
part of a retail natural gas load aggregation provided for 97141
pursuant to a rule or order adopted or issued by the commission 97142
under this chapter or Chapter 4905. of the Revised Code. 97143

(b) Nothing in division (A)(2)(a) of this section precludes a 97144
governmental aggregation under this section from permitting the 97145
retail natural gas load of a person described in division 97146
(A)(2)(a) of this section from being included in the aggregation 97147
upon the expiration of any contract or aggregation as described in 97148
division (A)(2)(a)(i) or (ii) of this section or upon the person 97149
no longer qualifying to be included in an aggregation. 97150

(B) Upon the applicable requisite authority under division 97151
(A) of this section, the legislative authority or board shall 97152
develop a plan of operation and governance for the aggregation 97153
program so authorized. Before adopting a plan under this division, 97154
the legislative authority or board shall hold at least two public 97155
hearings on the plan. Before the first hearing, the legislative 97156
authority or board shall publish notice of the hearings once a 97157
week for two consecutive weeks in a newspaper of general 97158
circulation in the jurisdiction or as provided in section 7.16 of 97159
the Revised Code. The notice shall summarize the plan and state 97160
the date, time, and location of each hearing. 97161

(C)(1) With respect to a governmental aggregation for a 97162
municipal corporation that is authorized pursuant to division (A) 97163
of this section, resolutions may be proposed by initiative or 97164
referendum petitions in accordance with sections 731.28 to 731.41 97165
of the Revised Code. 97166

(2) With respect to a governmental aggregation for a township 97167
or the unincorporated area of a county, which aggregation is 97168
authorized pursuant to division (A) of this section, resolutions 97169
may be proposed by initiative or referendum petitions in 97170
accordance with sections 731.28 to 731.40 of the Revised Code, 97171
except that: 97172

(a) The petitions shall be filed, respectively, with the 97173
township fiscal officer or the board of county commissioners, who 97174
shall perform those duties imposed under those sections upon the 97175
city auditor or village clerk. 97176

(b) The petitions shall contain the signatures of not less 97177
than ten per cent of the total number of electors in the township 97178
or the unincorporated area of the county, respectively, who voted 97179
for the office of governor at the preceding general election for 97180
that office in that area. 97181

(D) A governmental aggregator under division (A) of this 97182
section is not a public utility engaging in the wholesale purchase 97183
and resale of natural gas, and provision of the aggregated service 97184
is not a wholesale utility transaction. A governmental aggregator 97185
shall be subject to supervision and regulation by the public 97186
utilities commission only to the extent of any competitive retail 97187
natural gas service it provides and commission authority under 97188
this chapter. 97189

Sec. 4931.40. As used in sections 4931.40 to 4931.70 of the 97190
Revised Code: 97191

(A) "9-1-1 system" means a system through which individuals 97192
can request emergency service using the telephone number 9-1-1. 97193

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller 97194
provides information on the nature of and the location of an 97195
emergency, and the personnel receiving the call must determine the 97196
appropriate emergency service provider to respond at that 97197
location. 97198

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of 97199
providing both enhanced wireline 9-1-1 and wireless enhanced 97200
9-1-1. 97201

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which 97202
the wireline telephone network, in providing wireline 9-1-1, 97203
automatically routes the call to emergency service providers that 97204
serve the location from which the call is made and immediately 97205
provides to personnel answering the 9-1-1 call information on the 97206
location and the telephone number from which the call is being 97207
made. 97208

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in 97209
providing wireless 9-1-1, has the capabilities of phase I and, to 97210
the extent available, phase II enhanced 9-1-1 services as 97211
described in 47 C.F.R. 20.18 (d) to (h). 97212

(F)(1) "Wireless service" means federally licensed commercial 97213
mobile service as defined in 47 U.S.C. 332(d) and further defined 97214
as commercial mobile radio service in 47 C.F.R. 20.3, and includes 97215
service provided by any wireless, two-way communications device, 97216
including a radio-telephone communications line used in cellular 97217
telephone service or personal communications service, a network 97218
radio access line, or any functional or competitive equivalent of 97219
such a radio-telephone communications or network radio access 97220
line. 97221

(2) Nothing in sections 4931.40 to 4931.70 of the Revised 97222

Code applies to paging or any service that cannot be used to call 97223
9-1-1. 97224

(G) "Wireless service provider" means a facilities-based 97225
provider of wireless service to one or more end users in this 97226
state. 97227

(H) "Wireless 9-1-1" means the emergency calling service 97228
provided by a 9-1-1 system pursuant to a call originating in the 97229
network of a wireless service provider. 97230

(I) "Wireline 9-1-1" means the emergency calling service 97231
provided by a 9-1-1 system pursuant to a call originating in the 97232
network of a wireline service provider. 97233

(J) "Wireline service provider" means a facilities-based 97234
provider of wireline service to one or more end-users in this 97235
state. 97236

(K) "Wireline service" means basic local exchange service, as 97237
defined in section 4927.01 of the Revised Code, that is 97238
transmitted by means of interconnected wires or cables by a 97239
wireline service provider authorized by the public utilities 97240
commission. 97241

(L) "Wireline telephone network" means the selective router 97242
and data base processing systems, trunking and data wiring cross 97243
connection points at the public safety answering point, and all 97244
other voice and data components of the 9-1-1 system. 97245

(M) "Subdivision" means a county, municipal corporation, 97246
township, township fire district, joint fire district, township 97247
police district, joint police district, joint ambulance district, 97248
or joint emergency medical services district that provides 97249
emergency service within its territory, or that contracts with 97250
another municipal corporation, township, or district or with a 97251
private entity to provide such service; and a state college or 97252
university, port authority, or park district of any kind that 97253

employs law enforcement officers that act as the primary police 97254
force on the grounds of the college or university or port 97255
authority or in the parks operated by the district. 97256

(N) "Emergency service" means emergency law enforcement, 97257
firefighting, ambulance, rescue, and medical service. 97258

(O) "Emergency service provider" means the state highway 97259
patrol and an emergency service department or unit of a 97260
subdivision or that provides emergency service to a subdivision 97261
under contract with the subdivision. 97262

(P) "Public safety answering point" means a facility to which 97263
9-1-1 system calls for a specific territory are initially routed 97264
for response and where personnel respond to specific requests for 97265
emergency service by directly dispatching the appropriate 97266
emergency service provider, relaying a message to the appropriate 97267
provider, or transferring the call to the appropriate provider. 97268

(Q) "Customer premises equipment" means telecommunications 97269
equipment, including telephone instruments, on the premises of a 97270
public safety answering point that is used in answering and 97271
responding to 9-1-1 system calls. 97272

(R) "Municipal corporation in the county" includes any 97273
municipal corporation that is wholly contained in the county and 97274
each municipal corporation located in more than one county that 97275
has a greater proportion of its territory in the county to which 97276
the term refers than in any other county. 97277

(S) "Board of county commissioners" includes the legislative 97278
authority of a county established under Section 3 of Article X, 97279
Ohio Constitution, or Chapter 302. of the Revised Code. 97280

(T) "Final plan" means a final plan adopted under division 97281
(B) of section 4931.44 of the Revised Code and, except as 97282
otherwise expressly provided, an amended final plan adopted under 97283
section 4931.45 of the Revised Code. 97284

(U) "Subdivision served by a public safety answering point" 97285
means a subdivision that provides emergency service for any part 97286
of its territory that is located within the territory of a public 97287
safety answering point whether the subdivision provides the 97288
emergency service with its own employees or pursuant to a 97289
contract. 97290

(V) A township's population includes only population of the 97291
unincorporated portion of the township. 97292

(W) "Telephone company" means a company engaged in the 97293
business of providing local exchange telephone service by making 97294
available or furnishing access and a dial tone to persons within a 97295
local calling area for use in originating and receiving voice 97296
grade communications over a switched network operated by the 97297
provider of the service within the area and gaining access to 97298
other telecommunications services. "Telephone company" includes a 97299
wireline service provider and a wireless service provider unless 97300
otherwise expressly specified. For purposes of sections 4931.52 97301
and 4931.53 of the Revised Code, "telephone company" means a 97302
wireline service provider. 97303

Sec. 4931.51. (A)(1) For the purpose of paying the costs of 97304
establishing, equipping, and furnishing one or more public safety 97305
answering points as part of a countywide 9-1-1 system effective 97306
under division (B) of section 4931.44 of the Revised Code and 97307
paying the expense of administering and enforcing this section, 97308
the board of county commissioners of a county, in accordance with 97309
this section, may fix and impose, on each lot or parcel of real 97310
property in the county that is owned by a person, municipal 97311
corporation, township, or other political subdivision and is 97312
improved, or is in the process of being improved, reasonable 97313
charges to be paid by each such owner. The charges shall be 97314
sufficient to pay only the estimated allowed costs and shall be 97315

equal in amount for all such lots or parcels. 97316

(2) For the purpose of paying the costs of operating and 97317
maintaining the answering points and paying the expense of 97318
administering and enforcing this section, the board, in accordance 97319
with this section, may fix and impose reasonable charges to be 97320
paid by each owner, as provided in division (A)(1) of this 97321
section, that shall be sufficient to pay only the estimated 97322
allowed costs and shall be equal in amount for all such lots or 97323
parcels. The board may fix and impose charges under this division 97324
pursuant to a resolution adopted for the purposes of both 97325
divisions (A)(1) and (2) of this section or pursuant to a 97326
resolution adopted solely for the purpose of division (A)(2) of 97327
this section, and charges imposed under division (A)(2) of this 97328
section may be separately imposed or combined with charges imposed 97329
under division (A)(1) of this section. 97330

(B) Any board adopting a resolution under this section 97331
pursuant to a final plan initiating the establishment of a 9-1-1 97332
system or pursuant to an amendment to a final plan shall adopt the 97333
resolution within sixty days after the board receives the final 97334
plan for the 9-1-1 system pursuant to division (C) of section 97335
4931.43 of the Revised Code. The board by resolution may change 97336
any charge imposed under this section whenever the board considers 97337
it advisable. Any resolution adopted under this section shall 97338
declare whether securities will be issued under Chapter 133. of 97339
the Revised Code in anticipation of the collection of unpaid 97340
special assessments levied under this section. 97341

(C) The board shall adopt a resolution under this section at 97342
a public meeting held in accordance with section 121.22 of the 97343
Revised Code. Additionally, the board, before adopting any such 97344
resolution, shall hold at least two public hearings on the 97345
proposed charges. Prior to the first hearing, the board shall 97346
publish notice of the hearings once a week for two consecutive 97347

weeks in a newspaper of general circulation in the county or as 97348
provided in section 7.16 of the Revised Code. The notice shall 97349
include a listing of the charges proposed in the resolution and 97350
the date, time, and location of each of the hearings. The board 97351
shall hear any person who wishes to testify on the charges or the 97352
resolution. 97353

(D) No resolution adopted under this section shall be 97354
effective sooner than thirty days following its adoption nor shall 97355
any such resolution be adopted as an emergency measure. The 97356
resolution is subject to a referendum in accordance with sections 97357
305.31 to 305.41 of the Revised Code unless, in the resolution, 97358
the board of county commissioners directs the board of elections 97359
of the county to submit the question of imposing the charges to 97360
the electors of the county at the next primary or general election 97361
in the county occurring not less than ninety days after the 97362
resolution is certified to the board. No resolution shall go into 97363
effect unless approved by a majority of those voting upon it in 97364
any election allowed under this division. 97365

(E) To collect charges imposed under division (A) of this 97366
section, the board of county commissioners shall certify them to 97367
the county auditor of the county who then shall place them upon 97368
the real property duplicate against the properties to be assessed, 97369
as provided in division (A) of this section. Each assessment shall 97370
bear interest at the same rate that securities issued in 97371
anticipation of the collection of the assessments bear, is a lien 97372
on the property assessed from the date placed upon the real 97373
property duplicate by the auditor, and shall be collected in the 97374
same manner as other taxes. 97375

(F) All money collected by or on behalf of a county under 97376
this section shall be paid to the county treasurer of the county 97377
and kept in a separate and distinct fund to the credit of the 97378
county. The fund shall be used to pay the costs allowed in 97379

division (A) of this section and specified in the resolution 97380
adopted under that division. In no case shall any surplus so 97381
collected be expended for other than the use and benefit of the 97382
county. 97383

Sec. 4931.52. (A) This section applies only to a county that 97384
meets both of the following conditions: 97385

(1) A final plan for a countywide 9-1-1 system either has not 97386
been approved in the county under section 4931.44 of the Revised 97387
Code or has been approved but has not been put into operation 97388
because of a lack of funding; 97389

(2) The board of county commissioners, at least once, has 97390
submitted to the electors of the county the question of raising 97391
funds for a 9-1-1 system under section 4931.51, 5705.19, or 97392
5739.026 of the Revised Code, and a majority of the electors has 97393
disapproved the question each time it was submitted. 97394

(B) A board of county commissioners may adopt a resolution 97395
imposing a monthly charge on telephone access lines to pay for the 97396
equipment costs of establishing and maintaining no more than three 97397
public safety answering points of a countywide 9-1-1 system, which 97398
public safety answering points shall be only twenty-four-hour 97399
dispatching points already existing in the county. The resolution 97400
shall state the amount of the charge, which shall not exceed fifty 97401
cents per month, and the month the charge will first be imposed, 97402
which shall be no earlier than four months after the special 97403
election held pursuant to this section. Each residential and 97404
business telephone company customer within the area served by the 97405
9-1-1 system shall pay the monthly charge for each of its 97406
residential or business customer access lines or their equivalent. 97407

Before adopting a resolution under this division, the board 97408
of county commissioners shall hold at least two public hearings on 97409
the proposed charge. Before the first hearing, the board shall 97410

publish notice of the hearings once a week for two consecutive 97411
weeks in a newspaper of general circulation in the county or as 97412
provided in section 7.16 of the Revised Code. The notice shall 97413
state the amount of the proposed charge, an explanation of the 97414
necessity for the charge, and the date, time, and location of each 97415
of the hearings. 97416

(C) A resolution adopted under division (B) of this section 97417
shall direct the board of elections to submit the question of 97418
imposing the charge to the electors of the county at a special 97419
election on the day of the next primary or general election in the 97420
county. The board of county commissioners shall certify a copy of 97421
the resolution to the board of elections not less than ninety days 97422
before the day of the special election. No resolution adopted 97423
under division (B) of this section shall take effect unless 97424
approved by a majority of the electors voting upon the resolution 97425
at an election held pursuant to this section. 97426

In any year, the board of county commissioners may impose a 97427
lesser charge than the amount originally approved by the electors. 97428
The board may change the amount of the charge no more than once a 97429
year. The board may not impose a charge greater than the amount 97430
approved by the electors without first holding an election on the 97431
question of the greater charge. 97432

(D) Money raised from a monthly charge on telephone access 97433
lines under this section shall be deposited into a special fund 97434
created in the county treasury by the board of county 97435
commissioners pursuant to section 5705.12 of the Revised Code, to 97436
be used only for the necessary equipment costs of establishing and 97437
maintaining no more than three public safety answering points of a 97438
countywide 9-1-1 system pursuant to a resolution adopted under 97439
division (B) of this section. In complying with this division, any 97440
county may seek the assistance of the public utilities commission 97441
with regard to operating and maintaining a 9-1-1 system. 97442

(E) Pursuant to the voter approval required by division (C) 97443
of this section, the final plan for a countywide 9-1-1 system that 97444
will be funded through a monthly charge imposed in accordance with 97445
this section shall be amended by the existing 9-1-1 planning 97446
committee, and the amendment of such a final plan is not an 97447
amendment of a final plan for the purpose of division (A) of 97448
section 4931.45 of the Revised Code. 97449

Sec. 4931.53. (A) This section applies only to a county that 97450
has a final plan for a countywide 9-1-1 system that either has not 97451
been approved in the county under section 4931.44 of the Revised 97452
Code or has been approved but has not been put into operation 97453
because of a lack of funding. 97454

(B) A board of county commissioners may adopt a resolution 97455
imposing a monthly charge on telephone access lines to pay for the 97456
operating and equipment costs of establishing and maintaining no 97457
more than one public safety answering point of a countywide 9-1-1 97458
system. The resolution shall state the amount of the charge, which 97459
shall not exceed fifty cents per month, and the month the charge 97460
will first be imposed, which shall be no earlier than four months 97461
after the special election held pursuant to this section. Each 97462
residential and business telephone company customer within the 97463
area of the county served by the 9-1-1 system shall pay the 97464
monthly charge for each of its residential or business customer 97465
access lines or their equivalent. 97466

Before adopting a resolution under this division, the board 97467
of county commissioners shall hold at least two public hearings on 97468
the proposed charge. Before the first hearing, the board shall 97469
publish notice of the hearings once a week for two consecutive 97470
weeks in a newspaper of general circulation in the county or as 97471
provided in section 7.16 of the Revised Code. The notice shall 97472
state the amount of the proposed charge, an explanation of the 97473

necessity for the charge, and the date, time, and location of each 97474
of the hearings. 97475

(C) A resolution adopted under division (B) of this section 97476
shall direct the board of elections to submit the question of 97477
imposing the charge to the electors of the county at a special 97478
election on the day of the next primary or general election in the 97479
county. The board of county commissioners shall certify a copy of 97480
the resolution to the board of elections not less than ninety days 97481
before the day of the special election. No resolution adopted 97482
under division (B) of this section shall take effect unless 97483
approved by a majority of the electors voting upon the resolution 97484
at an election held pursuant to this section. 97485

In any year, the board of county commissioners may impose a 97486
lesser charge than the amount originally approved by the electors. 97487
The board may change the amount of the charge no more than once a 97488
year. The board shall not impose a charge greater than the amount 97489
approved by the electors without first holding an election on the 97490
question of the greater charge. 97491

(D) Money raised from a monthly charge on telephone access 97492
lines under this section shall be deposited into a special fund 97493
created in the county treasury by the board of county 97494
commissioners pursuant to section 5705.12 of the Revised Code, to 97495
be used only for the necessary operating and equipment costs of 97496
establishing and maintaining no more than one public safety 97497
answering point of a countywide 9-1-1 system pursuant to a 97498
resolution adopted under division (B) of this section. In 97499
complying with this division, any county may seek the assistance 97500
of the public utilities commission with regard to operating and 97501
maintaining a 9-1-1 system. 97502

(E) Nothing in sections 4931.40 to 4931.53 of the Revised 97503
Code precludes a final plan adopted in accordance with those 97504
sections from being amended to provide that, by agreement included 97505

in the plan, a public safety answering point of another countywide 97506
9-1-1 system is the public safety answering point of a countywide 97507
9-1-1 system funded through a monthly charge imposed in accordance 97508
with this section. In that event, the county for which the public 97509
safety answering point is provided shall be deemed the subdivision 97510
operating the public safety answering point for purposes of 97511
sections 4931.40 to 4931.53 of the Revised Code, except that, for 97512
the purpose of division (D) of section 4931.41 of the Revised 97513
Code, the county shall pay only so much of the costs associated 97514
with establishing, equipping, furnishing, operating, or 97515
maintaining the public safety answering point specified in the 97516
agreement included in the final plan. 97517

(F) Pursuant to the voter approval required by division (C) 97518
of this section, the final plan for a countywide 9-1-1 system that 97519
will be funded through a monthly charge imposed in accordance with 97520
this section, or that will be amended to include an agreement 97521
described in division (E) of this section, shall be amended by the 97522
existing 9-1-1 planning committee, and the amendment of such a 97523
final plan is not an amendment of a final plan for the purpose of 97524
division (A) of section 4931.45 of the Revised Code. 97525

Sec. 5101.16. (A) As used in this section and sections 97526
5101.161 and 5101.162 of the Revised Code: 97527

(1) "Disability financial assistance" means the financial 97528
assistance program established under Chapter 5115. of the Revised 97529
Code. 97530

(2) " Supplemental nutrition assistance program" means the 97531
program administered by the department of job and family services 97532
pursuant to section 5101.54 of the Revised Code. 97533

(3) "Medicaid" means the medical assistance program 97534
established by Chapter 5111. of the Revised Code, excluding 97535
transportation services provided under that chapter. 97536

(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.	97537 97538
(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.	97539 97540
(6) "Public assistance expenditures" means expenditures for all of the following:	97541 97542
(a) Ohio works first;	97543
(b) County administration of Ohio works first;	97544
(c) Prevention, retention, and contingency;	97545
(d) County administration of prevention, retention, and contingency;	97546 97547
(e) Disability financial assistance;	97548
(f) County administration of disability financial assistance;	97549
(g) County administration of the supplemental nutrition assistance program;	97550 97551
(h) County administration of medicaid.	97552
(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.	97553 97554
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	97555 97556 97557 97558 97559 97560
(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.	97561 97562 97563 97564 97565

(2) The amount that is ten per cent, or other percentage 97566
determined under division (D) of this section, of the county's 97567
total expenditures for county administration of the supplemental 97568
nutrition assistance program and medicaid during the state fiscal 97569
year ending in the previous calendar year that the department 97570
determines are allowable, less the amount of federal reimbursement 97571
credited to the county under division (E) of this section for the 97572
state fiscal year ending in the previous calendar year; 97573

(3) A percentage of the actual amount of the county share of 97574
program and administrative expenditures during federal fiscal year 97575
1994 for assistance and services, other than child care, provided 97576
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 97577
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 97578
enactment of the "Personal Responsibility and Work Opportunity 97579
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 97580
and family services shall determine the actual amount of the 97581
county share from expenditure reports submitted to the United 97582
States department of health and human services. The percentage 97583
shall be the percentage established in rules adopted under 97584
division (F) of this section. 97585

(C)(1) If a county's share of public assistance expenditures 97586
determined under division (B) of this section for a state fiscal 97587
year exceeds one hundred ~~ten~~ five per cent of the county's share 97588
for those expenditures for the immediately preceding state fiscal 97589
year, the department of job and family services shall reduce the 97590
county's share for expenditures under divisions (B)(1) and (2) of 97591
this section so that the total of the county's share for 97592
expenditures under division (B) of this section equals one hundred 97593
~~ten~~ five per cent of the county's share of those expenditures for 97594
the immediately preceding state fiscal year. 97595

(2) A county's share of public assistance expenditures 97596
determined under division (B) of this section may be increased 97597

pursuant to section 5101.163 of the Revised Code and a sanction 97598
under section 5101.24 of the Revised Code. An increase made 97599
pursuant to section 5101.163 of the Revised Code may cause the 97600
county's share to exceed the limit established by division (C)(1) 97601
of this section. 97602

(D)(1) If the per capita tax duplicate of a county is less 97603
than the per capita tax duplicate of the state as a whole and 97604
division (D)(2) of this section does not apply to the county, the 97605
percentage to be used for the purpose of division (B)(2) of this 97606
section is the product of ten multiplied by a fraction of which 97607
the numerator is the per capita tax duplicate of the county and 97608
the denominator is the per capita tax duplicate of the state as a 97609
whole. The department of job and family services shall compute the 97610
per capita tax duplicate for the state and for each county by 97611
dividing the tax duplicate for the most recent available year by 97612
the current estimate of population prepared by the department of 97613
development. 97614

(2) If the percentage of families in a county with an annual 97615
income of less than three thousand dollars is greater than the 97616
percentage of such families in the state and division (D)(1) of 97617
this section does not apply to the county, the percentage to be 97618
used for the purpose of division (B)(2) of this section is the 97619
product of ten multiplied by a fraction of which the numerator is 97620
the percentage of families in the state with an annual income of 97621
less than three thousand dollars a year and the denominator is the 97622
percentage of such families in the county. The department of job 97623
and family services shall compute the percentage of families with 97624
an annual income of less than three thousand dollars for the state 97625
and for each county by multiplying the most recent estimate of 97626
such families published by the department of development, by a 97627
fraction, the numerator of which is the estimate of average annual 97628
personal income published by the bureau of economic analysis of 97629

the United States department of commerce for the year on which the 97630
census estimate is based and the denominator of which is the most 97631
recent such estimate published by the bureau. 97632

(3) If the per capita tax duplicate of a county is less than 97633
the per capita tax duplicate of the state as a whole and the 97634
percentage of families in the county with an annual income of less 97635
than three thousand dollars is greater than the percentage of such 97636
families in the state, the percentage to be used for the purpose 97637
of division (B)(2) of this section shall be determined as follows: 97638

(a) Multiply ten by the fraction determined under division 97639
(D)(1) of this section; 97640

(b) Multiply the product determined under division (D)(3)(a) 97641
of this section by the fraction determined under division (D)(2) 97642
of this section. 97643

(4) The department of job and family services shall 97644
determine, for each county, the percentage to be used for the 97645
purpose of division (B)(2) of this section not later than the 97646
first day of July of the year preceding the state fiscal year for 97647
which the percentage is used. 97648

(E) The department of job and family services shall credit to 97649
a county the amount of federal reimbursement the department 97650
receives from the United States departments of agriculture and 97651
health and human services for the county's expenditures for 97652
administration of the supplemental nutrition assistance program 97653
and medicaid that the department determines are allowable 97654
administrative expenditures. 97655

(F)(1) The director of job and family services shall adopt 97656
rules in accordance with section 111.15 of the Revised Code to 97657
establish all of the following: 97658

(a) The method the department is to use to change a county's 97659
share of public assistance expenditures determined under division 97660

(B) of this section as provided in division (C) of this section; 97661

(b) The allocation methodology and formula the department 97662
will use to determine the amount of funds to credit to a county 97663
under this section; 97664

(c) The method the department will use to change the payment 97665
of the county share of public assistance expenditures from a 97666
calendar-year basis to a state fiscal year basis; 97667

(d) The percentage to be used for the purpose of division 97668
(B)(3) of this section, which shall, except as provided in section 97669
5101.163 of the Revised Code, meet both of the following 97670
requirements: 97671

(i) The percentage shall not be less than seventy-five per 97672
cent nor more than eighty-two per cent; 97673

(ii) The percentage shall not exceed the percentage that the 97674
state's qualified state expenditures is of the state's historic 97675
state expenditures as those terms are defined in 42 U.S.C. 97676
609(a)(7). 97677

(e) Other procedures and requirements necessary to implement 97678
this section. 97679

(2) The director of job and family services may amend the 97680
rule adopted under division (F)(1)(d) of this section to modify 97681
the percentage on determination that the amount the general 97682
assembly appropriates for Title IV-A programs makes the 97683
modification necessary. The rule shall be adopted and amended as 97684
if an internal management rule and in consultation with the 97685
director of budget and management. 97686

Sec. 5101.181. (A) As used in this section and section 97687
5101.182 of the Revised Code, ~~"public:~~ 97688

(1) "Public assistance" ~~includes, in addition to Ohio works~~ 97689
~~first,~~ means any or all of the following: 97690

~~(1)~~(a) Ohio works first; 97691

(b) Prevention, retention, and contingency; 97692

~~(2)~~ Medicaid; 97693

~~(3)~~(c) Disability financial assistance; 97694

~~(4)~~(d) General assistance provided prior to July 17, 1995, 97695
under former Chapter 5113. of the Revised Code. 97696

(2) "Medical assistance" means medical assistance provided 97697
pursuant to, or under programs established by, section 5101.49, 97698
sections 5101.50 to 5101.529, Chapter 5111., or any other 97699
provision of the Revised Code. 97700

(B) As part of the procedure for the determination of 97701
overpayment to a recipient of public assistance under Chapter 97702
5107., 5108., ~~5111.~~, or 5115. of the Revised Code, the director of 97703
job and family services ~~shall~~ may furnish quarterly the name and 97704
social security number of each individual who receives public 97705
assistance to the director of administrative services, the 97706
administrator of the bureau of workers' compensation, and each of 97707
the state's retirement boards. Within fourteen days after 97708
receiving the name and social security number of an individual who 97709
receives public assistance, the director of administrative 97710
services, administrator, or board shall inform the auditor of 97711
state as to whether such individual is receiving wages or 97712
benefits, the amount of any wages or benefits being received, the 97713
social security number, and the address of the individual. The 97714
director of administrative services, administrator, boards, and 97715
any agent or employee of those officials and boards shall comply 97716
with the rules of the director of job and family services 97717
restricting the disclosure of information regarding recipients of 97718
public assistance. Any person who violates this provision shall 97719
thereafter be disqualified from acting as an agent or employee or 97720
in any other capacity under appointment or employment of any state 97721

board, commission, or agency. 97722

(C) The auditor of state may enter into a reciprocal 97723
agreement with the director of job and family services or 97724
comparable officer of any other state for the exchange of names, 97725
current or most recent addresses, or social security numbers of 97726
persons receiving public assistance under Title IV-A ~~or under~~ 97727
~~Title XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 97728
U.S.C. 301, as amended. 97729

(D)~~(1)~~ The auditor of state shall retain, for not less than 97730
two years, at least one copy of all information received under 97731
this section and sections 145.27, 742.41, 3307.20, 3309.22, 97732
4123.27, 5101.182, and 5505.04 of the Revised Code. ~~The~~ 97733

(E) On the request of the director of job and family 97734
services, the auditor of state may conduct an audit of an 97735
individual who receives medical assistance. If the auditor decides 97736
to conduct an audit, the auditor shall enter into an interagency 97737
agreement with the department of job and family services that 97738
specifies that the auditor agrees to comply with section 5101.271 97739
of the Revised Code with respect to any information the auditor 97740
receives pursuant to the audit. 97741

(F) The auditor shall review the information described in 97742
division (D) of this section to determine whether overpayments 97743
were made to recipients of public assistance under Chapters 5107., 97744
5108., ~~5111.~~, and 5115. of the Revised Code. The auditor of state 97745
shall initiate action leading to prosecution, where warranted, of 97746
recipients who received overpayments by forwarding the name of 97747
each recipient who received overpayment, together with other 97748
pertinent information, to the director of job and family services 97749
and, the attorney general, ~~to the district director of job and 97750
family services of the district through which public assistance 97751
was received,~~ and ~~to~~ the county director of job and family 97752
services and county prosecutor of the county through which public 97753

assistance was received. 97754

~~(2)~~(G) The auditor of state and the attorney general or their 97755
designees may examine any records, whether in computer or printed 97756
format, in the possession of the director of job and family 97757
services or any county director of job and family services. They 97758
shall provide safeguards which restrict access to such records to 97759
purposes directly connected with an audit or investigation, 97760
prosecution, or criminal or civil proceeding conducted in 97761
connection with the administration of the programs and shall 97762
comply with ~~the~~ sections 5101.27 and 5101.271 of the Revised Code 97763
and adopts rules of the director of job and family services 97764
restricting the disclosure of information regarding recipients of 97765
public assistance or medical assistance. Any person who violates 97766
this provision shall thereafter be disqualified from acting as an 97767
agent or employee or in any other capacity under appointment or 97768
employment of any state board, commission, or agency. 97769

~~(3)~~(H) Costs incurred by the auditor of state in carrying out 97770
the auditor of state's duties under this ~~division~~ section shall be 97771
borne by the auditor of state. 97772

Sec. 5101.182. As part of the procedure for the determination 97773
of overpayment to a recipient of public assistance ~~under Chapter~~ 97774
~~5107., 5111., or 5115.~~ pursuant to section 5101.181 of the Revised 97775
Code, the director of job and family services ~~shall~~ may 97776
semiannually, at times determined jointly by the auditor of state 97777
and the tax commissioner, furnish to the tax commissioner in 97778
computer format the name and social security number of each 97779
individual who receives public assistance. Within sixty days after 97780
receiving the name and social security number of a recipient of 97781
public assistance, the commissioner shall inform the auditor of 97782
state whether the individual filed an Ohio individual income tax 97783
return, separate or joint, as provided by section 5747.08 of the 97784

Revised Code, for either or both of the two taxable years 97785
preceding the year in which the director furnished the names and 97786
social security numbers to the commissioner. If the individual did 97787
so file, at the same time the commissioner shall also inform the 97788
auditor of state of the amount of the federal adjusted gross 97789
income as reported on such returns and of the addresses on such 97790
returns. The commissioner shall also advise the auditor of state 97791
whether such returns were filed on a joint basis, as provided in 97792
section 5747.08 of the Revised Code, in which case the federal 97793
adjusted gross income as reported may be that of the individual or 97794
the individual's spouse. 97795

If the auditor of state determines that further investigation 97796
is needed, the auditor of state may request the commissioner to 97797
determine whether the individual filed income tax returns for any 97798
previous taxable years in which the individual received public 97799
assistance and for which the tax department retains income tax 97800
returns. Within fourteen days of receipt of the request, the 97801
commissioner shall inform the auditor of state whether the 97802
individual filed an individual income tax return for the taxable 97803
years in question, of the amount of the federal adjusted gross 97804
income as reported on such returns, of the addresses on such 97805
returns, and whether the returns were filed on a joint or separate 97806
basis. 97807

If the auditor of state determines that further investigation 97808
is needed of a recipient of public assistance who filed an Ohio 97809
individual income tax return, the auditor of state may request a 97810
certified copy of the Ohio individual income tax return or returns 97811
of that person for the taxable years described above, together 97812
with any other documents the commissioner has concerning the 97813
return or returns. Within fourteen days of receipt of such a 97814
request in writing, the commissioner shall forward the returns and 97815
documents to the auditor of state. 97816

The director of job and family services, ~~district director of~~ 97817
~~job and family services,~~ county director of job and family 97818
services, county prosecutor, attorney general, auditor of state, 97819
or any agent or employee of those officials having access to any 97820
information or documents furnished by the commissioner pursuant to 97821
this section shall not divulge or use any such information except 97822
for the purpose of determining overpayment of public assistance, 97823
or for an audit, investigation, or prosecution, or in accordance 97824
with a proper judicial order. Any person who violates this 97825
provision shall thereafter be disqualified from acting as an agent 97826
or employee or in any other capacity under appointment or 97827
employment of any state or county board, commission, or agency. 97828

Sec. 5101.183. (A) ~~The~~ Except as provided in section 5111.12 97829
of the Revised Code, the director of job and family services, in 97830
accordance with section 111.15 of the Revised Code, may adopt 97831
rules under which county ~~departments of job and family services or~~ 97832
~~public children services~~ agencies shall take action to recover the 97833
cost of ~~social~~ the following benefits and services: 97834

(1) Benefits or services provided to any of the following: 97835

~~(1)~~(a) Persons who were not eligible for ~~social~~ the benefits 97836
or services but who secured ~~social~~ the benefits or services 97837
through fraud or misrepresentation; 97838

~~(2)~~(b) Persons who were eligible for ~~social~~ the benefits or 97839
services but who intentionally diverted the benefits or services 97840
to other persons who were not eligible for the benefits or 97841
services. 97842

(2) Any benefits or services provided by a county family 97843
services agency for which recovery is required or permitted by 97844
federal law for the federal programs administered by the agency. 97845

(B) A county ~~department of job and family services or public~~ 97846

~~children services~~ agency may bring a civil action against a 97847
recipient of ~~social~~ benefits or services to recover any costs 97848
described in division (A) of this section. 97849

(C) A county ~~department of job and family services or public~~ 97850
~~children services~~ agency shall retain any money it recovers under 97851
division (A) of this section and shall use the money ~~for the~~ 97852
~~provision of social~~ to meet a family services duty, except that, 97853
if federal law requires the department of job and family services 97854
to return any portion of the money so recovered to the federal 97855
government, the county ~~department or~~ family services agency shall 97856
pay that portion to the department of job and family services. 97857

Sec. 5101.244. (A) If the department of job and family 97858
services determines that a grant awarded to a county grantee in a 97859
grant agreement entered into under section 5101.21 of the Revised 97860
Code, an allocation, advance, or reimbursement the department 97861
makes to a county family services agency, or a cash draw a county 97862
family services agency makes exceeds the allowable amount for the 97863
grant, allocation, advance, reimbursement, or cash draw, the 97864
department may ~~adjust~~ take one or more of the following actions to 97865
recover the excess amount: 97866

(1) The department may adjust, offset, withhold, or reduce an 97867
allocation, cash draw, advance, reimbursement, or other financial 97868
assistance to the county grantee or county family services agency 97869
as necessary to recover the excess amount ~~of the excess grant,~~ 97870
~~allocation, advance, reimbursement, or cash draw.~~ 97871

(2) The department may enter into an agreement with the 97872
county grantee or county family services agency for repayment of 97873
the excess amount by the grantee or agency. The department may 97874
require that the repayment include interest on the excess amount, 97875
calculated from the day that the excess occurred at a rate not 97876
exceeding the rate per annum prescribed by section 5703.47 of the 97877

Revised Code. 97878

(3) The department may certify a claim to the attorney 97879
general under section 131.02 of the Revised Code for the attorney 97880
general to take action under that section against the county 97881
grantee or county family services agency to recover the excess 97882
amount. The 97883

(B) In taking an action authorized under this section, the 97884
department is not required to ~~make the adjustment, offset,~~ 97885
~~withholding, or reduction~~ take the action in accordance with 97886
section 5101.24 of the Revised Code. 97887

(C) The director of job and family services may adopt rules 97888
under section 111.15 of the Revised Code as necessary to implement 97889
this section. The director shall adopt the rules as if they were 97890
internal management rules. 97891

Sec. 5101.26. As used in this section and in sections 5101.27 97892
to 5101.30 of the Revised Code: 97893

(A) "County agency" means a county department of job and 97894
family services or a public children services agency. 97895

(B) "Fugitive felon" means an individual who is fleeing to 97896
avoid prosecution, or custody or confinement after conviction, 97897
under the laws of the place from which the individual is fleeing, 97898
for a crime or an attempt to commit a crime that is a felony under 97899
the laws of the place from which the individual is fleeing or, in 97900
the case of New Jersey, a high misdemeanor, regardless of whether 97901
the individual has departed from the individual's usual place of 97902
residence. 97903

(C) "Information" means records as defined in section 149.011 97904
of the Revised Code, any other documents in any format, and data 97905
derived from records and documents that are generated, acquired, 97906
or maintained by the department of job and family services, a 97907

county agency, or an entity performing duties on behalf of the 97908
department or a county agency. 97909

(D) "Law enforcement agency" means the state highway patrol, 97910
an agency that employs peace officers as defined in section 109.71 97911
of the Revised Code, the adult parole authority, a county 97912
department of probation, a prosecuting attorney, the attorney 97913
general, similar agencies of other states, federal law enforcement 97914
agencies, and postal inspectors. "Law enforcement agency" includes 97915
the peace officers and other law enforcement officers employed by 97916
the agency. 97917

(E) "Medical assistance ~~provided under a public assistance~~ 97918
~~program~~" means medical assistance provided pursuant to, or under 97919
the programs established ~~under sections by, section~~ 5101.49, 97920
sections 5101.50, ~~5101.51, 5101.52, and 5101.5211 to 5101.5216 to~~ 97921
5101.529, Chapter 5111., or any other provision of the Revised 97922
Code. 97923

(F) "Medical assistance recipient" means an applicant for or 97924
recipient or former recipient of medical assistance. 97925

(G) "Public assistance" means financial assistance, ~~medical~~ 97926
~~assistance~~, or social services that are not medical assistance 97927
provided under a program administered by the department of job and 97928
family services or a county agency pursuant to Chapter 329., 97929
5101., 5104., 5107., 5108., ~~5111.~~, or 5115. of the Revised Code or 97930
an executive order issued under section 107.17 of the Revised 97931
Code. 97932

~~(G)~~(H) "Public assistance recipient" means an applicant for 97933
or recipient or former recipient of public assistance. 97934

Sec. 5101.27. (A) Except as permitted by this section, 97935
section ~~5101.272~~ 5101.273, 5101.28, or 5101.29 of the Revised 97936
Code, or ~~the~~ rules adopted under ~~division (A)~~ of section 5101.30 97937

of the Revised Code, or when required by federal law, no person or 97938
government entity shall solicit, disclose, receive, use, or 97939
knowingly permit, or participate in the use of any information 97940
regarding a public assistance recipient for any purpose not 97941
directly connected with the administration of a public assistance 97942
program. 97943

(B) To the extent permitted by federal law, the department of 97944
job and family services and county agencies shall do all of the 97945
following: 97946

(1) Release information regarding a public assistance 97947
recipient for purposes directly connected to the administration of 97948
the program to a government entity responsible for administering 97949
that public assistance program; 97950

(2) Provide information regarding a public assistance 97951
recipient to a law enforcement agency for the purpose of any 97952
investigation, prosecution, or criminal or civil proceeding 97953
relating to the administration of that public assistance program; 97954

(3) Provide, for purposes directly connected to the 97955
administration of a program that assists needy individuals with 97956
the costs of public utility services, information regarding a 97957
recipient of financial assistance provided under a program 97958
administered by the department or a county agency pursuant to 97959
Chapter 5107. or 5108. of the Revised Code or sections 5115.01 to 97960
5115.07 of the Revised Code to an entity administering the public 97961
utility services program. 97962

(C) To the extent permitted by federal law and section 97963
1347.08 of the Revised Code, the department and county agencies 97964
shall provide access to information regarding a public assistance 97965
recipient to all of the following: 97966

(1) The recipient; 97967

(2) The authorized representative; 97968

(3) The legal guardian of the recipient; 97969

(4) The attorney of the recipient, if the attorney has 97970
written authorization that complies with section ~~5101.271~~ 5101.272 97971
of the Revised Code from the recipient. 97972

(D) To the extent permitted by federal law and subject to 97973
division (E) of this section, the department and county agencies 97974
may do both of the following: 97975

(1) Release information about a public assistance recipient 97976
if the recipient gives voluntary, written authorization that 97977
complies with section ~~5101.271~~ 5101.272 of the Revised Code; 97978

(2) Release information regarding a public assistance 97979
recipient to a state, federal, or federally assisted program that 97980
provides cash or in-kind assistance or services directly to 97981
individuals based on need or for the purpose of protecting 97982
children to a government entity responsible for administering a 97983
children's protective services program. 97984

(E) Except when the release is required by division (B), (C), 97985
or (D)(2) of this section, the department or county agency shall 97986
release the information only in accordance with the authorization. 97987
The department or county agency shall provide, at no cost, a copy 97988
of each written authorization to the individual who signed it. 97989

~~(F) The department or county agency may release information 97990
under division (D) of this section concerning the receipt of 97991
medical assistance provided under a public assistance program only 97992
if all of the following conditions are met: 97993~~

~~(1) The release of information is for purposes directly 97994
connected to the administration of or provision of medical 97995
assistance provided under a public assistance program; 97996~~

~~(2) The information is released to persons or government 97997
entities that are subject to standards of confidentiality and 97998~~

~~safeguarding information substantially comparable to those 97999
established for medical assistance provided under a public 98000
assistance program; 98001~~

~~(3) The department or county agency has obtained an 98002
authorization consistent with section 5101.271 of the Revised 98003
Code. 98004~~

~~(G) Information concerning the receipt of medical assistance 98005
provided under a public assistance program may be released only if 98006
the release complies with this section and rules adopted by the 98007
department pursuant to section 5101.30 of the Revised Code or, if 98008
more restrictive, the Health Insurance Portability and 98009
Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 98010
42 U.S.C. 1320d, et seq., as amended, and regulations adopted by 98011
the United States department of health and human services to 98012
implement the act. 98013~~

~~(H) The department of job and family services may adopt rules 98014
defining "authorized representative" for purposes of division 98015
(C)(2) of this section. 98016~~

Sec. 5101.271. (A) Except as permitted by this section, 98017
section 5101.273, or rules adopted under section 5101.30 of the 98018
Revised Code, or when required by federal law, no person or 98019
government entity shall use or disclose information regarding a 98020
medical assistance recipient for any purpose not directly 98021
connected with the administration of the medical assistance 98022
program. 98023

(B) Both of the following shall be considered to be purposes 98024
directly connected with the administration of the medical 98025
assistance program: 98026

(1) Treatment, payment, or other operations or activities 98027
authorized by 42 C.F.R. Chapter IV; 98028

(2) Any administrative function or duty the department of job and family services performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law. 98029
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(C) The department or a county agency may disclose information regarding a medical assistance recipient to any of the following: 98033
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(1) The recipient or the recipient's authorized representative; 98036
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(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code; 98038
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(3) The attorney of the recipient, if the department or county agency has obtained authorization from the recipient, the recipient's authorized representative, or the recipient's legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended, regulations promulgated by the United States department of health and human services to implement the act, section 5101.272 of the Revised Code, and any rules the director of job and family services adopts under section 5101.30 of the Revised Code; 98040
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(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R 164.502(e)(2) and has been authorized by the recipient, the recipient's authorized representative, or the recipient's legal guardian to receive the recipient's electronic health records in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code; 98050
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(5) A court if pursuant to a written order of the court. 98058

(D) The department may receive from county departments of job 98059

and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for medical assistance. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

(E) The department shall notify courts in this state regarding its authority, under division (C)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

Sec. ~~5101.271~~ 5101.272. (A) For the purposes of ~~section~~ sections 5101.27 and 5101.271 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or governmental entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related either to the individual who is the subject of the request

or to the purposes of the requested use or disclosure, the 98090
occurrence of which will cause the authorization to expire; 98091

(6) A statement that the information used or disclosed 98092
pursuant to the authorization may be disclosed by the recipient of 98093
the information and may no longer be protected from disclosure; 98094

(7) The signature of the individual or the individual's 98095
authorized representative and the date on which the authorization 98096
was signed; 98097

(8) If signed by an authorized representative, a description 98098
of the representative's authority to act for the individual; 98099

(9) A statement of the individual or authorized 98100
representative's right to prospectively revoke the written 98101
authorization in writing, along with one of the following: 98102

(a) A description of how the individual or authorized 98103
representative may revoke the authorization; 98104

(b) If the department of job and family services' privacy 98105
notice contains a description of how the individual or authorized 98106
representative may revoke the authorization, a reference to that 98107
privacy notice. 98108

(10) A statement that treatment, payment, enrollment, or 98109
eligibility for public assistance or medical assistance cannot be 98110
conditioned on signing the authorization unless the authorization 98111
is necessary for determining eligibility for the public assistance 98112
or medical assistance program. 98113

(B) An authorization for the release of information regarding 98114
a medical assistance recipient to the recipient's attorney under 98115
division (C)(3) of section 5101.271 of the Revised Code may 98116
include a provision specifically authorizing the release of the 98117
recipient's electronic health records, if any, in accordance with 98118
rules the director of job and family services adopts under section 98119

5101.30 of the Revised Code. 98120

(C) When an individual requests information pursuant to 98121
section 5101.27 or 5101.271 of the Revised Code regarding the 98122
individual's receipt of public assistance or medical assistance 98123
and does not wish to provide a statement of purpose, the statement 98124
"at request of the individual" is a sufficient description for 98125
purposes of division (A)(4) of this section. 98126

~~Sec. 5101.272 5101.273. Not later than August 31, 2007, the~~ 98127
~~director of job and family services shall submit a report to the~~ 98128
~~general assembly on the costs and potential three year cost~~ 98129
~~savings associated with participation in the~~ 98130
~~federally administered public assistance reporting information~~ 98131
~~system. If cost savings are indicated in the report, not later~~ 98132
~~than October 1, 2007, the~~ The department of job and family 98133
services shall enter into any necessary agreements with the United 98134
States department of health and human services and neighboring 98135
states to join and participate as an active member in the public 98136
assistance reporting information system. The department may 98137
disclose information regarding a public assistance recipient or 98138
medical assistance recipient to the extent necessary to 98139
participate as an active member in the public assistance reporting 98140
information system. 98141

Sec. 5101.28. (A)(1) On request of the department of job and 98142
family services or a county agency, a law enforcement agency shall 98143
provide information regarding public assistance recipients to 98144
enable the department or county agency to determine, for 98145
eligibility purposes, whether a recipient or a member of a 98146
recipient's assistance group is a fugitive felon or violating a 98147
condition of probation, a community control sanction, parole, or a 98148
post-release control sanction imposed under state or federal law. 98149

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) To the extent permitted by federal law, the department and county agencies shall provide information, ~~except information directly related to the receipt of medical assistance or medical services,~~ regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a public assistance recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in 98182
damages in a civil action for any injury, death, or loss to person 98183
or property that allegedly arises from the release of information 98184
in accordance with divisions (A), (B), and (C) of this section. 98185
"Employee" has the same meaning as in division (B) of section 98186
2744.01 of the Revised Code. This section does not affect any 98187
immunity or defense that the county agencies and their employees 98188
may be entitled to under another section of the Revised Code or 98189
the common law of this state, including section 2744.02 and 98190
division (A)(6) of section 2744.03 of the Revised Code. 98191

(E) To the extent permitted by federal law, the department 98192
and county agencies shall provide access to information to the 98193
auditor of state acting pursuant to Chapter 117. or sections 98194
5101.181 and 5101.182 of the Revised Code and to any other 98195
government entity authorized by federal law to conduct an audit 98196
of, or similar activity involving, a public assistance program. 98197

(F) The auditor of state shall prepare an annual report on 98198
the outcome of the agreements required under division (A) of this 98199
section. The report shall include the number of fugitive felons, 98200
probation and parole violators, and violators of community control 98201
sanctions and post-release control sanctions apprehended during 98202
the immediately preceding year as a result of the exchange of 98203
information pursuant to that division. The auditor of state shall 98204
file the report with the governor, the president and minority 98205
leader of the senate, and the speaker and minority leader of the 98206
house of representatives. The state department, county agencies, 98207
and law enforcement agencies shall cooperate with the auditor of 98208
state's office in gathering the information required under this 98209
division. 98210

(G) To the extent permitted by federal law, the department of 98211
job and family services, county departments of job and family 98212
services, and employees of the departments may report to a public 98213

children services agency or other appropriate agency information 98214
on known or suspected physical or mental injury, sexual abuse or 98215
exploitation, or negligent treatment or maltreatment, of a child 98216
receiving public assistance, if circumstances indicate that the 98217
child's health or welfare is threatened. 98218

(H) As used in this section: 98219

(1) "Community control sanction" has the same meaning as in 98220
section 2929.01 of the Revised Code. 98221

(2) "Post-release control sanction" has the same meaning as 98222
in section 2967.01 of the Revised Code. 98223

Sec. 5101.30. (A) The director of job and family services 98224
shall adopt rules in accordance with Chapter 119. of the Revised 98225
Code implementing sections 5101.26 to 5101.30 of the Revised Code 98226
and governing the custody, use, disclosure, and preservation of 98227
the information generated or received by the department of job and 98228
family services, county agencies, other state and county entities, 98229
contractors, grantees, private entities, or officials 98230
participating in the administration of public assistance or 98231
medical assistance programs. The rules shall comply with 98232
applicable federal statutes and regulations. The 98233

(1) The rules shall specify conditions and procedures for the 98234
release of information. ~~The rules shall comply with applicable~~ 98235
~~federal statutes and regulations. To the extent permitted by~~ 98236
~~federal law which may include, among other conditions and~~ 98237
procedures, both of the following: 98238

~~(1) The rules may permit~~ (a) Permitting providers of services 98239
or assistance under public assistance programs limited access to 98240
information that is essential for the providers to render services 98241
or assistance or to bill for services or assistance rendered. The 98242
department of aging, when investigating a complaint under section 98243

173.20 of the Revised Code, shall be granted any limited access 98244
permitted in the rules pursuant to division (A)(1) of this 98245
section. 98246

~~(2) The rules may permit~~ (b) Permitting a contractor, 98247
grantee, or other state or county entity limited access to 98248
information that is essential for the contractor, grantee, or 98249
entity to perform administrative or other duties on behalf of the 98250
department or county agency. A contractor, grantee, or entity 98251
given access to information pursuant to division (A)(2) of this 98252
section is bound by the director's rules, and disclosure of the 98253
information by the contractor, grantee, or entity in a manner not 98254
authorized by the rules is a violation of section 5101.27 of the 98255
Revised Code. 98256

(2) The rules may define who is an "authorized 98257
representative" for purposes of sections 5101.27, 5101.271, and 98258
5101.272 of the Revised Code. 98259

(B) Whenever names, addresses, or other information relating 98260
to public assistance recipients is held by any agency other than 98261
the department or a county agency, that other agency shall adopt 98262
rules consistent with sections 5101.26 to 5101.30 of the Revised 98263
Code to prevent the publication or disclosure of names, lists, or 98264
other information concerning those recipients. 98265

Sec. 5101.342. The Ohio commission on fatherhood shall do 98266
both of the following: 98267

(A) Organize a state summit on fatherhood every four years; 98268

(B)~~(1)~~ Prepare a report each year that ~~identifies~~ does the 98269
following: 98270

(1) Identifies resources available to fund fatherhood-related 98271
programs and explores the creation of initiatives to do the 98272
following: 98273

(a) Build the parenting skills of fathers;	98274
(b) Provide employment-related services for low-income, noncustodial fathers;	98275 98276
(c) Prevent premature fatherhood;	98277
(d) Provide services to fathers who are inmates in or have just been released from imprisonment in a state correctional institution, as defined in section 2967.01 of the Revised Code, or in any other detention facility, as defined in section 2921.01 of the Revised Code, so that they are able to maintain or reestablish their relationships with their families;	98278 98279 98280 98281 98282 98283
(e) Reconcile fathers with their families;	98284
(f) Increase public awareness of the critical role fathers play.	98285 98286
(2) <u>Describes the commission's expectations for the outcomes of fatherhood-related programs and initiatives and the methods the commission uses for conducting annual measures of those outcomes.</u>	98287 98288 98289
<u>(C) The portion of the report prepared pursuant to division (B)(2) of this section shall be prepared by the commission in collaboration with the director of job and family services.</u>	98290 98291 98292
<u>(D) The commission shall submit each report prepared pursuant to division (B)(1) of this section to the president and minority leader of the senate, speaker and minority leader of the house of representatives, governor, and chief justice of the supreme court. The first report is due not later than one year after the last of the initial appointments to the commission is made under section 5101.341 of the Revised Code.</u>	98293 98294 98295 98296 98297 98298 98299
Sec. 5101.35. (A) As used in this section:	98300
(1) "Agency" means the following entities that administer a family services program:	98301 98302

(a) The department of job and family services; 98303

(b) A county department of job and family services; 98304

(c) A public children services agency; 98305

(d) A private or government entity administering, in whole or 98306
in part, a family services program for or on behalf of the 98307
department of job and family services or a county department of 98308
job and family services or public children services agency. 98309

(2) "Appellant" means an applicant, participant, former 98310
participant, recipient, or former recipient of a family services 98311
program who is entitled by federal or state law to a hearing 98312
regarding a decision or order of the agency that administers the 98313
program. 98314

(3) "Family services program" means assistance provided under 98315
a Title IV-A program as defined in section 5101.80 of the Revised 98316
Code or under Chapter 5104., 5111., or 5115. or section ~~173.35~~ 98317
5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 98318
5153.165 of the Revised Code, other than assistance provided under 98319
section 5101.46 of the Revised Code by the department of mental 98320
health, the department of developmental disabilities, a board of 98321
alcohol, drug addiction, and mental health services, or a county 98322
board of developmental disabilities. 98323

(B) Except as provided by divisions (G) and (H) of this 98324
section, an appellant who appeals under federal or state law a 98325
decision or order of an agency administering a family services 98326
program shall, at the appellant's request, be granted a state 98327
hearing by the department of job and family services. This state 98328
hearing shall be conducted in accordance with rules adopted under 98329
this section. The state hearing shall be recorded, but neither the 98330
recording nor a transcript of the recording shall be part of the 98331
official record of the proceeding. A state hearing decision is 98332
binding upon the agency and department, unless it is reversed or 98333

modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the

county in which the person resides, or to the court of common 98366
pleas of Franklin county if the person does not reside in this 98367
state. 98368

(2) The person may apply to the court for designation as an 98369
indigent and, if the court grants this application, the appellant 98370
shall not be required to furnish the costs of the appeal. 98371

(3) The appellant shall mail the notice of appeal to the 98372
department of job and family services and file notice of appeal 98373
with the court within thirty days after the department mails the 98374
administrative appeal decision to the appellant. For good cause 98375
shown, the court may extend the time for mailing and filing notice 98376
of appeal, but such time shall not exceed six months from the date 98377
the department mails the administrative appeal decision. Filing 98378
notice of appeal with the court shall be the only act necessary to 98379
vest jurisdiction in the court. 98380

(4) The department shall be required to file a transcript of 98381
the testimony of the state hearing with the court only if the 98382
court orders the department to file the transcript. The court 98383
shall make such an order only if it finds that the department and 98384
the appellant are unable to stipulate to the facts of the case and 98385
that the transcript is essential to a determination of the appeal. 98386
The department shall file the transcript not later than thirty 98387
days after the day such an order is issued. 98388

(F) The department of job and family services shall adopt 98389
rules in accordance with Chapter 119. of the Revised Code to 98390
implement this section, including rules governing the following: 98391

(1) State hearings under division (B) of this section. The 98392
rules shall include provisions regarding notice of eligibility 98393
termination and the opportunity of an appellant appealing a 98394
decision or order of a county department of job and family 98395
services to request a county conference with the county department 98396

before the state hearing is held. 98397

(2) Administrative appeals under division (C) of this 98398
section; 98399

(3) Time limits for complying with a decision issued under 98400
division (B) or (C) of this section; 98401

(4) Sanctions that may be applied against an agency under 98402
division (D) of this section. 98403

(G) The department of job and family services may adopt rules 98404
in accordance with Chapter 119. of the Revised Code establishing 98405
an appeals process for an appellant who appeals a decision or 98406
order regarding a Title IV-A program identified under division 98407
(A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code 98408
that is different from the appeals process established by this 98409
section. The different appeals process may include having a state 98410
agency that administers the Title IV-A program pursuant to an 98411
interagency agreement entered into under section 5101.801 of the 98412
Revised Code administer the appeals process. 98413

(H) If an appellant receiving medicaid through a health 98414
insuring corporation that holds a certificate of authority under 98415
Chapter 1751. of the Revised Code is appealing a denial of 98416
medicaid services based on lack of medical necessity or other 98417
clinical issues regarding coverage by the health insuring 98418
corporation, the person hearing the appeal may order an 98419
independent medical review if that person determines that a review 98420
is necessary. The review shall be performed by a health care 98421
professional with appropriate clinical expertise in treating the 98422
recipient's condition or disease. The department shall pay the 98423
costs associated with the review. 98424

A review ordered under this division shall be part of the 98425
record of the hearing and shall be given appropriate evidentiary 98426
consideration by the person hearing the appeal. 98427

(I) The requirements of Chapter 119. of the Revised Code 98428
apply to a state hearing or administrative appeal under this 98429
section only to the extent, if any, specifically provided by rules 98430
adopted under this section. 98431

Sec. 5101.37. (A) The department of job and family services 98432
and each county department of job and family services and child 98433
support enforcement agency may ~~make~~ conduct any audits or 98434
investigations that are necessary in the performance of their 98435
duties, and to that end they shall have the same power as a judge 98436
of a county court to administer oaths and to enforce the 98437
attendance and testimony of witnesses and the production of books 98438
or papers. 98439

The department and each county department and agency shall 98440
keep a record of their audits and investigations stating the time, 98441
place, charges, or subject, witnesses summoned and examined, and 98442
their conclusions. 98443

Witnesses shall be paid the fees and mileage provided for 98444
under section 119.094 of the Revised Code. 98445

(B) In conducting hearings pursuant to Chapters 3119., 3121., 98446
and 3123. or pursuant to division (B) of section 5101.35 of the 98447
Revised Code, the department and each child support enforcement 98448
agency have the same power as a judge of a county court to 98449
administer oaths and to enforce the attendance and testimony of 98450
witnesses and the production of books or papers. The department 98451
and each agency shall keep a record of those hearings stating the 98452
time, place, charges, or subject, witnesses summoned and 98453
examined, and their conclusions. 98454

The issuance of a subpoena by the department or a child 98455
support enforcement agency to enforce attendance and testimony of 98456
witnesses and the production of books or papers at a hearing is 98457
discretionary and the department or agency is not required to pay 98458

the fees of witnesses for attendance and travel. 98459

(C) Any judge of any division of the court of common pleas, 98460
upon application of the department or a county department or child 98461
support enforcement agency, may compel the attendance of 98462
witnesses, the production of books or papers, and the giving of 98463
testimony before the department, county department, or agency, by 98464
a judgment for contempt or otherwise, in the same manner as in 98465
cases before those courts. 98466

(D) Until an audit report is formally released by the 98467
department of job and family services, the audit report or any 98468
working paper or other document or record prepared by the 98469
department and related to the audit that is the subject of the 98470
audit report is not a public record under section 149.43 of the 98471
Revised Code. 98472

(E) The director of job and family services may adopt rules 98473
as necessary to implement this section. The rules shall be adopted 98474
in accordance with section 111.15 of the Revised Code as if they 98475
were internal management rules. 98476

Sec. 5101.46. (A) As used in this section: 98477

(1) "Title XX" means Title XX of the "Social Security Act," 98478
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 98479

(2) "Respective local agency" means, with respect to the 98480
department of job and family services, a county department of job 98481
and family services; with respect to the department of mental 98482
health, a board of alcohol, drug addiction, and mental health 98483
services; and with respect to the department of developmental 98484
disabilities, a county board of developmental disabilities. 98485

(3) "Federal poverty guidelines" means the poverty guidelines 98486
as revised annually by the United States department of health and 98487
human services in accordance with section 673(2) of the "Omnibus 98488

Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 98489
9902, as amended, for a family size equal to the size of the 98490
family of the person whose income is being determined. 98491

(B) The departments of job and family services, mental 98492
health, and developmental disabilities, with their respective 98493
local agencies, shall administer the provision of social services 98494
funded through grants made under Title XX. The social services 98495
furnished with Title XX funds shall be directed at the following 98496
goals: 98497

(1) Achieving or maintaining economic self-support to 98498
prevent, reduce, or eliminate dependency; 98499

(2) Achieving or maintaining self-sufficiency, including 98500
reduction or prevention of dependency; 98501

(3) Preventing or remedying neglect, abuse, or exploitation 98502
of children and adults unable to protect their own interests, or 98503
preserving, rehabilitating, or reuniting families; 98504

(4) Preventing or reducing inappropriate institutional care 98505
by providing for community-based care, home-based care, or other 98506
forms of less intensive care; 98507

(5) Securing referral or admission for institutional care 98508
when other forms of care are not appropriate, or providing 98509
services to individuals in institutions. 98510

(C)(1) All federal funds received under Title XX shall be 98511
appropriated as follows: 98512

(a) Seventy-two and one-half per cent to the department of 98513
job and family services; 98514

(b) Twelve and ninety-three one-hundredths per cent to the 98515
department of mental health; 98516

(c) Fourteen and fifty-seven one-hundredths per cent to the 98517
department of developmental disabilities. 98518

(2) Each ~~of the state department~~ departments shall, subject 98519
to the approval of the controlling board, develop ~~formulas a~~ 98520
formula for the distribution of ~~their the~~ Title XX ~~appropriations~~ 98521
funds appropriated to the department to their its respective local 98522
agencies. The ~~formulas~~ formula developed by each state department 98523
shall take into account all of the following for each of its 98524
respective local agencies: 98525

(a) The total population of the area that is served by the 98526
respective local agency, ~~the;~~ 98527

(b) The percentage of the population in the area served that 98528
falls below the federal poverty guidelines, ~~and the;~~ 98529

(c) The respective local agency's history of and ability to 98530
utilize Title XX funds. 98531

(3) Each of the state departments shall expend ~~no~~ for state 98532
administrative costs not more than three per cent of ~~its the~~ Title 98533
XX ~~appropriation for state administrative costs~~ funds appropriated 98534
to the department. ~~Each of the department's respective local~~ 98535
~~agencies shall expend no more than fourteen per cent of its Title~~ 98536
~~XX appropriation~~ 98537

Each state department shall establish for each of its 98538
respective local agencies the maximum percentage of the Title XX 98539
funds distributed to the respective local agency that the 98540
respective local agency may expend for local administrative costs. 98541
The percentage shall be established by rule and shall comply with 98542
federal law governing the use of Title XX funds. The rules shall 98543
be adopted in accordance with section 111.15 of the Revised Code 98544
as if they were internal management rules. 98545

(4) The department of job and family services shall expend ~~no~~ 98546
for the training of the following not more than two per cent of 98547
~~its the~~ Title XX ~~appropriation for the training of the following~~ 98548
funds appropriated to the department: 98549

(a) Employees of county departments of job and family services;	98550 98551
(b) Providers of services under contract with the state departments' respective local agencies;	98552 98553
(c) Employees of a public children services agency directly engaged in providing Title XX services.	98554 98555
(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.	98556 98557 98558 98559 98560
For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.	98561 98562 98563 98564
The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.	98565 98566 98567 98568 98569 98570 98571 98572
(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing	98573 98574 98575 98576 98577 98578 98579 98580

the need for Title XX social services. 98581

The county department shall submit the county profile to the 98582
board of county commissioners for its review. Once the county 98583
profile has been approved by the board, the county department 98584
shall file a copy of the county profile with the department of job 98585
and family services. The department shall approve the county 98586
profile if the department determines the profile provides for the 98587
Title XX social services to meet the goals specified in division 98588
(B) of this section. 98589

(F) Any of the three state departments and their respective 98590
local agencies may require that an entity under contract to 98591
provide social services with Title XX funds submit to an audit on 98592
the basis of alleged misuse or improper accounting of funds. If an 98593
audit is required, the social services provider shall reimburse 98594
the state department or respective local agency for the cost it 98595
incurred in conducting the audit or having the audit conducted. 98596

If an audit demonstrates that a social services provider is 98597
responsible for one or more adverse findings, the provider shall 98598
reimburse the appropriate state department or its respective local 98599
agency the amount of the adverse findings. The amount shall not be 98600
reimbursed with Title XX funds received under this section. The 98601
three state departments and their respective local agencies may 98602
terminate or refuse to enter into a Title XX contract with a 98603
social services provider if there are adverse findings in an audit 98604
that are the responsibility of the provider. 98605

(G) The Except with respect to the matters for which each of 98606
the state departments must adopt rules under division (C)(3) of 98607
this section, the department of job and family services may adopt 98608
any rules it considers necessary to implement and carry out the 98609
purposes of this section. Rules governing financial and 98610
operational matters of the department or matters between the 98611
department and county departments of job and family services shall 98612

be adopted as internal management rules in accordance with section 98613
111.15 of the Revised Code. Rules governing eligibility for 98614
services, program participation, and other matters pertaining to 98615
applicants and participants shall be adopted in accordance with 98616
Chapter 119. of the Revised Code. 98617

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions 98618
(B) and (C) of this section, the ~~director~~ department of job and 98619
family services may accept applications, determine eligibility, 98620
redetermine eligibility, and perform related administrative 98621
activities for one or more of the following: 98622

(1) The medicaid program established by Chapter 5111. of the 98623
Revised Code; 98624

(2) The children's health insurance program parts I, II, and 98625
III provided for under sections 5101.50, ~~5101.51, and 5101.52~~ to 98626
5101.529 of the Revised Code; 98627

(3) Publicly funded child care provided under Chapter 5104. 98628
of the Revised Code; 98629

(4) The supplemental nutrition assistance program 98630
administered by the department ~~of job and family services~~ pursuant 98631
to section 5101.54 of the Revised Code; 98632

(5) Other programs the director of job and family services 98633
determines are supportive of children, adults, or families; 98634

(6) Other programs regarding which the director determines 98635
administrative cost savings and efficiency may be achieved through 98636
the department accepting applications, determining eligibility, 98637
redetermining eligibility, or performing related administrative 98638
activities. 98639

(B) To the extent permitted by federal law, the department 98640
may enter into agreements with one or more other state agencies, 98641
local government entities, or political subdivisions to accept 98642

applications, determine eligibility, redetermine eligibility, and 98643
perform related administrative activities on behalf of the 98644
department with respect to the medicaid program and the children's 98645
health insurance program. 98646

(C) If federal law requires a face-to-face interview to 98647
complete an eligibility determination for a program specified in 98648
or pursuant to division (A) of this section, the face-to-face 98649
interview shall not be conducted by the department of job and 98650
family services. 98651

~~(C)~~(D) Subject to division ~~(B)~~(C) of this section, if the 98652
~~director~~ department elects to accept applications, determine 98653
eligibility, redetermine eligibility, and perform related 98654
administrative activities for a program specified in or pursuant 98655
to division (A) of this section, both of the following apply: 98656

(1) An individual seeking services under the program may 98657
apply for the program to the ~~director~~ department or to the entity 98658
that state law governing the program authorizes to accept 98659
applications for the program. 98660

(2) The ~~director~~ department is subject to federal statutes 98661
and regulations and state statutes and rules that require, permit, 98662
or prohibit an action regarding accepting applications, 98663
determining or redetermining eligibility, and performing related 98664
administrative activities for the program. 98665

~~(D)~~(E) The director may adopt rules as necessary to implement 98666
this section. 98667

Sec. 5101.50. (A) As used in sections 5101.50 to ~~5101.529~~ 98668
5101.5210 of the Revised Code: 98669

(1) "Children's health insurance program" means the program 98670
authorized by Title XXI of the "Social Security Act," 111 Stat. 98671
552 (1997), 42 U.S.C.A. 1397aa. 98672

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 98673
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(3) "School-based health center" has the same meaning as in 42 U.S.C. 1397jj(c)(9). 98675
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(B) The director of job and family services may continue to operate the children's health insurance program initially authorized by an executive order issued under section 107.17 of the Revised Code as long as federal financial participation is available for the program. If operated, the program shall provide health assistance to uninsured individuals under nineteen years of age with family incomes not exceeding one hundred fifty per cent of the federal poverty guidelines. In accordance with 42 U.S.C.A. 1397aa, the director may provide for the health assistance to meet the requirements of 42 U.S.C.A. 1397cc, to be provided under the medicaid program established under Chapter 5111. of the Revised Code, or to be a combination of both. 98677
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Sec. 5101.504. Health assistance services that the children's health insurance program part I covers may be furnished through school-based health centers. Not later than July 1, 2012, the director of job and family services shall adopt rules under section 5101.502 of the Revised Code establishing billing, reimbursement, and data collection requirements for school-based health centers through which such health assistance services are furnished. 98689
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Sec. 5101.5110. Health assistance services that the children's health insurance program part II covers may be furnished through school-based health centers. Not later than July 1, 2012, the director of job and family services shall adopt rules under section 5101.512 of the Revised Code establishing billing, reimbursement, and data collection requirements for school-based 98697
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health centers through which such health assistance services are 98703
furnished. 98704

Sec. ~~5101.5110~~ 5101.5111. (A) The director of job and family 98705
services may submit a waiver request to the United States 98706
secretary of health and human services to provide health 98707
assistance to any individual who meets all of the following 98708
requirements: 98709

(1) Is the parent of a child under nineteen years of age who 98710
resides with the parent and is eligible for health assistance 98711
under the children's health insurance program part I or II or the 98712
medicaid program established under Chapter 5111. of the Revised 98713
Code; 98714

(2) Is uninsured; 98715

(3) Has a family income that does not exceed one hundred per 98716
cent of the federal poverty guidelines. 98717

(B) A waiver request the director submits under division (A) 98718
of this section may seek federal funds allotted to the state under 98719
Title XXI of the "Social Security Act," 111 Stat. 558 (1997), 42 98720
U.S.C.A. 1397dd, as amended, that are not otherwise used to fund 98721
the children's health insurance program parts I and II. 98722

(C) If a waiver request the director submits under division 98723
(A) of this section is granted, the director may adopt rules in 98724
accordance with Chapter 119. of the Revised Code as necessary for 98725
the efficient administration of the program authorization by the 98726
waiver. 98727

Sec. 5101.5210. Health assistance services that the 98728
children's health insurance program part III covers may be 98729
furnished through school-based health centers. Not later than July 98730
1, 2012, the director of job and family services shall adopt rules 98731

under section 5101.522 of the Revised Code establishing billing, reimbursement, and data collection requirements for school-based health centers through which such health assistance services are furnished. 98732
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Sec. 5101.57. (A) As used in this section: 98736

(1) "Nontherapeutic abortion" has the same meaning as in section 124.85 of the Revised Code. 98737
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(2) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state, except that "political subdivision" does not include either of the following: 98739
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(a) A municipal corporation; 98743

(b) A county that has adopted a charter under Section 3 of Article X, Ohio Constitution, to the extent that it is exercising the powers of local self-government as provided in that charter and is subject to Section 3 of Article XVIII, Ohio Constitution. 98744
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(3) "Public facility" means any institution, structure, equipment, or physical asset that is owned, leased, or controlled by this state or any agency, institution, instrumentality, or political subdivision thereof. "Public facility" includes any state university, state medical college, health district, joint hospital, or public hospital agency. 98748
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(B) No public facility shall be used for the purpose of performing or inducing a nontherapeutic abortion. 98754
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Sec. 5101.571. As used in sections 5101.571 to 5101.591 of the Revised Code: 98756
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(A) "Information" means all of the following: 98758

(1) An individual's name, address, date of birth, and social 98759

security number; 98760

(2) The group or plan number, or other identifier, assigned 98761
by a third party to a policy held by an individual or a plan in 98762
which the individual participates and the nature of the coverage; 98763

(3) Any other data the director of job and family services 98764
specifies in rules adopted under section 5101.591 of the Revised 98765
Code. 98766

(B) "Medical assistance" means medical items or services 98767
provided under any of the following: 98768

(1) Medicaid, as defined in section 5111.01 of the Revised 98769
Code; 98770

(2) The children's health insurance program part I, part II, 98771
and part III established under sections 5101.50, 5101.51, and 98772
5101.52 of the Revised Code; 98773

~~(3) The children's buy in program established under sections 98774
5101.5211 to 5101.5216 of the Revised Code. 98775~~

(C) "Medical support" means support specified as support for 98776
the purpose of medical care by order of a court or administrative 98777
agency. 98778

(D) "Public assistance" means medical assistance or 98779
assistance under the Ohio works first program established under 98780
Chapter 5107. of the Revised Code. 98781

(E)(1) Subject to division (E)(2) of this section, and except 98782
as provided in division (E)(3) of this section, "third party" 98783
means all of the following: 98784

(a) A person authorized to engage in the business of sickness 98785
and accident insurance under Title XXXIX of the Revised Code; 98786

(b) A person or governmental entity providing coverage for 98787
medical services or items to individuals on a self-insurance 98788
basis; 98789

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;	98790 98791
(d) A group health plan as defined in 29 U.S.C. 1167;	98792
(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);	98793 98794
(f) A managed care organization;	98795
(g) A pharmacy benefit manager;	98796
(h) A third party administrator;	98797
(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant.	98798 98799 98800 98801
(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a person or governmental entity listed in division (E)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.	98802 98803 98804 98805 98806
(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.	98807 98808 98809
Sec. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:	98810 98811
(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code;	98812 98813 98814 98815
(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than three <u>six</u> years after the date of the	98816 98817 98818

provision of such medical item or service; 98819

(3) Not charge a fee to do either of the following for a claim described in division (A)(2) of this section: 98820

(a) Determine whether the claim should be paid; 98822

(b) Process the claim. 98823

(4) Pay a claim described in division (A)(2) of this section; 98824

~~(4)~~(5) Not deny a claim submitted by the department solely on 98825
the basis of the date of submission of the claim, type or format 98826
of the claim form, or a failure by the medical assistance 98827
recipient who is the subject of the claim to present proper 98828
documentation of coverage at the time of service, if both of the 98829
following are true: 98830

(a) The claim was submitted by the department not later than 98831
~~three~~ six years after the date of the provision of the medical 98832
item or service. 98833

(b) An action by the department to enforce its right of 98834
recovery under section 5101.58 of the Revised Code on the claim 98835
was commenced not later than six years after the department's 98836
submission of the claim. 98837

~~(5)~~(6) Consider the department's payment of a claim for a 98838
medical item or service to be the equivalent of the medical 98839
assistance recipient having obtained prior authorization for the 98840
item or service from the third party; 98841

~~(6)~~(7) Not deny a claim described in division (A)~~(5)~~(6) of 98842
this section that is submitted by the department solely on the 98843
basis of the medical assistance recipient's failure to obtain 98844
prior authorization for the medical item or service. 98845

(B) For purposes of the requirements in division (A) of this 98846
section, a third party shall treat a managed care organization as 98847
the department for a claim in which both of the following are 98848

true: 98849

(1) The individual who is the subject of the claim received a 98850
medical item or service through a managed care organization that 98851
has entered into a contract with the department of job and family 98852
services under section 5111.17 of the Revised Code; 98853

(2) The department has assigned its right of recovery for the 98854
claim to the managed care organization. 98855

(C) The time limitations associated with the requirements in 98856
divisions (A)(2) and ~~(A)(4)~~(5) of this section apply only to 98857
submissions of claims to, and payments of claims by, a health 98858
insurer to which 42 U.S.C. 1396a(a)(25)(I) applies. 98859

Sec. 5101.58. (A) The acceptance of public assistance gives 98860
an automatic right of recovery to the department of job and family 98861
services and a county department of job and family services 98862
against the liability of a third party for the cost of medical 98863
assistance paid on behalf of the public assistance recipient or 98864
participant. When an action or claim is brought against a third 98865
party by a public assistance recipient or participant, any 98866
payment, settlement or compromise of the action or claim, or any 98867
court award or judgment, is subject to the recovery right of the 98868
department of job and family services or county department of job 98869
and family services. Except in the case of a recipient or 98870
participant who receives medical assistance through a managed care 98871
organization, the department's or county department's claim shall 98872
not exceed the amount of medical assistance paid by a department 98873
on behalf of the recipient or participant. A payment, settlement, 98874
compromise, judgment, or award that excludes the cost of medical 98875
assistance paid for by a department shall not preclude a 98876
department from enforcing its rights under this section. 98877

(B) In the case of a recipient or participant who receives 98878
medical assistance through a managed care organization, the amount 98879

of the department's or county department's claim shall be the 98880
amount the managed care organization pays for medical assistance 98881
rendered to the recipient or participant, even if that amount is 98882
more than the amount a department pays to the managed care 98883
organization for the recipient's or participant's medical 98884
assistance. 98885

(C) A recipient or participant, and the recipient's or 98886
participant's attorney, if any, shall cooperate with the 98887
departments. In furtherance of this requirement, the recipient or 98888
participant, or the recipient's or participant's attorney, if any, 98889
shall, not later than thirty days after initiating informal 98890
recovery activity or filing a legal recovery action against a 98891
third party, provide written notice of the activity or action to 98892
the department of job and family services when medical assistance 98893
under medicaid ~~or the children's buy in program~~ has been paid. 98894

(D) The written notice that must be given under division (C) 98895
of this section shall disclose the identity and address of any 98896
third party against whom the recipient or participant has or may 98897
have a right of recovery. 98898

(E) No settlement, compromise, judgment, or award or any 98899
recovery in any action or claim by a recipient or participant 98900
where the departments have a right of recovery shall be made final 98901
without first giving the appropriate departments written notice as 98902
described in division (C) of this section and a reasonable 98903
opportunity to perfect their rights of recovery. If the 98904
departments are not given the appropriate written notice, the 98905
recipient or participant and, if there is one, the recipient's or 98906
participant's attorney, are liable to reimburse the departments 98907
for the recovery received to the extent of medical payments made 98908
by the departments. 98909

(F) The departments shall be permitted to enforce their 98910
recovery rights against the third party even though they accepted 98911

prior payments in discharge of their rights under this section if, 98912
at the time the departments received such payments, they were not 98913
aware that additional medical expenses had been incurred but had 98914
not yet been paid by the departments. The third party becomes 98915
liable to the department of job and family services or county 98916
department of job and family services as soon as the third party 98917
is notified in writing of the valid claims for recovery under this 98918
section. 98919

(G)(1) Subject to division (G)(2) of this section, the right 98920
of recovery of a department does not apply to that portion of any 98921
judgment, award, settlement, or compromise of a claim, to the 98922
extent of attorneys' fees, costs, or other expenses incurred by a 98923
recipient or participant in securing the judgment, award, 98924
settlement, or compromise, or to the extent of medical, surgical, 98925
and hospital expenses paid by such recipient or participant from 98926
the recipient's or participant's own resources. 98927

(2) Reasonable attorneys' fees, not to exceed one-third of 98928
the total judgment, award, settlement, or compromise, plus costs 98929
and other expenses incurred by the recipient or participant in 98930
securing the judgment, award, settlement, or compromise, shall 98931
first be deducted from the total judgment, award, settlement, or 98932
compromise. After fees, costs, and other expenses are deducted 98933
from the total judgment, award, settlement, or compromise, the 98934
department of job and family services or appropriate county 98935
department of job and family services shall receive no less than 98936
one-half of the remaining amount, or the actual amount of medical 98937
assistance paid, whichever is less. 98938

(H) A right of recovery created by this section may be 98939
enforced separately or jointly by the department of job and family 98940
services or the appropriate county department of job and family 98941
services. To enforce their recovery rights, the departments may do 98942
any of the following: 98943

(1) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled recipient or participant or the recipient's or participant's attorney or representative.

(I) A recipient or participant shall not assess attorney fees, costs, or other expenses against the department of job and family services or a county department of job and family services when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing,

including, but not limited to, a private home, apartment, trailer, 98974
or rooming house. An "independent living arrangement" includes an 98975
adult care facility licensed pursuant to Chapter ~~3722-~~ 5119. of 98976
the Revised Code, but does not include other institutions or 98977
facilities licensed by the state or facilities in which a person 98978
resides as a result of voluntary, civil, or criminal commitment. 98979

(C) "Caretaker" means the person assuming the responsibility 98980
for the care of an adult on a voluntary basis, by contract, 98981
through receipt of payment for care, as a result of a family 98982
relationship, or by order of a court of competent jurisdiction. 98983

(D) "Court" means the probate court in the county where an 98984
adult resides. 98985

(E) "Emergency" means that the adult is living in conditions 98986
which present a substantial risk of immediate and irreparable 98987
physical harm or death to self or any other person. 98988

(F) "Emergency services" means protective services furnished 98989
to an adult in an emergency. 98990

(G) "Exploitation" means the unlawful or improper act of a 98991
caretaker using an adult or an adult's resources for monetary or 98992
personal benefit, profit, or gain. 98993

(H) "In need of protective services" means an adult known or 98994
suspected to be suffering from abuse, neglect, or exploitation to 98995
an extent that either life is endangered or physical harm, mental 98996
anguish, or mental illness results or is likely to result. 98997

(I) "Incapacitated person" means a person who is impaired for 98998
any reason to the extent that the person lacks sufficient 98999
understanding or capacity to make and carry out reasonable 99000
decisions concerning the person's self or resources, with or 99001
without the assistance of a caretaker. Refusal to consent to the 99002
provision of services shall not be the sole determinative that the 99003
person is incapacitated. "Reasonable decisions" are decisions made 99004

in daily living which facilitate the provision of food, shelter, 99005
clothing, and health care necessary for life support. 99006

(J) "Mental illness" means a substantial disorder of thought, 99007
mood, perception, orientation, or memory that grossly impairs 99008
judgment, behavior, capacity to recognize reality, or ability to 99009
meet the ordinary demands of life. 99010

(K) "Neglect" means the failure of an adult to provide for 99011
self the goods or services necessary to avoid physical harm, 99012
mental anguish, or mental illness or the failure of a caretaker to 99013
provide such goods or services. 99014

(L) "Peace officer" means a peace officer as defined in 99015
section 2935.01 of the Revised Code. 99016

(M) "Physical harm" means bodily pain, injury, impairment, or 99017
disease suffered by an adult. 99018

(N) "Protective services" means services provided by the 99019
county department of job and family services or its designated 99020
agency to an adult who has been determined by evaluation to 99021
require such services for the prevention, correction, or 99022
discontinuance of an act of as well as conditions resulting from 99023
abuse, neglect, or exploitation. Protective services may include, 99024
but are not limited to, case work services, medical care, mental 99025
health services, legal services, fiscal management, home health 99026
care, homemaker services, housing-related services, guardianship 99027
services, and placement services as well as the provision of such 99028
commodities as food, clothing, and shelter. 99029

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, 99030
and Friday, except when such day is a holiday as defined in 99031
section 1.14 of the Revised Code. 99032

Sec. 5101.61. (A) As used in this section: 99033

(1) "Senior service provider" means any person who provides 99034

care or services to a person who is an adult as defined in 99035
division (B) of section 5101.60 of the Revised Code. 99036

(2) "Ambulatory health facility" means a nonprofit, public or 99037
proprietary freestanding organization or a unit of such an agency 99038
or organization that: 99039

(a) Provides preventive, diagnostic, therapeutic, 99040
rehabilitative, or palliative items or services furnished to an 99041
outpatient or ambulatory patient, by or under the direction of a 99042
physician or dentist in a facility which is not a part of a 99043
hospital, but which is organized and operated to provide medical 99044
care to outpatients; 99045

(b) Has health and medical care policies which are developed 99046
with the advice of, and with the provision of review of such 99047
policies, an advisory committee of professional personnel, 99048
including one or more physicians, one or more dentists, if dental 99049
care is provided, and one or more registered nurses; 99050

(c) Has a medical director, a dental director, if dental care 99051
is provided, and a nursing director responsible for the execution 99052
of such policies, and has physicians, dentists, nursing, and 99053
ancillary staff appropriate to the scope of services provided; 99054

(d) Requires that the health care and medical care of every 99055
patient be under the supervision of a physician, provides for 99056
medical care in a case of emergency, has in effect a written 99057
agreement with one or more hospitals and other centers or clinics, 99058
and has an established patient referral system to other resources, 99059
and a utilization review plan and program; 99060

(e) Maintains clinical records on all patients; 99061

(f) Provides nursing services and other therapeutic services 99062
in accordance with programs and policies, with such services 99063
supervised by a registered professional nurse, and has a 99064
registered professional nurse on duty at all times of clinical 99065

operations;	99066
(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;	99067 99068
(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;	99069 99070
(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.	99071 99072 99073 99074 99075 99076 99077
(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.	99078 99079 99080 99081
(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.	99082 99083 99084
(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:	99085 99086
(a) Is primarily engaged in providing home health services;	99087
(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;	99088 99089 99090 99091 99092 99093 99094
(c) Is under the supervision of a duly licensed doctor of	99095

medicine or doctor of osteopathy or a registered professional 99096
nurse who is responsible for the execution of such home health 99097
policies; 99098

(d) Maintains comprehensive records on all patients; 99099

(e) Is operated by the state, a political subdivision, or an 99100
agency of either, or is operated not for profit in this state and 99101
is licensed or registered, if required, pursuant to law by the 99102
appropriate department of the state, county, or municipality in 99103
which it furnishes services; or is operated for profit in this 99104
state, meets all the requirements specified in divisions (A)(5)(a) 99105
to (d) of this section, and is certified under Title XVIII of the 99106
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 99107
amended. 99108

(6) "Home health service" means the following items and 99109
services, provided, except as provided in division (A)(6)(g) of 99110
this section, on a visiting basis in a place of residence used as 99111
the patient's home: 99112

(a) Nursing care provided by or under the supervision of a 99113
registered professional nurse; 99114

(b) Physical, occupational, or speech therapy ordered by the 99115
patient's attending physician; 99116

(c) Medical social services performed by or under the 99117
supervision of a qualified medical or psychiatric social worker 99118
and under the direction of the patient's attending physician; 99119

(d) Personal health care of the patient performed by aides in 99120
accordance with the orders of a doctor of medicine or osteopathy 99121
and under the supervision of a registered professional nurse; 99122

(e) Medical supplies and the use of medical appliances; 99123

(f) Medical services of interns and residents-in-training 99124
under an approved teaching program of a nonprofit hospital and 99125

under the direction and supervision of the patient's attending physician; 99126
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(g) Any of the foregoing items and services which: 99128

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility; 99129
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(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment. 99132
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Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code. 99137
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(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or 99155
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cause reports to be made of such belief to the department. 99157

(C) The reports made under this section shall be made orally 99158
or in writing except that oral reports shall be followed by a 99159
written report if a written report is requested by the department. 99160
Written reports shall include: 99161

(1) The name, address, and approximate age of the adult who 99162
is the subject of the report; 99163

(2) The name and address of the individual responsible for 99164
the adult's care, if any individual is, and if the individual is 99165
known; 99166

(3) The nature and extent of the alleged abuse, neglect, or 99167
exploitation of the adult; 99168

(4) The basis of the reporter's belief that the adult has 99169
been abused, neglected, or exploited. 99170

(D) Any person with reasonable cause to believe that an adult 99171
is suffering abuse, neglect, or exploitation who makes a report 99172
pursuant to this section or who testifies in any administrative or 99173
judicial proceeding arising from such a report, or any employee of 99174
the state or any of its subdivisions who is discharging 99175
responsibilities under section 5101.62 of the Revised Code shall 99176
be immune from civil or criminal liability on account of such 99177
investigation, report, or testimony, except liability for perjury, 99178
unless the person has acted in bad faith or with malicious 99179
purpose. 99180

(E) No employer or any other person with the authority to do 99181
so shall discharge, demote, transfer, prepare a negative work 99182
performance evaluation, or reduce benefits, pay, or work 99183
privileges, or take any other action detrimental to an employee or 99184
in any way retaliate against an employee as a result of the 99185
employee's having filed a report under this section. 99186

(F) Neither the written or oral report provided for in this 99187
section nor the investigatory report provided for in section 99188
5101.62 of the Revised Code shall be considered a public record as 99189
defined in section 149.43 of the Revised Code. Information 99190
contained in the report shall upon request be made available to 99191
the adult who is the subject of the report, to agencies authorized 99192
by the department to receive information contained in the report, 99193
and to legal counsel for the adult. 99194

Sec. 5101.98. (A) There is hereby created in the state 99195
treasury the military injury relief fund, which shall consist of 99196
money contributed to it under section 5747.113 of the Revised 99197
Code, of incentive grants authorized by the "Jobs for Veterans 99198
Act," 116 Stat. 2033 (2002), and of contributions made directly to 99199
it. Any person or entity may contribute directly to the fund in 99200
addition to or independently of the income tax refund contribution 99201
system established in section 5747.113 of the Revised Code. 99202

(B) Upon application, the director of job and family services 99203
shall grant money in the fund to individuals injured while in 99204
active service as a member of the armed forces of the United 99205
States while serving under operation Iraqi freedom, operation new 99206
dawn, or operation enduring freedom and to individuals diagnosed 99207
with post-traumatic stress disorder while serving, or after having 99208
served, in operation Iraqi freedom, operation new dawn, or 99209
operation enduring freedom. 99210

(C) An individual who receives a grant under this section is 99211
precluded from receiving additional grants under this section 99212
during the same state fiscal year but is not precluded from being 99213
considered for or receiving other assistance offered by the 99214
department of job and family services. 99215

(D) The director shall adopt rules under Chapter 119. of the 99216
Revised Code establishing: 99217

(1) Forms and procedures by which individuals may apply for a grant under this section;	99218 99219
(2) Criteria for reviewing, evaluating, and approving or denying grant applications;	99220 99221
(3) Criteria for determining the amount of grants awarded under this section;	99222 99223
(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;	99224 99225 99226
(5) The process for appealing eligibility determinations; and	99227
(6) Any other rules necessary to administer the grant program established in this section.	99228 99229
(E) An eligibility determination, a grant approval, or a grant denial made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.	99230 99231 99232 99233
Sec. 5104.01. As used in this chapter:	99234
(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.	99235 99236 99237
(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.	99238 99239
(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.	99240 99241 99242
(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.	99243 99244 99245 99246

(E) "Career pathways model" means an alternative pathway to meeting the requirements for a child care staff member or administrator that uses one framework to integrate the pathways of formal education, training, experience, and specialized credentials, and certifications, and that allows the member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

~~(F)~~(G) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.

~~(G)~~(H) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, or school child.

~~(I)~~(J) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

~~(J)~~(K) "Child day camp" means a program in which only school 99278
children attend or participate, that operates for no more than 99279
seven hours per day, that operates only during one or more public 99280
school district's regular vacation periods or for no more than 99281
fifteen weeks during the summer, and that operates outdoor 99282
activities for each child who attends or participates in the 99283
program for a minimum of fifty per cent of each day that children 99284
attend or participate in the program, except for any day when 99285
hazardous weather conditions prevent the program from operating 99286
outdoor activities for a minimum of fifty per cent of that day. 99287
For purposes of this division, the maximum seven hours of 99288
operation time does not include transportation time from a child's 99289
home to a child day camp and from a child day camp to a child's 99290
home. 99291

~~(K)~~(L) "Child care" means administering to the needs of 99292
infants, toddlers, preschool children, and school children outside 99293
of school hours by persons other than their parents or guardians, 99294
custodians, or relatives by blood, marriage, or adoption for any 99295
part of the twenty-four-hour day in a place or residence other 99296
than a child's own home. 99297

~~(L)~~(M) "Child day-care center" and "center" mean any place in 99298
which child care or publicly funded child care is provided for 99299
thirteen or more children at one time or any place that is not the 99300
permanent residence of the licensee or administrator in which 99301
child care or publicly funded child care is provided for seven to 99302
twelve children at one time. In counting children for the purposes 99303
of this division, any children under six years of age who are 99304
related to a licensee, administrator, or employee and who are on 99305
the premises of the center shall be counted. "Child day-care 99306
center" and "center" do not include any of the following: 99307

(1) A place located in and operated by a hospital, as defined 99308
in section 3727.01 of the Revised Code, in which the needs of 99309

children are administered to, if all the children whose needs are 99310
being administered to are monitored under the on-site supervision 99311
of a physician licensed under Chapter 4731. of the Revised Code or 99312
a registered nurse licensed under Chapter 4723. of the Revised 99313
Code, and the services are provided only for children who, in the 99314
opinion of the child's parent, guardian, or custodian, are 99315
exhibiting symptoms of a communicable disease or other illness or 99316
are injured; 99317

(2) A child day camp; 99318

(3) A place that provides child care, but not publicly funded 99319
child care, if all of the following apply: 99320

(a) An organized religious body provides the child care; 99321

(b) A parent, custodian, or guardian of at least one child 99322
receiving child care is on the premises and readily accessible at 99323
all times; 99324

(c) The child care is not provided for more than thirty days 99325
a year; 99326

(d) The child care is provided only for preschool and school 99327
children. 99328

~~(M)~~(N) "Child care resource and referral service 99329
organization" means a community-based nonprofit organization that 99330
provides child care resource and referral services but not child 99331
care. 99332

~~(N)~~(O) "Child care resource and referral services" means all 99333
of the following services: 99334

(1) Maintenance of a uniform data base of all child care 99335
providers in the community that are in compliance with this 99336
chapter, including current occupancy and vacancy data; 99337

(2) Provision of individualized consumer education to 99338
families seeking child care; 99339

(3) Provision of timely referrals of available child care providers to families seeking child care;	99340 99341
(4) Recruitment of child care providers;	99342
(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;	99343 99344 99345 99346
(6) Collection and analysis of data on the supply of and demand for child care in the community;	99347 99348
(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	99349 99350 99351
(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;	99352 99353 99354
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	99355 99356
(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;	99357 99358 99359 99360
(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.	99361 99362 99363 99364
(P) (P) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.	99365 99366 99367 99368 99369

~~(P)~~(Q) "Drop-in child day-care center," "drop-in center," 99370
"drop-in type A family day-care home," and "drop-in type A home" 99371
mean a center or type A home that provides child care or publicly 99372
funded child care for children on a temporary, irregular basis. 99373

~~(Q)~~(R) "Employee" means a person who either: 99374

(1) Receives compensation for duties performed in a child 99375
day-care center or type A family day-care home; 99376

(2) Is assigned specific working hours or duties in a child 99377
day-care center or type A family day-care home. 99378

~~(R)~~(S) "Employer" means a person, firm, institution, 99379
organization, or agency that operates a child day-care center or 99380
type A family day-care home subject to licensure under this 99381
chapter. 99382

~~(S)~~(T) "Federal poverty line" means the official poverty 99383
guideline as revised annually in accordance with section 673(2) of 99384
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 99385
U.S.C. 9902, as amended, for a family size equal to the size of 99386
the family of the person whose income is being determined. 99387

~~(T)~~(U) "Head start program" means a comprehensive child 99388
development program that receives funds distributed under the 99389
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 99390
amended, and is licensed as a child day-care center. 99391

~~(U)~~(V) "Income" means gross income, as defined in section 99392
5107.10 of the Revised Code, less any amounts required by federal 99393
statutes or regulations to be disregarded. 99394

~~(V)~~(W) "Indicator checklist" means an inspection tool, used 99395
in conjunction with an instrument-based program monitoring 99396
information system, that contains selected licensing requirements 99397
that are statistically reliable indicators or predictors of a 99398
child day-care center or type A family day-care home's compliance 99399

with licensing requirements. 99400

~~(W)~~(X) "Infant" means a child who is less than eighteen 99401
months of age. 99402

~~(X)~~(Y) "In-home aide" means a person who does not reside with 99403
the child but provides care in the child's home and is certified 99404
by a county director of job and family services pursuant to 99405
section 5104.12 of the Revised Code to provide publicly funded 99406
child care to a child in a child's own home pursuant to this 99407
chapter and any rules adopted under it. 99408

~~(Y)~~(Z) "Instrument-based program monitoring information 99409
system" means a method to assess compliance with licensing 99410
requirements for child day-care centers and type A family day-care 99411
homes in which each licensing requirement is assigned a weight 99412
indicative of the relative importance of the requirement to the 99413
health, growth, and safety of the children that is used to develop 99414
an indicator checklist. 99415

~~(Z)~~(AA) "License capacity" means the maximum number in each 99416
age category of children who may be cared for in a child day-care 99417
center or type A family day-care home at one time as determined by 99418
the director of job and family services considering building 99419
occupancy limits established by the department of commerce, ~~number~~ 99420
~~of available child care staff members,~~ amount of available indoor 99421
floor space and outdoor play space, and amount of available play 99422
equipment, materials, and supplies. For the purposes of a 99423
provisional license issued under this chapter, the director shall 99424
also consider the number of available child-care staff members 99425
when determining "license capacity" for the provisional license. 99426

~~(AA)~~(BB) "Licensed preschool program" or "licensed school 99427
child program" means a preschool program or school child program, 99428
as defined in section 3301.52 of the Revised Code, that is 99429
licensed by the department of education pursuant to sections 99430

3301.52 to 3301.59 of the Revised Code. 99431

~~(BB)~~(CC) "Licensee" means the owner of a child day-care 99432
center or type A family day-care home that is licensed pursuant to 99433
this chapter and who is responsible for ensuring its compliance 99434
with this chapter and rules adopted pursuant to this chapter. 99435

~~(CC)~~(DD) "Operate a child day camp" means to operate, 99436
establish, manage, conduct, or maintain a child day camp. 99437

~~(DD)~~(EE) "Owner" includes a person, as defined in section 99438
1.59 of the Revised Code, or government entity. 99439

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent 99440
cooperative center," "parent cooperative type A family day-care 99441
home," and "parent cooperative type A home" mean a corporation or 99442
association organized for providing educational services to the 99443
children of members of the corporation or association, without 99444
gain to the corporation or association as an entity, in which the 99445
services of the corporation or association are provided only to 99446
children of the members of the corporation or association, 99447
ownership and control of the corporation or association rests 99448
solely with the members of the corporation or association, and at 99449
least one parent-member of the corporation or association is on 99450
the premises of the center or type A home during its hours of 99451
operation. 99452

~~(FF)~~(GG) "Part-time child day-care center," "part-time 99453
center," "part-time type A family day-care home," and "part-time 99454
type A home" mean a center or type A home that provides child care 99455
or publicly funded child care for no more than four hours a day 99456
for any child. 99457

~~(GG)~~(HH) "Place of worship" means a building where activities 99458
of an organized religious group are conducted and includes the 99459
grounds and any other buildings on the grounds used for such 99460
activities. 99461

~~(HH)~~(II) "Preschool child" means a child who is three years 99462
old or older but is not a school child. 99463

~~(II)~~(JJ) "Protective child care" means publicly funded child 99464
care for the direct care and protection of a child to whom either 99465
of the following applies: 99466

(1) A case plan prepared and maintained for the child 99467
pursuant to section 2151.412 of the Revised Code indicates a need 99468
for protective care and the child resides with a parent, 99469
stepparent, guardian, or another person who stands in loco 99470
parentis as defined in rules adopted under section 5104.38 of the 99471
Revised Code; 99472

(2) The child and the child's caretaker either temporarily 99473
reside in a facility providing emergency shelter for homeless 99474
families or are determined by the county department of job and 99475
family services to be homeless, and are otherwise ineligible for 99476
publicly funded child care. 99477

~~(JJ)~~(KK) "Publicly funded child care" means administering to 99478
the needs of infants, toddlers, preschool children, and school 99479
children under age thirteen during any part of the 99480
twenty-four-hour day by persons other than their caretaker parents 99481
for remuneration wholly or in part with federal or state funds, 99482
including funds available under the child care block grant act, 99483
Title IV-A, and Title XX, distributed by the department of job and 99484
family services. 99485

~~(KK)~~(LL) "Religious activities" means any of the following: 99486
worship or other religious services; religious instruction; Sunday 99487
school classes or other religious classes conducted during or 99488
prior to worship or other religious services; youth or adult 99489
fellowship activities; choir or other musical group practices or 99490
programs; meals; festivals; or meetings conducted by an organized 99491
religious group. 99492

~~(LL)~~(MM) "School child" means a child who is enrolled in or 99493
is eligible to be enrolled in a grade of kindergarten or above but 99494
is less than fifteen years old. 99495

~~(MM)~~(NN) "School child day-care center," "school child 99496
center," "school child type A family day-care home," and "school 99497
child type A family home" mean a center or type A home that 99498
provides child care for school children only and that does either 99499
or both of the following: 99500

(1) Operates only during that part of the day that 99501
immediately precedes or follows the public school day of the 99502
school district in which the center or type A home is located; 99503

(2) Operates only when the public schools in the school 99504
district in which the center or type A home is located are not 99505
open for instruction with pupils in attendance. 99506

~~(NN)~~(OO) "Serious risk noncompliance" means a licensure or 99507
certification rule violation that leads to a great risk of harm 99508
to, or death of, a child, and is observable, not inferable. 99509

(PP) "State median income" means the state median income 99510
calculated by the department of development pursuant to division 99511
(A)(1)(g) of section 5709.61 of the Revised Code. 99512

~~(OO)~~(QQ) "Title IV-A" means Title IV-A of the "Social 99513
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 99514

~~(PP)~~(RR) "Title XX" means Title XX of the "Social Security 99515
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 99516

~~(QQ)~~(SS) "Toddler" means a child who is at least eighteen 99517
months of age but less than three years of age. 99518

~~(RR)~~(TT) "Type A family day-care home" and "type A home" mean 99519
a permanent residence of the administrator in which child care or 99520
publicly funded child care is provided for seven to twelve 99521
children at one time or a permanent residence of the administrator 99522

in which child care is provided for four to twelve children at one 99523
time if four or more children at one time are under two years of 99524
age. In counting children for the purposes of this division, any 99525
children under six years of age who are related to a licensee, 99526
administrator, or employee and who are on the premises of the type 99527
A home shall be counted. "Type A family day-care home" and "type A 99528
home" do not include any child day camp. 99529

~~(SS)~~(UU) "Type B family day-care home" and "type B home" mean 99530
a permanent residence of the provider in which child care is 99531
provided for one to six children at one time and in which no more 99532
than three children are under two years of age at one time. In 99533
counting children for the purposes of this division, any children 99534
under six years of age who are related to the provider and who are 99535
on the premises of the type B home shall be counted. "Type B 99536
family day-care home" and "type B home" do not include any child 99537
day camp. 99538

Sec. 5104.011. (A) The director of job and family services 99539
shall adopt rules pursuant to Chapter 119. of the Revised Code 99540
governing the operation of child day-care centers, including, but 99541
not limited to, parent cooperative centers, part-time centers, 99542
drop-in centers, and school child centers, which rules shall 99543
reflect the various forms of child care and the needs of children 99544
receiving child care or publicly funded child care and shall 99545
include specific rules for school child care centers that are 99546
developed in consultation with the department of education. The 99547
rules shall not require an existing school facility that is in 99548
compliance with applicable building codes to undergo an additional 99549
building code inspection or to have structural modifications. The 99550
rules shall include the following: 99551

(1) Submission of a site plan and descriptive plan of 99552
operation to demonstrate how the center proposes to meet the 99553

requirements of this chapter and rules adopted pursuant to this 99554
chapter for the initial license application; 99555

(2) Standards for ensuring that the physical surroundings of 99556
the center are safe and sanitary including, but not limited to, 99557
the physical environment, the physical plant, and the equipment of 99558
the center; 99559

(3) Standards for the supervision, care, and discipline of 99560
children receiving child care or publicly funded child care in the 99561
center; 99562

(4) Standards for a program of activities, and for play 99563
equipment, materials, and supplies, to enhance the development of 99564
each child; however, any educational curricula, philosophies, and 99565
methodologies that are developmentally appropriate and that 99566
enhance the social, emotional, intellectual, and physical 99567
development of each child shall be permissible. As used in this 99568
division, "program" does not include instruction in religious or 99569
moral doctrines, beliefs, or values that is conducted at child 99570
day-care centers owned and operated by churches and does include 99571
methods of disciplining children at child day-care centers. 99572

(5) Admissions policies and procedures, health care policies 99573
and procedures, including, but not limited to, procedures for the 99574
isolation of children with communicable diseases, first aid and 99575
emergency procedures, procedures for discipline and supervision of 99576
children, standards for the provision of nutritious meals and 99577
snacks, and procedures for screening children and employees, 99578
~~including, but not limited to, that may include~~ any necessary 99579
physical examinations and immunizations; 99580

(6) Methods for encouraging parental participation in the 99581
center and methods for ensuring that the rights of children, 99582
parents, and employees are protected and that responsibilities of 99583
parents and employees are met; 99584

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;	99585 99586 99587
(8) Procedures for record keeping, organization, and administration;	99588 99589
(9) Procedures for issuing, renewing , denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	99590 99591 99592
(10) Inspection procedures;	99593
(11) Procedures and standards for setting initial and renewal license application fees;	99594 99595
(12) Procedures for receiving, recording, and responding to complaints about centers;	99596 99597
(13) Procedures for enforcing section 5104.04 of the Revised Code;	99598 99599
(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;	99600 99601 99602 99603 99604
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.	99605 99606 99607 99608 99609 99610
(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;	99611 99612 99613 99614

~~(17)~~ Standards providing for the special needs of children 99615
who are handicapped or who require treatment for health conditions 99616
while the child is receiving child care or publicly funded child 99617
care in the center; 99618

~~(18)~~(17) A procedure for reporting of injuries of children 99619
that occur at the center; 99620

~~(19)~~(18) Any other procedures and standards necessary to 99621
carry out this chapter. 99622

(B)(1) The child day-care center shall have, for each child 99623
for whom the center is licensed, at least thirty-five square feet 99624
of usable indoor floor space wall-to-wall regularly available for 99625
the child care operation exclusive of any parts of the structure 99626
in which the care of children is prohibited by law or by rules 99627
adopted by the board of building standards. The minimum of 99628
thirty-five square feet of usable indoor floor space shall not 99629
include hallways, kitchens, storage areas, or any other areas that 99630
are not available for the care of children, as determined by the 99631
director, in meeting the space requirement of this division, and 99632
bathrooms shall be counted in determining square footage only if 99633
they are used exclusively by children enrolled in the center, 99634
except that the exclusion of hallways, kitchens, storage areas, 99635
bathrooms not used exclusively by children enrolled in the center, 99636
and any other areas not available for the care of children from 99637
the minimum of thirty-five square feet of usable indoor floor 99638
space shall not apply to: 99639

(a) Centers licensed prior to or on September 1, 1986, that 99640
continue under licensure after that date; 99641

(b) Centers licensed prior to or on September 1, 1986, that 99642
are issued a new license after that date solely due to a change of 99643
ownership of the center. 99644

(2) The child day-care center shall have on the site a safe 99645

outdoor play space which is enclosed by a fence or otherwise 99646
protected from traffic or other hazards. The play space shall 99647
contain not less than sixty square feet per child using such space 99648
at any one time, and shall provide an opportunity for supervised 99649
outdoor play each day in suitable weather. The director may exempt 99650
a center from the requirement of this division, if an outdoor play 99651
space is not available and if all of the following are met: 99652

(a) The center provides an indoor recreation area that has 99653
not less than sixty square feet per child using the space at any 99654
one time, that has a minimum of one thousand four hundred forty 99655
square feet of space, and that is separate from the indoor space 99656
required under division (B)(1) of this section. 99657

(b) The director has determined that there is regularly 99658
available and scheduled for use a conveniently accessible and safe 99659
park, playground, or similar outdoor play area for play or 99660
recreation. 99661

(c) The children are closely supervised during play and while 99662
traveling to and from the area. 99663

The director also shall exempt from the requirement of this 99664
division a child day-care center that was licensed prior to 99665
September 1, 1986, if the center received approval from the 99666
director prior to September 1, 1986, to use a park, playground, or 99667
similar area, not connected with the center, for play or 99668
recreation in lieu of the outdoor space requirements of this 99669
section and if the children are closely supervised both during 99670
play and while traveling to and from the area and except if the 99671
director determines upon investigation and inspection pursuant to 99672
section 5104.04 of the Revised Code and rules adopted pursuant to 99673
that section that the park, playground, or similar area, as well 99674
as access to and from the area, is unsafe for the children. 99675

(3) The child day-care center shall have at least two 99676

responsible adults available on the premises at all times when 99677
seven or more children are in the center. The center shall 99678
organize the children in the center in small groups, shall provide 99679
child-care staff to give continuity of care and supervision to the 99680
children on a day-by-day basis, and shall ensure that no child is 99681
left alone or unsupervised. Except as otherwise provided in 99682
division (E) of this section, the maximum number of children per 99683
child-care staff member and maximum group size, by age category of 99684
children, are as follows: 99685

	Maximum Number of		
Age Category	Children Per	Maximum	
of Children	Child-Care	Group	
	Staff Member	Size	
(a) Infants:			99690
(i) Less than twelve			99691
months old	5:1, or		99692
	12:2 if two		99693
	child-care		99694
	staff members		99695
	are in the room	12	99696
(ii) At least twelve			99697
months old, but			99698
less than eighteen			99699
months old	6:1	12	99700
(b) Toddlers:			99701
(i) At least eighteen			99702
months old, but			99703
less than thirty			99704
months old	7:1	14	99705
(ii) At least thirty months			99706
old, but less than			99707
three years old	8:1	16	99708
(c) Preschool			99709

children:			99710
(i) Three years old	12:1	24	99711
(ii) Four years old and			99712
five years old who			99713
are not school			99714
children	14:1	28	99715
(d) School children:			99716
(i) A child who is			99717
enrolled in or is			99718
eligible to be			99719
enrolled in a grade			99720
of kindergarten			99721
or above, but			99722
is less than			99723
eleven years old	18:1	36	99724
(ii) Eleven through fourteen			99725
years old	20:1	40	99726
Except as otherwise provided in division (E) of this section,			99727
the maximum number of children per child-care staff member and			99728
maximum group size requirements of the younger age group shall			99729
apply when age groups are combined.			99730
(4)(a) The child day-care center administrator shall show the			99731
director both of the following:			99732
(i) Evidence of at least high school graduation or			99733
certification of high school equivalency by the state board of			99734
education or the appropriate agency of another state;			99735
(ii) Evidence of having completed at least two years of			99736
training in an accredited college, university, or technical			99737
college, including courses in child development or early childhood			99738
education, or at least two years of experience in supervising and			99739
giving daily care to children attending an organized group			99740
program, <u>or the equivalent based on a designation as an "early</u>			99741

childhood professional level three" under the career pathways 99742
model of the quality-rating program established under section 99743
5104.30 of the Revised Code. 99744

(b) In addition to the requirements of division (B)(4)(a) of 99745
this section and except as provided in division (B)(4)(c) of this 99746
section, any administrator employed or designated ~~on or after~~ 99747
~~September 1, 1986, as such prior to the effective date of this~~ 99748
section, as amended, shall show evidence of, ~~and any administrator~~ 99749
~~employed or designated prior to September 1, 1986, shall show~~ 99750
evidence at least one of the following within six years after ~~such~~ 99751
~~the date of, at least one of the following~~ employment or 99752
designation: 99753

(i) Two years of experience working as a child-care staff 99754
member in a center and at least four courses in child development 99755
or early childhood education from an accredited college, 99756
university, or technical college, except that a person who has two 99757
years of experience working as a child-care staff member in a 99758
particular center and who has been promoted to or designated as 99759
administrator of that center shall have one year from the time the 99760
person was promoted to or designated as administrator to complete 99761
the required four courses; 99762

(ii) Two years of training, including at least four courses 99763
in child development or early childhood education from an 99764
accredited college, university, or technical college; 99765

(iii) A child development associate credential issued by the 99766
national child development associate credentialing commission; 99767

(iv) An associate or higher degree in child development or 99768
early childhood education from an accredited college, technical 99769
college, or university, or a license designated for teaching in an 99770
associate teaching position in a preschool setting issued by the 99771
state board of education. 99772

(c) For the purposes of division (B)(4)(b) of this section, 99773
any administrator employed or designated as such prior to the 99774
effective date of this section, as amended, may also show evidence 99775
of an administrator's credential as approved by the department of 99776
job and family services in lieu of, or in addition to, the 99777
evidence required under division (B)(4)(b) of this section. The 99778
evidence of an administrator's credential must be shown to the 99779
director not later than one year after the date of employment or 99780
designation. 99781

(d) In addition to the requirements of division (B)(4)(a) of 99782
this section, any administrator employed or designated as such on 99783
or after the effective date of this section, as amended, shall 99784
show evidence of at least one of the following not later than one 99785
year after the date of employment or designation: 99786

(i) Two years of experience working as a child-care staff 99787
member in a center and at least four courses in child development 99788
or early childhood education from an accredited college, 99789
university, or technical college, except that a person who has two 99790
years of experience working as a child-care staff member in a 99791
particular center and who has been promoted to or designated as 99792
administrator of that center shall have one year from the time the 99793
person was promoted to or designated as administrator to complete 99794
the required four courses; 99795

(ii) Two years of training, including at least four courses 99796
in child development or early childhood education from an 99797
accredited college, university, or technical college; 99798

(iii) A child development associate credential issued by the 99799
national child development associate credentialing commission; 99800

(iv) An associate or higher degree in child development or 99801
early childhood education from an accredited college, technical 99802
college, or university, or a license designated for teaching in an 99803

associate teaching position in a preschool setting issued by the 99804
state board of education; 99805

(v) An administrator's credential as approved by the 99806
department of job and family services. 99807

(5) All child-care staff members of a child day-care center 99808
shall be at least eighteen years of age, and shall furnish the 99809
director evidence of at least high school graduation or 99810
certification of high school equivalency by the state board of 99811
education or the appropriate agency of another state or evidence 99812
of completion of a training program approved by the department of 99813
job and family services or state board of education, except as 99814
follows: 99815

(a) A child-care staff member may be less than eighteen years 99816
of age if the staff member is either of the following: 99817

(i) A graduate of a two-year vocational child-care training 99818
program approved by the state board of education; 99819

(ii) A student enrolled in the second year of a vocational 99820
child-care training program approved by the state board of 99821
education which leads to high school graduation, provided that the 99822
student performs the student's duties in the child day-care center 99823
under the continuous supervision of an experienced child-care 99824
staff member, receives periodic supervision from the vocational 99825
child-care training program teacher-coordinator in the student's 99826
high school, and meets all other requirements of this chapter and 99827
rules adopted pursuant to this chapter. 99828

(b) A child-care staff member shall be exempt from the 99829
educational requirements of this division if the staff member: 99830

(i) Prior to January 1, 1972, was employed or designated by a 99831
child day-care center and has been continuously employed since 99832
either by the same child day-care center employer or at the same 99833
child day-care center; ~~or~~ 99834

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

(6) Every child care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori internationale. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

~~(7) The administrator of each child day care center shall 99866
prepare at least once annually and for each group of children at 99867
the center a roster of names and telephone numbers of parents, 99868
custodians, or guardians of each group of children attending the 99869
center and upon request shall furnish the roster for each group to 99870
the parents, custodians, or guardians of the children in that 99871
group. The administrator may prepare a roster of names and 99872
telephone numbers of all parents, custodians, or guardians of 99873
children attending the center and upon request shall furnish the 99874
roster to the parents, custodians, or guardians of the children 99875
who attend the center. The administrator shall not include in any 99876
roster the name or telephone number of any parent, custodian, or 99877
guardian who requests the administrator not to include the 99878
parent's, custodian's, or guardian's name or number and shall not 99879
furnish any roster to any person other than a parent, custodian, 99880
or guardian of a child who attends the center. 99881~~

(C)(1) Each child day-care center shall have on the center 99882
premises and readily available at all times at least one 99883
child-care staff member who has completed a course in first aid 99884
~~and, one staff member who has completed a course~~ in prevention, 99885
recognition, and management of communicable diseases which is 99886
approved by the state department of health, and a staff member who 99887
has completed a course in child abuse recognition and prevention 99888
training which is approved by the department of job and family 99889
services. 99890

(2) The administrator of each child day-care center shall 99891
maintain enrollment, health, and attendance records for all 99892
children attending the center and health and employment records 99893
for all center employees. The records shall be confidential, 99894
~~except as otherwise provided in division (B)(7) of this section~~ 99895
~~and~~ except that they shall be disclosed by the administrator to 99896
the director upon request for the purpose of administering and 99897

enforcing this chapter and rules adopted pursuant to this chapter. 99898
Neither the center nor the licensee, administrator, or employees 99899
of the center shall be civilly or criminally liable in damages or 99900
otherwise for records disclosed to the director by the 99901
administrator pursuant to this division. It shall be a defense to 99902
any civil or criminal charge based upon records disclosed by the 99903
administrator to the director that the records were disclosed 99904
pursuant to this division. 99905

(3)(a) Any parent who is the residential parent and legal 99906
custodian of a child enrolled in a child day-care center and any 99907
custodian or guardian of such a child shall be permitted unlimited 99908
access to the center during its hours of operation for the 99909
purposes of contacting their children, evaluating the care 99910
provided by the center, evaluating the premises of the center, or 99911
for other purposes approved by the director. A parent of a child 99912
enrolled in a child day-care center who is not the child's 99913
residential parent shall be permitted unlimited access to the 99914
center during its hours of operation for those purposes under the 99915
same terms and conditions under which the residential parent of 99916
that child is permitted access to the center for those purposes. 99917
However, the access of the parent who is not the residential 99918
parent is subject to any agreement between the parents and, to the 99919
extent described in division (C)(3)(b) of this section, is subject 99920
to any terms and conditions limiting the right of access of the 99921
parent who is not the residential parent, as described in division 99922
(I) of section 3109.051 of the Revised Code, that are contained in 99923
a parenting time order or decree issued under that section, 99924
section 3109.12 of the Revised Code, or any other provision of the 99925
Revised Code. 99926

(b) If a parent who is the residential parent of a child has 99927
presented the administrator or the administrator's designee with a 99928
copy of a parenting time order that limits the terms and 99929

conditions under which the parent who is not the residential 99930
parent is to have access to the center, as described in division 99931
(I) of section 3109.051 of the Revised Code, the parent who is not 99932
the residential parent shall be provided access to the center only 99933
to the extent authorized in the order. If the residential parent 99934
has presented such an order, the parent who is not the residential 99935
parent shall be permitted access to the center only in accordance 99936
with the most recent order that has been presented to the 99937
administrator or the administrator's designee by the residential 99938
parent or the parent who is not the residential parent. 99939

(c) Upon entering the premises pursuant to division (C)(3)(a) 99940
or (b) of this section, the parent who is the residential parent 99941
and legal custodian, the parent who is not the residential parent, 99942
or the custodian or guardian shall notify the administrator or the 99943
administrator's designee of the parent's, custodian's, or 99944
guardian's presence. 99945

(D) The director of job and family services, in addition to 99946
the rules adopted under division (A) of this section, shall adopt 99947
rules establishing minimum requirements for child day-care 99948
centers. The rules shall include, but not be limited to, the 99949
requirements set forth in divisions (B) and (C) of this section. 99950
Except as provided in section 5104.07 of the Revised Code, the 99951
rules shall not change the square footage requirements of division 99952
(B)(1) or (2) of this section; the maximum number of children per 99953
child-care staff member and maximum group size requirements of 99954
division (B)(3) of this section; the educational and experience 99955
requirements of division (B)(4) of this section; the age, 99956
educational, and experience requirements of division (B)(5) of 99957
this section; the number and type of inservice training hours 99958
required under division (B)(6) of this section; ~~or the requirement~~ 99959
~~for at least annual preparation of a roster for each group of~~ 99960
~~children of names and telephone numbers of parents, custodians, or~~ 99961

~~guardians of each group of children attending the center that must~~ 99962
~~be furnished upon request to any parent, custodian, or guardian of~~ 99963
~~any child in that group required under division (B)(7) of this~~ 99964
~~section;~~ however, the rules shall provide procedures for 99965
determining compliance with those requirements. 99966

(E)(1) When age groups are combined, the maximum number of 99967
children per child-care staff member shall be determined by the 99968
age of the youngest child in the group, except that when no more 99969
than one child thirty months of age or older receives services in 99970
a group in which all the other children are in the next older age 99971
group, the maximum number of children per child-care staff member 99972
and maximum group size requirements of the older age group 99973
established under division (B)(3) of this section shall apply. 99974

(2) The maximum number of toddlers or preschool children per 99975
child-care staff member in a room where children are napping shall 99976
be twice the maximum number of children per child-care staff 99977
member established under division (B)(3) of this section if all 99978
the following criteria are met: 99979

(a) At least one child-care staff member is present in the 99980
room. 99981

(b) Sufficient child-care staff members are on the child 99982
day-care center premises to meet the maximum number of children 99983
per child-care staff member requirements established under 99984
division (B)(3) of this section. 99985

(c) Naptime preparations are complete and all napping 99986
children are resting or sleeping on cots. 99987

(d) The maximum number established under division (E)(2) of 99988
this section is in effect for no more than ~~one and one-half~~ two 99989
hours during a twenty-four-hour day. 99990

(F) The director of job and family services shall adopt rules 99991
pursuant to Chapter 119. of the Revised Code governing the 99992

operation of type A family day-care homes, including, but not 99993
limited to, parent cooperative type A homes, part-time type A 99994
homes, drop-in type A homes, and school child type A homes, which 99995
shall reflect the various forms of child care and the needs of 99996
children receiving child care. The rules shall include the 99997
following: 99998

(1) Submission of a site plan and descriptive plan of 99999
operation to demonstrate how the type A home proposes to meet the 100000
requirements of this chapter and rules adopted pursuant to this 100001
chapter for the initial license application; 100002

(2) Standards for ensuring that the physical surroundings of 100003
the type A home are safe and sanitary, including, but not limited 100004
to, the physical environment, the physical plant, and the 100005
equipment of the type A home; 100006

(3) Standards for the supervision, care, and discipline of 100007
children receiving child care or publicly funded child care in the 100008
type A home; 100009

(4) Standards for a program of activities, and for play 100010
equipment, materials, and supplies, to enhance the development of 100011
each child; however, any educational curricula, philosophies, and 100012
methodologies that are developmentally appropriate and that 100013
enhance the social, emotional, intellectual, and physical 100014
development of each child shall be permissible; 100015

(5) Admissions policies and procedures, health care policies 100016
and procedures, including, but not limited to, procedures for the 100017
isolation of children with communicable diseases, first aid and 100018
emergency procedures, procedures for discipline and supervision of 100019
children, standards for the provision of nutritious meals and 100020
snacks, and procedures for screening children and employees, 100021
including, but not limited to, any necessary physical examinations 100022
and immunizations; 100023

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;	100024 100025 100026 100027
(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;	100028 100029 100030
(8) Procedures for record keeping, organization, and administration;	100031 100032
(9) Procedures for issuing, renewing , denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	100033 100034 100035
(10) Inspection procedures;	100036
(11) Procedures and standards for setting initial and renewal license application fees;	100037 100038
(12) Procedures for receiving, recording, and responding to complaints about type A homes;	100039 100040
(13) Procedures for enforcing section 5104.04 of the Revised Code;	100041 100042
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;	100043 100044 100045 100046 100047 100048
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	100049 100050 100051 100052
(16) Procedures to be used by licensees for checking the	100053

references of potential employees of type A homes and procedures	100054
to be used by the director for checking the references of	100055
applicants for licenses to operate type A homes;	100056
(17) Standards providing for the special needs of children	100057
who are handicapped or who require treatment for health conditions	100058
while the child is receiving child care or publicly funded child	100059
care in the type A home;	100060
(18) <u>(17)</u> Standards for the maximum number of children per	100061
child-care staff member;	100062
(19) <u>(18)</u> Requirements for the amount of usable indoor floor	100063
space for each child;	100064
(20) <u>(19)</u> Requirements for safe outdoor play space;	100065
(21) <u>(20)</u> Qualifications and training requirements for	100066
administrators and for child-care staff members;	100067
(22) <u>(21)</u> Procedures for granting a parent who is the	100068
residential parent and legal custodian, or a custodian or guardian	100069
access to the type A home during its hours of operation;	100070
(23) <u>(22)</u> Standards for the preparation and distribution of a	100071
roster of parents, custodians, and guardians;	100072
(24) <u>(23)</u> Any other procedures and standards necessary to	100073
carry out this chapter.	100074
(G) The director of job and family services shall adopt rules	100075
pursuant to Chapter 119. of the Revised Code governing the	100076
certification of type B family day-care homes.	100077
(1) The rules shall include all of the following:	100078
(a) Procedures, standards, and other necessary provisions for	100079
granting limited certification to type B family day-care homes	100080
that are operated by the following adult providers:	100081
(i) Persons who provide child care for eligible children who	100082

are great-grandchildren, grandchildren, nieces, nephews, or 100083
siblings of the provider or for eligible children whose caretaker 100084
parent is a grandchild, child, niece, nephew, or sibling of the 100085
provider; 100086

(ii) Persons who provide child care for eligible children all 100087
of whom are the children of the same caretaker parent; 100088

(b) Procedures for the director to ensure, that type B homes 100089
that receive a limited certification provide child care to 100090
children in a safe and sanitary manner; 100091

(c) Requirements for the type B home to notify parents with 100092
children in the type B home that the type B home is also certified 100093
as a foster home under section 5103.03 of the Revised Code. 100094

With regard to providers who apply for limited certification, 100095
a provider shall be granted a provisional limited certification on 100096
signing a declaration under oath attesting that the provider meets 100097
the standards for limited certification. Such provisional limited 100098
certifications shall remain in effect for no more than sixty 100099
calendar days and shall entitle the provider to offer publicly 100100
funded child care during the provisional period. Except as 100101
otherwise provided in division (G)(1) of this section, section 100102
5104.013 or 5104.09 of the Revised Code, or division (A)(2) of 100103
section 5104.11 of the Revised Code, prior to the expiration of 100104
the provisional limited certificate, a county department of job 100105
and family services shall inspect the home and shall grant limited 100106
certification to the provider if the provider meets the 100107
requirements of this division. Limited certificates remain valid 100108
for two years unless earlier revoked. Except as otherwise provided 100109
in division (G)(1) of this section, providers operating under 100110
limited certification shall be inspected annually. 100111

If a provider is a person described in division (G)(1)(a)(i) 100112
of this section or a person described in division (G)(1)(a)(ii) of 100113

this section who is a friend of the caretaker parent, the provider 100114
and the caretaker parent may verify in writing to the county 100115
department of job and family services that minimum health and 100116
safety requirements are being met in the home. Except as otherwise 100117
provided in section 5104.013 or 5104.09 or in division (A)(2) of 100118
section 5104.11 of the Revised Code, if such verification is 100119
provided, the county shall waive any inspection required by this 100120
chapter and grant limited certification to the provider. 100121

(2) The rules shall provide for safeguarding the health, 100122
safety, and welfare of children receiving child care or publicly 100123
funded child care in a certified type B home and shall include the 100124
following: 100125

(a) Standards for ensuring that the type B home and the 100126
physical surroundings of the type B home are safe and sanitary, 100127
including, but not limited to, physical environment, physical 100128
plant, and equipment; 100129

(b) Standards for the supervision, care, and discipline of 100130
children receiving child care or publicly funded child care in the 100131
home; 100132

(c) Standards for a program of activities, and for play 100133
equipment, materials, and supplies to enhance the development of 100134
each child; however, any educational curricula, philosophies, and 100135
methodologies that are developmentally appropriate and that 100136
enhance the social, emotional, intellectual, and physical 100137
development of each child shall be permissible; 100138

(d) Admission policies and procedures, health care, first aid 100139
and emergency procedures, procedures for the care of sick 100140
children, procedures for discipline and supervision of children, 100141
nutritional standards, and procedures for screening children and 100142
authorized providers, including, but not limited to, any necessary 100143
physical examinations and immunizations; 100144

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;	100145 100146 100147 100148
(f) Standards for the safe transport of children when under the care of authorized providers;	100149 100150
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	100151 100152
(h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary;	100153 100154 100155
(i) Procedures for record keeping and evaluation;	100156
(j) Procedures for receiving, recording, and responding to complaints;	100157 100158
(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;	100159 100160 100161 100162
(l) Requirements for the amount of usable indoor floor space for each child;	100163 100164
(m) Requirements for safe outdoor play space;	100165
(n) Qualification and training requirements for authorized providers;	100166 100167
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	100168 100169 100170
(p) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code;	100171 100172 100173

(q) Any other procedures and standards necessary to carry out this chapter. 100174
100175

(H) The director shall adopt rules pursuant to Chapter 119. 100176
of the Revised Code governing the certification of in-home aides. 100177
The rules shall include procedures, standards, and other necessary 100178
provisions for granting limited certification to in-home aides who 100179
provide child care for eligible children who are 100180
great-grandchildren, grandchildren, nieces, nephews, or siblings 100181
of the in-home aide or for eligible children whose caretaker 100182
parent is a grandchild, child, niece, nephew, or sibling of the 100183
in-home aide. The rules shall require, and shall include 100184
procedures for the director to ensure, that in-home aides that 100185
receive a limited certification provide child care to children in 100186
a safe and sanitary manner. The rules shall provide for 100187
safeguarding the health, safety, and welfare of children receiving 100188
publicly funded child care in their own home and shall include the 100189
following: 100190

(1) Standards for ensuring that the child's home and the 100191
physical surroundings of the child's home are safe and sanitary, 100192
including, but not limited to, physical environment, physical 100193
plant, and equipment; 100194

(2) Standards for the supervision, care, and discipline of 100195
children receiving publicly funded child care in their own home; 100196

(3) Standards for a program of activities, and for play 100197
equipment, materials, and supplies to enhance the development of 100198
each child; however, any educational curricula, philosophies, and 100199
methodologies that are developmentally appropriate and that 100200
enhance the social, emotional, intellectual, and physical 100201
development of each child shall be permissible; 100202

(4) Health care, first aid, and emergency procedures, 100203
procedures for the care of sick children, procedures for 100204

discipline and supervision of children, nutritional standards, and	100205
procedures for screening children and in-home aides, including,	100206
but not limited to, any necessary physical examinations and	100207
immunizations;	100208
(5) Methods of encouraging parental participation and	100209
ensuring that the rights of children, parents, and in-home aides	100210
are protected and the responsibilities of parents and in-home	100211
aides are met;	100212
(6) Standards for the safe transport of children when under	100213
the care of in-home aides;	100214
(7) Procedures for issuing, renewing, denying, refusing to	100215
renew, or revoking certificates;	100216
(8) Procedures for inspection of homes of children receiving	100217
publicly funded child care in their own homes;	100218
(9) Procedures for record keeping and evaluation;	100219
(10) Procedures for receiving, recording, and responding to	100220
complaints;	100221
(11) Qualifications and training requirements for in-home	100222
aides;	100223
(12) Standards providing for the special needs of children	100224
who are handicapped or who receive treatment for health conditions	100225
while the child is receiving publicly funded child care in the	100226
child's own home;	100227
(13) Any other procedures and standards necessary to carry	100228
out this chapter.	100229
(I) To the extent that any rules adopted for the purposes of	100230
this section require a health care professional to perform a	100231
physical examination, the rules shall include as a health care	100232
professional a physician assistant, a clinical nurse specialist, a	100233
certified nurse practitioner, or a certified nurse-midwife.	100234

(J)(1) The director of job and family services shall do all 100235
of the following: 100236

(a) Provide or make available in either paper or electronic 100237
form to each licensee notice of proposed rules governing the 100238
licensure of child day-care centers and type A homes; 100239

(b) Give public notice of hearings regarding the rules to 100240
each licensee at least thirty days prior to the date of the public 100241
hearing, in accordance with section 119.03 of the Revised Code; 100242

(c) At least thirty days before the effective date of a rule, 100243
provide, in either paper or electronic form, a copy of the adopted 100244
rule to each licensee. 100245

(2) The director shall do all of the following: 100246

(a) Send to each county director of job and family services a 100247
notice of proposed rules governing the certification of type B 100248
family homes and in-home aides that includes an internet web site 100249
address where the proposed rules can be viewed; 100250

(b) Give public notice of hearings regarding the proposed 100251
rules not less than thirty days in advance; 100252

(c) Provide to each county director of job and family 100253
services an electronic copy of each adopted rule at least 100254
forty-five days prior to the rule's effective date. 100255

(3) The county director of job and family services shall 100256
provide or make available in either paper or electronic form to 100257
each authorized provider and in-home aide copies of proposed rules 100258
and shall give public notice of hearings regarding the rules to 100259
each authorized provider and in-home aide at least thirty days 100260
prior to the date of the public hearing, in accordance with 100261
section 119.03 of the Revised Code. At least thirty days before 100262
the effective date of a rule, the county director of job and 100263
family services shall provide, in either paper or electronic form, 100264

copies of the adopted rule to each authorized provider and in-home aide. 100265
100266

(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge. 100267
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(5) The director of job and family services ~~shall recommend standards~~ may adopt rules pursuant to Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter ~~and that violate any provision of this chapter.~~ Sanctions may be imposed only for an action or omission that constitutes a serious risk noncompliance. The ~~standards~~ sanctions imposed shall be based on the scope and severity of the violations. ~~The director shall provide copies of the recommendations to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public~~ 100270
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The director shall make a dispute resolution process available for the implementation of sanctions. The process may include an opportunity for appeal pursuant to Chapter 119. of the Revised Code. 100282
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(6) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that establish standards for the training of individuals whom any county department of job and family services employs, with whom any county department of job and family services contracts, or with whom the director of job and family services contracts, to inspect or investigate type B family day-care homes pursuant to section 5104.11 of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division. 100286
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(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every four years thereafter ~~at the time of a license renewal~~. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information

databases as described in 42 U.S.C. 671. 100327

(2) A person required by division (A)(1) of this section to 100328
request a criminal records check shall provide to each applicant a 100329
copy of the form prescribed pursuant to division (C)(1) of section 100330
109.572 of the Revised Code, provide to each applicant a standard 100331
impression sheet to obtain fingerprint impressions prescribed 100332
pursuant to division (C)(2) of section 109.572 of the Revised 100333
Code, obtain the completed form and impression sheet from each 100334
applicant, and forward the completed form and impression sheet to 100335
the superintendent of the bureau of criminal identification and 100336
investigation at the time the person requests a criminal records 100337
check pursuant to division (A)(1) of this section. On and after 100338
~~the effective date of this amendment~~ August 14, 2008, the 100339
administrator of a child day-care center or a type A family 100340
day-care home shall review the results of the criminal records 100341
check before the applicant has sole responsibility for the care, 100342
custody, or control of any child. 100343

(3) An applicant who receives pursuant to division (A)(2) of 100344
this section a copy of the form prescribed pursuant to division 100345
(C)(1) of section 109.572 of the Revised Code and a copy of an 100346
impression sheet prescribed pursuant to division (C)(2) of that 100347
section and who is requested to complete the form and provide a 100348
set of fingerprint impressions shall complete the form or provide 100349
all the information necessary to complete the form and shall 100350
provide the impression sheet with the impressions of the 100351
applicant's fingerprints. If an applicant, upon request, fails to 100352
provide the information necessary to complete the form or fails to 100353
provide impressions of the applicant's fingerprints, the center or 100354
type A home shall not employ that applicant for any position for 100355
which a criminal records check is required by division (A)(1) of 100356
this section. 100357

(B)(1) Except as provided in rules adopted under division (E) 100358

of this section, no child day-care center or type A family
day-care home shall employ or contract with another entity for the
services of a person as a person responsible for the care,
custody, or control of a child if the person previously has been
convicted of or pleaded guilty to any of the violations described
in division (A)(9) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home
may employ an applicant conditionally until the criminal records
check required by this section is completed and the center or home
receives the results of the criminal records check. If the results
of the criminal records check indicate that, pursuant to division
(B)(1) of this section, the applicant does not qualify for
employment, the center or home shall release the applicant from
employment.

(C)(1) Each child day-care center and type A family day-care
home shall pay to the bureau of criminal identification and
investigation the fee prescribed pursuant to division (C)(3) of
section 109.572 of the Revised Code for each criminal records
check conducted in accordance with that section upon the request
pursuant to division (A)(1) of this section of the administrator
or provider of the center or home.

(2) A child day-care center and type A family day-care home
may charge an applicant a fee for the costs it incurs in obtaining
a criminal records check under this section. A fee charged under
this division shall not exceed the amount of fees the center or
home pays under division (C)(1) of this section. If a fee is
charged under this division, the center or home shall notify the
applicant at the time of the applicant's initial application for
employment of the amount of the fee and that, unless the fee is
paid, the center or type A home will not consider the applicant
for employment.

(D) The report of any criminal records check conducted by the

bureau of criminal identification and investigation in accordance 100391
with section 109.572 of the Revised Code and pursuant to a request 100392
under division (A)(1) of this section is not a public record for 100393
the purposes of section 149.43 of the Revised Code and shall not 100394
be made available to any person other than the applicant who is 100395
the subject of the criminal records check or the applicant's 100396
representative; the center or type A home requesting the criminal 100397
records check or its representative; the department of job and 100398
family services or a county department of job and family services; 100399
and any court, hearing officer, or other necessary individual 100400
involved in a case dealing with the denial of employment to the 100401
applicant. 100402

(E) The director of job and family services shall adopt rules 100403
pursuant to Chapter 119. of the Revised Code to implement this 100404
section, including rules specifying circumstances under which a 100405
center or home may hire a person who has been convicted of an 100406
offense listed in division (B)(1) of this section but who meets 100407
standards in regard to rehabilitation set by the department. 100408

(F) Any person required by division (A)(1) of this section to 100409
request a criminal records check shall inform each person, at the 100410
time of the person's initial application for employment, that the 100411
person is required to provide a set of impressions of the person's 100412
fingerprints and that a criminal records check is required to be 100413
conducted and satisfactorily completed in accordance with section 100414
109.572 of the Revised Code if the person comes under final 100415
consideration for appointment or employment as a precondition to 100416
employment for that position. 100417

(G) As used in this section: 100418

(1) "Applicant" means a person who is under final 100419
consideration for appointment to or employment in a position with 100420
a child day-care center or a type A family day-care home as a 100421
person responsible for the care, custody, or control of a child; 100422

an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center;

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home.

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every

four years thereafter ~~at the time of a license renewal~~. The 100453
director of a county department of job and family services shall 100454
request a criminal records check pursuant to division (A)(2) of 100455
this section at the time of the initial application for 100456
certification and every four years thereafter at the time of a 100457
certification renewal. When the director of job and family 100458
services or the director of a county department of job and family 100459
services requests pursuant to division (A)(1) or (2) of this 100460
section a criminal records check for a person at the time of the 100461
person's initial application for licensure or certification, the 100462
director shall request that the superintendent of the bureau of 100463
criminal identification and investigation obtain information from 100464
the federal bureau of investigation as a part of the criminal 100465
records check for the person, including fingerprint-based checks 100466
of national crime information databases as described in 42 U.S.C. 100467
671 for the person subject to the criminal records check. In all 100468
other cases in which the director of job and family services or 100469
the director of a county department of job and family services 100470
requests a criminal records check for an applicant pursuant to 100471
division (A)(1) or (2) of this section, the director may request 100472
that the superintendent include information from the federal 100473
bureau of investigation in the criminal records check, including 100474
fingerprint-based checks of national crime information databases 100475
as described in 42 U.S.C. 671. 100476

(4) The director of job and family services shall review the 100477
results of a criminal records check subsequent to a request made 100478
pursuant to divisions (A)(1) and (3) of this section prior to 100479
approval of a license. The director of a county department of job 100480
and family services shall review the results of a criminal records 100481
check subsequent to a request made pursuant to divisions (A)(2) 100482
and (3) of this section prior to approval of certification. 100483

(B) The director of job and family services or the director 100484

of a county department of job and family services shall provide to 100485
each person for whom a criminal records check is required under 100486
this section a copy of the form prescribed pursuant to division 100487
(C)(1) of section 109.572 of the Revised Code and a standard 100488
impression sheet to obtain fingerprint impressions prescribed 100489
pursuant to division (C)(2) of that section, obtain the completed 100490
form and impression sheet from that person, and forward the 100491
completed form and impression sheet to the superintendent of the 100492
bureau of criminal identification and investigation. 100493

(C) A person who receives pursuant to division (B) of this 100494
section a copy of the form and standard impression sheet described 100495
in that division and who is requested to complete the form and 100496
provide a set of fingerprint impressions shall complete the form 100497
or provide all the information necessary to complete the form and 100498
shall provide the impression sheet with the impressions of the 100499
person's fingerprints. If the person, upon request, fails to 100500
provide the information necessary to complete the form or fails to 100501
provide impressions of the person's fingerprints, the director may 100502
consider the failure as a reason to deny licensure or 100503
certification. 100504

(D) Except as provided in rules adopted under division (G) of 100505
this section, the director of job and family services shall not 100506
grant a license to a child day-care center or type A family 100507
day-care home and a county director of job and family services 100508
shall not certify a type B family day-care home if a person for 100509
whom a criminal records check was required in connection with the 100510
center or home previously has been convicted of or pleaded guilty 100511
to any of the violations described in division (A)(9) of section 100512
109.572 of the Revised Code. 100513

(E) Each child day-care center, type A family day-care home, 100514
and type B family day-care home shall pay to the bureau of 100515
criminal identification and investigation the fee prescribed 100516

pursuant to division (C)(3) of section 109.572 of the Revised Code 100517
for each criminal records check conducted in accordance with that 100518
section upon a request made pursuant to division (A) of this 100519
section. 100520

(F) The report of any criminal records check conducted by the 100521
bureau of criminal identification and investigation in accordance 100522
with section 109.572 of the Revised Code and pursuant to a request 100523
made under division (A) of this section is not a public record for 100524
the purposes of section 149.43 of the Revised Code and shall not 100525
be made available to any person other than the person who is the 100526
subject of the criminal records check or the person's 100527
representative, the director of job and family services, the 100528
director of a county department of job and family services, the 100529
center, type A home, or type B home involved, and any court, 100530
hearing officer, or other necessary individual involved in a case 100531
dealing with a denial of licensure or certification related to the 100532
criminal records check. 100533

(G) The director of job and family services shall adopt rules 100534
pursuant to Chapter 119. of the Revised Code to implement this 100535
section, including rules specifying exceptions to the prohibition 100536
in division (D) of this section for persons who have been 100537
convicted of an offense listed in that division but who meet 100538
standards in regard to rehabilitation set by the department. 100539

(H) As used in this section, "criminal records check" has the 100540
same meaning as in section 109.572 of the Revised Code. 100541

Sec. 5104.03. (A) Any person, firm, organization, 100542
institution, or agency desiring to establish a child day-care 100543
center or type A family day-care home shall apply for a license to 100544
the director of job and family services on such form as the 100545
director prescribes. The director shall provide at no charge to 100546
each applicant for licensure a copy of the child care license 100547

requirements in ~~Chapter 5104. of the Revised Code~~ this chapter and 100548
a copy of the rules adopted pursuant to ~~Chapter 5104. of the~~ 100549
~~Revised Code~~ this chapter. The ~~director shall mail application~~ 100550
~~forms for renewal of license at least one hundred twenty days~~ 100551
~~prior to the date of expiration of the license, and the~~ 100552
~~application for renewal shall be filed with the director at least~~ 100553
~~sixty days before the date of expiration. Fees~~ copies may be 100554
provided in paper or electronic form. 100555

Fees shall be set by the director pursuant to section 100556
5104.011 of the Revised Code and shall be paid at the time of 100557
application for ~~or renewal of~~ a license to operate a center or 100558
type A home. Fees collected under this section shall be paid into 100559
the state treasury to the credit of the general revenue fund. 100560

(B) Upon filing of the application for a license, the 100561
director shall investigate and inspect the center or type A home 100562
to determine the license capacity for each age category of 100563
children of the center or type A home and to determine whether the 100564
center or type A home complies with ~~Chapter 5104. of the Revised~~ 100565
~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of~~ 100566
~~the Revised Code~~ this chapter. When, after investigation and 100567
inspection, the director is satisfied that ~~Chapter 5104. of the~~ 100568
~~Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter~~ 100569
~~5104. of the Revised Code~~ it are complied with, subject to 100570
division (G) of this section, a provisional license shall be 100571
issued as soon as practicable in such form and manner as 100572
prescribed by the director. The provisional license shall be valid 100573
for ~~six~~ twelve months from the date of issuance unless revoked. 100574

(C) The director shall investigate and inspect the center or 100575
type A home at least once during operation under the provisional 100576
license. If after the investigation and inspection the director 100577
determines that the requirements of ~~Chapter 5104. of the Revised~~ 100578
~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of~~ 100579

~~the Revised Code this chapter are met, subject to division (G) of
this section, the director shall issue a license to be effective
for two years from the date of issuance of the provisional license
the center or home.~~ 100580
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~~(D) Upon the filing of an application for renewal of a
license by the center or type A home, the director shall
investigate and inspect the center or type A home. If the director
determines that the requirements of Chapter 5104. and rules
adopted pursuant to Chapter 5104. of the Revised Code are met,
subject to division (G) of this section, the director shall renew
the license to be effective for two years from the expiration date
of the previous license.~~ 100584
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~~(E) The license or provisional license shall state the name
of the licensee, the name of the administrator, the address of the
center or type A home, and the license capacity for each age
category of children. After July 1, 1987, the The license or
provisional license or license shall include thereon, in
accordance with section 5104.011 of the Revised Code, the
toll-free telephone number to be used by persons suspecting that
the center or type A home has violated a provision of ~~Chapter
5104.,~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of
the Revised Code this chapter.~~ A license or provisional license is
valid only for the licensee, administrator, address, and license
capacity for each age category of children designated on the
license. The license capacity specified on the license or
provisional license is the maximum number of children in each age
category that may be cared for in the center or type A home at one
time.~~ 100592
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The center or type A home licensee shall notify the director
when the administrator of the center or home changes. The director
shall amend the current license or provisional license to reflect
a change in an administrator, if the administrator meets the 100608
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requirements of Chapter 5104. of the Revised Code and rules 100612
adopted pursuant to Chapter 5104. of the Revised Code, or a change 100613
in license capacity for any age category of children as determined 100614
by the director of job and family services. 100615

~~(F)~~(E) If the director revokes a the license ~~or refuses to~~ 100616
~~renew a license to~~ of a center or a type A home, the director 100617
shall not issue a another license to the owner of the center or 100618
type A home ~~within two~~ until five years have elapsed from the date 100619
~~of the revocation of a license or refusal to renew a license is~~ 100620
revoked. ~~If~~ 100621

If the director denies an application for a license, the 100622
director shall not accept another application from the applicant 100623
until five years have elapsed from the date the application is 100624
denied. 100625

(F) If during the application for licensure ~~or renewal of~~ 100626
licensure process the director determines that the license of the 100627
owner has been revoked ~~or renewal of licensure has been denied,~~ 100628
the investigation of the center or type A home shall cease, ~~and~~ 100629
~~shall.~~ This action does not constitute denial of the application 100630
and may not be appealed under division (G) of this section. ~~All~~ 100631

(G) All actions of the director with respect to licensing 100632
centers or type A homes, ~~renewing a license,~~ refusal to license ~~or~~ 100633
~~renew a license,~~ and revocation of a license shall be in 100634
accordance with Chapter 119. of the Revised Code. Any applicant 100635
who is denied a license or any owner whose license ~~is not renewed~~ 100636
~~or~~ is revoked may appeal in accordance with section 119.12 of the 100637
Revised Code. 100638

~~(G)~~(H) In no case shall the director issue a license or 100639
provisional license ~~or license, or renew a license,~~ under this 100640
section for a type A home or center if the director, based on 100641
documentation provided by the appropriate county department of job 100642

and family services, determines that the applicant previously had 100643
been certified as a type B family day-care home, that the county 100644
department revoked that certification, that the revocation was 100645
based on the applicant's refusal or inability to comply with the 100646
criteria for certification, and that the refusal or inability 100647
resulted in a risk to the health or safety of children. 100648

Sec. 5104.04. (A) The department of job and family services 100649
shall establish procedures to be followed in investigating, 100650
inspecting, and licensing child day-care centers and type A family 100651
day-care homes. 100652

(B)(1)(a) The department shall, at least once during every 100653
twelve-month period of operation of a center or type A home, 100654
inspect the center or type A home. The department shall inspect a 100655
part-time center or part-time type A home at least once during 100656
every twelve-month period of operation. The department shall 100657
provide a written inspection report to the licensee within a 100658
reasonable time after each inspection. The licensee shall display 100659
all written reports of inspections conducted during the current 100660
licensing period in a conspicuous place in the center or type A 100661
home. 100662

Inspections may be unannounced. No person, firm, 100663
organization, institution, or agency shall interfere with the 100664
inspection of a center or type A home by any state or local 100665
official engaged in performing duties required of the state or 100666
local official by ~~Chapter 5104. of the Revised Code~~ this chapter 100667
or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ 100668
this chapter, including inspecting the center or type A home, 100669
reviewing records, or interviewing licensees, employees, children, 100670
or parents. 100671

(b) Upon receipt of any complaint that a center or type A 100672
home is out of compliance with the requirements of ~~Chapter 5104.~~ 100673

~~of the Revised Code this chapter or rules adopted pursuant to~~ 100674
~~Chapter 5104. of the Revised Code this chapter,~~ the department 100675
shall investigate the center or home, and both of the following 100676
apply: 100677

(i) If the complaint alleges that a child suffered physical 100678
harm while receiving child care at the center or home or that the 100679
noncompliance alleged in the complaint involved, resulted in, or 100680
poses a substantial risk of physical harm to a child receiving 100681
child care at the center or home, the department shall inspect the 100682
center or home. 100683

(ii) If division (B)(1)(b)(i) of this section does not apply 100684
regarding the complaint, the department may inspect the center or 100685
home. 100686

(c) Division (B)(1)(b) of this section does not limit, 100687
restrict, or negate any duty of the department to inspect a center 100688
or type A home that otherwise is imposed under this section, or 100689
any authority of the department to inspect a center or type A home 100690
that otherwise is granted under this section when the department 100691
believes the inspection is necessary and it is permitted under the 100692
grant. 100693

(2) If the department implements an instrument-based program 100694
monitoring information system, it may use an indicator checklist 100695
to comply with division (B)(1) of this section. 100696

(3) The department shall contract with a third party by the 100697
first day of October in each even-numbered year to collect 100698
information concerning the amounts charged by the center or home 100699
for providing child care services for use in establishing 100700
reimbursement ceilings and payment pursuant to section 5104.30 of 100701
the Revised Code. The third party shall compile the information 100702
and report the results of the survey to the department not later 100703
than the first day of December in each even-numbered year. 100704

(C) ~~In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license. The department's commencement of an action to revoke the license is sufficient notice that the correction has not been made, and no other notice regarding the correction is required.~~ 100705
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~~(D)~~ The department may deny an application or revoke a license, ~~or refuse to renew a license~~ of a center or type A home, if the applicant knowingly makes a false statement on the application, the center or home does not comply with the requirements of ~~Chapter 5104. this chapter~~ or rules adopted pursuant to ~~Chapter 5104. of the Revised Code this chapter~~, or the applicant or owner has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code. 100718
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~~(E)~~(D) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of ~~Chapter 5104. of the Revised Code this chapter~~ or rules adopted pursuant to ~~Chapter 5104. of the Revised Code this chapter~~, the department may issue an order of denial to the applicant or an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any such an order ~~of revocation~~, the person whose application is denied or whose license is revoked 100726
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may appeal in accordance with section 119.12 of the Revised Code. 100737

~~(F)~~(E) The surrender of a center or type A home license to 100738
the department or the withdrawal of an application for licensure 100739
by the owner or administrator of the center or type A home shall 100740
not prohibit the department from instituting any of the actions 100741
set forth in this section. 100742

~~(G)~~(F) Whenever the department receives a complaint, is 100743
advised, or otherwise has any reason to believe that a center or 100744
type A home is providing child care without a license issued ~~or~~ 100745
~~renewed~~ pursuant to section 5104.03 and is not exempt from 100746
licensing pursuant to section 5104.02 of the Revised Code, the 100747
department shall investigate the center or type A home and may 100748
inspect the areas children have access to or areas necessary for 100749
the care of children in the center or type A home during suspected 100750
hours of operation to determine whether the center or type A home 100751
is subject to the requirements of ~~Chapter 5104. this chapter~~ or 100752
rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this 100753
chapter. 100754

~~(H)~~(G) The department, upon determining that the center or 100755
type A home is operating without a license, shall notify the 100756
attorney general, the prosecuting attorney of the county in which 100757
the center or type A home is located, or the city attorney, 100758
village solicitor, or other chief legal officer of the municipal 100759
corporation in which the center or type A home is located, that 100760
the center or type A home is operating without a license. Upon 100761
receipt of the notification, the attorney general, prosecuting 100762
attorney, city attorney, village solicitor, or other chief legal 100763
officer of a municipal corporation shall file a complaint in the 100764
court of common pleas of the county in which the center or type A 100765
home is located requesting that the court grant an order enjoining 100766
the owner from operating the center or type A home in violation of 100767
section 5104.02 of the Revised Code. The court shall grant such 100768

injunctive relief upon a showing that the respondent named in the 100769
complaint is operating a center or type A home and is doing so 100770
without a license. 100771

~~(I)~~(H) The department shall prepare an annual report on 100772
inspections conducted under this section. The report shall include 100773
the number of inspections conducted, the number and types of 100774
violations found, and the steps taken to address the violations. 100775
The department shall file the report with the governor, the 100776
president and minority leader of the senate, and the speaker and 100777
minority leader of the house of representatives on or before the 100778
first day of January of each year, beginning in 1999. 100779

Sec. 5104.05. (A) The director of job and family services 100780
shall issue a license or provisional license ~~or license or renew a~~ 100781
~~license~~ for the operation of a child day-care center, if the 100782
director finds, after investigation of the applicant and 100783
inspection of the center, that other requirements of ~~Chapter 5104.~~ 100784
~~of the Revised Code~~ this chapter, rules promulgated pursuant to 100785
~~Chapter 5104. of the Revised Code~~ this chapter, and the following 100786
requirements are met: 100787

(1) The buildings in which the center is housed, subsequent 100788
to any major modification, have been approved by the department of 100789
commerce or a certified municipal, township, or county building 100790
department for the purpose of operating a child day-care center. 100791
Any structure used for the operation of a center shall be 100792
constructed, equipped, repaired, altered, and maintained in 100793
accordance with applicable provisions of Chapters 3781. and 3791. 100794
of the Revised Code and with regulations adopted by the board of 100795
building standards under Chapter 3781. of the Revised Code and 100796
this division for the safety and sanitation of structures erected 100797
for this purpose. 100798

(2) The state fire marshal or the fire chief or fire 100799

prevention officer of the municipal corporation or township in 100800
which the center is located has inspected the center annually 100801
within the preceding license period and has found the center to be 100802
in compliance with rules promulgated by the fire marshal pursuant 100803
to section 3737.83 of the Revised Code regarding fire prevention 100804
and fire safety in a child day-care center. 100805

(3) The center has received a food service operation license 100806
under Chapter 3717. of the Revised Code if meals are to be served 100807
to children other than children of the licensee or administrator, 100808
whether or not a consideration is received for the meals. 100809

(B) The director of job and family services shall issue a 100810
license or provisional license ~~or license or renew a license~~ for 100811
the operation of a type A family day-care home, if the director 100812
finds, after investigation of the applicant and inspection of the 100813
type A home, that other requirements of ~~Chapter 5104. of the~~ 100814
~~Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter~~ 100815
~~5104. of the Revised Code~~ this chapter, and the following 100816
requirements are met: 100817

(1) The state fire marshal or the fire chief or fire 100818
prevention officer of the municipal corporation or township in 100819
which the type A family day-care home is located has inspected the 100820
type A home annually within the preceding license period and has 100821
found the type A home to be in compliance with rules promulgated 100822
by the fire marshal pursuant to section 3737.83 of the Revised 100823
Code regarding fire prevention and fire safety in a type A home. 100824

(2) The type A home is in compliance with rules set by the 100825
director of job and family services in cooperation with the 100826
director of health pursuant to section 3701.80 of the Revised Code 100827
regarding meal preparation and meal service in the home. The 100828
director of job and family services, in accordance with procedures 100829
recommended by the director of health, shall inspect each type A 100830
home to determine compliance with those rules. 100831

(3) The type A home is in compliance with rules promulgated 100832
by the director of job and family services in cooperation with the 100833
board of building standards regarding safety and sanitation 100834
pursuant to section 3781.10 of the Revised Code. 100835

Sec. 5104.13. ~~No later than July 1, 1998, and at reasonable~~ 100836
~~intervals thereafter, the~~ The department of job and family 100837
services shall ~~publish~~ prepare a guide describing the state 100838
statutes and rules governing the certification of type B family 100839
day-care homes. The department ~~shall distribute~~ may publish the 100840
guide ~~to county departments of job and family services in~~ 100841
~~sufficient number that a copy is available to each~~ electronically 100842
or otherwise and shall do so in a manner that the guide is 100843
accessible to the public, including type B home ~~provider~~ 100844
providers. 100845

Sec. 5104.30. (A) The department of job and family services 100846
is hereby designated as the state agency responsible for 100847
administration and coordination of federal and state funding for 100848
publicly funded child care in this state. Publicly funded child 100849
care shall be provided to the following: 100850

(1) Recipients of transitional child care as provided under 100851
section 5104.34 of the Revised Code; 100852

(2) Participants in the Ohio works first program established 100853
under Chapter 5107. of the Revised Code; 100854

(3) Individuals who would be participating in the Ohio works 100855
first program if not for a sanction under section 5107.16 of the 100856
Revised Code and who continue to participate in a work activity, 100857
developmental activity, or alternative work activity pursuant to 100858
an assignment under section 5107.42 of the Revised Code; 100859

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per 100860
cent 100861

cent of the federal poverty line; 100862

(5) Subject to available funds, other individuals determined 100863
eligible in accordance with rules adopted under section 5104.38 of 100864
the Revised Code. 100865

The department shall apply to the United States department of 100866
health and human services for authority to operate a coordinated 100867
program for publicly funded child care, if the director of job and 100868
family services determines that the application is necessary. For 100869
purposes of this section, the department of job and family 100870
services may enter into agreements with other state agencies that 100871
are involved in regulation or funding of child care. The 100872
department shall consider the special needs of migrant workers 100873
when it administers and coordinates publicly funded child care and 100874
shall develop appropriate procedures for accommodating the needs 100875
of migrant workers for publicly funded child care. 100876

(B) The department of job and family services shall 100877
distribute state and federal funds for publicly funded child care, 100878
including appropriations of state funds for publicly funded child 100879
care and appropriations of federal funds available under the child 100880
care block grant act, Title IV-A, and Title XX. The department may 100881
use any state funds appropriated for publicly funded child care as 100882
the state share required to match any federal funds appropriated 100883
for publicly funded child care. 100884

(C) In the use of federal funds available under the child 100885
care block grant act, all of the following apply: 100886

(1) The department may use the federal funds to hire staff to 100887
prepare any rules required under this chapter and to administer 100888
and coordinate federal and state funding for publicly funded child 100889
care. 100890

(2) Not more than five per cent of the aggregate amount of 100891
the federal funds received for a fiscal year may be expended for 100892

administrative costs. 100893

(3) The department shall allocate and use at least four per cent of the federal funds for the following: 100894
100895

(a) Activities designed to provide comprehensive consumer education to parents and the public; 100896
100897

(b) Activities that increase parental choice; 100898

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care; 100899
100900
100901

(d) Establishing a voluntary child day-care center quality-rating program in which participation in the program may allow a child day-care center to be eligible for grants, technical assistance, training, or other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating. 100902
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(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means. 100907
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(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing 100915
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child care. The department of job and family services may enter 100924
into interagency agreements with the department of education, the 100925
board of regents, the department of development, and other state 100926
agencies and entities whenever the cooperative efforts of the 100927
other state agencies and entities are necessary for the department 100928
of job and family services to fulfill its duties and 100929
responsibilities under this chapter. 100930

The department shall develop and maintain a registry of 100931
persons providing child care. The director shall adopt rules 100932
pursuant to Chapter 119. of the Revised Code establishing 100933
procedures and requirements for the registry's administration. 100934

(E)(1) The director shall adopt rules in accordance with 100935
Chapter 119. of the Revised Code establishing both of the 100936
following: 100937

(a) Reimbursement ceilings for providers of publicly funded 100938
child care not later than the first day of July in each 100939
odd-numbered year; 100940

(b) A procedure for reimbursing and paying providers of 100941
publicly funded child care. 100942

(2) In establishing reimbursement ceilings under division 100943
(E)(1)(a) of this section, the director shall do all of the 100944
following: 100945

(a) Use the information obtained under division (B)(3) of 100946
section 5104.04 of the Revised Code; 100947

(b) Establish an enhanced reimbursement ceiling for providers 100948
who provide child care for caretaker parents who work 100949
nontraditional hours; 100950

(c) For a type B family day-care home provider that has 100951
received limited certification pursuant to rules adopted under 100952
division (G)(1) of section 5104.011 of the Revised Code, establish 100953

a reimbursement ceiling that is the following: 100954

(i) If the provider is a person described in division 100955
(G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five 100956
per cent of the reimbursement ceiling that applies to a type B 100957
family day-care home certified by the same county department of 100958
job and family services pursuant to section 5104.11 of the Revised 100959
Code; 100960

(ii) If the provider is a person described in division 100961
(G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per 100962
cent of the reimbursement ceiling that applies to a type B family 100963
day-care home certified by the same county department pursuant to 100964
section 5104.11 of the Revised Code. 100965

(d) With regard to the voluntary child day-care center 100966
quality-rating program established pursuant to division (C)(3)(d) 100967
of this section, do both of the following: 100968

(i) Establish enhanced reimbursement ceilings for child 100969
day-care centers that participate in the program and maintain 100970
quality ratings under the program; 100971

(ii) Weigh any reduction in reimbursement ceilings more 100972
heavily against child day-care centers that do not participate in 100973
the program or do not maintain quality ratings under the program. 100974

(3) In establishing reimbursement ceilings under division 100975
(E)(1)(a) of this section, the director may establish different 100976
reimbursement ceilings based on any of the following: 100977

(a) Geographic location of the provider; 100978

(b) Type of care provided; 100979

(c) Age of the child served; 100980

(d) Special needs of the child served; 100981

(e) Whether the expanded hours of service are provided; 100982

(f) Whether weekend service is provided;	100983
(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;	100984 100985
(h) Any other factors the director considers appropriate.	100986
(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.	100987 100988 100989 100990
Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county	100991 100992 100993 100994 100995 100996 100997 100998 100999 101000 101001 101002 101003 101004 101005 101006 101007 101008 101009 101010 101011 101012 101013

contracts or contracts involving the expenditure of state, ~~county,~~ 101014
or federal funds. 101015

(B) Each contract for publicly funded child care shall 101016
specify at least the following: 101017

(1) That the provider of publicly funded child care agrees to 101018
be paid for rendering services at the ~~lowest~~ lower of the rate 101019
customarily charged by the provider for children enrolled for 101020
child care, or the reimbursement ceiling or rate of payment 101021
established pursuant to section 5104.30 of the Revised Code, ~~or a~~ 101022
~~rate the county department negotiates with the provider;~~ 101023

(2) That, if a provider provides child care to an individual 101024
potentially eligible for publicly funded child care who is 101025
subsequently determined to be eligible, the ~~county~~ department 101026
agrees to pay for all child care provided between the date the 101027
county department of job and family services receives the 101028
individual's completed application and the date the individual's 101029
eligibility is determined; 101030

(3) Whether the county department of job and family services, 101031
the provider, or a child care resource and referral service 101032
organization will make eligibility determinations, whether the 101033
provider or a child care resource and referral service 101034
organization will be required to collect information to be used by 101035
the county department to make eligibility determinations, and the 101036
time period within which the provider or child care resource and 101037
referral service organization is required to complete required 101038
eligibility determinations or to transmit to the county department 101039
any information collected for the purpose of making eligibility 101040
determinations; 101041

(4) That the provider, other than a border state child care 101042
provider, shall continue to be licensed, approved, or certified 101043
pursuant to this chapter and shall comply with all standards and 101044

other requirements in this chapter and in rules adopted pursuant 101045
to this chapter for maintaining the provider's license, approval, 101046
or certification; 101047

(5) That, in the case of a border state child care provider, 101048
the provider shall continue to be licensed, certified, or 101049
otherwise approved by the state in which the provider is located 101050
and shall comply with all standards and other requirements 101051
established by that state for maintaining the provider's license, 101052
certificate, or other approval; 101053

(6) Whether the provider will be paid by the ~~county~~ 101054
~~department of job and family services, the state department of job~~ 101055
~~and family services,~~ or in some other manner as prescribed by 101056
rules adopted under section 5104.42 of the Revised Code; 101057

(7) That the contract is subject to the availability of state 101058
and federal funds. 101059

(C) Unless specifically prohibited by federal law or by rules 101060
adopted under section 5104.42 of the Revised Code, the county 101061
department of job and family services shall give individuals 101062
eligible for publicly funded child care the option of obtaining 101063
certificates ~~for payment~~ that the individual may use to purchase 101064
services from any provider qualified to provide publicly funded 101065
child care under section 5104.31 of the Revised Code. Providers of 101066
publicly funded child care may present these certificates for 101067
payment ~~for reimbursement~~ in accordance with rules that the 101068
director of job and family services shall adopt. Only providers 101069
may receive ~~reimbursement~~ payment for certificates ~~for payment~~. 101070
The value of the certificate ~~for payment~~ shall be based on the 101071
~~lowest~~ lower of the rate customarily charged by the provider, ~~the~~ 101072
~~reimbursement ceiling~~ or the rate of payment established pursuant 101073
to section 5104.30 of the Revised Code, ~~or a rate the county~~ 101074
~~department negotiates with the provider~~. The county department may 101075
provide the certificates ~~for payment~~ to the individuals or may 101076

contract with child care providers or child care resource and 101077
referral service organizations that make determinations of 101078
eligibility for publicly funded child care pursuant to contracts 101079
entered into under section 5104.34 of the Revised Code for the 101080
providers or resource and referral service organizations to 101081
provide the certificates ~~for payment~~ to individuals whom they 101082
determine are eligible for publicly funded child care. 101083

For each six-month period a provider of publicly funded child 101084
care provides publicly funded child ~~day-care~~ care to the child of 101085
an individual given certificates ~~for payment~~, the individual shall 101086
provide the provider certificates for days the provider would have 101087
provided publicly funded child care to the child had the child 101088
been present. The maximum number of days providers shall be 101089
provided certificates shall not exceed ten days in a six-month 101090
period during which publicly funded child care is provided to the 101091
child regardless of the number of providers that provide publicly 101092
funded child care to the child during that period. 101093

Sec. 5104.34. (A)(1) Each county department of job and family 101094
services shall implement procedures for making determinations of 101095
eligibility for publicly funded child care. Under those 101096
procedures, the eligibility determination for each applicant shall 101097
be made no later than thirty calendar days from the date the 101098
county department receives a completed application for publicly 101099
funded child care. Each applicant shall be notified promptly of 101100
the results of the eligibility determination. An applicant 101101
aggrieved by a decision or delay in making an eligibility 101102
determination may appeal the decision or delay to the department 101103
of job and family services in accordance with section 5101.35 of 101104
the Revised Code. The due process rights of applicants shall be 101105
protected. 101106

To the extent permitted by federal law, the county department 101107

may make all determinations of eligibility for publicly funded 101108
child care, may contract with child care providers or child care 101109
resource and referral service organizations for the providers or 101110
resource and referral service organizations to make all or any 101111
part of the determinations, and may contract with child care 101112
providers or child care resource and referral service 101113
organizations for the providers or resource and referral service 101114
organizations to collect specified information for use by the 101115
county department in making determinations. If a county department 101116
contracts with a child care provider or a child care resource and 101117
referral service organization for eligibility determinations or 101118
for the collection of information, the contract shall require the 101119
provider or resource and referral service organization to make 101120
each eligibility determination no later than thirty calendar days 101121
from the date the provider or resource and referral organization 101122
receives a completed application that is the basis of the 101123
determination and to collect and transmit all necessary 101124
information to the county department within a period of time that 101125
enables the county department to make each eligibility 101126
determination no later than thirty days after the filing of the 101127
application that is the basis of the determination. 101128

The county department may station employees of the department 101129
in various locations throughout the county to collect information 101130
relevant to applications for publicly funded child care and to 101131
make eligibility determinations. The county department, child care 101132
provider, and child care resource and referral service 101133
organization shall make each determination of eligibility for 101134
publicly funded child care no later than thirty days after the 101135
filing of the application that is the basis of the determination, 101136
shall make each determination in accordance with any relevant 101137
rules adopted pursuant to section 5104.38 of the Revised Code, and 101138
shall notify promptly each applicant for publicly funded child 101139
care of the results of the determination of the applicant's 101140

eligibility. 101141

The director of job and family services shall adopt rules in 101142
accordance with Chapter 119. of the Revised Code for monitoring 101143
the eligibility determination process. In accordance with those 101144
rules, the state department shall monitor eligibility 101145
determinations made by county departments of job and family 101146
services and shall direct any entity that is not in compliance 101147
with this division or any rule adopted under this division to 101148
implement corrective action specified by the department. 101149

(2) All eligibility determinations for publicly funded child 101150
care shall be made in accordance with rules adopted pursuant to 101151
division (A) of section 5104.38 of the Revised Code and, if a 101152
county department of job and family services specifies, pursuant 101153
to rules adopted under division (B) of that section, a maximum 101154
amount of income a family may have to be eligible for publicly 101155
funded child care, the income maximum specified by the county 101156
department. Publicly funded child care may be provided only to 101157
eligible infants, toddlers, preschool children, and school 101158
children under age thirteen. For an applicant to be eligible for 101159
publicly funded child care, the caretaker parent must be employed 101160
or participating in a program of education or training for an 101161
amount of time reasonably related to the time that the parent's 101162
children are receiving publicly funded child care. This 101163
restriction does not apply to families whose children are eligible 101164
for protective child care. 101165

Subject to available funds, a county department of job and 101166
family services shall allow a family to receive publicly funded 101167
child care unless the family's income exceeds the maximum income 101168
eligibility limit. Initial and continued eligibility for publicly 101169
funded child care is subject to available funds unless the family 101170
is receiving child care pursuant to division (A)(1), (2), (3), or 101171
(4) of section 5104.30 of the Revised Code. If the county 101172

department must limit eligibility due to lack of available funds, 101173
it shall give first priority for publicly funded child care to an 101174
assistance group whose income is not more than the maximum income 101175
eligibility limit that received transitional child care in the 101176
previous month but is no longer eligible because the twelve-month 101177
period has expired. Such an assistance group shall continue to 101178
receive priority for publicly funded child care until its income 101179
exceeds the maximum income eligibility limit. 101180

(3) An assistance group that ceases to participate in the 101181
Ohio works first program established under Chapter 5107. of the 101182
Revised Code is eligible for transitional child care at any time 101183
during the immediately following twelve-month period that both of 101184
the following apply: 101185

(a) The assistance group requires child care due to 101186
employment; 101187

(b) The assistance group's income is not more than one 101188
hundred fifty per cent of the federal poverty line. 101189

An assistance group ineligible to participate in the Ohio 101190
works first program pursuant to section 5101.83 or section 5107.16 101191
of the Revised Code is not eligible for transitional child care. 101192

(B) To the extent permitted by federal law, a county 101193
department of job and family services may require a caretaker 101194
parent determined to be eligible for publicly funded child care to 101195
pay a fee according to the schedule of fees established in rules 101196
adopted under section 5104.38 of the Revised Code. Each county 101197
department shall make protective child care services available to 101198
children without regard to the income or assets of the caretaker 101199
parent of the child. 101200

(C) A caretaker parent receiving publicly funded child care 101201
shall report to the entity that determined eligibility any changes 101202
in status with respect to employment or participation in a program 101203

of education or training not later than ten calendar days after 101204
the change occurs. 101205

(D) If a county department of job and family services 101206
determines that available resources are not sufficient to provide 101207
publicly funded child care to all eligible families who request 101208
it, the county department may establish a waiting list. A county 101209
department may establish separate waiting lists within the waiting 101210
list based on income. When resources become available to provide 101211
publicly funded child care to families on the waiting list, a 101212
county department that establishes a waiting list shall assess the 101213
needs of the next family scheduled to receive publicly funded 101214
child care. If the assessment demonstrates that the family 101215
continues to need and is eligible for publicly funded child care, 101216
the county department shall offer it to the family. If the county 101217
department determines that the family is no longer eligible or no 101218
longer needs publicly funded child care, the county department 101219
shall remove the family from the waiting list. 101220

(E) A caretaker parent shall not receive publicly funded 101221
child care from more than one child care provider during any 101222
period unless the caretaker parent obtains approval from the 101223
county department of job and family services based on good cause. 101224

(F) As used in this section, "maximum income eligibility 101225
limit" means the amount of income specified in rules adopted under 101226
division (A) of section 5104.38 of the Revised Code or, if a 101227
county department of job and family services specifies a higher 101228
amount pursuant to rules adopted under division (B) of that 101229
section, the amount the county department specifies. 101230

Sec. 5104.341. (A) Except as provided in division (B) of this 101231
section, both of the following apply: 101232

(1) An eligibility determination made under section 5104.34 101233
of the Revised Code for publicly funded child care is valid for 101234

one year; 101235

(2) The county department of job and family services shall 101236
adjust the appropriate level of a fee charged under division (B) 101237
of section 5104.34 of the Revised Code if a caretaker parent 101238
reports changes in income, family size, or both. 101239

(B) Division (A) of this section does not apply ~~in either of~~ 101240
~~the following circumstances:~~ 101241

~~(1) The publicly funded child care is provided under division~~ 101242
~~(B)(4) of section 5104.35 of the Revised Code;~~ 101243

~~(2) The~~ if the recipient of the publicly funded child care 101244
ceases to be eligible for publicly funded child care. 101245

Sec. 5104.35. (A) ~~The~~ Each county department of job and 101246
family services shall do all of the following: 101247

(1) Accept any gift, grant, or other funds from either public 101248
or private sources offered unconditionally or under conditions 101249
which are, in the judgment of the department, proper and 101250
consistent with this chapter and deposit the funds in the county 101251
public assistance fund established by section 5101.161 of the 101252
Revised Code; 101253

(2) Recruit individuals and groups interested in 101254
certification as in-home aides or in developing and operating 101255
suitable licensed child day-care centers, type A family day-care 101256
homes, or certified type B family day-care homes, especially in 101257
areas with high concentrations of recipients of public assistance, 101258
and for that purpose provide consultation to interested 101259
individuals and groups on request; 101260

(3) Inform clients of the availability of child care 101261
services; 101262

~~(4) Pay to a child day care center, type A family day care~~ 101263
~~home, certified type B family day care home, in-home aide,~~ 101264

~~approved child day camp, licensed preschool program, licensed school child program, or border state child care provider for child care services, the amount provided for in division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the provider is paid.~~

~~(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child care.~~

~~(B) The A county department of job and family services may do any of the following:~~

~~(1) To, to the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care;~~

~~(2) In accordance with rules adopted by the director of job and family services, request a waiver of the reimbursement ceiling established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child care based upon the special needs of a child;~~

~~(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child care customarily charges all children who receive child care from that provider;~~

~~(4) To the extent permitted by federal law, pay for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of~~

~~enrollment or attendance in an education or training program or 101296
activity, if the employment or education or training program or 101297
activity is expected to begin within the thirty day period. 101298~~

Sec. 5104.37. The department of job and family services ~~and a 101299
county department of job and family services~~ may withhold any 101300
money due, and recover through any appropriate method any money 101301
erroneously paid, under this chapter if evidence exists of less 101302
than full compliance with this chapter and any rules adopted under 101303
it. 101304

Sec. 5104.38. In addition to any other rules adopted under 101305
this chapter, the director of job and family services shall adopt 101306
rules in accordance with Chapter 119. of the Revised Code 101307
governing financial and administrative requirements for publicly 101308
funded child care and establishing all of the following: 101309

(A) Procedures and criteria to be used in making 101310
determinations of eligibility for publicly funded child care that 101311
give priority to children of families with lower incomes and 101312
procedures and criteria for eligibility for publicly funded 101313
protective child care. The rules shall specify the maximum amount 101314
of income a family may have for initial and continued eligibility. 101315
The maximum amount shall not exceed two hundred per cent of the 101316
federal poverty line. The rules may specify exceptions to the 101317
eligibility requirements in the case of a family that previously 101318
received publicly funded child care and is seeking to have the 101319
child care reinstated after the family's eligibility was 101320
terminated. 101321

(B) Procedures under which a county department of job and 101322
family services may, if the department, under division (A) of this 101323
section, specifies a maximum amount of income a family may have 101324
for eligibility for publicly funded child care that is less than 101325

the maximum amount specified in that division, specify a maximum 101326
amount of income a family residing in the county the county 101327
department serves may have for initial and continued eligibility 101328
for publicly funded child care that is higher than the amount 101329
specified by the department but does not exceed the maximum amount 101330
specified in division (A) of this section; 101331

(C) A schedule of fees requiring all eligible caretaker 101332
parents to pay a fee for publicly funded child care according to 101333
income and family size, which shall be uniform for all types of 101334
publicly funded child care, except as authorized by rule, and, to 101335
the extent permitted by federal law, shall permit the use of state 101336
and federal funds to pay the customary deposits and other advance 101337
payments that a provider charges all children who receive child 101338
care from that provider. The schedule of fees may not provide for 101339
a caretaker parent to pay a fee that exceeds ten per cent of the 101340
parent's family income. 101341

(D) A formula ~~based upon a percentage of the county's total~~ 101342
~~expenditures for publicly funded child care~~ for determining the 101343
~~maximum~~ amount of state and federal funds appropriated for 101344
publicly funded child care that may be allocated to a county 101345
department ~~may~~ to use for administrative purposes; 101346

(E) Procedures to be followed by the department and county 101347
departments in recruiting individuals and groups to become 101348
providers of child care; 101349

(F) Procedures to be followed in establishing state or local 101350
programs designed to assist individuals who are eligible for 101351
publicly funded child care in identifying the resources available 101352
to them and to refer the individuals to appropriate sources to 101353
obtain child care; 101354

(G) Procedures to deal with fraud and abuse committed by 101355
either recipients or providers of publicly funded child care; 101356

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act; 101357
101358

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans; 101359
101360

(J) A definition of "person who stands in loco parentis" for the purposes of division ~~(II)(1)~~(JJ)(1) of section 5104.01 of the Revised Code; 101361
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(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department; 101364
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(L) If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served; 101369
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(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period; 101374
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(N) Procedures for a county department of job and family services to follow in determining whether there is good cause to permit an eligible caretaker parent to receive publicly funded child care from more than one child care provider. 101382
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(O) Any other rules necessary to carry out sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code. 101386
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Sec. 5104.39. (A) The director of job and family services 101388
shall adopt rules in accordance with Chapter 119. of the Revised 101389
Code establishing a procedure for monitoring the expenditures of 101390
~~county departments of job and family services~~ for publicly funded 101391
child care to ensure that expenditures do not exceed the available 101392
federal and state funds for publicly funded child care. The 101393
department of job and family services, with the assistance of the 101394
office of budget and management and the child care advisory 101395
council created pursuant to section 5104.08 of the Revised Code, 101396
shall monitor the anticipated future expenditures ~~of county~~ 101397
~~departments~~ for publicly funded child care and shall compare those 101398
anticipated future expenditures to available federal and state 101399
funds for publicly funded child care. Whenever the department 101400
determines that the anticipated future expenditures ~~of the county~~ 101401
~~departments will exceed the available federal and state funds~~ for 101402
publicly funded child care ~~and the department reimburses the~~ 101403
~~county departments in accordance with rules adopted under section~~ 101404
~~5104.42 of the Revised Code~~ will exceed the available federal and 101405
state funds, the department shall promptly notify the county 101406
departments of job and family services and, before the available 101407
state and federal funds are used, the director shall issue and 101408
implement an administrative order that shall specify both of the 101409
following: 101410

(1) Priorities for expending the remaining available federal 101411
and state funds for publicly funded child care; 101412

(2) Instructions and procedures to be used by the county 101413
departments regarding eligibility determinations. 101414

(B) The order may do any or all of the following: 101415

(1) Suspend enrollment of all new participants in any program 101416
of publicly funded child care; 101417

(2) Limit enrollment of new participants to those with 101418

incomes at or below a specified percentage of the federal poverty line; 101419
101420

(3) Disenroll existing participants with income above a specified percentage of the federal poverty line; 101421
101422

(4) Change the schedule of fees paid by eligible caretaker parents that has been established pursuant to section 5104.38 of the Revised Code; 101423
101424
101425

(5) Change the rate of payment for providers of publicly funded child care that has been established pursuant to section 5104.30 of the Revised Code. 101426
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(C) Each county department shall comply with the order no later than thirty days after it is issued. ~~If the department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child care are used, the state department shall provide sufficient funds to the county departments for publicly funded child care to enable each county department to pay for all publicly funded child care that was provided by providers pursuant to contract prior to the date that the county department received notice under this section and the state department implemented in that county the priorities.~~ 101429
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(D) If after issuing an order under this section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly funded child care exceed the anticipated future expenditures of the county departments for publicly funded child care, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order 101440
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not later than thirty days after it is issued. 101450

(E) The department of job and family services shall do all of 101451
the following: 101452

(1) Conduct a quarterly evaluation of the program of publicly 101453
funded child care that is operated pursuant to sections 5104.30 to 101454
~~5104.39~~ 5104.43 of the Revised Code; 101455

(2) Prepare reports based upon the evaluations that specify 101456
for each county the number of participants and amount of 101457
expenditures; 101458

(3) Provide copies of the reports to both houses of the 101459
general assembly and, on request, to interested parties. 101460

Sec. 5104.42. (A) The director of job and family services 101461
shall adopt rules pursuant to section 111.15 of the Revised Code 101462
establishing a payment procedure for publicly funded child care. 101463
~~The rules may provide that the department of job and family 101464
services will reimburse county departments of job and family 101465
services for payments made to providers of publicly funded child 101466
care, make direct payments to providers, or establish another 101467
system for the payment of publicly funded child care. 101468~~

~~Alternately, the (B) The director, by rule adopted in 101469
accordance with section 111.15 of the Revised Code, may establish 101470
a methodology for allocating ~~among the county departments~~ the 101471
state and federal funds appropriated for ~~all~~ publicly funded child 101472
care ~~services. If the department chooses to allocate funds for 101473
publicly funded child care, it may provide the funds to each 101474
county department, up to the limit of the county's allocation, by 101475
advancing the funds or reimbursing county care expenditures. The 101476
rules adopted under this section may prescribe procedures for 101477
making the advances or reimbursements. The rules may establish a 101478
method under which the department may determine which county 101479~~~~

~~expenditures for child care services are allowable for use of and 101480
federal funds. 101481~~

~~The rules may establish procedures that a county department 101482
shall follow when the county department determines that its 101483
anticipated future expenditures for publicly funded child care 101484
services will exceed the amount of state and federal funds 101485
allocated by the state department. The procedures may include 101486
suspending or limiting enrollment of new participants. 101487~~

Sec. 5104.43. Each county department of job and family 101488
services shall deposit all funds received from any source for 101489
child care services into the public assistance fund established 101490
under section 5101.161 of the Revised Code. ~~All expenditures by a 101491
county department for publicly funded child care shall be made 101492
from the public assistance fund. 101493~~

Sec. 5104.99. (A) Whoever violates section 5104.02 of the 101494
Revised Code shall be punished as follows: 101495

(1) For each offense, the offender shall be fined not less 101496
than one hundred dollars nor more than five hundred dollars 101497
multiplied by the number of children receiving child care at the 101498
child day-care center or type A family day-care home that either 101499
exceeds the number of children to which a type B family day-care 101500
home may provide child care or, if the offender is a licensed type 101501
A family day-care home that is operating as a child day-care 101502
center without being licensed as a center, exceeds the license 101503
capacity of the type A home. 101504

(2) In addition to the fine specified in division (A)(1) of 101505
this section, all of the following apply: 101506

(a) Except as provided in divisions (A)(2)(b), (c), and (d) 101507
of this section, the court shall order the offender to reduce the 101508
number of children to which it provides child care to a number 101509

that does not exceed either the number of children to which a type 101510
B family day-care home may provide child care or, if the offender 101511
is a licensed type A family day-care home that is operating as a 101512
child day-care center without being licensed as a center, the 101513
license capacity of the type A home. 101514

(b) If the offender previously has been convicted of or 101515
pleaded guilty to one violation of section 5104.02 of the Revised 101516
Code, the court shall order the offender to cease the provision of 101517
child care to any person until it obtains a child day-care center 101518
license or a type A family day-care home license, as appropriate, 101519
under section 5104.03 of the Revised Code. 101520

(c) If the offender previously has been convicted of or 101521
pleaded guilty to two violations of section 5104.02 of the Revised 101522
Code, the offender is guilty of a misdemeanor of the first degree, 101523
and the court shall order the offender to cease the provision of 101524
child care to any person until it obtains a child day-care center 101525
license or a type A family day-care home license, as appropriate, 101526
under section 5104.03 of the Revised Code. The court shall impose 101527
the fine specified in division (A)(1) of this section and may 101528
impose an additional fine provided that the total amount of the 101529
fines so imposed does not exceed the maximum fine authorized for a 101530
misdemeanor of the first degree under section 2929.28 of the 101531
Revised Code. 101532

(d) If the offender previously has been convicted of or 101533
pleaded guilty to three or more violations of section 5104.02 of 101534
the Revised Code, the offender is guilty of a felony of the fifth 101535
degree, and the court shall order the offender to cease the 101536
provision of child care to any person until it obtains a child 101537
day-care center license or a type A family day-care home license, 101538
as appropriate, under section 5104.03 of the Revised Code. The 101539
court shall impose the fine specified in division (A)(1) of this 101540
section and may impose an additional fine provided that the total 101541

amount of the fines so imposed does not exceed the maximum fine 101542
authorized for a felony of the fifth degree under section 2929.18 101543
of the Revised Code. 101544

(B) Whoever violates division (B) of section 5104.09 of the 101545
Revised Code is guilty of a misdemeanor of the first degree. If 101546
the offender is a licensee of a center or type A home, the 101547
conviction shall constitute grounds for denial, or revocation, ~~or~~ 101548
~~refusal to renew~~ of an application for licensure pursuant to 101549
section 5104.04 of the Revised Code. If the offender is a person 101550
eighteen years of age or older residing in a center or type A home 101551
or is an employee of a center or a type A home and if the licensee 101552
had knowledge of, and acquiesced in, the commission of the 101553
offense, the conviction shall constitute grounds for denial, or 101554
revocation, ~~or refusal to renew~~ of an application for licensure 101555
pursuant to section 5104.04 of the Revised Code. 101556

(C) Whoever violates division (C) of section 5104.09 of the 101557
Revised Code is guilty of a misdemeanor of the third degree. 101558

Sec. 5111.012. The (A) Except as provided in division (B) of 101559
this section, the county department of job and family services of 101560
each county shall establish the eligibility for medical assistance 101561
of persons living in the county, and shall notify the department 101562
of job and family services in the manner prescribed by the 101563
department. The county shall be reimbursed for administrative 101564
expenditures in accordance with sections 5101.16, 5101.161, and 101565
5701.01 of the Revised Code. Expenditures for medical assistance 101566
shall be made from funds appropriated to the department of job and 101567
family services for public assistance subsidies. The program shall 101568
conform to the requirements of the "Social Security Act," 49 Stat. 101569
620 (1935), 42 U.S.C.A. 301, as amended. 101570

(B) If the department of job and family services elects to 101571
enter into agreements with county departments of job and family 101572

services pursuant to division (B) of section 5101.47 of the 101573
Revised Code, a county department of job and family services shall 101574
establish eligibility for medical assistance only if authorized to 101575
do so under such an agreement. 101576

Sec. 5111.013. (A) The provision of medical assistance to 101577
pregnant women and young children who are eligible for medical 101578
assistance under division (A)(3) of section 5111.01 of the Revised 101579
Code, but who are not otherwise eligible for medical assistance 101580
under that section, shall be known as the healthy start program. 101581

(B) The department of job and family services shall do all of 101582
the following with regard to the application procedures for the 101583
healthy start program: 101584

(1) Establish a short application form for the program that 101585
requires the applicant to provide no more information than is 101586
necessary for making determinations of eligibility for the healthy 101587
start program, except that the form may require applicants to 101588
provide their social security numbers. The form shall include a 101589
statement, which must be signed by the applicant, indicating that 101590
she does not choose at the time of making application for the 101591
program to apply for assistance provided under any other program 101592
administered by the department and that she understands that she 101593
is permitted at any other time to apply at the county department 101594
of job and family services of the county in which she resides for 101595
any other assistance administered by the department. 101596

(2) To the extent permitted by federal law, do one or both of 101597
the following: 101598

(a) Distribute the application form for the program to each 101599
public or private entity that serves as a women, infants, and 101600
children clinic or as a child and family health clinic and to each 101601
administrative body for such clinics and train employees of each 101602
such agency or entity to provide applicants assistance in 101603

completing the form; 101604

(b) In cooperation with the department of health, develop 101605
arrangements under which employees of county departments of job 101606
and family services are stationed at public or private agencies or 101607
entities selected by the department of job and family services 101608
that serve as women, infants, and children clinics; child and 101609
family health clinics; or administrative bodies for such clinics 101610
for the purpose both of assisting applicants for the program in 101611
completing the application form and of making determinations at 101612
that location of eligibility for the program. 101613

(3) Establish performance standards by which a county 101614
department of job and family services' level of enrollment of 101615
persons potentially eligible for the program can be measured, and 101616
establish acceptable levels of enrollment for each county 101617
department. 101618

(4) Direct any county department of job and family services 101619
whose rate of enrollment of potentially eligible enrollees in the 101620
program is below acceptable levels established under division 101621
(B)(3) of this section to implement corrective action. Corrective 101622
action may include but is not limited to any one or more of the 101623
following to the extent permitted by federal law: 101624

(a) Establishing formal referral and outreach methods with 101625
local health departments and local entities receiving funding 101626
through the bureau of maternal and child health; 101627

(b) Designating a specialized intake unit within the county 101628
department for healthy start applicants; 101629

(c) Establishing abbreviated timeliness requirements to 101630
shorten the time between receipt of an application and the 101631
scheduling of an initial application interview; 101632

(d) Establishing a system for telephone scheduling of intake 101633
interviews for applicants; 101634

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

(C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.

~~(D) The director of job and family services shall do one or both of the following:~~

~~(1) To the extent that federal funds are provided for such assistance, adopt a plan for granting presumptive eligibility for pregnant women applying for healthy start;~~

~~(2) To the extent permitted by federal medicaid regulations, adopt a plan for making same day determinations of eligibility for pregnant women applying for healthy start.~~

~~(E)~~ A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start program at all of those locations.

~~(F)~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.

Sec. 5111.0112. (A) The director of job and family services 101665
shall institute a cost-sharing program under the medicaid program. 101666
In instituting the cost-sharing program, the director shall comply 101667
with federal law. ~~In the case of an individual participating in~~ 101668
~~the children's buy in program established under sections 5101.5211~~ 101669
~~to 5101.5216 of the Revised Code, the cost sharing program shall~~ 101670
~~be consistent with sections 5101.5213 and 5101.5214 of the Revised~~ 101671
~~Code if the children's buy in program is a component of the~~ 101672
~~medicaid program.~~ The cost-sharing program shall establish a 101673
copayment requirement for at least dental services, vision 101674
services, nonemergency emergency department services, and 101675
prescription drugs, other than generic drugs. The cost-sharing 101676
program shall establish requirements regarding premiums, 101677
enrollment fees, deductions, and similar charges. The director 101678
shall adopt rules under section 5111.02 of the Revised Code 101679
governing the cost-sharing program. 101680

(B) The cost-sharing program shall, to the extent permitted 101681
by federal law, provide for all of the following with regard to 101682
any providers participating in the medicaid program: 101683

(1) No provider shall refuse to provide a service to a 101684
medicaid recipient who is unable to pay a required copayment for 101685
the service. 101686

(2) Division (B)(1) of this section shall not be considered 101687
to do either of the following with regard to a medicaid recipient 101688
who is unable to pay a required copayment: 101689

(a) Relieve the medicaid recipient from the obligation to pay 101690
a copayment; 101691

(b) Prohibit the provider from attempting to collect an 101692
unpaid copayment. 101693

(3) Except as provided in division (C) of this section, no 101694

provider shall waive a medicaid recipient's obligation to pay the 101695
provider a copayment. 101696

(4) No provider or drug manufacturer, including the 101697
manufacturer's representative, employee, independent contractor, 101698
or agent, shall pay any copayment on behalf of a medicaid 101699
recipient. 101700

(5) If it is the routine business practice of the provider to 101701
refuse service to any individual who owes an outstanding debt to 101702
the provider, the provider may consider an unpaid copayment 101703
imposed by the cost-sharing program as an outstanding debt and may 101704
refuse service to a medicaid recipient who owes the provider an 101705
outstanding debt. If the provider intends to refuse service to a 101706
medicaid recipient who owes the provider an outstanding debt, the 101707
provider shall notify the individual of the provider's intent to 101708
refuse services. 101709

(C) In the case of a provider that is a hospital, the 101710
cost-sharing program shall permit the hospital to take action to 101711
collect a copayment by providing, at the time services are 101712
rendered to a medicaid recipient, notice that a copayment may be 101713
owed. If the hospital provides the notice and chooses not to take 101714
any further action to pursue collection of the copayment, the 101715
prohibition against waiving copayments specified in division 101716
(B)(3) of this section does not apply. 101717

(D) The department of job and family services may work with a 101718
state agency that is administering, pursuant to a contract entered 101719
into under section 5111.91 of the Revised Code, one or more 101720
components of the medicaid program or one or more aspects of a 101721
component as necessary for the state agency to apply the 101722
cost-sharing program to the components or aspects of the medicaid 101723
program that the state agency administers. 101724

Sec. 5111.0122. As used in this section, "maintenance of 101725

effort requirement" means the requirement established by section 101726
1902(gg) of the "Social Security Act," 124 Stat. 275 (2010), 42 101727
U.S.C. 1396a(gg), as amended, regarding medicaid eligibility 101728
standards, methodologies, and procedures. 101729

Except to the extent, if any, otherwise authorized by the 101730
United States secretary of health and human services, the 101731
department of job and family services shall comply with the 101732
maintenance of effort requirement while the requirement is in 101733
effect. 101734

Sec. 5111.0123. (A) Subject to division (B) of this section, 101735
the director of job and family services shall adopt rules under 101736
sections 5111.011 and 5111.85 of the Revised Code to reduce the 101737
complexity of the eligibility determination processes for the 101738
medicaid program caused by the different income and resource 101739
standards for the numerous medicaid eligibility categories. 101740

(B) In implementing division (A) of this section, both of the 101741
following apply: 101742

(1) Before implementing a revision to an eligibility 101743
determination process, the director shall obtain, to the extent 101744
necessary, the approval of the United States secretary of health 101745
and human services in the form of a federal medicaid waiver, 101746
medicaid state plan amendment, or demonstration grant. 101747

(2) The director shall comply with section 5111.0122 of the 101748
Revised Code. 101749

Sec. 5111.0124. (A) As used in this section: 101750

"Children's hospital" has the same meaning as in section 101751
2151.86 of the Revised Code. 101752

"Federally-qualified health center" has the same meaning as 101753
in 42 U.S.C. 1396d(1)(2)(B). 101754

"Presumptive eligibility for pregnant women option" means the option available under 42 U.S.C. 1396r-1 to make ambulatory prenatal care available to pregnant women under the medicaid program during presumptive eligibility periods. 101755
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"Qualified provider" has the same meaning as in 42 U.S.C. 1396r-1(b)(2). 101759
101760

(B) The director of job and family services shall submit a state medicaid plan amendment to the United States secretary of health and human services to implement the presumptive eligibility for pregnant women option. Not later than ninety days after the effective date of this section, the director shall have in place all systems that are necessary to enable a children's hospital and federally qualified health center to serve as a qualified provider for purposes of the presumptive eligibility for pregnant women option if the hospital or center is eligible to be a qualified provider under 42 U.S.C. 1396r-1(b)(2) and requests to serve as a qualified provider. After the director determines that the systems are functioning properly, the director shall permit any other provider to serve as a qualified provider for purposes of the presumptive eligibility for pregnant women option if the provider is eligible to be a qualified provider under 42 U.S.C. 1396r-1(b)(2) and requests to serve as a qualified provider. 101761
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Sec. 5111.0125. (A) As used in this section: 101777

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code. 101778
101779

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B). 101780
101781

"Presumptive eligibility for children option" means the option available under 42 U.S.C. 1396r-1a to make medical assistance with respect to health care items and services 101782
101783
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available to children under the medicaid program during 101785
presumptive eligibility periods. 101786

"Qualified entity" has the same meaning as in 42 U.S.C. 101787
1396r-1a(b)(3). 101788

(B) The director of job and family services shall retain the 101789
presumptive eligibility for children option in the state medicaid 101790
plan. Not later than ninety days after the effective date of this 101791
section, the director shall have in place all systems that are 101792
necessary to enable a children's hospital and federally qualified 101793
health center to serve as a qualified entity for purposes of the 101794
presumptive eligibility for children option if the hospital or 101795
center is eligible to be a qualified entity under 42 U.S.C. 101796
1396r-1a(b)(3) and requests to serve as a qualified entity. After 101797
the director determines that the systems are functioning properly, 101798
the director shall permit any other entity to serve as a qualified 101799
entity for purposes of the presumptive eligibility for children 101800
option if the entity is eligible to be a qualified entity under 42 101801
U.S.C. 1396r-1a(b)(3) and requests to serve as a qualified entity. 101802

Sec. 5111.021. Under the medicaid program: 101803

~~(A) Except as otherwise permitted by federal statute or~~ 101804
~~regulation and at the department's discretion, reimbursement by~~ 101805
~~the~~ The department of job and family services ~~to~~ shall not 101806
reimburse a medical provider for any medical ~~service~~ assistance 101807
rendered under the program ~~shall not exceed~~ an amount that exceeds 101808
the following: 101809

(1) If the provider is a hospital, nursing facility, or 101810
intermediate care facility for the mentally retarded, the limits 101811
established under Subpart C of 42 C.F.R. Part 447; 101812

(2) If the provider is other than a provider described in 101813
division (A)(1) of this section, the authorized reimbursement 101814

~~level~~ limits for the same service under the medicare program 101815
established under Title XVIII of the "Social Security Act," 79 101816
Stat. 286 (1965), 42 U.S.C. 1395, as amended. 101817

(B) Reimbursement for freestanding medical laboratory charges 101818
shall not exceed the customary and usual fee for laboratory 101819
profiles. 101820

(C) The department may deduct from payments for services 101821
rendered by a medicaid provider under the medicaid program any 101822
amounts the provider owes the state as the result of incorrect 101823
medicaid payments the department has made to the provider. 101824

(D) The department may conduct final fiscal audits in 101825
accordance with the applicable requirements set forth in federal 101826
laws and regulations and determine any amounts the provider may 101827
owe the state. When conducting final fiscal audits, the department 101828
shall consider generally accepted auditing standards, which 101829
include the use of statistical sampling. 101830

(E) The number of days of inpatient hospital care for which 101831
reimbursement is made on behalf of a medicaid recipient to a 101832
hospital that is not paid under a diagnostic-related-group 101833
prospective payment system shall not exceed thirty days during a 101834
period beginning on the day of the recipient's admission to the 101835
hospital and ending sixty days after the termination of that 101836
hospital stay, except that the department may make exceptions to 101837
this limitation. The limitation does not apply to children 101838
participating in the program for medically handicapped children 101839
established under section 3701.023 of the Revised Code. 101840

(F) The division of any reimbursement between a collaborating 101841
physician or podiatrist and a clinical nurse specialist, certified 101842
nurse-midwife, or certified nurse practitioner for services 101843
performed by the nurse shall be determined and agreed on by the 101844
nurse and collaborating physician or podiatrist. In no case shall 101845

reimbursement exceed the payment that the physician or podiatrist 101846
would have received had the physician or podiatrist provided the 101847
entire service. 101848

Sec. 5111.023. (A) As used in this section: 101849

(1) "Community mental health agency or facility" means a 101850
community mental health agency or facility that has a ~~quality~~ 101851
~~assurance program accredited by the joint commission on~~ 101852
~~accreditation of healthcare organizations or is its community~~ 101853
mental health services certified by the department of mental 101854
health under section 5119.611 of the Revised Code or by the 101855
department of job and family services. 101856

(2) "Mental health professional" means a person qualified to 101857
work with mentally ill persons under the standards established by 101858
the director of mental health pursuant to section 5119.611 of the 101859
Revised Code. 101860

(B) The state medicaid plan ~~shall~~ may include provision of 101861
the following mental health services when provided by community 101862
mental health agencies or facilities: 101863

(1) Outpatient mental health services, including, but not 101864
limited to, preventive, diagnostic, therapeutic, rehabilitative, 101865
and palliative interventions rendered to individuals in an 101866
individual or group setting by a mental health professional in 101867
accordance with a plan of treatment appropriately established, 101868
monitored, and reviewed; 101869

(2) Partial-hospitalization mental health services rendered 101870
by persons directly supervised by a mental health professional; 101871

(3) Unscheduled, emergency mental health services of a kind 101872
ordinarily provided to persons in crisis when rendered by persons 101873
supervised by a mental health professional; 101874

(4) Subject to receipt of federal approval, assertive 101875

community treatment and intensive home-based mental health services. 101876
101877

~~(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities.~~ 101878
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~~(D) The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section.~~ 101882
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~~(E) Not later than July 21, 2006, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.~~ 101886
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~~(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.~~ 101890
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Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid: 101897
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(1) Community mental health agencies or facilities for providing community mental health services included in the state medicaid plan pursuant to section 5111.023 of the Revised Code; 101901
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(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the 101904
101905

medicaid program pursuant to rules adopted under section 5111.02 101906
of the Revised Code. 101907

(B) The director's authority to modify the manner, or to 101908
establish a new manner, for medicaid to pay for the services 101909
specified in division (A) of this section is not limited by any 101910
rules adopted under section 5111.02 or 5119.61 of the Revised Code 101911
that are in effect on June 26, 2003, and govern the way medicaid 101912
pays for those services. This is the case regardless of what state 101913
agency adopted the rules. 101914

Sec. 5111.0212. As necessary to comply with section 101915
1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 101916
42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law 101917
that requires public notice of proposed changes to reimbursement 101918
rates for medical assistance provided under the medicaid program, 101919
the director of job and family services shall give public notice 101920
in the register of Ohio of any change to a method or standard used 101921
to determine the medicaid reimbursement rate for medical 101922
assistance. 101923

Sec. 5111.0213. (A) As used in this section: 101924

(1) "Aide services" means all of the following: 101925

(a) Home health aide services available under the home health 101926
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 101927

(b) Home care attendant services available under a home and 101928
community-based services medicaid waiver component; 101929

(c) Personal care aide services available under a home and 101930
community-based services medicaid waiver component. 101931

(2) "Home and community-based services medicaid waiver 101932
component" has the same meaning as in section 5111.85 of the 101933
Revised Code. 101934

(3) "Independent provider" means an individual who personally provides aide services or nursing services and is not employed by, under contract with, or affiliated with another entity that provides those services. 101935
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(4) "Nursing services" means all of the following: 101939

(a) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1); 101940
101941

(b) Private duty nursing services as defined in 42 C.F.R. 440.80; 101942
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(c) Nursing services available under a home and community-based services medicaid waiver component. 101944
101945

(B) Effective October 1, 2011, the department of job and family services shall do both of the following: 101946
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(1) Reduce the medicaid program's first-hour-unit price for aide services to ninety-seven per cent of the price paid on June 30, 2011, and for nursing services to ninety-five per cent of the price paid on June 30, 2011; 101948
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(2) Pay for a service that is an aide service or a nursing service provided by an independent provider eighty per cent of the price it pays for the same service provided by a provider that is not an independent provider. 101952
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(C) The director of job and family services shall adopt rules under sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section. 101956
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Sec. 5111.0214. The department of job and family services shall not knowingly make a medicaid payment for a provider-preventable condition for which federal financial participation is prohibited by regulations adopted under section 2702 of the "Patient Protection and Affordable Care Act," 124 Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and 101959
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family services shall adopt rules under section 5111.02 of the 101965
Revised Code as necessary to implement this section. 101966

Sec. 5111.0215. (A) The department of job and family services 101967
may establish a program under which it provides incentive 101968
payments, as authorized by the "Health Information Technology for 101969
Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 101970
1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption 101971
and use of electronic health record technology by medicaid 101972
providers who are identified under that federal law as eligible 101973
professionals. 101974

(B) After the department has made a determination regarding 101975
the amount of a medicaid provider's electronic health record 101976
incentive payment or the denial of an incentive payment, the 101977
department shall notify the provider. The provider may request 101978
that the department reconsider its determination. 101979

A request for reconsideration shall be submitted in writing 101980
to the department not later than fifteen days after the provider 101981
receives notification of the determination. The request shall be 101982
accompanied by written materials setting forth the basis for, and 101983
supporting, the reconsideration request. 101984

On receipt of a timely request, the department shall 101985
reconsider the determination. On the basis of the written 101986
materials accompanying the request, the department may uphold, 101987
reverse, or modify its original determination. The department 101988
shall mail to the provider by certified mail a written notice of 101989
the reconsideration decision. 101990

In accordance with Chapter 2505. of the Revised Code, the 101991
medicaid provider may appeal the reconsideration decision by 101992
filing a notice of appeal with the court of common pleas of 101993
Franklin county. The notice shall identify the decision being 101994

appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5111.031. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is issued on or after ~~the effective date of this section~~ September

29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

The suspension shall continue in effect until the proceedings in the criminal case are completed through ~~conviction,~~ dismissal of the indictment, or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded. ~~Pursuant~~

Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under this division by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

When subject to a suspension under this division, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (C) of this section if the provider or owner can demonstrate through the

submission of written evidence that the provider or owner did not 102057
directly or indirectly sanction the action of its authorized 102058
agent, associate, manager, or employee that resulted in the 102059
indictment. 102060

(2) The termination of medicaid reimbursement applies only to 102061
payments for medicaid services rendered subsequent to the date on 102062
which the notice required under division (F) of this section is 102063
sent. Claims for reimbursement for medicaid services rendered by 102064
the provider prior to the issuance of the notice may be subject to 102065
prepayment review procedures whereby the department reviews claims 102066
to determine whether they are supported by sufficient 102067
documentation, are in compliance with state and federal statutes 102068
and rules, and are otherwise complete. 102069

(E)(1) In the case of a noninstitutional medicaid provider 102070
that is not an independent provider, the suspension of a provider 102071
agreement under division (C) of this section applies when an 102072
indictment charges a person with committing an act that would be a 102073
felony or misdemeanor under the laws of this state and the act 102074
relates to or results from either of the following: 102075

(a) Furnishing or billing for medical care, services, or 102076
supplies under the medicaid program; 102077

(b) Participating in the performance of management or 102078
administrative services relating to furnishing medical care, 102079
services, or supplies under the medicaid program. 102080

(2) In the case of a noninstitutional medicaid provider that 102081
is an independent provider, the suspension of a provider agreement 102082
under division (C) of this section applies when an indictment 102083
charges a person with committing an act that would constitute one 102084
of the offenses specified in division (D) of section 5111.034 of 102085
the Revised Code. 102086

(F) Not later than five days after suspending a provider 102087

agreement under division (C) of this section, the department shall 102088
send notice of the suspension to the affected provider or owner. 102089
In providing the notice, the department shall do all of the 102090
following: 102091

(1) Describe the indictment that was the cause of the 102092
suspension, without necessarily disclosing specific information 102093
concerning any ongoing civil or criminal investigation; 102094

(2) State that the suspension will continue in effect until 102095
the proceedings in the criminal case are completed through 102096
~~conviction~~, dismissal of the indictment, or through conviction, 102097
entry of a guilty plea, or finding of not guilty and, if the 102098
department commences a process to terminate the suspended provider 102099
agreement, until the termination process is concluded; 102100

(3) Inform the provider or owner of the opportunity to submit 102101
to the department, not later than thirty days after receiving the 102102
notice, a request for a reconsideration pursuant to division (G) 102103
of this section. 102104

(G)(1) A Pursuant to the procedure specified in division 102105
(G)(2) of this section, a noninstitutional medicaid provider or 102106
owner subject to a suspension under this section may request a 102107
reconsideration. The request shall be made not later than thirty 102108
days after receipt of the notice provided under division (F) of 102109
this section. The reconsideration is not subject to an 102110
adjudication hearing pursuant to Chapter 119. of the Revised Code. 102111

(2) In requesting a reconsideration, the provider or owner 102112
shall submit written information and documents to the department. 102113
The information and documents may pertain to any of the following 102114
issues: 102115

(a) Whether the determination to suspend the provider 102116
agreement was based on a mistake of fact, other than the validity 102117
of the indictment; 102118

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;	102119 102120
(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.	102121 102122 102123 102124
(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.	102125 102126 102127 102128 102129 102130 102131 102132
(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.	102133 102134 102135 102136
<u>Sec. 5111.035. (A) As used in this section:</u>	102137
<u>(1) "Creditable allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of job and family services.</u>	102138 102139 102140 102141
<u>(2) "Provider" has the same meaning as in section 5111.032 of the Revised Code.</u>	102142 102143
<u>(3) "Owner" has the same meaning as in section 5111.031 of the Revised Code.</u>	102144 102145
<u>(B)(1) Except as provided in division (C) of this section and in rules adopted by the department of job and family services under division (J) of this section, on determining there is a</u>	102146 102147 102148

creditable allegation of fraud for which an investigation is 102149
pending under the medicaid program against a provider, the 102150
department shall suspend the provider agreement held by the 102151
provider. Subject to division (C) of this section, the department 102152
shall also terminate medicaid reimbursement to the provider for 102153
services rendered. 102154

(2)(a) The suspension shall continue in effect until either 102155
of the following is the case: 102156

(i) The department or a prosecuting authority determines that 102157
there is insufficient evidence of fraud by the provider; 102158

(ii) The proceedings in any related criminal case are 102159
completed through dismissal of the indictment or through 102160
conviction, entry of a guilty plea, or finding of not guilty. 102161

(b) If the department commences a process to terminate the 102162
suspended provider agreement, the suspension shall also continue 102163
in effect until the termination process is concluded. 102164

(3) Pursuant to section 5111.06 of the Revised Code, the 102165
department is not required to take action under division (B)(1) of 102166
this section by issuing an order pursuant to an adjudication in 102167
accordance with Chapter 119. of the Revised Code. 102168

(4) When subject to a suspension under this section, a 102169
provider, owner, officer, authorized agent, associate, manager, or 102170
employee shall not own or provide services to any other medicaid 102171
provider or risk contractor or arrange for, render, or order 102172
services to any other medicaid provider or risk contractor or 102173
arrange for, render, or order services for medicaid recipients 102174
during the period of suspension. During the period of suspension, 102175
the provider, owner, officer, authorized agent, associate, 102176
manager, or employee shall not receive reimbursement in the form 102177
of direct payments from the department or indirect payments of 102178
medicaid funds in the form of salary, shared fees, contracts, 102179

kickbacks, or rebates from or through any participating provider 102180
or risk contractor. 102181

(C) The department shall not suspend a provider agreement or 102182
terminate medicaid reimbursement under division (B) of this 102183
section if the provider or owner can demonstrate through the 102184
submission of written evidence that the provider or owner did not 102185
directly or indirectly sanction the action of its authorized 102186
agent, associate, manager, or employee that resulted in the 102187
creditable allegation of fraud. 102188

(D) The termination of medicaid reimbursement under division 102189
(B) of this section applies only to payments for medicaid services 102190
rendered subsequent to the date on which the notice required by 102191
division (E) of this section is sent. Claims for reimbursement of 102192
medicaid services rendered by the provider prior to the issuance 102193
of the notice may be subject to prepayment review procedures 102194
whereby the department reviews claims to determine whether they 102195
are supported by sufficient documentation, are in compliance with 102196
state and federal statutes and rules, and are otherwise complete. 102197

(E) After suspending a provider agreement under division (B) 102198
of this section, the department shall, as specified in 42 C.F.R. 102199
455.23(b), send notice of the suspension to the affected provider 102200
or owner in accordance with the following timeframes: 102201

(1) Not later than five days after the suspension, unless a 102202
law enforcement agency makes a written request to temporarily 102203
delay the notice; 102204

(2) If a law enforcement agency makes a written request to 102205
temporarily delay the notice, not later than thirty days after the 102206
suspension occurs subject to the conditions specified in division 102207
(F) of this section. 102208

(F) A written request for a temporary delay described in 102209
division (E)(2) of this section may be renewed in writing by a law 102210

enforcement agency not more than two times except that under no 102211
circumstances shall the notice be issued more than ninety days 102212
after the suspension occurs. 102213

(G) The notice required by division (E) of this section shall 102214
do all of the following: 102215

(1) State that payments are being suspended in accordance 102216
with this section and 42 C.F.R. 455.23; 102217

(2) Set forth the general allegations related to the nature 102218
of the conduct leading to the suspension, except that it is not 102219
necessary to disclose any specific information concerning an 102220
ongoing investigation; 102221

(3) State that the suspension continues to be in effect until 102222
either of the following is the case: 102223

(a) The department or a prosecuting authority determines that 102224
there is insufficient evidence of fraud by the provider; 102225

(b) The proceedings in any related criminal case are 102226
completed through dismissal of the indictment or through 102227
conviction, entry of a guilty plea, or finding of not guilty and, 102228
if the department commences a process to terminate the suspended 102229
provider agreement, until the termination process is concluded. 102230

(4) Specify, if applicable, the type or types of medicaid 102231
claims or business units of the provider that are affected by the 102232
suspension; 102233

(5) Inform the provider or owner of the opportunity to submit 102234
to the department, not later than thirty days after receiving the 102235
notice, a request for reconsideration of the suspension in 102236
accordance with division (H) of this section. 102237

(H)(1) Pursuant to the procedure specified in division (H)(2) 102238
of this section, a provider or owner subject to a suspension under 102239
this section may request a reconsideration of the suspension. The 102240

request shall be made not later than thirty days after receipt of 102241
a notice required by division (E) of this section. The 102242
reconsideration is not subject to an adjudication hearing pursuant 102243
to Chapter 119. of the Revised Code. 102244

(2) In requesting a reconsideration, the provider or owner 102245
shall submit written information and documents to the department. 102246
The information and documents may pertain to any of the following 102247
issues: 102248

(a) Whether the determination to suspend the provider 102249
agreement was based on a mistake of fact, other than the validity 102250
of an indictment in a related criminal case. 102251

(b) If there has been an indictment in a related criminal 102252
case, whether any offense charged in the indictment resulted from 102253
an offense specified in division (E) of section 5111.031 of the 102254
Revised Code. 102255

(c) Whether the provider or owner can demonstrate that the 102256
provider or owner did not directly or indirectly sanction the 102257
action of its authorized agent, associate, manager, or employee 102258
that resulted in the suspension under this section or an 102259
indictment in a related criminal case. 102260

(I) The department shall review the information and documents 102261
submitted in a request made under division (H) of this section for 102262
reconsideration of a suspension. After the review, the suspension 102263
may be affirmed, reversed, or modified, in whole or in part. The 102264
department shall notify the affected provider or owner of the 102265
results of the review. The review and notification of its results 102266
shall be completed not later than forty-five days after receiving 102267
the information and documents submitted in a request for 102268
reconsideration. 102269

(J) The department may adopt rules in accordance with Chapter 102270
119. of the Revised Code to implement this section. The rules may 102271

specify circumstances under which the department would not suspend 102272
a provider agreement pursuant to this section. 102273

Sec. 5111.051. The director of job and family services may 102274
submit a medicaid state plan amendment or request for a federal 102275
waiver to the United States secretary of health and human services 102276
as necessary to implement, at the director's discretion, a system 102277
under which payments for medical assistance provided under the 102278
medicaid program are made to an organization on behalf of the 102279
providers of the medical assistance. The system may not provide 102280
for an organization to receive an amount that exceeds, in 102281
aggregate, the amount the department would have paid directly to 102282
the providers if not for this section. 102283

Sec. 5111.052. (A) As used in this section, "electronic 102284
claims submission process" means any of the following: 102285

(1) Electronic interchange of data; 102286

(2) Direct entry of data through an internet-based mechanism 102287
implemented by the department of job and family services; 102288

(3) Any other process for the electronic submission of claims 102289
that is specified in rules adopted under this section. 102290

(B) Not later than January 1, 2013, and except as provided in 102291
division (C) of this section, each provider of services to 102292
medicaid recipients shall do both of the following: 102293

(1) Use only an electronic claims submission process to 102294
submit to the department of job and family services claims for 102295
medicaid reimbursement for services provided to medicaid 102296
recipients; 102297

(2) Arrange to receive medicaid reimbursement from the 102298
department by means of electronic funds transfer. 102299

(C) Division (B) of this section does not apply to any of the 102300

<u>following:</u>	102301
<u>(1) A nursing facility, as defined in section 5111.20 of the Revised Code;</u>	102302
	102303
<u>(2) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;</u>	102304
	102305
<u>(3) A medicaid managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code;</u>	102306
	102307
<u>(4) Any other provider or type of provider designated in rules adopted under this section.</u>	102308
	102309
<u>(D) The department shall not process a medicaid claim submitted on or after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section.</u>	102310
	102311
	102312
	102313
<u>(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to implement this section.</u>	102314
	102315
	102316
<u>Sec. 5111.053.</u> <u>(A) As used in this section, "group practice" has the same meaning as in section 4731.65 of the Revised Code.</u>	102317
	102318
<u>(B) The department of job and family services shall establish a process by which a physician assistant may enter into a medicaid provider agreement.</u>	102319
	102320
	102321
<u>(C) Subject to division (D) of this section, a claim for reimbursement for a service provided by a physician assistant to a medicaid recipient may be submitted by either of the following:</u>	102322
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	102324
<u>(1) The physician assistant who provided the service or another person the physician assistant designates to submit the claim on the physician assistant's behalf;</u>	102325
	102326
	102327
<u>(2) The physician, group practice, clinic, or other health care facility that employs or contracts with the physician</u>	102328
	102329

assistant. 102330

(D) A claim for reimbursement may be submitted as described 102331
in division (C)(1) of this section only if the physician assistant 102332
has a valid medicaid provider agreement. When submitting the 102333
claim, the physician assistant or designated person shall use only 102334
the medicaid provider number the department has assigned to the 102335
physician assistant. 102336

Sec. 5111.054. (A) As used in this section: 102337

(1) "Federal financial participation" means the federal 102338
government's share of expenditures made by an entity in 102339
implementing the medicaid program. 102340

(2) "OCHSPS" means the private, not-for-profit corporation 102341
known as the Ohio children's hospital solutions for patient 102342
safety, which was formed for the purpose of improving pediatric 102343
patient care in this state, which performs functions that are 102344
included within the functions of a peer review committee as 102345
defined in section 2305.25 of the Revised Code, and which consists 102346
of all of the following members: Akron children's hospital, 102347
Cincinnati children's hospital medical center, Cleveland clinic 102348
children's hospital, Dayton children's medical center, mercy 102349
children's hospital, nationwide children's hospital, rainbow 102350
babies & children's hospital, and Toledo children's hospital. 102351

(B) If, as authorized by section 5101.10 of the Revised Code, 102352
the department of job and family services chooses to contract with 102353
a person to perform either or both of the following services, it 102354
may contract with any qualified person, including OCHSPS, to 102355
perform the service or services on the department's behalf: 102356

(1) Review and analyze claims for medical assistance made 102357
under this chapter to children in accordance with all state and 102358
federal laws governing the confidentiality of patient-identifying 102359

information; 102360

(2) Perform quality assurance and quality review functions, 102361
other than those described in division (B)(1) of this section, 102362
related to medical assistance made under this chapter to children. 102363

The functions specified in division (B)(2) of this section 102364
may include those recommended by the best evidence for advancing 102365
child health in Ohio now (BEACON) council. 102366

(C) If the department enters into a contract with OCHSPS for 102367
OCHSPS to perform either or both of the services described in 102368
division (B) of this section, OCHSPS shall, only for purposes of 102369
section 5101.11 of the Revised Code, be considered a public entity 102370
and the department shall seek federal financial participation for 102371
costs incurred by OCHSPS in performing the service or services. 102372

Sec. 5111.06. (A)(1) As used in this section and in sections 102373
5111.061 and ~~5111.062~~ 5111.063 of the Revised Code: 102374

(a) "Provider" means any person, institution, or entity that 102375
furnishes medicaid services under a provider agreement with the 102376
department of job and family services pursuant to Title XIX of the 102377
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 102378
amended. 102379

(b) "Party" has the same meaning as in division (G) of 102380
section 119.01 of the Revised Code. 102381

(c) "Adjudication" has the same meaning as in division (D) of 102382
section 119.01 of the Revised Code. 102383

(2) This section does not apply to any action taken by the 102384
department of job and family services under sections 5111.35 to 102385
5111.62 of the Revised Code. 102386

(B) Except as provided in division (D) of this section and 102387
section 5111.914 of the Revised Code, the department shall do 102388
either of the following by issuing an order pursuant to an 102389

adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification.

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family

services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code.

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state.

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(8) ~~The Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended pursuant to section 5111.031 of the Revised Code and payments to the provider are suspended~~ pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

(10) The provider agreement is converted under section 102452
5111.028 of the Revised Code from a provider agreement that is not 102453
time-limited to a provider agreement that is time-limited. 102454

(11) The provider agreement is terminated or an application 102455
for re-enrollment is denied because the provider has failed to 102456
apply for re-enrollment within the time or in the manner specified 102457
for re-enrollment pursuant to section 5111.028 of the Revised 102458
Code. 102459

(12) The provider agreement is suspended or terminated, or an 102460
application for enrollment or re-enrollment is denied, for any 102461
reason authorized or required by one or more of the following: 42 102462
C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450. 102463

(13) The provider agreement is terminated or not renewed 102464
because the provider has not billed or otherwise submitted a 102465
medicaid claim to the department for two years or longer. 102466

~~(13)~~(14) The provider agreement is denied, terminated, or not 102467
renewed because the provider fails to provide to the department 102468
the national provider identifier assigned the provider by the 102469
national provider system pursuant to 45 C.F.R. 162.408. 102470

In the case of a provider described in division (D)~~(12)~~(13) 102471
or ~~(13)~~(14) of this section, the department may take its proposed 102472
action against a provider agreement by sending a notice explaining 102473
the proposed action to the provider. The notice shall be sent to 102474
the provider's address on record with the department. The notice 102475
may be sent by regular mail. 102476

(E) The department may withhold payments for services 102477
rendered by a medicaid provider under the medicaid program during 102478
the pendency of proceedings initiated under division (B)(1) of 102479
this section. If the proceedings are initiated under division 102480
(B)(2) of this section, the department may withhold payments only 102481
to the extent that they equal amounts determined in a final fiscal 102482

audit as being due the state. This division does not apply if the 102483
department fails to comply with section 119.07 of the Revised 102484
Code, requests a continuance of the hearing, or does not issue a 102485
decision within thirty days after the hearing is completed. This 102486
division does not apply to nursing facilities and intermediate 102487
care facilities for the mentally retarded as defined in section 102488
5111.20 of the Revised Code. 102489

Sec. 5111.063. For the purpose of raising funds necessary to 102490
pay the expenses of implementing the provider screening 102491
requirements of subpart E of 42 C.F.R. Part 455, the department of 102492
job and family services shall charge an application fee to a 102493
provider seeking to enter into or renew a medicaid provider 102494
agreement, unless the provider is exempt from paying the 102495
application fee under 42 C.F.R. 455.460(a). The application fees 102496
shall be deposited into the health care services administration 102497
fund created under section 5111.94 of the Revised Code. 102498

The director of job and family services shall adopt rules in 102499
accordance with Chapter 119. of the Revised Code as necessary to 102500
implement this section, including a rule establishing the amount 102501
of the application fee that is charged under this section. The 102502
amount of the application fee shall not be set at an amount that 102503
is more than necessary to pay for the expenses of implementing the 102504
provider screening requirements. 102505

Sec. 5111.086. As used in this section, "federal upper 102506
reimbursement limit" means the limit established pursuant to 102507
section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 102508
(1990), 42 U.S.C. 1396r-8(e), as amended. 102509

The medicaid payment for a drug that is subject to a federal 102510
upper reimbursement limit shall not exceed, in the aggregate, the 102511
federal upper reimbursement limit for the drug. The director of 102512

job and family services shall adopt rules under section 5111.02 of 102513
the Revised Code as necessary to implement this section. 102514

Sec. 5111.113. (A) As used in this section: 102515

(1) "Adult care facility" has the same meaning as in section 102516
~~3722.01~~ 5119.70 of the Revised Code. 102517

(2) "Commissioner" means a person appointed by a probate 102518
court under division (B) of section 2113.03 of the Revised Code to 102519
act as a commissioner. 102520

(3) "Home" has the same meaning as in section 3721.10 of the 102521
Revised Code. 102522

(4) "Personal needs allowance account" means an account or 102523
petty cash fund that holds the money of a resident of an adult 102524
care facility or home and that the facility or home manages for 102525
the resident. 102526

(B) Except as provided in divisions (C) and (D) of this 102527
section, the owner or operator of an adult care facility or home 102528
shall transfer to the department of job and family services the 102529
money in the personal needs allowance account of a resident of the 102530
facility or home who was a recipient of the medical assistance 102531
program no earlier than sixty days but not later than ninety days 102532
after the resident dies. The adult care facility or home shall 102533
transfer the money even though the owner or operator of the 102534
facility or home has not been issued letters testamentary or 102535
letters of administration concerning the resident's estate. 102536

(C) If funeral or burial expenses for a resident of an adult 102537
care facility or home who has died have not been paid and the only 102538
resource the resident had that could be used to pay for the 102539
expenses is the money in the resident's personal needs allowance 102540
account, or all other resources of the resident are inadequate to 102541
pay the full cost of the expenses, the money in the resident's 102542

personal needs allowance account shall be used to pay for the 102543
expenses rather than being transferred to the department of job 102544
and family services pursuant to division (B) of this section. 102545

(D) If, not later than sixty days after a resident of an 102546
adult care facility or home dies, letters testamentary or letters 102547
of administration are issued, or an application for release from 102548
administration is filed under section 2113.03 of the Revised Code, 102549
concerning the resident's estate, the owner or operator of the 102550
facility or home shall transfer the money in the resident's 102551
personal needs allowance account to the administrator, executor, 102552
commissioner, or person who filed the application for release from 102553
administration. 102554

(E) The transfer or use of money in a resident's personal 102555
needs allowance account in accordance with division (B), (C), or 102556
(D) of this section discharges and releases the adult care 102557
facility or home, and the owner or operator of the facility or 102558
home, from any claim for the money from any source. 102559

(F) If, sixty-one or more days after a resident of an adult 102560
care facility or home dies, letters testamentary or letters of 102561
administration are issued, or an application for release from 102562
administration under section 2113.03 of the Revised Code is filed, 102563
concerning the resident's estate, the department of job and family 102564
services shall transfer the funds to the administrator, executor, 102565
commissioner, or person who filed the application, unless the 102566
department is entitled to recover the money under the medicaid 102567
estate recovery program instituted under section 5111.11 of the 102568
Revised Code. 102569

Sec. 5111.13. (A) As used in this section, "cost-effective" 102570
and "group health plan" have the same meanings as in section 1906 102571
of the "Social Security Act," ~~49~~ 104 Stat. ~~620~~ ~~(1935)~~ 1388-161 102572
(1990), ~~42 U.S.C.A.~~ 1396e, as amended, and any regulations adopted 102573

under that section. 102574

(B) The department of job and family services, ~~pursuant to~~ 102575
~~guidelines issued by~~ may submit a medicaid state plan amendment to 102576
the United States secretary of health and human services, ~~shall~~ 102577
~~identify cases in which enrollment of an individual otherwise~~ 102578
~~eligible for medical assistance under this chapter in a group~~ 102579
~~health plan in which the individual is eligible to enroll and~~ 102580
~~payment of the individual's premiums, deductibles, coinsurance,~~ 102581
~~and other cost sharing expenses is cost effective.~~ 102582

~~The department shall require, as a condition of eligibility~~ 102583
~~for medical assistance, individuals identified under this~~ 102584
~~division, or in the case of a child, the child's parent, to apply~~ 102585
~~for enrollment in the group health plan, except that the failure~~ 102586
~~of a parent to enroll self or the parent's child in a group health~~ 102587
~~plan does not affect the child's eligibility under the medical~~ 102588
~~assistance program.~~ 102589

~~The department shall pay enrollee premiums and deductibles,~~ 102590
~~coinsurance, and other cost sharing obligations for services and~~ 102591
~~items otherwise covered under the medical assistance program. The~~ 102592
~~department shall treat coverage under the group health plan in the~~ 102593
~~same manner as any other third party liability under the program.~~ 102594
~~If not all members of a family are eligible for medical assistance~~ 102595
~~and enrollment of the eligible members in a group health plan is~~ 102596
~~not possible without also enrolling the members who are ineligible~~ 102597
~~for medical assistance, the department shall pay the premiums for~~ 102598
~~the ineligible members if the payments are cost effective. The~~ 102599
~~department shall not pay deductibles, coinsurance, or other~~ 102600
~~cost sharing obligations of enrolled members who are not eligible~~ 102601
~~for medical assistance.~~ 102602

~~The department may make payments under this section to~~ 102603
~~employers, insurers, or other entities. The department may make~~ 102604
~~the payments without entering into a contract with employers,~~ 102605

~~insurers, or other entities.~~ 102606

~~(C) To the extent permitted by federal law and regulations,~~ 102607
~~the department of job and family services shall coordinate the~~ 102608
~~medical assistance program with group health plans in such a~~ 102609
~~manner that the medical assistance program serves as a supplement~~ 102610
~~to the group health plans. In its coordination efforts, the~~ 102611
~~department shall consider cost effectiveness and quality of care.~~ 102612
~~The department may enter into agreements with group health plans~~ 102613
~~as necessary to implement this division for the purpose of~~ 102614
~~implementing a program pursuant to section 1906 of the "Social~~ 102615
~~Security Act," 104 Stat. 1388-161 (1990), 42 U.S.C. 1396e, as~~ 102616
~~amended, for the enrollment of medicaid-eligible individuals in~~ 102617
~~group health plans when the department determines that enrollment~~ 102618
~~is cost-effective.~~ 102619

~~(D)~~(C) The director of job and family services ~~shall~~ may 102620
adopt rules in accordance with Chapter 119. of the Revised Code as 102621
necessary to implement this section. 102622

Sec. 5111.14. The director of job and family services may 102623
submit to the United States secretary of health and human services 102624
an amendment to the medicaid state plan in order to implement 102625
within the medicaid program a system under which medicaid 102626
recipients with chronic conditions are provided with coordinated 102627
care through health homes, as authorized by section 1945 of the 102628
"Social Security Act," 124 Stat. 319 (2010), 42 U.S.C. 1396w-4. 102629

The director may adopt rules under section 5111.02 of the 102630
Revised Code to implement this section. 102631

Sec. 5111.14 5111.141. The department of job and family 102632
services may require county departments of job and family services 102633
to provide case management of nonemergency transportation services 102634
provided under the medical assistance program. County departments 102635

shall provide the case management if required by the department in 102636
accordance with rules adopted by the director of job and family 102637
services. 102638

The department shall determine, for the purposes of claiming 102639
federal reimbursement under the medical assistance program, 102640
whether it will claim expenditures for nonemergency transportation 102641
services as administrative or program expenditures. 102642

Sec. 5111.151. (A)(1) This section applies only to either of 102643
the following: 102644

(a) Initial eligibility determinations for ~~all cases~~ 102645
~~involving medicaid provided pursuant to this chapter, qualified~~ 102646
~~medicare beneficiaries, specified low income medicare~~ 102647
~~beneficiaries, qualifying individuals 1, qualifying individuals 2,~~ 102648
~~and medical assistance for covered families and children~~ the 102649
medicaid program made by the department of job and family services 102650
pursuant to section 5101.47 of the Revised Code or by a county 102651
department of job and family services pursuant to section 5111.012 102652
of the Revised Code; 102653

(b) An appeal from a determination described in division 102654
(A)(1)(a) of this section pursuant to section 5101.35 of the 102655
Revised Code. 102656

(2)(a) Except as provided in division (A)(2)(b) of this 102657
section, this section shall not be used by a court to determine 102658
the effect of a trust on an individual's initial eligibility for 102659
the medicaid program. 102660

(b) The prohibition in division (A)(2)(a) of this section 102661
does not apply to an appeal described in division (A)(1)(b) of 102662
this section. 102663

(B) As used in this section: 102664

(1) "Trust" means any arrangement in which a grantor 102665

transfers real or personal property to a trust with the intention 102666
that it be held, managed, or administered by at least one trustee 102667
for the benefit of the grantor or beneficiaries. "Trust" includes 102668
any legal instrument or device similar to a trust. 102669

(2) "Legal instrument or device similar to a trust" includes, 102670
but is not limited to, escrow accounts, investment accounts, 102671
partnerships, contracts, and other similar arrangements that are 102672
not called trusts under state law but are similar to a trust and 102673
to which all of the following apply: 102674

(a) The property in the trust is held, managed, retained, or 102675
administered by a trustee. 102676

(b) The trustee has an equitable, legal, or fiduciary duty to 102677
hold, manage, retain, or administer the property for the benefit 102678
of the beneficiary. 102679

(c) The trustee holds identifiable property for the 102680
beneficiary. 102681

(3) "Grantor" is a person who creates a trust, including all 102682
of the following: 102683

(a) An individual; 102684

(b) An individual's spouse; 102685

(c) A person, including a court or administrative body, with 102686
legal authority to act in place of or on behalf of an individual 102687
or an individual's spouse; 102688

(d) A person, including a court or administrative body, that 102689
acts at the direction or on request of an individual or the 102690
individual's spouse. 102691

(4) "Beneficiary" is a person or persons, including a 102692
grantor, who benefits in some way from a trust. 102693

(5) "Trustee" is a person who manages a trust's principal and 102694
income for the benefit of the beneficiaries. 102695

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.	102696 102697 102698
(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.	102699 102700
(8) "Recipient" is an individual who receives medicaid or the individual's spouse.	102701 102702
(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:	102703 102704 102705
(a) A trust that provides that the trust can be terminated only by a court;	102706 102707
(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.	102708 102709 102710
(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.	102711 102712 102713 102714
(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.	102715 102716 102717
(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.	102718 102719 102720
(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.	102721 102722 102723
(C)(1) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall	102724 102725

determine what type of trust it is and shall treat the trust in 102726
accordance with the appropriate provisions of this section and 102727
rules adopted by the department of job and family services 102728
governing trusts. The county department of job and family services 102729
may determine that the trust or portion of the trust ~~is one of the~~ 102730
~~following:~~ 102731

~~(1) A countable (a) Is a resource available to the applicant 102732
or recipient; 102733~~

~~(2) Countable (b) Contains income available to the applicant 102734
or recipient; 102735~~

~~(3) A countable resource and countable income (c) Constitutes 102736
both items described in divisions (C)(1)(a) and (b) of this 102737
section; 102738~~

~~(4) Not a countable resource or countable income (d) Is 102739
neither an item described in division (C)(1)(a) nor (C)(1)(b) of 102740
this section. 102741~~

~~(2) Except as provided in division (F) of this section, a 102742
trust or portion of a trust that is a resource available to the 102743
applicant or recipient or contains income available to the 102744
applicant or recipient shall be counted for purposes of 102745
determining medicaid eligibility. 102746~~

(D)(1) A trust or legal instrument or device similar to a 102747
trust shall be considered a medicaid qualifying trust if all of 102748
the following apply: 102749

(a) The trust was established on or prior to August 10, 1993. 102750

(b) The trust was not established by a will. 102751

(c) The trust was established by an applicant or recipient. 102752

(d) The applicant or recipient is or may become the 102753
beneficiary of all or part of the trust. 102754

(e) Payment from the trust is determined by one or more 102755

trustees who are permitted to exercise any discretion with respect 102756
to the distribution to the applicant or recipient. 102757

(2) If a trust meets the requirement of division (D)(1) of 102758
this section, the amount of the trust that is considered by the 102759
county department of job and family services ~~as an available to be~~ 102760
a resource available to the applicant or recipient shall be the 102761
maximum amount of payments permitted under the terms of the trust 102762
to be distributed to the applicant or recipient, assuming the full 102763
exercise of discretion by the trustee or trustees. The maximum 102764
amount shall include only amounts that are permitted to be 102765
distributed but are not distributed from either the income or 102766
principal of the trust. 102767

(3) Amounts that are actually distributed from a medicaid 102768
qualifying trust to a beneficiary for any purpose shall be treated 102769
in accordance with rules adopted by the department of job and 102770
family services governing income. 102771

(4) Availability of a medicaid qualifying trust shall be 102772
considered without regard to any of the following: 102773

(a) Whether or not the trust is irrevocable or was 102774
established for purposes other than to enable a grantor to qualify 102775
for medicaid, medical assistance for covered families and 102776
children, or as a qualified medicare beneficiary, specified 102777
low-income medicare beneficiary, qualifying individual-1, or 102778
qualifying individual-2; 102779

(b) Whether or not the trustee actually exercises discretion. 102780

(5) If any real or personal property is transferred to a 102781
medicaid qualifying trust that is not distributable to the 102782
applicant or recipient, the transfer shall be considered an 102783
improper disposition of assets and shall be subject to section 102784
5111.0116 of the Revised Code and rules to implement that section 102785
adopted under section 5111.011 of the Revised Code. 102786

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall ~~be exempt from being counted as~~ not be a resource ~~by a county department of job and family services available to the applicant or recipient:~~

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. ~~Assets~~ An Asset held prior to the transfer to the trust shall be considered as ~~countable assets or countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or countable assets both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements: 102910
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(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust. 102912
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(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust. 102915
102916

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient. 102917
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(b) No resources shall be used to establish or augment the trust. 102921
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(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services. 102923
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(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient. 102927
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(e) All income placed in a qualifying income trust shall be combined with any ~~countable~~ income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations. 102934
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(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income 102938
102939

allowance, family allowance, and medical expenses not subject to 102940
third party payment. Any income remaining shall be used toward 102941
payment of patient liability. Payments made from a qualifying 102942
income trust shall not be combined with the base income figure for 102943
post-eligibility calculations. 102944

(g) The base income figure shall be used when determining the 102945
spend down budget for the applicant or recipient. Any income 102946
remaining after allowable deductions are permitted as provided 102947
under rules adopted by the department of job and family services 102948
shall be considered the applicant's or recipient's spend down 102949
liability. 102950

(3)(a) A pooled trust that meets all of the following 102951
requirements: 102952

(i) The trust contains the assets of the applicant or 102953
recipient ~~of any~~ under sixty-five years of age who is disabled as 102954
defined in rules adopted by the department of job and family 102955
services. 102956

(ii) The trust is established and managed by a nonprofit 102957
association. 102958

(iii) A separate account is maintained for each beneficiary 102959
of the trust but, for purposes of investment and management of 102960
funds, the trust pools the funds in these accounts. 102961

(iv) Accounts in the trust are established by the applicant 102962
or recipient, the applicant's or recipient's parent, grandparent, 102963
or legal guardian, or a court solely for the benefit of 102964
individuals who are disabled. 102965

(v) The trust requires that, to the extent that any amounts 102966
remaining in the beneficiary's account on the death of the 102967
beneficiary are not retained by the trust, the trust pay to the 102968
state the amounts remaining in the trust up to an amount equal to 102969
the total amount of medicaid paid on behalf of the beneficiary. 102970

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. ~~Assets~~ An asset held prior to the transfer to the trust shall be considered as ~~countable assets, countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or ~~countable assets~~ both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

(i) The department of developmental disabilities;

(ii) A county board of developmental disabilities;

(iii) The department of mental health;

(iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction 103001
that states that the applicant or recipient was eligible for 103002
services from one of the agencies listed in division (F)(4)(a) of 103003
this section at the time of the creation of the trust. 103004

(c) At the time the trust is created, the trust principal 103005
does not exceed the maximum amount permitted. The maximum amount 103006
permitted in calendar year 2006 is two hundred twenty-two thousand 103007
dollars. Each year thereafter, the maximum amount permitted is the 103008
prior year's amount plus two thousand dollars. 103009

(d) A county department of job and family services shall 103010
review the trust to determine whether it complies with the 103011
provisions of section 5815.28 of the Revised Code. 103012

(e) Payments from supplemental services trusts shall be 103013
exempt as long as the payments are for supplemental services as 103014
defined in rules adopted by the department of job and family 103015
services. All supplemental services shall be purchased by the 103016
trustee and shall not be purchased through direct cash payments to 103017
the beneficiary. 103018

(f) If a trust is represented as a supplemental services 103019
trust and a county department of job and family services 103020
determines that the trust does not meet the requirements provided 103021
in division (F)(4) of this section and section 5815.28 of the 103022
Revised Code, the county department of job and family services 103023
shall not consider it an exempt trust. 103024

(G)(1) A trust or legal instrument or device similar to a 103025
trust shall be considered a trust established by an individual for 103026
the benefit of the applicant or recipient if all of the following 103027
apply: 103028

(a) The trust is created by a person other than the applicant 103029
or recipient. 103030

(b) The trust names the applicant or recipient as a 103031

beneficiary. 103032

(c) The trust is funded with assets or property in which the 103033
applicant or recipient has never held an ownership interest prior 103034
to the establishment of the trust. 103035

(2) Any portion of a trust that meets the requirements of 103036
division (G)(1) of this section shall be ~~an available~~ a resource 103037
available to the applicant or recipient only if the trust permits 103038
the trustee to expend principal, corpus, or assets of the trust 103039
for the applicant's or recipient's medical care, care, comfort, 103040
maintenance, health, welfare, general well being, or any 103041
combination of these purposes. 103042

(3) A trust that meets the requirements of division (G)(1) of 103043
this section shall be considered ~~an available~~ a resource available 103044
to the applicant or recipient even if the trust contains any of 103045
the following types of provisions: 103046

(a) A provision that prohibits the trustee from making 103047
payments that would supplant or replace medicaid or other public 103048
assistance; 103049

(b) A provision that prohibits the trustee from making 103050
payments that would impact or have an effect on the applicant's or 103051
recipient's right, ability, or opportunity to receive medicaid or 103052
other public assistance; 103053

(c) A provision that attempts to prevent the trust or its 103054
corpus or principal from being ~~counted as an available~~ a resource 103055
available to the applicant or recipient. 103056

(4) A trust that meets the requirements of division (G)(1) of 103057
this section shall not be counted as ~~an available~~ a resource 103058
available to the applicant or recipient if at least one of the 103059
following circumstances applies: 103060

(a) If a trust contains a clear statement requiring the 103061

trustee to preserve a portion of the trust for another beneficiary 103062
or remainderman, that portion of the trust shall not be counted as 103063
~~an available~~ a resource available to the applicant or recipient. 103064
Terms of a trust that grant discretion to preserve a portion of 103065
the trust shall not qualify as a clear statement requiring the 103066
trustee to preserve a portion of the trust. 103067

(b) If a trust contains a clear statement requiring the 103068
trustee to use a portion of the trust for a purpose other than 103069
medical care, care, comfort, maintenance, welfare, or general well 103070
being of the applicant or recipient, that portion of the trust 103071
shall not be counted as ~~an available~~ a resource available to the 103072
applicant or recipient. Terms of a trust that grant discretion to 103073
limit the use of a portion of the trust shall not qualify as a 103074
clear statement requiring the trustee to use a portion of the 103075
trust for a particular purpose. 103076

(c) If a trust contains a clear statement limiting the 103077
trustee to making fixed periodic payments, the trust shall not be 103078
counted as ~~an available~~ a resource available to the applicant or 103079
recipient and payments shall be treated in accordance with rules 103080
adopted by the department of job and family services governing 103081
income. Terms of a trust that grant discretion to limit payments 103082
shall not qualify as a clear statement requiring the trustee to 103083
make fixed periodic payments. 103084

(d) If a trust contains a clear statement that requires the 103085
trustee to terminate the trust if it is counted as ~~an available~~ a 103086
resource available to the applicant or recipient, the trust shall 103087
not be counted as ~~an available resource~~ such. Terms of a trust 103088
that grant discretion to terminate the trust do not qualify as a 103089
clear statement requiring the trustee to terminate the trust. 103090

(e) If a person obtains a judgment from a court of competent 103091
jurisdiction that expressly prevents the trustee from using part 103092
or all of the trust for the medical care, care, comfort, 103093

maintenance, welfare, or general well being of the applicant or 103094
recipient, the trust or that portion of the trust subject to the 103095
court order shall not be counted as a resource available to the 103096
applicant or recipient. 103097

(f) If a trust is specifically exempt from being counted as 103098
~~an available~~ a resource available to the applicant or recipient by 103099
a provision of the Revised Code, rules, or federal law, the trust 103100
shall not be counted as a ~~resource~~ such. 103101

(g) If an applicant or recipient presents a final judgment 103102
from a court demonstrating that the applicant or recipient was 103103
unsuccessful in a civil action against the trustee to compel 103104
payments from the trust, the trust shall not be counted as ~~an~~ 103105
~~available~~ a resource available to the applicant or recipient. 103106

(h) If an applicant or recipient presents a final judgment 103107
from a court demonstrating that in a civil action against the 103108
trustee the applicant or recipient was only able to compel limited 103109
or periodic payments, the trust shall not be counted as ~~an~~ 103110
~~available~~ a resource available to the applicant or recipient and 103111
payments shall be treated in accordance with rules adopted by the 103112
department of job and family services governing income. 103113

(i) If an applicant or recipient provides written 103114
documentation showing that the cost of a civil action brought to 103115
compel payments from the trust would be cost prohibitive, the 103116
trust shall not be counted as ~~an available~~ a resource available to 103117
the applicant or recipient. 103118

(5) Any actual payments to the applicant or recipient from a 103119
trust that meet the requirements of division (G)(1) of this 103120
section, including trusts that are not counted as ~~an available~~ a 103121
resource available to the applicant or recipient, shall be treated 103122
as provided in rules adopted by the department of job and family 103123
services governing income. Payments to any person other than the 103124

applicant or recipient shall not be considered income to the 103125
applicant or recipient. Payments from the trust to a person other 103126
than the applicant or recipient shall not be considered an 103127
improper disposition of assets. 103128

Sec. 5111.16. (A) As part of the medicaid program, the 103129
department of job and family services shall establish a care 103130
management system. The department shall submit, if necessary, 103131
applications to the United States department of health and human 103132
services for waivers of federal medicaid requirements that would 103133
otherwise be violated in the implementation of the system. 103134

(B) The department shall implement the care management system 103135
in some or all counties and shall designate the medicaid 103136
recipients who are required or permitted to participate in the 103137
system. In the department's implementation of the system and 103138
designation of participants, all of the following apply: 103139

(1) In the case of individuals who receive medicaid on the 103140
basis of being included in the category identified by the 103141
department as covered families and children, the department shall 103142
implement the care management system in all counties. All 103143
individuals included in the category shall be designated for 103144
participation, except for individuals included in one or more of 103145
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 103146
The department shall ensure that all participants are enrolled in 103147
health insuring corporations under contract with the department 103148
pursuant to section 5111.17 of the Revised Code. 103149

(2) In the case of individuals who receive medicaid on the 103150
basis of being aged, blind, or disabled, as specified in division 103151
(A)(2) of section 5111.01 of the Revised Code, the department 103152
shall implement the care management system in all counties. ~~All~~ 103153
Except as provided in division (C) of this section, all 103154
individuals included in the category shall be designated for 103155

participation, ~~except for the individuals specified in divisions~~ 103156
~~(B)(2)(a) to (e) of this section.~~ The department shall ensure that 103157
all participants are enrolled in health insuring corporations 103158
under contract with the department pursuant to section 5111.17 of 103159
the Revised Code. 103160

~~In (3) Alcohol, drug addiction, and mental health services~~ 103161
~~covered by medicaid shall not be included in any component of the~~ 103162
~~care management system when the nonfederal share of the cost of~~ 103163
~~those services is provided by a board of alcohol, drug addiction,~~ 103164
~~and mental health services or a state agency other than the~~ 103165
~~department of job and family services, but the recipients of those~~ 103166
~~services may otherwise be designated for participation in the~~ 103167
~~system.~~ 103168

(C)(1) In designating participants who receive medicaid on 103169
the basis of being aged, blind, or disabled, the department shall 103170
not include any of the following, except as provided under 103171
division (C)(2) of this section: 103172

(a) Individuals who are under twenty-one years of age; 103173

(b) Individuals who are institutionalized; 103174

(c) Individuals who become eligible for medicaid by spending 103175
down their income or resources to a level that meets the medicaid 103176
program's financial eligibility requirements; 103177

(d) Individuals who are dually eligible under the medicaid 103178
program and the medicare program established under Title XVIII of 103179
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 103180
amended; 103181

(e) Individuals to the extent that they are receiving 103182
medicaid services through a medicaid waiver component, as defined 103183
in section 5111.85 of the Revised Code. 103184

~~(3) Alcohol, drug addiction, and mental health services~~ 103185

~~covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.~~

~~(C)(2) If any necessary waiver of federal medicaid requirements is granted, the department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:~~

~~(a) Individuals who are under twenty-one years of age;~~

~~(b) Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;~~

~~(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;~~

~~(d) Individuals who are dually eligible under the medicaid program and the medicare program.~~

~~(D) Subject to division (B) of this section, the department may do both of the following under the care management system:~~

~~(1) Require or permit participants in the system to obtain health care services from providers designated by the department;~~

~~(2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.~~

~~(E)(1) The department shall prepare an annual report on~~

the care management system. The report shall address the 103216
department's ability to implement the system, including all of the 103217
following components: 103218

(a) The required designation of participants included in the 103219
category identified by the department as covered families and 103220
children; 103221

(b) The required designation of participants included in the 103222
aged, blind, or disabled category of medicaid recipients; 103223

(c) The use of any programs for enhanced care management. 103224

(2) The department shall submit each annual report to the 103225
general assembly. The first report shall be submitted not later 103226
than October 1, 2007. 103227

~~(E)~~(F) The director of job and family services may adopt 103228
rules in accordance with Chapter 119. of the Revised Code to 103229
implement this section. 103230

Sec. 5111.161. (A) As used in this section: 103231

(1) "Children's care network" means all of the following: 103232

(a) A children's hospital; 103233

(b) A group of children's hospitals; 103234

(c) A group of pediatric physicians affiliated with a 103235
children's hospital or group of children's hospitals. 103236

(2) "Children's hospital" has the same meaning as in section 103237
2151.86 of the Revised Code. 103238

(B) This section applies if the department of job and family 103239
services includes in the care management system, pursuant to 103240
section 5111.16 of the Revised Code, individuals under twenty-one 103241
years of age included in the category of individuals who receive 103242
medicaid on the basis of being in the category of aged, blind, or 103243
disabled medicaid recipients, as specified in division (A)(2) of 103244

section 5111.01 of the Revised Code. 103245

(C) In order to meet the complex medical and behavioral needs 103246
of disabled children through new approaches to care coordination, 103247
and for the purpose of developing a system for the provision of 103248
care management services to the individuals specified in division 103249
(B) of this section, the department shall do both of the 103250
following: 103251

(1) Enter into a contract with a children's care network to 103252
serve as a pediatric accountable care organization in accordance 103253
with division (D) of this section; 103254

(2) Require that a managed care organization under contract 103255
with the department pursuant to section 5111.17 of the Revised 103256
Code enter into a subcontract with a children's care network to 103257
provide the care coordination services and to provide care 103258
management services if the network provides notification to the 103259
department in accordance with division (E) of this section. The 103260
organization shall ensure that contracts entered into are 103261
sufficient to provide the services in all counties served by the 103262
organization. 103263

(D) On determining that a children's care network seeking a 103264
contract to serve as a pediatric accountable care organization 103265
meets the criteria established in rules adopted under this 103266
section, the department shall contract directly with the 103267
children's care network to serve in that capacity. The 103268
department's determination of whether to enter into a contract 103269
with the children's care network shall be based on evidence or 103270
other documentation submitted by the children's care network, as 103271
required by the department in rules adopted under this section. 103272

A children's care network that is denied a contract may seek 103273
another contract to serve as a pediatric accountable care 103274
organization, but not earlier than six months after the most 103275

recent contract denial. 103276

(E) A children's care network seeking a subcontract with a managed care organization shall notify the department of its intention to provide the care coordination services or to provide care management services. The children's care network shall include in the notification an identification of the counties in which the network seeks to provide services. The children's care network may not identify any county as a county in which the network seeks to provide the services if the network is not located in that county. 103277
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(F) The department shall adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. In adopting the rules, the department shall specify the following: 103286
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(1) The minimum criteria that a children's care network must meet to qualify for a contract with the department to serve as a pediatric accountable care organization, including criteria that incorporates the minimum criteria established by federal law regarding pediatric accountable care organizations; 103290
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(2) The evidence or other documentation that a children's care network must submit to the department when seeking a contract to serve as an accountable care organization. 103295
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(G) If the department does not adopt rules under division (F) of this section on or before July 1, 2012, the department shall specify that one of the following applies until the department adopts those rules: 103298
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(1) Each managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code shall subcontract with a children's care network to provide care coordination services for the individuals specified in division (B) of this section if the network provides notification to the 103302
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department in accordance with division (E) of this section. The 103307
managed care organization shall pay the children's care network 103308
for providing the care coordination services an amount equal to 103309
the average cost to the managed care organization for providing 103310
case management services, plus an amount equal to the statewide 103311
average administrative percentage paid to managed care 103312
organizations as a component of their capitation payment that is 103313
associated with that service. 103314

(2) Each managed care organization under contract with the 103315
department pursuant to section 5111.17 of the Revised Code shall 103316
subcontract with a children's care network to provide care 103317
management services for the individuals specified in division (B) 103318
of this section if the network provides notification to the 103319
department in accordance with division (E) of this section. 103320

Sec. 5111.17. (A) The department of job and family services 103321
may enter into contracts with managed care organizations, 103322
including health insuring corporations, under which the 103323
organizations are authorized to provide, or arrange for the 103324
provision of, health care services to medical assistance 103325
recipients who are required or permitted to obtain health care 103326
services through managed care organizations as part of the care 103327
management system established under section 5111.16 of the Revised 103328
Code. 103329

(B) The department or its actuary shall base the hospital 103330
inpatient capital payment portion of the payment made to managed 103331
care organizations on data for services provided to all recipients 103332
enrolled in managed care organizations with which the department 103333
contracts, as reported by hospitals on relevant cost reports 103334
submitted pursuant to rules adopted under this section. 103335

(C) The director of job and family services may adopt rules 103336
in accordance with Chapter 119. of the Revised Code to implement 103337

this section. 103338

~~(C)~~(D) The department of job and family services shall allow 103339
a managed care ~~plans~~ organization to use providers to render care 103340
upon completion of the managed care ~~plan's~~ organization's 103341
credentialing process. 103342

Sec. 5111.172. (A) When contracting under section 5111.17 of 103343
the Revised Code with a managed care organization that is a health 103344
insuring corporation, the department of job and family services 103345
~~may~~ shall require the health insuring corporation to provide 103346
coverage of prescription drugs for medicaid recipients enrolled in 103347
the health insuring corporation. In providing the required 103348
coverage, the health insuring corporation may, subject to the 103349
department's approval and the limitations specified in division 103350
(B) of this section, use strategies for the management of drug 103351
utilization. 103352

(B) The department shall not permit a health insuring 103353
corporation to impose a prior authorization requirement in the 103354
case of a drug to which all of the following apply: 103355

(1) The drug is an antidepressant or antipsychotic. 103356

(2) The drug is administered or dispensed in a standard 103357
tablet or capsule form, except that in the case of an 103358
antipsychotic, the drug also may be administered or dispensed in a 103359
long-acting injectable form. 103360

(3) The drug is prescribed by either of the following: 103361

(a) A physician whom the health insuring corporation, 103362
pursuant to division (C) of section 5111.17 of the Revised Code, 103363
has credentialed to provide care as a psychiatrist; 103364

(b) A psychiatrist practicing at a community mental health 103365
agency certified by the department of mental health under section 103366
5119.611 of the Revised Code. 103367

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration. 103368
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(C) As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code. 103371
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~~If The department shall permit a health insuring corporation is required under this section to provide coverage of prescription drugs, the department shall permit the health insuring corporation~~ 103373
~~to develop and implement a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription. The program may include processes for requiring medicaid recipients at high risk for fraud or abuse involving controlled substances to have their prescriptions for controlled substances filled by a pharmacy, medical provider, or health care facility designated by the program.~~ 103374
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Sec. 5111.1711. (A) The department of job and family services shall establish a managed care performance payment program. Under the program, the department may provide payments to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet performance standards established by the department. 103384
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In establishing performance standards, the department shall use the most recent healthcare effectiveness data and information set and quality measurement tool established by the national committee for quality assurance. 103390
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The standards that must be met to receive the payments may be specified in the contract the department enters into with a managed care organization. 103394
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If a managed care organization meets the performance 103397

standards established by the department, the department shall make 103398
one or more performance payments to the organization. The number 103399
of payments and the schedule for making the payments shall be 103400
established by the department. The payments shall be discontinued 103401
if the department determines that the organization no longer meets 103402
the performance standards. The department shall not make or 103403
discontinue payments based on any performance standard that has 103404
been in effect as part of the organization's contract for less 103405
than six months. 103406

(B) For purposes of the program, the department shall 103407
establish an amount that is to be withheld each time a premium 103408
payment is made to a managed care organization. The amount shall 103409
be established as a percentage of each premium payment. The 103410
percentage shall be the same for all managed care organizations 103411
under contract with the department. The sum of all withholdings 103412
under this division shall not exceed one per cent of the total of 103413
all premium payments made to all managed care organizations under 103414
contract with the department. 103415

Each managed care organization shall agree to the withholding 103416
as a condition of receiving or maintaining its medicaid provider 103417
agreement with the department. 103418

When the amount is established and each time the amount is 103419
modified thereafter, the department shall certify the amount to 103420
the director of budget and management and begin withholding the 103421
amount from each premium the department pays to a managed care 103422
organization. 103423

(C) There is hereby created in the state treasury the managed 103424
care performance payment fund. The fund shall consist of amounts 103425
transferred to it by the director of budget and management for the 103426
purpose of the program. All investment earnings of the fund shall 103427
be credited to the fund. Amounts in the fund shall be used solely 103428
to make performance payments to managed care organizations in 103429

accordance with this section. 103430

(D) The department may adopt rules as necessary to implement 103431
this section. The rules shall be adopted in accordance with 103432
Chapter 119. of the Revised Code. 103433

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.331 103434
of the Revised Code: 103435

(A) "Allowable costs" are those costs determined by the 103436
department of job and family services to be reasonable and do not 103437
include fines paid under sections 5111.35 to 5111.61 and section 103438
5111.99 of the Revised Code. 103439

(B) "Ancillary and support costs" means all reasonable costs 103440
incurred by a nursing facility other than direct care costs or 103441
capital costs. "Ancillary and support costs" includes, but is not 103442
limited to, costs of activities, social services, pharmacy 103443
consultants, habilitation supervisors, qualified mental 103444
retardation professionals, program directors, medical and 103445
habilitation records, program supplies, incontinence supplies, 103446
food, enterals, dietary supplies and personnel, laundry, 103447
housekeeping, security, administration, medical equipment, 103448
utilities, liability insurance, bookkeeping, purchasing 103449
department, human resources, communications, travel, dues, license 103450
fees, subscriptions, home office costs not otherwise allocated, 103451
legal services, accounting services, minor equipment, wheelchairs, 103452
resident transportation, maintenance and repairs, help-wanted 103453
advertising, informational advertising, start-up costs, 103454
organizational expenses, other interest, property insurance, 103455
employee training and staff development, employee benefits, 103456
payroll taxes, and workers' compensation premiums or costs for 103457
self-insurance claims and related costs as specified in rules 103458
adopted by the director of job and family services under section 103459
5111.02 of the Revised Code, for personnel listed in this 103460

division. "Ancillary and support costs" also means the cost of 103461
equipment, including vehicles, acquired by operating lease 103462
executed before December 1, 1992, if the costs are reported as 103463
administrative and general costs on the facility's cost report for 103464
the cost reporting period ending December 31, 1992. 103465

(C) "Capital costs" means costs of ownership and, in the case 103466
of an intermediate care facility for the mentally retarded, costs 103467
of nonextensive renovation. 103468

(1) "Cost of ownership" means the actual expense incurred for 103469
all of the following: 103470

(a) Depreciation and interest on any capital assets that cost 103471
five hundred dollars or more per item, including the following: 103472

(i) Buildings; 103473

(ii) Building improvements that are not approved as 103474
nonextensive renovations under section 5111.251 of the Revised 103475
Code; 103476

(iii) Except as provided in division (B) of this section, 103477
equipment; 103478

(iv) In the case of an intermediate care facility for the 103479
mentally retarded, extensive renovations; 103480

(v) Transportation equipment. 103481

(b) Amortization and interest on land improvements and 103482
leasehold improvements; 103483

(c) Amortization of financing costs; 103484

(d) Except as provided in division (K) of this section, lease 103485
and rent of land, building, and equipment. 103486

The costs of capital assets of less than five hundred dollars 103487
per item may be considered capital costs in accordance with a 103488
provider's practice. 103489

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after

its original date of licensure, it will have a different date of
licensure for the additional beds or extensively renovated portion
of the facility, unless the beds are added in a space that was
constructed at the same time as the previously licensed beds but
was not licensed under Chapter 3721. or section 5123.19 of the
Revised Code at that time.

(2) The definition of "date of licensure" in this section
applies in determinations of the medicaid reimbursement rate for a
nursing facility or intermediate care facility for the mentally
retarded but does not apply in determinations of the franchise
permit fee for a nursing facility or intermediate care facility
for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost
report submitted under section 5111.26 of the Revised Code have
been subjected to a desk review under division (A) of section
5111.27 of the Revised Code and preliminarily determined to be
allowable costs.

(H) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical
nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing
staff, medical directors, respiratory therapists, and except as
provided in division (H)(2) of this section, other persons holding
degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee
benefits, payroll taxes, and workers' compensation premiums or
costs for self-insurance claims and related costs as specified in
rules adopted by the director of job and family services in

accordance with Chapter 119. of the Revised Code, for personnel 103551
listed in divisions (H)(1)(a), (b), and (d) of this section; 103552

(f) Costs of consulting and management fees related to direct 103553
care; 103554

(g) Allocated direct care home office costs. 103555

(2) In addition to the costs specified in division (H)(1) of 103556
this section, for nursing facilities only, direct care costs 103557
include costs of habilitation staff (other than habilitation 103558
supervisors), medical supplies, oxygen, over-the-counter pharmacy 103559
products, physical therapists, physical therapy assistants, 103560
occupational therapists, occupational therapy assistants, speech 103561
therapists, audiologists, habilitation supplies, and universal 103562
precautions supplies. 103563

(3) In addition to the costs specified in division (H)(1) of 103564
this section, for intermediate care facilities for the mentally 103565
retarded only, direct care costs include both of the following: 103566

(a) Costs for physical therapists and physical therapy 103567
assistants, occupational therapists and occupational therapy 103568
assistants, speech therapists, audiologists, habilitation staff 103569
(including habilitation supervisors), qualified mental retardation 103570
professionals, program directors, social services staff, 103571
activities staff, off-site day programming, psychologists and 103572
psychology assistants, and social workers and counselors; 103573

(b) Costs of training and staff development, employee 103574
benefits, payroll taxes, and workers' compensation premiums or 103575
costs for self-insurance claims and related costs as specified in 103576
rules adopted under section 5111.02 of the Revised Code, for 103577
personnel listed in division (H)(3)(a) of this section. 103578

(4) Costs of other direct-care resources that are specified 103579
as direct care costs in rules adopted under section 5111.02 of the 103580
Revised Code. 103581

(I) "Fiscal year" means the fiscal year of this state, as 103582
specified in section 9.34 of the Revised Code. 103583

(J) "Franchise permit fee" means the following: 103584

(1) In the context of nursing facilities, the fee imposed by 103585
sections 3721.50 to 3721.58 of the Revised Code; 103586

(2) In the context of intermediate care facilities for the 103587
mentally retarded, the fee imposed by sections 5112.30 to 5112.39 103588
of the Revised Code. 103589

(K) "Indirect care costs" means all reasonable costs incurred 103590
by an intermediate care facility for the mentally retarded other 103591
than direct care costs, other protected costs, or capital costs. 103592
"Indirect care costs" includes but is not limited to costs of 103593
habilitation supplies, pharmacy consultants, medical and 103594
habilitation records, program supplies, incontinence supplies, 103595
food, enterals, dietary supplies and personnel, laundry, 103596
housekeeping, security, administration, liability insurance, 103597
bookkeeping, purchasing department, human resources, 103598
communications, travel, dues, license fees, subscriptions, home 103599
office costs not otherwise allocated, legal services, accounting 103600
services, minor equipment, maintenance and repairs, help-wanted 103601
advertising, informational advertising, start-up costs, 103602
organizational expenses, other interest, property insurance, 103603
employee training and staff development, employee benefits, 103604
payroll taxes, and workers' compensation premiums or costs for 103605
self-insurance claims and related costs as specified in rules 103606
adopted under section 5111.02 of the Revised Code, for personnel 103607
listed in this division. Notwithstanding division (C)(1) of this 103608
section, "indirect care costs" also means the cost of equipment, 103609
including vehicles, acquired by operating lease executed before 103610
December 1, 1992, if the costs are reported as administrative and 103611
general costs on the facility's cost report for the cost reporting 103612
period ending December 31, 1992. 103613

(L) "Inpatient days" means all days during which a resident, 103614
regardless of payment source, occupies a bed in a nursing facility 103615
or intermediate care facility for the mentally retarded that is 103616
included in the facility's certified capacity under Title XIX. 103617
Therapeutic or hospital leave days for which payment is made under 103618
section 5111.33 or 5111.331 of the Revised Code are considered 103619
inpatient days proportionate to the percentage of the facility's 103620
per resident per day rate paid for those days. 103621

(M) "Intermediate care facility for the mentally retarded" 103622
means an intermediate care facility for the mentally retarded 103623
certified as in compliance with applicable standards for the 103624
medicaid program by the director of health in accordance with 103625
Title XIX. 103626

(N) "Maintenance and repair expenses" means, except as 103627
provided in division (BB)(2) of this section, expenditures that 103628
are necessary and proper to maintain an asset in a normally 103629
efficient working condition and that do not extend the useful life 103630
of the asset two years or more. "Maintenance and repair expenses" 103631
includes but is not limited to the cost of ordinary repairs such 103632
as painting and wallpapering. 103633

(O) "Medicaid days" means all days during which a resident 103634
who is a ~~Medicaid~~ medicaid recipient eligible for nursing facility 103635
services occupies a bed in a nursing facility that is included in 103636
the nursing facility's certified capacity under Title XIX. 103637
Therapeutic or hospital leave days for which payment is made under 103638
section 5111.33 or 5111.331 of the Revised Code are considered 103639
~~Medicaid~~ medicaid days proportionate to the percentage of the 103640
nursing facility's per resident per day rate paid for those days. 103641

(P) "Nursing facility" means a facility, or a distinct part 103642
of a facility, that is certified as a nursing facility by the 103643
director of health in accordance with Title XIX and is not an 103644
intermediate care facility for the mentally retarded. "Nursing 103645

facility" includes a facility, or a distinct part of a facility, 103646
that is certified as a nursing facility by the director of health 103647
in accordance with Title XIX and is certified as a skilled nursing 103648
facility by the director in accordance with Title XVIII. 103649

(Q) "Operator" means the person or government entity 103650
responsible for the daily operating and management decisions for a 103651
nursing facility or intermediate care facility for the mentally 103652
retarded. 103653

(R) "Other protected costs" means costs incurred by an 103654
intermediate care facility for the mentally retarded for medical 103655
supplies; real estate, franchise, and property taxes; natural gas, 103656
fuel oil, water, electricity, sewage, and refuse and hazardous 103657
medical waste collection; allocated other protected home office 103658
costs; and any additional costs defined as other protected costs 103659
in rules adopted under section 5111.02 of the Revised Code. 103660

(S)(1) "Owner" means any person or government entity that has 103661
at least five per cent ownership or interest, either directly, 103662
indirectly, or in any combination, in any of the following 103663
regarding a nursing facility or intermediate care facility for the 103664
mentally retarded: 103665

(a) The land on which the facility is located; 103666

(b) The structure in which the facility is located; 103667

(c) Any mortgage, contract for deed, or other obligation 103668
secured in whole or in part by the land or structure on or in 103669
which the facility is located; 103670

(d) Any lease or sublease of the land or structure on or in 103671
which the facility is located. 103672

(2) "Owner" does not mean a holder of a debenture or bond 103673
related to the nursing facility or intermediate care facility for 103674
the mentally retarded and purchased at public issue or a regulated 103675

lender that has made a loan related to the facility unless the 103676
holder or lender operates the facility directly or through a 103677
subsidiary. 103678

(T) "Patient" includes "resident." 103679

(U) Except as provided in divisions (U)(1) and (2) of this 103680
section, "per diem" means a nursing facility's or intermediate 103681
care facility for the mentally retarded's actual, allowable costs 103682
in a given cost center in a cost reporting period, divided by the 103683
facility's inpatient days for that cost reporting period. 103684

(1) When calculating indirect care costs for the purpose of 103685
establishing rates under section 5111.241 of the Revised Code, 103686
"per diem" means an intermediate care facility for the mentally 103687
retarded's actual, allowable indirect care costs in a cost 103688
reporting period divided by the greater of the facility's 103689
inpatient days for that period or the number of inpatient days the 103690
facility would have had during that period if its occupancy rate 103691
had been eighty-five per cent. 103692

(2) When calculating capital costs for the purpose of 103693
establishing rates under section 5111.251 of the Revised Code, 103694
"per diem" means a facility's actual, allowable capital costs in a 103695
cost reporting period divided by the greater of the facility's 103696
inpatient days for that period or the number of inpatient days the 103697
facility would have had during that period if its occupancy rate 103698
had been ninety-five per cent. 103699

(V) "Provider" means an operator with a provider agreement. 103700

(W) "Provider agreement" means a contract between the 103701
department of job and family services and the operator of a 103702
nursing facility or intermediate care facility for the mentally 103703
retarded for the provision of nursing facility services or 103704
intermediate care facility services for the mentally retarded 103705
under the medicaid program. 103706

(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

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(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

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(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

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(1) An individual who is a relative of an owner is a related party.

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(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

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(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

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(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

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(a) The supplier is a separate bona fide organization.	103738
(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.	103739 103740 103741 103742
(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.	103743 103744 103745 103746 103747
(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.	103748 103749 103750 103751
(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:	103752 103753 103754
(1) Spouse;	103755
(2) Natural parent, child, or sibling;	103756
(3) Adopted parent, child, or sibling;	103757
(4) Stepparent, stepchild, stepbrother, or stepsister;	103758
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	103759 103760
(6) Grandparent or grandchild;	103761
(7) Foster caregiver, foster child, foster brother, or foster sister.	103762 103763
(BB) "Renovation" and "extensive renovation" mean:	103764
(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started	103765 103766

before July 1, 1993, that meets the definition of a renovation or 103767
extensive renovation established in rules adopted by the director 103768
of job and family services in effect on December 22, 1992. 103769

(2) In the case of betterments, improvements, and 103770
restorations of intermediate care facilities for the mentally 103771
retarded started on or after July 1, 1993: 103772

(a) "Renovation" means the betterment, improvement, or 103773
restoration of an intermediate care facility for the mentally 103774
retarded beyond its current functional capacity through a 103775
structural change that costs at least five hundred dollars per 103776
bed. A renovation may include betterment, improvement, 103777
restoration, or replacement of assets that are affixed to the 103778
building and have a useful life of at least five years. A 103779
renovation may include costs that otherwise would be considered 103780
maintenance and repair expenses if they are an integral part of 103781
the structural change that makes up the renovation project. 103782
"Renovation" does not mean construction of additional space for 103783
beds that will be added to a facility's licensed or certified 103784
capacity. 103785

(b) "Extensive renovation" means a renovation that costs more 103786
than sixty-five per cent and no more than eighty-five per cent of 103787
the cost of constructing a new bed and that extends the useful 103788
life of the assets for at least ten years. 103789

For the purposes of division (BB)(2) of this section, the 103790
cost of constructing a new bed shall be considered to be forty 103791
thousand dollars, adjusted for the estimated rate of inflation 103792
from January 1, 1993, to the end of the calendar year during which 103793
the renovation is completed, using the consumer price index for 103794
shelter costs for all urban consumers for the north central 103795
region, as published by the United States bureau of labor 103796
statistics. 103797

The department of job and family services may treat a 103798
renovation that costs more than eighty-five per cent of the cost 103799
of constructing new beds as an extensive renovation if the 103800
department determines that the renovation is more prudent than 103801
construction of new beds. 103802

(CC) "Title XIX" means Title XIX of the "Social Security 103803
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 103804

(DD) "Title XVIII" means Title XVIII of the "Social Security 103805
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 103806

Sec. 5111.21. (A) In order to be eligible for medicaid 103807
payments, the operator of a nursing facility or intermediate care 103808
facility for the mentally retarded shall do all of the following: 103809

(1) Enter into a provider agreement with the department as 103810
provided in section 5111.22, 5111.671, or 5111.672 of the Revised 103811
Code; 103812

(2) Apply for and maintain a valid license to operate if so 103813
required by law; 103814

(3) Subject to division (B) of this section, comply with all 103815
applicable state and federal laws and rules. 103816

(B) A state rule that requires the operator of an 103817
intermediate care facility for the mentally retarded to have 103818
received approval of a plan for the proposed facility pursuant to 103819
section 5123.042 of the Revised Code as a condition of the 103820
operator being eligible for medicaid payments for the facility 103821
does not apply if, under former section 5123.193 of the Revised 103822
Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly 103823
or section 5123.197 of the Revised Code, a residential facility 103824
license was obtained or modified for the facility without 103825
obtaining approval of such a plan. 103826

(C)(1) Except as provided in division (C)(2) of this section, 103827

the operator of a nursing facility that elects to obtain and 103828
maintain eligibility for payments under the medicaid program shall 103829
qualify all of the facility's medicaid-certified beds in the 103830
medicare program established by Title XVIII. The director of job 103831
and family services may adopt rules under section 5111.02 of the 103832
Revised Code to establish the time frame in which a nursing 103833
facility must comply with this requirement. 103834

(2) The department of veterans services is not required to 103835
qualify all of the medicaid-certified beds in a nursing facility 103836
the agency maintains and operates under section 5907.01 of the 103837
Revised Code in the medicare program. 103838

Sec. 5111.211. (A) Except as provided in ~~division~~ divisions 103839
(C) and (D) of this section, the department of developmental 103840
disabilities is responsible for the nonfederal share of claims 103841
submitted for services that are covered by the medicaid program 103842
and provided to an eligible medicaid recipient by an intermediate 103843
care facility for the mentally retarded if all of the following 103844
are the case: 103845

(1) The services are provided on or after July 1, 2003; 103846

(2) The facility receives initial certification by the 103847
director of health as an intermediate care facility for the 103848
mentally retarded on or after June 1, 2003; 103849

(3) The facility, or a portion of the facility, is licensed 103850
by the director of developmental disabilities as a residential 103851
facility under section 5123.19 of the Revised Code; 103852

(4) There is a valid provider agreement for the facility. 103853

(B) Each month, the department of job and family services 103854
shall invoice the department of developmental disabilities by 103855
interagency transfer voucher for the claims for which the 103856
department of developmental disabilities is responsible pursuant 103857

to this section. 103858

(C) Division (A) of this section does not apply to claims 103859
submitted for an intermediate care facility for the mentally 103860
retarded if, under former section 5123.193 of the Revised Code as 103861
enacted by Am. Sub. H.B. 1 of the 128th general assembly or 103862
section 5123.197 of the Revised Code, a residential facility 103863
license was obtained or modified for the facility without 103864
obtaining approval of a plan for the proposed residential facility 103865
pursuant to section 5123.042 of the Revised Code. 103866

(D) Beginning on the date the department of developmental 103867
disabilities assumes, under section 5111.226 of the Revised Code, 103868
the powers and duties of the department of job and family services 103869
regarding the medicaid program's coverage of services provided by 103870
intermediate care facilities for the mentally retarded, this 103871
section shall apply only to the extent, if any, provided in the 103872
contract required by that section. 103873

Sec. 5111.22. A provider agreement between the department of 103874
job and family services and the provider of a nursing facility or 103875
intermediate care facility for the mentally retarded shall contain 103876
the following provisions: 103877

(A) The department agrees to make payments to the provider, 103878
as provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised 103879
Code, for medicaid-covered services the facility provides to a 103880
resident of the facility who is a medicaid recipient. No payment 103881
shall be made for the day a medicaid recipient is discharged from 103882
the facility. 103883

(B) The provider agrees to: 103884

(1) Maintain eligibility as provided in section 5111.21 of 103885
the Revised Code; 103886

(2) Keep records relating to a cost reporting period for the 103887

greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to residents who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted under section 5111.02 of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or of the state.

Sec. 5111.221. The department of job and family services shall make its best efforts each year to calculate rates under

sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code in time 103918
to use them to make the payments due to providers by the fifteenth 103919
day of August. If the department is unable to calculate the rates 103920
so that they can be paid by that date, the department shall pay 103921
each provider the rate calculated for the provider's nursing 103922
facilities and intermediate care facilities for the mentally 103923
retarded under those sections at the end of the previous fiscal 103924
year. If the department also is unable to calculate the rates to 103925
make the payments due by the fifteenth day of September and the 103926
fifteenth day of October, the department shall pay the previous 103927
fiscal year's rate to make those payments. The department may 103928
increase by five per cent the previous fiscal year's rate paid for 103929
any facility pursuant to this section at the request of the 103930
provider. The department shall use rates calculated for the 103931
current fiscal year to make the payments due by the fifteenth day 103932
of November. 103933

If the rate paid to a provider for a facility pursuant to 103934
this section is lower than the rate calculated for the facility 103935
for the current fiscal year, the department shall pay the provider 103936
the difference between the two rates for the number of days for 103937
which the provider was paid for the facility pursuant to this 103938
section. If the rate paid for a facility pursuant to this section 103939
is higher than the rate calculated for it for the current fiscal 103940
year, the provider shall refund to the department the difference 103941
between the two rates for the number of days for which the 103942
provider was paid for the facility pursuant to this section. 103943

Sec. 5111.222. (A) Except as otherwise provided by sections 103944
5111.20 to ~~5111.33~~ 5111.331 of the Revised Code and by division 103945
(B) of this section, the payments that the department of job and 103946
family services shall agree to make to the provider of a nursing 103947
facility pursuant to a provider agreement shall equal the sum of 103948
all of the following: 103949

(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;	103950 103951
(2) The rate for ancillary and support costs determined for the nursing facility's ancillary and support cost peer group under section 5111.24 of the Revised Code;	103952 103953 103954
(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;	103955 103956
(4) The rate for franchise permit fees determined for the nursing facility under section 5111.243 of the Revised Code;	103957 103958
(5) The quality incentive payment, <u>if any</u> , paid to the nursing facility under section 5111.244 of the Revised Code;	103959 103960
(6) <u>(5)</u> The median rate for capital costs <u>determined</u> for the nursing facilities in the nursing facility's capital costs peer group as determined under section 5111.25 of the Revised Code.	103961 103962 103963
(B) The department shall adjust the rates otherwise determined under divisions <u>division</u> (A) (1), (2), (3), and (6) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that does either of the following ;	103964 103965 103966 103967 103968 103969
(1) Establishes <u>establishes</u> factors by which the rates are to be adjusted;	103970 103971
(2) Establishes a methodology for phasing in the rates determined for fiscal year 2006 under uncodified law the general assembly enacts to rates determined for subsequent fiscal years under sections 5111.20 to 5111.33 of the Revised Code.	103972 103973 103974 103975
<u>Sec. 5111.224. (A) Except as otherwise provided by sections 5111.20 to 5111.331 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of an intermediate</u>	103976 103977 103978 103979

<u>care facility for the mentally retarded pursuant to a provider</u>	103980
<u>agreement shall equal the sum of all of the following:</u>	103981
<u>(1) The rate for direct care costs determined for the</u>	103982
<u>facility under section 5111.23 of the Revised Code;</u>	103983
<u>(2) The rate for other protected costs determined for the</u>	103984
<u>facility under section 5111.235 of the Revised Code;</u>	103985
<u>(3) The rate for indirect care costs determined for the</u>	103986
<u>facility under section 5111.241 of the Revised Code;</u>	103987
<u>(4) The rate for capital costs determined for the facility</u>	103988
<u>under section 5111.251 of the Revised Code.</u>	103989
<u>(B) The department shall adjust the total rate otherwise</u>	103990
<u>determined under division (A) of this section as directed by the</u>	103991
<u>general assembly through the enactment of law governing medicaid</u>	103992
<u>payments to providers of intermediate care facilities for the</u>	103993
<u>mentally retarded.</u>	103994
<u>Sec. 5111.225.</u> (A) <u>As used in this section:</u>	103995
<u>"Dual eligible individual" has the same meaning as in section</u>	103996
<u>1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010),</u>	103997
<u>42 U.S.C. 1396n(h)(2)(B).</u>	103998
<u>"Medicaid maximum allowable amount" means one hundred per</u>	103999
<u>cent of a nursing facility's per diem rate for a medicaid day.</u>	104000
<u>(B) The department of job and family services shall pay the</u>	104001
<u>provider of a nursing facility the lesser of the following for</u>	104002
<u>nursing facility services the nursing facility provides on or</u>	104003
<u>after January 1, 2012, to a dual eligible individual who is</u>	104004
<u>eligible for nursing facility services under the medicaid program</u>	104005
<u>and post-hospital extended care services under Part A of Title</u>	104006
<u>XVIII:</u>	104007
<u>(1) The coinsurance amount for the services as provided under</u>	104008

Part A of Title XVIII; 104009

(2) The medicaid maximum allowable amount for the services, 104010

less the amount paid under Part A of Title XVIII for the services. 104011

Sec. 5111.226. Subject, if needed, to the approval of the 104012

United States secretary of health and human services, the 104013

department of job and family services shall enter into a contract 104014

with the department of developmental disabilities under section 104015

5111.91 of the Revised Code that provides for the department of 104016

developmental disabilities to assume the powers and duties of the 104017

department of job and family services with regard to the medicaid 104018

program's coverage of services provided by intermediate care 104019

facilities for the mentally retarded. The contract shall include a 104020

schedule for the assumption of the powers and duties. Except as 104021

otherwise authorized by the United States secretary of health and 104022

human services, no provision of the contract may violate a federal 104023

law or regulation governing the medicaid program. Once the 104024

contract goes into effect, all references to the department of job 104025

and family services, and all references to the director of job and 104026

family services, with regard to intermediate care facilities for 104027

the mentally retarded that are in law enacted by the general 104028

assembly shall be deemed to be references to the department of 104029

developmental disabilities and director of developmental 104030

disabilities, respectively, to the extent necessary to implement 104031

the terms of the contract. 104032

Sec. 5111.23. (A) The department of job and family services 104033

shall pay a provider for each of the provider's eligible 104034

intermediate care facilities for the mentally retarded a per 104035

resident per day rate for direct care costs established 104036

prospectively for each facility. The department shall establish 104037

each facility's rate for direct care costs quarterly. 104038

(B) Each facility's rate for direct care costs shall be based 104039
on the facility's cost per case-mix unit, subject to the maximum 104040
costs per case-mix unit established under division (B)(2) of this 104041
section, from the calendar year preceding the fiscal year in which 104042
the rate is paid. To determine the rate, the department shall do 104043
all of the following: 104044

(1) Determine each facility's cost per case-mix unit for the 104045
calendar year preceding the fiscal year in which the rate will be 104046
paid by dividing the facility's desk-reviewed, actual, allowable, 104047
per diem direct care costs for that year by its average case-mix 104048
score determined under section 5111.232 of the Revised Code for 104049
the same calendar year. 104050

(2)(a) Set the maximum cost per case-mix unit for each peer 104051
group of intermediate care facilities for the mentally retarded 104052
with more than eight beds specified in rules adopted under 104053
division ~~(E)~~(F) of this section at a percentage above the cost per 104054
case-mix unit of the facility in the group that has the group's 104055
median medicaid inpatient day for the calendar year preceding the 104056
fiscal year in which the rate will be paid, as calculated under 104057
division (B)(1) of this section, that is no less than the 104058
percentage calculated under division ~~(D)~~(E)(2) of this section. 104059

(b) Set the maximum cost per case-mix unit for each peer 104060
group of intermediate care facilities for the mentally retarded 104061
with eight or fewer beds specified in rules adopted under division 104062
~~(E)~~(F) of this section at a percentage above the cost per case-mix 104063
unit of the facility in the group that has the group's median 104064
medicaid inpatient day for the calendar year preceding the fiscal 104065
year in which the rate will be paid, as calculated under division 104066
(B)(1) of this section, that is no less than the percentage 104067
calculated under division ~~(D)~~(E)(3) of this section. 104068

(c) In calculating the maximum cost per case-mix unit under 104069
divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer 104070

group, the department shall exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the ~~employment cost index for total compensation, health services component, published by the United States bureau of labor statistics~~ specified in division (C) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division ~~(D)~~(E) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) The department shall use the following index for the purpose of division (B)(3) of this section:

(1) The employment cost index for total compensation, health services component, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to 104103
publish the index specified in division (C)(1) of this section, 104104
the index that is subsequently published by the bureau and covers 104105
nursing facilities' staff costs. 104106

(D) Each facility's rate for direct care costs shall be 104107
determined as follows for each calendar quarter within a fiscal 104108
year: 104109

(1) Multiply the lesser of the following by the facility's 104110
average case-mix score determined under section 5111.232 of the 104111
Revised Code for the calendar quarter that preceded the 104112
immediately preceding calendar quarter: 104113

(a) The facility's cost per case-mix unit for the calendar 104114
year preceding the fiscal year in which the rate will be paid, as 104115
determined under division (B)(1) of this section; 104116

(b) The maximum cost per case-mix unit established for the 104117
fiscal year in which the rate will be paid for the facility's peer 104118
group under division (B)(2) of this section; 104119

(2) Adjust the product determined under division ~~(C)~~(D)(1) of 104120
this section by the inflation rate estimated under division (B)(3) 104121
of this section. 104122

~~(D)~~(E)(1) The department shall calculate the percentage above 104123
the median cost per case-mix unit determined under division (B)(1) 104124
of this section for the facility that has the median medicaid 104125
inpatient day for calendar year 1992 for all intermediate care 104126
facilities for the mentally retarded with more than eight beds 104127
that would result in payment of all desk-reviewed, actual, 104128
allowable direct care costs for eighty and one-half per cent of 104129
the medicaid inpatient days for such facilities for calendar year 104130
1992. 104131

(2) The department shall calculate the percentage above the 104132
median cost per case-mix unit determined under division (B)(1) of 104133

this section for the facility that has the median medicaid 104134
inpatient day for calendar year 1992 for all intermediate care 104135
facilities for the mentally retarded with eight or fewer beds that 104136
would result in payment of all desk-reviewed, actual, allowable 104137
direct care costs for eighty and one-half per cent of the medicaid 104138
inpatient days for such facilities for calendar year 1992. 104139

~~(E)~~(F) The director of job and family services shall adopt 104140
rules under section 5111.02 of the Revised Code that specify peer 104141
groups of intermediate care facilities for the mentally retarded 104142
with more than eight beds and intermediate care facilities for the 104143
mentally retarded with eight or fewer beds, based on findings of 104144
significant per diem direct care cost differences due to geography 104145
and facility bed-size. The rules also may specify peer groups 104146
based on findings of significant per diem direct care cost 104147
differences due to other factors which may include case-mix. 104148

~~(F)~~(G) The department, in accordance with division (D) of 104149
section 5111.232 of the Revised Code and rules adopted under 104150
division ~~(E)~~(F) of that section, may assign case-mix scores or 104151
costs per case-mix unit if a provider fails to submit assessment 104152
data necessary to calculate an intermediate care facility for the 104153
mentally retarded's case-mix score in accordance with that 104154
section. 104155

Sec. 5111.231. (A) As used in this section, ~~"applicable:~~ 104156

(1) "Applicable calendar year" means the following: 104157

~~(1)~~(a) For the purpose of the department of job and family 104158
services' initial determination under division (D) of this section 104159
of each peer group's cost per case-mix unit, calendar year 2003; 104160

~~(2)~~(b) For the purpose of the department's ~~subsequent~~ 104161
~~determinations under division (D) of this section of each peer~~ 104162
~~group's cost per case-mix unit~~ rebasings, the calendar year the 104163

department selects. 104164

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs. 104165
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(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code. 104170
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(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups. 104177
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Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. 104180
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Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. 104183
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Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 104190
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Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 104195
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 104196
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 104197
Washington, Wayne, Williams, and Wyandot. 104198

(D)(1) ~~At least once every ten years, the~~ The department 104199
shall determine a cost per case-mix unit for each peer group 104200
established under division (C) of this section. ~~A~~ The department 104201
is not required to conduct a rebasing more than once every ten 104202
years. Except as necessary to implement the amendments made by 104203
this act to this section, the cost per case-mix unit determined 104204
under this division for a peer group shall be used for subsequent 104205
years until the department ~~redetermines it~~ conducts a rebasing. To 104206
determine a peer group's cost per case-mix unit, the department 104207
shall do all of the following: 104208

(a) Determine the cost per case-mix unit for each nursing 104209
facility in the peer group for the applicable calendar year by 104210
dividing each facility's desk-reviewed, actual, allowable, per 104211
diem direct care costs for the applicable calendar year by the 104212
facility's annual average case-mix score determined under section 104213
5111.232 of the Revised Code for the applicable calendar year-; 104214

(b) Subject to division (D)(2) of this section, identify 104215
which nursing facility in the peer group is at the twenty-fifth 104216
percentile of the cost per case-mix units determined under 104217
division (D)(1)(a) of this section-; 104218

(c) ~~Calculate the amount that is seven per cent above the~~ 104219
~~cost per case mix unit determined under division (D)(1)(a) of this~~ 104220
~~section for the nursing facility identified under division~~ 104221
~~(D)(1)(b) of this section.~~ 104222

~~(d) Multiply the amount calculated under division (D)(1)(c)~~ 104223
~~of this section by~~ Using the index specified in division (D)(3) of 104224
this section, multiply the rate of inflation for the 104225

eighteen-month period beginning on the first day of July of the 104226
applicable calendar year and ending the last day of December of 104227
the calendar year immediately following the applicable calendar 104228
year ~~using the following:~~ 104229

~~(i) In the case of the initial calculation made under 104230
division (D)(1)(d) of this section, the employment cost index for 104231
total compensation, health services component, published by the 104232
United States bureau of labor statistics, as the index existed on 104233
July 1, 2005;~~ 104234

~~(ii) In the case of subsequent calculations made under 104235
division (D)(1)(d) of this section and except as provided in 104236
division (D)(1)(d)(iii) of this section, the employment cost index 104237
for total compensation, nursing and residential care facilities 104238
occupational group, published by the United States bureau of labor 104239
statistics;~~ 104240

~~(iii) If the United States bureau of labor statistics ceases 104241
to publish the index specified in division (D)(1)(d)(ii) of this 104242
section, the index the bureau subsequently publishes that covers 104243
nursing facilities' staff costs by the cost per case-mix unit 104244
determined under division (D)(1)(a) of this section for the 104245
nursing facility identified under division (D)(1)(b) of this 104246
section; 104247~~

~~(d) Until the first rebasing occurs, add one dollar and 104248
eighty-eight cents to the amount calculated under division 104249
(D)(1)(c) of this section. 104250~~

(2) In making the identification under division (D)(1)(b) of 104251
this section, the department shall exclude both of the following: 104252

(a) Nursing facilities that participated in the medicaid 104253
program under the same provider for less than twelve months in the 104254
applicable calendar year; 104255

(b) Nursing facilities whose cost per case-mix unit is more 104256

than one standard deviation from the mean cost per case-mix unit 104257
for all nursing facilities in the nursing facility's peer group 104258
for the applicable calendar year. 104259

(3) The following index shall be used for the purpose of the 104260
calculation made under division (D)(1)(c) of this section: 104261

(a) Until the first rebasing occurs, the employment cost 104262
index for total compensation, health services component, published 104263
by the United States bureau of labor statistics, as the index 104264
existed on July 1, 2005; 104265

(b) Effective with the first rebasing and except as provided 104266
in division (D)(3)(c) of this section, the employment cost index 104267
for total compensation, nursing and residential care facilities 104268
occupational group, published by the United States bureau of labor 104269
statistics; 104270

(c) If the United States bureau of labor statistics ceases to 104271
publish the index specified in division (D)(3)(b) of this section, 104272
the index the bureau subsequently publishes that covers nursing 104273
facilities' staff costs. 104274

(4) The department shall not redetermine a peer group's cost 104275
per case-mix unit under this division based on additional 104276
information that it receives after the peer group's per case-mix 104277
unit is determined. The department shall redetermine a peer 104278
group's cost per case-mix unit only if it made an error in 104279
determining the peer group's cost per case-mix unit based on 104280
information available to the department at the time of the 104281
original determination. 104282

Sec. 5111.232. (A)(1) The department of job and family 104283
services shall determine semiannual and annual average case-mix 104284
scores for nursing facilities by using all of the following: 104285

(a) Data from a resident assessment instrument specified in 104286

rules adopted under section 5111.02 of the Revised Code pursuant 104287
to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 104288
(1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following 104289
residents: 104290

(i) When determining semiannual case-mix scores, each 104291
resident who is a medicaid recipient; 104292

(ii) When determining annual average case-mix scores, each 104293
resident regardless of payment source. 104294

(b) Except as provided in rules authorized by divisions 104295
(A)(2)(a) and (b) of this section, the case-mix values established 104296
by the United States department of health and human services; 104297

(c) Except as modified in rules authorized by division 104298
(A)(2)(c) of this section, the grouper methodology used on June 104299
30, 1999, by the United States department of health and human 104300
services for prospective payment of skilled nursing facilities 104301
under the medicare program established by Title XVIII. 104302

(2) The director of job and family services may adopt rules 104303
under section 5111.02 of the Revised Code that do any of the 104304
following: 104305

(a) Adjust the case-mix values specified in division 104306
(A)(1)(b) of this section to reflect changes in relative wage 104307
differentials that are specific to this state; 104308

(b) Express all of those case-mix values in numeric terms 104309
that are different from the terms specified by the United States 104310
department of health and human services but that do not alter the 104311
relationship of the case-mix values to one another; 104312

(c) Modify the grouper methodology specified in division 104313
(A)(1)(c) of this section as follows: 104314

(i) Establish a different hierarchy for assigning residents 104315
to case-mix categories under the methodology; 104316

(ii) Prohibit the use of the index maximizer element of the methodology; 104317
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(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999; 104319
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(iv) Make other changes the department determines are necessary. 104322
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(B) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules. 104324
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(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled. 104330
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Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case-mix score for each nursing facility using the facility's quarterly case-mix scores for that six-month period or calendar year. Also 104343
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except as provided in division (D) of this section, the 104348
department, after the end of each calendar year, shall calculate 104349
an annual average case-mix score for each intermediate care 104350
facility for the mentally retarded using the facility's quarterly 104351
case-mix scores for that calendar year. The department shall make 104352
the calculations pursuant to procedures specified in rules adopted 104353
under section 5111.02 of the Revised Code. 104354

(D)(1) If a provider does not timely submit information for a 104355
calendar quarter necessary to calculate a facility's case-mix 104356
score, or submits incomplete or inaccurate information for a 104357
calendar quarter, the department may assign the facility a 104358
quarterly average case-mix score that is five per cent less than 104359
the facility's quarterly average case-mix score for the preceding 104360
calendar quarter. If the facility was subject to an exception 104361
review under division (C) of section 5111.27 of the Revised Code 104362
for the preceding calendar quarter, the department may assign a 104363
quarterly average case-mix score that is five per cent less than 104364
the score determined by the exception review. If the facility was 104365
assigned a quarterly average case-mix score for the preceding 104366
quarter, the department may assign a quarterly average case-mix 104367
score that is five per cent less than that score assigned for the 104368
preceding quarter. 104369

The department may use a quarterly average case-mix score 104370
assigned under division (D)(1) of this section, instead of a 104371
quarterly average case-mix score calculated based on the 104372
provider's submitted information, to calculate the facility's rate 104373
for direct care costs being established under section 5111.23 or 104374
5111.231 of the Revised Code for one or more months, as specified 104375
in rules authorized by division (E) of this section, of the 104376
quarter for which the rate established under section 5111.23 or 104377
5111.231 of the Revised Code will be paid. 104378

Before taking action under division (D)(1) of this section, 104379

the department shall permit the provider a reasonable period of 104380
time, specified in rules authorized by division (E) of this 104381
section, to correct the information. In the case of an 104382
intermediate care facility for the mentally retarded, the 104383
department shall not assign a quarterly average case-mix score due 104384
to late submission of corrections to assessment information unless 104385
the provider fails to submit corrected information prior to the 104386
eighty-first day after the end of the calendar quarter to which 104387
the information pertains. In the case of a nursing facility, the 104388
department shall not assign a quarterly average case-mix score due 104389
to late submission of corrections to assessment information unless 104390
the provider fails to submit corrected information prior to the 104391
earlier of the forty-sixth day after the end of the calendar 104392
quarter to which the information pertains or the deadline for 104393
submission of such corrections established by regulations adopted 104394
by the United States department of health and human services under 104395
Titles XVIII and XIX. 104396

(2) If a provider is paid a rate for a facility calculated 104397
using a quarterly average case-mix score assigned under division 104398
(D)(1) of this section for more than six months in a calendar 104399
year, the department may assign the facility a cost per case-mix 104400
unit that is five per cent less than the facility's actual or 104401
assigned cost per case-mix unit for the preceding calendar year. 104402
The department may use the assigned cost per case-mix unit, 104403
instead of calculating the facility's actual cost per case-mix 104404
unit in accordance with section 5111.23 or 5111.231 of the Revised 104405
Code, to establish the facility's rate for direct care costs for 104406
the following fiscal year. 104407

(3) The department shall take action under division (D)(1) or 104408
(2) of this section only in accordance with rules authorized by 104409
division (E) of this section. The department shall not take an 104410
action that affects rates for prior payment periods except in 104411

accordance with sections 5111.27 and 5111.28 of the Revised Code. 104412

(E) The director shall adopt rules under section 5111.02 of 104413
the Revised Code that do all of the following: 104414

(1) Specify whether providers of a nursing facility must 104415
submit the assessment data to the department of job and family 104416
services; 104417

(2) Specify the medium or media through which the completed 104418
assessment data shall be submitted; 104419

(3) Establish procedures under which the assessment data 104420
shall be reviewed for accuracy and providers shall be notified of 104421
any data that requires correction; 104422

(4) Establish procedures for providers to correct assessment 104423
data and specify a reasonable period of time by which providers 104424
shall submit the corrections. The procedures may limit the content 104425
of corrections by providers of nursing facilities in the manner 104426
required by regulations adopted by the United States department of 104427
health and human services under Titles XVIII and XIX. 104428

(5) Specify when and how the department will assign case-mix 104429
scores or costs per case-mix unit under division (D) of this 104430
section if information necessary to calculate the facility's 104431
case-mix score is not provided or corrected in accordance with the 104432
procedures established by the rules. Notwithstanding any other 104433
provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised 104434
Code, the rules also may provide for the following: 104435

(a) Exclusion of case-mix scores assigned under division (D) 104436
of this section from calculation of an intermediate care facility 104437
for the mentally retarded's annual average case-mix score and the 104438
maximum cost per case-mix unit for the facility's peer group; 104439

(b) Exclusion of case-mix scores assigned under division (D) 104440
of this section from calculation of a nursing facility's 104441

semiannual or annual average case-mix score and the cost per 104442
case-mix unit for the facility's peer group. 104443

Sec. 5111.235. (A) The department of job and family services 104444
shall pay a provider for each of the provider's eligible 104445
intermediate care facilities for the mentally retarded a per 104446
resident per day rate for other protected costs established 104447
prospectively each fiscal year for each facility. The rate for 104448
each facility shall be the facility's desk-reviewed, actual, 104449
allowable, per diem other protected costs from the calendar year 104450
preceding the fiscal year in which the rate will be paid, all 104451
adjusted for the estimated inflation rate for the eighteen-month 104452
period beginning on the first day of July of the calendar year 104453
preceding the fiscal year in which the rate will be paid and 104454
ending on the thirty-first day of December of that fiscal year. 104455
The department shall estimate inflation using the ~~consumer price~~ 104456
~~index for all urban consumers for nonprescription drugs and~~ 104457
~~medical supplies, as published by the United States bureau of~~ 104458
~~labor statistics~~ specified in division (B) of this section. If the 104459
estimated inflation rate for the eighteen-month period is 104460
different from the actual inflation rate for that period, the 104461
difference shall be added to or subtracted from the inflation rate 104462
estimated for the following year. 104463

(B) The department shall use the following index for the 104464
purpose of division (A) of this section: 104465

(1) The consumer price index for all urban consumers for 104466
nonprescription drugs and medical supplies, as published by the 104467
United States bureau of labor statistics; 104468

(2) If the United States bureau of labor statistics ceases to 104469
publish the index specified in division (B)(1) of this section, 104470
the index that is subsequently published by the bureau and covers 104471
nonprescription drugs and medical supplies. 104472

Sec. 5111.24. (A) As used in this section, ~~"applicable:~~ 104473

(1) "Applicable calendar year" means the following: 104474

~~(1)(a)~~ (a) For the purpose of the department of job and family 104475
services' initial determination under division (D) of this section 104476
of each peer group's rate for ancillary and support costs, 104477
calendar year 2003; 104478

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent~~ 104479
~~determinations under division (D) of this section of each peer~~ 104480
~~group's rate for ancillary and support costs~~ rebasings, the 104481
calendar year the department selects. 104482

(2) "Rebasing" means a redetermination under division (D) of 104483
this section of each peer groups' rate for ancillary and support 104484
costs using information from cost reports for an applicable 104485
calendar year that is later than the applicable calendar year used 104486
for the previous determination of such rates. 104487

(B) The department of job and family services shall pay a 104488
provider for each of the provider's eligible nursing facilities a 104489
per resident per day rate for ancillary and support costs 104490
determined for the nursing facility's peer group under division 104491
(D) of this section. 104492

(C) For the purpose of determining nursing facilities' rate 104493
for ancillary and support costs, the department shall establish 104494
six peer groups. 104495

Each nursing facility located in any of the following 104496
counties shall be placed in peer group one or two: Brown, Butler, 104497
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 104498
located in any of those counties that has fewer than one hundred 104499
beds shall be placed in peer group one. Each nursing facility 104500
located in any of those counties that has one hundred or more beds 104501
shall be placed in peer group two. 104502

Each nursing facility located in any of the following 104503
counties shall be placed in peer group three or four: Ashtabula, 104504
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 104505
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 104506
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 104507
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 104508
Union, and Wood. Each nursing facility located in any of those 104509
counties that has fewer than one hundred beds shall be placed in 104510
peer group three. Each nursing facility located in any of those 104511
counties that has one hundred or more beds shall be placed in peer 104512
group four. 104513

Each nursing facility located in any of the following 104514
counties shall be placed in peer group five or six: Adams, Allen, 104515
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 104516
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 104517
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 104518
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 104519
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 104520
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 104521
Washington, Wayne, Williams, and Wyandot. Each nursing facility 104522
located in any of those counties that has fewer than one hundred 104523
beds shall be placed in peer group five. Each nursing facility 104524
located in any of those counties that has one hundred or more beds 104525
shall be placed in peer group six. 104526

(D)(1) ~~At least once every ten years, the~~ The department 104527
shall determine the rate for ancillary and support costs for each 104528
peer group established under division (C) of this section. The 104529
department is not required to conduct a rebasing more than once 104530
every ten years. Except as necessary to implement the amendments 104531
made by this act to this section, the rate for ancillary and 104532
support costs determined under this division for a peer group 104533
shall be used for subsequent years until the department 104534

~~redetermines it~~ conducts a rebasing. To determine a peer group's 104535
rate for ancillary and support costs, the department shall do all 104536
of the following: 104537

(a) ~~Determine~~ Subject to division (D)(2) of this section, 104538
determine the rate for ancillary and support costs for each 104539
nursing facility in the peer group for the applicable calendar 104540
year by using the greater of the nursing facility's actual 104541
inpatient days for the applicable calendar year or the inpatient 104542
days the nursing facility would have had for the applicable 104543
calendar year if its occupancy rate had been ninety per cent. ~~For~~ 104544
~~the purpose of determining a nursing facility's occupancy rate~~ 104545
~~under division (D)(1)(a) of this section, the department shall~~ 104546
~~include any beds that the nursing facility removes from its~~ 104547
~~medicaid certified capacity unless the nursing facility also~~ 104548
~~removes the beds from its licensed bed capacity.~~*i* 104549

(b) Subject to division (D)~~(2)~~(3) of this section, identify 104550
which nursing facility in the peer group is at the twenty-fifth 104551
percentile of the rate for ancillary and support costs for the 104552
applicable calendar year determined under division (D)(1)(a) of 104553
this section.~~i~~ 104554

(c) ~~Calculate the amount that is three per cent above the~~ 104555
~~rate for ancillary and support costs determined under division~~ 104556
~~(D)(1)(a) of this section for the nursing facility identified~~ 104557
~~under division (D)(1)(b) of this section.~~ 104558

~~(d)~~ Multiply the ~~amount calculated~~ rate for ancillary and 104559
support costs determined under division (D)(1)~~(e)~~(a) of this 104560
section for the nursing facility identified under division 104561
(D)(1)(b) of this section by the rate of inflation for the 104562
eighteen-month period beginning on the first day of July of the 104563
applicable calendar year and ending the last day of December of 104564
the calendar year immediately following the applicable calendar 104565
year using the following: 104566

(i) ~~In the case of the initial calculation made under~~ 104567
~~division (D)(1)(d) of this section~~ Until the first rebasing 104568
occurs, the consumer price index for all items for all urban 104569
consumers for the north central region, published by the United 104570
States bureau of labor statistics, as that index existed on July 104571
1, 2005; 104572

(ii) ~~In the case of subsequent calculations made under~~ 104573
~~division (D)(1)(d) of this section~~ Effective with the first 104574
rebasing and except as provided in division (D)(1)(~~d~~)(c)(iii) of 104575
this section, the consumer price index for all items for all urban 104576
consumers for the midwest region, published by the United States 104577
bureau of labor statistics; 104578

(iii) If the United States bureau of labor statistics ceases 104579
to publish the index specified in division (D)(1)(~~d~~)(c)(ii) of 104580
this section, the index the bureau subsequently publishes that 104581
covers urban consumers' prices for items for the region that 104582
includes this state. 104583

(2) For the purpose of determining a nursing facility's 104584
occupancy rate under division (D)(1)(a) of this section, the 104585
department shall include any beds that the nursing facility 104586
removes from its medicaid-certified capacity unless the nursing 104587
facility also removes the beds from its licensed bed capacity. 104588

(3) In making the identification under division (D)(1)(b) of 104589
this section, the department shall exclude both of the following: 104590

(a) Nursing facilities that participated in the medicaid 104591
program under the same provider for less than twelve months in the 104592
applicable calendar year; 104593

(b) Nursing facilities whose ancillary and support costs are 104594
more than one standard deviation from the mean desk-reviewed, 104595
actual, allowable, per diem ancillary and support cost for all 104596
nursing facilities in the nursing facility's peer group for the 104597

applicable calendar year. 104598

~~(3)~~(4) The department shall not redetermine a peer group's 104599
rate for ancillary and support costs under this division based on 104600
additional information that it receives after the rate is 104601
determined. The department shall redetermine a peer group's rate 104602
for ancillary and support costs only if ~~it~~ the department made an 104603
error in determining the rate based on information available to 104604
the department at the time of the original determination. 104605

Sec. 5111.241. (A) The department of job and family services 104606
shall pay a provider for each of the provider's eligible 104607
intermediate care facilities for the mentally retarded a per 104608
resident per day rate for indirect care costs established 104609
prospectively each fiscal year for each facility. The rate for 104610
each intermediate care facility for the mentally retarded shall be 104611
the sum of the following, but shall not exceed the maximum rate 104612
established for the facility's peer group under division (B) of 104613
this section: 104614

(1) The facility's desk-reviewed, actual, allowable, per diem 104615
indirect care costs from the calendar year preceding the fiscal 104616
year in which the rate will be paid, adjusted for the inflation 104617
rate estimated under division (C)(1) of this section; 104618

(2) An efficiency incentive in the following amount: 104619

(a) For fiscal years ending in even-numbered calendar years: 104620

(i) In the case of intermediate care facilities for the 104621
mentally retarded with more than eight beds, seven and one-tenth 104622
per cent of the maximum rate established for the facility's peer 104623
group under division (B) of this section; 104624

(ii) In the case of intermediate care facilities for the 104625
mentally retarded with eight or fewer beds, seven per cent of the 104626
maximum rate established for the facility's peer group under 104627

division (B) of this section; 104628

(b) For fiscal years ending in odd-numbered calendar years, 104629
the amount calculated for the preceding fiscal year under division 104630
(A)(2)(a) of this section. 104631

(B)(1) The maximum rate for indirect care costs for each peer 104632
group of intermediate care facilities for the mentally retarded 104633
with more than eight beds specified in rules adopted under 104634
division (D) of this section shall be determined as follows: 104635

(a) For fiscal years ending in even-numbered calendar years, 104636
the maximum rate for each peer group shall be the rate that is no 104637
less than twelve and four-tenths per cent above the median 104638
desk-reviewed, actual, allowable, per diem indirect care cost for 104639
all intermediate care facilities for the mentally retarded with 104640
more than eight beds in the group, excluding facilities in the 104641
group whose indirect care costs for that period are more than 104642
three standard deviations from the mean desk-reviewed, actual, 104643
allowable, per diem indirect care cost for all intermediate care 104644
facilities for the mentally retarded with more than eight beds, 104645
for the calendar year preceding the fiscal year in which the rate 104646
will be paid, adjusted by the inflation rate estimated under 104647
division (C)(1) of this section. 104648

(b) For fiscal years ending in odd-numbered calendar years, 104649
the maximum rate for each peer group is the group's maximum rate 104650
for the previous fiscal year, adjusted for the inflation rate 104651
estimated under division (C)(2) of this section. 104652

(2) The maximum rate for indirect care costs for each peer 104653
group of intermediate care facilities for the mentally retarded 104654
with eight or fewer beds specified in rules adopted under division 104655
(D) of this section shall be determined as follows: 104656

(a) For fiscal years ending in even-numbered calendar years, 104657
the maximum rate for each peer group shall be the rate that is no 104658

less than ten and three-tenths per cent above the median 104659
desk-reviewed, actual, allowable, per diem indirect care cost for 104660
all intermediate care facilities for the mentally retarded with 104661
eight or fewer beds in the group, excluding facilities in the 104662
group whose indirect care costs are more than three standard 104663
deviations from the mean desk-reviewed, actual, allowable, per 104664
diem indirect care cost for all intermediate care facilities for 104665
the mentally retarded with eight or fewer beds, for the calendar 104666
year preceding the fiscal year in which the rate will be paid, 104667
adjusted by the inflation rate estimated under division (C)(1) of 104668
this section. 104669

(b) For fiscal years that end in odd-numbered calendar years, 104670
the maximum rate for each peer group is the group's maximum rate 104671
for the previous fiscal year, adjusted for the inflation rate 104672
estimated under division (C)(2) of this section. 104673

(3) The department shall not recalculate a maximum rate for 104674
indirect care costs under division (B)(1) or (2) of this section 104675
based on additional information that it receives after the maximum 104676
rate is set. The department shall recalculate the maximum rate for 104677
indirect care costs only if it made an error in computing the 104678
maximum rate based on the information available at the time of the 104679
original calculation. 104680

(C)(1) When adjusting rates for inflation under divisions 104681
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 104682
shall estimate the rate of inflation for the eighteen-month period 104683
beginning on the first day of July of the calendar year preceding 104684
the fiscal year in which the rate will be paid and ending on the 104685
thirty-first day of December of the fiscal year in which the rate 104686
will be paid, ~~using the~~. To estimate the rate of inflation, the 104687
department shall use the following: 104688

(a) The consumer price index for all items for all urban 104689
consumers for the north central region, published by the United 104690

States bureau of labor statistics; 104691

(b) If the United States bureau of labor statistics ceases to 104692
publish the index specified in division (C)(1)(a) of this section, 104693
a comparable index that the bureau publishes and the department 104694
determines is appropriate. 104695

(2) When adjusting rates for inflation under divisions 104696
(B)(1)(b) and (B)(2)(b) of this section, the department shall 104697
estimate the rate of inflation for the twelve-month period 104698
beginning on the first day of January of the fiscal year preceding 104699
the fiscal year in which the rate will be paid and ending on the 104700
thirty-first day of December of the fiscal year in which the rate 104701
will be paid, ~~using the.~~ To estimate the rate of inflation, the 104702
department shall use the following: 104703

(a) The consumer price index for all items for all urban 104704
consumers for the north central region, published by the United 104705
States bureau of labor statistics; 104706

(b) If the United States bureau of labor statistics ceases to 104707
publish the index specified in division (C)(2)(a) of this section, 104708
a comparable index that the bureau publishes and the department 104709
determines is appropriate. 104710

(3) If an inflation rate estimated under division (C)(1) or 104711
(2) of this section is different from the actual inflation rate 104712
for the relevant time period, as measured using the same index, 104713
the difference shall be added to or subtracted from the inflation 104714
rate estimated pursuant to this division for the following fiscal 104715
year. 104716

(D) The director of job and family services shall adopt rules 104717
under section 5111.02 of the Revised Code that specify peer groups 104718
of intermediate care facilities for the mentally retarded with 104719
more than eight beds, and peer groups of intermediate care 104720
facilities for the mentally retarded with eight or fewer beds, 104721

based on findings of significant per diem indirect care cost 104722
differences due to geography and facility bed-size. The rules also 104723
may specify peer groups based on findings of significant per diem 104724
indirect care cost differences due to other factors, including 104725
case-mix. 104726

Sec. 5111.244. (A) As used in this section, "deficiency" and 104727
"standard survey" have the same meanings as in section 5111.35 of 104728
the Revised Code. 104729

(B) ~~Each fiscal year~~ Subject to division (D) of this section, 104730
the department of job and family services shall pay the provider 104731
of each nursing facility a quality incentive payment. The amount 104732
of a quality incentive payment paid to a provider ~~for a fiscal~~ 104733
~~year~~ shall be based on the number of points the provider's nursing 104734
facility is awarded ~~under division (C) of this section~~ for ~~that~~ 104735
~~fiscal year~~ meeting accountability measures. The amount of a 104736
quality incentive payment paid to a provider of a nursing facility 104737
that is awarded no points may be zero. ~~The mean payment for fiscal~~ 104738
~~year 2007, weighted by medicaid days, shall be three dollars per~~ 104739
~~medicaid day. The department shall adjust the mean payment for~~ 104740
~~subsequent fiscal years by the same adjustment factors the~~ 104741
~~department uses to adjust, pursuant to division (B) of section~~ 104742
~~5111.222 of the Revised Code, nursing facilities' rates otherwise~~ 104743
~~determined under divisions (A)(1), (2), (3), and (6) of that~~ 104744
~~section.~~ 104745

(C)(1) Except as provided by ~~division~~ divisions (C)(2) and 104746
(D) of this section, the department shall ~~annually~~ award each 104747
nursing facility participating in the medicaid program one point 104748
for each of the following accountability measures the facility 104749
meets: 104750

(a) The facility had no health deficiencies on the facility's 104751
most recent standard survey. 104752

(b) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.

(c) The facility's resident satisfaction is above the statewide average.

(d) The facility's family satisfaction is above the statewide average.

(e) The number of hours the facility employs nurses is above the statewide average.

(f) The facility's employee retention rate is above the average for the facility's peer group established in division (C) of section 5111.231 of the Revised Code.

(g) The facility's occupancy rate is above the statewide average.

(h) The facility's medicaid utilization rate is above the statewide average.

(i) The facility's case-mix score is above the statewide average.

(2) The department shall award points pursuant to division (C)(1)(c) or (d) of this section to a nursing facility only for a fiscal year immediately following a calendar year for which if a survey of resident or family satisfaction has been was conducted under section 173.47 of the Revised Code for the nursing facility in calendar year 2010.

(D) The department shall cease to award points to nursing facilities under division (C) of this section on the earlier of the effective date of the rules adopted under division (E) of this section establishing new accountability measures and July 1, 2012. If the effective date of the rules establishing the new

accountability measures is after July 1, 2012, the department 104783
shall not award any points, and therefore not pay quality 104784
incentive payments, for the period beginning July 1, 2012, and 104785
ending on the effective date of the rules. Once the rules are in 104786
effect, the department shall award each nursing facility 104787
participating in the medicaid program points in accordance with 104788
the new accountability measures established in the rules. 104789

(E) The director of job and family services shall adopt rules 104790
under section 5111.02 of the Revised Code as necessary to 104791
implement this section. ~~The rules shall include, including rules~~ 104792
governing the methodology for converting points awarded under this 104793
section into quality incentive payments and rules establishing the 104794
system for awarding points under division (C) of this section. ~~The~~ 104795
director shall strive to have in effect not later than July 1, 104796
2012, rules establishing new accountability measures for the 104797
purpose of division (D) of this section. In adopting those rules, 104798
the director shall collaborate with persons interested in the 104799
issue of medicaid coverage of nursing facility services. The new 104800
accountability measures shall include measures relating to the 104801
quality of care that nursing facilities provide their residents 104802
and the residents' quality of life. 104803

Sec. 5111.25. (A) As used in this section, ~~"applicable:~~ 104804

(1) "Applicable calendar year" means the following: 104805

~~(1)(a)~~ (a) For the purpose of the department of job and family 104806
services' initial determination under division (D) of this section 104807
of each peer group's ~~median~~ rate for capital costs, calendar year 104808
2003; 104809

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent~~ 104810
~~determinations under division (D) of this section of each peer~~ 104811
~~group's median rate for capital costs~~ rebasings, the calendar year 104812
the department selects. 104813

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for capital costs. ~~A nursing facility's rate for capital costs shall be the median rate for capital costs for the nursing facilities in~~ determined for the nursing facility's peer group ~~as determined~~ under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following 104846
counties shall be placed in peer group five or six: Adams, Allen, 104847
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 104848
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 104849
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 104850
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 104851
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 104852
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 104853
Washington, Wayne, Williams, and Wyandot. Each nursing facility 104854
located in any of those counties that has fewer than one hundred 104855
beds shall be placed in peer group five. Each nursing facility 104856
located in any of those counties that has one hundred or more beds 104857
shall be placed in peer group six. 104858

(D)(1) ~~At least once every ten years, the~~ The department 104859
shall determine the ~~median~~ rate for capital costs for each peer 104860
group established under division (C) of this section. The ~~median~~ 104861
department is not required to conduct a rebasing more than once 104862
every ten years. Except as necessary to implement the amendments 104863
made by this act to this section, the rate for capital costs 104864
determined under this division for a peer group shall be used for 104865
subsequent years until the department ~~redetermines it~~ conducts a 104866
rebasing. To determine a A peer group's ~~median~~ rate for capital 104867
costs shall be the rate for capital costs determined for the 104868
nursing facility in the peer group that is at the twenty-fifth 104869
percentile of the rate for capital costs for the applicable 104870
calendar year. In identifying that nursing facility, the 104871
department shall do both of the following: 104872

(a) Subject to division (D)(2) of this section, use the 104873
greater of each nursing facility's actual inpatient days for the 104874
applicable calendar year or the inpatient days the nursing 104875
facility would have had for the applicable calendar year if its 104876
occupancy rate had been one hundred per cent-; 104877

(b) Exclude both of the following: 104878

(i) Nursing facilities that participated in the medicaid 104879
program under the same provider for less than twelve months in the 104880
applicable calendar year; 104881

(ii) Nursing facilities whose capital costs are more than one 104882
standard deviation from the mean desk-reviewed, actual, allowable, 104883
per diem capital cost for all nursing facilities in the nursing 104884
facility's peer group for the applicable calendar year. 104885

(2) For the purpose of determining a nursing facility's 104886
occupancy rate under division (D)(1)(a) of this section, the 104887
department shall include any beds that the nursing facility 104888
removes from its medicaid-certified capacity after June 30, 2005, 104889
unless the nursing facility also removes the beds from its 104890
licensed bed capacity. 104891

(3) The department shall not redetermine a peer group's rate 104892
for capital costs under this division based on additional 104893
information that it receives after the rate is determined. The 104894
department shall redetermine a peer group's rate for capital costs 104895
only if the department made an error in determining the rate based 104896
on information available to the department at the time of the 104897
original determination. 104898

(E) Buildings shall be depreciated using the straight line 104899
method over forty years or over a different period approved by the 104900
department. Components and equipment shall be depreciated using 104901
the straight-line method over a period designated in rules adopted 104902
under section 5111.02 of the Revised Code, consistent with the 104903
guidelines of the American hospital association, or over a 104904
different period approved by the department. Any rules authorized 104905
by this division that specify useful lives of buildings, 104906
components, or equipment apply only to assets acquired on or after 104907
July 1, 1993. Depreciation for costs paid or reimbursed by any 104908

government agency shall not be included in capital costs unless 104909
that part of the payment under sections 5111.20 to ~~5111.33~~ 104910
5111.331 of the Revised Code is used to reimburse the government 104911
agency. 104912

(F) The capital cost basis of nursing facility assets shall 104913
be determined in the following manner: 104914

(1) Except as provided in division (F)(3) of this section, 104915
for purposes of calculating the rates to be paid for facilities 104916
with dates of licensure on or before June 30, 1993, the capital 104917
cost basis of each asset shall be equal to the desk-reviewed, 104918
actual, allowable, capital cost basis that is listed on the 104919
facility's cost report for the calendar year preceding the fiscal 104920
year during which the rate will be paid. 104921

(2) For facilities with dates of licensure after June 30, 104922
1993, the capital cost basis shall be determined in accordance 104923
with the principles of the medicare program established under 104924
Title XVIII, except as otherwise provided in sections 5111.20 to 104925
~~5111.33~~ 5111.331 of the Revised Code. 104926

(3) Except as provided in division (F)(4) of this section, if 104927
a provider transfers an interest in a facility to another provider 104928
after June 30, 1993, there shall be no increase in the capital 104929
cost basis of the asset if the providers are related parties or 104930
the provider to which the interest is transferred authorizes the 104931
provider that transferred the interest to continue to operate the 104932
facility under a lease, management agreement, or other 104933
arrangement. If the previous sentence does not prohibit the 104934
adjustment of the capital cost basis under this division, the 104935
basis of the asset shall be adjusted by ~~the lesser of the~~ 104936
~~following:~~ 104937

~~(a) One half of the change in construction costs during the 104938
time that the transferor held the asset, as calculated by the 104939~~

~~department of job and family services using the "Dodge building
cost indexes, northeastern and north central states," published by
Marshall and Swift;~~

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~~(b) ~~One-half~~ one-half of the change in the consumer price
index for all items for all urban consumers, as published by the
United States bureau of labor statistics, during the time that the
transferor held the asset.~~

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(4) If a provider transfers an interest in a facility to
another provider who is a related party, the capital cost basis of
the asset shall be adjusted as specified in division (F)(3) of
this section if all of the following conditions are met:

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(a) The related party is a relative of owner;

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(b) Except as provided in division (F)(4)(c)(ii) of this
section, the provider making the transfer retains no ownership
interest in the facility;

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(c) The department of job and family services determines that
the transfer is an arm's length transaction pursuant to rules
adopted under section 5111.02 of the Revised Code. The rules shall
provide that a transfer is an arm's length transaction if all of
the following apply:

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(i) Once the transfer goes into effect, the provider that
made the transfer has no direct or indirect interest in the
provider that acquires the facility or the facility itself,
including interest as an owner, officer, director, employee,
independent contractor, or consultant, but excluding interest as a
creditor.

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(ii) The provider that made the transfer does not reacquire
an interest in the facility except through the exercise of a
creditor's rights in the event of a default. If the provider
reacquires an interest in the facility in this manner, the
department shall treat the facility as if the transfer never

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occurred when the department calculates its reimbursement rates 104971
for capital costs. 104972

(iii) The transfer satisfies any other criteria specified in 104973
the rules. 104974

(d) Except in the case of hardship caused by a catastrophic 104975
event, as determined by the department, or in the case of a 104976
provider making the transfer who is at least sixty-five years of 104977
age, not less than twenty years have elapsed since, for the same 104978
facility, the capital cost basis was adjusted most recently under 104979
division (F)(4) of this section or actual, allowable cost of 104980
ownership was determined most recently under division (G)(9) of 104981
this section. 104982

(G) As used in this division: 104983

"Imputed interest" means the lesser of the prime rate plus 104984
two per cent or ten per cent. 104985

"Lease expense" means lease payments in the case of an 104986
operating lease and depreciation expense and interest expense in 104987
the case of a capital lease. 104988

"New lease" means a lease, to a different lessee, of a 104989
nursing facility that previously was operated under a lease. 104990

(1) Subject to division (B) of this section, for a lease of a 104991
facility that was effective on May 27, 1992, the entire lease 104992
expense is an actual, allowable capital cost during the term of 104993
the existing lease. The entire lease expense also is an actual, 104994
allowable capital cost if a lease in existence on May 27, 1992, is 104995
renewed under either of the following circumstances: 104996

(a) The renewal is pursuant to a renewal option that was in 104997
existence on May 27, 1992; 104998

(b) The renewal is for the same lease payment amount and 104999
between the same parties as the lease in existence on May 27, 105000

1992. 105001

(2) Subject to division (B) of this section, for a lease of a 105002
facility that was in existence but not operated under a lease on 105003
May 27, 1992, actual, allowable capital costs shall include the 105004
lesser of the annual lease expense or the annual depreciation 105005
expense and imputed interest expense that would be calculated at 105006
the inception of the lease using the lessor's entire historical 105007
capital asset cost basis, adjusted by ~~the lesser of the following~~ 105008
~~amounts:~~ 105009

~~(a) One half of the change in construction costs during the 105010
time the lessor held each asset until the beginning of the lease,~~ 105011
~~as calculated by the department using the "Dodge building cost 105012
indexes, northeastern and north central states," published by 105013
Marshall and Swift;~~ 105014

~~(b) One half one-half of the change in the consumer price 105015
index for all items for all urban consumers, as published by the 105016
United States bureau of labor statistics, during the time the 105017
lessor held each asset until the beginning of the lease.~~ 105018

(3) Subject to division (B) of this section, for a lease of a 105019
facility with a date of licensure on or after May 27, 1992, that 105020
is initially operated under a lease, actual, allowable capital 105021
costs shall include the annual lease expense if there was a 105022
substantial commitment of money for construction of the facility 105023
after December 22, 1992, and before July 1, 1993. If there was not 105024
a substantial commitment of money after December 22, 1992, and 105025
before July 1, 1993, actual, allowable capital costs shall include 105026
the lesser of the annual lease expense or the sum of the 105027
following: 105028

(a) The annual depreciation expense that would be calculated 105029
at the inception of the lease using the lessor's entire historical 105030
capital asset cost basis; 105031

(b) The greater of the lessor's actual annual amortization of 105032
financing costs and interest expense at the inception of the lease 105033
or the imputed interest expense calculated at the inception of the 105034
lease using seventy per cent of the lessor's historical capital 105035
asset cost basis. 105036

(4) Subject to division (B) of this section, for a lease of a 105037
facility with a date of licensure on or after May 27, 1992, that 105038
was not initially operated under a lease and has been in existence 105039
for ten years, actual, allowable capital costs shall include the 105040
lesser of the annual lease expense or the annual depreciation 105041
expense and imputed interest expense that would be calculated at 105042
the inception of the lease using the entire historical capital 105043
asset cost basis of ~~the lessor, adjusted by the lesser of the~~ 105044
~~following:~~ 105045

~~(a) One half of the change in construction costs during the 105046
time the lessor held each asset until the beginning of the lease, 105047
as calculated by the department using the "Dodge building cost 105048
indexes, northeastern and north central states," published by 105049
Marshall and Swift;~~ 105050

~~(b) One half one-half of the change in the consumer price 105051
index for all items for all urban consumers, as published by the 105052
United States bureau of labor statistics, during the time the 105053
lessor held each asset until the beginning of the lease. 105054~~

(5) Subject to division (B) of this section, for a new lease 105055
of a facility that was operated under a lease on May 27, 1992, 105056
actual, allowable capital costs shall include the lesser of the 105057
annual new lease expense or the annual old lease payment. If the 105058
old lease was in effect for ten years or longer, the old lease 105059
payment from the beginning of the old lease shall be adjusted by 105060
~~the lesser of the following:~~ 105061

~~(a) One half of the change in construction costs from the 105062~~

~~beginning of the old lease to the beginning of the new lease, as 105063
calculated by the department using the "Dodge building cost 105064
indexes, northeastern and north central states," published by 105065
Marshall and Swift; 105066~~

~~(b) One half one-half of the change in the consumer price 105067
index for all items for all urban consumers, as published by the 105068
United States bureau of labor statistics, from the beginning of 105069
the old lease to the beginning of the new lease. 105070~~

(6) Subject to division (B) of this section, for a new lease 105071
of a facility that was not in existence or that was in existence 105072
but not operated under a lease on May 27, 1992, actual, allowable 105073
capital costs shall include the lesser of annual new lease expense 105074
or the annual amount calculated for the old lease under division 105075
(G)(2), (3), (4), or (6) of this section, as applicable. If the 105076
old lease was in effect for ten years or longer, the lessor's 105077
historical capital asset cost basis shall be ~~adjusted by the 105078
lesser of the following,~~ for purposes of calculating the annual 105079
amount under division (G)(2), (3), (4), or (6) of this section. 105080

~~(a) One half of the change in construction costs from the 105081
beginning of the old lease to the beginning of the new lease, as 105082
calculated by the department using the "Dodge building cost 105083
indexes, northeastern and north central states," published by 105084
Marshall and Swift; 105085~~

~~(b) One half, adjusted by one-half of the change in the 105086
consumer price index for all items for all urban consumers, as 105087
published by the United States bureau of labor statistics, from 105088
the beginning of the old lease to the beginning of the new lease. 105089~~

In the case of a lease under division (G)(3) of this section 105090
of a facility for which a substantial commitment of money was made 105091
after December 22, 1992, and before July 1, 1993, the old lease 105092
payment shall be adjusted for the purpose of determining the 105093

annual amount. 105094

(7) For any revision of a lease described in division (G)(1), 105095
(2), (3), (4), (5), or (6) of this section, or for any subsequent 105096
lease of a facility operated under such a lease, other than 105097
execution of a new lease, the portion of actual, allowable capital 105098
costs attributable to the lease shall be the same as before the 105099
revision or subsequent lease. 105100

(8) Except as provided in division (G)(9) of this section, if 105101
a provider leases an interest in a facility to another provider 105102
who is a related party or previously operated the facility, the 105103
related party's or previous operator's actual, allowable capital 105104
costs shall include the lesser of the annual lease expense or the 105105
reasonable cost to the lessor. 105106

(9) If a provider leases an interest in a facility to another 105107
provider who is a related party, regardless of the date of the 105108
lease, the related party's actual, allowable capital costs shall 105109
include the annual lease expense, subject to the limitations 105110
specified in divisions (G)(1) to (7) of this section, if all of 105111
the following conditions are met: 105112

(a) The related party is a relative of owner; 105113

(b) If the lessor retains an ownership interest, it is, 105114
except as provided in division (G)(9)(c)(ii) of this section, in 105115
only the real property and any improvements on the real property; 105116

(c) The department of job and family services determines that 105117
the lease is an arm's length transaction pursuant to rules adopted 105118
under section 5111.02 of the Revised Code. The rules shall provide 105119
that a lease is an arm's length transaction if all of the 105120
following apply: 105121

(i) Once the lease goes into effect, the lessor has no direct 105122
or indirect interest in the lessee or, except as provided in 105123
division (G)(9)(b) of this section, the facility itself, including 105124

interest as an owner, officer, director, employee, independent 105125
contractor, or consultant, but excluding interest as a lessor. 105126

(ii) The lessor does not reacquire an interest in the 105127
facility except through the exercise of a lessor's rights in the 105128
event of a default. If the lessor reacquires an interest in the 105129
facility in this manner, the department shall treat the facility 105130
as if the lease never occurred when the department calculates its 105131
reimbursement rates for capital costs. 105132

(iii) The lease satisfies any other criteria specified in the 105133
rules. 105134

(d) Except in the case of hardship caused by a catastrophic 105135
event, as determined by the department, or in the case of a lessor 105136
who is at least sixty-five years of age, not less than twenty 105137
years have elapsed since, for the same facility, the capital cost 105138
basis was adjusted most recently under division (F)(4) of this 105139
section or actual, allowable capital costs were determined most 105140
recently under division (G)(9) of this section. 105141

(10) This division does not apply to leases of specific items 105142
of equipment. 105143

Sec. 5111.251. (A) The department of job and family services 105144
shall pay a provider for each of the provider's eligible 105145
intermediate care facilities for the mentally retarded for its 105146
reasonable capital costs, a per resident per day rate established 105147
prospectively each fiscal year for each intermediate care facility 105148
for the mentally retarded. Except as otherwise provided in 105149
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the rate 105150
shall be based on the facility's capital costs for the calendar 105151
year preceding the fiscal year in which the rate will be paid. The 105152
rate shall equal the sum of the following: 105153

(1) The facility's desk-reviewed, actual, allowable, per diem 105154

cost of ownership for the preceding cost reporting period, limited 105155
as provided in divisions (C) and (F) of this section; 105156

(2) Any efficiency incentive determined under division (B) of 105157
this section; 105158

(3) Any amounts for renovations determined under division (D) 105159
of this section; 105160

(4) Any amounts for return on equity determined under 105161
division ~~(F)~~(H) of this section. 105162

Buildings shall be depreciated using the straight line method 105163
over forty years or over a different period approved by the 105164
department. Components and equipment shall be depreciated using 105165
the straight line method over a period designated by the director 105166
of job and family services in rules adopted under section 5111.02 105167
of the Revised Code, consistent with the guidelines of the 105168
American hospital association, or over a different period approved 105169
by the department of job and family services. Any rules authorized 105170
by this division that specify useful lives of buildings, 105171
components, or equipment apply only to assets acquired on or after 105172
July 1, 1993. Depreciation for costs paid or reimbursed by any 105173
government agency shall not be included in costs of ownership or 105174
renovation unless that part of the payment under sections 5111.20 105175
to ~~5111.33~~ 5111.331 of the Revised Code is used to reimburse the 105176
government agency. 105177

(B) The department of job and family services shall pay to a 105178
provider for each of the provider's eligible intermediate care 105179
facilities for the mentally retarded an efficiency incentive equal 105180
to fifty per cent of the difference between any desk-reviewed, 105181
actual, allowable cost of ownership and the applicable limit on 105182
cost of ownership payments under division (C) of this section. For 105183
purposes of computing the efficiency incentive, depreciation for 105184
costs paid or reimbursed by any government agency shall be 105185

considered as a cost of ownership, and the applicable limit under 105186
division (C) of this section shall apply both to facilities with 105187
more than eight beds and facilities with eight or fewer beds. The 105188
efficiency incentive paid to a provider for a facility with eight 105189
or fewer beds shall not exceed three dollars per patient day, 105190
adjusted annually for the inflation rate for the twelve-month 105191
period beginning on the first day of July of the calendar year 105192
preceding the calendar year that precedes the fiscal year for 105193
which the efficiency incentive is determined and ending on the 105194
thirtieth day of the following June, using the consumer price 105195
index for shelter costs for all urban consumers for the north 105196
central region, as published by the United States bureau of labor 105197
statistics. 105198

(C) Cost of ownership payments for intermediate care 105199
facilities for the mentally retarded with more than eight beds 105200
shall not exceed the following limits: 105201

(1) For facilities with dates of licensure prior to January 105202
1, 1958, not exceeding two dollars and fifty cents per patient 105203
day; 105204

(2) For facilities with dates of licensure after December 31, 105205
1957, but prior to January 1, 1968, not exceeding: 105206

(a) Three dollars and fifty cents per patient day if the cost 105207
of construction was three thousand five hundred dollars or more 105208
per bed; 105209

(b) Two dollars and fifty cents per patient day if the cost 105210
of construction was less than three thousand five hundred dollars 105211
per bed. 105212

(3) For facilities with dates of licensure after December 31, 105213
1967, but prior to January 1, 1976, not exceeding: 105214

(a) Four dollars and fifty cents per patient day if the cost 105215
of construction was five thousand one hundred fifty dollars or 105216

more per bed;	105217
(b) Three dollars and fifty cents per patient day if the cost	105218
of construction was less than five thousand one hundred fifty	105219
dollars per bed, but exceeds three thousand five hundred dollars	105220
per bed;	105221
(c) Two dollars and fifty cents per patient day if the cost	105222
of construction was three thousand five hundred dollars or less	105223
per bed.	105224
(4) For facilities with dates of licensure after December 31,	105225
1975, but prior to January 1, 1979, not exceeding:	105226
(a) Five dollars and fifty cents per patient day if the cost	105227
of construction was six thousand eight hundred dollars or more per	105228
bed;	105229
(b) Four dollars and fifty cents per patient day if the cost	105230
of construction was less than six thousand eight hundred dollars	105231
per bed but exceeds five thousand one hundred fifty dollars per	105232
bed;	105233
(c) Three dollars and fifty cents per patient day if the cost	105234
of construction was five thousand one hundred fifty dollars or	105235
less per bed, but exceeds three thousand five hundred dollars per	105236
bed;	105237
(d) Two dollars and fifty cents per patient day if the cost	105238
of construction was three thousand five hundred dollars or less	105239
per bed.	105240
(5) For facilities with dates of licensure after December 31,	105241
1978, but prior to January 1, 1980, not exceeding:	105242
(a) Six dollars per patient day if the cost of construction	105243
was seven thousand six hundred twenty-five dollars or more per	105244
bed;	105245
(b) Five dollars and fifty cents per patient day if the cost	105246

of construction was less than seven thousand six hundred 105247
twenty-five dollars per bed but exceeds six thousand eight hundred 105248
dollars per bed; 105249

(c) Four dollars and fifty cents per patient day if the cost 105250
of construction was six thousand eight hundred dollars or less per 105251
bed but exceeds five thousand one hundred fifty dollars per bed; 105252

(d) Three dollars and fifty cents per patient day if the cost 105253
of construction was five thousand one hundred fifty dollars or 105254
less but exceeds three thousand five hundred dollars per bed; 105255

(e) Two dollars and fifty cents per patient day if the cost 105256
of construction was three thousand five hundred dollars or less 105257
per bed. 105258

(6) For facilities with dates of licensure after December 31, 105259
1979, but prior to January 1, 1981, not exceeding: 105260

(a) Twelve dollars per patient day if the beds were 105261
originally licensed as residential facility beds by the department 105262
of developmental disabilities; 105263

(b) Six dollars per patient day if the beds were originally 105264
licensed as nursing home beds by the department of health. 105265

(7) For facilities with dates of licensure after December 31, 105266
1980, but prior to January 1, 1982, not exceeding: 105267

(a) Twelve dollars per patient day if the beds were 105268
originally licensed as residential facility beds by the department 105269
of developmental disabilities; 105270

(b) Six dollars and forty-five cents per patient day if the 105271
beds were originally licensed as nursing home beds by the 105272
department of health. 105273

(8) For facilities with dates of licensure after December 31, 105274
1981, but prior to January 1, 1983, not exceeding: 105275

(a) Twelve dollars per patient day if the beds were 105276

originally licensed as residential facility beds by the department	105277
of developmental disabilities;	105278
(b) Six dollars and seventy-nine cents per patient day if the	105279
beds were originally licensed as nursing home beds by the	105280
department of health.	105281
(9) For facilities with dates of licensure after December 31,	105282
1982, but prior to January 1, 1984, not exceeding:	105283
(a) Twelve dollars per patient day if the beds were	105284
originally licensed as residential facility beds by the department	105285
of developmental disabilities;	105286
(b) Seven dollars and nine cents per patient day if the beds	105287
were originally licensed as nursing home beds by the department of	105288
health.	105289
(10) For facilities with dates of licensure after December	105290
31, 1983, but prior to January 1, 1985, not exceeding:	105291
(a) Twelve dollars and twenty-four cents per patient day if	105292
the beds were originally licensed as residential facility beds by	105293
the department of developmental disabilities;	105294
(b) Seven dollars and twenty-three cents per patient day if	105295
the beds were originally licensed as nursing home beds by the	105296
department of health.	105297
(11) For facilities with dates of licensure after December	105298
31, 1984, but prior to January 1, 1986, not exceeding:	105299
(a) Twelve dollars and fifty-three cents per patient day if	105300
the beds were originally licensed as residential facility beds by	105301
the department of developmental disabilities;	105302
(b) Seven dollars and forty cents per patient day if the beds	105303
were originally licensed as nursing home beds by the department of	105304
health.	105305
(12) For facilities with dates of licensure after December	105306

31, 1985, but prior to January 1, 1987, not exceeding:	105307
(a) Twelve dollars and seventy cents per patient day if the	105308
beds were originally licensed as residential facility beds by the	105309
department of developmental disabilities;	105310
(b) Seven dollars and fifty cents per patient day if the beds	105311
were originally licensed as nursing home beds by the department of	105312
health.	105313
(13) For facilities with dates of licensure after December	105314
31, 1986, but prior to January 1, 1988, not exceeding:	105315
(a) Twelve dollars and ninety-nine cents per patient day if	105316
the beds were originally licensed as residential facility beds by	105317
the department of developmental disabilities;	105318
(b) Seven dollars and sixty-seven cents per patient day if	105319
the beds were originally licensed as nursing home beds by the	105320
department of health.	105321
(14) For facilities with dates of licensure after December	105322
31, 1987, but prior to January 1, 1989, not exceeding thirteen	105323
dollars and twenty-six cents per patient day;	105324
(15) For facilities with dates of licensure after December	105325
31, 1988, but prior to January 1, 1990, not exceeding thirteen	105326
dollars and forty-six cents per patient day;	105327
(16) For facilities with dates of licensure after December	105328
31, 1989, but prior to January 1, 1991, not exceeding thirteen	105329
dollars and sixty cents per patient day;	105330
(17) For facilities with dates of licensure after December	105331
31, 1990, but prior to January 1, 1992, not exceeding thirteen	105332
dollars and forty-nine cents per patient day;	105333
(18) For facilities with dates of licensure after December	105334
31, 1991, but prior to January 1, 1993, not exceeding thirteen	105335
dollars and sixty-seven cents per patient day;	105336

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be

increased by the change in the "Dodge building cost indexes, 105401
northeastern and north central states," published by Marshall and 105402
Swift, during the period beginning June 30, 1990, and ending July 105403
1, 1993, and by the change in the consumer price index for shelter 105404
costs for all urban consumers for the north central region, as 105405
published by the United States bureau of labor statistics, 105406
annually thereafter. 105407

(2) For facilities with eight or fewer beds that have dates 105408
of licensure or have been granted project authorization by the 105409
department of developmental disabilities on or after July 1, 1993, 105410
for which substantial commitments of funds were not made before 105411
that date, cost of ownership payments shall not exceed the 105412
applicable amount calculated under division (F)(1) of this 105413
section, if the department of job and family services gives prior 105414
approval for construction of the facility. If the department does 105415
not give prior approval, cost of ownership payments shall not 105416
exceed the amount specified in division (C) of this section. 105417

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 105418
section, the total payment for cost of ownership, cost of 105419
ownership efficiency incentive, and capitalized costs of 105420
renovations for an intermediate care facility for the mentally 105421
retarded with eight or fewer beds shall not exceed the sum of the 105422
limitations specified in divisions (C) and (D) of this section. 105423

(G) Notwithstanding any provision of this section or section 105424
5111.241 of the Revised Code, the director of job and family 105425
services may adopt rules under section 5111.02 of the Revised Code 105426
that provide for a calculation of a combined maximum payment limit 105427
for indirect care costs and cost of ownership for intermediate 105428
care facilities for the mentally retarded with eight or fewer 105429
beds. 105430

~~(H) After the date on which a transaction of sale is closed,~~ 105431
~~the provider shall refund to the department the amount of excess~~ 105432

~~depreciation paid to the provider for the facility by the 105433
department for each year the provider has operated the facility 105434
under a provider agreement and prorated according to the number of 105435
medicaid patient days for which the provider has received payment 105436
for the facility. For the purposes of this division, "depreciation 105437
paid to the provider for the facility" means the amount paid to 105438
the provider for the intermediate care facility for the mentally 105439
retarded for cost of ownership pursuant to this section less any 105440
amount paid for interest costs. For the purposes of this division, 105441
"excess depreciation" is the intermediate care facility for the 105442
mentally retarded's depreciated basis, which is the provider's 105443
cost less accumulated depreciation, subtracted from the purchase 105444
price but not exceeding the amount of depreciation paid to the 105445
provider for the facility. 105446~~

~~(I) The department of job and family services shall pay a 105447
provider for each of the provider's eligible proprietary 105448
intermediate care facilities for the mentally retarded a return on 105449
the facility's net equity computed at the rate of one and one-half 105450
times the average of interest rates on special issues of public 105451
debt obligations issued to the federal hospital insurance trust 105452
fund for the cost reporting period. No facility's return on net 105453
equity paid under this division shall exceed one dollar per 105454
patient day. 105455~~

~~In calculating the rate for return on net equity, the 105456
department shall use the greater of the facility's inpatient days 105457
during the applicable cost reporting period or the number of 105458
inpatient days the facility would have had during that period if 105459
its occupancy rate had been ninety-five per cent. 105460~~

~~(J)(I)(1) Except as provided in division (J)(I)(2) of this 105461
section, if a provider leases or transfers an interest in a 105462
facility to another provider who is a related party, the related 105463
party's allowable cost of ownership shall include the lesser of 105464~~

the following: 105465

(a) The annual lease expense or actual cost of ownership, 105466
whichever is applicable; 105467

(b) The reasonable cost to the lessor or provider making the 105468
transfer. 105469

(2) If a provider leases or transfers an interest in a 105470
facility to another provider who is a related party, regardless of 105471
the date of the lease or transfer, the related party's allowable 105472
cost of ownership shall include the annual lease expense or actual 105473
cost of ownership, whichever is applicable, subject to the 105474
limitations specified in divisions (B) to ~~(I)~~(H) of this section, 105475
if all of the following conditions are met: 105476

(a) The related party is a relative of owner; 105477

(b) In the case of a lease, if the lessor retains any 105478
ownership interest, it is, except as provided in division 105479
~~(J)~~(I)(2)(d)(ii) of this section, in only the real property and 105480
any improvements on the real property; 105481

(c) In the case of a transfer, the provider making the 105482
transfer retains, except as provided in division ~~(J)~~(I)(2)(d)(iv) 105483
of this section, no ownership interest in the facility; 105484

(d) The department of job and family services determines that 105485
the lease or transfer is an arm's length transaction pursuant to 105486
rules adopted under section 5111.02 of the Revised Code. The rules 105487
shall provide that a lease or transfer is an arm's length 105488
transaction if all of the following, as applicable, apply: 105489

(i) In the case of a lease, once the lease goes into effect, 105490
the lessor has no direct or indirect interest in the lessee or, 105491
except as provided in division ~~(J)~~(I)(2)(b) of this section, the 105492
facility itself, including interest as an owner, officer, 105493
director, employee, independent contractor, or consultant, but 105494

excluding interest as a lessor. 105495

(ii) In the case of a lease, the lessor does not reacquire an 105496
interest in the facility except through the exercise of a lessor's 105497
rights in the event of a default. If the lessor reacquires an 105498
interest in the facility in this manner, the department shall 105499
treat the facility as if the lease never occurred when the 105500
department calculates its reimbursement rates for capital costs. 105501

(iii) In the case of a transfer, once the transfer goes into 105502
effect, the provider that made the transfer has no direct or 105503
indirect interest in the provider that acquires the facility or 105504
the facility itself, including interest as an owner, officer, 105505
director, employee, independent contractor, or consultant, but 105506
excluding interest as a creditor. 105507

(iv) In the case of a transfer, the provider that made the 105508
transfer does not reacquire an interest in the facility except 105509
through the exercise of a creditor's rights in the event of a 105510
default. If the provider reacquires an interest in the facility in 105511
this manner, the department shall treat the facility as if the 105512
transfer never occurred when the department calculates its 105513
reimbursement rates for capital costs. 105514

(v) The lease or transfer satisfies any other criteria 105515
specified in the rules. 105516

(e) Except in the case of hardship caused by a catastrophic 105517
event, as determined by the department, or in the case of a lessor 105518
or provider making the transfer who is at least sixty-five years 105519
of age, not less than twenty years have elapsed since, for the 105520
same facility, allowable cost of ownership was determined most 105521
recently under this division. 105522

Sec. 5111.254. (A) The department of job and family services 105523
shall establish initial rates for a nursing facility with a first 105524

date of licensure that is on or after July 1, 2006, including a 105525
facility that replaces one or more existing facilities, or for a 105526
nursing facility with a first date of licensure before that date 105527
that was initially certified for the medicaid program on or after 105528
that date, in the following manner: 105529

(1) The rate for direct care costs shall be the product of 105530
the cost per case-mix unit determined under division (D) of 105531
section 5111.231 of the Revised Code for the facility's peer group 105532
and the nursing facility's case-mix score. For the purpose of 105533
division (A)(1) of this section, the nursing facility's case-mix 105534
score shall be the following: 105535

(a) Unless the nursing facility replaces an existing nursing 105536
facility that participated in the medicaid program immediately 105537
before the replacement nursing facility begins participating in 105538
the medicaid program, the median annual average case-mix score for 105539
the nursing facility's peer group; 105540

(b) If the nursing facility replaces an existing nursing 105541
facility that participated in the medicaid program immediately 105542
before the replacement nursing facility begins participating in 105543
the medicaid program, the semiannual case-mix score most recently 105544
determined under section 5111.232 of the Revised Code for the 105545
replaced nursing facility as adjusted, if necessary, to reflect 105546
any difference in the number of beds in the replaced and 105547
replacement nursing facilities. 105548

(2) The rate for ancillary and support costs shall be the 105549
rate for the facility's peer group determined under division (D) 105550
of section 5111.24 of the Revised Code. 105551

(3) The rate for capital costs shall be the ~~median~~ rate for 105552
the facility's peer group determined under division (D) of section 105553
5111.25 of the Revised Code. 105554

(4) The rate for tax costs as defined in section 5111.242 of 105555

the Revised Code shall be the median rate for tax costs for the 105556
facility's peer group in which the facility is placed under 105557
division (C) of section 5111.24 of the Revised Code. 105558

(5) The quality incentive payment, if any, shall be the mean 105559
payment ~~specified in division (B) of~~ made to nursing facilities 105560
under section 5111.244 of the Revised Code. 105561

(B) Subject to division (C) of this section, the department 105562
shall adjust the rates established under division (A) of this 105563
section effective the first day of July, to reflect new rate 105564
calculations for all nursing facilities under sections 5111.20 to 105565
~~5111.33~~ 5111.331 of the Revised Code. 105566

(C) If a rate for direct care costs is determined under this 105567
section for a nursing facility using the median annual average 105568
case-mix score for the nursing facility's peer group, the rate 105569
shall be redetermined to reflect the replacement nursing 105570
facility's actual semiannual case-mix score determined under 105571
section 5111.232 of the Revised Code after the nursing facility 105572
submits its first two quarterly assessment data that qualify for 105573
use in calculating a case-mix score in accordance with rules 105574
authorized by division (E) of section 5111.232 of the Revised 105575
Code. If the nursing facility's quarterly submissions do not 105576
qualify for use in calculating a case-mix score, the department 105577
shall continue to use the median annual average case-mix score for 105578
the nursing facility's peer group in lieu of the nursing 105579
facility's semiannual case-mix score until the nursing facility 105580
submits two consecutive quarterly assessment data that qualify for 105581
use in calculating a case-mix score. 105582

Sec. 5111.255. (A) The department of job and family services 105583
shall establish initial rates for an intermediate care facility 105584
for the mentally retarded with a first date of licensure that is 105585
on or after January 1, 1993, including a facility that replaces 105586

one or more existing facilities, or for an intermediate care 105587
facility for the mentally retarded with a first date of licensure 105588
before that date that was initially certified for the medicaid 105589
program on or after that date, in the following manner: 105590

(1) The rate for direct care costs shall be determined as 105591
follows: 105592

(a) If there are no cost or resident assessment data as 105593
necessary to calculate a rate under section 5111.23 of the Revised 105594
Code, the rate shall be the median cost per case-mix unit 105595
calculated under division (B)(1) of that section for the relevant 105596
peer group for the calendar year preceding the fiscal year in 105597
which the rate will be paid, multiplied by the median annual 105598
average case-mix score for the peer group for that period and by 105599
the rate of inflation estimated under division (B)(3) of that 105600
section. This rate shall be recalculated to reflect the facility's 105601
actual quarterly average case-mix score, in accordance with that 105602
section, after it submits its first quarterly assessment data that 105603
qualifies for use in calculating a case-mix score in accordance 105604
with rules authorized by division (E) of section 5111.232 of the 105605
Revised Code. If the facility's first two quarterly submissions do 105606
not contain assessment data that qualifies for use in calculating 105607
a case-mix score, the department shall continue to calculate the 105608
rate using the median annual case-mix score for the peer group in 105609
lieu of an assigned quarterly case-mix score. The department shall 105610
assign a case-mix score or, if necessary, a cost per case-mix unit 105611
under division (D) of section 5111.232 of the Revised Code for any 105612
subsequent submissions that do not contain assessment data that 105613
qualifies for use in calculating a case-mix score. 105614

(b) If the facility is a replacement facility and the 105615
facility or facilities that are being replaced are in operation 105616
immediately before the replacement facility opens, the rate shall 105617
be the same as the rate for the replaced facility or facilities, 105618

proportionate to the number of beds in each replaced facility. If 105619
one or more of the replaced facilities is not in operation 105620
immediately before the replacement facility opens, its proportion 105621
shall be determined under division (A)(1)(a) of this section. 105622

(2) The rate for other protected costs shall be one hundred 105623
fifteen per cent of the median rate for intermediate care 105624
facilities for the mentally retarded calculated for the fiscal 105625
year under section 5111.235 of the Revised Code. 105626

(3) The rate for indirect care costs shall be the applicable 105627
maximum rate for the facility's peer group as specified in 105628
division (B) of section 5111.241 of the Revised Code. 105629

(4) The rate for capital costs shall be determined under 105630
section 5111.251 of the Revised Code using the greater of actual 105631
inpatient days or an imputed occupancy rate of eighty per cent. 105632

(B) The department shall adjust the rates established under 105633
division (A) of this section at both of the following times: 105634

(1) Effective the first day of July, to reflect new rate 105635
calculations for all facilities under sections 5111.20 to ~~5111.33~~ 105636
5111.331 of the Revised Code; 105637

(2) Following the provider's submission of the facility's 105638
cost report under division (A)(1)(b) of section 5111.26 of the 105639
Revised Code. 105640

The department shall pay the rate adjusted based on the cost 105641
report beginning the first day of the calendar quarter that begins 105642
more than ninety days after the department receives the cost 105643
report. 105644

Sec. 5111.258. (A) Notwithstanding sections 5111.20 to 105645
~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of 105646
the Revised Code), the director of job and family services shall 105647
adopt rules under section 5111.02 of the Revised Code that 105648

establish a methodology for calculating the prospective rates that 105649
will be paid each fiscal year to a provider for each of the 105650
provider's eligible nursing facilities and intermediate care 105651
facilities for the mentally retarded, and discrete units of the 105652
provider's nursing facilities or intermediate care facilities for 105653
the mentally retarded, that serve residents who have diagnoses or 105654
special care needs that require direct care resources that are not 105655
measured adequately by the applicable assessment instrument 105656
specified in rules authorized by section 5111.232 of the Revised 105657
Code, or who have diagnoses or special care needs specified in the 105658
rules as otherwise qualifying for consideration under this 105659
section. The facilities and units of facilities whose rates are 105660
established under this division may include, but shall not be 105661
limited to, any of the following: 105662

(1) In the case of nursing facilities, facilities and units 105663
of facilities that serve medically fragile pediatric residents, 105664
residents who are dependent on ventilators, or residents who have 105665
severe traumatic brain injury, end-stage Alzheimer's disease, or 105666
end-stage acquired immunodeficiency syndrome; 105667

(2) In the case of intermediate care facilities for the 105668
mentally retarded, facilities and units of facilities that serve 105669
residents who have complex medical conditions or severe behavioral 105670
problems. 105671

The department shall use the methodology established under 105672
this division to pay for services rendered by such facilities and 105673
units after June 30, 1993. 105674

The rules authorized by this division shall specify the 105675
criteria and procedures the department will apply when designating 105676
facilities and units that qualify for calculation of rates under 105677
this division. The criteria shall include consideration of whether 105678
all of the allowable costs of the facility or unit would be paid 105679
by rates established under sections 5111.20 to ~~5111.33~~ 5111.331 of 105680

the Revised Code, and shall establish a minimum bed size for a 105681
facility or unit to qualify to have its rates established under 105682
this division. The criteria shall not be designed to require that 105683
residents be served only in facilities located in large cities. 105684
The methodology established by the rules shall consider the 105685
historical costs of providing care to the residents of the 105686
facilities or units. 105687

The rules may require that a facility designated under this 105688
division or containing a unit designated under this division 105689
receive authorization from the department to admit or retain a 105690
resident to the facility or unit and shall specify the criteria 105691
and procedures the department will apply when granting that 105692
authorization. 105693

Notwithstanding any other provision of sections 5111.20 to 105694
~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of 105695
the Revised Code), the costs incurred by facilities or units whose 105696
rates are established under this division shall not be considered 105697
in establishing payment rates for other facilities or units. 105698

(B) The director may adopt rules under section 5111.02 of the 105699
Revised Code under which the department, notwithstanding any other 105700
provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised 105701
Code (except section 5111.259 of the Revised Code), may adjust the 105702
rates determined under sections 5111.20 to ~~5111.33~~ 5111.331 of the 105703
Revised Code for a facility that serves a resident who has a 105704
diagnosis or special care need that, in the rules authorized by 105705
division (A) of this section, would qualify a facility or unit of 105706
a facility to have its rate determined under that division, but 105707
who is not in such a unit. The rules may require that a facility 105708
that qualifies for a rate adjustment under this division receive 105709
authorization from the department to admit or retain a resident 105710
who qualifies the facility for the rate adjustment and shall 105711
specify the criteria and procedures the department will apply when 105712

granting that authorization. 105713

Sec. 5111.259. The director of job and family services may 105714
submit a request to the United States secretary of health and 105715
human services for approval to establish a centers of excellence 105716
component of the medicaid program. The purpose of the centers of 105717
excellence component is to increase the efficiency and quality of 105718
nursing facility services provided to medicaid recipients with 105719
complex nursing facility service needs. If federal approval for 105720
the centers of excellence component is granted, the director may 105721
adopt rules under section 5111.02 of the Revised Code governing 105722
the component, including rules that establish a method of 105723
determining the medicaid reimbursement rates for nursing 105724
facilities providing nursing facility services to medicaid 105725
recipients participating in the component. The rules may specify 105726
the extent to which, if any, of the provisions of section 5111.258 105727
of the Revised Code are to apply to the centers of excellence 105728
component. If such rules are adopted, the nursing facilities that 105729
provide nursing facility services to medicaid recipients 105730
participating in the centers of excellence component shall be paid 105731
for those services in accordance with the method established in 105732
the rules notwithstanding anything to the contrary in sections 105733
5111.20 to 5111.331 of the Revised Code. 105734

Sec. 5111.261. (A) Except as provided in division (B) of this 105735
section and not later than three years after a provider files a 105736
cost report with the department of job and family services under 105737
section 5111.26 of the Revised Code, the provider may amend the 105738
cost report if the provider discovers a material error in the cost 105739
report or additional information to be included in the cost 105740
report. The department shall review the amended cost report for 105741
accuracy and notify the provider of its determination. 105742

(B) A provider may not amend a cost report if the department 105743

has notified the provider that an audit of the cost report or a cost report of the provider for a subsequent cost reporting period is to be conducted under section 5111.27 of the Revised Code. The provider may, however, provide the department information that affects the costs included in the cost report. Such information may not be provided after the adjudication of the final settlement of the cost report.

Sec. 5111.262. No person, other than the provider of a nursing facility, shall submit a claim for medicaid reimbursement for a service provided to a nursing facility resident if the service is included in a medicaid payment made to the provider of a nursing facility under sections 5111.20 to 5111.33 of the Revised Code or in the reimbursable expenses reported on a provider's cost report for a nursing facility. No provider of a nursing facility shall submit a separate claim for medicaid reimbursement for a service provided to a resident of the nursing facility if the service is included in a medicaid payment made to the provider under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code or in the reimbursable expenses on the provider's cost report for the nursing facility.

Sec. ~~5111.261~~ 5111.263. Except as otherwise provided in section 5111.264 of the Revised Code, the department of job and family services, in determining whether an intermediate care facility for the mentally retarded's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, and compensation of administrators.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of

owners, as reported on facility cost reports. As used in this 105775
section, "comparable position" means the position that is held by 105776
the owner or the owner's relative, if that position is listed 105777
separately on the cost report form, or if the position is not 105778
listed separately, the group of positions that is listed on the 105779
cost report form and that includes the position held by the owner 105780
or the owner's relative. In the case of an owner or owner's 105781
relative who serves the facility in a capacity such as corporate 105782
officer, proprietor, or partner for which no comparable position 105783
or group of positions is listed on the cost report form, the 105784
compensation cost limit shall be based on civil service 105785
equivalents and shall be specified in rules adopted under section 105786
5111.02 of the Revised Code. 105787

Compensation cost limits for administrators shall be based on 105788
compensation costs for administrators who are not owners or 105789
relatives of owners, as reported on facility cost reports. 105790
Compensation cost limits for administrators of four or more 105791
intermediate care facilities for the mentally retarded shall be 105792
the same as the limits for administrators of intermediate care 105793
facilities for the mentally retarded with one hundred fifty or 105794
more beds. 105795

Sec. 5111.27. (A) The department of job and family services 105796
shall conduct a desk review of each cost report it receives under 105797
section 5111.26 of the Revised Code. Based on the desk review, the 105798
department shall make a preliminary determination of whether the 105799
reported costs are allowable costs. The department shall notify 105800
each provider of whether any of the reported costs are 105801
preliminarily determined not to be allowable, the rate calculation 105802
under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code 105803
that results from that determination, and the reasons for the 105804
determination and resulting rate. The department shall allow the 105805
provider to verify the calculation and submit additional 105806

information. 105807

(B) The department may conduct an audit, as defined by rule 105808
adopted under section 5111.02 of the Revised Code, of any cost 105809
report ~~and shall notify the provider of its findings.~~ 105810

~~Audits shall be conducted by auditors under contract with or 105811
employed by the department.~~ The decision whether to conduct an 105812
audit and the scope of the audit, which may be a desk or field 105813
audit, ~~shall~~ may be determined based on prior performance of the 105814
provider ~~and may be based on,~~ a risk analysis, or other evidence 105815
that gives the department reason to believe that the provider has 105816
reported costs improperly. A desk or field audit may be performed 105817
annually, but is required whenever a provider does not pass the 105818
risk analysis tolerance factors. An audit shall be conducted by 105819
auditors under contract with or employed by the department. The 105820
department shall notify a provider of the findings of an audit by 105821
issuing an audit report. The department shall issue the audit 105822
report no later than three years after the cost report is filed, 105823
or upon the completion of a desk or field audit on the report or a 105824
report for a subsequent cost reporting period, whichever is 105825
earlier. ~~During the time within which the department may issue an 105826
audit report, the provider may amend the cost report upon 105827
discovery of a material error or material additional information. 105828
The department shall review the amended cost report for accuracy 105829
and notify the provider of its determination.~~ 105830

The department may establish a contract for the auditing of 105831
facilities by outside firms. Each contract entered into by bidding 105832
shall be effective for one to two years. The department shall 105833
establish an audit manual and program which shall require that all 105834
field audits, conducted either pursuant to a contract or by 105835
department employees: 105836

(1) Comply with the applicable rules prescribed pursuant to 105837
Titles XVIII and XIX; 105838

- (2) Consider generally accepted auditing standards prescribed 105839
by the American institute of certified public accountants; 105840
- (3) Include a written summary as to whether the costs 105841
included in the report examined during the audit are allowable and 105842
are presented fairly in accordance with ~~generally accepted~~ 105843
~~accounting principles and department rules~~ state and federal laws 105844
and regulations, and whether, in all material respects, allowable 105845
costs are documented, reasonable, and related to patient care; 105846
- (4) Are conducted by accounting firms or auditors who, during 105847
the period of the auditors' professional engagement or employment 105848
and during the period covered by the cost reports, do not have nor 105849
are committed to acquire any direct or indirect financial interest 105850
in the ownership, financing, or operation of a nursing facility or 105851
intermediate care facility for the mentally retarded in this 105852
state; 105853
- (5) Are conducted by accounting firms or auditors who, as a 105854
condition of the contract or employment, shall not audit any 105855
facility that has been a client of the firm or auditor; 105856
- (6) Are conducted by auditors who are otherwise independent 105857
as determined by the standards of independence ~~established by~~ 105858
~~included in the American institute of certified public accountants~~ 105859
government auditing standards produced by the United States 105860
government accountability office; 105861
- (7) Are completed within the time period specified by the 105862
department; 105863
- (8) Provide to the provider complete written interpretations 105864
that explain in detail the application of all relevant contract 105865
provisions, regulations, auditing standards, rate formulae, and 105866
departmental policies, with explanations and examples, that are 105867
sufficient to permit the provider to calculate with reasonable 105868
certainty those costs that are allowable and the rate to which the 105869

provider's facility is entitled. 105870

For the purposes of division (B)(4) of this section, 105871
employment of a member of an auditor's family by a nursing 105872
facility or intermediate care facility for the mentally retarded 105873
that the auditor does not review does not constitute a direct or 105874
indirect financial interest in the ownership, financing, or 105875
operation of the facility. 105876

(C) The department, pursuant to rules adopted under section 105877
5111.02 of the Revised Code, may conduct an exception review of 105878
assessment data submitted under section 5111.232 of the Revised 105879
Code. The department may conduct an exception review based on the 105880
findings of a certification survey conducted by the department of 105881
health, a risk analysis, or prior performance of the provider. 105882

Exception reviews shall be conducted at the facility by 105883
appropriate health professionals under contract with or employed 105884
by the department of job and family services. The professionals 105885
may review resident assessment forms and supporting documentation, 105886
conduct interviews, and observe residents to identify any patterns 105887
or trends of inaccurate assessments and resulting inaccurate 105888
case-mix scores. 105889

The rules shall establish an exception review program that 105890
requires that exception reviews do all of the following: 105891

(1) Comply with Titles XVIII and XIX; 105892

(2) Provide a written summary that states whether the 105893
resident assessment forms have been completed accurately; 105894

(3) Are conducted by health professionals who, during the 105895
period of their professional engagement or employment with the 105896
department, neither have nor are committed to acquire any direct 105897
or indirect financial interest in the ownership, financing, or 105898
operation of a nursing facility or intermediate care facility for 105899
the mentally retarded in this state; 105900

(4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.

For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

If an exception review is conducted before the effective date of the rate that is based on the case-mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case-mix data. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code on the basis that the provider charges a lower rate to any resident who is not eligible for the medicaid program.

(F) The department shall adjust the rates calculated under 105933
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code to 105934
account for reasonable additional costs that must be incurred by 105935
intermediate care facilities for the mentally retarded to comply 105936
with requirements of federal or state statutes, rules, or policies 105937
enacted or amended after January 1, 1992, or with orders issued by 105938
state or local fire authorities. 105939

Sec. 5111.28. (A) If a provider properly amends its cost 105940
report under section ~~5111.27~~ 5111.261 of the Revised Code and the 105941
amended report shows that the provider received a lower rate under 105942
the original cost report than it was entitled to receive, the 105943
department of job and family services shall adjust the provider's 105944
rate prospectively to reflect the corrected information. The 105945
department shall pay the adjusted rate beginning two months after 105946
the first day of the month after the provider files the amended 105947
cost report. If the department finds, from an exception review of 105948
resident assessment information conducted after the effective date 105949
of the rate for direct care costs that is based on the assessment 105950
information, that inaccurate assessment information resulted in 105951
the provider receiving a lower rate than it was entitled to 105952
receive, the department prospectively shall adjust the provider's 105953
rate accordingly and shall make payments using the adjusted rate 105954
for the remainder of the calendar quarter for which the assessment 105955
information is used to determine the rate, beginning one month 105956
after the first day of the month after the exception review is 105957
completed. 105958

(B) If the provider properly amends its cost report under 105959
section ~~5111.27~~ 5111.261 of the Revised Code, the department makes 105960
a finding based on an audit under ~~that~~ section 5111.27 of the 105961
Revised Code, or the department makes a finding based on an 105962
exception review of resident assessment information conducted 105963
under ~~that~~ section 5111.27 of the Revised Code after the effective 105964

date of the rate for direct care costs that is based on the 105965
assessment information, any of which results in a determination 105966
that the provider has received a higher rate than it was entitled 105967
to receive, the department shall recalculate the provider's rate 105968
using the revised information. The department shall apply the 105969
recalculated rate to the periods when the provider received the 105970
incorrect rate to determine the amount of the overpayment. The 105971
provider shall refund the amount of the overpayment. 105972

In addition to requiring a refund under this division, the 105973
department may charge the provider interest at the applicable rate 105974
specified in this division from the time the overpayment was made. 105975

(1) If the overpayment resulted from costs reported for 105976
calendar year 1993, the interest shall be no greater than one and 105977
one-half times the average bank prime rate. 105978

(2) If the overpayment resulted from costs reported for 105979
subsequent calendar years: 105980

(a) The interest shall be no greater than two times the 105981
average bank prime rate if the overpayment was equal to or less 105982
than one per cent of the total medicaid payments to the provider 105983
for the fiscal year for which the incorrect information was used 105984
to establish a rate. 105985

(b) The interest shall be no greater than two and one-half 105986
times the current average bank prime rate if the overpayment was 105987
greater than one per cent of the total medicaid payments to the 105988
provider for the fiscal year for which the incorrect information 105989
was used to establish a rate. 105990

(C) The department also may impose the following penalties: 105991

(1) If a provider does not furnish invoices or other 105992
documentation that the department requests during an audit within 105993
sixty days after the request, no more than the greater of one 105994
thousand dollars per audit or twenty-five per cent of the 105995

cumulative amount by which the costs for which documentation was 105996
not furnished increased the total medicaid payments to the 105997
provider during the fiscal year for which the costs were used to 105998
establish a rate; 105999

(2) If an exiting operator or owner fails to provide notice 106000
of a facility closure, voluntary termination, or voluntary 106001
withdrawal of participation in the medicaid program as required by 106002
section 5111.66 of the Revised Code, or an exiting operator or 106003
owner and entering operator fail to provide notice of a change of 106004
operator as required by section 5111.67 of the Revised Code, no 106005
more than the current average bank prime rate plus four per cent 106006
of the last two monthly payments. 106007

(D) If the provider continues to participate in the medicaid 106008
program, the department shall deduct any amount that the provider 106009
is required to refund under this section, and the amount of any 106010
interest charged or penalty imposed under this section, from the 106011
next available payment from the department to the provider. The 106012
department and the provider may enter into an agreement under 106013
which the amount, together with interest, is deducted in 106014
installments from payments from the department to the provider. 106015

(E) The department shall transmit refunds and penalties to 106016
the treasurer of state for deposit in the general revenue fund. 106017

(F) For the purpose of this section, the department shall 106018
determine the average bank prime rate using statistical release 106019
H.15, "selected interest rates," a weekly publication of the 106020
federal reserve board, or any successor publication. If 106021
statistical release H.15, or its successor, ceases to contain the 106022
bank prime rate information or ceases to be published, the 106023
department shall request a written statement of the average bank 106024
prime rate from the federal reserve bank of Cleveland or the 106025
federal reserve board. 106026

Sec. 5111.29. (A) The director of job and family services 106027
shall adopt rules under section 5111.02 of the Revised Code that 106028
establish a process under which a provider, or a group or 106029
association of providers, may seek reconsideration of rates 106030
established under sections 5111.20 to ~~5111.33~~ 5111.331 of the 106031
Revised Code, including a rate for direct care costs recalculated 106032
before the effective date of the rate as a result of an exception 106033
review of resident assessment information conducted under section 106034
5111.27 of the Revised Code. 106035

(1) Except as provided in divisions (A)(2) to (4) of this 106036
section, the only issue that a provider, group, or association may 106037
raise in the rate reconsideration shall be whether the rate was 106038
calculated in accordance with sections 5111.20 to ~~5111.33~~ 5111.331 106039
of the Revised Code and the rules adopted under section 5111.02 of 106040
the Revised Code. The rules shall permit a provider, group, or 106041
association to submit written arguments or other materials that 106042
support its position. The rules shall specify time frames within 106043
which the provider, group, or association and the department must 106044
act. If the department determines, as a result of the rate 106045
reconsideration, that the rate established for one or more 106046
facilities of a provider is less than the rate to which the 106047
facility is entitled, the department shall increase the rate. If 106048
the department has paid the incorrect rate for a period of time, 106049
the department shall pay the provider the difference between the 106050
amount the provider was paid for that period for the facility and 106051
the amount the provider should have been paid for the facility. 106052

(2) The rules shall provide that during a fiscal year, the 106053
department, by means of the rate reconsideration process, may 106054
increase the rate determined for an intermediate care facility for 106055
the mentally retarded as calculated under sections 5111.20 to 106056
~~5111.33~~ 5111.331 of the Revised Code if the provider of the 106057
facility demonstrates that the facility's actual, allowable costs 106058

have increased because of extreme circumstances. A facility may 106059
qualify for a rate increase only if the facility's per diem, 106060
actual, allowable costs have increased to a level that exceeds its 106061
total rate. The rules shall specify the circumstances that would 106062
justify a rate increase under division (A)(2) of this section. The 106063
rules shall provide that the extreme circumstances include natural 106064
disasters, renovations approved under division (D) of section 106065
5111.251 of the Revised Code, an increase in workers' compensation 106066
experience rating of greater than five per cent for a facility 106067
that has an appropriate claims management program, increased 106068
security costs for an inner-city facility, and a change of 106069
ownership that results from bankruptcy, foreclosure, or findings 106070
of violations of certification requirements by the department of 106071
health. An increase under division (A)(2) of this section is 106072
subject to any rate limitations or maximum rates established by 106073
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for 106074
specific cost centers. Any rate increase granted under division 106075
(A)(2) of this section shall take effect on the first day of the 106076
first month after the department receives the request. 106077

(3) The rules shall provide that the department, through the 106078
rate reconsideration process, may increase an intermediate care 106079
facility for the mentally retarded's rate as calculated under 106080
sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code if the 106081
department, in the department's sole discretion, determines that 106082
the rate as calculated under those sections works an extreme 106083
hardship on the facility. 106084

(4) The rules shall provide that when beds certified for the 106085
medicaid program are added to an existing intermediate care 106086
facility for the mentally retarded or replaced at the same site, 106087
the department, through the rate reconsideration process, shall 106088
increase the intermediate care facility for the mentally 106089
retarded's rate for capital costs proportionately, as limited by 106090

any applicable limitation under section 5111.251 of the Revised Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the facility during the same calendar year.

(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(B) All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code;

(2) Any adverse finding that results from an exception review 106122
of resident assessment information conducted under section 5111.27 106123
of the Revised Code after the effective date of the facility's 106124
rate that is based on the assessment information; 106125

(3) Any medicaid payment deemed an overpayment under section 106126
5111.683 of the Revised Code; 106127

(4) Any penalty the department imposes under division (C) of 106128
section 5111.28 of the Revised Code or section 5111.683 of the 106129
Revised Code. 106130

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.33~~ 106131
5111.331 of the Revised Code, the department of job and family 106132
services may compute the rate for intermediate care facilities for 106133
the mentally retarded operated by the department of developmental 106134
disabilities or the department of mental health according to the 106135
reasonable cost principles of Title XVIII. 106136

Sec. 5111.33. Reimbursement to a provider of an intermediate 106137
care facility for the mentally retarded under sections 5111.20 to 106138
~~5111.32~~ 5111.331 of the Revised Code shall include payments to the 106139
provider, at a rate equal to the percentage of the per resident 106140
per day rates that the department of job and family services has 106141
established for the provider's ~~nursing facility or intermediate~~ 106142
~~care facility for the mentally retarded~~ under sections 5111.20 to 106143
~~5111.33~~ 5111.331 of the Revised Code for the fiscal year for which 106144
the cost of services is reimbursed, to reserve a bed for a 106145
recipient during a temporary absence under conditions prescribed 106146
by the department, to include hospitalization for an acute 106147
condition, visits with relatives and friends, and participation in 106148
therapeutic programs outside the facility, when the resident's 106149
plan of care provides for such absence and federal participation 106150
in the payments is available. The maximum period during which 106151

payments may be made to reserve a bed shall not exceed the maximum 106152
period specified under federal regulations, and shall not be more 106153
than thirty days during any calendar year for hospital stays, 106154
visits with relatives and friends, and participation in 106155
therapeutic programs. 106156

~~Recipients who have been identified by the department as 106157
requiring the level of care of an intermediate care facility for 106158
the mentally retarded shall not be subject to a maximum period 106159
during which payments may be made to reserve a bed in an 106160
intermediate care facility for the mentally retarded if prior 106161
authorization of the department is obtained for hospital stays, 106162
visits with relatives and friends, and participation in 106163
therapeutic programs. The director of job and family services 106164
shall adopt rules under section 5111.02 of the Revised Code 106165
establishing conditions under which prior authorization may be 106166
obtained. 106167~~

Sec. 5111.331. (A) The department of job and family services 106168
may make payments to a provider of a nursing facility under 106169
sections 5111.20 to 5111.331 of the Revised Code to reserve a bed 106170
for a recipient during a temporary absence under conditions 106171
prescribed by the department, to include hospitalization for an 106172
acute condition, visits with relatives and friends, and 106173
participation in therapeutic programs outside the facility, when 106174
the resident's plan of care provides for such absence and federal 106175
participation in the payments is available. 106176

(B) The maximum period for which payments may be made to 106177
reserve a bed in a nursing facility shall not exceed the 106178
following: 106179

(1) For calendar year 2011, thirty days; 106180

(2) For calendar year 2012 and each calendar year thereafter, 106181
fifteen days. 106182

(C) The department shall establish the per diem rates to be paid to providers of nursing facilities for reserving beds under this section. In establishing the per diem rates, the department shall do the following:

(1) In the case of a payment to reserve a bed for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(2) In the case of a payment to reserve a bed for a day during calendar year 2012 and each calendar year thereafter, set the per diem rate at an amount not exceeding twenty-five per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day.

Sec. 5111.35. As used in this section "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code and subsection (c) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations issued under those subsections.

As used in sections 5111.35 to 5111.62 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under sections 1819 and 1919 of the "Social Security Act."

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of job and family services under section 5111.38 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department

of health during a survey, on the basis of one or more actions, 106213
practices, situations, or incidents occurring at a nursing 106214
facility, that constitutes a severity level three finding, 106215
severity level four finding, scope level three finding, or scope 106216
level four finding. Whenever the finding is a repeat finding, 106217
"deficiency" also includes any finding that is a severity level 106218
two and scope level one finding, a severity level two and scope 106219
level two finding, or a severity level one and scope level two 106220
finding. 106221

(2) "Cluster of deficiencies" means deficiencies that result 106222
from noncompliance with two or more certification requirements and 106223
are causing or resulting from the same action, practice, 106224
situation, or incident. 106225

(E) "Emergency" means either of the following: 106226

(1) A deficiency or cluster of deficiencies that creates a 106227
condition of immediate jeopardy; 106228

(2) An unexpected situation or sudden occurrence of a serious 106229
or urgent nature that creates a substantial likelihood that one or 106230
more residents of a nursing facility may be seriously harmed if 106231
allowed to remain in the facility, including the following: 106232

(a) A flood or other natural disaster, civil disaster, or 106233
similar event; 106234

(b) A labor strike that suddenly causes the number of staff 106235
members in a nursing facility to be below that necessary for 106236
resident care. 106237

(F) "Finding" means a finding of noncompliance with 106238
certification requirements determined by the department of health 106239
under section 5111.41 of the Revised Code. 106240

(G) "Immediate jeopardy" means that one or more residents of 106241
a nursing facility are in imminent danger of serious physical or 106242

life-threatening harm. 106243

(H) "Medicaid eligible resident" means a person who is a 106244
resident of a nursing facility, or is applying for admission to a 106245
nursing facility, and is eligible to receive financial assistance 106246
under the medical assistance program for the care the person 106247
receives in such a facility. 106248

(I) "Noncompliance" means failure to substantially meet all 106249
applicable certification requirements. 106250

(J) "Nursing facility" has the same meaning as in section 106251
5111.20 of the Revised Code. 106252

(K) "Provider" means a person, institution, or entity that 106253
furnishes nursing facility services under a medical assistance 106254
program provider agreement. 106255

(L) "Provider agreement" means a contract between the 106256
department of job and family services and a provider for the 106257
provision of nursing facility services under the medicaid program. 106258

(M) "Repeat finding" or "repeat deficiency" means a finding 106259
or deficiency cited pursuant to a survey, to which both of the 106260
following apply: 106261

(1) The finding or deficiency involves noncompliance with the 106262
same certification requirement, and the same kind of actions, 106263
practices, situations, or incidents caused by or resulting from 106264
the noncompliance, as were cited in the immediately preceding 106265
standard survey or another survey conducted subsequent to the 106266
immediately preceding standard survey of the facility. For 106267
purposes of this division, actions, practices, situations, or 106268
incidents may be of the same kind even though they involve 106269
different residents, staff, or parts of the facility. 106270

(2) The finding or deficiency is cited subsequent to a 106271
determination by the department of health that the finding or 106272

deficiency cited on the immediately preceding standard survey, or 106273
another survey conducted subsequent to the immediately preceding 106274
standard survey, had been corrected. 106275

~~(M)~~(N)(1) "Scope level one finding" means a finding of 106276
noncompliance by a nursing facility in which the actions, 106277
situations, practices, or incidents causing or resulting from the 106278
noncompliance affect one or a very limited number of facility 106279
residents and involve one or a very limited number of facility 106280
staff members. 106281

(2) "Scope level two finding" means a finding of 106282
noncompliance by a nursing facility in which the actions, 106283
situations, practices, or incidents causing or resulting from the 106284
noncompliance affect more than a limited number of facility 106285
residents or involve more than a limited number of facility staff 106286
members, but the number or percentage of facility residents 106287
affected or staff members involved and the number or frequency of 106288
the actions, situations, practices, or incidents in short 106289
succession does not establish any reasonable degree of 106290
predictability of similar actions, situations, practices, or 106291
incidents occurring in the future. 106292

(3) "Scope level three finding" means a finding of 106293
noncompliance by a nursing facility in which the actions, 106294
situations, practices, or incidents causing or resulting from the 106295
noncompliance affect more than a limited number of facility 106296
residents or involve more than a limited number of facility staff 106297
members, and the number or percentage of facility residents 106298
affected or staff members involved or the number or frequency of 106299
the actions, situations, practices, or incidents in short 106300
succession establishes a reasonable degree of predictability of 106301
similar actions, situations, practices, or incidents occurring in 106302
the future. 106303

(4) "Scope level four finding" means a finding of 106304

noncompliance by a nursing facility causing or resulting from 106305
actions, situations, practices, or incidents that involve a 106306
sufficient number or percentage of facility residents or staff 106307
members or occur with sufficient regularity over time that the 106308
noncompliance can be considered systemic or pervasive in the 106309
facility. 106310

~~(N)~~(O)(1) "Severity level one finding" means a finding of 106311
noncompliance by a nursing facility that has not caused and, if 106312
continued, is unlikely to cause physical harm to a facility 106313
resident, mental or emotional harm to a resident, or a violation 106314
of a resident's rights that results in physical, mental, or 106315
emotional harm to the resident. 106316

(2) "Severity level two finding" means a finding of 106317
noncompliance by a nursing facility that, if continued over time, 106318
will cause, or is likely to cause, physical harm to a facility 106319
resident, mental or emotional harm to a resident, or a violation 106320
of a resident's rights that results in physical, mental, or 106321
emotional harm to the resident. 106322

(3) "Severity level three finding" means a finding of 106323
noncompliance by a nursing facility that has caused physical harm 106324
to a facility resident, mental or emotional harm to a resident, or 106325
a violation of a resident's rights that results in physical, 106326
mental, or emotional harm to the resident. 106327

(4) "Severity level four finding" means a finding of 106328
noncompliance by a nursing facility that has caused 106329
life-threatening harm to a facility resident or caused a 106330
resident's death. 106331

~~(O)~~(P) "State agency" has the same meaning as in section 1.60 106332
of the Revised Code. 106333

~~(P)~~(O) "Substandard care" means care furnished in a facility 106334
in which the department of health has cited a deficiency or 106335

deficiencies that constitute one of the following:	106336
(1) A severity level four finding, regardless of scope;	106337
(2) A severity level three and scope level four finding, in the quality of care provided to residents;	106338 106339
(3) A severity level three and scope level three finding, in the quality of care provided to residents.	106340 106341
(Q) (R)(1) "Survey" means a survey of a nursing facility conducted under section 5111.39 of the Revised Code.	106342 106343
(2) "Standard survey" means a survey conducted by the department of health under division (A) of section 5111.39 of the Revised Code and includes an extended survey.	106344 106345 106346
(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey.	106347 106348 106349
Sec. 5111.52. (A) As used in this section+	106350
(1) "Provider agreement" means a contract between the department of job and family services and a nursing facility for the provision of nursing facility services under the medical assistance program.	106351 106352 106353 106354
(2) "Terminating", "terminating" includes not renewing.	106355
(B) A nursing facility's participation in the medical assistance program shall be terminated under sections 5111.35 to 5111.62 of the Revised Code as follows:	106356 106357 106358
(1) If the department of job and family services is terminating the facility's participation, it shall issue an order terminating the facility's provider agreement.	106359 106360 106361
(2) If the department of health, acting as a contracting agency, is terminating the facility's participation, it shall issue an order terminating certification of the facility's	106362 106363 106364

compliance with certification requirements. When the department of health terminates certification, the department of job and family services shall terminate the facility's provider agreement. The department of job and family services is not required to provide an adjudication hearing when it terminates a provider agreement following termination of certification by the department of health.

(3) If a state agency other than the department of health, acting as a contracting agency, is terminating the facility's participation, it shall notify the department of job and family services, and the department of job and family services shall issue an order terminating the facility's provider agreement. The contracting agency shall conduct any administrative proceedings concerning the order.

(C) If the following conditions are met, the department of job and family services may make medical assistance payments to a nursing facility for a period not exceeding thirty days after the effective date of termination under sections 5111.35 to 5111.62 of the Revised Code of the facility's participation in the medical assistance program:

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. 5111.65. As used in sections 5111.65 to 5111.689 of the

Revised Code:	106395
(A) "Affiliated operator" means an operator affiliated with either of the following:	106396 106397
(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;	106398 106399 106400 106401 106402
(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.	106403 106404 106405
(B) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.	106406 106407 106408
(1) Actions that constitute a change of operator include the following:	106409 106410
(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;	106411 106412 106413
(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;	106414 106415 106416 106417 106418
(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;	106419 106420
(d) If the exiting operator is a partnership, dissolution of the partnership;	106421 106422
(e) If the exiting operator is a partnership, a change in	106423

composition of the partnership unless both of the following apply: 106424

(i) The change in composition does not cause the 106425
partnership's dissolution under state law. 106426

(ii) The partners agree that the change in composition does 106427
not constitute a change in operator. 106428

(f) If the operator is a corporation, dissolution of the 106429
corporation, a merger of the corporation into another corporation 106430
that is the survivor of the merger, or a consolidation of one or 106431
more other corporations to form a new corporation. 106432

(2) The following, alone, do not constitute a change of 106433
operator: 106434

(a) A contract for an entity to manage a nursing facility or 106435
intermediate care facility for the mentally retarded as the 106436
operator's agent, subject to the operator's approval of daily 106437
operating and management decisions; 106438

(b) A change of ownership, lease, or termination of a lease 106439
of real property or personal property associated with a nursing 106440
facility or intermediate care facility for the mentally retarded 106441
if an entering operator does not become the operator in place of 106442
an exiting operator; 106443

(c) If the operator is a corporation, a change of one or more 106444
members of the corporation's governing body or transfer of 106445
ownership of one or more shares of the corporation's stock, if the 106446
same corporation continues to be the operator. 106447

(C) "Effective date of a change of operator" means the day 106448
the entering operator becomes the operator of the nursing facility 106449
or intermediate care facility for the mentally retarded. 106450

(D) "Effective date of a facility closure" means the last day 106451
that the last of the residents of the nursing facility or 106452
intermediate care facility for the mentally retarded resides in 106453

the facility. 106454

(E) "Effective date of an involuntary termination" means the date the department of job and family services terminates an operator's provider agreement for a nursing facility or intermediate care facility for the mentally retarded or the last day that such a provider agreement is in effect when the department refuses to renew it. 106455
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(F) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients. 106461
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~~(F)~~(G) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation. 106464
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~~(G)~~(H) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs or following an involuntary termination. 106469
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106471
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~~(H)~~(I) "Exiting operator" means any of the following: 106473

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator; 106474
106475
106476

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure; 106477
106478
106479

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination; 106480
106481
106482

(4) An operator of a nursing facility that is undergoing or 106483

has undergone a voluntary withdrawal of participation; 106484

(5) An operator of a nursing facility or intermediate care facility for the mentally retarded that has undergone an involuntary termination. 106485
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106487

~~(I)~~(J)(1) "Facility Subject to division (J)(2) of this section, "facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following: 106488
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(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility; 106495
106496
106497

(b) The facility's residents relocating to another of the operator's facilities; 106498
106499

(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities; 106500
106501
106502
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106504

(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code; 106505
106506

(e) Any action the department of developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code. 106507
106508
106509

(2) A facility closure does not occur if ~~all~~ either of the following applies: 106510
106511

(a) All of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a 106512
106513

medicaid-certified bed in the facility not later than thirty days 106514
after the evacuation occurs; 106515

(b) The building, or part of the building, that houses the 106516
facility converts to a different use, any necessary license or 106517
other approval needed for that use is obtained, and one or more of 106518
the facility's residents remain in the facility to receive 106519
services under the new use. 106520

~~(J)~~(K) "Fiscal year," "franchise permit fee," "intermediate 106521
care facility for the mentally retarded," "nursing facility," 106522
"operator," "owner," and "provider agreement" have the same 106523
meanings as in section 5111.20 of the Revised Code. 106524

~~(K)~~(L) "Involuntary termination" means the department of job 106525
and family services' termination of, or refusal to renew, an 106526
operator's provider agreement for a nursing facility or 106527
intermediate care facility for the mentally retarded when such 106528
action is not taken at the operator's request. 106529

(M) "Voluntary termination" means an operator's voluntary 106530
election to terminate the participation of an intermediate care 106531
facility for the mentally retarded in the medicaid program but to 106532
continue to provide service of the type provided by a residential 106533
facility as defined in section 5123.19 of the Revised Code. 106534

~~(L)~~(N) "Voluntary withdrawal of participation" means an 106535
operator's voluntary election to terminate the participation of a 106536
nursing facility in the medicaid program but to continue to 106537
provide service of the type provided by a nursing facility. 106538

Sec. 5111.66. An exiting operator or owner of a nursing 106539
facility or intermediate care facility for the mentally retarded 106540
participating in the medicaid program shall provide the department 106541
of job and family services written notice of a facility closure, 106542
voluntary termination, or voluntary withdrawal of participation 106543

not less than ninety days before the effective date of the 106544
facility closure, voluntary termination, or voluntary withdrawal 106545
of participation. The written notice shall be provided to the 106546
department in accordance with the method specified in rules 106547
adopted under section 5111.689 of the Revised Code. 106548

The written notice shall include all of the following: 106549

(A) The name of the exiting operator and, if any, the exiting 106550
operator's authorized agent; 106551

(B) The name of the nursing facility or intermediate care 106552
facility for the mentally retarded that is the subject of the 106553
written notice; 106554

(C) The exiting operator's medicaid provider agreement number 106555
for the facility that is the subject of the written notice; 106556

(D) The effective date of the facility closure, voluntary 106557
termination, or voluntary withdrawal of participation; 106558

(E) The signature of the exiting operator's or owner's 106559
representative. 106560

Sec. 5111.67. (A) An exiting operator or owner and entering 106561
operator shall provide the department of job and family services 106562
written notice of a change of operator if the nursing facility or 106563
intermediate care facility for the mentally retarded participates 106564
in the medicaid program and the entering operator seeks to 106565
continue the facility's participation. The written notice shall be 106566
provided to the department in accordance with the method specified 106567
in rules adopted under section 5111.689 of the Revised Code. The 106568
written notice shall be provided to the department not later than 106569
forty-five days before the effective date of the change of 106570
operator if the change of operator does not entail the relocation 106571
of residents. The written notice shall be provided to the 106572
department not later than ninety days before the effective date of 106573

the change of operator if the change of operator entails the relocation of residents. ~~The~~

The written notice shall include all of the following:

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;

(3) The exiting operator's ~~medicaid provider agreement~~ seven-digit medicaid legacy number and ten-digit national provider identifier number for the facility that is the subject of the change of operator;

(4) The name of the entering operator;

(5) The effective date of the change of operator;

(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;

(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;

(9) The names and addresses of the persons to whom the department should send initial correspondence regarding the change of operator;

(10) If the nursing facility also participates in the medicare program, notification of whether the entering operator intends to accept assignment of the exiting operator's medicare

provider agreement; 106603

(11) The signature of the exiting operator's or owner's 106604
representative. 106605

~~(B) The entering operator shall include a completed 106606
application for a provider agreement with the written notice to 106607
the department. The entering operator shall attach to the 106608
application the following:~~ 106609

~~(1) If the written notice is provided to the department 106610
before the date the exiting operator or owner and entering 106611
operator complete the transaction for the change of operator, all 106612
the proposed leases, management agreements, merger agreements and 106613
supporting documents, and sales contracts and supporting documents 106614
relating to the facility's change of operator;~~ 106615

~~(2) If the written notice is provided to the department on or 106616
after the date the exiting operator or owner and entering operator 106617
complete the transaction for the change of operator, copies of all 106618
the executed leases, management agreements, merger agreements and 106619
supporting documents, and sales contracts and supporting documents 106620
relating to the facility's change of operator. An exiting operator 106621
or owner and entering operator immediately shall provide the 106622
department written notice of any changes to information included 106623
in a written notice of a change of operator that occur after that 106624
notice is provided to the department. The notice of the changes 106625
shall be provided to the department in accordance with the method 106626
specified in rules adopted under section 5111.689 of the Revised 106627
Code. 106628~~

Sec. 5111.671. The department of job and family services may 106629
enter into a provider agreement with an entering operator that 106630
goes into effect at 12:01 a.m. on the effective date of the change 106631
of operator if all of the following requirements are met: 106632

(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or before the date required by that section.

(B) ~~The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator~~ receives both of the following in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code and not later than ten days after the effective date of the change of operator:

(1) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules adopted under section 5111.689 of the Revised Code;

(2) From the exiting operator or owner, all forms and documents specified in rules adopted under section 5111.689 of the Revised Code.

(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

Sec. 5111.672. (A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:

(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code after the time required by that section.

(2) ~~The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and~~

~~supporting documents relating to the change of operator receives~~ 106663
~~both of the following in accordance with the method specified in~~ 106664
~~rules adopted under section 5111.689 of the Revised Code and more~~ 106665
~~than ten days after the effective date of the change of operator:~~ 106666

~~(a) From the entering operator, a completed application for a~~ 106667
~~provider agreement and all other forms and documents specified in~~ 106668
~~rules adopted under section 5111.689 of the Revised Code;~~ 106669

~~(b) From the exiting operator or owner, all forms and~~ 106670
~~documents specified in rules adopted under section 5111.689 of the~~ 106671
~~Revised Code.~~ 106672

~~(3) The requirement of division (A)(1) of this section is met~~ 106673
~~after the time required by section 5111.67 of the Revised Code,~~ 106674
~~the requirement of division (A)(2) of this section is met more~~ 106675
~~than ten days after the effective date of the change of operator,~~ 106676
~~or both.~~ 106677

~~(4) The entering operator is eligible for medicaid payments~~ 106678
~~as provided in section 5111.21 of the Revised Code.~~ 106679

~~(B) The department shall determine the date a provider~~ 106680
~~agreement entered into under this section is to go into effect as~~ 106681
~~follows:~~ 106682

~~(1) The effective date shall give the department sufficient~~ 106683
~~time to process the change of operator, assure no duplicate~~ 106684
~~payments are made, and make the withholding required by section~~ 106685
~~5111.681 of the Revised Code, and withhold the final payment to~~ 106686
~~the exiting operator until one hundred eighty days after either of~~ 106687
~~the following:~~ 106688

~~(a) The date that the exiting operator submits to the~~ 106689
~~department a properly completed cost report under section 5111.682~~ 106690
~~of the Revised Code;~~ 106691

~~(b) The date that the department waives the cost report~~ 106692

~~requirement of section 5111.682 of the Revised Code.~~ 106693

(2) The effective date shall be not earlier than the later of 106694
the effective date of the change of operator or the date that the 106695
exiting operator or owner and entering operator comply with 106696
section 5111.67 of the Revised Code and division (A)(2) of this 106697
section. 106698

(3) The effective date shall be not later than the following 106699
after the later of the dates specified in division (B)(2) of this 106700
section: 106701

(a) Forty-five days if the change of operator does not entail 106702
the relocation of residents; 106703

(b) Ninety days if the change of operator entails the 106704
relocation of residents. 106705

Sec. 5111.68. (A) On receipt of a written notice under 106706
section 5111.66 of the Revised Code of a facility closure, 106707
voluntary termination, or voluntary withdrawal of participation 106708
~~or, on receipt of~~ a written notice under section 5111.67 of the 106709
Revised Code of a change of operator, or on the effective date of 106710
an involuntary termination, the department of job and family 106711
services shall estimate the amount of any overpayments made under 106712
the medicaid program to the exiting operator, including 106713
overpayments the exiting operator disputes, and other actual and 106714
potential debts the exiting operator owes or may owe to the 106715
department and United States centers for medicare and medicaid 106716
services under the medicaid program, including a franchise permit 106717
fee. 106718

(B) In estimating the exiting operator's other actual and 106719
potential debts to the department and the United States centers 106720
for medicare and medicaid services under the medicaid program, the 106721
department shall use a debt estimation methodology the director of 106722

job and family services shall establish in rules adopted under 106723
section 5111.689 of the Revised Code. The methodology shall 106724
provide for estimating all of the following that the department 106725
determines are applicable: 106726

(1) Refunds due the department under section 5111.27 of the 106727
Revised Code; 106728

(2) Interest owed to the department and United States centers 106729
for medicare and medicaid services; 106730

(3) Final civil monetary and other penalties for which all 106731
right of appeal has been exhausted; 106732

(4) Money owed the department and United States centers for 106733
medicare and medicaid services from any outstanding final fiscal 106734
audit, including a final fiscal audit for the last fiscal year or 106735
portion thereof in which the exiting operator participated in the 106736
medicaid program; 106737

(5) Other amounts the department determines are applicable. 106738

(C) The department shall provide the exiting operator written 106739
notice of the department's estimate under division (A) of this 106740
section not later than thirty days after the department receives 106741
the notice under section 5111.66 of the Revised Code of the 106742
facility closure, voluntary termination, or voluntary withdrawal 106743
of participation ~~or~~; the department receives the notice under 106744
section 5111.67 of the Revised Code of the change of operator; or 106745
the effective date of the involuntary termination. The 106746
department's written notice shall include the basis for the 106747
estimate. 106748

Sec. 5111.681. (A) Except as provided in divisions (B) ~~and~~, 106749
(C), and (D) of this section, the department of job and family 106750
services may withhold from payment due an exiting operator under 106751
the medicaid program the total amount specified in the notice 106752

provided under division (C) of section 5111.68 of the Revised Code 106753
that the exiting operator owes or may owe to the department and 106754
United States centers for medicare and medicaid services under the 106755
medicaid program. 106756

(B) In the case of a change of operator and subject to 106757
division ~~(D)~~(E) of this section, the following shall apply 106758
regarding a withholding under division (A) of this section if the 106759
exiting operator or entering operator or an affiliated operator 106760
executes a successor liability agreement meeting the requirements 106761
of division ~~(E)~~(F) of this section: 106762

(1) If the exiting operator, entering operator, or affiliated 106763
operator assumes liability for the total, actual amount of debt 106764
the exiting operator owes the department and the United States 106765
centers for medicare and medicaid services under the medicaid 106766
program as determined under section 5111.685 of the Revised Code, 106767
the department shall not make the withholding. 106768

(2) If the exiting operator, entering operator, or affiliated 106769
operator assumes liability for only the portion of the amount 106770
specified in division (B)(1) of this section that represents the 106771
franchise permit fee the exiting operator owes, the department 106772
shall withhold not more than the difference between the total 106773
amount specified in the notice provided under division (C) of 106774
section 5111.68 of the Revised Code and the amount for which the 106775
exiting operator, entering operator, or affiliated operator 106776
assumes liability. 106777

(C) In the case of a voluntary termination, voluntary 106778
withdrawal of participation, or facility closure and subject to 106779
division ~~(D)~~(E) of this section, the following shall apply 106780
regarding a withholding under division (A) of this section if the 106781
exiting operator or an affiliated operator executes a successor 106782
liability agreement meeting the requirements of division ~~(E)~~(F) of 106783

this section: 106784

(1) If the exiting operator or affiliated operator assumes 106785
liability for the total, actual amount of debt the exiting 106786
operator owes the department and the United States centers for 106787
medicare and medicaid services under the medicaid program as 106788
determined under section 5111.685 of the Revised Code, the 106789
department shall not make the withholding. 106790

(2) If the exiting operator or affiliated operator assumes 106791
liability for only the portion of the amount specified in division 106792
(C)(1) of this section that represents the franchise permit fee 106793
the exiting operator owes, the department shall withhold not more 106794
than the difference between the total amount specified in the 106795
notice provided under division (C) of section 5111.68 of the 106796
Revised Code and the amount for which the exiting operator or 106797
affiliated operator assumes liability. 106798

(D) In the case of an involuntary termination and subject to 106799
division (E) of this section, the following shall apply regarding 106800
a withholding under division (A) of this section if the exiting 106801
operator, the entering operator, or an affiliated operator 106802
executes a successor liability agreement meeting the requirements 106803
of division (F) of this section and the department approves the 106804
successor liability agreement: 106805

(1) If the exiting operator, entering operator, or affiliated 106806
operator assumes liability for the total, actual amount of debt 106807
the exiting operator owes the department and the United States 106808
centers for medicare and medicaid services under the medicaid 106809
program as determined under section 5111.685 of the Revised Code, 106810
the department shall not make the withholding. 106811

(2) If the exiting operator, entering operator, or affiliated 106812
operator assumes liability for only the portion of the amount 106813
specified in division (D)(1) of this section that represents the 106814

franchise permit fee the exiting operator owes, the department 106815
shall withhold not more than the difference between the total 106816
amount specified in the notice provided under division (C) of 106817
section 5111.68 of the Revised Code and the amount for which the 106818
exiting operator, entering operator, or affiliated operator 106819
assumes liability. 106820

(E) For an exiting operator or affiliated operator to be 106821
eligible to enter into a successor liability agreement under 106822
division (B) ~~or~~ (C), or (D) of this section, both of the 106823
following must apply: 106824

(1) The exiting operator or affiliated operator must have one 106825
or more valid provider agreements, other than the provider 106826
agreement for the nursing facility or intermediate care facility 106827
for the mentally retarded that is the subject of the involuntary 106828
termination, voluntary termination, voluntary withdrawal of 106829
participation, facility closure, or change of operator; 106830

(2) During the twelve-month period preceding either the 106831
effective date of the involuntary termination or the month in 106832
which the department receives the notice of the voluntary 106833
termination, voluntary withdrawal of participation, or facility 106834
closure under section 5111.66 of the Revised Code or the notice of 106835
the change of operator under section 5111.67 of the Revised Code, 106836
the average monthly medicaid payment made to the exiting operator 106837
or affiliated operator pursuant to the exiting operator's or 106838
affiliated operator's one or more provider agreements, other than 106839
the provider agreement for the nursing facility or intermediate 106840
care facility for the mentally retarded that is the subject of the 106841
involuntary termination, voluntary termination, voluntary 106842
withdrawal of participation, facility closure, or change of 106843
operator, must equal at least ninety per cent of the sum of the 106844
following: 106845

(a) The average monthly medicaid payment made to the exiting 106846

operator pursuant to the exiting operator's provider agreement for 106847
the nursing facility or intermediate care facility for the 106848
mentally retarded that is the subject of the involuntary 106849
termination, voluntary termination, voluntary withdrawal of 106850
participation, facility closure, or change of operator; 106851

(b) Whichever of the following apply: 106852

(i) If the exiting operator or affiliated operator has 106853
assumed liability under one or more other successor liability 106854
agreements, the total amount for which the exiting operator or 106855
affiliated operator has assumed liability under the other 106856
successor liability agreements; 106857

(ii) If the exiting operator or affiliated operator has not 106858
assumed liability under any other successor liability agreements, 106859
zero. 106860

~~(E)~~(F) A successor liability agreement executed under this 106861
section must comply with all of the following: 106862

(1) It must provide for the operator who executes the 106863
successor liability agreement to assume liability for either of 106864
the following as specified in the agreement: 106865

(a) The total, actual amount of debt the exiting operator 106866
owes the department and the United States centers for medicare and 106867
medicaid services under the medicaid program as determined under 106868
section 5111.685 of the Revised Code; 106869

(b) The portion of the amount specified in division 106870
~~(E)~~(F)(1)(a) of this section that represents the franchise permit 106871
fee the exiting operator owes. 106872

(2) It may not require the operator who executes the 106873
successor liability agreement to furnish a surety bond. 106874

(3) It must provide that the department, after determining 106875
under section 5111.685 of the Revised Code the actual amount of 106876

debt the exiting operator owes the department and United States 106877
centers for medicare and medicaid services under the medicaid 106878
program, may deduct the lesser of the following from medicaid 106879
payments made to the operator who executes the successor liability 106880
agreement: 106881

(a) The total, actual amount of debt the exiting operator 106882
owes the department and the United States centers for medicare and 106883
medicaid services under the medicaid program as determined under 106884
section 5111.685 of the Revised Code; 106885

(b) The amount for which the operator who executes the 106886
successor liability agreement assumes liability under the 106887
agreement. 106888

(4) It must provide that the deductions authorized by 106889
division ~~(E)~~(F)(3) of this section are to be made for a number of 106890
months, not to exceed six, agreed to by the operator who executes 106891
the successor liability agreement and the department or, if the 106892
operator who executes the successor liability agreement and 106893
department cannot agree on a number of months that is less than 106894
six, a greater number of months determined by the attorney general 106895
pursuant to a claims collection process authorized by statute of 106896
this state. 106897

(5) It must provide that, if the attorney general determines 106898
the number of months for which the deductions authorized by 106899
division ~~(E)~~(F)(3) of this section are to be made, the operator 106900
who executes the successor liability agreement shall pay, in 106901
addition to the amount collected pursuant to the attorney 106902
general's claims collection process, the part of the amount so 106903
collected that, if not for division ~~(G)~~(H) of this section, would 106904
be required by section 109.081 of the Revised Code to be paid into 106905
the attorney general claims fund. 106906

~~(F)~~(G) Execution of a successor liability agreement does not 106907

waive an exiting operator's right to contest the amount specified 106908
in the notice the department provides the exiting operator under 106909
division (C) of section 5111.68 of the Revised Code. 106910

~~(G)~~(H) Notwithstanding section 109.081 of the Revised Code, 106911
the entire amount that the attorney general, whether by employees 106912
or agents of the attorney general or by special counsel appointed 106913
pursuant to section 109.08 of the Revised Code, collects under a 106914
successor liability agreement, other than the additional amount 106915
the operator who executes the agreement is required by division 106916
~~(E)~~(F)(5) of this section to pay, shall be paid to the department 106917
of job and family services for deposit into the appropriate fund. 106918
The additional amount that the operator is required to pay shall 106919
be paid into the state treasury to the credit of the attorney 106920
general claims fund created under section 109.081 of the Revised 106921
Code. 106922

Sec. 5111.687. The department of job and family services, at 106923
its sole discretion, may release the amount withheld under 106924
division (A) of section 5111.681 of the Revised Code if the 106925
exiting operator submits to the department written notice of a 106926
postponement of a change of operator, facility closure, voluntary 106927
termination, or voluntary withdrawal of participation and the 106928
transactions leading to the change of operator, facility closure, 106929
voluntary termination, or voluntary withdrawal of participation 106930
are postponed for at least thirty days but less than ninety days 106931
after the date originally proposed for the change of operator, 106932
facility closure, voluntary termination, or voluntary withdrawal 106933
of participation as reported in the written notice required by 106934
section 5111.66 or 5111.67 of the Revised Code. The department 106935
shall release the amount withheld if the exiting operator submits 106936
to the department written notice of a cancellation or postponement 106937
of a change of operator, facility closure, voluntary termination, 106938
or voluntary withdrawal of participation and the transactions 106939

leading to the change of operator, facility closure, voluntary 106940
termination, or voluntary withdrawal of participation are canceled 106941
or postponed for more than ninety days after the date originally 106942
proposed for the change of operator, facility closure, voluntary 106943
termination, or voluntary withdrawal of participation as reported 106944
in the written notice required by section 5111.66 or 5111.67 of 106945
the Revised Code. A written notice shall be provided to the 106946
department in accordance with the method specified in rules 106947
adopted under section 5111.689 of the Revised Code. 106948

After the department receives a written notice regarding a 106949
cancellation or postponement of a facility closure, voluntary 106950
termination, or voluntary withdrawal of participation, the exiting 106951
operator or owner shall provide new written notice to the 106952
department under section 5111.66 of the Revised Code regarding any 106953
transactions leading to a facility closure, voluntary termination, 106954
or voluntary withdrawal of participation at a future time. After 106955
the department receives a written notice regarding a cancellation 106956
or postponement of a change of operator, the exiting operator or 106957
owner and entering operator shall provide new written notice to 106958
the department under section 5111.67 of the Revised Code regarding 106959
any transactions leading to a change of operator at a future time. 106960

Sec. 5111.689. The director of job and family services shall 106961
adopt rules under section 5111.02 of the Revised Code to implement 106962
sections 5111.65 to 5111.689 of the Revised Code, including rules 106963
applicable to an exiting operator that provides written 106964
notification under section 5111.66 of the Revised Code of a 106965
voluntary withdrawal of participation. Rules adopted under this 106966
section shall comply with section 1919(c)(2)(F) of the "Social 106967
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 106968
regarding restrictions on transfers or discharges of nursing 106969
facility residents in the case of a voluntary withdrawal of 106970

participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections 5111.65 to 5111.689 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department under sections 5111.671 and 5111.672 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code:

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid

program authorized by a waiver granted by the United States 107001
department of health and human services under section 1115 or 1915 107002
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 107003
1315 or 1396n. "Medicaid waiver component" does not include a care 107004
management system established under section 5111.16 of the Revised 107005
Code. 107006

"Nursing facility" has the same meaning as in section 5111.20 107007
of the Revised Code. 107008

(B) The director of job and family services may adopt rules 107009
under Chapter 119. of the Revised Code governing medicaid waiver 107010
components that establish all of the following: 107011

(1) Eligibility requirements for the medicaid waiver 107012
components; 107013

(2) The type, amount, duration, and scope of services the 107014
medicaid waiver components provide; 107015

(3) The conditions under which the medicaid waiver components 107016
cover services; 107017

(4) The amount the medicaid waiver components pay for 107018
services or the method by which the amount is determined; 107019

(5) The manner in which the medicaid waiver components pay 107020
for services; 107021

(6) Safeguards for the health and welfare of medicaid 107022
recipients receiving services under a medicaid waiver component; 107023

(7) Procedures for ~~both of the following:~~ 107024

~~(a) Identifying individuals who meet all of the following 107025
requirements: 107026~~

~~(i) Are prioritizing and approving for enrollment individuals 107027
who are eligible for a home and community-based services medicaid 107028
waiver component and ~~on a waiting list for the component;~~ 107029~~

~~(ii) Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component);~~ 107030
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~~(iii) Choose choose to be enrolled in the component.~~ 107033

~~(b) Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home and community-based services medicaid waiver component.~~ 107034
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(8) Procedures for enforcing the rules, including 107038
establishing corrective action plans for, and imposing financial 107039
and administrative sanctions on, persons and government entities 107040
that violate the rules. Sanctions shall include terminating 107041
medicaid provider agreements. The procedures shall include due 107042
process protections. 107043

(9) Other policies necessary for the efficient administration 107044
of the medicaid waiver components. 107045

(C) The director of job and family services may adopt 107046
different rules for the different medicaid waiver components. The 107047
rules shall be consistent with the terms of the waiver authorizing 107048
the medicaid waiver component. 107049

(D) ~~Any~~ The following apply to procedures established under 107050
division (B)(7) of this section: 107051

(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section 173.401 of the Revised Code. ~~Any~~ 107052
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(2) Any such procedures established for the Ohio home care program shall be consistent with section 5111.862 of the Revised Code. 107055
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(3) Any such procedures established for the unified long-term services and support medicaid waiver program shall be consistent 107058
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with section 5111.865 of the Revised Code. 107060

(4) Any such procedures established under division (B)(7) of 107061
this section for the medicaid-funded component of the assisted 107062
living program shall be consistent with section 5111.894 of the 107063
Revised Code. 107064

Sec. 5111.861. (A) As used in this section: 107065

"Medicaid waiver component" has the same meaning as in 107066
section 5111.85 of the Revised Code. 107067

"Unified long-term services and support medicaid waiver 107068
component" means the medicaid waiver component authorized by 107069
section 5111.864 of the Revised Code. 107070

(B) Subject to division (C) of this section, there is hereby 107071
created the Ohio home care program. The program shall provide home 107072
and community-based services. The department of job and family 107073
services shall administer the program. 107074

(C) If the unified long-term services and support medicaid 107075
waiver component is created, the departments of aging and job and 107076
family services shall work together to determine whether the Ohio 107077
home care program should continue to operate as a separate 107078
medicaid waiver component or be terminated. If the departments 107079
determine that the Ohio home care program should be terminated, 107080
the program shall cease to exist on a date the departments shall 107081
specify. 107082

Sec. 5111.862. (A) As used in this section: 107083

"Nursing facility" has the same meaning as in section 5111.20 107084
of the Revised Code. 107085

"Ohio home care program" means the medicaid waiver component 107086
created under section 5111.861 of the Revised Code. 107087

(B) Subject to division (C) of section 5111.861 of the 107088

Revised Code, the department of job and family services shall 107089
establish a home first component of the Ohio home care program 107090
under which eligible individuals may be enrolled in the Ohio home 107091
care program in accordance with this section. An individual is 107092
eligible for the Ohio home care program's home first component if 107093
both of the following apply: 107094

(1) The individual has been determined to be eligible for the 107095
Ohio home care program. 107096

(2) At least one of the following applies: 107097

(a) The individual has been admitted to a nursing facility. 107098

(b) A physician has determined and documented in writing that 107099
the individual has a medical condition that, unless the individual 107100
is enrolled in home and community-based services such as the Ohio 107101
home care program, will require the individual to be admitted to a 107102
nursing facility within thirty days of the physician's 107103
determination. 107104

(c) The individual has been hospitalized and a physician has 107105
determined and documented in writing that, unless the individual 107106
is enrolled in home and community-based services such as the Ohio 107107
home care program, the individual is to be transported directly 107108
from the hospital to a nursing facility and admitted. 107109

(C) Each month, each county department of job and family 107110
services shall identify individuals residing in the county that 107111
the county department serves who are eligible for the home first 107112
component of the Ohio home care program. When a county department 107113
identifies such an individual, the county department shall 107114
determine whether the Ohio home care program is appropriate for 107115
the individual and whether the individual would rather participate 107116
in the Ohio home care program than continue or begin to reside in 107117
a nursing facility. If the county department determines that the 107118
Ohio home care program is appropriate for the individual and the 107119

individual would rather participate in the Ohio home care program 107120
than continue or begin to reside in a nursing facility, the county 107121
department shall so notify the state department of job and family 107122
services. On receipt of the notice from the county department, the 107123
state department shall approve the individual's enrollment in the 107124
Ohio home care program regardless of the waiting list for the Ohio 107125
home care program, unless the enrollment would cause the Ohio home 107126
care program to exceed any limit on the number of individuals who 107127
may be enrolled in the program as set by the United States 107128
secretary of health and human services in the waiver authorizing 107129
the Ohio home care program. 107130

Sec. 5111.863. (A) As used in this section: 107131

"Medicaid waiver component" has the same meaning as in 107132
section 5111.85 of the Revised Code. 107133

"Unified long-term services and support medicaid waiver 107134
component" means the medicaid waiver component authorized by 107135
section 5111.864 of the Revised Code. 107136

(B) Subject to division (C) of this section, there is hereby 107137
created the Ohio transitions II aging carve-out program. The 107138
program shall provide home and community-based services. The 107139
department of job and family services shall administer the 107140
program. 107141

(C) If the unified long-term services and support medicaid 107142
waiver component is created, the departments of aging and job and 107143
family services shall work together to determine whether the Ohio 107144
transitions II aging carve-out program should continue to operate 107145
as a separate medicaid waiver component or be terminated. If the 107146
departments determine that the Ohio transitions II aging carve-out 107147
program should be terminated, the program shall cease to exist on 107148
a date the departments shall specify. 107149

Sec. 5111.864. (A) As used in this section: 107150

"Medicaid waiver component" has the same meaning as in 107151
section 5111.85 of the Revised Code. 107152

"Nursing facility" has the same meaning as in section 5111.20 107153
of the Revised Code. 107154

(B) The director of job and family services shall submit a 107155
request to the United States secretary of health and human 107156
services pursuant to section 1915n of the "Social Security Act," 107157
95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain 107158
approval to create a unified long-term services and support 107159
medicaid waiver component to provide home and community-based 107160
services to eligible individuals of any age who require the level 107161
of care provided by nursing facilities. The director of job and 107162
family services shall work with the director of aging in seeking 107163
approval of the unified long-term services and support medicaid 107164
waiver component and, if the approval is obtained, in creating and 107165
implementing the component. 107166

If the request to create the unified long-term services and 107167
support medicaid waiver component is approved, the director of job 107168
and family services, working with the director of aging, shall 107169
adopt rules under section 5111.85 of the Revised Code to implement 107170
the component. The rules may authorize the director of aging to 107171
adopt rules in accordance with Chapter 119. of the Revised Code 107172
governing aspects of the unified long-term services and support 107173
medicaid waiver component. 107174

Sec. 5111.865. (A) As used in this section: 107175

"Nursing facility" has the same meaning as in section 5111.20 107176
of the Revised Code. 107177

"Residential care facility" has the same meaning as in 107178
section 3721.01 of the Revised Code. 107179

"Unified long-term services and support medicaid waiver program" or "program" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 107180
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(B) If the United States secretary of health and human services approves the request submitted under section 5111.864 of the Revised Code to create the unified long-term services and support medicaid waiver program, the department of job and family services shall establish a home first component of the program under which eligible individuals may be enrolled in the program in accordance with this section. An individual is eligible for the program's home first component if both of the following apply: 107183
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(1) The individual has been determined to be eligible for the program. 107191
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(2) At least one of the following applies: 107193

(a) The individual has been admitted to a nursing facility. 107194

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination. 107195
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(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the program, the individual is to be transported directly from the hospital to a nursing facility and admitted; 107200
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(d) Both of the following apply: 107205

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code 107206
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or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code. 107210
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(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual should be admitted to a nursing facility. 107212
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(e) If individuals residing in a residential care facility are eligible for the program, the individual resided in a residential care facility for at least six months immediately before applying for the program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources such that the individual is unable to continue to afford the cost of residing in the residential care facility. 107217
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(C) Each month, each county department of job and family services and each area agency on aging shall identify individuals residing in the county or area that the county department or agency serves who are eligible for the home first component of the unified long-term services and support medicaid waiver program. When a county department or agency identifies such an individual, the county department or agency shall determine whether the program is appropriate for the individual and whether the individual would rather participate in the program than continue or begin to reside in a nursing facility. If the county department or agency determines that the program is appropriate for the individual and the individual would rather participate in the program than continue or begin to reside in a nursing facility, the county department or agency shall so notify the state department of job and family services. On receipt of the notice from the county department or agency, the state department shall approve the individual's enrollment in the program regardless of 107225
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the waiting list for the program, unless the enrollment would 107242
cause the program to exceed any limit on the number of individuals 107243
who may be enrolled in the program as set by the United States 107244
secretary of health and human services in the waiver authorizing 107245
the program. 107246

Sec. 5111.871. The department of job and family services 107247
shall enter into a contract with the department of developmental 107248
disabilities under section 5111.91 of the Revised Code with regard 107249
to one or more of the medicaid waiver components ~~of the medicaid~~ 107250
~~program~~ established by the department of job and family services 107251
under ~~one or more of the medicaid waivers sought under~~ section 107252
5111.87 of the Revised Code. Subject, if needed, to the approval 107253
of the United States secretary of health and human services, the 107254
contract shall include the medicaid waiver component known as the 107255
transitions developmental disabilities waiver. The contract shall 107256
provide for the department of developmental disabilities to 107257
administer the components in accordance with the terms of the 107258
waivers. The contract shall include a schedule for the department 107259
of developmental disabilities to begin administering the 107260
transitions developmental disabilities waiver. The directors of 107261
job and family services and developmental disabilities shall adopt 107262
rules in accordance with Chapter 119. of the Revised Code 107263
governing the components. 107264

If the department of developmental disabilities or the 107265
department of job and family services denies an individual's 107266
application for home and community-based services provided under 107267
any of these medicaid components, the department that denied the 107268
services shall give timely notice to the individual that the 107269
individual may request a hearing under section 5101.35 of the 107270
Revised Code. 107271

The departments of developmental disabilities and job and 107272

family services may approve, reduce, deny, or terminate a service 107273
included in the individualized service plan developed for a 107274
medicaid recipient eligible for home and community-based services 107275
provided under any of these medicaid components. The departments 107276
shall consider the recommendations a county board of developmental 107277
disabilities makes under division (A)(1)(c) of section 5126.055 of 107278
the Revised Code. If either department approves, reduces, denies, 107279
or terminates a service, that department shall give timely notice 107280
to the medicaid recipient that the recipient may request a hearing 107281
under section 5101.35 of the Revised Code. 107282

If supported living, as defined in section 5126.01 of the 107283
Revised Code, is to be provided as a service under any of these 107284
components, any person or government entity with a current, valid 107285
medicaid provider agreement and a current, valid certificate under 107286
section 5123.161 of the Revised Code may provide the service. 107287

If a service is to be provided under any of these components 107288
by a residential facility, as defined in section 5123.19 of the 107289
Revised Code, any person or government entity with a current, 107290
valid medicaid provider agreement and a current, valid license 107291
under section 5123.19 of the Revised Code may provide the service. 107292

Sec. 5111.872. ~~When~~ (A) Subject to division (B) of this 107293
section, when the department of developmental disabilities 107294
allocates enrollment numbers to a county board of developmental 107295
disabilities for home and community-based services specified in 107296
division (B)(1) of section 5111.87 of the Revised Code and 107297
provided under any of the medicaid waiver components ~~of the~~ 107298
~~medicaid program~~ that the department administers under section 107299
5111.871 of the Revised Code, the department shall consider all of 107300
the following: 107301

~~(A)~~(1) The number of individuals with mental retardation or 107302
other developmental disability who are on a waiting list the 107303

county board establishes under ~~division (C) of~~ section 5126.042 of 107304
the Revised Code for those services and are given priority on the 107305
waiting list ~~pursuant to division (D) or (E) of that section;~~ 107306

~~(B)(2)~~ The implementation component required by division 107307
(A)(3) of section 5126.054 of the Revised Code of the county 107308
board's plan approved under section 5123.046 of the Revised Code; 107309

~~(C)(3)~~ Anything else the department considers necessary to 107310
enable county boards to provide those services to individuals in 107311
accordance with the priority requirements ~~of divisions (D) and (E)~~ 107312
~~of~~ for waiting lists established under section 5126.042 of the 107313
Revised Code for those services. 107314

(B) Division (A) of this section applies to home and 107315
community-based services provided under the medicaid waiver 107316
component known as the transitions developmental disabilities 107317
waiver only to the extent, if any, provided by the contract 107318
required by section 5111.871 of the Revised Code regarding the 107319
waiver. 107320

Sec. 5111.873. ~~(A) Not later than the effective date of the 107321
first of any medicaid waivers the United States secretary of 107322
health and human services grants pursuant to a request made under 107323
section 5111.87 of the Revised Code Subject to division (D) of 107324
this section, the director of job and family services shall adopt 107325
rules in accordance with Chapter 119. of the Revised Code 107326
establishing statewide fee schedules the amount of reimbursement 107327
or the methods by which amounts of reimbursement are to be 107328
determined for home and community-based services specified in 107329
division (B)(1) of section 5111.87 of the Revised Code and 107330
provided under the components of the medicaid program that the 107331
department of developmental disabilities administers under section 107332
5111.871 of the Revised Code. ~~The~~ With respect to these rules 107333
~~shall provide for,~~ all of the following apply: 107334~~

(1) The rules shall establish procedures for the department 107335
of developmental disabilities to follow in arranging for the 107336
initial and ongoing collection of cost information from a 107337
comprehensive, statistically valid sample of persons and 107338
government entities providing the services at the time the 107339
information is obtained~~+~~. 107340

(2) The rules shall establish procedures for the collection 107341
of consumer-specific information through an assessment instrument 107342
the department of developmental disabilities shall provide to the 107343
department of job and family services~~+~~. 107344

(3) With the information collected pursuant to divisions 107345
(A)(1) and (2) of this section, an analysis of that information, 107346
and other information the director determines relevant, ~~methods~~ 107347
~~and~~ the rules shall establish reimbursement standards ~~for~~ 107348
~~calculating the fee schedules~~ that do all of the following: 107349

(a) Assure that ~~the fees are~~ reimbursement is consistent with 107350
efficiency, economy, and quality of care; 107351

(b) Consider the intensity of consumer resource need; 107352

(c) Recognize variations in different geographic areas 107353
regarding the resources necessary to assure the health and welfare 107354
of consumers; 107355

(d) Recognize variations in environmental supports available 107356
to consumers. 107357

(B) As part of the process of adopting rules under this 107358
section, the director shall consult with the director of 107359
developmental disabilities, representatives of county boards of 107360
developmental disabilities, persons who provide the home and 107361
community-based services, and other persons and government 107362
entities the director identifies. 107363

(C) The directors of job and family services and 107364

developmental disabilities shall review the rules adopted under 107365
this section at times they determine are necessary to ensure that 107366
the ~~methods and~~ amount of reimbursement or the methods by which 107367
the amounts of reimbursement are to be determined continue to meet 107368
the reimbursement standards established ~~by the rules for~~ 107369
~~calculating the fee schedules continue to do everything that~~ under 107370
division (A)(3) of this section ~~requires~~. 107371

(D) This section applies to home and community-based services 107372
provided under the medicaid waiver component known as the 107373
transitions developmental disabilities waiver only to the extent, 107374
if any, provided by the contract required by section 5111.871 of 107375
the Revised Code regarding the waiver. 107376

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 107377
of the Revised Code: 107378

"Home and community-based services" has the same meaning as 107379
in section 5123.01 of the Revised Code. 107380

"ICF/MR services" means intermediate care facility for the 107381
mentally retarded services covered by the medicaid program that an 107382
intermediate care facility for the mentally retarded provides to a 107383
resident of the facility who is a medicaid recipient eligible for 107384
medicaid-covered intermediate care facility for the mentally 107385
retarded services. 107386

"Intermediate care facility for the mentally retarded" means 107387
an intermediate care facility for the mentally retarded that is 107388
certified as in compliance with applicable standards for the 107389
medicaid program by the director of health in accordance with 107390
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 107391
U.S.C. 1396, as amended, and licensed as a residential facility 107392
under section 5123.19 of the Revised Code. 107393

"Residential facility" has the same meaning as in section 107394

5123.19 of the Revised Code. 107395

(B) For the purpose of increasing the number of slots 107396
available for home and community-based services and subject to 107397
sections 5111.877 and 5111.878 of the Revised Code, the operator 107398
of an intermediate care facility for the mentally retarded may 107399
convert some or all of the beds in the facility from providing 107400
ICF/MR services to providing home and community-based services if 107401
all of the following requirements are met: 107402

(1) The operator provides the directors of health, job and 107403
family services, and developmental disabilities at least ninety 107404
days' notice of the operator's intent to ~~relinquish the facility's~~ 107405
~~certification as an intermediate care facility for the mentally~~ 107406
~~retarded and to begin providing home and community based services~~ 107407
make the conversion. 107408

(2) The operator complies with the requirements of sections 107409
5111.65 to 5111.689 of the Revised Code regarding a voluntary 107410
termination as defined in section 5111.65 of the Revised Code if 107411
those requirements are applicable. 107412

(3) ~~The~~ If the operator intends to convert all of the 107413
facility's beds, the operator notifies each of the facility's 107414
residents that the facility is to cease providing ICF/MR services 107415
and inform each resident that the resident may do either of the 107416
following: 107417

(a) Continue to receive ICF/MR services by transferring to 107418
another facility that is an intermediate care facility for the 107419
mentally retarded willing and able to accept the resident if the 107420
resident continues to qualify for ICF/MR services; 107421

(b) Begin to receive home and community-based services 107422
instead of ICF/MR services from any provider of home and 107423
community-based services that is willing and able to provide the 107424
services to the resident if the resident is eligible for the 107425

services and a slot for the services is available to the resident. 107426

(4) If the operator intends to convert some but not all of the facility's beds, the operator notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following: 107427
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(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services; 107433
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(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident. 107437
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(5) The operator meets the requirements for providing home and community-based services, including the following: 107442
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(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility; 107444
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(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's residential facility license under section 5123.19 of the Revised Code. 107447
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~~(5)~~(6) The ~~director~~ directors of developmental disabilities approves and job and family services approve the conversion. 107451
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(C) A decision by the directors to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the directors shall consider all of the following: 107453
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(1) The fiscal impact on the facility if some but not all of the beds are converted; 107456
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(2) The fiscal impact on the medical assistance program; 107458

(3) The availability of home and community-based services. 107459

(D) The notice provided to the directors under division (B)(1) of this section shall specify whether some or all of the facility's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the facility's beds are to be converted and how many of the beds are to continue to provide ICF/MR services. The notice to the director of developmental disabilities under division (B)(1) of this section shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code. 107460
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~~(D)~~(E)(1) If the director directors of developmental disabilities approves and job and family services approve a conversion under division (B)(C) of this section, the director of health shall terminate do the following: 107470
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(a) Terminate the certification of the intermediate care facility for the mentally retarded if the notice specifies that all of the facility's beds are to be converted; 107474
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(b) Reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted. The 107477
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(2) The director of health shall notify the director of job and family services of the termination or reduction. On receipt of the director of health's notice, the director of job and family services shall terminate do the following: 107480
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(a) Terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility 107484
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if the facility's certification was terminated; 107486

(b) Amend the operator's medicaid provider agreement to 107487
reflect the facility's reduced certified capacity if the 107488
facility's certified capacity is reduced. The 107489

(3) In the case of action taken under division (E)(2)(a) of 107490
this section, the operator is not entitled to notice or a hearing 107491
under Chapter 119. of the Revised Code before the director of job 107492
and family services terminates the medicaid provider agreement. 107493

Sec. 5111.877. The director of job and family services may 107494
seek approval from the United States secretary of health and human 107495
services for not more than a total of ~~one~~ two hundred slots for 107496
home and community-based services for the purposes of sections 107497
5111.874, 5111.875, and 5111.876 of the Revised Code. 107498

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of 107499
the Revised Code: 107500

(1) "Adult" means an individual at least eighteen years of 107501
age. 107502

(2) "Authorized representative" means the following: 107503

(a) In the case of a consumer who is a minor, the consumer's 107504
parent, custodian, or guardian; 107505

(b) In the case of a consumer who is an adult, an individual 107506
selected by the consumer pursuant to section 5111.8810 of the 107507
Revised Code to act on the consumer's behalf for purposes 107508
regarding home care attendant services. 107509

(3) "Authorizing health care professional" means a health 107510
care professional who, pursuant to section 5111.887 of the Revised 107511
Code, authorizes a home care attendant to assist a consumer with 107512
self-administration of medication, nursing tasks, or both. 107513

(4) "Consumer" means an individual to whom all of the 107514

following apply:	107515
(a) The individual is enrolled in a participating medicaid waiver component.	107516 107517
(b) The individual has a medically determinable physical impairment to which both of the following apply:	107518 107519
(i) It is expected to last for a continuous period of not less than twelve months.	107520 107521
(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.	107522 107523 107524 107525
(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.	107526 107527 107528 107529
(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.	107530 107531 107532 107533
(5) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	107534 107535
(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.	107536 107537
(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.	107538 107539
(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.	107540 107541
(9) "Health care professional" means a physician or registered nurse.	107542 107543

- (10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers. 107544
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- (11) "Home care attendant services" means all of the following as provided by a home care attendant: 107548
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- (a) Personal care aide services; 107550
- (b) Assistance with the self-administration of medication; 107551
- (c) Assistance with nursing tasks. 107552
- (12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum. 107553
107554
- (13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 107555
107556
- (14) "Medication" means a drug as defined in section 4729.01 of the Revised Code. 107557
107558
- (15) "Minor" means an individual under eighteen years of age. 107559
- (16) "Participating medicaid waiver component" means both of the following: 107560
107561
- (a) ~~The medicaid waiver component known as Ohio home care that the department of job and family services administers~~ program created under section 5111.861 of the Revised Code; 107562
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107564
- (b) ~~The medicaid waiver component known as Ohio transitions II aging carve-out that the department of job and family services administers~~ program created under section 5111.863 of the Revised Code. 107565
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- (17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 107569
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107571
- (18) "Practice of nursing as a registered nurse," "practice 107572

of nursing as a licensed practical nurse," and "registered nurse" 107573
have the same meanings as in section 4723.01 of the Revised Code. 107574
"Registered nurse" includes an advanced practice nurse, as defined 107575
in section 4723.01 of the Revised Code. 107576

(19) "Schedule II," "schedule III," "schedule IV," and 107577
"schedule V" have the same meanings as in section 3719.01 of the 107578
Revised Code. 107579

(B) The director of job and family services may submit 107580
requests to the United States secretary of health and human 107581
services to amend the federal medicaid waivers authorizing the 107582
participating medicaid waiver components to have those components 107583
cover home care attendant services in accordance with sections 107584
5111.88 to 5111.8810 and rules adopted under section 5111.8811 of 107585
the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 107586
of the Revised Code, those sections shall be implemented regarding 107587
a participating medicaid waiver component only if the secretary 107588
approves a waiver amendment for the component. 107589

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of 107590
the Revised Code: 107591

"Area agency on aging" has the same meaning as in section 107592
173.14 of the Revised Code. 107593

"Assisted living program" means the program created under 107594
this section. 107595

"Assisted living services" means the following home and 107596
community-based services: personal care, homemaker, chore, 107597
attendant care, companion, medication oversight, and therapeutic 107598
social and recreational programming. 107599

"Assisted living waiver" means the federal medicaid waiver 107600
granted by the United States secretary of health and human 107601
services that authorizes the medicaid-funded component of the 107602

assisted living program. 107603

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code. 107604
107605

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code. 107606
107607
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"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity. 107609
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"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 107614
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"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 107616
107617

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code. 107618
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~~"State administrative agency" means the department of job and family services if the department of job and family services administers the assisted living program or the department of aging if the department of aging administers the assisted living program.~~ 107620
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"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 107625
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107627

(B) There is hereby created the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements ~~established under section 5111.891 of the Revised Code. The Subject to~~ division (C) of this section, the program may not serve more 107628
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~~individuals than the number that is set by the United States
secretary of health and human services when the medicaid waiver
authorizing the program is approved shall have a medicaid-funded
component and a state-funded component.~~ 107633
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(C)(1) Unless the medicaid-funded component of the assisted
living program is terminated under division (C)(2) of this
section, all of the following apply: 107637
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107639

(a) The department of aging shall administer the
medicaid-funded component through a contract entered into with the
department of job and family services under section 5111.91 of the
Revised Code. 107640
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(b) The contract shall include an estimate of the
medicaid-funded component's costs. The program 107644
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(c) The medicaid-funded component shall be operated as a
separate medicaid waiver component until the United States
secretary approves the consolidated federal medicaid waiver sought
under section 5111.861 of the Revised Code. The program shall be
part of the consolidated federal medicaid waiver sought under that
section if the United States secretary approves the waiver. 107646
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~~If the director of budget and management approves the
contract, the department of job and family services shall enter
into a contract with the department of aging under section 5111.91
of the Revised Code that provides for the department of aging to
administer the assisted living program. The contract shall include
an estimate of the program's costs.~~ 107652
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The (d) The medicaid-funded component may not serve more
individuals than is set by the United States secretary of health
and human services in the assisted living waiver. 107658
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(e) The director of job and family services may adopt rules
under section 5111.85 of the Revised Code regarding the assisted
living program medicaid-funded component. The 107661
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(f) The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the ~~program~~ medicaid-funded component that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for not more than three months.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.

Sec. 5111.891. To be eligible for the medicaid-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

~~(B) At the time the individual applies for the assisted living program, be one of the following:~~

(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long-term care if not for the assisted living program;	107694
	107695
	107696
(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program;	107697
	107698
	107699
(a) The PASSPORT program created under section 173.40 of the Revised Code;	107700
	107701
(b) The choices program created under section 173.403 of the Revised Code;	107702
	107703
(c) A medicaid waiver component that the department of job and family services administers.	107704
	107705
(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.	107706
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(C) At the time the individual receives <u>While receiving</u> assisted living services under the <u>assisted living program medicaid-funded component</u>, reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the <u>assisted living program component</u>, including both of the following:	107710
	107711
	107712
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	107715
(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;	107716
	107717
	107718
	107719
	107720
(2) A county or district home licensed as a residential care facility.	107721
	107722
(D)(C) Meet all other eligibility requirements for the	107723

assisted living program medicaid-funded component established in 107724
rules adopted under pursuant to division (C) of section 5111.85 107725
5111.89 of the Revised Code. 107726

Sec. 5111.892. To be eligible for the state-funded component 107727
of the assisted living program, an individual must meet all of the 107728
following requirements: 107729

(A) The individual must need an intermediate level of care as 107730
determined under rule 5101:3-3-06 of the Administrative Code; 107731

(B) The individual must have an application for the 107732
medicaid-funded component of the assisted living program (or, if 107733
the medicaid-funded component is terminated under division (C)(2) 107734
of section 5111.89 of the Revised Code, the unified long-term 107735
services and support medicaid waiver component) pending and the 107736
department or the department's designee must have determined that 107737
the individual meets the nonfinancial eligibility requirements of 107738
the medicaid-funded component (or, if the medicaid-funded 107739
component is terminated under division (C)(2) of section 5111.89 107740
of the Revised Code, the unified long-term services and support 107741
medicaid waiver component) and not have reason to doubt that the 107742
individual meets the financial eligibility requirements of the 107743
medicaid-funded component (or, if the medicaid-funded component is 107744
terminated under division (C)(2) of section 5111.89 of the Revised 107745
Code, the unified long-term services and support medicaid waiver 107746
component). 107747

(C) While receiving assisted living services under 107748
state-funded component, the individual must reside in a 107749
residential care facility that is authorized by a valid provider 107750
agreement to participate in the component, including both of the 107751
following: 107752

(1) A residential care facility that is owned or operated by 107753
a metropolitan housing authority that has a contract with the 107754

United States department of housing and urban development to 107755
receive an operating subsidy or rental assistance for the 107756
residents of the facility; 107757

(2) A county or district home licensed as a residential care 107758
facility. 107759

(D) The individual must meet all other eligibility 107760
requirements for the state-funded component established in rules 107761
adopted under division (D) of section 5111.89 of the Revised Code. 107762

Sec. ~~5111.892~~ 5111.893. A residential care facility providing 107763
services covered by the assisted living program to an individual 107764
enrolled in the program shall have staff on-site twenty-four hours 107765
each day who are able to do all of the following: 107766
107767

(A) Meet the scheduled and unpredicted needs of the 107768
individuals enrolled in the assisted living program in a manner 107769
that promotes the individuals' dignity and independence; 107770

(B) Provide supervision services for those individuals; 107771

(C) Help keep the individuals safe and secure. 107772

Sec. 5111.894. (A) ~~The state administrative agency~~ Subject to 107773
division (C)(2) of section 5111.89 of the Revised Code, the 107774
department of aging shall establish a home first component of the 107775
assisted living program under which eligible individuals may be 107776
enrolled in the medicaid-funded component of the assisted living 107777
program in accordance with this section. An individual is eligible 107778
for the assisted living program's home first component if ~~all~~ both 107779
of the following apply: 107780

(1) The individual ~~is~~ has been determined to be eligible for 107781
the medicaid-funded component of the assisted living program. 107782

(2) ~~The individual is on the unified waiting list established~~ 107783

~~under section 173.404 of the Revised Code.~~ 107784

(3) At least one of the following applies: 107785

(a) The individual has been admitted to a nursing facility. 107786

(b) A physician has determined and documented in writing that 107787
the individual has a medical condition that, unless the individual 107788
is enrolled in home and community-based services such as the 107789
assisted living program, will require the individual to be 107790
admitted to a nursing facility within thirty days of the 107791
physician's determination. 107792

(c) The individual has been hospitalized and a physician has 107793
determined and documented in writing that, unless the individual 107794
is enrolled in home and community-based services such as the 107795
assisted living program, the individual is to be transported 107796
directly from the hospital to a nursing facility and admitted. 107797

(d) Both of the following apply: 107798

(i) The individual is the subject of a report made under 107799
section 5101.61 of the Revised Code regarding abuse, neglect, or 107800
exploitation or such a report referred to a county department of 107801
job and family services under section 5126.31 of the Revised Code 107802
or has made a request to a county department for protective 107803
services as defined in section 5101.60 of the Revised Code. 107804

(ii) A county department of job and family services and an 107805
area agency on aging have jointly documented in writing that, 107806
unless the individual is enrolled in home and community-based 107807
services such as the assisted living program, the individual 107808
should be admitted to a nursing facility. 107809

(e) The individual resided in a residential care facility for 107810
at least six months immediately before applying for the 107811
medicaid-funded component of the assisted living program and is at 107812
risk of imminent admission to a nursing facility because the costs 107813

of residing in the residential care facility have depleted the 107814
individual's resources such that the individual is unable to 107815
continue to afford the cost of residing in the residential care 107816
facility. 107817

(B) Each month, each area agency on aging shall identify 107818
individuals residing in the area that the area agency on aging 107819
serves who are eligible for the home first component of the 107820
assisted living program. When an area agency on aging identifies 107821
such an individual and determines that there is a vacancy in a 107822
residential care facility participating in the medicaid-funded 107823
component of the assisted living program that is acceptable to the 107824
individual, the agency shall notify the long-term care 107825
consultation program administrator serving the area in which the 107826
individual resides. The administrator shall determine whether the 107827
assisted living program is appropriate for the individual and 107828
whether the individual would rather participate in the assisted 107829
living program than continue or begin to reside in a nursing 107830
facility. If the administrator determines that the assisted living 107831
program is appropriate for the individual and the individual would 107832
rather participate in the assisted living program than continue or 107833
begin to reside in a nursing facility, the administrator shall so 107834
notify the ~~state administrative agency~~ department of aging. On 107835
receipt of the notice from the administrator, the ~~state~~ 107836
~~administrative agency~~ department shall approve the individual's 107837
enrollment in the medicaid-funded component of the assisted living 107838
program regardless of the unified waiting list established under 107839
section 173.404 of the Revised Code, unless the enrollment would 107840
cause the ~~assisted living program~~ component to exceed any limit on 107841
the number of individuals who may participate in the ~~program~~ 107842
component as set by the United States secretary of health and 107843
human services ~~when the medicaid waiver authorizing in the program~~ 107844
~~is approved~~ assisted living waiver. 107845

~~(C) Each quarter, the state administrative agency shall certify to the director of budget and management the estimated increase in costs of the assisted living program resulting from enrollment of individuals in the assisted living program pursuant to this section.~~

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

(C) How providers will be paid for providing the services;

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities ~~for~~ reimbursing with regard to providers, including program oversight and quality assurance.

Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of ~~mental health and boards of alcohol, drug addiction, and mental health~~ job and family services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers. If necessary, the director of job and family services

shall submit a medicaid state plan amendment to the United States 107876
secretary of health and human services regarding the department of 107877
job and family services' duty under this section. 107878

Sec. 5111.913. If the department of job and family services 107879
enters into a contract with the department of alcohol and drug 107880
addiction services under section 5111.91 of the Revised Code, the 107881
department of ~~alcohol and drug addiction services and boards of~~ 107882
~~alcohol, drug addiction, and mental health~~ job and family services 107883
shall pay the nonfederal share of any medicaid payment to a 107884
provider for services under the component, or aspect of the 107885
component, the department of alcohol and drug addiction services 107886
administers. If necessary, the director of job and family services 107887
shall submit a medicaid state plan amendment to the United States 107888
secretary of health and human services regarding the department of 107889
job and family services' duty under this section. 107890

Sec. 5111.94. (A) As used in this section, "vendor offset" 107891
means a reduction of a medicaid payment to a medicaid provider to 107892
correct a previous, incorrect medicaid payment to that provider. 107893

(B) There is hereby created in the state treasury the health 107894
care services administration fund. Except as provided in division 107895
(C) of this section, all the following shall be deposited into the 107896
fund: 107897

(1) Amounts deposited into the fund pursuant to sections 107898
5111.92 and 5111.93 of the Revised Code; 107899

(2) The amount of the state share of all money the department 107900
of job and family services, in fiscal year 2003 and each fiscal 107901
year thereafter, recovers pursuant to a tort action under the 107902
department's right of recovery under section 5101.58 of the 107903
Revised Code that exceeds the state share of all money the 107904
department, in fiscal year 2002, recovers pursuant to a tort 107905

action under that right of recovery; 107906

(3) Subject to division (D) of this section, the amount of 107907
the state share of all money the department of job and family 107908
services, in fiscal year 2003 and each fiscal year thereafter, 107909
recovers through audits of medicaid providers that exceeds the 107910
state share of all money the department, in fiscal year 2002, 107911
recovers through such audits; 107912

(4) Amounts from assessments on hospitals under section 107913
5112.06 of the Revised Code and intergovernmental transfers by 107914
governmental hospitals under section 5112.07 of the Revised Code 107915
that are deposited into the fund in accordance with the law; 107916

(5) Amounts that the department of education pays to the 107917
department of job and family services, if any, pursuant to an 107918
interagency agreement entered into under section 5111.713 of the 107919
Revised Code; 107920

(6) The application fees charged to providers under section 107921
5111.063 of the Revised Code. 107922

(C) No funds shall be deposited into the health care services 107923
administration fund in violation of federal statutes or 107924
regulations. 107925

(D) In determining under division (B)(3) of this section the 107926
amount of money the department, in a fiscal year, recovers through 107927
audits of medicaid providers, the amount recovered in the form of 107928
vendor offset shall be excluded. 107929

(E) The director of job and family services shall use funds 107930
available in the health care services administration fund to pay 107931
for costs associated with the administration of the medicaid 107932
program. 107933

Sec. 5111.941. ~~(A)~~ The medicaid revenue and collections fund 107934
is hereby created in the state treasury. Except as otherwise 107935

provided by statute or as authorized by the controlling board, 107936
~~both of the following shall be credited to the fund:~~ 107937

~~(1) The the nonfederal share of all medicaid-related 107938
revenues, collections, and recoveries:~~ 107939

~~(2) The monthly premiums charged under the children's buy in 107940
program pursuant to section 5101.5213 of the Revised Code shall be 107941
credited to the fund. 107942~~

~~(B) The department of job and family services shall use money 107943
credited to the medicaid revenue and collections fund to pay for 107944
medicaid services and contracts ~~and the children's buy in program~~ 107945
~~established under sections 5101.5211 to 5101.5216 of the Revised~~ 107946
~~Code.~~ 107947~~

Sec. 5111.944. (A) As used in this section: 107948

"Dual eligible individual" has the same meaning as in section 107949
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 107950
42 U.S.C. 1396n(h)(2)(B). 107951

"Dual eligible integrated care demonstration project" means 107952
the demonstration project authorized by section 5111.981 of the 107953
Revised Code. 107954

"Medicare program" means the program created under Title 107955
XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 107956
1395, as amended. 107957

(B) There is created in the state treasury the integrated 107958
care delivery systems fund. If the terms of the federal approval 107959
for the dual eligible integrated care demonstration project 107960
provide for the state to receive a portion of the amounts that the 107961
demonstration project saves the medicare program, such amounts 107962
shall be deposited into the fund. The department of job and family 107963
services shall use the money in the fund to further develop 107964

integrated delivery systems and improved care coordination for 107965
dual eligible individuals. 107966

Sec. 5111.945. There is created in the state treasury the 107967
health care special activities fund. The department of job and 107968
family services shall deposit all funds it receives pursuant to 107969
the administration of the medicaid program into the fund, other 107970
than any such funds that are required by law to be deposited into 107971
another fund. The department shall use the money in the fund to 107972
pay for expenses related to the services provided under, and the 107973
administration of, the medicaid program. 107974

Sec. 5111.97. (A) As used in this section and in section 107975
5111.971 of the Revised Code, "nursing facility" has the same 107976
meaning as in section 5111.20 of the Revised Code. 107977

(B) To the extent funds are available, the director of job 107978
and family services may establish the Ohio access success project 107979
to help medicaid recipients make the transition from residing in a 107980
nursing facility to residing in a community setting. The ~~program~~ 107981
project may be established as a separate ~~non-medicaid~~ nonmedicaid 107982
program or integrated into a new or existing program of 107983
medicaid-funded home and community-based services authorized by a 107984
waiver approved by the United States department of health and 107985
human services. The director shall permit any recipient of 107986
medicaid-funded nursing facility services to apply for 107987
participation in the ~~program~~ project, but may limit the number of 107988
~~program~~ project participants. ~~If an application is received before~~ 107989
~~the applicant has been a recipient of medicaid funded nursing~~ 107990
~~facility services for six months, the~~ 107991

The director shall ensure that an assessment of an applicant 107992
is conducted as soon as practicable to determine whether the 107993
applicant is eligible for participation in the ~~program~~ project. To 107994

the maximum extent possible, the assessment and eligibility 107995
determination shall be completed not later than the date that 107996
occurs six months after the applicant became a recipient of 107997
medicaid-funded nursing facility services. 107998

(C) To be eligible for benefits under the project, a medicaid 107999
recipient must satisfy all of the following requirements: 108000

(1) ~~Be~~ The medicaid recipient must be a recipient of 108001
medicaid-funded nursing facility services, at the time of applying 108002
for the project benefits~~;~~. 108003

~~(2) Need the level of care provided by nursing facilities;~~ 108004

~~(3) For participation in a non-medicaid~~ If the project is 108005
established as a nonmedicaid program, ~~receive services~~ the 108006
medicaid recipient must be able to remain in the community ~~with a~~ 108007
as a result of receiving project benefits and the projected cost 108008
of the benefits to the project does not exceeding exceed eighty 108009
per cent of the average monthly medicaid cost of a medicaid 108010
recipient in a nursing facility~~;~~ 108011

~~(4) For participation in a program established as part of.~~ 108012

(3) If the project is integrated into a medicaid-funded home 108013
and community-based services waiver program, the medicaid 108014
recipient must meet waiver enrollment criteria. 108015

(D) If the director establishes the Ohio access success 108016
project, the benefits provided under the project may include 108017
payment of all of the following: 108018

(1) The first month's rent in a community setting; 108019

(2) Rental deposits; 108020

(3) Utility deposits; 108021

(4) Moving expenses; 108022

(5) Other expenses not covered by the medicaid program that 108023

facilitate a medicaid recipient's move from a nursing facility to 108024
a community setting. 108025

(E) If the project is established as a ~~non-medicaid~~ 108026
nonmedicaid program, no participant may receive more than two 108027
thousand dollars worth of benefits under the project. 108028

(F) The director may submit a request to the United States 108029
secretary of health and human services pursuant to section 1915 of 108030
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 108031
as amended, to create a medicaid home and community-based services 108032
waiver program to serve individuals who meet the criteria for 108033
participation in the Ohio access success project. The director may 108034
adopt rules under Chapter 119. of the Revised Code for the 108035
administration and operation of the ~~program~~ project. 108036

Sec. 5111.981. (A) As used in this section: 108037

"Dual eligible individual" has the same meaning as in section 108038
1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 108039
42 U.S.C. 1396n(h)(2)(B). 108040

"Medicare program" means the program created under Title 108041
XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 108042
1395, as amended. 108043

(B) Subject to division (C) of this section, the director of 108044
job and family services may implement a demonstration project to 108045
test and evaluate the integration of the care that dual eligible 108046
individuals receive under the medicare and medicaid programs. No 108047
provision of Title LI of the Revised Code applies to the 108048
demonstration project if that provision implements or incorporates 108049
a provision of federal law governing the medicaid program and that 108050
provision of federal law does not apply to the demonstration 108051
project. 108052

(C) Before implementing the demonstration project under 108053

division (B) of this section, the director shall obtain the 108054
approval of the United States secretary of health and human 108055
services in the form of a federal medicaid waiver, medicaid state 108056
plan amendment, or demonstration grant. The director is required 108057
to seek the federal approval only if the director seeks to 108058
implement the demonstration project. The director shall implement 108059
the demonstration project in accordance with the terms of the 108060
federal approval, including the terms regarding the duration of 108061
the demonstration project. 108062

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 108063
Revised Code: 108064

(A) "Franchise permit fee rate" means the following: 108065

(1) ~~Until August 1, 2009, eleven dollars and ninety eight~~ 108066
~~cents;~~ 108067

~~(2) For the period beginning August 1, 2009, and ending June~~ 108068
~~30, 2010, fourteen dollars and seventy five cents;~~ 108069

~~(3) For fiscal year 2011 2012, thirteen seventeen dollars and~~ 108070
~~fifty five ninety-nine cents;~~ 108071

~~(4)(2) For fiscal year 2012 2013 and each fiscal year~~ 108072
~~thereafter, the rate used for the immediately preceding fiscal~~ 108073
~~year as adjusted in accordance with the composite inflation factor~~ 108074
~~established in rules adopted under section 5112.39 of the Revised~~ 108075
~~Code eighteen dollars and thirty-two cents.~~ 108076

(B) "Indirect guarantee percentage" means the percentage 108077
specified in section 1903(w)(4)(C)(ii) of the "Social Security 108078
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii), as 108079
amended, that is to be used in determining whether a class of 108080
providers is indirectly held harmless for any portion of the costs 108081
of a broad-based health-care-related tax. If the indirect 108082
guarantee percentage changes during a fiscal year, the indirect 108083

guarantee percentage is the following: 108084

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change; 108085
108086

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage. 108087
108088

(C) "Intermediate care facility for the mentally retarded" 108089
has the same meaning as in section 5111.20 of the Revised Code, 108090
except that, until August 1, 2009, it does not include any such 108091
facility operated by the department of developmental disabilities. 108092

~~(C)~~(D) "Medicaid" has the same meaning as in section 5111.01 108093
of the Revised Code. 108094

Sec. 5112.31. The department of job and family services shall 108095
do all of the following: 108096

(A) Subject to ~~division~~ divisions (B) and (C) of this section 108097
and for the purposes specified in sections 5112.37 and 5112.371 of 108098
the Revised Code, assess for each fiscal year each intermediate 108099
care facility for the mentally retarded a franchise permit fee 108100
equal to the franchise permit fee rate multiplied by the product 108101
of the following: 108102

(1) The number of beds certified under Title XIX of the 108103
"Social Security Act" on the first day of May of the calendar year 108104
in which the assessment is determined pursuant to division (A) of 108105
section 5112.33 of the Revised Code; 108106

(2) The ~~following number of days:~~ 108107

~~(a) For fiscal year 2010, the following:~~ 108108

~~(i) For the part of fiscal year 2010 during which the franchise permit fee rate is eleven dollars and ninety eight cents, the number of days during fiscal year 2010 during which the franchise permit fee rate is that amount;~~ 108109
108110
108111
108112

~~(ii) For the part of fiscal year 2010 during which the franchise permit fee rate is fourteen dollars and seventy five cents, the number of days during fiscal year 2010 during which the franchise permit fee is that amount;~~

~~(iii) For fiscal year 2011 and each fiscal year thereafter, the number of days in the fiscal year.~~

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds ~~five and one-half per cent~~ the indirect guarantee percentage of the actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year, do both of the following:

(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to ~~five and one-half per cent~~ the indirect guarantee percentage of actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.37. There is hereby created in the state treasury 108143
the home and community-based services for the mentally retarded 108144
and developmentally disabled fund. ~~Eighty-four~~ Eighty-one and ~~two~~ 108145
~~tenths~~ seventy-seven hundredths per cent of all installment 108146
payments and penalties paid by an intermediate care facility for 108147
the mentally retarded under sections 5112.33 and 5112.34 of the 108148
Revised Code for state fiscal year ~~2010~~ 2012 shall be deposited 108149
into the fund. ~~Seventy-nine~~ Eighty-two and ~~twelve hundredths~~ two 108150
tenths per cent of all installment payments and penalties paid by 108151
an intermediate care facility for the mentally retarded under 108152
sections 5112.33 and 5112.34 of the Revised Code for state fiscal 108153
year ~~2011~~ 2013 and thereafter shall be deposited into the fund. 108154
The department of job and family services shall distribute the 108155
money in the fund in accordance with rules adopted under section 108156
5112.39 of the Revised Code. The departments of job and family 108157
services and developmental disabilities shall use the money for 108158
the medicaid program established under Chapter 5111. of the 108159
Revised Code and home and community-based services to mentally 108160
retarded and developmentally disabled persons. 108161

Sec. 5112.371. There is hereby created in the state treasury 108162
the department of developmental disabilities operating and 108163
services fund. ~~Fifteen and eight tenths per cent of all~~ All 108164
installment payments and penalties paid by an intermediate care 108165
facility for the mentally retarded under sections 5112.33 and 108166
5112.34 of the Revised Code ~~for state fiscal year 2010~~ that are 108167
not deposited into the home and community-based services for the 108168
mentally retarded and developmentally disabled fund shall be 108169
deposited into the department of developmental disabilities 108170
operating and services fund. ~~Twenty and eighty eight hundredths~~ 108171
~~per cent of all installment payments and penalties paid by an~~ 108172
~~intermediate care facility for the mentally retarded under~~ 108173

~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 108174
~~year 2011 and thereafter shall be deposited into the fund. The~~ 108175
money in the fund shall be used for the expenses of the programs 108176
that the department of ~~mental retardation and~~ developmental 108177
disabilities administers and the department's administrative 108178
expenses. 108179

Sec. 5112.39. The director of job and family services shall 108180
adopt rules in accordance with Chapter 119. of the Revised Code to 108181
do all of the following: 108182

~~(A) Establish a composite inflation factor for the purpose of~~ 108183
~~division (A)(4) of section 5112.30 of the Revised Code;~~ 108184

~~(B)~~ Prescribe the actions the department will take to cease 108185
implementation of sections 5112.30 to 5112.39 of the Revised Code 108186
if the United States secretary of health and human services 108187
determines that the franchise permit fee imposed under section 108188
5112.31 of the Revised Code is an impermissible health 108189
care-related tax under section 1903(w) of the "Social Security 108190
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended; 108191

~~(C)~~(B) Establish the method of distributing the money in the 108192
home and community-based services for the mentally retarded and 108193
developmentally disabled fund created by section 5112.37 of the 108194
Revised Code; 108195

~~(D)~~(C) Establish any other requirements or procedures the 108196
director considers necessary to implement sections 5112.30 to 108197
5112.39 of the Revised Code. 108198

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the 108199
Revised Code: 108200

(A) "Applicable assessment percentage" means the percentage 108201
specified in rules adopted under section 5112.46 of the Revised 108202

<u>Code that is used in calculating a hospital's assessment under</u>	108203
<u>section 5112.41 of the Revised Code.</u>	108204
<u>(B)</u> "Assessment program year" means the twelve-month period	108205
beginning the first day of October of a calendar year and ending	108206
the last day of September of the following calendar year.	108207
(B) <u>(C)</u> "Cost reporting period" means the period of time used	108208
by a hospital in reporting costs for purposes of the medicare	108209
program.	108210
(C) <u>(D)</u> "Federal fiscal year" means the twelve-month period	108211
beginning the first day of October of a calendar year and ending	108212
the last day of September of the following calendar year.	108213
(D) <u>(E)</u> (1) Except as provided in division (D) <u>(E)</u> (2) of this	108214
section, "hospital" means a hospital to which any of the following	108215
applies:	108216
(a) The hospital is registered under section 3701.07 of the	108217
Revised Code as a general medical and surgical hospital or a	108218
pediatric general hospital and provides inpatient hospital	108219
services, as defined in 42 C.F.R. 440.10.	108220
(b) The hospital is recognized under the medicare program as	108221
a cancer hospital and is exempt from the medicare prospective	108222
payment system.	108223
(c) The hospital is a psychiatric hospital licensed under	108224
section 5119.20 of the Revised Code.	108225
(2) "Hospital" does not include either of the following:	108226
(a) A federal hospital;	108227
(b) A hospital that does not charge any of its patients for	108228
its services.	108229
(E) <u>(F)</u> "Hospital care assurance program" means the program	108230
established under sections 5112.01 to 5112.21 of the Revised Code.	108231

~~(F)~~(G) "Medicaid" has the same meaning as in section 5111.01 108232
of the Revised Code. 108233

~~(G)~~(H) "Medicare" means the program established under Title 108234
XVIII of the Social Security Act. 108235

~~(H)~~(I) "State fiscal year" means the twelve-month period 108236
beginning the first day of July of a calendar year and ending the 108237
last day of June of the following calendar year. 108238

~~(I)~~(J)(1) Except as provided in divisions ~~(I)~~(J)(2) and (3) 108239
of this section, "total facility costs" means the total costs to a 108240
hospital for all care provided to all patients, including the 108241
direct, indirect, and overhead costs to the hospital of all 108242
services, supplies, equipment, and capital related to the care of 108243
patients, regardless of whether patients are enrolled in a health 108244
insuring corporation. 108245

(2) "Total facility costs" excludes all of the following of a 108246
hospital's costs as shown on the cost-reporting data used for 108247
purposes of determining the hospital's assessment under section 108248
5112.41 of the Revised Code: 108249

(a) Skilled nursing services provided in distinct-part 108250
nursing facility units; 108251

(b) Home health services; 108252

(c) Hospice services; 108253

(d) Ambulance services; 108254

(e) Renting durable medical equipment; 108255

(f) Selling durable medical equipment. 108256

(3) "Total facility costs" excludes any costs excluded from a 108257
hospital's total facility costs pursuant to rules, if any, adopted 108258
under division (B)(1) of section 5112.46 of the Revised Code. 108259

Sec. 5112.41. (A) For the purposes specified in section 108260

5112.45 of the Revised Code and subject to section 5112.48 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal, ~~except as provided in division (D) of this section,~~ the applicable assessment percentage specified in division (B) of this section of the hospital's total facility costs for the period of time specified in division ~~(C)~~(B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of job and family services for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data or financial statements used to determine a hospital's assessment is subject to the same type of adjustments made to the cost-reporting data under the hospital care assurance program.

~~(B) The percentage specified in this division is the following:~~

~~(1) For the first assessment program year beginning after the effective date of this section, one and fifty two hundredths per cent;~~

~~(2) Subject to division (D) of this section, for the second assessment program year after the effective date of this section and each successive assessment program year, one and sixty one hundredths per cent.~~

~~(C) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the~~

federal fiscal year that precedes the assessment program year for 108292
which the assessment is imposed. 108293

~~(D) The department of job and family services shall apply to 108294
the United States secretary of health and human services for a 108295
waiver under 42 U.S.C. 1396b(w)(3)(E) to establish, for the second 108296
assessment program year after the effective date of this section 108297
and each successive assessment program year, a tiered assessment 108298
on hospitals' total facility costs instead of applying the 108299
percentage specified in division (B)(2) of this section. If the 108300
United States secretary denies the waiver, the department shall 108301
apply the percentage specified in division (B)(2) of this section 108302
for the second assessment program year after the effective date of 108303
this section and each successive assessment program year. 108304~~

~~(E)(C) The assessment imposed by this section on a hospital 108305
is in addition to the assessment imposed by section 5112.06 of the 108306
Revised Code. 108307~~

Sec. 5112.46. (A) The director of job and family services ~~may~~ 108308
shall adopt, amend, and rescind rules in accordance with Chapter 108309
119. of the Revised Code as necessary to implement sections 108310
5112.40 to 5112.48 of the Revised Code, including rules that 108311
specify the percentage of hospitals' total facility costs to be 108312
used in calculating hospitals' assessments under section 5112.41 108313
of the Revised Code. 108314

(B) The rules adopted under this section may ~~provide~~ do the 108315
following: 108316

(1) Provide that a hospital's total facility costs for the 108317
purpose of the assessment under section 5112.41 of the Revised 108318
Code exclude any of the following: 108319

~~(1)(a)~~ (a) A hospital's costs associated with providing care to 108320
recipients of any of the following: 108321

(a) (i) The medicaid program;	108322
(b) (ii) The medicare program;	108323
(c) (iii) The disability financial assistance program established under Chapter 5115. of the Revised Code;	108324 108325
(d) (iv) The program for medically handicapped children established under section 3701.023 of the Revised Code;	108326 108327
(e) (v) Services provided under the maternal and child health services block grant established under Title V of the Social Security Act.	108328 108329 108330
(2) (b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.	108331 108332 108333
<u>(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;</u>	108334 108335 108336
<u>(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section 5112.43 of the Revised Code.</u>	108337 108338 108339 108340
<u>(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under section 1903(w)(3)(E) of the "Social Security Act," 105 Stat. 1796 (1991), 42 U.S.C. 1396b(w)(3)(E), as amended, if the varied percentages would cause the assessments to not be imposed uniformly.</u>	108341 108342 108343 108344 108345 108346 108347 108348
Sec. 5112.99. (A) The director of job and family services shall impose a penalty for each day that a hospital fails to report the information required under section 5112.04 of the	108349 108350 108351

Revised Code on or before the dates specified in that section. The 108352
amount of the penalty shall be established by the director in 108353
rules adopted under section 5112.03 of the Revised Code. 108354

(B) In addition to any other remedy available to the 108355
department of job and family services under law to collect unpaid 108356
assessments and transfers under sections 5112.01 to 5112.21 of the 108357
Revised Code, the director shall impose a penalty of ten per cent 108358
of the amount due on any hospital that fails to pay assessments or 108359
make intergovernmental transfers by the dates required by rules 108360
adopted under section 5112.03 of the Revised Code. 108361

(C) In addition to any other remedy available to the 108362
department of job and family services under law to collect unpaid 108363
assessments imposed under section 5112.41 of the Revised Code, the 108364
director shall impose a penalty of ten per cent of the amount due 108365
on any hospital that fails to pay the assessment by the date it is 108366
due. 108367

(D) The director shall waive the penalties provided for in 108368
~~divisions (A) and (B)~~ of this section for good cause shown by the 108369
hospital. 108370

~~(D)~~(E) All penalties imposed under this section shall be 108371
deposited into the health care administration fund created by 108372
section 5111.94 of the Revised Code. 108373

Sec. 5112.991. The department of job and family services may 108374
offset the amount of a hospital's unpaid penalty imposed under 108375
section 5112.99 of the Revised Code from one or more payments due 108376
the hospital under the medicaid program. The total amount that may 108377
be offset from one or more payments shall not exceed the amount of 108378
the unpaid penalty. 108379

Sec. 5119.01. The director of mental health is the chief 108380
executive and administrative officer of the department of mental 108381

health. The director may establish procedures for the governance 108382
of the department, conduct of its employees and officers, 108383
performance of its business, and custody, use, and preservation of 108384
departmental records, papers, books, documents, and property. 108385
Whenever the Revised Code imposes a duty upon or requires an 108386
action of the department or any of its institutions, the director 108387
shall perform the action or duty in the name of the department, 108388
except that the medical director appointed pursuant to section 108389
5119.07 of the Revised Code shall be responsible for decisions 108390
relating to medical diagnosis, treatment, rehabilitation, quality 108391
assurance, and the clinical aspects of the following: licensure of 108392
hospitals and residential facilities, research, community mental 108393
health plans, and delivery of mental health services. 108394

The director shall: 108395

(A) Adopt rules for the proper execution of the powers and 108396
duties of the department with respect to the institutions under 108397
its control, and require the performance of additional duties by 108398
the officers of the institutions as necessary to fully meet the 108399
requirements, intents, and purposes of this chapter. In case of an 108400
apparent conflict between the powers conferred upon any managing 108401
officer and those conferred by such sections upon the department, 108402
the presumption shall be conclusive in favor of the department. 108403

(B) Adopt rules for the nonpartisan management of the 108404
institutions under the department's control. An officer or 108405
employee of the department or any officer or employee of any 108406
institution under its control who, by solicitation or otherwise, 108407
exerts influence directly or indirectly to induce any other 108408
officer or employee of the department or any of its institutions 108409
to adopt the exerting officer's or employee's political views or 108410
to favor any particular person, issue, or candidate for office 108411
shall be removed from the exerting officer's or employee's office 108412
or position, by the department in case of an officer or employee, 108413

and by the governor in case of the director. 108414

(C) Appoint such employees, including the medical director, 108415
as are necessary for the efficient conduct of the department, and 108416
prescribe their titles and duties; 108417

(D) Prescribe the forms of affidavits, applications, medical 108418
certificates, orders of hospitalization and release, and all other 108419
forms, reports, and records that are required in the 108420
hospitalization or admission and release of all persons to the 108421
institutions under the control of the department, or are otherwise 108422
required under this chapter or Chapter 5122. of the Revised Code; 108423

(E) Contract with hospitals licensed by the department under 108424
section 5119.20 of the Revised Code for the care and treatment of 108425
mentally ill patients, or with persons, organizations, or agencies 108426
for the custody, evaluation, supervision, care, or treatment of 108427
mentally ill persons receiving services elsewhere than within the 108428
enclosure of a hospital operated under section 5119.02 of the 108429
Revised Code; 108430

(F) Exercise the powers and perform the duties relating to 108431
community mental health facilities and services that are assigned 108432
to the director under this chapter and Chapter 340. of the Revised 108433
Code; 108434

(G) Develop and implement clinical evaluation and monitoring 108435
of services that are operated by the department; 108436

(H) ~~At the director's discretion, adopt rules establishing 108437
standards for the adequacy of services provided by community 108438
mental health facilities, and certify the compliance of such 108439
facilities with the standards for the purpose of authorizing their 108440
participation in the health care plans of health insuring 108441
corporations under Chapter 1751. and sickness and accident 108442
insurance policies issued under Chapter 3923. of the Revised Code. 108443
The director shall cease to certify such compliance two years 108444~~

~~after June 6, 2001. The director shall rescind the rules after the~~ 108445
~~date the director ceases to certify such compliance.~~ 108446

~~(I)~~ Adopt rules establishing standards for the performance of 108447
evaluations by a forensic center or other psychiatric program or 108448
facility of the mental condition of defendants ordered by the 108449
court under section 2919.271, or 2945.371 of the Revised Code, and 108450
for the treatment of defendants who have been found incompetent to 108451
stand trial and ordered by the court under section 2945.38, 108452
2945.39, 2945.401, or 2945.402 of the Revised Code to receive 108453
treatment in facilities; 108454

~~(J)~~(I) On behalf of the department, have the authority and 108455
responsibility for entering into contracts and other agreements; 108456

~~(K)~~(J) Prepare and publish regularly a state mental health 108457
plan that describes the department's philosophy, current 108458
activities, and long-term and short-term goals and activities; 108459

~~(L)~~(K) Adopt rules in accordance with Chapter 119. of the 108460
Revised Code specifying the supplemental services that may be 108461
provided through a trust authorized by section 5815.28 of the 108462
Revised Code; 108463

~~(M)~~(L) Adopt rules in accordance with Chapter 119. of the 108464
Revised Code establishing standards for the maintenance and 108465
distribution to a beneficiary of assets of a trust authorized by 108466
section 5815.28 of the Revised Code. 108467

Sec. 5119.012. The department of mental health has all the 108468
authority necessary to carry out its powers and duties under this 108469
chapter and Chapters 340., 2919., 2945., and 5122. of the Revised 108470
Code. 108471

Sec. 5119.013. Pursuant to the director of mental health's 108472
authority under division (I) of section 5119.01 of the Revised 108473
Code, the director may contract with agencies, institutions, and 108474

other entities both public and private, as necessary for the 108475
department of mental health to carry out its duties under this 108476
chapter and Chapters 340., 2919., 2945., and 5122. of the Revised 108477
Code. Chapter 125. of the Revised Code does not apply to contracts 108478
the director enters into under this section for services provided 108479
to individuals with mental illness by agencies, institutions, and 108480
other entities not owned or operated by the department of mental 108481
health. 108482

Sec. 5119.02. (A) The department of mental health shall 108483
maintain, operate, manage, and govern state institutions for the 108484
care and treatment of mentally ill persons. 108485

(B) The department of mental health may designate all 108486
institutions under its jurisdiction by appropriate respective 108487
names, regardless of present statutory designation. 108488

(C) Subject to section 5139.08 and pursuant to Chapter 5122. 108489
of the Revised Code and on the agreement of the departments of 108490
mental health and youth services, the department of mental health 108491
may receive from the department of youth services for psychiatric 108492
observation, diagnosis, or treatment any person eighteen years of 108493
age or older in the custody of the department of youth services. 108494
The departments shall enter into a written agreement specifying 108495
the procedures necessary to implement this division. 108496

(D) The department of mental health shall ~~provide and~~ 108497
designate hospitals, facilities, and community mental health 108498
agencies for the custody, care, and special treatment of, and 108499
authorize payment for such custody, care, and special treatment 108500
provided to, persons who are charged with a crime and who are 108501
found incompetent to stand trial or not guilty by reason of 108502
insanity. 108503

(E) The department of mental health may do all of the 108504

following: 108505

(1) Require reports from the managing officer of any 108506
institution under the department's jurisdiction, relating to the 108507
admission, examination, comprehensive evaluation, diagnosis, 108508
release, or discharge of any patient; 108509

(2) Visit each institution regularly to review its operations 108510
and to investigate complaints made by any patient or by any person 108511
on behalf of a patient, provided these duties may be performed by 108512
a person designated by the director. 108513

(F) The department of mental health shall divide the state 108514
into districts for the purpose of designating the institution in 108515
which mentally ill persons are hospitalized, and may change the 108516
districts. 108517

(G) In addition to the powers expressly conferred, the 108518
department of mental health shall have all powers and authority 108519
necessary for the full and efficient exercise of the executive, 108520
administrative, and fiscal supervision over the state institutions 108521
described in this section. 108522

(H) The department of mental health may provide for the 108523
custody, supervision, control, treatment, and training of mentally 108524
ill persons hospitalized elsewhere than within the enclosure of a 108525
hospital, if the department so determines with respect to any 108526
individual or group of individuals. In all such cases, the 108527
department shall ensure adequate and proper supervision for the 108528
protection of such persons and of the public. 108529

Sec. 5119.06. ~~(A)~~ The department of mental health shall: 108530

~~(1) Establish and~~ (A) To the extent the department has 108531
available resources and in consultation with boards of alcohol, 108532
drug addiction, and mental health services, support a ~~program at~~ 108533
~~the state level to promote a~~ community support system in 108534

accordance with section 340.03 of the Revised Code ~~to be available~~ 108535
~~for every alcohol, drug addiction, and mental health service~~ 108536
~~district on a district or multi-district basis.~~ The department 108537
shall define the essential elements of a community support system, 108538
shall assist in identifying resources, ~~and coordinating the~~ 108539
~~planning, evaluation, and delivery of services to facilitate the~~ 108540
~~access of mentally ill people to public services at federal,~~ 108541
~~state, and local levels, and shall operate~~ may prioritize support 108542
for one or more of the elements. 108543

(B) Operate inpatient and other mental health services 108544
~~pursuant to the approved community mental health plan.~~ 108545

~~(2)~~i 108546

(C) Provide training, consultation, and technical assistance 108547
regarding mental health programs and services and appropriate 108548
prevention and mental health promotion activities, including those 108549
that are culturally sensitive, to employees of the department, 108550
community mental health agencies and boards, and other agencies 108551
providing mental health services; 108552

~~(3) Promote~~ (D) To the extent the department has available 108553
resources, promote and support a full range of mental health 108554
services that are available and accessible to all residents of 108555
this state, especially for severely mentally disabled children, 108556
adolescents, and adults, and other special target populations, 108557
including racial and ethnic minorities, as determined by the 108558
department. ~~i~~ 108559

~~(4)~~(E) Design and set criteria for the determination of 108560
severe mental disability; 108561

~~(5)~~(F) Establish standards for evaluation of mental health 108562
programs; 108563

~~(6)~~(G) Promote, direct, conduct, and coordinate scientific 108564
research, taking ethnic and racial differences into consideration. 108565

concerning the causes and prevention of mental illness, methods of providing effective services and treatment, and means of enhancing the mental health of all residents of this state;

~~(7)~~(H) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for consumers of mental health services, including members of racial and ethnic minorities;

~~(8)~~(I) Establish a program to protect and promote the rights of persons receiving mental health services, including the issuance of guidelines on informed consent and other rights;

~~(9)~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;

~~(10)~~(K) Promote the involvement of persons who are receiving or have received mental health services, including families and other persons having a close relationship to a person receiving mental health services, in the planning, evaluation, delivery, and operation of mental health services-;

~~(11)~~(L) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of mental health. These constituencies shall include consumers of mental health services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department

shall adopt rules under Chapter 119. of the Revised Code that 108597
establish procedures for the notification and consultation 108598
required by this division. 108599

~~(12)~~(M) In cooperation with board of alcohol, drug addiction, 108600
and mental health services representatives, provide training 108601
regarding the provision of community-based mental health services 108602
to those department employees who are utilized in state-operated, 108603
community-based mental health services; 108604

~~(13)~~(N) Provide consultation to the department of 108605
rehabilitation and correction concerning the delivery of mental 108606
health services in state correctional institutions; 108607

~~(B) The department of mental health may negotiate and enter 108608
into agreements with other agencies and institutions, both public 108609
and private, for the joint performance of its duties. 108610~~

Sec. 5119.16. As used in this section, "free clinic" has the 108611
same meaning as in section 2305.2341 of the Revised Code. 108612

(A) The Subject to section 125.024 of the Revised Code, the 108613
department of mental health may provide certain goods and services 108614
for the department of mental health, the department of 108615
developmental disabilities, the department of rehabilitation and 108616
correction, the department of youth services, and other state, 108617
county, or municipal agencies requesting such goods and services 108618
when the department of mental health determines that it is in the 108619
public interest, and considers it advisable, to provide these 108620
goods and services. The Subject to section 125.024 of the Revised 108621
Code, the department of mental health also may provide goods and 108622
services to agencies operated by the United States government and 108623
to public or private nonprofit agencies, other than free clinics, 108624
that are funded in whole or in part by the state if the public or 108625
private nonprofit agencies are designated for participation in 108626
this program by the director of mental health for community mental 108627

health agencies, the director of developmental disabilities for 108628
community mental retardation and developmental disabilities 108629
agencies, the director of rehabilitation and correction for 108630
community rehabilitation and correction agencies, or the director 108631
of youth services for community youth services agencies. 108632

Designated community agencies shall receive goods and 108633
services ~~through the department of mental health as described in~~ 108634
division (A) of this section only in those cases where the 108635
designating state agency certifies that providing such goods and 108636
services to the agency will conserve public resources to the 108637
benefit of the public and where the provision of such goods and 108638
services is considered feasible by the department of mental 108639
health. 108640

(B) The department of mental health may permit free clinics 108641
to purchase certain goods and services to the extent the purchases 108642
fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 108643
et seq., applicable to nonprofit institutions, in 15 U.S.C. 13c, 108644
as amended. 108645

(C) The goods and services that may be provided ~~by the~~ 108646
~~department of mental health~~ under divisions (A) and (B) of this 108647
section may include: 108648

(1) Procurement, storage, processing, and distribution of 108649
food and professional consultation on food operations; 108650

(2) Procurement, storage, and distribution of medical and 108651
laboratory supplies, dental supplies, medical records, forms, 108652
optical supplies, and sundries, subject to section 5120.135 of the 108653
Revised Code; 108654

(3) Procurement, storage, repackaging, distribution, and 108655
dispensing of drugs, the provision of professional pharmacy 108656
consultation, and drug information services; 108657

(4) Other goods and services. 108658

(D) ~~The~~ Subject to section 125.024 of the Revised Code, the 108659
department of mental health may provide the goods and services 108660
designated in division (C) of this section to its institutions and 108661
to state-operated community-based mental health services. 108662

(E) After consultation with and advice from the director of 108663
developmental disabilities, the director of rehabilitation and 108664
correction, and the director of youth services, the department of 108665
mental health may, subject to section 125.024 of the Revised Code, 108666
provide the goods and services designated in division (C) of this 108667
section to the department of developmental disabilities, the 108668
department of rehabilitation and correction, and the department of 108669
youth services. 108670

(F) The cost of administration of this section shall be 108671
determined by the department of mental health and paid by the 108672
agencies or free clinics receiving the goods and services to the 108673
department for deposit in the state treasury to the credit of the 108674
mental health fund, which is hereby created. The fund shall be 108675
used to pay the cost of administration of this section ~~to the~~ 108676
~~department.~~ 108677

(G) Whenever a state agency fails to make a payment for goods 108678
and services provided under this section within thirty-one days 108679
after the date the payment was due, the office of budget and 108680
management may transfer moneys from the state agency to the 108681
department of mental health. The amount transferred shall not 108682
exceed the amount of overdue payments. Prior to making a transfer 108683
under this division, the office of budget and management shall 108684
apply any credits the state agency has accumulated in payments for 108685
goods and services provided under this section. 108686

(H) ~~Purchases~~ Except as specified in section 125.024 of the 108687
Revised Code, purchases of goods and services under this section 108688
are not subject to section 307.86 of the Revised Code. 108689

Sec. 5119.18. There is hereby created in the state treasury 108690
the department of mental health trust fund. Not later than the 108691
first day of September of each year, the director of mental health 108692
shall certify to the director of budget and management the amount 108693
of all of the unexpended, unencumbered balances of general revenue 108694
fund appropriations made to the department of mental health for 108695
the previous fiscal year, excluding funds appropriated for rental 108696
payments to the Ohio public facilities commission. On receipt of 108697
the certification, the director of budget and management shall 108698
transfer cash to the trust fund in an amount up to, but not 108699
exceeding, the total of the amounts certified by the director of 108700
mental health. 108701

In addition, the trust fund shall receive all amounts, 108702
subject to any provisions in bond documents, received from the 108703
sale or lease of lands and facilities by the department. 108704

All moneys in the trust fund shall be used by the department 108705
of mental health ~~for mental health purposes specified in division~~ 108706
~~(A) of section 5119.06 of the Revised Code to pay for expenditures~~ 108707
~~the department incurs in performing any of its duties under this~~ 108708
~~chapter.~~ The use of moneys in the trust fund pursuant to this 108709
section does not represent an ongoing commitment to the 108710
continuation of the trust fund or to the use of moneys in the 108711
trust fund. 108712

Sec. 5119.22. (A)(1) As used in this section and section 108713
5119.221 of the Revised Code: 108714

(a) "Community mental health agency" means a community mental 108715
health agency as defined in division (H) of section 5122.01 of the 108716
Revised Code, ~~or, until two years after the effective date of this~~ 108717
~~amendment, a community mental health facility certified by the~~ 108718
~~department of mental health pursuant to division (H) of section~~ 108719

5119.01 of the Revised Code.	108720
(b) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code.	108721 108722
(c) "Personal care services" means services including, but not limited to, the following:	108723 108724
(i) Assisting residents with activities of daily living;	108725
(ii) Assisting residents with self-administration of medication in accordance with rules adopted under this section;	108726 108727
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.	108728 108729 108730 108731
"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(1)(c) of this section to be considered to be providing personal care services.	108732 108733 108734 108735 108736
(d) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:	108737 108738
(i) Room and board, personal care services, and community mental health services to one or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;	108739 108740 108741 108742 108743
(ii) Room and board and personal care services to one or two persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;	108744 108745 108746 108747 108748
(iii) Room and board to five or more persons with mental	108749

illness or persons with severe mental disabilities who are 108750
referred by or are receiving community mental health services from 108751
a community mental health agency, hospital, or practitioner. 108752

The following are not residential facilities: the residence 108753
of a relative or guardian of a mentally ill individual, a hospital 108754
subject to licensure under section 5119.20 of the Revised Code, a 108755
residential facility as defined in section 5123.19 of the Revised 108756
Code, a facility providing care for a child in the custody of a 108757
public children services agency or a private agency certified 108758
under section 5103.03 of the Revised Code, a foster care facility 108759
subject to section 5103.03 of the Revised Code, an adult care 108760
facility subject to licensure under ~~Chapter 3722.~~ sections 5119.70 108761
to 5119.88 of the Revised Code, and a nursing home, residential 108762
care facility, or home for the aging subject to licensure under 108763
section 3721.02 of the Revised Code. 108764

(2) Nothing in division (A)(1)(d) of this section shall be 108765
construed to permit personal care services to be imposed on a 108766
resident who is capable of performing the activity in question 108767
without assistance. 108768

(3) Except in the case of a residential facility described in 108769
division (A)(1)(d)(i) of this section, members of the staff of a 108770
residential facility shall not administer medication to residents, 108771
all medication taken by residents of a residential facility shall 108772
be self-administered, and no person shall be admitted to or 108773
retained by a residential facility unless the person is capable of 108774
taking the person's own medication and biologicals, as determined 108775
in writing by the person's personal physician. Members of the 108776
staff of a residential facility may do any of the following: 108777

(a) Remind a resident when to take medication and watch to 108778
ensure that the resident follows the directions on the container; 108779

(b) Assist a resident in the self-administration of 108780

medication by taking the medication from the locked area where it 108781
is stored, in accordance with rules adopted pursuant to this 108782
section, and handing it to the resident. If the resident is 108783
physically unable to open the container, a staff member may open 108784
the container for the resident. 108785

(c) Assist a physically impaired but mentally alert resident, 108786
such as a resident with arthritis, cerebral palsy, or Parkinson's 108787
disease, in removing oral or topical medication from containers 108788
and in consuming or applying the medication, upon request by or 108789
with the consent of the resident. If a resident is physically 108790
unable to place a dose of medicine to the resident's mouth without 108791
spilling it, a staff member may place the dose in a container and 108792
place the container to the mouth of the resident. 108793

(B) Every person operating or desiring to operate a 108794
residential facility shall apply for licensure of the facility to 108795
the department of mental health and shall send a copy of the 108796
application to the board of alcohol, drug addiction, and mental 108797
health services whose service district includes the county in 108798
which the person operates or desires to operate a residential 108799
facility. The board shall review such applications and recommend 108800
approval or disapproval to the department. Each recommendation 108801
shall be consistent with the board's community mental health plan. 108802

(C) The department of mental health shall inspect and license 108803
the operation of residential facilities. The department shall 108804
consider the past record of the facility and the applicant or 108805
licensee in arriving at its licensure decision. The department may 108806
issue full, probationary, and interim licenses. A full license 108807
shall expire two years after the date of issuance, a probationary 108808
license shall expire in a shorter period of time as prescribed by 108809
rule adopted by the director of mental health pursuant to Chapter 108810
119. of the Revised Code, and an interim license shall expire 108811
ninety days after the date of issuance. The department may refuse 108812

to issue or renew and may revoke a license if it finds the 108813
facility is not in compliance with rules adopted by the department 108814
pursuant to division (G) of this section or if any facility 108815
operated by the applicant or licensee has had repeated violations 108816
of statutes or rules during the period of previous licenses. 108817
Proceedings initiated to deny applications for full or 108818
probationary licenses or to revoke such licenses are governed by 108819
Chapter 119. of the Revised Code. 108820

(D) The department may issue an interim license to operate a 108821
residential facility if both of the following conditions are met: 108822

(1) The department determines that the closing of or the need 108823
to remove residents from another residential facility has created 108824
an emergency situation requiring immediate removal of residents 108825
and an insufficient number of licensed beds are available. 108826

(2) The residential facility applying for an interim license 108827
meets standards established for interim licenses in rules adopted 108828
by the director under Chapter 119. of the Revised Code. 108829

An interim license shall be valid for ninety days and may be 108830
renewed by the director no more than twice. Proceedings initiated 108831
to deny applications for or to revoke interim licenses under this 108832
division are not subject to Chapter 119. of the Revised Code. 108833

(E) The department of mental health may conduct an inspection 108834
of a residential facility: 108835

(1) Prior to the issuance of a license to a prospective 108836
operator; 108837

(2) Prior to the renewal of any operator's license; 108838

(3) To determine whether a facility has completed a plan of 108839
correction required pursuant to this division and corrected 108840
deficiencies to the satisfaction of the department and in 108841
compliance with this section and rules adopted pursuant to it; 108842

(4) Upon complaint by any individual or agency; 108843

(5) At any time the director considers an inspection to be 108844
necessary in order to determine whether a residential facility is 108845
in compliance with this section and rules adopted pursuant to this 108846
section. 108847

In conducting inspections the department may conduct an 108848
on-site examination and evaluation of the residential facility, 108849
its personnel, activities, and services. The department shall have 108850
access to examine all records, accounts, and any other documents 108851
relating to the operation of the residential facility, and shall 108852
have access to the facility in order to conduct interviews with 108853
the operator, staff, and residents. Following each inspection and 108854
review, the department shall complete a report listing any 108855
deficiencies, and including, when appropriate, a time table within 108856
which the operator shall correct the deficiencies. The department 108857
may require the operator to submit a plan of correction describing 108858
how the deficiencies will be corrected. 108859

(F) No person shall do any of the following: 108860

(1) Operate a residential facility unless the facility holds 108861
a valid license; 108862

(2) Violate any of the conditions of licensure after having 108863
been granted a license; 108864

(3) Interfere with a state or local official's inspection or 108865
investigation of a residential facility; 108866

(4) Violate any of the provisions of this section or any 108867
rules adopted pursuant to this section. 108868

(G) The director shall adopt and may amend and rescind rules 108869
pursuant to Chapter 119. of the Revised Code, prescribing minimum 108870
standards for the health, safety, adequacy, and cultural 108871
specificity and sensitivity of treatment of and services for 108872

persons in residential facilities; establishing procedures for the 108873
issuance, renewal or revocation of the licenses of such 108874
facilities; establishing the maximum number of residents of a 108875
facility; establishing the rights of residents and procedures to 108876
protect such rights; and requiring an affiliation agreement 108877
approved by the board between a residential facility and a mental 108878
health agency. Such affiliation agreement must be consistent with 108879
the residential portion of the community mental health plan 108880
submitted pursuant to section 340.03 of the Revised Code. 108881

(H) The department may investigate any facility that has been 108882
reported to the department or that the department has reasonable 108883
cause to believe is operating as a residential facility without a 108884
valid license. 108885

(I) The department may withhold the source of any complaint 108886
reported as a violation of this act when the department determines 108887
that disclosure could be detrimental to the department's purposes 108888
or could jeopardize the investigation. The department may disclose 108889
the source of any complaint if the complainant agrees in writing 108890
to such disclosure and shall disclose the source upon order by a 108891
court of competent jurisdiction. 108892

(J) The director of mental health may petition the court of 108893
common pleas of the county in which a residential facility is 108894
located for an order enjoining any person from operating a 108895
residential facility without a license or from operating a 108896
licensed facility when, in the director's judgment, there is a 108897
real and present danger to the health or safety of any of the 108898
occupants of the facility. The court shall have jurisdiction to 108899
grant such injunctive relief upon a showing that the respondent 108900
named in the petition is operating a facility without a license or 108901
there is a real and present danger to the health or safety of any 108902
residents of the facility. 108903

(K) Whoever violates division (F) of this section or any rule 108904

adopted under this section is liable for a civil penalty of one 108905
hundred dollars for the first offense; for each subsequent 108906
offense, such violator is liable for a civil penalty of five 108907
hundred dollars. If the violator does not pay, the attorney 108908
general, upon the request of the director of mental health, shall 108909
bring a civil action to collect the penalty. Fines collected 108910
pursuant to this section shall be deposited into the state 108911
treasury to the credit of the mental health sale of goods and 108912
services fund. 108913

Sec. 5119.61. Any provision in this chapter that refers to a 108914
board of alcohol, drug addiction, and mental health services also 108915
refers to the community mental health board in an alcohol, drug 108916
addiction, and mental health service district that has a community 108917
mental health board. 108918

The director of mental health with respect to all facilities 108919
and programs established and operated under Chapter 340. of the 108920
Revised Code for mentally ill and emotionally disturbed persons, 108921
shall do all of the following: 108922

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 108923
that may be necessary to carry out the purposes of Chapter 340. 108924
and sections 5119.61 to 5119.63 of the Revised Code. 108925

(1) The rules shall include all of the following: 108926

(a) Rules governing a community mental health agency's 108927
services under section 340.091 of the Revised Code to an 108928
individual referred to the agency under division (C)(2) of section 108929
~~173.35~~ 5119.69 of the Revised Code; 108930

(b) For the purpose of division (A)~~(16)~~(15) of section 340.03 108931
of the Revised Code, rules governing the duties of mental health 108932
agencies and boards of alcohol, drug addiction, and mental health 108933
services under section ~~3722.18~~ 5119.88 of the Revised Code 108934

regarding referrals of individuals with mental illness or severe 108935
mental disability to adult care facilities and effective 108936
arrangements for ongoing mental health services for the 108937
individuals. The rules shall do at least the following: 108938

(i) Provide for agencies and boards to participate fully in 108939
the procedures owners and managers of adult care facilities must 108940
follow under division (A) of section ~~3722.18~~ 5119.88 of the 108941
Revised Code; 108942

(ii) Specify the manner in which boards are accountable for 108943
ensuring that ongoing mental health services are effectively 108944
arranged for individuals with mental illness or severe mental 108945
disability who are referred by the board or mental health agency 108946
under contract with the board to an adult care facility. 108947

(c) Rules governing a board of alcohol, drug addiction, and 108948
mental health services when making a report to the director of 108949
mental health under section ~~3722.17~~ 5119.87 of the Revised Code 108950
regarding the quality of care and services provided by an adult 108951
care facility to a person with mental illness or a severe mental 108952
disability. 108953

(2) Rules may be adopted to govern the method of paying a 108954
community mental health facility, as defined in section 5111.023 108955
of the Revised Code, for providing services listed in division (B) 108956
of that section. Such rules must be consistent with the contract 108957
entered into between the departments of job and family services 108958
and mental health under section 5111.91 of the Revised Code and 108959
include requirements ensuring appropriate service utilization. 108960

(B) Review and evaluate, and, taking into account the 108961
findings and recommendations of the board of alcohol, drug 108962
addiction, and mental health services of the district served by 108963
the program and the requirements and priorities of the state 108964
mental health plan, including the needs of residents of the 108965

district now residing in state mental institutions, ~~approve and~~ 108966
~~allocate funds to support community programs,~~ and make 108967
recommendations for needed improvements to boards of alcohol, drug 108968
addiction, and mental health services; 108969

(C) ~~Withhold state and federal funds for any program, in~~ 108970
~~whole or in part, from a board of alcohol, drug addiction, and~~ 108971
~~mental health services in the event of failure of that program to~~ 108972
~~comply with Chapter 340. or section 5119.61, 5119.611, 5119.612,~~ 108973
~~or 5119.62 of the Revised Code or rules of the department of~~ 108974
~~mental health. The director shall identify the areas of~~ 108975
~~noncompliance and the action necessary to achieve compliance. The~~ 108976
~~director shall offer technical assistance to the board to achieve~~ 108977
~~compliance. The director shall give the board a reasonable time~~ 108978
~~within which to comply or to present its position that it is in~~ 108979
~~compliance. Before withholding funds, a hearing shall be conducted~~ 108980
~~to determine if there are continuing violations and that either~~ 108981
~~assistance is rejected or the board is unable to achieve~~ 108982
~~compliance. Subsequent to the hearing process, if it is determined~~ 108983
~~that compliance has not been achieved, the director may allocate~~ 108984
~~all or part of the withheld funds to a public or private agency to~~ 108985
~~provide the services not in compliance until the time that there~~ 108986
~~is compliance. The director shall establish rules pursuant to~~ 108987
~~Chapter 119. of the Revised Code to implement this division.~~ 108988

(D) ~~Withhold state or federal funds from a board of alcohol,~~ 108989
~~drug addiction, and mental health services that denies available~~ 108990
~~service on the basis of religion, race, color, creed, sex,~~ 108991
~~national origin, age, disability as defined in section 4112.01 of~~ 108992
~~the Revised Code, developmental disability, or the inability to~~ 108993
~~pay;~~ 108994

(E) Provide consultative services to community mental health 108995
agencies with the knowledge and cooperation of the board of 108996
alcohol, drug addiction, and mental health services; 108997

~~(F) Provide~~ (D) At the director's discretion, provide to 108998
boards of alcohol, drug addiction, and mental health services 108999
state or federal funds, in addition to those allocated under 109000
section 5119.62 of the Revised Code, for special programs or 109001
projects the director considers necessary but for which local 109002
funds are not available; 109003

~~(G)~~(E) Establish criteria by which a board of alcohol, drug 109004
addiction, and mental health services reviews and evaluates the 109005
quality, effectiveness, and efficiency of services provided 109006
through its community mental health plan. The criteria shall 109007
include requirements ensuring appropriate service utilization. The 109008
department shall assess a board's evaluation of services and the 109009
compliance of each board with this section, Chapter 340. or 109010
section 5119.62 of the Revised Code, and other state or federal 109011
law and regulations. The department, in cooperation with the 109012
board, periodically shall review and evaluate the quality, 109013
effectiveness, and efficiency of services provided through each 109014
board. The department shall collect information that is necessary 109015
to perform these functions. 109016

~~(H) Develop~~ (F) To the extent the director determines 109017
necessary and after consulting with boards of alcohol, drug 109018
addiction, and mental health services, develop and operate, or 109019
contract for the operation of, a community mental health 109020
information system or systems. 109021

Boards of alcohol, drug abuse, and mental health services 109022
shall submit information requested by the department in the form 109023
and manner prescribed by the department. Information collected by 109024
the department shall include, but not be limited to, all of the 109025
following: 109026

(1) Information regarding units of services provided in whole 109027
or in part under contract with a board, including diagnosis and 109028
special needs, demographic information, the number of units of 109029

service provided, past treatment, financial status, and service 109030
dates in accordance with rules adopted by the department in 109031
accordance with Chapter 119. of the Revised Code; 109032

(2) Financial information other than price or price-related 109033
data regarding expenditures of boards and community mental health 109034
agencies, including units of service provided, budgeted and actual 109035
expenses by type, and sources of funds. 109036

Boards shall submit the information specified in division 109037
~~(H)~~(F)(1) of this section no less frequently than annually for 109038
each client, and each time the client's case is opened or closed. 109039
The department shall not collect any personal information from the 109040
boards except as required or permitted by state or federal law for 109041
purposes related to payment, health care operations, program and 109042
service evaluation, reporting activities, research, system 109043
administration, and oversight. 109044

~~(I)~~(G) Review each board's community mental health plan 109045
submitted pursuant to section 340.03 of the Revised Code and 109046
approve or disapprove it in whole or in part. Periodically, in 109047
consultation with representatives of boards and after considering 109048
the recommendations of the medical director, the director shall 109049
issue criteria for determining when a plan is complete, criteria 109050
for plan approval or disapproval, and provisions for conditional 109051
approval. The factors that the director considers may include, but 109052
are not limited to, the following: 109053

(1) The mental health needs of all persons residing within 109054
the board's service district, especially severely mentally 109055
disabled children, adolescents, and adults; 109056

(2) The demonstrated quality, effectiveness, efficiency, and 109057
cultural relevance of the services provided in each service 109058
district, the extent to which any services are duplicative of 109059
other available services, and whether the services meet the needs 109060

identified above; 109061

(3) The adequacy of the board's accounting for the 109062
expenditure of funds. 109063

If the director disapproves all or part of any plan, the 109064
director shall provide the board an opportunity to present its 109065
position. The director shall inform the board of the reasons for 109066
the disapproval and of the criteria that must be met before the 109067
plan may be approved. The director shall give the board a 109068
reasonable time within which to meet the criteria, and shall offer 109069
technical assistance to the board to help it meet the criteria. 109070

If the approval of a plan remains in dispute ~~thirty days~~ 109071
~~prior to the conclusion of the fiscal year in which the board's~~ 109072
~~current plan is scheduled to expire,~~ the board or the director may 109073
request that the dispute be submitted to a mutually agreed upon 109074
third-party mediator with the cost to be shared by the board and 109075
the department. The mediator shall issue to the board and the 109076
department recommendations for resolution of the dispute. ~~Prior to~~ 109077
~~the conclusion of the fiscal year in which the current plan is~~ 109078
~~scheduled to expire,~~ the The director, taking into consideration 109079
the recommendations of the mediator, shall make a final 109080
determination and approve or disapprove the plan, in whole or in 109081
part. 109082

Sec. 5119.611. (A) A community mental health agency that 109083
seeks certification of its community mental health services shall 109084
submit an application to the director of mental health. On receipt 109085
of the application, the director may visit and shall evaluate the 109086
agency to determine whether its services satisfy the standards 109087
established by rules adopted under division (C) of this section. 109088
The director shall make the evaluation, and, if the director 109089
visits the agency, shall make the visit, in cooperation with the 109090
board of alcohol, drug addiction, and mental health services with 109091

which the agency seeks to contract under division (A)~~(8)~~(7)(a) of 109092
section 340.03 of the Revised Code. 109093

(B) Subject to section 5119.612 of the Revised Code, the 109094
director shall determine whether the services of an applicant's 109095
community mental health agency satisfy the standards for 109096
certification of the services. If the director determines that a 109097
community mental health agency's services satisfy the standards 109098
for certification and the agency has paid the fee required under 109099
division ~~(B)~~(D) of this section, the director shall certify the 109100
services. 109101

(C) If the director determines that a community mental health 109102
agency's services do not satisfy the standards for certification, 109103
the director shall identify the areas of noncompliance, specify 109104
what action is necessary to satisfy the standards, and offer 109105
technical assistance to the board of alcohol, drug addiction, and 109106
mental health services so that the board may assist the agency in 109107
satisfying the standards. The director shall give the agency a 109108
reasonable time within which to demonstrate that its services 109109
satisfy the standards or to bring the services into compliance 109110
with the standards. If the director concludes that the services 109111
continue to fail to satisfy the standards, the director may 109112
request that the board reallocate the funds for the community 109113
mental health services the agency was to provide to another 109114
community mental health agency whose community mental health 109115
services satisfy the standards. If the board does not reallocate 109116
those funds in a reasonable period of time, the director may 109117
withhold state and federal funds for the community mental health 109118
services and allocate those funds directly to a community mental 109119
health agency whose community mental health services satisfy the 109120
standards. 109121

~~(B)~~(D) Each community mental health agency seeking 109122
certification of its community mental health services under this 109123

section shall pay a fee for the certification ~~review~~ required by 109124
this section. Fees shall be paid into the sale of goods and 109125
services fund created pursuant to section 5119.161 of the Revised 109126
Code. 109127

~~(C)~~(E) The director shall adopt rules in accordance with 109128
Chapter 119. of the Revised Code to implement this section. The 109129
rules shall do all of the following: 109130

(1) Establish certification standards for community mental 109131
health services, including assertive community treatment and 109132
intensive home-based mental health services, that are consistent 109133
with nationally recognized applicable standards and facilitate 109134
participation in federal assistance programs. The rules shall 109135
include as certification standards only requirements that improve 109136
the quality of services or the health and safety of clients of 109137
community mental health services. The standards shall address at a 109138
minimum all of the following: 109139

(a) Reporting major unusual incidents to the director; 109140

(b) Procedures for applicants for and clients of community 109141
mental health services to file grievances and complaints; 109142

(c) Seclusion; 109143

(d) Restraint; 109144

(e) Development of written policies addressing the rights of 109145
clients, including all of the following: 109146

(i) The right to a copy of the written policies addressing 109147
client rights; 109148

(ii) The right at all times to be treated with consideration 109149
and respect for the client's privacy and dignity; 109150

(iii) The right to have access to the client's own 109151
psychiatric, medical, or other treatment records unless access is 109152
specifically restricted in the client's treatment plan for clear 109153

treatment reasons;	109154
(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.	109155 109156 109157 109158 109159
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	109160 109161 109162
(3) Establish the process for certification of community mental health services;	109163 109164
(4) Set the amount of certification review fees based on a portion of the cost of performing the review;	109165 109166
(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.	109167 109168
<u>Sec. 5119.612. (A) In lieu of a determination by the director of mental health of whether the services of a community mental health agency satisfy the standards for certification under section 5119.611 of the Revised Code, the director shall accept appropriate accreditation of an applicant's mental health services, integrated mental health and alcohol and other drug addiction services, or integrated mental health and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:</u>	109169 109170 109171 109172 109173 109174 109175 109176 109177 109178
<u>(1) The joint commission;</u>	109179
<u>(2) The commission on accreditation of rehabilitation facilities;</u>	109180 109181
<u>(3) The council on accreditation.</u>	109182

(B) If the director determines that an applicant's accreditation is current, is appropriate for the services for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the director shall certify the applicant's services that are accredited. Except as provided in division (C)(2) of this section, the director shall issue the certification without further evaluation of the services. 109183
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(C) For purposes of this section, all of the following apply: 109191

(1) The director may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, physical health services, or both. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations. 109192
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(2) The director may visit or otherwise evaluate a community mental health agency at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the director. 109200
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(3) The director shall require a community mental health agency to notify the director not later than ten days after any change in the agency's accreditation status. The agency may notify the director by providing a copy of the relevant document the agency received from the accrediting organization. 109204
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(4) The director shall require a community mental health agency to submit to the director reports of major unusual incidents. 109209
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(5) The director may require a community mental health agency to submit to the director cost reports pertaining to the agency. 109212
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(D) The director shall adopt rules in accordance with Chapter 109214
119. of the Revised Code to implement this section. In adopting 109215
the rules, the director shall do all of the following: 109216

(1) Specify the documentation that must be submitted as 109217
evidence of holding appropriate accreditation; 109218

(2) Establish a process by which the director may review the 109219
accreditation standards and processes used by the national 109220
accrediting organizations listed in division (A) of this section; 109221

(3) Specify the circumstances under which reports of major 109222
unusual incidents and agency cost reports must be submitted to the 109223
director; 109224

(4) Specify the circumstances under which the director may 109225
visit or otherwise evaluate a community mental health agency for 109226
cause; 109227

(5) Establish a process by which the director, based on 109228
deficiencies identified as a result of visiting or evaluating a 109229
community mental health agency under division (C)(2) of this 109230
section, may take any of a range of corrective actions, with the 109231
most stringent being revocation of the certification of the 109232
agency's services. 109233

Sec. ~~5119.612~~ 5119.613. The director of mental health shall 109234
require that each board of alcohol, drug addiction, and mental 109235
health services ensure that each community mental health agency 109236
with which it contracts under division (A)~~(8)~~(7)(a) of section 109237
340.03 of the Revised Code to provide community mental health 109238
services establish grievance procedures consistent with rules 109239
adopted under section 5119.611 of the Revised Code that are 109240
available to all applicants for and clients of the community 109241
mental health services. 109242

Sec. ~~5119.613~~ 5119.614. For purposes of Chapter ~~3722-~~ 109243

sections 5119.70 to 5119.88 of the Revised Code, the director of 109244
mental health shall approve a standardized form to be used in all 109245
areas of this state by adult care facilities and boards of 109246
alcohol, drug addiction, and mental health services when entering 109247
into mental health resident program participation agreements. As 109248
part of approving the form, the director shall specify the 109249
requirements that adult care facilities must meet in order to be 109250
authorized to admit residents who are receiving or are eligible 109251
for publicly funded mental health services. 109252

Sec. 5119.62. (A) ~~Upon approving the plan submitted pursuant~~ 109253
~~to section 340.03 of the Revised Code, the director~~ The department 109254
of mental health shall ~~authorize the payment of funds~~ establish a 109255
methodology for allocating to a ~~board~~ boards of alcohol, drug 109256
addiction, and mental health services ~~from the~~ funds appropriated 109257
~~for such purpose~~ by the general assembly to the department for the 109258
purpose of local mental health systems of care. The ~~director~~ 109259
department shall ~~release all or part of such~~ establish the 109260
methodology after notifying and consulting with relevant 109261
constituencies as required by division (L) of section 5119.06 of 109262
the Revised Code. The methodology may provide for the funds to be 109263
allocated to boards on a district or multi-district basis. Subject 109264
to sections 5119.622 and 5119.623 of the Revised Code, the 109265
department shall allocate the funds as is to the boards in a 109266
manner consistent with the methodology, this section, other state 109267
and federal laws, rules, and regulations, ~~and the approved plan.~~ 109268

(B) ~~(1) The director, in consultation with relevant~~ 109269
~~constituencies as required by division (A)(11) of section 5119.06~~ 109270
~~of the Revised Code, shall establish a formula for allocating to~~ 109271
~~boards of alcohol, drug addiction, and mental health services~~ 109272
~~appropriations from the general revenue fund for the purpose of~~ 109273
~~local management of mental health services as this purpose is~~ 109274

~~identified in appropriations to the department of mental health in 109275
appropriation acts. The formula shall include as a factor the 109276
number of severely mentally disabled persons residing in each 109277
alcohol, drug addiction, and mental health service district and 109278
may include other factors, including, but not limited to, the 109279
historical utilization of public hospitals by persons in each 109280
service district. The appropriations shall be allocated to each 109281
board in accordance with the formula but shall be distributed only 109282
to those boards that elect the option provided under division 109283
(B)(3)(a) of this section. 109284~~

~~(2) The director shall allocate each fiscal year to boards of 109285
alcohol, drug addiction, and mental health services for services 109286
to severely mentally disabled persons a percentage of the 109287
appropriations to the department from the general revenue fund for 109288
the purposes of hospital personal services, hospital maintenance, 109289
and hospital equipment as those purposes are identified in 109290
appropriations to the department in appropriation acts. After 109291
excluding funds for providing services to persons committed to the 109292
department pursuant to section 2945.38, 2945.39, 2945.40, 109293
2945.401, 2945.402, or 5139.08 of the Revised Code, the percentage 109294
of those appropriations so allocated each year shall equal ten per 109295
cent in fiscal year 1990, twenty per cent in fiscal year 1991, 109296
forty per cent in fiscal year 1992, sixty per cent in fiscal year 109297
1993, eighty per cent in fiscal year 1994, and one hundred per 109298
cent in fiscal year 1995 and thereafter. The amounts so allocated 109299
shall be transferred from the appropriations for the purposes of 109300
hospital personal services, hospital maintenance, and hospital 109301
equipment and credited to appropriations for the purpose of local 109302
management of mental health services. Appropriations for the 109303
purpose of local management of mental health services may be used 109304
by the department and by the boards The department may allocate to 109305
boards a portion of the funds appropriated by the general assembly 109306
to the department for the operation of state hospital services. If 109307~~

the department allocates the funds, the department shall do all of 109308
the following: 109309

(1) In consultation with the boards: 109310

(a) Annually determine the unit costs of providing state 109311
hospital services; and 109312

(b) Establish the methodology for allocating the funds to the 109313
boards. 109314

(2) Determine the type of unit costs of providing state 109315
hospital services to be included as a factor in the methodology 109316
and include that unit cost as a factor in the methodology; 109317

(3) Subject to sections 5119.622 and 5119.623 of the Revised 109318
Code, allocate the funds to the boards in a manner consistent with 109319
the methodology, this section, other state and federal laws, 109320
rules, and regulations. 109321

~~(3) No~~(c) Not later than the first day of April of each year, 109322
the department ~~of mental health~~ shall notify each board ~~of~~ 109323
~~alcohol, drug addiction, and mental health services~~ of the 109324
department's estimate of the amount of ~~general revenue~~ funds to be 109325
allocated to the board under ~~division (D)~~ of this section during 109326
the fiscal year beginning on the next July first. ~~No~~ If the 109327
department makes an allocation under division (B) of this section, 109328
the department shall also notify each board of the unit costs of 109329
providing state hospital services for the upcoming fiscal year as 109330
determined under that division. Not later than the first day of 109331
May of each year, each board shall notify the ~~director~~ department 109332
as to which of the following options it has elected for ~~that the~~ the 109333
upcoming fiscal year: 109334

~~(a)(1)~~ (1) The board elects to accept distribution of the amount 109335
allocated to it under ~~division (B)(1)~~ of this section. ~~Any board~~ 109336
~~that makes such an election shall agree to make payments into the~~ 109337
~~risk fund established in division (E) of this section, to make any~~ 109338

~~payments for utilization of state hospitals that are required 109339
under division (E)(3) of this section, to use the funds 109340
distributed to it within the limitations set forth in division 109341
(B)(2) of this section, and to provide the department with a 109342
statement of projected utilization of state hospitals and other 109343
state-operated services by residents of its service district 109344
during the fiscal year. 109345~~

~~The department shall retain and expend the funds projected to 109346
be utilized for state hospitals and other state-operated services 109347
section. Funds distributed to each board shall be used to 109348
supplement and not to supplant other state, local, or federal 109349
funds that are being used to support community-based programs for 109350
severely mentally disabled children, adolescents, and adults, 109351
unless the funds have been specifically designated for the 109352
initiation of programs in accordance with the community mental 109353
health plan developed and submitted under section 340.03 and 109354
approved under section 5119.61 of the Revised Code. 109355
Notwithstanding section 131.33 of the Revised Code, any board may 109356
expend unexpended funds distributed to the board from 109357
appropriations for the purpose of local management of mental 109358
health services in the fiscal year following the fiscal year ~~in~~ 109359
for which the appropriations are made, in accordance with the 109360
approved community mental health plan. 109361~~

~~(b) The (2) Subject to division (D) of this section, the 109362
board elects not to accept the amount allocated to it under 109363
division (B)(1) of this section, authorizes the department to 109364
determine the use of its allocation, and agrees to provide the 109365
department with a statement of projected utilization of state 109366
hospitals and other state-operated services by residents of its 109367
service district during the fiscal year. 109368~~

~~(4) Beginning with the notification required to be made by 109369
May 1, 1995, under division (B)(3) of this section, no (D) No 109370~~

board of alcohol, drug addiction, and mental health services shall 109371
elect the option in division ~~(B)(3)(b)~~(C)(2) of this section 109372
unless ~~one~~ all of the following ~~applies~~ apply: 109373

~~(a) The~~ (1) Either the total general revenue funds estimated 109374
by the department to be allocated to the board under this section 109375
for the next fiscal year ~~is~~ are reduced by a substantial amount, 109376
as defined in guidelines adopted by the director of mental health 109377
under division ~~(B)(4)~~(E) of this section, in comparison to the 109378
amount allocated for the current fiscal year, for reasons not 109379
related to performance. 109380

~~(b) The amount of estimated general revenue funds to be~~ 109381
~~allocated to the board is not reduced by a substantial amount but~~ 109382
or the board has experienced other circumstances specified in the 109383
guidelines ~~adopted by the director under division (B)(4) of this~~ 109384
~~section.~~ 109385

~~The director shall consult with boards of alcohol, drug~~ 109386
~~addiction, and mental health services and other relevant~~ 109387
~~constituencies to develop guidelines for determining what~~ 109388
~~constitutes a substantial reduction of general revenue funds for~~ 109389
~~the purpose of electing the option under division (B)(3)(b) of~~ 109390
~~this section, and what other circumstances qualify a board to~~ 109391
~~elect that option.~~ 109392

~~Beginning with the notification required to be made by May 1,~~ 109393
~~1995, under division (B)(3) of this section, no board shall notify~~ 109394
~~the director that it elects the option under division (B)(3)(b) of~~ 109395
~~this section unless it has conducted~~ (2) The board provides the 109396
department written confirmation that the board has received input 109397
about the impact that the board's election will have on the mental 109398
health system in the board's district from all of the following: 109399

(a) Individuals who receive mental health services and such 109400
individuals' families; 109401

(b) Boards of county commissioners; 109402

(c) Judges of juvenile and probate courts; 109403

(d) County sheriffs, jail administrators, and other local law enforcement officials. 109404
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(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue no later than seven days before making the notification. 109406
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~~(C) Boards of alcohol, drug addiction, and mental health services and community mental health agencies~~ 109411
(E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to elect the option in division (C)(2) of this section. 109412
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(F) No board shall not use state funds for the purpose of influencing employees with respect to unionization. As used in this division, "influencing" means discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent. 109418
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~~(D) The director shall develop, and review at least annually, a methodology, including the formula developed under division (B)(1) of this section, for distributing and allocating funds to boards. The methodology shall be consistent with state and federal law and regulations. A portion of the funds shall be distributed based on the ratio of the population of the district served by the board to the total population of the state as determined from the federal census or the most recent estimates produced by the United States census bureau's federal state cooperative program for population program series P-26 or the population estimates and~~ 109423
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~~projections program series P-25, whichever is most recent.~~ 109433

~~(E)(1) There is hereby created in the state treasury the
department of mental health risk fund, which shall receive
payments from boards that have elected the option provided in
division (B)(3)(a) of this section. All investment earnings of the
fund shall be credited to the fund. Moneys in the fund shall be
used for the following purposes:~~ 109434
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~~(a) To assist boards that elect the option provided in
division (B)(3)(a) of this section and that serve service
districts in which the costs of utilization of state hospitals by
residents in a fiscal year exceed the amount allocated to the
district under the formula developed under division (B)(1) of this
section. The department shall define such costs by unit and
establish them annually after consultation with representatives of
such boards.~~ 109440
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~~(b) To make payments to boards that elect the option provided
in division (B)(3)(a) of this section and that experience
conditions of financial hardship, as determined by the director.~~ 109448
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~~The director of mental health, in consultation with
representatives of the boards, shall develop guidelines for the
use of moneys in the risk fund.~~ 109451
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~~(2) On or before the first day of April of each year, the
department shall specify the percentage of the amount of money
allocated under division (B)(1) of this section for distribution
to boards subject to division (E) of this section that each such
board is to transmit to the director of mental health for deposit
in the risk fund for the following fiscal year. On or before the
first day of August of each year, each such board shall transmit
to the director for deposit to the credit of the risk fund the
amount obtained by multiplying that percentage by the amount
allocated for distribution to such boards.~~ 109454
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~~(3) Whenever the costs of utilization of state hospitals by residents in a district served by a board subject to division (E) of this section exceed the amount allocated to the district under the formula, responsibility for payment of the excess costs shall be borne by the board of that district and the risk fund as follows:~~

~~(a) The board and the risk fund each are responsible for payment of one half of any costs that exceed one hundred per cent of the amount allocated under the formula but do not exceed one hundred five per cent of that amount.~~

~~(b) The board is responsible for payment of one fourth, and the risk fund responsible for three fourths, of any costs that exceed one hundred five per cent of the amount allocated under the formula but do not exceed one hundred ten per cent of that amount.~~

~~(c) The risk fund is responsible for payment of any costs that exceed one hundred ten per cent of the amount allocated under the formula but do not exceed one hundred fifteen per cent of that amount.~~

~~(d) The board is responsible for payment of all costs that exceed one hundred fifteen per cent of the amount allocated under the formula.~~

~~(F)(G) The department shall charge against the allocation made to a board under division (B)(1) of this section, if any, any unreimbursed costs for services provided by the department. ~~This requirement is not affected by any election a board makes under division (B)(3) of this section.~~~~

(H) A board's use of funds allocated under this section is subject to audit by county, state, and federal authorities.

Sec. 5119.621. (A) As used in this section, "administrative function" means a function related to one or more of the

following:	109494
(1) Continuous quality improvement;	109495
(2) Utilization review;	109496
(3) Resource development;	109497
(4) Fiscal administration;	109498
(5) General administration;	109499
(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.	109500 109501
(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of mental health specifying how the board used state and federal funds allocated to the board, according to the formula the director of mental health establishes under section 5119.62 of the Revised Code, for administrative functions in the year preceding the report's submission. The director of mental health shall establish the date by which the report must be submitted each year.	109502 109503 109504 109505 109506 109507 109508 109509
<u>Sec. 5119.622. The director of mental health, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board fails to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.621 of the Revised Code or rules of the department of mental health regarding a community mental health service. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing</u>	109510 109511 109512 109513 109514 109515 109516 109517 109518 109519 109520 109521 109522

violations and that either assistance is rejected or the board is 109523
unable to achieve compliance. Subsequent to the hearing process, 109524
if it is determined that compliance has not been achieved, the 109525
director may allocate all or part of the withheld funds to a 109526
public or private agency to provide the community mental health 109527
service for which the board is not in compliance until the time 109528
that there is compliance. The director shall adopt rules in 109529
accordance with Chapter 119. of the Revised Code to implement this 109530
section. 109531

Sec. 5119.623. The director of mental health may withhold 109532
funds otherwise to be allocated to a board of alcohol, drug 109533
addiction, and mental health services under section 5119.62 of the 109534
Revised Code if the board denies available service on the basis of 109535
religion, race, color, creed, sex, national origin, age, 109536
disability as defined in section 4112.01 of the Revised Code, or 109537
developmental disability. 109538

Sec. 173.35 5119.69. (A) As used in this section, "PASSPORT 109539
administrative agency" means an entity under contract with the 109540
department of aging to provide administrative services regarding 109541
the PASSPORT program created under section 173.40 of the Revised 109542
Code. 109543

(B) The department of ~~aging~~ mental health shall ~~administer~~ 109544
implement the residential state supplement program under which the 109545
state supplements the supplemental security income payments 109546
received by aged, blind, or disabled adults under Title XVI of the 109547
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as 109548
amended. Residential state supplement payments shall be used for 109549
the provision of accommodations, supervision, and personal care 109550
services to supplemental security income recipients who the 109551
department determines are at risk of needing institutional care. 109552

(B) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity. 109553
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(C) For an individual to be eligible for residential state supplement payments, all of the following must be the case: 109561
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(1) Except as provided by division (G) of this section, the individual must reside in one of the following: 109563
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(a) An adult foster home certified under section ~~173.36~~ 5119.692 of the Revised Code; 109565
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(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. ~~or 3722.~~ of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section~~ or the department of mental health under sections 5119.70 to 5119.88 of the Revised Code; 109567
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(c) A residential facility as defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by the department of mental health ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section;~~ 109574
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(d) An apartment or room used to provide community mental health housing services certified by the department of mental health under section 5119.611 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)~~(14)~~(13) of section 340.03 of the Revised Code 109579
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~~and certified in accordance with standards established by the~~ 109584
~~director of aging under division (D)(2) of this section.~~ 109585

(2) ~~Effective July 1, 2000, a~~ PASSPORT A residential state 109586
supplement administrative agency must have determined that the 109587
environment in which the individual will be living while receiving 109588
the payments is appropriate for the individual's needs. If the 109589
individual is eligible for supplemental security income payments 109590
or social security disability insurance benefits because of a 109591
mental disability, the PASSPORT residential state supplement 109592
administrative agency shall refer the individual to a community 109593
mental health agency for the community mental health agency to 109594
issue in accordance with section 340.091 of the Revised Code a 109595
recommendation on whether the PASSPORT residential state 109596
supplement administrative agency should determine that the 109597
environment in which the individual will be living while receiving 109598
the payments is appropriate for the individual's needs. ~~Division~~ 109599
~~(C)(2) of this section does not apply to an individual receiving~~ 109600
~~residential state supplement payments on June 30, 2000, until the~~ 109601
~~individual's first eligibility redetermination after that date.~~ 109602

(3) The individual satisfies all eligibility requirements 109603
established by rules adopted under division (D) of this section. 109604

~~(D)(1)~~ The directors of aging mental health and job and 109605
family services shall adopt rules in accordance with section 109606
111.15 of the Revised Code as necessary to implement the 109607
residential state supplement program. 109608

To the extent permitted by Title XVI of the "Social Security 109609
Act," and any other provision of federal law, the director of job 109610
and family services ~~shall~~ may adopt rules establishing standards 109611
for adjusting the eligibility requirements concerning the level of 109612
impairment a person must have so that the amount appropriated for 109613
the program by the general assembly is adequate for the number of 109614
eligible individuals. The rules shall not limit the eligibility of 109615

disabled persons solely on a basis classifying disabilities as 109616
physical or mental. The director of job and family services also 109617
~~shall~~ may adopt rules that establish eligibility standards for 109618
aged, blind, or disabled individuals who reside in one of the 109619
homes or facilities specified in division (C)(1) of this section 109620
but who, because of their income, do not receive supplemental 109621
security income payments. The rules may provide that these 109622
individuals may include individuals who receive other types of 109623
benefits, including, social security disability insurance benefits 109624
provided under Title II of the "Social Security Act," 49 Stat. 620 109625
(1935), 42 U.S.C.A. 401, as amended. Notwithstanding division 109626
~~(B)~~(A) of this section, such payments may be made if funds are 109627
available for them. 109628

The director of ~~aging shall~~ mental health may adopt rules 109629
establishing the method to be used to determine the amount an 109630
eligible individual will receive under the program. The amount the 109631
general assembly appropriates for the program ~~shall~~ may be a 109632
factor included in the method that ~~department~~ director 109633
establishes. 109634

~~(2) The director of aging shall adopt rules in accordance 109635
with Chapter 119. of the Revised Code establishing standards for 109636
certification of living facilities described in division (C)(1) of 109637
this section. 109638~~

~~The directors of aging and mental health shall enter into an 109639
agreement to certify facilities that apply for certification and 109640
meet the standards established by the director of aging under this 109641
division. 109642~~

(E) The county department of job and family services of the 109643
county in which an applicant for the residential state supplement 109644
program resides shall determine whether the applicant meets income 109645
and resource requirements for the program. 109646

(F) The department of ~~aging~~ mental health shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division (C)(1) of this section at the time of application. The director of ~~aging~~ mental health, by rules adopted in accordance with Chapter 119. of the Revised Code, ~~shall~~ may specify procedures and requirements for placing an individual on the waiting list and priorities for the order in which individuals placed on the waiting list are to begin to receive residential state supplement payments. The rules specifying priorities may give priority to individuals placed on the waiting list on or after July 1, 2006, who receive supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as amended. The rules shall not affect the place on the waiting list of any person who was on the list on July 1, 2006. The rules specifying priorities may also set additional priorities based on living arrangement, such as whether an individual resides in a facility listed in division (C)(1) of this section or has been admitted to a nursing facility.

(G) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

(H) The department of ~~aging~~ mental health shall notify each person denied approval for payments under this section of the

person's right to a hearing. On request, the hearing shall be 109679
provided ~~by the department of job and family services~~ in 109680
accordance with ~~section 5101.35~~ Chapter 119. of the Revised Code. 109681

Sec. ~~173.351~~ 5119.691. (A) As used in this section: 109682

~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~ 109683
109684

"Long-term care consultation program" means the program the 109685
department of aging is required to develop under section 173.42 of 109686
the Revised Code. 109687

"Long-term care consultation program administrator" or 109688
"administrator" means the department of aging or, if the 109689
department contracts with an area agency on aging or other entity 109690
to administer the long-term care consultation program for a 109691
particular area, that agency or entity. 109692

"Nursing facility" has the same meaning as in section 5111.20 109693
of the Revised Code. 109694

"Residential state supplement administrative agency" means an 109695
entity designated as such by the department of mental health under 109696
section 5119.69 of the Revised Code. 109697

"Residential state supplement program" means the program 109698
administered pursuant to section ~~173.35~~ 5119.69 of the Revised 109699
Code. 109700

(B) ~~Each month, each area agency on aging~~ On a periodic 109701
schedule determined by the department of mental health, each 109702
residential state supplement administrative agency shall determine 109703
whether individuals who reside in the area that the ~~area agency on 109704
aging~~ serves and are on a waiting list for the residential state 109705
supplement program have been admitted to a nursing facility. If ~~an 109706
area~~ a residential state supplement administrative agency on aging 109707
determines that such an individual has been admitted to a nursing 109708

facility, the agency shall notify the long-term care consultation 109709
program administrator serving the area in which the individual 109710
resides about the determination. The administrator shall determine 109711
whether the residential state supplement program is appropriate 109712
for the individual and whether the individual would rather 109713
participate in the program than continue residing in the nursing 109714
facility. If the administrator determines that the residential 109715
state supplement program is appropriate for the individual and the 109716
individual would rather participate in the program than continue 109717
residing in the nursing facility, the administrator shall so 109718
notify the department of ~~aging~~ mental health. On receipt of the 109719
notice from the administrator, the department of ~~aging~~ mental 109720
health shall approve the individual's enrollment in the 109721
residential state supplement program in accordance with the 109722
priorities specified in rules adopted under division (F) of 109723
section ~~173.35~~ 5119.69 of the Revised Code. Each quarter, the 109724
department of ~~aging~~ mental health shall certify to the director of 109725
budget and management the estimated increase in costs of the 109726
residential state supplement program resulting from enrollment of 109727
individuals in the program pursuant to this section. 109728

~~(C) Not later than the last day of each calendar year, the 109729
director of aging shall submit to the general assembly a report 109730
regarding the number of individuals enrolled in the residential 109731
state supplement program pursuant to this section and the costs 109732
incurred and savings achieved as a result of the enrollments. 109733~~

Sec. ~~173.36~~ 5119.692. As used in this section, "adult foster 109734
home" means a residence, other than a ~~residence certified or~~ 109735
residential facility licensed ~~by the department of mental health~~ 109736
under section 5119.22 of the Revised Code, in which accommodations 109737
and personal care services, as defined in section ~~3722.01~~ 5119.70 109738
of the Revised Code, are provided to one or two adults who are 109739
unrelated to the owners of the residence. 109740

The department of ~~aging~~ mental health shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the certification of adult foster homes. The department or its designee shall certify adult foster homes that apply for certification and meet the standards established by the department.

Sec. 5119.693. (A) As used in this section:

(1) "Adult resident" means an individual residing in an adult foster home certified by the department of mental health.

(2) "Applicant" means a person who is under final consideration for employment with an adult foster home in a full-time, part-time, or temporary position that involves providing direct care to an adult resident. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the owner or administrator of an adult foster home shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the owner or administrator shall request that the superintendent obtain information from the federal bureau of

investigation as part of the criminal records check of the 109772
applicant. Even if an applicant for whom a criminal records check 109773
request is required under this division presents proof of having 109774
been a resident of this state for the five-year period, the owner 109775
or administrator may request that the superintendent include 109776
information from the federal bureau of investigation in the 109777
criminal records check. 109778

(2) A person required by division (B)(1) of this section to 109779
request a criminal records check shall do both of the following: 109780

(a) Provide to each applicant for whom a criminal records 109781
check request is required under that division a copy of the form 109782
prescribed pursuant to division (C)(1) of section 109.572 of the 109783
Revised Code and a standard fingerprint impression sheet 109784
prescribed pursuant to division (C)(2) of that section, and obtain 109785
the completed form and impression sheet from the applicant; 109786

(b) Forward the completed form and impression sheet to the 109787
superintendent of the bureau of criminal identification and 109788
investigation. 109789

(3) An applicant provided the form and fingerprint impression 109790
sheet under division (B)(2)(a) of this section who fails to 109791
complete the form or provide fingerprint impressions shall not be 109792
employed in any position for which a criminal records check is 109793
required by this section. 109794

(C)(1) Except as provided in rules adopted by the department 109795
of mental health in accordance with division (F) of this section 109796
and subject to division (C)(2) of this section, no adult foster 109797
home shall employ a person in a position that involves providing 109798
direct care to an adult resident if the person has been convicted 109799
of or pleaded guilty to any of the following: 109800

(a) A violation of section 2903.01, 2903.02, 2903.03, 109801
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 109802

2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 109803
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 109804
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 109805
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 109806
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 109807
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 109808
2925.22, 2925.23, or 3716.11 of the Revised Code. 109809

(b) A violation of an existing or former law of this state, 109810
any other state, or the United States that is substantially 109811
equivalent to any of the offenses listed in division (C)(1)(a) of 109812
this section. 109813

(2)(a) An adult foster home may employ conditionally an 109814
applicant for whom a criminal records check request is required 109815
under division (B) of this section prior to obtaining the results 109816
of a criminal records check regarding the individual, provided 109817
that the foster home shall request a criminal records check 109818
regarding the individual in accordance with division (B)(1) of 109819
this section not later than five business days after the 109820
individual begins conditional employment. In the circumstances 109821
described in division (I)(2) of this section, an adult foster home 109822
may employ conditionally an applicant who has been referred to the 109823
adult foster home by an employment service that supplies 109824
full-time, part-time, or temporary staff for positions involving 109825
the direct care of adult residents and for whom, pursuant to that 109826
division, a criminal records check is not required under division 109827
(B) of this section. 109828

(b) An adult foster home that employs an individual 109829
conditionally under authority of division (C)(2)(a) of this 109830
section shall terminate the individual's employment if the results 109831
of the criminal records check requested under division (B) of this 109832
section or described in division (I)(2) of this section, other 109833
than the results of any request for information from the federal 109834

bureau of investigation, are not obtained within the period ending 109835
thirty days after the date the request is made. Regardless of when 109836
the results of the criminal records check are obtained, if the 109837
results indicate that the individual has been convicted of or 109838
pleaded guilty to any of the offenses listed or described in 109839
division (C)(1) of this section, the foster home shall terminate 109840
the individual's employment unless the foster home chooses to 109841
employ the individual pursuant to division (F) of this section. 109842
Termination of employment under this division shall be considered 109843
just cause for discharge for purposes of division (D)(2) of 109844
section 4141.29 of the Revised Code if the individual makes any 109845
attempt to deceive the foster home about the individual's criminal 109846
record. 109847

(D)(1) Each adult foster home shall pay to the bureau of 109848
criminal identification and investigation the fee prescribed 109849
pursuant to division (C)(3) of section 109.572 of the Revised Code 109850
for each criminal records check conducted pursuant to a request 109851
made under division (B) of this section. 109852

(2) An adult foster home may charge an applicant a fee not 109853
exceeding the amount the foster home pays under division (D)(1) of 109854
this section. An adult foster home may collect a fee only if it 109855
notifies the person at the time of initial application for 109856
employment of the amount of the fee and that, unless the fee is 109857
paid, the person will not be considered for employment. 109858

(E) The report of any criminal records check conducted 109859
pursuant to a request made under this section is not a public 109860
record for the purposes of section 149.43 of the Revised Code and 109861
shall not be made available to any person other than the 109862
following: 109863

(1) The individual who is the subject of the criminal records 109864
check or the individual's representative; 109865

<u>(2) The owner or administrator of the foster home requesting</u>	109866
<u>the criminal records check or the owner's or administrator's</u>	109867
<u>representative;</u>	109868
<u>(3) The administrator of any other facility, agency, or</u>	109869
<u>program that provides direct care to adult residents that is owned</u>	109870
<u>or operated by the same entity that owns or operates the adult</u>	109871
<u>foster home;</u>	109872
<u>(4) A court, hearing officer, or other necessary individual</u>	109873
<u>involved in a case dealing with a denial of employment of the</u>	109874
<u>applicant or dealing with employment or unemployment benefits of</u>	109875
<u>the applicant;</u>	109876
<u>(5) Any person to whom the report is provided pursuant to,</u>	109877
<u>and in accordance with, division (I)(1) or (2) of this section.</u>	109878
<u>(F) The department of mental health may adopt rules in</u>	109879
<u>accordance with Chapter 119. of the Revised Code to implement this</u>	109880
<u>section. The rules may specify circumstances under which an adult</u>	109881
<u>foster home may employ a person who has been convicted of or</u>	109882
<u>pleaded guilty to an offense listed or described in division</u>	109883
<u>(C)(1) of this section but meets personal character standards set</u>	109884
<u>by the department.</u>	109885
<u>(G) The owner or administrator of an adult foster home shall</u>	109886
<u>inform each individual, at the time of initial application for a</u>	109887
<u>position that involves providing direct care to an adult resident,</u>	109888
<u>that the individual is required to provide a set of fingerprint</u>	109889
<u>impressions and that a criminal records check is required to be</u>	109890
<u>conducted if the individual comes under final consideration for</u>	109891
<u>employment.</u>	109892
<u>(H) In a tort or other civil action for damages that is</u>	109893
<u>brought as the result of an injury, death, or loss to person or</u>	109894
<u>property caused by an individual who an adult foster home employs</u>	109895
<u>in a position that involves providing direct care to adult</u>	109896

residents, all of the following shall apply: 109897

(1) If the foster home employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the foster home shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate; 109898
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(2) If the foster home employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the foster home shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section; 109904
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(3) If the foster home in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the foster home shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section. 109909
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(I)(1) The owner or administrator of an adult foster home is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the foster home by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and both of the following apply: 109915
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(a) The owner or administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral; 109923
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(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the adult foster home chooses to employ the individual pursuant to division (F) of this section. 109928
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(2) The owner or administrator of an adult foster home is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the foster home by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and if the owner or administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the adult care foster home. If an adult foster home employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the adult foster home, and 109935
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division (C)(2)(b) of this section applies regarding the 109961
conditional employment. 109962

Sec. ~~3722.01~~ 5119.70. (A) As used in ~~this chapter~~ sections 109963
5119.70 to 5119.88: 109964

(1) "Owner" means the person who owns the business of and who 109965
ultimately controls the operation of an adult care facility and to 109966
whom the manager, if different from the owner, is responsible. 109967

(2) "Manager" means the person responsible for the daily 109968
operation of an adult care facility. The manager and the owner of 109969
a facility may be the same person. 109970

(3) "Adult" means an individual eighteen years of age or 109971
older. 109972

(4) "Unrelated" means that an adult resident is not related 109973
to the owner or manager of an adult care facility or to the 109974
owner's or manager's spouse as a parent, grandparent, child, 109975
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 109976
uncle, or as the child of an aunt or uncle. 109977

(5) "Skilled nursing care" means skilled nursing care as 109978
defined in section 3721.01 of the Revised Code. 109979

(6)(a) "Personal care services" means services including, but 109980
not limited to, the following: 109981

(i) Assistance with activities of daily living; 109982

(ii) Assistance with self-administration of medication, in 109983
accordance with rules adopted ~~by the public health council~~ 109984
~~pursuant to this chapter~~ under section 5119.79 of the Revised 109985
Code; 109986

(iii) Preparation of special diets, other than complex 109987
therapeutic diets, for residents pursuant to the instructions of a 109988
physician or a licensed dietitian, in accordance with rules 109989

adopted by the public health council pursuant to this chapter 109990
under section 5119.79 of the Revised Code. 109991

(b) "Personal care services" does not include "skilled 109992
nursing care" as defined in section 3721.01 of the Revised Code. A 109993
facility need not provide more than one of the services listed in 109994
division (A)(6)(a) of this section for the facility to be 109995
considered to be providing personal care services. 109996

(7) "Adult family home" means a residence or facility that 109997
provides accommodations and supervision to three to five unrelated 109998
adults, at least three of whom require personal care services. 109999

(8) "Adult group home" means a residence or facility that 110000
provides accommodations and supervision to six to sixteen 110001
unrelated adults, at least three of whom require personal care 110002
services. 110003

(9) "Adult care facility" means an adult family home or an 110004
adult group home. For the purposes of ~~this chapter~~ sections 110005
5119.70 to 5119.88 of the Revised Code, any residence, facility, 110006
institution, hotel, congregate housing project, or similar 110007
facility that provides accommodations and supervision to three to 110008
sixteen unrelated adults, at least three of whom require personal 110009
care services, is an adult care facility regardless of how the 110010
facility holds itself out to the public. "Adult care facility" 110011
does not include: 110012

(a) A facility operated by a hospice care program licensed 110013
under section 3712.04 of the Revised Code that is used exclusively 110014
for care of hospice patients; 110015

(b) A nursing home, residential care facility, or home for 110016
the aging as defined in section 3721.01 of the Revised Code; 110017

(c) An alcohol and drug addiction program as defined in 110018
section 3793.01 of the Revised Code; 110019

(d) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;	110020 110021 110022
(e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	110023 110024
(f) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;	110025 110026 110027
(g) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;	110028 110029 110030 110031 110032 110033 110034
(h) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;	110035 110036 110037 110038
(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;	110039 110040 110041
(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans.	110042 110043 110044 110045
(10) "Residents' rights advocate" means:	110046
(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health	110047 110048 110049

~~under section 3701.07 of the Revised Code;~~ 110050

~~(b) An employee or representative, other than a manager or
employee of an adult care facility or nursing home, of any private
nonprofit corporation or association that qualifies for tax exempt
status under section 501(a) of the "Internal Revenue Code of
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has
registered with the department of health under section 3701.07 of
the Revised Code, and whose purposes include educating and
counseling residents, assisting residents in resolving problems
and complaints concerning their care and treatment, and assisting
them in securing adequate services.~~ 110051
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~~(11)~~ "Sponsor" means an adult relative, friend, or guardian
of a resident of an adult care facility who has an interest in or
responsibility for the resident's welfare. 110061
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~~(12)~~(11) "Ombudsperson" means a "representative of the office
of the state long-term care ombudsperson program" as defined in
section 173.14 of the Revised Code. 110064
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~~(13)~~(12) "Mental health agency" means a community mental
health agency, as defined in division (H) of section 5119.22
5122.01 of the Revised Code, under contract with an ADAMHS board
pursuant to division (A)~~(8)~~(7)(a) of section 340.03 of the Revised
Code. 110067
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~~(14)~~(13) "ADAMHS board" means a board of alcohol, drug
addiction, and mental health services; 110072
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~~(15)~~(14) "Mental health resident program participation
agreement" means a written agreement between an adult care
facility and the ADAMHS board serving the alcohol, drug addiction,
and mental health service district in which the facility is
located, under which the facility is authorized to admit residents
who are receiving or are eligible for publicly funded mental
health services. 110074
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~~(16)~~(15) "PASSPORT RSS administrative agency" means an entity 110081
under ~~contract with the department of aging to provide that~~ 110082
provides administrative services regarding the ~~PASSPORT~~ 110083
residential state supplement program created under section 173.40 110084
of the Revised Code on behalf of the department of mental health, 110085
either by having entered into a contract with the department to 110086
serve in that capacity or by having the department otherwise 110087
delegate to it the responsibility to serve in that capacity. 110088

(B) For purposes of ~~this chapter sections 5119.70 to 5119.88~~ 110089
of the Revised Code, personal care services or skilled nursing 110090
care shall be considered to be provided by a facility if they are 110091
provided by a person employed by or associated with the facility 110092
or by another person pursuant to an agreement to which neither the 110093
resident who receives the services nor the resident's sponsor is a 110094
party. 110095

(C) Nothing in division (A)(6) of this section shall be 110096
construed to permit personal care services to be imposed upon a 110097
resident who is capable of performing the activity in question 110098
without assistance. 110099

Sec. ~~3722.011~~ 5119.701. (A) All medication taken by residents 110100
of an adult care facility shall be self-administered, except that 110101
medication may be administered to a resident as part of the 110102
skilled nursing care provided in accordance with division (B) of 110103
section ~~3722.16~~ 5119.86 of the Revised Code. No person shall be 110104
admitted to or retained by an adult care facility unless the 110105
person is capable of self-administering the person's medication, 110106
as determined in writing by a physician, except that a person may 110107
be admitted to or retained by such a facility if the person's 110108
medication is administered as part of the skilled nursing care 110109
provided in accordance with division (B) of section ~~3722.16~~ 110110
5119.86 of the Revised Code. 110111

(B) Members of the staff of an adult care facility shall not administer medication to residents but may do any of the following:

Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

Sec. ~~3722.02~~ 5119.71. A person seeking a license to operate an adult care facility shall submit to the director of mental health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of labor in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire

marshal or fire prevention officer of a municipal, township, or 110143
other legally constituted fire department approved by the state 110144
fire marshal and found to be in compliance with rules adopted 110145
under section 3737.83 of the Revised Code regarding fire 110146
prevention and safety in adult group homes; 110147

(B) Valid approvals of the facility's water and sewage 110148
systems issued by the responsible governmental entity, if 110149
applicable; 110150

(C) A statement of ownership containing the following 110151
information: 110152

(1) If the owner is an individual, the owner's name, address, 110153
telephone number, business address, business telephone number, and 110154
occupation. If the owner is an association, corporation, or 110155
partnership, the business activity, address, and telephone number 110156
of the entity and the name of every person who has an ownership 110157
interest of five per cent or more in the entity. 110158

(2) If the owner does not own the building or if the owner 110159
owns only part of the building in which the facility is housed, 110160
the name of each person who has an ownership interest of five per 110161
cent or more in the building; 110162

(3) The address of any adult care facility and any facility 110163
described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 110164
of the Revised Code in which the owner has an ownership interest 110165
of five per cent or more; 110166

(4) The identity of the manager of the adult care facility, 110167
if different from the owner; 110168

(5) The name and address of any adult care facility and any 110169
facility described in divisions (A)(9)(a) to (j) of section 110170
~~3722.01~~ 5119.70 of the Revised Code with which either the owner or 110171
manager has been affiliated through ownership or employment in the 110172
five years prior to the date of the application; 110173

(6) The names and addresses of three persons not employed by 110174
or associated in business with the owner who will provide 110175
information about the character, reputation, and competence of the 110176
owner and the manager and the financial responsibility of the 110177
owner; 110178

(7) Information about any arrest of the owner or manager for, 110179
or adjudication or conviction of, a criminal offense related to 110180
the provision of care in an adult care facility or any facility 110181
described in divisions (A)(9)(a) to (j) of section ~~3722.01~~ 5119.70 110182
of the Revised Code or the ability to operate a facility; 110183

(8) Any other information the director may require regarding 110184
the owner's ability to operate the facility. 110185

(D) If the facility is an adult group home, a balance sheet 110186
showing the assets and liabilities of the owner and a statement 110187
projecting revenues and expenses for the first twelve months of 110188
the facility's operation; 110189

(E) A statement containing the following information 110190
regarding admissions to the facility: 110191

(1) The intended bed capacity of the facility; 110192

(2) If the facility will admit persons referred by or 110193
receiving services from an ADAMHS board or a mental health agency, 110194
the total number of beds anticipated to be occupied as a result of 110195
those admissions. 110196

(F) A nonrefundable license application fee in an amount 110197
established in rules adopted ~~by the public health council pursuant~~ 110198
~~to this chapter~~ under section 5119.79 of the Revised Code. 110199

Sec. ~~3722.021~~ 5119.711. In determining the number of 110200
residents in a facility for the purpose of licensure ~~under this~~ 110201
~~chapter as an adult care facility~~, the director of mental health 110202
shall consider all the individuals for whom the facility provides 110203

accommodations as one group unless either of the following is the 110204
case: 110205

(A) In addition to being an adult care facility, the facility 110206
is a nursing home licensed under Chapter 3721. of the Revised 110207
Code, a residential facility licensed under that chapter, or both. 110208
In that case, all the individuals in the part or unit licensed as 110209
a nursing home, residential care facility, or both, shall be 110210
considered as one group and all the individuals in the part or 110211
unit licensed as an adult care facility shall be considered as 110212
another group. 110213

(B) The facility maintains, in addition to an adult care 110214
facility, a separate and discrete part or unit that provides 110215
accommodations to individuals who do not receive supervision or 110216
personal care services from the adult care facility, in which case 110217
the individuals in the separate and discrete part or unit shall 110218
not be considered in determining the number of residents in the 110219
adult care facility if the separate and discrete part or unit is 110220
in compliance with the Ohio basic building code established by the 110221
board of building standards under Chapters 3781. and 3791. of the 110222
Revised Code and the adult care facility, to the extent of its 110223
authority, permits the director, on request, to inspect the 110224
separate and discrete part or unit and speak with the individuals 110225
residing there, if they consent, to determine whether the separate 110226
and discrete part or unit meets the requirements of this division. 110227

Sec. ~~3722.022~~ 5119.712. A person may not apply for a license 110228
to operate an adult care facility if the person is or has been the 110229
owner or manager of an adult care facility for which a license to 110230
operate was revoked or for which renewal of a license was refused 110231
for any reason other than nonpayment of the license renewal fee, 110232
unless both of the following conditions are met: 110233

(A) A period of not less than two years has elapsed since the 110234

date the director of mental health issued the order revoking or 110235
refusing to renew the facility's license. 110236

(B) The director's revocation or refusal to renew the license 110237
was not based on an act or omission at the facility that violated 110238
a resident's right to be free from abuse, neglect, or 110239
exploitation. 110240

Sec. ~~3722.03~~ 5119.72. (A) Any person may operate an adult 110241
family home licensed as an adult care facility as a permitted use 110242
in any residential district or zone, including any single-family 110243
residential district or zone of any political subdivision. Such 110244
adult family homes may be required to comply with area, height, 110245
yard, and architectural compatibility requirements that are 110246
uniformly imposed upon all single-family residences within the 110247
district or zone. 110248

(B) Any person may operate an adult group home licensed as an 110249
adult care facility as a permitted use in any multiple-family 110250
residential district or zone of any political subdivision, except 110251
that a political subdivision that has enacted a zoning ordinance 110252
or resolution establishing planned-unit development districts as 110253
defined in section 519.021 of the Revised Code may exclude adult 110254
group homes from such districts, and a political subdivision that 110255
has enacted a zoning ordinance or resolution may regulate adult 110256
group homes in multiple-family residential districts or zones as a 110257
conditionally permitted use or special exception, in either case, 110258
under reasonable and specific standards and conditions set out in 110259
the zoning ordinance or resolution to: 110260

(1) Require the architectural design and site layout of the 110261
home and the location, nature, and height of any walls, screens, 110262
and fences to be compatible with adjoining land uses and the 110263
residential character of the neighborhood; 110264

(2) Require compliance with yard, parking, and sign 110265

regulation. 110266

(C) This section does not affect any right of a political 110267
subdivision to permit a person to operate an adult group home 110268
licensed under this chapter in a single-family residential 110269
district or zone under conditions established by the political 110270
subdivision. 110271

(D)(1) Notwithstanding divisions (A) and (B) of this section 110272
and except as otherwise provided in division (D)(2) of this 110273
section, a political subdivision that has enacted a zoning 110274
ordinance or resolution may limit the excessive concentration of 110275
adult family homes and adult group homes required to be licensed 110276
as adult care facilities. 110277

(2) Nothing in division (D)(1) of this section authorizes a 110278
political subdivision to prevent or limit the continued existence 110279
and operation of adult family homes and adult group homes existing 110280
and operating on the effective date of this section and required 110281
to be licensed as adult care facilities. A political subdivision 110282
may consider the existence of such homes for the purpose of 110283
limiting the excessive concentration of adult family homes or 110284
adult group homes required to be licensed as adult care facilities 110285
that are not existing and operating on the effective date of this 110286
section. 110287

Sec. ~~3722.04~~ 5119.73. (A) The director of mental health shall 110288
inspect, license, and regulate adult care facilities. Except as 110289
otherwise provided in division (D) of this section, the director 110290
shall issue a license to an adult care facility that meets the 110291
requirements of section ~~3722.02~~ 5119.71 of the Revised Code and 110292
that the director determines to be in substantial compliance with 110293
the rules adopted ~~by the public health council~~ pursuant to ~~this~~ 110294
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The 110295
director shall consider the past record of the owner and manager 110296

and any individuals who are principal participants in an entity 110297
that is the owner or manager in operating facilities providing 110298
care to adults. The director may, in accordance with Chapter 119. 110299
of the Revised Code, deny a license if the past record indicates 110300
that the owner or manager is not suitable to own or manage an 110301
adult care facility. 110302

The license shall contain the name and address of the 110303
facility for which it was issued, the date of expiration of the 110304
license, and the maximum number of residents that may be 110305
accommodated by the facility. A license for an adult care facility 110306
shall be valid for a period of two years after the date of 110307
issuance. No single facility may be licensed to operate as more 110308
than one adult care facility. 110309

(B) The director shall renew a license for a two-year period 110310
if the facility continues to be in compliance with the 110311
requirements of this chapter and in substantial compliance with 110312
the rules adopted ~~under this chapter~~ pursuant to sections 5119.70 110313
to 5119.88 of the Revised Code. The owner shall submit a 110314
nonrefundable license renewal application fee in an amount 110315
established in rules adopted ~~by the public health council pursuant~~ 110316
~~to this chapter~~ under section 5119.79 of the Revised Code. Before 110317
the license of an adult group home is renewed, if any alterations 110318
have been made to the buildings, a certificate of occupancy for 110319
the facility shall have been issued by the division of labor in 110320
the department of commerce or a local certified building 110321
department. The facility shall have water and sewage system 110322
approvals, if required by law, and, in the case of an adult group 110323
home, documentation of continued compliance with the rules adopted 110324
by the state fire marshal under division (F) of section 3737.83 of 110325
the Revised Code. 110326

(C)(1) During each licensure period, the director shall make 110327
at least one unannounced inspection of an adult care facility in 110328

addition to inspecting the facility to determine whether a license 110329
should be issued or renewed, and may make additional unannounced 110330
inspections as the director considers necessary. Other inspections 110331
may be made at any time that the director considers appropriate. 110332
Inspections may be conducted as desk audits or on-site 110333
inspections. 110334

The director shall take all reasonable actions to avoid 110335
giving notice of an inspection by the manner in which the 110336
inspection is scheduled or performed. 110337

If an inspection is conducted to investigate an alleged 110338
violation of the requirements of ~~this chapter~~ sections 5119.70 to 110339
5119.88 of the Revised Code in a facility with residents referred 110340
by or receiving services from a mental health agency or ADAMHS 110341
board or a facility with residents receiving assistance under the 110342
residential state supplement program administered by the 110343
department of ~~aging~~ mental health pursuant to section ~~173.35~~ 110344
5119.69 of the Revised Code, the director ~~shall~~ may coordinate the 110345
inspection with the appropriate mental health agency, ADAMHS 110346
board, or ~~PASSPORT~~ residential state supplement administrative 110347
agency designated under section 5119.69 of the Revised Code. ~~As~~ 110348
~~the director considers appropriate, the~~ The director ~~shall~~ may 110349
conduct the inspection jointly with the mental health agency, 110350
ADAMHS board, or ~~PASSPORT~~ residential state supplement 110351
administrative agency. 110352

Not later than sixty days after the date of an inspection of 110353
a facility, the director shall send a report of the inspection to 110354
the regional long-term care ombudsperson in whose region 110355
representing the program in the area in which the facility is 110356
located. 110357

(2) The state fire marshal or fire prevention officer of a 110358
municipal, township, or other legally constituted fire department 110359
approved by the state fire marshal shall inspect an adult group 110360

home seeking a license or renewal ~~under this chapter~~ as an adult 110361
care facility prior to issuance of a license or renewal, at least 110362
once annually thereafter, and at any other time at the request of 110363
the director, to determine compliance with the rules adopted under 110364
division (F) of section 3737.83 of the Revised Code. 110365

(D) The director may waive any of the licensing requirements 110366
established by rule ~~adopted by the public health council~~ pursuant 110367
to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code 110368
upon written request of the facility. The director may grant a 110369
waiver if the director determines that the strict application of 110370
the licensing requirement would cause undue hardship to the 110371
facility and that granting the waiver would not jeopardize the 110372
health or safety of any resident. The director may provide a 110373
facility with an informal hearing concerning the denial of a 110374
waiver request, but the facility shall not be entitled to a 110375
hearing under Chapter 119. of the Revised Code unless the director 110376
takes an action that requires a hearing to be held under section 110377
~~3722.05~~ 5119.74 of the Revised Code. 110378

(E)(1) Not later than thirty days after each of the 110379
following, the owner of an adult care facility shall submit an 110380
inspection fee of twenty dollars for each bed for which the 110381
facility is licensed: 110382

(a) Issuance or renewal of a license; 110383

(b) The unannounced inspection required by division (C)(1) of 110384
this section that is in addition to the inspection conducted to 110385
determine whether a license should be issued or renewed; 110386

(c) If, during an inspection conducted in addition to the two 110387
inspections required by division (C)(1) of this section, the 110388
facility was found to be in violation of ~~this chapter~~ sections 110389
5119.70 to 5119.88 of the Revised Code or the rules adopted under 110390
~~it~~ those sections, receipt by the facility of the report of that 110391

investigation. 110392

(2) The director may revoke the license of any adult care 110393
facility that fails to submit the fee within the thirty-day 110394
period. 110395

(3) All inspection fees received by the director, all civil 110396
penalties assessed under section ~~3722.08~~ 5119.77 of the Revised 110397
Code, all fines imposed under section ~~3722.99~~ 5119.99 of the 110398
Revised Code, and all license application and renewal application 110399
fees received under division (F) of section ~~3722.02~~ 5119.71 of the 110400
Revised Code or under division (B) of this section ~~shall be~~ 110401
~~deposited into the general operations fund created in section~~ 110402
~~3701.83 of the Revised Code and shall be used only to pay the~~ 110403
costs of administering and enforcing the requirements of ~~this~~ 110404
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code and rules 110405
adopted under ~~it~~ those sections. 110406

(F)(1) An owner shall inform the director in writing of any 110407
changes in the information contained in the statement of ownership 110408
made pursuant to division (C) of section ~~3722.02~~ 5119.71 of the 110409
Revised Code or in the identity of the manager, not later than ten 110410
days after the change occurs. 110411

(2) An owner who sells or transfers an adult care facility 110412
shall be responsible and liable for the following: 110413

(a) Any civil penalties imposed against the facility under 110414
section ~~3722.08~~ 5119.77 of the Revised Code for violations that 110415
occur before the date of transfer of ownership or during any 110416
period in which the seller or the seller's agent operates the 110417
facility; 110418

(b) Any outstanding liability to the state, unless the buyer 110419
or transferee has agreed, as a condition of the sale or transfer, 110420
to accept the outstanding liabilities and to guarantee their 110421
payment, except that if the buyer or transferee fails to meet 110422

these obligations the seller or transferor shall remain 110423
responsible for the outstanding liability. 110424

(G) The director shall annually publish a list of licensed 110425
adult care facilities, facilities for which licenses have been 110426
revoked, facilities for which license renewal has been refused, 110427
any facilities under an order suspending admissions pursuant to 110428
section ~~3722.07~~ 5119.76 of the Revised Code, and any facilities 110429
that have been assessed a civil penalty pursuant to section 110430
~~3722.08~~ 5119.77 of the Revised Code. The director shall furnish 110431
information concerning the status of licensure of any facility to 110432
any person upon request. The director shall annually send a copy 110433
of the list to the department of job and family services, ~~to the~~ 110434
~~department of mental health,~~ and to the department of aging. 110435

Sec. ~~3722.041~~ 5119.731. (A) Sections 3781.06 to 3781.18 and 110436
3791.04 of the Revised Code do not apply to an adult family home 110437
for which application is made to the director of mental health for 110438
licensure as an adult care facility ~~under this chapter~~. Adult 110439
family homes shall not be required to submit evidence to the 110440
director ~~of health~~ that the home has been inspected by a local 110441
certified building department or the division of labor in the 110442
department of commerce or by the state fire marshal or a fire 110443
prevention officer under section ~~3722.02~~ 5119.71 of the Revised 110444
Code, but shall be inspected by the director ~~of health~~ to 110445
determine compliance with this section. An inspection made under 110446
this section may be made at the same time as an inspection made 110447
under section ~~3722.04~~ 5119.73 of the Revised Code. 110448

(B) The director shall not license or renew the license of an 110449
adult family home unless it meets the fire protection standards 110450
established by rules adopted ~~by the public health council pursuant~~ 110451
~~to this chapter~~ under section 5119.79 of the Revised Code. 110452

Sec. ~~3722.05~~ 5119.74. If an adult care facility fails to 110453
comply with any requirement of ~~this chapter~~ sections 5119.70 to 110454
5119.88 of the Revised Code or with any rule adopted ~~pursuant to~~ 110455
~~this chapter~~ under those sections, the director of mental health 110456
may do any one or all of the following: 110457

(A) In accordance with Chapter 119. of the Revised Code, 110458
deny, revoke, or refuse to renew the license of the facility; 110459

(B) Give the facility an opportunity to correct the 110460
violation, in accordance with section ~~3722.06~~ 5119.75 of the 110461
Revised Code; 110462

(C) Issue an order suspending the admission of residents to 110463
the facility, in accordance with section ~~3722.07~~ 5119.76 of the 110464
Revised Code; 110465

(D) Impose a civil penalty in accordance with section ~~3722.08~~ 110466
5119.77 of the Revised Code; 110467

(E) Petition the court of common pleas for injunctive relief 110468
in accordance with section ~~3722.09~~ 5119.78 of the Revised Code. 110469

Sec. ~~3722.06~~ 5119.75. Except as otherwise provided in 110470
sections ~~3722.07~~ 5119.76 to ~~3722.09~~ 5119.78 of the Revised Code 110471
and except in cases of violations that jeopardize the health and 110472
safety of any of the residents, if the director of mental health 110473
determines that a licensed adult care facility is in violation of 110474
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of 110475
rules adopted ~~pursuant to this chapter~~ under those sections, the 110476
director shall give the facility an opportunity to correct the 110477
violation. The director shall notify the facility of the violation 110478
and specify a reasonable time for making the corrections. Notice 110479
of the violation shall be in writing and shall include a citation 110480
to the statute or rule violated. The director shall state the 110481
action that the director will take if the corrections are not made 110482

within the specified period of time. 110483

The facility shall submit to the director a plan of 110484
correction stating the actions that will be taken to correct the 110485
violation. The director shall conduct an inspection to determine 110486
whether the facility has corrected the violation in accordance 110487
with the plan of correction. 110488

If the director determines that the facility has failed to 110489
correct the violation in accordance with the plan of correction, 110490
the director may impose a penalty under section ~~3722.08~~ 5119.77 of 110491
the Revised Code. If the director determines that the license of 110492
the facility should be revoked or should not be renewed because 110493
the facility has failed to correct the violation within the time 110494
specified or because the violation jeopardizes the health or 110495
safety of any of the residents, the director shall revoke or 110496
refuse to renew the license in accordance with Chapter 119. of the 110497
Revised Code. 110498

Sec. ~~3722.07~~ 5119.76. (A) If the director of mental health 110499
determines that an adult care facility is in violation of ~~this~~ 110500
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of 110501
rules adopted ~~pursuant to it~~ under those sections, the director 110502
may immediately issue an order suspending the admission of 110503
residents to the facility. This order shall be effective 110504
immediately without prior hearing, and no resident shall be 110505
admitted to the facility until termination of the order. The 110506
director shall send a copy of the order to each organization known 110507
by the director to have placed residents in the facility and upon 110508
termination of the order shall send written notice of the 110509
termination to each of these organizations. Upon inquiry by any 110510
person about the licensure status of the facility, the director 110511
shall disclose the existence of an order of suspension. If the 110512
director discloses the existence of such an order to any person 110513

pursuant to this division, ~~he~~ the director shall also notify that 110514
person, and any other person upon inquiry, of any subsequent 110515
termination of the order of suspension. The facility shall post 110516
the notice provided for in division (B) of this section 110517
prominently and shall inform any person who inquires about 110518
residence or placement in the facility of the order. 110519

(B) The director shall give written notice of the order of 110520
suspension to the facility by certified mail, return receipt 110521
requested, or shall provide for delivery of the notice in person. 110522
If requested by the facility in a letter mailed or delivered not 110523
later than two working days after it has received the notice, the 110524
director shall hold a conference with representatives of the 110525
facility concerning the suspension. The conference shall be held 110526
not later than seven days after the director receives the request. 110527

The notice sent by the director shall contain all of the 110528
following: 110529

(1) A description of the violation; 110530

(2) A citation to the statute or rule violated; 110531

(3) A description of the corrections required for termination 110532
of the order of suspension; 110533

(4) Procedures for the facility to follow to request a 110534
conference on the order of suspension. 110535

(C) At the conference the director shall discuss with the 110536
representatives of the facility the violation cited in the notice 110537
provided for in division (B) of this section and shall advise the 110538
representatives in regard to correcting the violations. Not later 110539
than five days after the conference, the director shall issue 110540
another order either upholding or terminating the suspension. If 110541
the director issues an order upholding the suspension, the 110542
facility may request an adjudication hearing pursuant to Chapter 110543
119. of the Revised Code, but the notice and hearing under that 110544

chapter shall be provided after the order is issued, and the 110545
suspension shall remain in effect during the hearing process 110546
unless terminated by the director or until ninety days have 110547
elapsed after a timely request for an adjudication hearing is 110548
received by the director, whichever is sooner. 110549

Sec. ~~3722.08~~ 5119.77. (A) If the director of mental health 110550
determines that an adult care facility is in violation of ~~this~~ 110551
~~chapter~~ sections 5119.70 to 5119.88 of the Revised Code or rules 110552
adopted under ~~it~~ those sections, the director may impose a civil 110553
penalty on the owner of the facility, pursuant to rules adopted ~~by~~ 110554
~~the public health council~~ under ~~this chapter~~ sections 5119.79 and 110555
5119.80 of the Revised Code. The director shall determine the 110556
classification and amount of the penalty by considering the 110557
following factors: 110558

(1) The gravity of the violation, the severity of the actual 110559
or potential harm, and the extent to which the provisions of this 110560
chapter or rules adopted under it were violated; 110561

(2) Actions taken by the owner or manager to correct the 110562
violation; 110563

(3) The number, if any, of previous violations by the adult 110564
care facility. 110565

(B) The director shall give written notice of the order 110566
imposing a civil penalty to the adult care facility by certified 110567
mail, return receipt requested, or shall provide for delivery of 110568
the notice in person. The notice shall specify the classification 110569
of the violation as determined by rules adopted ~~by the public~~ 110570
~~health council pursuant to this chapter~~ under section 5119.80 of 110571
the Revised Code, the amount of the penalty and the rate of 110572
interest, the action that is required to be taken to correct the 110573
violation, the time within which it is to be corrected as 110574
specified in division (C) of this section, and the procedures for 110575

the facility to follow to request a conference on the order 110576
imposing a civil penalty. If the facility requests a conference in 110577
a letter mailed or delivered not later than two working days after 110578
it has received the notice, the director shall hold a conference 110579
with representatives of the facility concerning the civil penalty. 110580
The conference shall be held not later than seven days after the 110581
director receives the request. The conference shall be conducted 110582
as prescribed in division (C) of section ~~3722.07~~ 5119.76 of the 110583
Revised Code. If the director issues an order upholding the civil 110584
penalty, the facility may request an adjudication hearing pursuant 110585
to Chapter 119. of the Revised Code, but the order of the director 110586
shall be in effect during proceedings instituted pursuant to that 110587
chapter until a final adjudication is made. 110588

(C) The director shall order that the condition or practice 110589
constituting a class I violation be abated or eliminated within 110590
twenty-four hours or any longer period that the director considers 110591
reasonable. The notice for a class II or a class III violation 110592
shall specify a time within which the violation is required to be 110593
corrected. 110594

(D) If the facility does not request a conference or if, 110595
after a conference, it fails to take action to correct a violation 110596
in the time prescribed by the director, the director shall issue 110597
an order upholding the penalty, plus interest at the rate 110598
specified in section 1343.03 of the Revised Code for each day 110599
beyond the date set for payment of the penalty. The director may 110600
waive the interest payment for the period prior to the conference 110601
if the director concludes that the conference was necessitated by 110602
a legitimate dispute. 110603

(E) The director may cancel or reduce the penalty for a class 110604
I violation if the facility corrects the violation within the time 110605
specified in the notice, except that the director shall impose the 110606
penalty even though the facility has corrected the violation if a 110607

resident suffers physical harm because of the violation or the 110608
facility has been cited previously for the same violation. The 110609
director may cancel the penalty for a class II or class III 110610
violation if the facility corrects the violation within the time 110611
specified in the notice and the facility has not been cited 110612
previously for the same violation. Each day of a violation of any 110613
class, after the date the director sets for abatement or 110614
elimination, constitutes a separate and additional violation. 110615

(F) If an adult care facility fails to pay a penalty imposed 110616
under this section, the director may commence a civil action to 110617
collect the penalty. The license of an adult care facility that 110618
has failed to pay a penalty imposed under this section shall not 110619
be renewed until the penalty has been paid. 110620

(G) If a penalty is imposed under this section, a fine shall 110621
not be imposed under section ~~3722.99~~ 5119.99 of the Revised Code 110622
for the same violation. 110623

Sec. ~~3722.09~~ 5119.78. (A) If the director of mental health 110624
determines that the operation of an adult care facility 110625
jeopardizes the health or safety of any of the residents of the 110626
facility or if the director determines that an adult care facility 110627
is operating without a license, the director may petition the 110628
court of common pleas in the county in which the facility is 110629
located for appropriate injunctive relief against the facility. If 110630
injunctive relief is granted against a facility for operating 110631
without a license and the facility continues to operate without a 110632
license, the director shall refer the case to the attorney general 110633
for further action. 110634

(B) The court petitioned under division (A) of this section 110635
shall grant injunctive relief upon a showing that the operation of 110636
the facility jeopardizes the health or safety of any of the 110637
residents of the facility or that the facility is operating 110638

without a license. When the court grants injunctive relief in the 110639
case of a facility operating without a license, the court shall 110640
issue, at a minimum, an order enjoining the facility from 110641
admitting new residents to the facility and an order requiring the 110642
facility to assist ~~resident rights advocates~~ with the safe and 110643
orderly relocation of the facility's residents. 110644

Sec. ~~3722.10~~ 5119.79. (A) The ~~public health council shall~~ 110645
~~have the exclusive authority to adopt, and the council department~~ 110646
~~of mental health~~ shall adopt, ~~7~~ rules governing the licensing and 110647
operation of adult care facilities. The rules shall be adopted in 110648
accordance with Chapter 119. of the Revised Code ~~and shall.~~ 110649
Subject to any provision of sections 5119.70 to 5119.88 of the 110650
Revised Code for which rules are required to be adopted, the rules 110651
may specify all any of the following: 110652

(1) Procedures for the issuance, renewal, and revocation of 110653
licenses, for the granting and denial of waivers, and for the 110654
issuance and termination of orders of suspension of admission 110655
pursuant to section ~~3722.07~~ 5119.76 of the Revised Code; 110656

(2) The qualifications required for owners, managers, and 110657
employees of adult care facilities, including character, training, 110658
education, experience, and financial resources and the number of 110659
staff members required in a facility; 110660

(3) Adequate space, equipment, safety, and sanitation 110661
standards for the premises of adult care facilities, and fire 110662
protection standards for adult family homes as required by section 110663
~~3722.041~~ 5119.731 of the Revised Code; 110664

(4) The personal, social, dietary, and recreational services 110665
to be provided to each resident of adult care facilities; 110666

(5) Rights of residents of adult care facilities, in addition 110667
to the rights enumerated under section ~~3722.12~~ 5119.81 of the 110668

Revised Code, and procedures to protect and enforce the rights of 110669
these residents; 110670

(6) Provisions for keeping records of residents and for 110671
maintaining the confidentiality of the records as required by 110672
division (B) of section ~~3722.12~~ 5119.81 of the Revised Code. The 110673
provisions for maintaining the confidentiality of records shall, 110674
at the minimum, meet the requirements for maintaining the 110675
confidentiality of records under Title XIX of the "Social Security 110676
Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations 110677
promulgated thereunder. 110678

(7) Measures to be taken by adult care facilities relative to 110679
residents' medication, including policies and procedures 110680
concerning medication, storage of medication in a locked area, and 110681
disposal of medication and assistance with self-administration of 110682
medication, if the facility provides assistance; 110683

(8) Requirements for initial and periodic health assessments 110684
of prospective and current adult care facility residents by 110685
physicians or other health professionals to ensure that they do 110686
not require a level of care beyond that which is provided by the 110687
adult care facility, including assessment of their capacity to 110688
self-administer the medications prescribed for them; 110689

(9) Requirements relating to preparation of special diets; 110690

(10) The amount of the fees for new and renewal license 110691
applications made pursuant to sections ~~3722.02~~ 5119.71 and ~~3722.04~~ 110692
5119.73 of the Revised Code; 110693

(11) Measures to be taken by any employee of the state or any 110694
political subdivision of the state authorized by this chapter to 110695
enter an adult care facility to inspect the facility or for any 110696
other purpose, to ensure that the employee respects the privacy 110697
and dignity of residents of the facility, cooperates with 110698
residents of the facility and behaves in a congenial manner toward 110699

them, and protects the rights of residents; 110700

(12) How an owner or manager of an adult care facility is to 110701
comply with section ~~3722.18~~ 5119.88 of the Revised Code. ~~At a~~ 110702
~~minimum, the~~ The rules ~~shall~~ may establish the procedures an owner 110703
or manager is to follow under division (A) of section ~~3722.18~~ 110704
5119.88 of the Revised Code regarding referrals to the facility of 110705
prospective residents with mental illness or severe mental 110706
disability and effective arrangements for ongoing mental health 110707
services for such prospective residents. The procedures may 110708
provide for any of the following: 110709

(a) That the owner or manager and the ADAMHS board serving 110710
the alcohol, drug addiction, and mental health service district in 110711
which the facility is located sign a mental health resident 110712
program participation agreement, as developed by the director of 110713
mental health under section ~~5119.613~~ 5119.614 of the Revised Code; 110714

(b) That the owner or manager comply with the requirements of 110715
its mental health resident program participation agreement; 110716

(c) That the owner or manager and the mental health agencies 110717
and ADAMHS boards that refer such prospective residents to the 110718
facility develop and sign a mental health plan for ongoing mental 110719
health services for each such prospective resident; 110720

(d) Any other process established by the ~~public health~~ 110721
~~council in consultation with the director of health and~~ director 110722
of mental health regarding referrals and effective arrangements 110723
for ongoing mental health services for prospective residents with 110724
mental illness. 110725

(13) Any other rules necessary for the administration and 110726
enforcement of ~~this chapter~~ sections 5119.70 to 5119.88 of the 110727
Revised Code. 110728

(B) ~~After consulting with relevant constituencies, the~~ 110729
~~director of mental health shall prepare and submit to the director~~ 110730

~~of health recommendations for the content of rules to be adopted under division (A)(12) of this section.~~ 110731
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~~(C)~~ The director of mental health shall advise adult care facilities regarding compliance with the requirements of ~~this chapter sections 5119.70 to 5119.88 of the Revised Code~~ and with the rules adopted pursuant to ~~this chapter~~ those sections. 110733
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~~(D)~~(C) Any duty or responsibility imposed upon the director of mental health by this chapter may be carried out by ~~an employee of the department of health~~ persons designated by the director. 110737
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~~(E)~~(D) Employees of the department of mental health may enter, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as an adult care facility without a valid license. 110740
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Sec. ~~3722.11~~ 5119.80. The ~~public health council~~ department of mental health shall, ~~not later than twelve months after the effective date of this section,~~ adopt rules under Chapter 119. of the Revised Code that set guidelines for classifying violations of ~~this chapter sections 5119.70 to 5119.88 of the Revised Code~~ or rules adopted under ~~it~~ those sections for the purpose of imposing civil penalties. The rules shall establish the following classifications: 110746
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(A) Class I violations are conditions or occurrences that present an immediate and serious threat to the physical or emotional health, safety, or security of residents of an adult care facility. Whoever is determined to have committed a class I violation is subject to a civil penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation. 110754
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(B) Class II violations are conditions or occurrences, other than class I violations, that directly threaten the physical or emotional health, safety, or security of residents of an adult care facility. Whoever is determined to have committed a class II violation is subject to a civil penalty of not less than five hundred dollars nor more than seven hundred dollars for each violation.

(C) Class III violations are conditions or occurrences, other than class I or class II violations, that indirectly or potentially threaten the physical or emotional health, safety, or security of residents of a facility. Whoever is determined to have committed a class III violation is subject to a civil penalty of not less than one hundred dollars nor more than five hundred dollars for each violation.

Sec. ~~3722.12~~ 5119.81. (A) As used in this section:

(1) "Abuse" means the unreasonable confinement or intimidation of a resident, or the infliction of injury or cruel punishment upon a resident, resulting in physical harm, pain, or mental anguish.

(2) "Exploitation" means the unlawful or improper utilization of an adult resident or ~~his~~ the resident's resources for personal or monetary benefit, profit, or gain.

(3) "Mechanical restraint" means any method of restricting a resident's freedom of movement, physical activity, or normal use of the resident's body, using an appliance or device manufactured for this purpose.

(4) "Neglect" means failure to provide a resident with the goods or services necessary to prevent physical harm, mental anguish, or mental illness.

~~(4)(5) "Physical restraint," includes, but is not limited to,~~

~~the locked door of a room or any article, device, or garment that~~ 110791
~~interferes with the free movement of the resident and that he is~~ 110792
~~unable to remove easily~~ also known as "manual restraint," means 110793
any method of physically restricting a resident's freedom of 110794
movement, physical activity, or normal use of the resident's body 110795
without the use of a mechanical restraint. 110796

(6) "Seclusion" means the involuntary confinement of a 110797
resident alone in a room in which the resident is physically 110798
prevented from leaving. 110799

(B) The rights of a resident of an adult care facility 110800
include all of the following: 110801

(1) The right to a safe, healthy, clean, and decent living 110802
environment; 110803

(2) The right to be treated at all times with courtesy and 110804
respect, and with full recognition of personal dignity and 110805
individuality; 110806

(3) The right to practice a religion of ~~his~~ the resident's 110807
choice or to abstain from the practice of religion; 110808

(4) The right to manage personal financial affairs; 110809

(5) The right to retain and use personal clothing; 110810

(6) The right to ownership and reasonable use of personal 110811
property so as to maintain personal dignity and individuality; 110812

(7) The right to participate in activities within the 110813
facility and to use the common areas of the facility; 110814

(8) The right to engage in or refrain from engaging in 110815
activities of ~~his~~ the resident's own choosing within reason; 110816

(9) The right to private and unrestricted communications, 110817
including: 110818

(a) The right to receive, send, and mail sealed, unopened 110819

correspondence;	110820
(b) The right to reasonable access to a telephone for private communications;	110821 110822
(c) The right to private visits at any reasonable hour.	110823
(10) The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at his <u>the resident's</u> initiative or at the initiative of community groups;	110824 110825 110826 110827
(11) The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal;	110828 110829 110830
(12) Prior to becoming a resident, the right to visit the facility alone or with his <u>the prospective resident's</u> sponsor;	110831 110832
(13) The right to retain the services of any health or social services practitioner at his <u>the resident's</u> own expense;	110833 110834
(14) The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, the right to have his <u>the resident's</u> legal guardian make decisions about medical treatment and services for him <u>the resident</u> ;	110835 110836 110837 110838 110839 110840
(15) The right to be free from abuse, neglect, or exploitation;	110841 110842
(16) The right to be free from <u>seclusion and mechanical and physical restraints</u> ;	110843 110844
(17) The right not to be deprived of any legal rights solely by reason of residence in an adult care facility;	110845 110846
(18) The right to examine records maintained by the adult care facility concerning him <u>the resident</u> , upon request;	110847 110848

(19) The right to confidential treatment of ~~his~~ the 110849
resident's personal records, and the right to approve or refuse 110850
the release of these records to any individual outside the 110851
facility, except upon transfer to another adult care facility or a 110852
nursing home, residential care facility, home for the aging, 110853
hospital, or other health care facility or provider, and except as 110854
required by law or rule or as required by a third-party payment 110855
contract; 110856

(20) The right to be informed in writing of the rates charged 110857
by the facility as well as any additional charges, and to receive 110858
thirty days notice in writing of any change in the rates and 110859
charges; 110860

(21) The right to have any significant change in ~~his~~ the 110861
resident's health reported to ~~his~~ the resident's sponsor; 110862

(22) The right to share a room with a spouse if both are 110863
residents of the facility. 110864

(C) A sponsor, or the director of mental health, ~~the director~~ 110865
~~of aging, or a residents' rights advocate registered under section~~ 110866
~~3701.07 of the Revised Code~~ may assert on behalf of a resident any 110867
of the rights enumerated under this section, section ~~3722.14~~ 110868
5119.83 of the Revised Code, or rules adopted ~~by the public health~~ 110869
~~council pursuant to this chapter~~ sections 5119.70 to 5119.88 of 110870
the Revised Code. Any attempted waiver of these rights is void. No 110871
adult care facility or person associated with an adult care 110872
facility shall deny a resident any of these rights. 110873

(D) Any resident whose rights under this section or section 110874
~~3722.13~~ 5119.82 or ~~3722.14~~ 5119.83 of the Revised Code are 110875
violated has a cause of action against any person or facility 110876
committing the violation. ~~The action may be commenced by the~~ 110877
~~resident or by his sponsor on his behalf.~~ The court may award 110878
actual and punitive damages for violation of the rights. The court 110879

may award to the prevailing party reasonable attorney's fees 110880
limited to the work reasonably performed. 110881

Sec. ~~3722.13~~ 5119.82. (A) Each adult care facility shall 110882
establish a written residents' rights policy containing the text 110883
of sections ~~3722.12~~ 5119.81 and ~~3722.14~~ 5119.83 of the Revised 110884
Code and rules adopted by the ~~public health council~~ pursuant to 110885
~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, a 110886
discussion of the rights and responsibilities of residents under 110887
~~that section~~ sections 5119.81 to 5119.83 of the Revised Code, and 110888
the text of any additional rule for residents promulgated by the 110889
facility. At the time of admission the manager shall give a copy 110890
of the residents' rights policy to the resident and the resident's 110891
sponsor, if any, and explain the contents of the policy to them. 110892
The facility shall establish procedures for facilitating the 110893
residents' exercise of their rights. 110894

(B) Each adult care facility shall post prominently within 110895
the facility a copy of the residents' rights listed in division 110896
(B) of section ~~3722.12~~ 5119.81 of the Revised Code and any 110897
additional residents' rights established by rules adopted ~~by the~~ 110898
~~public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 110899
5119.88 of the Revised Code, the addresses and telephone numbers 110900
of the state long-term care ombudsperson and the regional 110901
long-term care ombudsperson program for the area in which the 110902
facility is located, and the telephone number maintained by the 110903
department ~~of health~~ for accepting complaints. 110904

Sec. ~~3722.14~~ 5119.83. (A)(1) Except as provided in division 110905
(A)(2) of this section, an adult care facility may transfer or 110906
discharge a resident, in the absence of a request from the 110907
resident, only for the following reasons: 110908

(a) Charges for the resident's accommodations and services 110909

have not been paid within thirty days after the date on which they became due; 110910
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(b) The mental, emotional, or physical condition of the resident requires a level of care that the facility is unable to provide; 110912
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(c) The health, safety, or welfare of the resident or of another resident requires a transfer or discharge; 110915
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(d) The facility's license has been revoked or renewal has been denied ~~pursuant to this chapter by the director of mental health;~~ 110917
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(e) The owner closes the facility; 110920

(f) The resident is relocated as the result of a court's order issued under section ~~3722-09~~ 5119.78 of the Revised Code as part of the injunctive relief granted against a facility that is operating without a license; 110921
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(g) The resident is receiving publicly funded mental health services and the facility's mental health resident program participation agreement is terminated by the facility or ADAMHS board. 110925
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(2) An adult family home may transfer or discharge a resident if transfer or discharge is required for the health, safety, or welfare of an individual who resides in the home but is not a resident for whom supervision or personal services are provided. 110929
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(B)(1) The facility shall give a resident thirty days' advance notice, in writing, of a proposed transfer or discharge, except that if the transfer or discharge is for a reason given in divisions (A)(1)(b) to (g) or (A)(2) of this section and an emergency exists, the notice need not be given thirty days in advance. The facility shall state in the written notice the reasons for the proposed transfer or discharge. If the resident is 110933
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entitled to a hearing as specified in division (B)(2) of this 110940
section, the written notice shall outline the procedure for the 110941
resident to follow in requesting a hearing. 110942

(2) A resident may request a hearing if a proposed transfer 110943
or discharge is based on reason given in ~~division~~ divisions 110944
(A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks 110945
a hearing, the resident shall submit a request to the director of 110946
mental health not later than ten days after receiving the written 110947
notice. The director shall hold the hearing not later than ten 110948
days after receiving the request. A representative of the director 110949
shall preside over the hearing and shall issue a written 110950
recommendation of action to be taken by the director not later 110951
than three days after the hearing. The director shall issue an 110952
order regarding the transfer or discharge not later than two days 110953
after receipt of the recommendation. The order may prohibit or 110954
place conditions on the discharge or transfer. In the case of a 110955
transfer, the order may require that the transfer be to an 110956
institution or facility specified by the director. The hearing is 110957
not subject to section 121.22 of the Revised Code. The ~~public~~ 110958
~~health council~~ department of mental health shall adopt rules 110959
governing any additional procedures necessary for conducting the 110960
hearing. 110961

(C)(1) The owner of an adult care facility who is closing the 110962
facility shall inform the director ~~of health~~ in writing at least 110963
thirty days prior to the proposed date of closing. At the same 110964
time, the owner or manager shall inform each resident, the 110965
resident's guardian, the resident's sponsor, or any organization 110966
or agency acting on behalf of the resident, of the closing of the 110967
facility and the date of the closing. 110968

(2) Immediately upon receiving notice that a facility is to 110969
be closed, the director shall monitor the transfer of residents to 110970
other facilities and ensure that residents' rights are protected. 110971

The director shall notify the ombudsperson in the region in which the facility is located of the closing. 110972
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(3) All charges shall be prorated as of the date on which the facility closes. If payments have been made in advance, the payments for services not rendered shall be refunded to the resident or the resident's guardian not later than seven days after the closing of the facility. 110974
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(4) Immediately upon the closing of a facility, the owner shall surrender the license to the director, and the license shall be canceled. 110979
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Sec. ~~3722.15~~ 5119.84. (A) The following may enter an adult care facility at any time: 110982
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(1) Employees designated by the director of mental health; 110984

(2) Employees designated by the director of aging; 110985

(3) Employees designated by the attorney general; 110986

(4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code; 110987
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(5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care ombudsperson program; 110990
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~~(6) Employees of the department of mental health designated by the director of mental health;~~ 110993
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~~(7)~~ Employees of a mental health agency under any of the following circumstances: 110995
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(a) When the agency has a client residing in the facility; 110997

(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract; 110998
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(c) When there is a mental health resident program	111000
participation agreement between the facility and the ADAMHS board	111001
with which the agency is under contract.	111002
(8)(7) Employees of an ADAMHS board under any of the	111003
following circumstances:	111004
(a) When authorized by section 340.05 of the Revised Code;	111005
(b) When a resident of the facility is receiving mental	111006
health services provided by that ADAMHS board or another ADAMHS	111007
board pursuant to division (A) (8)(7) (b) of section 340.03 of the	111008
Revised Code;	111009
(c) When a resident of the facility is receiving services	111010
from a mental health agency under contract with that ADAMHS board	111011
or another ADAMHS board;	111012
(d) When there is a mental health resident program	111013
participation agreement between the facility and that ADAMHS	111014
board.	111015
The employees specified in divisions (A)(1) to (8)(7) of this	111016
section shall be afforded access to all records of the facility,	111017
including records pertaining to residents, and may copy the	111018
records. Neither these employees nor the director of <u>mental</u> health	111019
shall release, without consent, any information obtained from the	111020
records of an adult care facility that reasonably would tend to	111021
identify a specific resident of the facility, except as ordered by	111022
a court of competent jurisdiction <u>or when the release is otherwise</u>	111023
<u>authorized by law.</u>	111024
(B) The following persons may enter any adult care facility	111025
during reasonable hours:	111026
(1) A resident's sponsor;	111027
(2) Residents' rights advocates;	111028
(3) A resident's attorney;	111029

~~(4)~~(2) A minister, priest, rabbi, or other person ministering to a resident's religious needs; 111030
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~~(5)~~(3) A physician or other person providing health care services to a resident; 111032
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~~(6)~~(4) Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities; 111034
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~~(7)~~(5) A prospective resident ~~and prospective resident's sponsor.~~ 111037
111038

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section. 111039
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Sec. ~~3722.151~~ 5119.85. (A) As used in this section: 111043

(1) "~~Adult care facility~~" ~~has the same meaning as in section 3722.01 of the Revised Code~~ resident means an individual residing in an adult care facility licensed by the department of mental health. 111044
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(2) "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an ~~elder~~ adult resident. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses. 111048
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(3) "Criminal records check" ~~and "older adult"~~ have the same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 111055
111056

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility shall request that the superintendent of the bureau of criminal identification 111057
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111059

and investigation conduct a criminal records check with respect to 111060
each applicant. If an applicant for whom a criminal records check 111061
request is required under this division does not present proof of 111062
having been a resident of this state for the five-year period 111063
immediately prior to the date the criminal records check is 111064
requested or provide evidence that within that five-year period 111065
the superintendent has requested information about the applicant 111066
from the federal bureau of investigation in a criminal records 111067
check, the chief administrator shall request that the 111068
superintendent obtain information from the federal bureau of 111069
investigation as part of the criminal records check of the 111070
applicant. Even if an applicant for whom a criminal records check 111071
request is required under this division presents proof of having 111072
been a resident of this state for the five-year period, the chief 111073
administrator may request that the superintendent include 111074
information from the federal bureau of investigation in the 111075
criminal records check. 111076

(2) A person required by division (B)(1) of this section to 111077
request a criminal records check shall do both of the following: 111078

(a) Provide to each applicant for whom a criminal records 111079
check request is required under that division a copy of the form 111080
prescribed pursuant to division (C)(1) of section 109.572 of the 111081
Revised Code and a standard fingerprint impression sheet 111082
prescribed pursuant to division (C)(2) of that section, and obtain 111083
the completed form and impression sheet from the applicant; 111084

(b) Forward the completed form and impression sheet to the 111085
superintendent of the bureau of criminal identification and 111086
investigation. 111087

(3) An applicant provided the form and fingerprint impression 111088
sheet under division (B)(2)(a) of this section who fails to 111089
complete the form or provide fingerprint impressions shall not be 111090
employed in any position for which a criminal records check is 111091

required by this section. 111092

(C)(1) Except as provided in rules adopted by the ~~public~~ 111093
~~health council~~ department of mental health in accordance with 111094
division (F) of this section and subject to division (C)(2) of 111095
this section, no adult care facility shall employ a person in a 111096
position that involves providing direct care to an ~~elder~~ adult 111097
resident if the person has been convicted of or pleaded guilty to 111098
any of the following: 111099

(a) A violation of section 2903.01, 2903.02, 2903.03, 111100
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 111101
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 111102
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 111103
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 111104
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 111105
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 111106
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 111107
2925.22, 2925.23, or 3716.11 of the Revised Code. 111108

(b) A violation of an existing or former law of this state, 111109
any other state, or the United States that is substantially 111110
equivalent to any of the offenses listed in division (C)(1)(a) of 111111
this section. 111112

(2)(a) An adult care facility may employ conditionally an 111113
applicant for whom a criminal records check request is required 111114
under division (B) of this section prior to obtaining the results 111115
of a criminal records check regarding the individual, provided 111116
that the facility shall request a criminal records check regarding 111117
the individual in accordance with division (B)(1) of this section 111118
not later than five business days after the individual begins 111119
conditional employment. In the circumstances described in division 111120
(I)(2) of this section, an adult care facility may employ 111121
conditionally an applicant who has been referred to the adult care 111122
facility by an employment service that supplies full-time, 111123

part-time, or temporary staff for positions involving the direct 111124
care of ~~elder adults~~ adult residents and for whom, pursuant to 111125
that division, a criminal records check is not required under 111126
division (B) of this section. 111127

(b) An adult care facility that employs an individual 111128
conditionally under authority of division (C)(2)(a) of this 111129
section shall terminate the individual's employment if the results 111130
of the criminal records check requested under division (B) of this 111131
section or described in division (I)(2) of this section, other 111132
than the results of any request for information from the federal 111133
bureau of investigation, are not obtained within the period ending 111134
thirty days after the date the request is made. Regardless of when 111135
the results of the criminal records check are obtained, if the 111136
results indicate that the individual has been convicted of or 111137
pleaded guilty to any of the offenses listed or described in 111138
division (C)(1) of this section, the facility shall terminate the 111139
individual's employment unless the facility chooses to employ the 111140
individual pursuant to division (F) of this section. Termination 111141
of employment under this division shall be considered just cause 111142
for discharge for purposes of division (D)(2) of section 4141.29 111143
of the Revised Code if the individual makes any attempt to deceive 111144
the facility about the individual's criminal record. 111145

(D)(1) Each adult care facility shall pay to the bureau of 111146
criminal identification and investigation the fee prescribed 111147
pursuant to division (C)(3) of section 109.572 of the Revised Code 111148
for each criminal records check conducted pursuant to a request 111149
made under division (B) of this section. 111150

(2) An adult care facility may charge an applicant a fee not 111151
exceeding the amount the facility pays under division (D)(1) of 111152
this section. A facility may collect a fee only if it notifies the 111153
person at the time of initial application for employment of the 111154
amount of the fee and that, unless the fee is paid, the person 111155

will not be considered for employment. 111156

(E) The report of any criminal records check conducted 111157
pursuant to a request made under this section is not a public 111158
record for the purposes of section 149.43 of the Revised Code and 111159
shall not be made available to any person other than the 111160
following: 111161

(1) The individual who is the subject of the criminal records 111162
check or the individual's representative; 111163

(2) The chief administrator of the facility requesting the 111164
criminal records check or the administrator's representative; 111165

(3) The administrator of any other facility, agency, or 111166
program that provides direct care to ~~elder adults~~ adult residents 111167
that is owned or operated by the same entity that owns or operates 111168
the adult care facility; 111169

(4) A court, hearing officer, or other necessary individual 111170
involved in a case dealing with a denial of employment of the 111171
applicant or dealing with employment or unemployment benefits of 111172
the applicant; 111173

(5) Any person to whom the report is provided pursuant to, 111174
and in accordance with, division (I)(1) or (2) of this section. 111175

(F) The ~~public health council shall~~ department may adopt 111176
rules in accordance with Chapter 119. of the Revised Code to 111177
implement this section. The rules ~~shall~~ may specify circumstances 111178
under which an adult care facility may employ a person who has 111179
been convicted of or pleaded guilty to an offense listed or 111180
described in division (C)(1) of this section but meets personal 111181
character standards set by the council. 111182

(G) The chief administrator of an adult care facility shall 111183
inform each individual, at the time of initial application for a 111184
position that involves providing direct care to an ~~elder~~ adult 111185

resident, that the individual is required to provide a set of 111186
fingerprint impressions and that a criminal records check is 111187
required to be conducted if the individual comes under final 111188
consideration for employment. 111189

(H) In a tort or other civil action for damages that is 111190
brought as the result of an injury, death, or loss to person or 111191
property caused by an individual who an adult care facility 111192
employs in a position that involves providing direct care to ~~elder~~ 111193
~~adults~~ adult residents, all of the following shall apply: 111194

(1) If the facility employed the individual in good faith and 111195
reasonable reliance on the report of a criminal records check 111196
requested under this section, the facility shall not be found 111197
negligent solely because of its reliance on the report, even if 111198
the information in the report is determined later to have been 111199
incomplete or inaccurate; 111200

(2) If the facility employed the individual in good faith on 111201
a conditional basis pursuant to division (C)(2) of this section, 111202
the facility shall not be found negligent solely because it 111203
employed the individual prior to receiving the report of a 111204
criminal records check requested under this section; 111205

(3) If the facility in good faith employed the individual 111206
according to the personal character standards established in rules 111207
adopted under division (F) of this section, the facility shall not 111208
be found negligent solely because the individual prior to being 111209
employed had been convicted of or pleaded guilty to an offense 111210
listed or described in division (C)(1) of this section. 111211

(I)(1) The chief administrator of an adult care facility is 111212
not required to request that the superintendent of the bureau of 111213
criminal identification and investigation conduct a criminal 111214
records check of an applicant if the applicant has been referred 111215
to the facility by an employment service that supplies full-time, 111216

part-time, or temporary staff for positions involving the direct 111217
care of ~~elder adults~~ adult residents and both of the following 111218
apply: 111219

(a) The chief administrator receives from the employment 111220
service or the applicant a report of the results of a criminal 111221
records check regarding the applicant that has been conducted by 111222
the superintendent within the one-year period immediately 111223
preceding the applicant's referral; 111224

(b) The report of the criminal records check demonstrates 111225
that the person has not been convicted of or pleaded guilty to an 111226
offense listed or described in division (C)(1) of this section, or 111227
the report demonstrates that the person has been convicted of or 111228
pleaded guilty to one or more of those offenses, but the adult 111229
care facility chooses to employ the individual pursuant to 111230
division (F) of this section. 111231

(2) The chief administrator of an adult care facility is not 111232
required to request that the superintendent of the bureau of 111233
criminal identification and investigation conduct a criminal 111234
records check of an applicant and may employ the applicant 111235
conditionally as described in this division, if the applicant has 111236
been referred to the facility by an employment service that 111237
supplies full-time, part-time, or temporary staff for positions 111238
involving the direct care of ~~elder adults~~ adult residents and if 111239
the chief administrator receives from the employment service or 111240
the applicant a letter from the employment service that is on the 111241
letterhead of the employment service, dated, and signed by a 111242
supervisor or another designated official of the employment 111243
service and that states that the employment service has requested 111244
the superintendent to conduct a criminal records check regarding 111245
the applicant, that the requested criminal records check will 111246
include a determination of whether the applicant has been 111247
convicted of or pleaded guilty to any offense listed or described 111248

in division (C)(1) of this section, that, as of the date set forth 111249
on the letter, the employment service had not received the results 111250
of the criminal records check, and that, when the employment 111251
service receives the results of the criminal records check, it 111252
promptly will send a copy of the results to the adult care 111253
facility. If an adult care facility employs an applicant 111254
conditionally in accordance with this division, the employment 111255
service, upon its receipt of the results of the criminal records 111256
check, promptly shall send a copy of the results to the adult care 111257
facility, and division (C)(2)(b) of this section applies regarding 111258
the conditional employment. 111259

Sec. ~~3722.16~~ 5119.86. (A) No person shall: 111260

(1) Operate an adult care facility unless the facility is 111261
validly licensed by the director of mental health under section 111262
~~3722.04~~ 5119.73 of the Revised Code; 111263

(2) Admit to an adult care facility more residents than the 111264
number authorized in the facility's license; 111265

(3) Admit a resident to an adult care facility after the 111266
director has issued an order pursuant to section ~~3722.07~~ 5119.76 111267
of the Revised Code suspending admissions to the facility. 111268
Violation of division (A)(3) of this section is cause for 111269
revocation of the facility's license. 111270

(4) Interfere with any authorized inspection of an adult care 111271
facility conducted pursuant to section ~~3722.02~~ 5119.71 or ~~3722.04~~ 111272
5119.73 of the Revised Code; 111273

(5) Admit to an adult care facility a resident requiring 111274
publicly funded mental health services, unless both of the 111275
following conditions are met: 111276

(a) The ADAMHS board serving the alcohol, drug addiction, and 111277
mental health service district in which the facility is located is 111278

notified; 111279

(b) The facility and ADAMHS board have entered into a mental health resident program participation agreement by using the standardized form approved by the director of mental health under section ~~5119.613~~ 5119.614 of the Revised Code. 111280
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(6) Violate any of the provisions of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or any of the rules adopted pursuant to ~~it~~ those sections. 111284
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(B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following conditions are met: 111287
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111289

(1) The care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. 111290
111291
111292

(2) The care will be provided by one or more of the following: 111293
111294

(a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 111295
111296
111297

(b) A hospice care program licensed under Chapter 3712. of the Revised Code; 111298
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(c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility; 111300
111301
111302

(d) A mental health agency or, pursuant to division (A)~~(8)~~(7)(b) of section 340.03 of the Revised Code, an ADAMHS board. 111303
111304
111305

(3) Each individual employed by, under contract with, or otherwise used by any of the entities specified in division (B)(2) of this section to perform the skilled nursing care is authorized 111306
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under the laws of this state to perform the care by being 111309
appropriately licensed, as specified in rules adopted under 111310
division (G) of this section. 111311

(4) The staff of the one or more entities providing the 111312
skilled nursing care does not train the adult care facility staff 111313
to provide the skilled nursing care; 111314

(5) The individual to whom the skilled nursing care is 111315
provided is suffering from a short-term illness; 111316

(6) If the skilled nursing care is to be provided by the 111317
nursing staff of a nursing home, all of the following are the 111318
case: 111319

(a) The adult care facility evaluates the individual 111320
receiving the skilled nursing care at least once every seven days 111321
to determine whether the individual should be transferred to a 111322
nursing home; 111323

(b) The adult care facility meets at all times staffing 111324
requirements established by rules adopted under section ~~3722.10~~ 111325
5119.79 of the Revised Code; 111326

(c) The nursing home does not include the cost of providing 111327
skilled nursing care to the adult care facility residents in a 111328
cost report filed under section 5111.26 of the Revised Code; 111329

(d) The nursing home meets at all times the nursing home 111330
licensure staffing ratios established by rules adopted under 111331
section 3721.04 of the Revised Code; 111332

(e) The nursing home staff providing skilled nursing care to 111333
adult care facility residents are registered nurses or licensed 111334
practical nurses licensed under Chapter 4723. of the Revised Code 111335
and meet the personnel qualifications for nursing home staff 111336
established by rules adopted under section 3721.04 of the Revised 111337
Code; 111338

(f) The skilled nursing care is provided in accordance with 111339
rules established for nursing homes under section 3721.04 of the 111340
Revised Code; 111341

(g) The nursing home meets the skilled nursing care needs of 111342
the adult care facility residents; 111343

(h) Using the nursing home's nursing staff does not prevent 111344
the nursing home or adult care facility from meeting the needs of 111345
the nursing home and adult care facility residents in a quality 111346
and timely manner. 111347

(7) No adult care facility staff shall provide skilled 111348
nursing care. 111349

Notwithstanding section 3721.01 of the Revised Code, an adult 111350
care facility in which residents receive skilled nursing care as 111351
described in division (B) of this section is not a nursing home. 111352

(C) A home health agency or hospice care program that 111353
provides skilled nursing care pursuant to division (B) of this 111354
section may not be associated with the adult care facility unless 111355
the facility is part of a home for the aged as defined in section 111356
5701.13 of the Revised Code or the adult care facility is owned 111357
and operated by the same person and located on the same site as a 111358
nursing home licensed under Chapter 3721. of the Revised Code that 111359
is associated with the home health agency or hospice care program. 111360
In addition, the following requirements shall be met: 111361

(1) The adult care facility shall evaluate the individual 111362
receiving the skilled nursing care not less than once every seven 111363
days to determine whether the individual should be transferred to 111364
a nursing home; 111365

(2) If the costs of providing the skilled nursing care are 111366
included in a cost report filed pursuant to section 5111.26 of the 111367
Revised Code by the nursing home that is part of the same home for 111368
the aged, the home health agency or hospice care program shall not 111369

seek reimbursement for the care under the medical assistance 111370
program established under Chapter 5111. of the Revised Code. 111371

(D) No person knowingly shall place or recommend placement of 111372
any person in an adult care facility that is operating without a 111373
license. 111374

(E) No employee of a unit of local or state government, 111375
ADAMHS board, mental health agency, or ~~PASSPORT~~ RSS administrative 111376
agency shall place or recommend placement of any person in an 111377
adult care facility if the employee knows any of the following: 111378

(1) That the facility cannot meet the needs of the potential 111379
resident; 111380

(2) That placement of the resident would cause the facility 111381
to exceed its licensed capacity; 111382

(3) That an enforcement action initiated by the director of 111383
mental health is pending and may result in the revocation of or 111384
refusal to renew the facility's license; 111385

(4) That the potential resident is receiving or is eligible 111386
for publicly funded mental health services and the facility has 111387
not entered into a mental health resident program participation 111388
agreement. 111389

(F) No person who has reason to believe that an adult care 111390
facility is operating without a license shall fail to report this 111391
information to the director of mental health. 111392

(G) In accordance with Chapter 119. of the Revised Code, the 111393
~~public health council~~ department of mental health shall adopt 111394
rules for purposes of division (B) of this section that do all of 111395
the following: 111396

(1) Define a short-term illness for purposes of division 111397
(B)(5) of this section; 111398

(2) Specify, consistent with rules pertaining to home health 111399

care adopted by the director of job and family services under the 111400
medical assistance program established under Chapter 5111. of the 111401
Revised Code and Title XIX of the "Social Security Act," 49 Stat. 111402
620 (1935), 42 U.S.C. 301, as amended, what constitutes a 111403
part-time, intermittent basis for purposes of division (B)(1) of 111404
this section; 111405

(3) Specify what constitutes being appropriately licensed for 111406
purposes of division (B)(3) of this section. 111407

Sec. ~~3722.17~~ 5119.87. (A) Any person who believes that an 111408
adult care facility is in violation of ~~this chapter~~ sections 111409
5119.70 to 5119.88 of the Revised Code or of any of the rules 111410
~~promulgated~~ adopted pursuant to ~~it~~ those sections may report the 111411
information to the director of mental health. The director shall 111412
investigate each report made under this section or section ~~3722.16~~ 111413
5119.86 of the Revised Code and shall inform the facility of the 111414
results of the investigation. When investigating a report made 111415
pursuant to section 340.05 of the Revised Code, the director shall 111416
consult with the ADAMHS board that made the report. The director 111417
shall keep a record of the investigation and the action taken as a 111418
result of the investigation. 111419

The director shall not reveal, without consent, the identity 111420
of a person who makes a report under this section or division (G) 111421
of section ~~3722.16~~ 5119.86 of the Revised Code, the identity of a 111422
specific resident or residents referred to in such a report, or 111423
any other information that could reasonably be expected to reveal 111424
the identity of the person making the report or the resident or 111425
residents referred to in the report, except that the director may 111426
provide this information to a government agency responsible for 111427
enforcing laws applying to adult care facilities. 111428

(B) Any person who believes that a resident's rights under 111429
sections ~~3722.12~~ 5119.81 to ~~3722.15~~ 5119.84 of the Revised Code 111430

have been violated may report the information to the state 111431
long-term care ombudsperson, the regional long-term care 111432
ombudsperson program for the area in which the facility is 111433
located, or the director of mental health. If the person believes 111434
that the resident has mental illness or severe mental disability 111435
and is suffering abuse or neglect, the person may report the 111436
information to the ADAMHS board serving the alcohol, drug 111437
addiction, and mental health service district in which the adult 111438
care facility is located or a mental health agency under contract 111439
with the board in addition to or instead of the ombudsperson, 111440
regional program, or director. 111441

(C) Any person who makes a report pursuant to division (A) or 111442
(B) of this section or division (G) of section ~~3722.16~~ 5119.86 of 111443
the Revised Code or any person who participates in an 111444
administrative or judicial proceeding resulting from such a report 111445
is immune from any civil liability or criminal liability, other 111446
than perjury, that might otherwise be incurred or imposed as a 111447
result of these actions, unless the person has acted in bad faith 111448
or with malicious purpose. 111449

Sec. ~~3722.18~~ 5119.88. Before an adult care facility admits a 111450
prospective resident who the owner or manager of the facility 111451
knows has been assessed as having a mental illness or severe 111452
mental disability, the owner or manager is subject to both of the 111453
following: 111454

(A) If the prospective resident is referred to the facility 111455
by a mental health agency or ADAMHS board, the owner or manager 111456
shall follow procedures established in rules adopted under 111457
division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code 111458
regarding referrals and effective arrangements for ongoing mental 111459
health services. 111460

(B) If the prospective resident is not referred to the 111461

facility by a mental health agency or ADAMHS board, the owner or 111462
manager shall offer to assist the prospective resident in 111463
obtaining appropriate mental health services and document the 111464
offer of assistance in accordance with rules adopted under 111465
division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code. 111466

Sec. 5119.99. (A) Whoever violates section 5119.21 of the 111467
Revised Code is guilty of a misdemeanor of the first degree. 111468

(B) Whoever violates division (A)(1) of section 5119.86 of 111469
the Revised Code shall be fined two thousand dollars for a first 111470
offense; for each subsequent offense, such person shall be fined 111471
five thousand dollars. 111472

(C) Whoever violates division (C) of section 5119.81 or 111473
division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) 111474
of section 5119.86 of the Revised Code shall be fined five hundred 111475
dollars for a first offense; for each subsequent offense, such 111476
person shall be fined one thousand dollars. 111477

Sec. 5120.092. There is hereby created in the state treasury 111478
the adult and juvenile correctional facilities bond retirement 111479
fund. The fund shall receive proceeds derived from the sale of 111480
state adult or juvenile correctional facilities. Investment income 111481
with respect to moneys on deposit in the fund shall be retained by 111482
the fund. No investment of moneys in, or transfer of moneys from, 111483
the fund shall be made if the effect of the investment or transfer 111484
would be to adversely affect the exclusion from gross income of 111485
the interest payable on state bonds issued for state adult or 111486
juvenile correctional facilities that have been sold under 111487
authority of Section 753.10 of the act in which this section was 111488
enacted. To the extent necessary to maintain the exclusion from 111489
gross income of the interest payable on those bonds, moneys in the 111490
fund shall first be used to redeem or defease the outstanding 111491

portion of such bonds. To accomplish the redemption or defeasance, 111492
the director of budget and management, at the request of the Ohio 111493
building authority, may direct that moneys in the fund be 111494
transferred to the appropriate trustees under the applicable bond 111495
trust agreements. Upon receipt of both (i) one or more opinions of 111496
a nationally recognized bond counsel firm appointed by the Ohio 111497
building authority stating that the aforementioned bonds have been 111498
redeemed or defeased and that the transfer of such moneys will not 111499
adversely affect the exclusion from gross income of the interest 111500
payable on such bonds, and (ii) a certification by both the 111501
director of administrative services and the director of 111502
rehabilitation and correction stating either that all sales of 111503
state adult and juvenile correctional facilities contemplated by 111504
Section 753.10 of the act in which this section was enacted have 111505
been completed or that no further sales of any such facilities 111506
will be undertaken, the director of budget and management may 111507
direct that any moneys remaining in the fund after the redemption 111508
or defeasance of the aforementioned bonds shall be transferred to 111509
the general revenue fund. Upon completion of that transfer, the 111510
adult and juvenile correctional facilities bond retirement fund 111511
shall be abolished. 111512

Sec. 5120.105. (A) The department of administrative services 111513
shall provide for the construction of a halfway house facility in 111514
conformity with Chapter 153. of the Revised Code, except that 111515
construction services may be provided by the department of 111516
rehabilitation and correction. 111517

(B) The director of rehabilitation and correction may enter 111518
into an agreement with a halfway house organization for the 111519
management of a halfway house facility. The halfway house 111520
organization that occupies, will occupy, or is responsible for the 111521
management of a halfway house facility shall pay the costs of 111522

management of and general building services for the halfway house 111523
facility as provided in an agreement between the department of 111524
rehabilitation and correction and the halfway house organization. 111525

(C) No state funds, including state bond proceeds, shall be 111526
spent on the construction of a halfway house facility under 111527
sections 5120.102 to 5120.105 of the Revised Code, unless the 111528
general assembly has specifically authorized the spending of money 111529
on, or has made an appropriation to the department of 111530
rehabilitation and correction for, the construction of the halfway 111531
house facility or rental payments relating to the financing of the 111532
construction of that facility. An authorization to spend money or 111533
an appropriation for planning a halfway house facility does not 111534
constitute an authorization to spend money on, or an appropriation 111535
for, the construction of that facility. Capital funds for the 111536
construction of halfway house facilities under sections 5120.102 111537
to 5120.105 of the Revised Code shall be paid from the adult 111538
correctional building fund created ~~by the general assembly in the~~ 111539
~~custody of the state treasurer~~ in division (F) of section 154.24 111540
of the Revised Code. 111541

Sec. 5120.135. (A) As used in this section, "laboratory 111542
services" includes the performance of medical laboratory analysis; 111543
professional laboratory and pathologist consultation; the 111544
procurement, storage, and distribution of laboratory supplies; and 111545
the performance of phlebotomy services. 111546

(B) The department of rehabilitation and correction ~~shall~~ may 111547
provide laboratory services to the departments of mental health, 111548
developmental disabilities, youth services, and rehabilitation and 111549
correction. The department of rehabilitation and correction may 111550
also provide laboratory services to other state, county, or 111551
municipal agencies and to private persons that request laboratory 111552
services if the department of rehabilitation and correction 111553

determines that the provision of laboratory services is in the public interest and considers it advisable to provide such services. The department of rehabilitation and correction may also provide laboratory services to agencies operated by the United States government and to public and private entities funded in whole or in part by the state if the director of rehabilitation and correction designates them as eligible to receive such services.

The department of rehabilitation and correction shall provide laboratory services from a laboratory that complies with the standards for certification set by the United States department of health and human services under the "Clinical Laboratory Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. In addition, the laboratory shall maintain accreditation or certification with an appropriate accrediting or certifying organization as considered necessary by the recipients of its laboratory services and as authorized by the director of rehabilitation and correction.

(C) The cost of administering this section shall be determined by the department of rehabilitation and correction and shall be paid by entities that receive laboratory services to the department for deposit in the state treasury to the credit of the laboratory services fund, which is hereby created. The fund shall be used to pay the costs the department incurs in administering this section.

~~(D) If the department of rehabilitation and correction does not provide laboratory services under this section in a satisfactory manner to the department of developmental disabilities, youth services, or mental health, the director of developmental disabilities, youth services, or mental health shall attempt to resolve the matter of the unsatisfactory provision of services with the director of rehabilitation and correction. If,~~

~~after this attempt, the provision of laboratory services continues 111586
to be unsatisfactory, the director of developmental disabilities, 111587
youth services, or mental health shall notify the director of 111588
rehabilitation and correction regarding the continued 111589
unsatisfactory provision of laboratory services. If, within thirty 111590
days after the director receives this notice, the department of 111591
rehabilitation and correction does not provide the specified 111592
laboratory services in a satisfactory manner, the director of 111593
developmental disabilities, youth services, or mental health shall 111594
notify the director of rehabilitation and correction of the 111595
notifying director's intent to cease obtaining laboratory services 111596
from the department of rehabilitation and correction. Following 111597
the end of a cancellation period of sixty days that begins on the 111598
date of the notice, the department that sent the notice may obtain 111599
laboratory services from a provider other than the department of 111600
rehabilitation and correction, if the department that sent the 111601
notice certifies to the department of administrative services that 111602
the requirements of this division have been met. 111603~~

~~(E) Whenever a state agency fails to make a payment for 111604
laboratory services provided to it by the department of 111605
rehabilitation and correction under this section within thirty-one 111606
days after the date the payment was due, the office of budget and 111607
management may transfer moneys from that state agency to the 111608
department of rehabilitation and correction for deposit to the 111609
credit of the laboratory services fund. The amount transferred 111610
shall not exceed the amount of the overdue payments. Prior to 111611
making a transfer under this division, the office shall apply any 111612
credits the state agency has accumulated in payment for laboratory 111613
services provided under this section. 111614~~

Sec. 5120.17. (A) As used in this section: 111615

(1) "Mental illness" means a substantial disorder of thought, 111616

mood, perception, orientation, or memory that grossly impairs 111617
judgment, behavior, capacity to recognize reality, or ability to 111618
meet the ordinary demands of life. 111619

(2) "Mentally ill person subject to hospitalization" means a 111620
mentally ill person to whom any of the following applies because 111621
of the person's mental illness: 111622

(a) The person represents a substantial risk of physical harm 111623
to the person as manifested by evidence of threats of, or attempts 111624
at, suicide or serious self-inflicted bodily harm. 111625

(b) The person represents a substantial risk of physical harm 111626
to others as manifested by evidence of recent homicidal or other 111627
violent behavior, evidence of recent threats that place another in 111628
reasonable fear of violent behavior and serious physical harm, or 111629
other evidence of present dangerousness. 111630

(c) The person represents a substantial and immediate risk of 111631
serious physical impairment or injury to the person as manifested 111632
by evidence that the person is unable to provide for and is not 111633
providing for the person's basic physical needs because of the 111634
person's mental illness and that appropriate provision for those 111635
needs cannot be made immediately available in the correctional 111636
institution in which the inmate is currently housed. 111637

(d) The person would benefit from treatment in a hospital for 111638
the person's mental illness and is in need of treatment in a 111639
hospital as manifested by evidence of behavior that creates a 111640
grave and imminent risk to substantial rights of others or the 111641
person. 111642

(3) "Psychiatric hospital" means all or part of a facility 111643
that is operated and managed by the department of rehabilitation 111644
and correction, is designated as a psychiatric hospital mental 111645
health to provide psychiatric hospitalization services in 111646
accordance with the requirements of this section pursuant to an 111647

agreement between the directors of rehabilitation and correction 111648
and mental health or, is licensed by the department of mental 111649
health pursuant to section 5119.20 of the Revised Code, as a 111650
psychiatric hospital and is in substantial compliance with the 111651
standards set by the joint commission on accreditation of 111652
healthcare organizations accredited by a healthcare accrediting 111653
organization approved by the department of mental health and the 111654
psychiatric hospital is any of the following: 111655

(a) Operated and managed by the department of rehabilitation 111656
and correction within a facility that is operated by the 111657
department of rehabilitation and correction; 111658

(b) Operated and managed by a contractor for the department 111659
of rehabilitation and correction within a facility that is 111660
operated by the department of rehabilitation and correction; 111661

(c) Operated and managed in the community by an entity that 111662
has contracted with the department of rehabilitation and 111663
correction to provide psychiatric hospitalization services in 111664
accordance with the requirements of this section. 111665

(4) "Inmate patient" means an inmate who is admitted to a 111666
psychiatric hospital. 111667

(5) "Admitted" to a psychiatric hospital means being accepted 111668
for and staying at least one night at the psychiatric hospital. 111669

(6) "Treatment plan" means a written statement of reasonable 111670
objectives and goals for an inmate patient that is based on the 111671
needs of the inmate patient and that is established by the 111672
treatment team, with the active participation of the inmate 111673
patient and with documentation of that participation. "Treatment 111674
plan" includes all of the following: 111675

(a) The specific criteria to be used in evaluating progress 111676
toward achieving the objectives and goals; 111677

(b) The services to be provided to the inmate patient during 111678
the inmate patient's hospitalization; 111679

(c) The services to be provided to the inmate patient after 111680
discharge from the hospital, including, but not limited to, 111681
housing and mental health services provided at the state 111682
correctional institution to which the inmate patient returns after 111683
discharge or community mental health services. 111684

(7) "Mentally retarded person subject to institutionalization 111685
by court order" has the same meaning as in section 5123.01 of the 111686
Revised Code. 111687

(8) "Emergency transfer" means the transfer of a mentally ill 111688
inmate to a psychiatric hospital when the inmate presents an 111689
immediate danger to self or others and requires hospital-level 111690
care. 111691

(9) "Uncontested transfer" means the transfer of a mentally 111692
ill inmate to a psychiatric hospital when the inmate has the 111693
mental capacity to, and has waived, the hearing required by 111694
division (B) of this section. 111695

(10)(a) "Independent decision-maker" means a person who is 111696
employed or retained by the department of rehabilitation and 111697
correction and is appointed by the chief or chief clinical officer 111698
of mental health services as a hospitalization hearing officer to 111699
conduct due process hearings. 111700

(b) An independent decision-maker who presides over any 111701
hearing or issues any order pursuant to this section shall be a 111702
psychiatrist, psychologist, or attorney, shall not be specifically 111703
associated with the institution in which the inmate who is the 111704
subject of the hearing or order resides at the time of the hearing 111705
or order, and previously shall not have had any treatment 111706
relationship with nor have represented in any legal proceeding the 111707
inmate who is the subject of the order. 111708

(B)(1) Except as provided in division (C) of this section, if the warden of a state correctional institution or the warden's designee believes that an inmate should be transferred from the institution to a psychiatric hospital, the department shall hold a hearing to determine whether the inmate is a mentally ill person subject to hospitalization. The department shall conduct the hearing at the state correctional institution in which the inmate is confined, and the department shall provide qualified independent assistance to the inmate for the hearing. An independent decision-maker provided by the department shall preside at the hearing and determine whether the inmate is a mentally ill person subject to hospitalization.

(2) Except as provided in division (C) of this section, prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3) of this section, and that the department will provide qualified independent assistance to the inmate with respect to the hearing. The department shall not hold the hearing until the inmate has received written notice of the proposed transfer and has had sufficient time to consult with the person appointed by the department to provide assistance to the inmate and to prepare for a presentation at the hearing.

(3) At the hearing held pursuant to division (B)(1) of this section, the department shall disclose to the inmate the evidence that it relies upon for the transfer and shall give the inmate an opportunity to be heard. Unless the independent decision-maker finds good cause for not permitting it, the inmate may present documentary evidence and the testimony of witnesses at the hearing

and may confront and cross-examine witnesses called by the 111741
department. 111742

(4) If the independent decision-maker does not find clear and 111743
convincing evidence that the inmate is a mentally ill person 111744
subject to hospitalization, the department shall not transfer the 111745
inmate to a psychiatric hospital but shall continue to confine the 111746
inmate in the same state correctional institution or in another 111747
state correctional institution that the department considers 111748
appropriate. If the independent decision-maker finds clear and 111749
convincing evidence that the inmate is a mentally ill person 111750
subject to hospitalization, the decision-maker shall order that 111751
the inmate be transported to a psychiatric hospital for 111752
observation and treatment for a period of not longer than thirty 111753
days. After the hearing, the independent decision-maker shall 111754
submit to the department a written decision that states one of the 111755
findings described in division (B)(4) of this section, the 111756
evidence that the decision-maker relied on in reaching that 111757
conclusion, and, if the decision is that the inmate should be 111758
transferred, the reasons for the transfer. 111759

(C)(1) The department may transfer an inmate to a psychiatric 111760
hospital under an emergency transfer order if the chief clinical 111761
officer of mental health services of the department or that 111762
officer's designee and either a psychiatrist employed or retained 111763
by the department or, in the absence of a psychiatrist, a 111764
psychologist employed or retained by the department determines 111765
that the inmate is mentally ill, presents an immediate danger to 111766
self or others, and requires hospital-level care. 111767

(2) The department may transfer an inmate to a psychiatric 111768
hospital under an uncontested transfer order if both of the 111769
following apply: 111770

(a) A psychiatrist employed or retained by the department 111771
determines all of the following apply: 111772

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization. 111773
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(ii) The inmate requires hospital care to address the mental illness. 111775
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(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital. 111777
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(b) The inmate agrees to a transfer to a hospital. 111779

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section. 111780
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(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section. 111784
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(5) After an uncontested transfer under division (C)(2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section. 111792
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(D)(1) If an independent decision-maker, pursuant to division (B)(4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant to 111801
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division (C)(1) or (2) of this section, the staff of the 111804
psychiatric hospital shall examine the inmate patient when 111805
admitted to the psychiatric hospital as soon as practicable after 111806
the inmate patient arrives at the hospital and no later than 111807
twenty-four hours after the time of arrival. The attending 111808
physician responsible for the inmate patient's care shall give the 111809
inmate patient all information necessary to enable the patient to 111810
give a fully informed, intelligent, and knowing consent to the 111811
treatment the inmate patient will receive in the hospital. The 111812
attending physician shall tell the inmate patient the expected 111813
physical and medical consequences of any proposed treatment and 111814
shall give the inmate patient the opportunity to consult with 111815
another psychiatrist at the hospital and with the inmate advisor. 111816

(2) No inmate patient who is transported or transferred 111817
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 111818
psychiatric hospital ~~pursuant to division (B)(4) or (C)(1) or (2)~~ 111819
~~of this section and who is in the physical custody of~~ within a 111820
facility that is operated by the department of rehabilitation and 111821
correction shall be subjected to any of the following procedures: 111822

(a) Convulsive therapy; 111823

(b) Major aversive interventions; 111824

(c) Any unusually hazardous treatment procedures; 111825

(d) Psychosurgery. 111826

(E) ~~The warden of the psychiatric hospital or the warden's~~ 111827
~~designee~~ department of rehabilitation and correction shall ensure 111828
that an inmate patient hospitalized pursuant to this section 111829
receives or has all of the following: 111830

(1) Receives sufficient professional care within twenty days 111831
of admission to ensure that an evaluation of the inmate patient's 111832
current status, differential diagnosis, probable prognosis, and 111833
description of the current treatment plan have been formulated and 111834

are stated on the inmate patient's official chart;	111835
(2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment;	111836 111837
(3) Receives treatment consistent with the treatment plan;	111838
(4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;	111839 111840
(5) Is provided with adequate medical treatment for physical disease or injury;	111841 111842
(6) Receives humane care and treatment, including, without being limited to, the following:	111843 111844
(a) Access to the facilities and personnel required by the treatment plan;	111845 111846
(b) A humane psychological and physical environment;	111847
(c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand;	111848 111849 111850 111851 111852
(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital;	111853 111854 111855
(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation;	111856 111857
(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department.	111858 111859 111860
(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4)	111861 111862 111863

or (C)(1) of this section prior to the expiration of the initial 111864
thirty-day period of hospitalization. The department shall hold 111865
any subsequent hearings, if necessary, not later than ninety days 111866
after the first thirty-day hearing and then not later than each 111867
one hundred and eighty days after the immediately prior hearing. 111868
An independent decision-maker shall conduct the hearings at the 111869
psychiatric hospital in which the inmate patient is confined. The 111870
inmate patient shall be afforded all of the rights set forth in 111871
this section for the hearing prior to transfer to the psychiatric 111872
hospital. The department may not waive a hearing for continued 111873
commitment. A hearing for continued commitment is mandatory for an 111874
inmate patient transported or transferred to a psychiatric 111875
hospital pursuant to division (B)(4) or (C)(1) of this section 111876
unless the inmate patient has the capacity to make a reasoned 111877
choice to execute a waiver and waives the hearing in writing. An 111878
inmate patient who is transferred to a psychiatric hospital 111879
pursuant to an uncontested transfer under division (C)(2) of this 111880
section and who has scheduled hearings after withdrawal of consent 111881
for hospitalization may waive any of the scheduled hearings if the 111882
inmate has the capacity to make a reasoned choice and executes a 111883
written waiver of the hearing. 111884

If upon completion of the hearing the independent 111885
decision-maker does not find by clear and convincing evidence that 111886
the inmate patient is a mentally ill person subject to 111887
hospitalization, the independent decision-maker shall order the 111888
inmate patient's discharge from the psychiatric hospital. If the 111889
independent decision-maker finds by clear and convincing evidence 111890
that the inmate patient is a mentally ill person subject to 111891
hospitalization, the independent decision-maker shall order that 111892
the inmate patient remain at the psychiatric hospital for 111893
continued hospitalization until the next required hearing. 111894

If at any time prior to the next required hearing for 111895

continued hospitalization, the medical director of the hospital or 111896
the attending physician determines that the treatment needs of the 111897
inmate patient could be met equally well in an available and 111898
appropriate less restrictive state correctional institution or 111899
unit, the medical director or attending physician may discharge 111900
the inmate to that facility. 111901

(G) An inmate patient is entitled to the credits toward the 111902
reduction of the inmate patient's stated prison term pursuant to 111903
Chapters 2967. and 5120. of the Revised Code under the same terms 111904
and conditions as if the inmate patient were in any other 111905
institution of the department of rehabilitation and correction. 111906

(H) The adult parole authority may place an inmate patient on 111907
parole or under post-release control directly from a psychiatric 111908
hospital. 111909

(I) If an inmate patient who is a mentally ill person subject 111910
to hospitalization is to be released from a psychiatric hospital 111911
because of the expiration of the inmate patient's stated prison 111912
term, the ~~warden of the psychiatric hospital~~ director of 111913
rehabilitation and correction or the director's designee, at least 111914
fourteen days before the expiration date, may file an affidavit 111915
under section 5122.11 or 5123.71 of the Revised Code with the 111916
probate court in the county where the psychiatric hospital is 111917
located or the probate court in the county where the inmate will 111918
reside, alleging that the inmate patient is a mentally ill person 111919
subject to hospitalization by court order or a mentally retarded 111920
person subject to institutionalization by court order, whichever 111921
is applicable. The proceedings in the probate court shall be 111922
conducted pursuant to Chapter 5122. or 5123. of the Revised Code 111923
except as modified by this division. 111924

Upon the request of the inmate patient, the probate court 111925
shall grant the inmate patient an initial hearing under section 111926
5122.141 of the Revised Code or a probable cause hearing under 111927

section 5123.75 of the Revised Code before the expiration of the 111928
stated prison term. After holding a full hearing, the probate 111929
court shall make a disposition authorized by section 5122.15 or 111930
5123.76 of the Revised Code before the date of the expiration of 111931
the stated prison term. No inmate patient shall be held in the 111932
custody of the department of rehabilitation and correction past 111933
the date of the expiration of the inmate patient's stated prison 111934
term. 111935

(J) The department of rehabilitation and correction shall set 111936
standards for treatment provided to inmate patients, ~~consistent~~ 111937
~~where applicable with the standards set by the joint commission on~~ 111938
~~accreditation of healthcare organizations.~~ 111939

(K) A certificate, application, record, or report that is 111940
made in compliance with this section and that directly or 111941
indirectly identifies an inmate or former inmate whose 111942
hospitalization has been sought under this section is 111943
confidential. No person shall disclose the contents of any 111944
certificate, application, record, or report of that nature or any 111945
other psychiatric or medical record or report regarding a mentally 111946
ill inmate unless one of the following applies: 111947

(1) The person identified, or the person's legal guardian, if 111948
any, consents to disclosure, and the chief clinical officer or 111949
designee of mental health services of the department of 111950
rehabilitation and correction determines that disclosure is in the 111951
best interests of the person. 111952

(2) Disclosure is required by a court order signed by a 111953
judge. 111954

(3) An inmate patient seeks access to the inmate patient's 111955
own psychiatric and medical records, unless access is specifically 111956
restricted in the treatment plan for clear treatment reasons. 111957

(4) Hospitals and other institutions and facilities within 111958

the department of rehabilitation and correction may exchange 111959
psychiatric records and other pertinent information with other 111960
hospitals, institutions, and facilities of the department, but the 111961
information that may be released about an inmate patient is 111962
limited to medication history, physical health status and history, 111963
summary of course of treatment in the hospital, summary of 111964
treatment needs, and a discharge summary, if any. 111965

(5) An inmate patient's family member who is involved in 111966
planning, providing, and monitoring services to the inmate patient 111967
may receive medication information, a summary of the inmate 111968
patient's diagnosis and prognosis, and a list of the services and 111969
personnel available to assist the inmate patient and family if the 111970
attending physician determines that disclosure would be in the 111971
best interest of the inmate patient. No disclosure shall be made 111972
under this division unless the inmate patient is notified of the 111973
possible disclosure, receives the information to be disclosed, and 111974
does not object to the disclosure. 111975

(6) The department of rehabilitation and correction may 111976
exchange psychiatric hospitalization records, other mental health 111977
treatment records, and other pertinent information with county 111978
sheriffs' offices, hospitals, institutions, and facilities of the 111979
department of mental health and with community mental health 111980
agencies and boards of alcohol, drug addiction, and mental health 111981
services with which the department of mental health has a current 111982
agreement for patient care or services to ensure continuity of 111983
care. Disclosure under this division is limited to records 111984
regarding a mentally ill inmate's medication history, physical 111985
health status and history, summary of course of treatment, summary 111986
of treatment needs, and a discharge summary, if any. No office, 111987
department, agency, or board shall disclose the records and other 111988
information unless one of the following applies: 111989

(a) The mentally ill inmate is notified of the possible 111990

disclosure and consents to the disclosure. 111991

(b) The mentally ill inmate is notified of the possible 111992
disclosure, an attempt to gain the consent of the inmate is made, 111993
and the office, department, agency, or board documents the attempt 111994
to gain consent, the inmate's objections, if any, and the reasons 111995
for disclosure in spite of the inmate's objections. 111996

(7) Information may be disclosed to staff members designated 111997
by the director of rehabilitation and correction for the purpose 111998
of evaluating the quality, effectiveness, and efficiency of 111999
services and determining if the services meet minimum standards. 112000

The name of an inmate patient shall not be retained with the 112001
information obtained during the evaluations. 112002

(L) The director of rehabilitation and correction may adopt 112003
rules setting forth guidelines for the procedures required under 112004
divisions (B), (C)(1), and (C)(2) of this section. 112005

Sec. 5120.22. (A) The division of business administration 112006
shall examine the conditions of all buildings, grounds, and other 112007
property connected with the institutions under the control of the 112008
department of rehabilitation and correction, the methods of 112009
bookkeeping and storekeeping, and all matters relating to the 112010
management of such property. The division shall study and become 112011
familiar with the advantages and disadvantages of each as to 112012
location, freight rates, and efficiency of farm and equipment, for 112013
the purpose of aiding in the determination of the local and 112014
general requirements both for maintenance and improvements. 112015

(B) The division, with respect to the various types of 112016
state-owned housing under jurisdiction of the department, shall 112017
adopt, in accordance with section 111.15 of the Revised Code, 112018
rules governing maintenance of the housing and its usage by 112019
department personnel. The rules shall include a procedure for 112020

determining charges for rent and utilities, which the division 112021
shall assess against and collect from department personnel using 112022
the housing. All money collected for rent and utilities pursuant 112023
to the rules shall be deposited into the property receipts fund, 112024
which is hereby created in the state treasury. Money in the fund 112025
shall be used for any expenses necessary to provide housing of 112026
department employees, including but not limited to expenses for 112027
the acquisition, construction, operation, maintenance, repair, 112028
reconstruction, or demolition of land and buildings. 112029

(C) The division may enter into a lease or agreement with a 112030
state agency, political subdivision of the state, or private 112031
entity to use facilities or other property under the jurisdiction 112032
of the department that is not being utilized by the department. 112033
All money collected for leasing and services performed in 112034
accordance with the lease or agreement shall be deposited into the 112035
property receipts fund created under division (B) of this section. 112036
Money in the fund shall be used for any expenses resulting from 112037
the lease or agreement, including, but not limited to, expenses 112038
for services performed, construction, maintenance, repair, 112039
reconstruction, or demolition of the facilities or other property. 112040

Sec. 5120.28. (A) The department of rehabilitation and 112041
correction, subject to the approval of the office of budget and 112042
management, shall fix the prices at which all labor and services 112043
performed, all agricultural products produced, and all articles 112044
manufactured in correctional and penal institutions shall be 112045
furnished to the state, the political subdivisions of the state, 112046
and the public institutions of the state and the political 112047
subdivisions, and to private persons. The prices shall be uniform 112048
to all and not higher than the usual market price for like labor, 112049
products, services, and articles. 112050

(B) Any money received by the department of rehabilitation 112051

and correction for labor and services performed ~~and agricultural~~ 112052
~~products produced~~ shall be deposited into the institutional 112053
services ~~and agricultural~~ fund created pursuant to division (A) of 112054
section 5120.29 of the Revised Code and shall be used and 112055
accounted for as provided in that section and division (B) of 112056
section 5145.03 of the Revised Code. 112057

(C) Any money received by the department of rehabilitation 112058
and correction for articles manufactured and agricultural products 112059
produced in penal and correctional institutions shall be deposited 112060
into the Ohio penal industries manufacturing fund created pursuant 112061
to division (B) of section 5120.29 of the Revised Code and shall 112062
be used and accounted for as provided in that section and division 112063
(B) of section 5145.03 of the Revised Code. 112064

Sec. 5120.29. (A) There is hereby created, in the state 112065
treasury, the institutional services ~~and agricultural~~ fund, which 112066
shall be used for the: 112067

(1) Purchase of material, supplies, and equipment and the 112068
erection and extension of buildings used in ~~service industries and~~ 112069
~~agriculture~~ services provided between institutions of the 112070
department of rehabilitation and correction; 112071

~~(2) Purchase of lands and buildings necessary to carry on or~~ 112072
~~extend the service industries and agriculture, upon the approval~~ 112073
~~of the governor;~~ 112074

~~(3)~~ Payment of compensation to employees necessary to carry 112075
on ~~the service industries and agriculture~~ institutional services; 112076

~~(4)~~(3) Payment of prisoners confined in state correctional 112077
institutions a portion of their earnings in accordance with rules 112078
adopted pursuant to section 5145.03 of the Revised Code. 112079

(B) There is hereby created, in the state treasury, the Ohio 112080
penal industries manufacturing fund, which shall be used for the: 112081

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in manufacturing industries and agriculture;

(2) Purchase of lands and buildings necessary to carry on or extend the manufacturing industries and agriculture upon the approval of the governor;

(3) Payment of compensation to employees necessary to carry on the manufacturing industries and agriculture;

(4) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code.

(C) The department of rehabilitation and correction shall, in accordance with rules adopted pursuant to section 5145.03 of the Revised Code and subject to any pledge made as provided in division (D) of this section, place to the credit of each prisoner ~~his~~ the prisoner's earnings and pay the earnings so credited to the prisoner or ~~his~~ the prisoner's family.

(D) Receipts credited to the funds created in divisions (A) and (B) of this section constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to construct, reconstruct, or otherwise improve capital facilities useful to the department. The authority may, with the consent of the department, provide in the bond proceedings for a pledge of all or such portion of receipts credited to the funds as the authority determines. The authority may provide in the bond proceedings for the transfer of receipts credited to the funds to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges when due, and any such provision for the transfer of receipts shall be controlling

notwithstanding any other provision of law pertaining to such 112113
receipts. 112114

All receipts received by the treasurer of state on account of 112115
the department and required by the applicable bond proceedings to 112116
be deposited, transferred, or credited to the bond service fund or 112117
bond service reserve fund established by such bond proceedings 112118
shall be transferred by the treasurer of state to such fund, 112119
whether or not such fund is in the custody of the treasurer of 112120
state, without necessity for further appropriation, upon receipt 112121
of notice from the Ohio building authority as prescribed in the 112122
bond proceedings. The authority may covenant in the bond 112123
proceedings that so long as any obligations are outstanding to 112124
which receipts credited to the fund are pledged, the state and the 112125
department shall neither reduce the prices charged pursuant to 112126
section 5120.28 of the Revised Code nor the level of manpower 112127
collectively devoted to the production of goods and services for 112128
which prices are set pursuant to section 5120.28 of the Revised 112129
Code, which covenant shall be controlling notwithstanding any 112130
other provision of law; provided, that no covenant shall require 112131
the general assembly to appropriate money derived from the levying 112132
of excises or taxes to purchase such goods and services or to pay 112133
rent or bond service charges. 112134

Sec. 5122.01. As used in this chapter and Chapter 5119. of 112135
the Revised Code: 112136

(A) "Mental illness" means a substantial disorder of thought, 112137
mood, perception, orientation, or memory that grossly impairs 112138
judgment, behavior, capacity to recognize reality, or ability to 112139
meet the ordinary demands of life. 112140

(B) "Mentally ill person subject to hospitalization by court 112141
order" means a mentally ill person who, because of the person's 112142
illness: 112143

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported and under the jurisdiction of the department of mental health.

(H) "Community mental health agency" means ~~any an agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the~~ that provides community mental health services listed in that are certified by the director of mental health under section 340.09 5119.611 of the Revised Code.

(I) "Licensed clinical psychologist" means a person who holds a current valid psychologist license issued under section 4732.12 or 4732.15 of the Revised Code, and in addition, meets either of the following criteria:

(1) Meets the educational requirements set forth in division 112206
(B) of section 4732.10 of the Revised Code and has a minimum of 112207
two years' full-time professional experience, or the equivalent as 112208
determined by rule of the state board of psychology, at least one 112209
year of which shall be a predoctoral internship, in clinical 112210
psychological work in a public or private hospital or clinic or in 112211
private practice, diagnosing and treating problems of mental 112212
illness or mental retardation under the supervision of a 112213
psychologist who is licensed or who holds a diploma issued by the 112214
American board of professional psychology, or whose qualifications 112215
are substantially similar to those required for licensure by the 112216
state board of psychology when the supervision has occurred prior 112217
to enactment of laws governing the practice of psychology; 112218

(2) Meets the educational requirements set forth in division 112219
(B) of section 4732.15 of the Revised Code and has a minimum of 112220
four years' full-time professional experience, or the equivalent 112221
as determined by rule of the state board of psychology, in 112222
clinical psychological work in a public or private hospital or 112223
clinic or in private practice, diagnosing and treating problems of 112224
mental illness or mental retardation under supervision, as set 112225
forth in division (I)(1) of this section. 112226

(J) "Health officer" means any public health physician; 112227
public health nurse; or other person authorized by or designated 112228
by a city health district; a general health district; or a board 112229
of alcohol, drug addiction, and mental health services to perform 112230
the duties of a health officer under this chapter. 112231

(K) "Chief clinical officer" means the medical director of a 112232
hospital, or a community mental health agency, or a board of 112233
alcohol, drug addiction, and mental health services, or, if there 112234
is no medical director, the licensed physician responsible for the 112235
treatment a hospital or community mental health agency provides. 112236
The chief clinical officer may delegate to the attending physician 112237

responsible for a patient's care the duties imposed on the chief 112238
clinical officer by this chapter. Within a community mental health 112239
agency, the chief clinical officer shall be designated by the 112240
governing body of the agency and shall be a licensed physician or 112241
licensed clinical psychologist who supervises diagnostic and 112242
treatment services. A licensed physician or licensed clinical 112243
psychologist designated by the chief clinical officer may perform 112244
the duties and accept the responsibilities of the chief clinical 112245
officer in the chief clinical officer's absence. 112246

(L) "Working day" or "court day" means Monday, Tuesday, 112247
Wednesday, Thursday, and Friday, except when such day is a 112248
holiday. 112249

(M) "Indigent" means unable without deprivation of 112250
satisfaction of basic needs to provide for the payment of an 112251
attorney and other necessary expenses of legal representation, 112252
including expert testimony. 112253

(N) "Respondent" means the person whose detention, 112254
commitment, hospitalization, continued hospitalization or 112255
commitment, or discharge is being sought in any proceeding under 112256
this chapter. 112257

(O) "Legal rights service" means the service established 112258
under section 5123.60 of the Revised Code. 112259

(P) "Independent expert evaluation" means an evaluation 112260
conducted by a licensed clinical psychologist, psychiatrist, or 112261
licensed physician who has been selected by the respondent or the 112262
respondent's counsel and who consents to conducting the 112263
evaluation. 112264

(Q) "Court" means the probate division of the court of common 112265
pleas. 112266

(R) "Expunge" means: 112267

(1) The removal and destruction of court files and records, 112268
originals and copies, and the deletion of all index references; 112269

(2) The reporting to the person of the nature and extent of 112270
any information about the person transmitted to any other person 112271
by the court; 112272

(3) Otherwise insuring that any examination of court files 112273
and records in question shall show no record whatever with respect 112274
to the person; 112275

(4) That all rights and privileges are restored, and that the 112276
person, the court, and any other person may properly reply that no 112277
such record exists, as to any matter expunged. 112278

(S) "Residence" means a person's physical presence in a 112279
county with intent to remain there, except that: 112280

(1) If a person is receiving a mental health service at a 112281
facility that includes nighttime sleeping accommodations, 112282
residence means that county in which the person maintained the 112283
person's primary place of residence at the time the person entered 112284
the facility; 112285

(2) If a person is committed pursuant to section 2945.38, 112286
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 112287
residence means the county where the criminal charges were filed. 112288

When the residence of a person is disputed, the matter of 112289
residence shall be referred to the department of mental health for 112290
investigation and determination. Residence shall not be a basis 112291
for a board's denying services to any person present in the 112292
board's service district, and the board shall provide services for 112293
a person whose residence is in dispute while residence is being 112294
determined and for a person in an emergency situation. 112295

(T) "Admission" to a hospital or other place means that a 112296
patient is accepted for and stays at least one night at the 112297

hospital or other place. 112298

(U) "Prosecutor" means the prosecuting attorney, village 112299
solicitor, city director of law, or similar chief legal officer 112300
who prosecuted a criminal case in which a person was found not 112301
guilty by reason of insanity, who would have had the authority to 112302
prosecute a criminal case against a person if the person had not 112303
been found incompetent to stand trial, or who prosecuted a case in 112304
which a person was found guilty. 112305

(V) "Treatment plan" means a written statement of reasonable 112306
objectives and goals for an individual established by the 112307
treatment team, with specific criteria to evaluate progress 112308
towards achieving those objectives. The active participation of 112309
the patient in establishing the objectives and goals shall be 112310
documented. The treatment plan shall be based on patient needs and 112311
include services to be provided to the patient while the patient 112312
is hospitalized and after the patient is discharged. The treatment 112313
plan shall address services to be provided upon discharge, 112314
including but not limited to housing, financial, and vocational 112315
services. 112316

(W) "Community control sanction" has the same meaning as in 112317
section 2929.01 of the Revised Code. 112318

(X) "Post-release control sanction" has the same meaning as 112319
in section 2967.01 of the Revised Code. 112320

Sec. 5122.15. (A) Full hearings shall be conducted in a 112321
manner consistent with this chapter and with due process of law. 112322
The hearings shall be conducted by a judge of the probate court or 112323
a referee designated by a judge of the probate court and may be 112324
conducted in or out of the county in which the respondent is held. 112325
Any referee designated under this division shall be an attorney. 112326

(1) With the consent of the respondent, the following shall 112327

be made available to counsel for the respondent: 112328

(a) All relevant documents, information, and evidence in the 112329
custody or control of the state or prosecutor; 112330

(b) All relevant documents, information, and evidence in the 112331
custody or control of the hospital in which the respondent 112332
currently is held, or in which the respondent has been held 112333
pursuant to this chapter; 112334

(c) All relevant documents, information, and evidence in the 112335
custody or control of any hospital, facility, or person not 112336
included in division (A)(1)(a) or (b) of this section. 112337

(2) The respondent has the right to attend the hearing and to 112338
be represented by counsel of the respondent's choice. The right to 112339
attend the hearing may be waived only by the respondent or counsel 112340
for the respondent after consultation with the respondent. 112341

(3) If the respondent is not represented by counsel, is 112342
absent from the hearing, and has not validly waived the right to 112343
counsel, the court shall appoint counsel immediately to represent 112344
the respondent at the hearing, reserving the right to tax costs of 112345
appointed counsel to the respondent, unless it is shown that the 112346
respondent is indigent. If the court appoints counsel, or if the 112347
court determines that the evidence relevant to the respondent's 112348
absence does not justify the absence, the court shall continue the 112349
case. 112350

(4) The respondent shall be informed that the respondent may 112351
retain counsel and have independent expert evaluation. If the 112352
respondent is unable to obtain an attorney, the respondent shall 112353
be represented by court-appointed counsel. If the respondent is 112354
indigent, court-appointed counsel and independent expert 112355
evaluation shall be provided as an expense under section 5122.43 112356
of the Revised Code. 112357

(5) The hearing shall be closed to the public, unless counsel 112358

for the respondent, with the permission of the respondent, 112359
requests that the hearing be open to the public. 112360

(6) If the hearing is closed to the public, the court, for 112361
good cause shown, may admit persons who have a legitimate interest 112362
in the proceedings. If the respondent, the respondent's counsel, 112363
the designee of the director or of the chief clinical officer 112364
objects to the admission of any person, the court shall hear the 112365
objection and any opposing argument and shall rule upon the 112366
admission of the person to the hearing. 112367

(7) The affiant under section 5122.11 of the Revised Code 112368
shall be subject to subpoena by either party. 112369

(8) The court shall examine the sufficiency of all documents 112370
filed and shall inform the respondent, if present, and the 112371
respondent's counsel of the nature and content of the documents 112372
and the reason for which the respondent is being detained, or for 112373
which the respondent's placement is being sought. 112374

(9) The court shall receive only reliable, competent, and 112375
material evidence. 112376

(10) Unless proceedings are initiated pursuant to section 112377
5120.17 or 5139.08 of the Revised Code or proceedings are 112378
initiated regarding a resident of the service district of a board 112379
of alcohol, drug addiction, and mental health services that elects 112380
under division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised 112381
Code not to accept the amount allocated to it under ~~division~~ 112382
~~(B)(1)~~ of that section, an attorney that the board designates 112383
shall present the case demonstrating that the respondent is a 112384
mentally ill person subject to hospitalization by court order. The 112385
attorney shall offer evidence of the diagnosis, prognosis, record 112386
of treatment, if any, and less restrictive treatment plans, if 112387
any. In proceedings pursuant to section 5120.17 or 5139.08 of the 112388
Revised Code and in proceedings in which the respondent is a 112389

resident of a service district of a board that elects under 112390
division ~~(B)(3)(b)~~(C)(2) of section 5119.62 of the Revised Code 112391
not to accept the amount allocated to it under ~~division (B)(1)~~ of 112392
that section, the attorney general shall designate an attorney who 112393
shall present the case demonstrating that the respondent is a 112394
mentally ill person subject to hospitalization by court order. The 112395
attorney shall offer evidence of the diagnosis, prognosis, record 112396
of treatment, if any, and less restrictive treatment plans, if 112397
any. 112398

(11) The respondent or the respondent's counsel has the right 112399
to subpoena witnesses and documents and to examine and 112400
cross-examine witnesses. 112401

(12) The respondent has the right, but shall not be 112402
compelled, to testify, and shall be so advised by the court. 112403

(13) On motion of the respondent or the respondent's counsel 112404
for good cause shown, or on the court's own motion, the court may 112405
order a continuance of the hearing. 112406

(14) If the respondent is represented by counsel and the 112407
respondent's counsel requests a transcript and record, or if the 112408
respondent is not represented by counsel, the court shall make and 112409
maintain a full transcript and record of the proceeding. If the 112410
respondent is indigent and the transcript and record is made, a 112411
copy shall be provided to the respondent upon request and be 112412
treated as an expense under section 5122.43 of the Revised Code. 112413

(15) To the extent not inconsistent with this chapter, the 112414
Rules of Civil Procedure are applicable. 112415

(B) Unless, upon completion of the hearing the court finds by 112416
clear and convincing evidence that the respondent is a mentally 112417
ill person subject to hospitalization by court order, it shall 112418
order the respondent's discharge immediately. 112419

(C) If, upon completion of the hearing, the court finds by 112420

clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court shall order the respondent for a period not to exceed ninety days to any of the following:

(1) A hospital operated by the department of mental health if the respondent is committed pursuant to section 5139.08 of the Revised Code;

(2) A nonpublic hospital;

(3) The veterans' administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates;

(5) Receive private psychiatric or psychological care and treatment;

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state.

(F) During such ninety-day period the hospital; facility;

board of alcohol, drug addiction, and mental health services; 112451
agency the board designates; or person shall examine and treat the 112452
individual. If, at any time prior to the expiration of the 112453
ninety-day period, it is determined by the hospital, facility, 112454
board, agency, or person that the respondent's treatment needs 112455
could be equally well met in an available and appropriate less 112456
restrictive environment, both of the following apply: 112457

(1) The respondent shall be released from the care of the 112458
hospital, agency, facility, or person immediately and shall be 112459
referred to the court together with a report of the findings and 112460
recommendations of the hospital, agency, facility, or person; and 112461

(2) The hospital, agency, facility, or person shall notify 112462
the respondent's counsel or the attorney designated by a board of 112463
alcohol, drug addiction, and mental health services or, if the 112464
respondent was committed to a board or an agency designated by the 112465
board, it shall place the respondent in the least restrictive 112466
environment available consistent with treatment goals and notify 112467
the court and the respondent's counsel of the placement. 112468

The court shall dismiss the case or order placement in the 112469
least restrictive environment. 112470

(G)(1) Except as provided in divisions (G)(2) and (3) of this 112471
section, any person who has been committed under this section, or 112472
for whom proceedings for hospitalization have been commenced 112473
pursuant to section 5122.11 of the Revised Code, may apply at any 112474
time for voluntary admission to the hospital, facility, agency 112475
that the board designates, or person to which the person was 112476
committed. Upon admission as a voluntary patient the chief 112477
clinical officer of the hospital, agency, or other facility, or 112478
the person immediately shall notify the court, the patient's 112479
counsel, and the attorney designated by the board, if the attorney 112480
has entered the proceedings, in writing of that fact, and, upon 112481
receipt of the notice, the court shall dismiss the case. 112482

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit the person pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of the first ninety-day period or any subsequent period of continued commitment, there has been no disposition of the case, either by discharge or voluntary admission, the hospital, facility, board, agency, or person shall discharge the patient immediately, unless at least ten days before the expiration of the period the attorney the board designates or the prosecutor files with the court an application for continued commitment. The application of the attorney or the prosecutor shall include a written report containing the diagnosis, prognosis, past treatment, a list of alternative treatment settings and plans, and identification of the treatment setting that is the least restrictive consistent with treatment needs. The attorney the board designates or the prosecutor shall file the written report at least three days prior to the full hearing. A copy of the application and written report shall be provided to the respondent's counsel immediately.

The court shall hold a full hearing on applications for continued commitment at the expiration of the first ninety-day period and at least every two years after the expiration of the first ninety-day period.

Hearings following any application for continued commitment are mandatory and may not be waived.

Upon request of a person who is involuntarily committed under this section, or the person's counsel, that is made more than one hundred eighty days after the person's last full hearing, mandatory or requested, the court shall hold a full hearing on the

person's continued commitment. Upon the application of a person 112515
involuntarily committed under this section, supported by an 112516
affidavit of a psychiatrist or licensed clinical psychologist, 112517
alleging that the person no longer is a mentally ill person 112518
subject to hospitalization by court order, the court for good 112519
cause shown may hold a full hearing on the person's continued 112520
commitment prior to the expiration of one hundred eighty days 112521
after the person's last full hearing. Section 5122.12 of the 112522
Revised Code applies to all hearings on continued commitment. 112523

If the court, after a hearing for continued commitment finds 112524
by clear and convincing evidence that the respondent is a mentally 112525
ill person subject to hospitalization by court order, the court 112526
may order continued commitment at places specified in division (C) 112527
of this section. 112528

(I) Unless the admission is pursuant to section 5120.17 or 112529
5139.08 of the Revised Code, the chief clinical officer of the 112530
hospital or agency admitting a respondent pursuant to a judicial 112531
proceeding, within ten working days of the admission, shall make a 112532
report of the admission to the board of alcohol, drug addiction, 112533
and mental health services serving the respondent's county of 112534
residence. 112535

(J) A referee appointed by the court may make all orders that 112536
a judge may make under this section and sections 5122.11 and 112537
5122.141 of the Revised Code, except an order of contempt of 112538
court. The orders of a referee take effect immediately. Within 112539
fourteen days of the making of an order by a referee, a party may 112540
file written objections to the order with the court. The filed 112541
objections shall be considered a motion, shall be specific, and 112542
shall state their grounds with particularity. Within ten days of 112543
the filing of the objections, a judge of the court shall hold a 112544
hearing on the objections and may hear and consider any testimony 112545
or other evidence relating to the respondent's mental condition. 112546

At the conclusion of the hearing, the judge may ratify, rescind, 112547
or modify the referee's order. 112548

(K) An order of the court under division (C), (H), or (J) of 112549
this section is a final order. 112550

(L) Before a board, or an agency the board designates, may 112551
place an unconsenting respondent in an inpatient setting from a 112552
less restrictive placement, the board or agency shall do all of 112553
the following: 112554

(1) Determine that the respondent is in immediate need of 112555
treatment in an inpatient setting because the respondent 112556
represents a substantial risk of physical harm to the respondent 112557
or others if allowed to remain in a less restrictive setting; 112558

(2) On the day of placement in the inpatient setting or on 112559
the next court day, file with the court a motion for transfer to 112560
an inpatient setting or communicate to the court by telephone that 112561
the required motion has been mailed; 112562

(3) Ensure that every reasonable and appropriate effort is 112563
made to take the respondent to the inpatient setting in the least 112564
conspicuous manner possible; 112565

(4) Immediately notify the board's designated attorney and 112566
the respondent's attorney. 112567

At the respondent's request, the court shall hold a hearing 112568
on the motion and make a determination pursuant to division (E) of 112569
this section within five days of the placement. 112570

(M) Before a board, or an agency the board designates, may 112571
move a respondent from one residential placement to another, the 112572
board or agency shall consult with the respondent about the 112573
placement. If the respondent objects to the placement, the 112574
proposed placement and the need for it shall be reviewed by a 112575
qualified mental health professional who otherwise is not involved 112576

in the treatment of the respondent. 112577

Sec. 5122.21. (A) The chief clinical officer shall as 112578
frequently as practicable, and at least once every thirty days, 112579
examine or cause to be examined every patient, and, whenever the 112580
chief clinical officer determines that the conditions justifying 112581
involuntary hospitalization or commitment no longer obtain, shall, 112582
~~except as provided in division (C) of this section,~~ discharge the 112583
patient not under indictment or conviction for crime and 112584
immediately make a report of the discharge to the department of 112585
mental health. The chief clinical officer may discharge a patient 112586
who is under an indictment, a sentence of imprisonment, a 112587
community control sanction, or a post-release control sanction or 112588
on parole ten days after written notice of intent to discharge the 112589
patient has been given by personal service or certified mail, 112590
return receipt requested, to the court having criminal 112591
jurisdiction over the patient. Except when the patient was found 112592
not guilty by reason of insanity and the defendant's commitment is 112593
pursuant to section 2945.40 of the Revised Code, the chief 112594
clinical officer has final authority to discharge a patient who is 112595
under an indictment, a sentence of imprisonment, a community 112596
control sanction, or a post-release control sanction or on parole. 112597

(B) After a finding pursuant to section 5122.15 of the 112598
Revised Code that a person is a mentally ill person subject to 112599
hospitalization by court order, the chief clinical officer of the 112600
hospital or agency to which the person is ordered or to which the 112601
person is transferred under section 5122.20 of the Revised Code, 112602
~~may, except as provided in division (C) of this section,~~ grant a 112603
discharge without the consent or authorization of any court. 112604

Upon discharge, the chief clinical officer shall notify the 112605
court that caused the judicial hospitalization of the discharge 112606
from the hospital. 112607

Sec. 5122.31. (A) All certificates, applications, records, 112608
and reports made for the purpose of this chapter and sections 112609
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 112610
Code, other than court journal entries or court docket entries, 112611
and directly or indirectly identifying a patient or former patient 112612
or person whose hospitalization has been sought under this 112613
chapter, shall be kept confidential and shall not be disclosed by 112614
any person except: 112615

(1) If the person identified, or the person's legal guardian, 112616
if any, or if the person is a minor, the person's parent or legal 112617
guardian, consents, and if the disclosure is in the best interests 112618
of the person, as may be determined by the court for judicial 112619
records and by the chief clinical officer for medical records; 112620

(2) When disclosure is provided for in this chapter or 112621
section 5123.60 of the Revised Code; 112622

(3) That hospitals, boards of alcohol, drug addiction, and 112623
mental health services, and community mental health agencies may 112624
release necessary medical information to insurers and other 112625
third-party payers, including government entities responsible for 112626
processing and authorizing payment, to obtain payment for goods 112627
and services furnished to the patient; 112628

(4) Pursuant to a court order signed by a judge; 112629

(5) That a patient shall be granted access to the patient's 112630
own psychiatric and medical records, unless access specifically is 112631
restricted in a patient's treatment plan for clear treatment 112632
reasons; 112633

(6) That hospitals and other institutions and facilities 112634
within the department of mental health may exchange psychiatric 112635
records and other pertinent information with other hospitals, 112636
institutions, and facilities of the department, and with community 112637

mental health agencies and boards of alcohol, drug addiction, and 112638
mental health services with which the department has a current 112639
agreement for patient care or services. Records and information 112640
that may be released pursuant to this division shall be limited to 112641
medication history, physical health status and history, financial 112642
status, summary of course of treatment in the hospital, summary of 112643
treatment needs, and a discharge summary, if any. 112644

(7) That hospitals within the department, other institutions 112645
and facilities within the department, hospitals licensed by the 112646
department under section 5119.20 of the Revised Code, and 112647
community mental health agencies may exchange psychiatric records 112648
and other pertinent information with payers and other providers of 112649
treatment and health services if the purpose of the exchange is to 112650
facilitate continuity of care for a patient; 112651

(8) That a patient's family member who is involved in the 112652
provision, planning, and monitoring of services to the patient may 112653
receive medication information, a summary of the patient's 112654
diagnosis and prognosis, and a list of the services and personnel 112655
available to assist the patient and the patient's family, if the 112656
patient's treating physician determines that the disclosure would 112657
be in the best interests of the patient. No such disclosure shall 112658
be made unless the patient is notified first and receives the 112659
information and does not object to the disclosure. 112660

(9) That community mental health agencies may exchange 112661
psychiatric records and certain other information with the board 112662
of alcohol, drug addiction, and mental health services and other 112663
agencies in order to provide services to a person involuntarily 112664
committed to a board. Release of records under this division shall 112665
be limited to medication history, physical health status and 112666
history, financial status, summary of course of treatment, summary 112667
of treatment needs, and discharge summary, if any. 112668

(10) That information may be disclosed to the executor or the 112669

administrator of an estate of a deceased patient when the 112670
information is necessary to administer the estate; 112671

(11) That records in the possession of the Ohio historical 112672
society may be released to the closest living relative of a 112673
deceased patient upon request of that relative; 112674

(12) That information may be disclosed to staff members of 112675
the appropriate board or to staff members designated by the 112676
director of mental health for the purpose of evaluating the 112677
quality, effectiveness, and efficiency of services and determining 112678
if the services meet minimum standards. Information obtained 112679
during such evaluations shall not be retained with the name of any 112680
patient. 112681

(13) That records pertaining to the patient's diagnosis, 112682
course of treatment, treatment needs, and prognosis shall be 112683
disclosed and released to the appropriate prosecuting attorney if 112684
the patient was committed pursuant to section 2945.38, 2945.39, 112685
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 112686
attorney designated by the board for proceedings pursuant to 112687
involuntary commitment under this chapter. 112688

(14) That the department of mental health may exchange 112689
psychiatric hospitalization records, other mental health treatment 112690
records, and other pertinent information with the department of 112691
rehabilitation and correction to ensure continuity of care for 112692
inmates who are receiving mental health services in an institution 112693
of the department of rehabilitation and correction. The department 112694
shall not disclose those records unless the inmate is notified, 112695
receives the information, and does not object to the disclosure. 112696
The release of records under this division is limited to records 112697
regarding an inmate's medication history, physical health status 112698
and history, summary of course of treatment, summary of treatment 112699
needs, and a discharge summary, if any. 112700

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.341. (A) As used in this section:

(1) "Facility or agency" means, in the context of a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code, any entity in which the department of mental health places such a person.

(2) "Person committed to the department" means a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code.

(B) No member of a board of directors, or employee, of a facility or agency in which the department of mental health places a person committed to the department is liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or employee's employment

relating to the commitment of, and services provided to, the 112731
person committed to the department, unless the action or inaction 112732
constitutes willful or wanton misconduct. A board member's or 112733
employee's action or inaction does not constitute willful or 112734
wanton misconduct if the board member or employee acted in good 112735
faith and reasonably under the circumstances and with the 112736
knowledge reasonably attributable to the board member or employee. 112737

The immunity from liability conferred by this section is in 112738
addition to and not in limitation of any immunity conferred by any 112739
other section of the Revised Code or by judicial precedent. 112740

Sec. 5123.01. As used in this chapter: 112741

(A) "Chief medical officer" means the licensed physician 112742
appointed by the managing officer of an institution for the 112743
mentally retarded with the approval of the director of 112744
developmental disabilities to provide medical treatment for 112745
residents of the institution. 112746

(B) "Chief program director" means a person with special 112747
training and experience in the diagnosis and management of the 112748
mentally retarded, certified according to division (C) of this 112749
section in at least one of the designated fields, and appointed by 112750
the managing officer of an institution for the mentally retarded 112751
with the approval of the director to provide habilitation and care 112752
for residents of the institution. 112753

(C) "Comprehensive evaluation" means a study, including a 112754
sequence of observations and examinations, of a person leading to 112755
conclusions and recommendations formulated jointly, with 112756
dissenting opinions if any, by a group of persons with special 112757
training and experience in the diagnosis and management of persons 112758
with mental retardation or a developmental disability, which group 112759
shall include individuals who are professionally qualified in the 112760
fields of medicine, psychology, and social work, together with 112761

such other specialists as the individual case may require. 112762

(D) "Education" means the process of formal training and 112763
instruction to facilitate the intellectual and emotional 112764
development of residents. 112765

(E) "Habilitation" means the process by which the staff of 112766
the institution assists the resident in acquiring and maintaining 112767
those life skills that enable the resident to cope more 112768
effectively with the demands of the resident's own person and of 112769
the resident's environment and in raising the level of the 112770
resident's physical, mental, social, and vocational efficiency. 112771
Habilitation includes but is not limited to programs of formal, 112772
structured education and training. 112773

(F) "Health officer" means any public health physician, 112774
public health nurse, or other person authorized or designated by a 112775
city or general health district. 112776

(G) "Home and community-based services" means medicaid-funded 112777
home and community-based services specified in division (B)(1) of 112778
section 5111.87 of the Revised Code provided under the medicaid 112779
waiver components the department of developmental disabilities 112780
administers pursuant to section 5111.871 of the Revised Code. 112781
However, home and community-based services provided under the 112782
medicaid waiver component known as the transitions developmental 112783
disabilities waiver are to be considered to be home and 112784
community-based services for the purposes of this chapter only to 112785
the extent, if any, provided by the contract required by section 112786
5111.871 of the Revised Code regarding the waiver. 112787

(H) "Indigent person" means a person who is unable, without 112788
substantial financial hardship, to provide for the payment of an 112789
attorney and for other necessary expenses of legal representation, 112790
including expert testimony. 112791

(I) "Institution" means a public or private facility, or a 112792

part of a public or private facility, that is licensed by the 112793
appropriate state department and is equipped to provide 112794
residential habilitation, care, and treatment for the mentally 112795
retarded. 112796

(J) "Licensed physician" means a person who holds a valid 112797
certificate issued under Chapter 4731. of the Revised Code 112798
authorizing the person to practice medicine and surgery or 112799
osteopathic medicine and surgery, or a medical officer of the 112800
government of the United States while in the performance of the 112801
officer's official duties. 112802

(K) "Managing officer" means a person who is appointed by the 112803
director of developmental disabilities to be in executive control 112804
of an institution for the mentally retarded under the jurisdiction 112805
of the department. 112806

(L) "Medicaid" has the same meaning as in section 5111.01 of 112807
the Revised Code. 112808

(M) "Medicaid case management services" means case management 112809
services provided to an individual with mental retardation or 112810
other developmental disability that the state medicaid plan 112811
requires. 112812

(N) "Mentally retarded person" means a person having 112813
significantly subaverage general intellectual functioning existing 112814
concurrently with deficiencies in adaptive behavior, manifested 112815
during the developmental period. 112816

(O) "Mentally retarded person subject to institutionalization 112817
by court order" means a person eighteen years of age or older who 112818
is at least moderately mentally retarded and in relation to whom, 112819
because of the person's retardation, either of the following 112820
conditions exist: 112821

(1) The person represents a very substantial risk of physical 112822
impairment or injury to self as manifested by evidence that the 112823

person is unable to provide for and is not providing for the 112824
person's most basic physical needs and that provision for those 112825
needs is not available in the community; 112826

(2) The person needs and is susceptible to significant 112827
habilitation in an institution. 112828

(P) "A person who is at least moderately mentally retarded" 112829
means a person who is found, following a comprehensive evaluation, 112830
to be impaired in adaptive behavior to a moderate degree and to be 112831
functioning at the moderate level of intellectual functioning in 112832
accordance with standard measurements as recorded in the most 112833
current revision of the manual of terminology and classification 112834
in mental retardation published by the American association on 112835
mental retardation. 112836

(Q) As used in this division, "substantial functional 112837
limitation," "developmental delay," and "established risk" have 112838
the meanings established pursuant to section 5123.011 of the 112839
Revised Code. 112840

"Developmental disability" means a severe, chronic disability 112841
that is characterized by all of the following: 112842

(1) It is attributable to a mental or physical impairment or 112843
a combination of mental and physical impairments, other than a 112844
mental or physical impairment solely caused by mental illness as 112845
defined in division (A) of section 5122.01 of the Revised Code. 112846

(2) It is manifested before age twenty-two. 112847

(3) It is likely to continue indefinitely. 112848

(4) It results in one of the following: 112849

(a) In the case of a person under three years of age, at 112850
least one developmental delay or an established risk; 112851

(b) In the case of a person at least three years of age but 112852
under six years of age, at least two developmental delays or an 112853

established risk; 112854

(c) In the case of a person six years of age or older, a 112855
substantial functional limitation in at least three of the 112856
following areas of major life activity, as appropriate for the 112857
person's age: self-care, receptive and expressive language, 112858
learning, mobility, self-direction, capacity for independent 112859
living, and, if the person is at least sixteen years of age, 112860
capacity for economic self-sufficiency. 112861

(5) It causes the person to need a combination and sequence 112862
of special, interdisciplinary, or other type of care, treatment, 112863
or provision of services for an extended period of time that is 112864
individually planned and coordinated for the person. 112865

(R) "Developmentally disabled person" means a person with a 112866
developmental disability. 112867

(S) "State institution" means an institution that is 112868
tax-supported and under the jurisdiction of the department. 112869

(T) "Residence" and "legal residence" have the same meaning 112870
as "legal settlement," which is acquired by residing in Ohio for a 112871
period of one year without receiving general assistance prior to 112872
July 17, 1995, under former Chapter 5113. of the Revised Code, 112873
financial assistance under Chapter 5115. of the Revised Code, or 112874
assistance from a private agency that maintains records of 112875
assistance given. A person having a legal settlement in the state 112876
shall be considered as having legal settlement in the assistance 112877
area in which the person resides. No adult person coming into this 112878
state and having a spouse or minor children residing in another 112879
state shall obtain a legal settlement in this state as long as the 112880
spouse or minor children are receiving public assistance, care, or 112881
support at the expense of the other state or its subdivisions. For 112882
the purpose of determining the legal settlement of a person who is 112883
living in a public or private institution or in a home subject to 112884

licensing by the department of job and family services, the 112885
department of mental health, or the department of developmental 112886
disabilities, the residence of the person shall be considered as 112887
though the person were residing in the county in which the person 112888
was living prior to the person's entrance into the institution or 112889
home. Settlement once acquired shall continue until a person has 112890
been continuously absent from Ohio for a period of one year or has 112891
acquired a legal residence in another state. A woman who marries a 112892
man with legal settlement in any county immediately acquires the 112893
settlement of her husband. The legal settlement of a minor is that 112894
of the parents, surviving parent, sole parent, parent who is 112895
designated the residential parent and legal custodian by a court, 112896
other adult having permanent custody awarded by a court, or 112897
guardian of the person of the minor, provided that: 112898

(1) A minor female who marries shall be considered to have 112899
the legal settlement of her husband and, in the case of death of 112900
her husband or divorce, she shall not thereby lose her legal 112901
settlement obtained by the marriage. 112902

(2) A minor male who marries, establishes a home, and who has 112903
resided in this state for one year without receiving general 112904
assistance prior to July 17, 1995, under former Chapter 5113. of 112905
the Revised Code, financial assistance under Chapter 5115. of the 112906
Revised Code, or assistance from a private agency that maintains 112907
records of assistance given shall be considered to have obtained a 112908
legal settlement in this state. 112909

(3) The legal settlement of a child under eighteen years of 112910
age who is in the care or custody of a public or private child 112911
caring agency shall not change if the legal settlement of the 112912
parent changes until after the child has been in the home of the 112913
parent for a period of one year. 112914

No person, adult or minor, may establish a legal settlement 112915
in this state for the purpose of gaining admission to any state 112916

institution. 112917

(U)(1) "Resident" means, subject to division (R)(2) of this 112918
section, a person who is admitted either voluntarily or 112919
involuntarily to an institution or other facility pursuant to 112920
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 112921
Code subsequent to a finding of not guilty by reason of insanity 112922
or incompetence to stand trial or under this chapter who is under 112923
observation or receiving habilitation and care in an institution. 112924

(2) "Resident" does not include a person admitted to an 112925
institution or other facility under section 2945.39, 2945.40, 112926
2945.401, or 2945.402 of the Revised Code to the extent that the 112927
reference in this chapter to resident, or the context in which the 112928
reference occurs, is in conflict with any provision of sections 112929
2945.37 to 2945.402 of the Revised Code. 112930

(V) "Respondent" means the person whose detention, 112931
commitment, or continued commitment is being sought in any 112932
proceeding under this chapter. 112933

(W) "Working day" and "court day" mean Monday, Tuesday, 112934
Wednesday, Thursday, and Friday, except when such day is a legal 112935
holiday. 112936

(X) "Prosecutor" means the prosecuting attorney, village 112937
solicitor, city director of law, or similar chief legal officer 112938
who prosecuted a criminal case in which a person was found not 112939
guilty by reason of insanity, who would have had the authority to 112940
prosecute a criminal case against a person if the person had not 112941
been found incompetent to stand trial, or who prosecuted a case in 112942
which a person was found guilty. 112943

(Y) "Court" means the probate division of the court of common 112944
pleas. 112945

(Z) "Supported living" ~~has~~ and "residential services" have 112946
the same ~~meaning~~ meanings as in section 5126.01 of the Revised 112947

Code. 112948

Sec. 5123.0412. (A) The department of developmental 112949
disabilities shall charge each county board of developmental 112950
disabilities an annual fee equal to one ~~and one-half~~ per cent of 112951
the total value of all medicaid paid claims for home and 112952
community-based services provided during the year to an individual 112953
eligible for services from the county board. No county board shall 112954
pass the cost of a fee charged to the county board under this 112955
section on to another provider of these services. 112956

(B) The fees collected under this section shall be deposited 112957
into the ODDD administration and oversight fund ~~and the ODJFS~~ 112958
~~administration and oversight fund, both of which are~~ is hereby 112959
created in the state treasury. ~~The portion of the fees to be~~ 112960
~~deposited into the ODDD administration and oversight fund and the~~ 112961
~~portion of the fees to be deposited into the ODJFS administration~~ 112962
~~and oversight fund shall be the portion specified in an~~ 112963
~~interagency agreement entered into under division (C) of this~~ 112964
~~section.~~ The department of developmental disabilities shall use 112965
the money in the ODDD administration and oversight fund ~~and the~~ 112966
~~department of job and family services shall use the money in the~~ 112967
~~ODJFS administration and oversight fund~~ for both of the following 112968
purposes: 112969

(1) Medicaid administrative costs, including administrative 112970
and oversight costs of medicaid case management services and home 112971
and community-based services. The administrative and oversight 112972
costs of medicaid case management services and home and 112973
community-based services shall include costs for staff, systems, 112974
and other resources the ~~departments need~~ department needs and 112975
~~dedicate~~ dedicates solely to the following duties associated with 112976
the services: 112977

(a) Eligibility determinations; 112978

(b) Training;	112979
(c) Fiscal management;	112980
(d) Claims processing;	112981
(e) Quality assurance oversight;	112982
(f) Other duties the departments identify.	112983
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	112984 112985 112986
(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:	112987 112988 112989
(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;	112990 112991 112992 112993
(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.	112994 112995 112996
(D) The departments <u>department</u> shall submit an annual report to the director of budget and management certifying how the <u>department</u> spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.	112997 112998 112999 113000 113001
Sec. 5123.0413. The department of developmental disabilities, in consultation with the department of job and family services, office of budget and management, and county boards of developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code to establish both of the following in the event a county property tax levy for services for	113002 113003 113004 113005 113006 113007

individuals with mental retardation or other developmental 113008
disability fails: 113009

(A) A method of paying for home and community-based services; 113010

(B) A method of reducing the number of individuals a county 113011
board would otherwise be required by section 5126.0512 of the 113012
Revised Code to ensure are enrolled in a ~~medicaid waiver component~~ 113013
~~under which~~ home and community-based services are provided. 113014

Sec. 5123.0417. (A) The director of developmental 113015
disabilities shall establish one or more programs for individuals 113016
under ~~twenty-one~~ twenty-two years of age who have intensive 113017
behavioral needs, including such individuals with a primary 113018
diagnosis of autism spectrum disorder. The programs may include 113019
one or more medicaid waiver components that the director 113020
administers pursuant to section 5111.871 of the Revised Code. The 113021
programs may do one or more of the following: 113022

(1) Establish models that incorporate elements common to 113023
effective intervention programs and evidence-based practices in 113024
services for children with intensive behavioral needs; 113025

(2) Design a template for individualized education plans and 113026
individual service plans that provide consistent intervention 113027
programs and evidence-based practices for the care and treatment 113028
of children with intensive behavioral needs; 113029

(3) Disseminate best practice guidelines for use by families 113030
of children with intensive behavioral needs and professionals 113031
working with such families; 113032

(4) Develop a transition planning model for effectively 113033
mainstreaming school-age children with intensive behavioral needs 113034
to their public school district; 113035

(5) Contribute to the field of early and effective 113036
identification and intervention programs for children with 113037

intensive behavioral needs by providing financial support for 113038
scholarly research and publication of clinical findings. 113039

(B) The director of developmental disabilities shall 113040
collaborate with the director of job and family services and 113041
consult with the executive director of the Ohio center for autism 113042
and low incidence and university-based programs that specialize in 113043
services for individuals with developmental disabilities when 113044
establishing programs under this section. 113045

Sec. 5123.0418. (A) In addition to other authority granted 113046
the director of developmental disabilities for use of funds 113047
appropriated to the department of developmental disabilities, the 113048
director may use such funds for the following purposes: 113049

(1) All of the following to assist persons with mental 113050
retardation or a developmental disability remain in the community 113051
and avoid institutionalization: 113052

(a) Behavioral and short-term interventions; 113053

(b) Residential services; 113054

(c) Supported living. 113055

(2) Respite care services; 113056

(3) Staff training to help the following personnel serve 113057
persons with mental retardation or a developmental disability in 113058
the community: 113059

(a) Employees of, and personnel under contract with, county 113060
boards of developmental disabilities; 113061

(b) Employees of providers of supported living; 113062

(c) Employees of providers of residential services; 113063

(d) Other personnel the director identifies. 113064

(B) The director may establish priorities for using funds for 113065

the purposes specified in division (A) of this section. The 113066
director shall use the funds in a manner consistent with the 113067
appropriations that authorize the director to use the funds and 113068
all other state and federal laws governing the use of the funds. 113069

Sec. 5123.0419. (A) The director of developmental 113070
disabilities may establish an interagency workgroup on autism. The 113071
purpose of the workgroup shall be to improve the coordination of 113072
the state's efforts to address the service needs of individuals 113073
with autism spectrum disorders and the families of those 113074
individuals. In fulfilling this purpose, the director may enter 113075
into interagency agreements with the government entities 113076
represented by the members of the workgroup. The agreements may 113077
specify any or all of the following: 113078

(1) The roles and responsibilities of government entities 113079
that enter into the agreements; 113080

(2) Procedures regarding the receipt, transfer, and 113081
expenditure of funds necessary to achieve the goals of the 113082
workgroup; 113083

(3) The projects to be undertaken and activities to be 113084
performed by the government entities that enter into the 113085
agreements. 113086

(B) Money received from government entities represented by 113087
the members of the workgroup shall be deposited into the state 113088
treasury to the credit of the interagency workgroup on autism 113089
fund, which is hereby created in the state treasury. Money 113090
credited to the fund shall be used by the department of 113091
developmental disabilities solely to support the activities of the 113092
workgroup. 113093

Sec. 5123.051. (A) If the department of developmental 113094
disabilities determines pursuant to an audit conducted under 113095

section 5123.05 of the Revised Code ~~or a reconciliation conducted~~ 113096
~~under section 5123.18 of the Revised Code~~ that money is owed the 113097
state by a provider of a service or program, the department may 113098
enter into a payment agreement with the provider. The agreement 113099
shall include the following: 113100

(1) A schedule of installment payments whereby the money owed 113101
the state is to be paid in full within a period not to exceed one 113102
year; 113103

(2) A provision that the provider may pay the entire balance 113104
owed at any time during the term of the agreement; 113105

(3) A provision that if any installment is not paid in full 113106
within forty-five days after it is due, the entire balance owed is 113107
immediately due and payable; 113108

(4) Any other terms and conditions that are agreed to by the 113109
department and the provider. 113110

(B) The department may include a provision in a payment 113111
agreement that requires the provider to pay interest on the money 113112
owed the state. The department, in its discretion, shall determine 113113
whether to require the payment of interest and, if it so requires, 113114
the rate of interest. Neither the obligation to pay interest nor 113115
the rate of interest is subject to negotiation between the 113116
department and the provider. 113117

(C) If the provider fails to pay any installment in full 113118
within forty-five days after its due date, the department shall 113119
certify the entire balance owed to the attorney general for 113120
collection under section 131.02 of the Revised Code. The 113121
department may withhold funds from payments made to a provider 113122
under section 5123.18 of the Revised Code to satisfy a judgment 113123
secured by the attorney general. 113124

~~(D) The purchase of service fund is hereby created. Money 113125
credited to the fund shall be used solely for purposes of section 113126~~

~~5123.05 of the Revised Code.~~ 113127

Sec. 5123.171. As used in this section, "respite care" means 113128
appropriate, short-term, temporary care provided to a mentally 113129
retarded or developmentally disabled person to sustain the family 113130
structure or to meet planned or emergency needs of the family. 113131

The department of developmental disabilities shall provide 113132
respite care services to persons with mental retardation or a 113133
developmental disability for the purpose of promoting 113134
self-sufficiency and normalization, preventing or reducing 113135
inappropriate institutional care, and furthering the unity of the 113136
family by enabling the family to meet the special needs of a 113137
mentally retarded or developmentally disabled person. 113138

In order to be eligible for respite care services under this 113139
section, the mentally retarded or developmentally disabled person 113140
must be in need of habilitation services as defined in section 113141
5126.01 of the Revised Code. 113142

Respite care may be provided in a facility licensed under 113143
section 5123.19 of the Revised Code or certified as an 113144
intermediate care facility for the mentally retarded under Title 113145
XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 113146
301, as amended, or certified as a respite care home under section 113147
5126.05 of the Revised Code. 113148

The department shall develop a system for locating vacant 113149
beds that are available for respite care and for making 113150
information on vacant beds available to users of respite care 113151
services. Facilities certified as intermediate care facilities for 113152
the mentally retarded ~~and facilities holding contracts with the~~ 113153
~~department for the provision of residential services under section~~ 113154
~~5123.18 of the Revised Code~~ shall report vacant beds to the 113155
department but shall not be required to accept respite care 113156
clients. 113157

The director of developmental disabilities shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for both of the following:

(A) Certification by county boards of developmental disabilities of respite care homes;

(B) Provision of respite care services authorized by this section. Rules adopted under this division shall establish all of the following:

(1) A formula for distributing funds appropriated for respite care services;

(2) Standards for supervision, training and quality control in the provision of respite care services;

(3) Eligibility criteria for emergency respite care services.

Sec. 5123.18. (A) ~~As used in this section:~~

~~(1) "Contractor" means a person or government agency that enters into a contract with the department of developmental disabilities under this section.~~

~~(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of the state.~~

~~(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.~~

~~(B)(1)~~ The department of developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or

developmental disabilities in need of residential ~~services.~~ 113187
~~Contracts for residential services shall be of the following~~ 113188
~~types:~~ 113189

~~(a) Companion home contracts — contracts under which the~~ 113190
~~contractor is an individual, the individual is the primary~~ 113191
~~caregiver, and the individual owns or leases and resides in the~~ 113192
~~home in which the services are provided.~~ 113193

~~(b) Agency operated companion home contracts — contracts~~ 113194
~~under which the contractor subcontracts, for purposes of~~ 113195
~~coordinating the provision of residential services, with one or~~ 113196
~~more individuals who are primary caregivers and own or lease and~~ 113197
~~reside in the homes in which the services are provided.~~ 113198

~~(c) Community home contracts — contracts for residential~~ 113199
~~services under which the contractor owns or operates a home that~~ 113200
~~is used solely to provide residential services.~~ 113201

~~(d) Combined agency operated companion home and community~~ 113202
~~home contracts.~~ 113203

~~(2) A companion home contract shall cover not more than one~~ 113204
~~home. An agency operated companion home contract or a community~~ 113205
~~home contract may cover more than one home.~~ 113206

~~(C) Contracts shall be in writing and shall provide for~~ 113207
~~payment to be made to the contractor at the times agreed to by the~~ 113208
~~department and the contractor. Each contract shall specify the~~ 113209
~~period during which it is valid, the amount to be paid for~~ 113210
~~residential services, and the number of individuals for whom~~ 113211
~~payment will be made. Contracts may be renewed.~~ 113212

~~(D) services. To be eligible to enter into a contract with~~ 113213
~~the department under this section, the a person or government~~ 113214
~~agency entity and the home in which the residential services are~~ 113215
~~provided must meet all applicable standards for licensing or~~ 113216
~~certification by the appropriate government agency entity. ~~In~~~~ 113217

~~addition, if the residential facility is operated as a nonprofit 113218
entity, the members of the board of trustees or board of directors 113219
of the facility must not have a financial interest in or receive 113220
financial benefit from the facility, other than reimbursement for 113221
actual expenses incurred in attending board meetings. 113222~~

~~(E)(1) The department shall determine the payment amount 113223
assigned to an initial contract. To the extent that the department 113224
determines sufficient funds are available, the payment amount 113225
assigned to an initial contract shall be equal to the average 113226
amount assigned to contracts for other homes that are of the same 113227
type and size and serve individuals with similar needs, except 113228
that if an initial contract is the result of a change of 113229
contractor or ownership, the payment amount assigned to the 113230
contract shall be the lesser of the amount assigned to the 113231
previous contract or the contract's total adjusted predicted 113232
funding need calculated under division (I) of this section. 113233~~

~~(2) A renewed contract shall be assigned a payment amount in 113234
accordance with division (K) of this section. 113235~~

~~(3) When a contractor relocates a home to another site at 113236
which residential services are provided to the same individuals, 113237
the payment amount assigned to the contract for the new home shall 113238
be the payment amount assigned to the contract at the previous 113239
location. 113240~~

~~(F)(1) Annually, a contractor shall complete an assessment of 113241
each individual to whom the contractor provides residential 113242
services to predict the individual's need for routine direct 113243
services staff. The department shall establish by rule adopted in 113244
accordance with Chapter 119. of the Revised Code the assessment 113245
instrument to be used by contractors to make assessments. 113246
Assessments shall be submitted to the department not later than 113247
the thirty first day of January of each year. 113248~~

~~A contractor shall submit a revised assessment for an individual if there is a substantial, long term change in the nature of the individual's needs. A contractor shall submit revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents.~~

~~(2) Annually, a contractor shall submit a cost report to the department specifying the costs incurred in providing residential services during the immediately preceding calendar year. Only costs actually incurred by a contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.~~

~~(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.~~

~~(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need. The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.~~

~~(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:~~

(a) Routine direct services staff;	113280
(b) Dietary, program supplies, and specialized staff;	113281
(c) Facility and general services;	113282
(d) Administration.	113283
(2) Based on the assessments submitted by the contractor, the	113284
department shall compute the contract's predicted funding need for	113285
the routine direct services staff cost category by multiplying the	113286
number of direct services staff predicted to be necessary for the	113287
home by the sum of the following:	113288
(a) Entry level wages paid during the immediately preceding	113289
cost reporting period to comparable staff employed by the county	113290
board of developmental disabilities of the county in which the	113291
home is located;	113292
(b) Fringe benefits and payroll taxes as determined by the	113293
department using state civil service statistics from the same	113294
period as the cost reporting period.	113295
(3) The department shall establish by rule adopted in	113296
accordance with Chapter 119. of the Revised Code the method to be	113297
used to compute the predicted funding need for the dietary,	113298
program supplies, and specialized staff cost category; the	113299
facility and general services cost category; and the	113300
administration cost category. The rules shall not establish a	113301
maximum amount that may be attributed to the dietary, program	113302
supplies, and specialized staff cost category. The rules shall	113303
establish a process for determining the combined maximum amount	113304
that may be attributed to the facility and general services cost	113305
category and the administration cost category.	113306
(I)(1) A contract's total adjusted predicted funding need is	113307
the contract's total predicted funding need with adjustments made	113308
for the following:	113309

~~(a) Inflation, as provided under division (I)(2) of this section;~~ 113310
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~~(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;~~ 113312
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~~(c) Changes in needs based on revised assessments submitted by the contractor.~~ 113315
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~~(2) In adjusting the total predicted funding need for inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.~~ 113317
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~~When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need shall be the estimated rate of inflation for the calendar year in which the contract is renewed. If the consumer price index is being used, the department shall base its estimate on the rate of inflation calculated for the three month period ending the thirty first day of March of that calendar year. If another index or measurement is being used, the department shall base its estimate on the most recent calculations of the rate of inflation available under the index or measurement. Each year thereafter, the inflation adjustment shall be estimated in the same manner, except that if the estimated rate of inflation for a year is different from the actual rate of inflation for that year, the difference shall be added to or subtracted from the rate of inflation estimated for the next succeeding year.~~ 113323
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~~If a contract begins at any time other than July first, the inflation adjustment applied to the contract's total predicted~~ 113339
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~~funding need shall be determined by a method comparable to that used for contracts beginning July first. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the method to be used.~~

~~(J) A contract's unmet funding need is the difference between the payment amount assigned to the contract and the total adjusted predicted funding need, if the payment amount assigned is less than the total adjusted predicted funding need.~~

~~(K) The payment amount to be assigned to a contract being renewed shall be determined by comparing the total adjusted predicted funding need with the payment amount assigned to the current contract.~~

~~(1) If the payment amount assigned to the current contract equals or exceeds the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be the same as that assigned to the current contract, unless a reduction is made pursuant to division (L) of this section.~~

~~(2) If the payment amount assigned to the current contract is less than the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be increased if the department determines that funds are available for such increases. The amount of a contract's increase shall be the same percentage of the available funds that the contract's unmet funding need is of the total of the unmet funding need for all contracts.~~

~~(L) When renewing a contract provided for in division (B) of this section other than a companion home contract, the department may reduce the payment amount assigned to a renewed contract if the sum of the contractor's allowable reported costs and the maximum efficiency incentive is less than ninety one and one half per cent of the amount received pursuant to this section during the immediately preceding contract year.~~

~~The department shall adopt rules in accordance with Chapter 113372
119. of the Revised Code establishing a formula to be used in 113373
computing the maximum efficiency incentive, which shall be at 113374
least four per cent of the weighted average payment amount to be 113375
made to all contractors during the contract year. The maximum 113376
efficiency incentive shall be computed annually. 113377~~

~~(M) The department may increase the payment amount assigned 113378
to a contract based on the contract's unmet funding need at times 113379
other than when the contract is renewed. The department may 113380
develop policies for determining priorities in making such 113381
increases. 113382~~

~~(N)(1) In addition to the contracts provided for in division 113383
(B) of this section, the department may enter into the following 113384
contracts: 113385~~

~~(a) A contract to pay the cost of beginning operation of a 113386
new home that is to be funded under a companion home contract, 113387
agency operated companion home contract, community home contract, 113388
or combined agency operated companion home and community home 113389
contract. 113390~~

~~(b) A contract to pay the cost associated with increasing the 113391
number of individuals served by a home funded under a companion 113392
home contract, agency operated companion home contract, community 113393
home contract, or combined agency operated companion home and 113394
community home contract. 113395~~

~~(2) The department shall adopt rules as necessary regarding 113396
contracts entered into under this division. The rules shall be 113397
adopted in accordance with Chapter 119. of the Revised Code. 113398~~

~~(O) Except for companion home contracts, the department shall 113399
conduct a reconciliation of the amount earned under a contract and 113400
the actual costs incurred by the contractor. An amount is 113401
considered to have been earned for delivering a service at the 113402~~

~~time the service is delivered. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting reconciliations.~~

~~A reconciliation shall be based on the annual cost report submitted by the contractor. If a reconciliation reveals that a contractor owes money to the state, the amount owed shall be collected in accordance with section 5123.051 of the Revised Code.~~

~~When conducting reconciliations, the department shall review all reported costs that may be affected by transactions required to be reported under division (B)(3) of section 5123.172 of the Revised Code. If the department determines that such transactions have increased the cost reported by a contractor, the department may disallow or adjust the cost allowable for payment. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for disallowances or adjustments.~~

~~(P) The department may audit the contracts it enters into under this section. Audits may be conducted by the department or an entity with which the department contracts to perform the audits. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting audits.~~

~~An audit may include the examination of a contractor's financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.~~

~~If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under~~

~~this division, shall be collected in accordance with section 113434
5123.051 of the Revised Code. If an audit reveals that a 113435
reconciliation conducted under this section resulted in the 113436
contractor erroneously paying money to the state, the department 113437
shall refund the money to the contractor, or, in lieu of making a 113438
refund, the department may offset the erroneous payment against 113439
any money determined as a result of the audit to be owed by the 113440
contractor to the state. The department is not required to pay 113441
interest on any money refunded under this division. 113442~~

~~In conducting audits or making determinations of amounts owed 113443
by a contractor and amounts to be refunded or offset, the 113444
department shall not be bound by the results of reconciliations 113445
conducted under this section, except with regard to cases 113446
involving claims that have been certified pursuant to section 113447
5123.051 of the Revised Code to the attorney general for 113448
collection for which a full and final settlement has been reached 113449
or a final judgment has been made from which all rights of appeal 113450
have expired or been exhausted. 113451~~

~~Not later than ninety days after an audit's completion, the 113452
department shall provide the contractor a copy of a report of the 113453
audit. The report shall state the findings of the audit, including 113454
the amount of any money the contractor is determined to owe the 113455
state. 113456~~

~~(Q) The department shall adopt rules specifying the amount 113457
that will be allowed under a reconciliation or audit for the cost 113458
incurred by a contractor for compensation of owners, 113459
administrators, and other personnel. The rules shall be adopted in 113460
accordance with Chapter 119. of the Revised Code. 113461~~

~~(R) Each contractor shall, for at least seven years, maintain 113462
fiscal records related to payments received pursuant to this 113463
section. 113464~~

~~(S) The department may enter into shared funding agreements with other government agencies to fund contracts entered into under this section. The amount of each agency's share of the cost shall be determined through negotiations with the department. The department's share shall not exceed the amount it would have paid without entering into the shared funding agreement, nor shall it be reduced by any amounts contributed by the other parties to the agreement.~~

~~(T) Except as provided in section 5123.194 of the Revised Code, an individual who receives residential services pursuant to divisions (A) through (U) of this section and the individual's liable relatives or guardians shall pay support charges in accordance with Chapter 5121. of the Revised Code.~~

~~(U) The department may make reimbursements or payments for any of the following pursuant to rules adopted under this division:~~

~~(1) Unanticipated, nonrecurring costs associated with the health or habilitation of a person who resides in a home funded under a contract provided for in division (B) of this section;~~

~~(2) The cost of staff development training for contractors if the director of developmental disabilities has given prior approval for the training;~~

~~(3) Fixed costs that the department, pursuant to the rules, determines relate to the continued operation of a home funded under a contract provided for in division (B) of this section when a short term vacancy occurs and the contractor has diligently attempted to fill the vacancy.~~

~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for use in determining which costs it may make payment or reimbursements for under this division.~~

~~(V) In addition to the rules required or authorized to be adopted under this section, the department may adopt any other rules necessary to implement divisions (A) through (U) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(W) The department may delegate to county boards of developmental disabilities its authority under this section to negotiate and enter into contracts or subcontracts for residential services. In the event that it elects to delegate its authority, the department shall adopt rules in accordance with Chapter 119. of the Revised Code for the boards' administration of the contracts or subcontracts. In administering the contracts or subcontracts, the boards shall be subject to all applicable provisions of Chapter 5126. of the Revised Code and shall not be subject to the provisions of divisions (A) to (V) of this section.~~

~~Subject to the department's rules, a board may require the following to contribute to the cost of the residential services an individual receives pursuant to this division: the individual or the individual's estate, the individual's spouse, the individual's guardian, and, if the individual is under age eighteen, either or both of the individual's parents. Chapter 5121. of the Revised Code shall not apply to individuals or entities that are subject to making contributions under this division. In calculating contributions to be made under this division, a board, subject to the department's rules, may allow an amount to be kept for meeting the personal needs of the individual who receives residential services.~~

Sec. 5123.19. (A) As used in this section and in sections 5123.191, ~~5123.193,~~ 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in

which a mentally retarded or developmentally disabled person 113527
resides, except the home of a relative or legal guardian in which 113528
a mentally retarded or developmentally disabled person resides, a 113529
respite care home certified under section 5126.05 of the Revised 113530
Code, a county home or district home operated pursuant to Chapter 113531
5155. of the Revised Code, or a dwelling in which the only 113532
mentally retarded or developmentally disabled residents are in an 113533
independent living arrangement or are being provided supported 113534
living. 113535

(b) "Intermediate care facility for the mentally retarded" 113536
means a residential facility that is considered an intermediate 113537
care facility for the mentally retarded for the purposes of 113538
Chapter 5111. of the Revised Code. 113539

(2) "Political subdivision" means a municipal corporation, 113540
county, or township. 113541

(3) "Independent living arrangement" means an arrangement in 113542
which a mentally retarded or developmentally disabled person 113543
resides in an individualized setting chosen by the person or the 113544
person's guardian, which is not dedicated principally to the 113545
provision of residential services for mentally retarded or 113546
developmentally disabled persons, and for which no financial 113547
support is received for rendering such service from any 113548
governmental agency by a provider of residential services. 113549

(4) "Licensee" means the person or government agency that has 113550
applied for a license to operate a residential facility and to 113551
which the license was issued under this section. 113552

(5) "Related party" has the same meaning as in section 113553
5123.16 of the Revised Code except that "provider" as used in the 113554
definition of "related party" means a person or government entity 113555
that held or applied for a license to operate a residential 113556
facility, rather than a person or government entity certified to 113557

provide supported living. 113558

(B) Every person or government agency desiring to operate a 113559
residential facility shall apply for licensure of the facility to 113560
the director of developmental disabilities unless the residential 113561
facility is subject to section 3721.02, ~~3722.04~~ 5119.73, 5103.03, 113562
or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of 113563
the Revised Code, a nursing home that is certified as an 113564
intermediate care facility for the mentally retarded under Title 113565
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 113566
1396, as amended, shall apply for licensure of the portion of the 113567
home that is certified as an intermediate care facility for the 113568
mentally retarded. 113569

(C) Subject to section 5123.196 of the Revised Code, the 113570
director of developmental disabilities shall license the operation 113571
of residential facilities. An initial license shall be issued for 113572
a period that does not exceed one year, unless the director denies 113573
the license under division (D) of this section. A license shall be 113574
renewed for a period that does not exceed three years, unless the 113575
director refuses to renew the license under division (D) of this 113576
section. The director, when issuing or renewing a license, shall 113577
specify the period for which the license is being issued or 113578
renewed. A license remains valid for the length of the licensing 113579
period specified by the director, unless the license is 113580
terminated, revoked, or voluntarily surrendered. 113581

(D) If it is determined that an applicant or licensee is not 113582
in compliance with a provision of this chapter that applies to 113583
residential facilities or the rules adopted under such a 113584
provision, the director may deny issuance of a license, refuse to 113585
renew a license, terminate a license, revoke a license, issue an 113586
order for the suspension of admissions to a facility, issue an 113587
order for the placement of a monitor at a facility, issue an order 113588
for the immediate removal of residents, or take any other action 113589

the director considers necessary consistent with the director's 113590
authority under this chapter regarding residential facilities. In 113591
the director's selection and administration of the sanction to be 113592
imposed, all of the following apply: 113593

(1) The director may deny, refuse to renew, or revoke a 113594
license, if the director determines that the applicant or licensee 113595
has demonstrated a pattern of serious noncompliance or that a 113596
violation creates a substantial risk to the health and safety of 113597
residents of a residential facility. 113598

(2) The director may terminate a license if more than twelve 113599
consecutive months have elapsed since the residential facility was 113600
last occupied by a resident or a notice required by division (K) 113601
of this section is not given. 113602

(3) The director may issue an order for the suspension of 113603
admissions to a facility for any violation that may result in 113604
sanctions under division (D)(1) of this section and for any other 113605
violation specified in rules adopted under division (H)(2) of this 113606
section. If the suspension of admissions is imposed for a 113607
violation that may result in sanctions under division (D)(1) of 113608
this section, the director may impose the suspension before 113609
providing an opportunity for an adjudication under Chapter 119. of 113610
the Revised Code. The director shall lift an order for the 113611
suspension of admissions when the director determines that the 113612
violation that formed the basis for the order has been corrected. 113613

(4) The director may order the placement of a monitor at a 113614
residential facility for any violation specified in rules adopted 113615
under division (H)(2) of this section. The director shall lift the 113616
order when the director determines that the violation that formed 113617
the basis for the order has been corrected. 113618

(5) If the director determines that two or more residential 113619
facilities owned or operated by the same person or government 113620

entity are not being operated in compliance with a provision of 113621
this chapter that applies to residential facilities or the rules 113622
adopted under such a provision, and the director's findings are 113623
based on the same or a substantially similar action, practice, 113624
circumstance, or incident that creates a substantial risk to the 113625
health and safety of the residents, the director shall conduct a 113626
survey as soon as practicable at each residential facility owned 113627
or operated by that person or government entity. The director may 113628
take any action authorized by this section with respect to any 113629
facility found to be operating in violation of a provision of this 113630
chapter that applies to residential facilities or the rules 113631
adopted under such a provision. 113632

(6) When the director initiates license revocation 113633
proceedings, no opportunity for submitting a plan of correction 113634
shall be given. The director shall notify the licensee by letter 113635
of the initiation of the proceedings. The letter shall list the 113636
deficiencies of the residential facility and inform the licensee 113637
that no plan of correction will be accepted. The director shall 113638
also send a copy of the letter to the county board of 113639
developmental disabilities. The county board shall send a copy of 113640
the letter to each of the following: 113641

(a) Each resident who receives services from the licensee; 113642

(b) The guardian of each resident who receives services from 113643
the licensee if the resident has a guardian; 113644

(c) The parent or guardian of each resident who receives 113645
services from the licensee if the resident is a minor. 113646

(7) Pursuant to rules which shall be adopted in accordance 113647
with Chapter 119. of the Revised Code, the director may order the 113648
immediate removal of residents from a residential facility 113649
whenever conditions at the facility present an immediate danger of 113650
physical or psychological harm to the residents. 113651

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section,

appeals from proceedings initiated to impose a sanction under 113684
division (D) of this section shall be conducted in accordance with 113685
Chapter 119. of the Revised Code. 113686

(2) Appeals from proceedings initiated to order the 113687
suspension of admissions to a facility shall be conducted in 113688
accordance with Chapter 119. of the Revised Code, unless the order 113689
was issued before providing an opportunity for an adjudication, in 113690
which case all of the following apply: 113691

(a) The licensee may request a hearing not later than ten 113692
days after receiving the notice specified in section 119.07 of the 113693
Revised Code. 113694

(b) If a timely request for a hearing that includes the 113695
licensee's current address is made, the hearing shall commence not 113696
later than thirty days after the department receives the request. 113697

(c) After commencing, the hearing shall continue 113698
uninterrupted, except for Saturdays, Sundays, and legal holidays, 113699
unless other interruptions are agreed to by the licensee and the 113700
director. 113701

(d) If the hearing is conducted by a hearing examiner, the 113702
hearing examiner shall file a report and recommendations not later 113703
than ten days after the last of the following: 113704

(i) The close of the hearing; 113705

(ii) If a transcript of the proceedings is ordered, the 113706
hearing examiner receives the transcript; 113707

(iii) If post-hearing briefs are timely filed, the hearing 113708
examiner receives the briefs. 113709

(e) A copy of the written report and recommendation of the 113710
hearing examiner shall be sent, by certified mail, to the licensee 113711
and the licensee's attorney, if applicable, not later than five 113712
days after the report is filed. 113713

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew,

terminating, and revoking licenses and for ordering the suspension 113745
of admissions to a facility, placement of a monitor at a facility, 113746
and the immediate removal of residents from a facility; 113747

(3) Fees for issuing and renewing licenses, which shall be 113748
deposited into the program fee fund created under section 5123.033 113749
of the Revised Code; 113750

(4) Procedures for surveying residential facilities; 113751

(5) Requirements for the training of residential facility 113752
personnel; 113753

(6) Classifications for the various types of residential 113754
facilities; 113755

(7) Certification procedures for licensees and management 113756
contractors that the director determines are necessary to ensure 113757
that they have the skills and qualifications to properly operate 113758
or manage residential facilities; 113759

(8) The maximum number of persons who may be served in a 113760
particular type of residential facility; 113761

(9) Uniform procedures for admission of persons to and 113762
transfers and discharges of persons from residential facilities; 113763

(10) Other standards for the operation of residential 113764
facilities and the services provided at residential facilities; 113765

(11) Procedures for waiving any provision of any rule adopted 113766
under this section. 113767

(I) Before issuing a license, the director of the department 113768
or the director's designee shall conduct a survey of the 113769
residential facility for which application is made. The director 113770
or the director's designee shall conduct a survey of each licensed 113771
residential facility at least once during the period the license 113772
is valid and may conduct additional inspections as needed. A 113773
survey includes but is not limited to an on-site examination and 113774

evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or

modified license who meets the requirements of section 5123.193 or 113807
5123.197 of the Revised Code. 113808

(K) A licensee shall notify the owner of the building in 113809
which the licensee's residential facility is located of any 113810
significant change in the identity of the licensee or management 113811
contractor before the effective date of the change if the licensee 113812
is not the owner of the building. 113813

Pursuant to rules which shall be adopted in accordance with 113814
Chapter 119. of the Revised Code, the director may require 113815
notification to the department of any significant change in the 113816
ownership of a residential facility or in the identity of the 113817
licensee or management contractor. If the director determines that 113818
a significant change of ownership is proposed, the director shall 113819
consider the proposed change to be an application for development 113820
by a new operator pursuant to section 5123.042 of the Revised Code 113821
and shall advise the applicant within sixty days of the 113822
notification that the current license shall continue in effect or 113823
a new license will be required pursuant to this section. If the 113824
director requires a new license, the director shall permit the 113825
facility to continue to operate under the current license until 113826
the new license is issued, unless the current license is revoked, 113827
refused to be renewed, or terminated in accordance with Chapter 113828
119. of the Revised Code. 113829

(L) A county board of developmental disabilities, the legal 113830
rights service, and any interested person may file complaints 113831
alleging violations of statute or department rule relating to 113832
residential facilities with the department. All complaints shall 113833
be in writing and shall state the facts constituting the basis of 113834
the allegation. The department shall not reveal the source of any 113835
complaint unless the complainant agrees in writing to waive the 113836
right to confidentiality or until so ordered by a court of 113837
competent jurisdiction. 113838

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings

concerning the comments and the director's decision on the 113870
issuance of the license. If the director does not receive written 113871
comments from any notified local officials within the specified 113872
time, the director shall continue the process for issuance of the 113873
license. 113874

(O) Any person may operate a licensed residential facility 113875
that provides room and board, personal care, habilitation 113876
services, and supervision in a family setting for at least six but 113877
not more than eight persons with mental retardation or a 113878
developmental disability as a permitted use in any residential 113879
district or zone, including any single-family residential district 113880
or zone, of any political subdivision. These residential 113881
facilities may be required to comply with area, height, yard, and 113882
architectural compatibility requirements that are uniformly 113883
imposed upon all single-family residences within the district or 113884
zone. 113885

(P) Any person may operate a licensed residential facility 113886
that provides room and board, personal care, habilitation 113887
services, and supervision in a family setting for at least nine 113888
but not more than sixteen persons with mental retardation or a 113889
developmental disability as a permitted use in any multiple-family 113890
residential district or zone of any political subdivision, except 113891
that a political subdivision that has enacted a zoning ordinance 113892
or resolution establishing planned unit development districts may 113893
exclude these residential facilities from those districts, and a 113894
political subdivision that has enacted a zoning ordinance or 113895
resolution may regulate these residential facilities in 113896
multiple-family residential districts or zones as a conditionally 113897
permitted use or special exception, in either case, under 113898
reasonable and specific standards and conditions set out in the 113899
zoning ordinance or resolution to: 113900

(1) Require the architectural design and site layout of the 113901

residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood; 113902
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(2) Require compliance with yard, parking, and sign regulation; 113905
113906

(3) Limit excessive concentration of these residential facilities. 113907
113908

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations. 113909
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(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification. 113913
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(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case: 113919
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113921

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license. 113922
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(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 113928
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(2) To be eligible to receive an interim license, an 113931

applicant must meet the same criteria that must be met to receive 113932
a permanent license under this section, except for any differing 113933
procedures and time frames that may apply to issuance of a 113934
permanent license. 113935

(3) An interim license shall be valid for thirty days and may 113936
be renewed by the director for a period not to exceed one hundred 113937
fifty days. 113938

(4) The director shall adopt rules in accordance with Chapter 113939
119. of the Revised Code as the director considers necessary to 113940
administer the issuance of interim licenses. 113941

(T) Notwithstanding rules adopted pursuant to this section 113942
establishing the maximum number of persons who may be served in a 113943
particular type of residential facility, a residential facility 113944
shall be permitted to serve the same number of persons being 113945
served by the facility on the effective date of the rules or the 113946
number of persons for which the facility is authorized pursuant to 113947
a current application for a certificate of need with a letter of 113948
support from the department of developmental disabilities and 113949
which is in the review process prior to April 4, 1986. 113950

(U) The director or the director's designee may enter at any 113951
time, for purposes of investigation, any home, facility, or other 113952
structure that has been reported to the director or that the 113953
director has reasonable cause to believe is being operated as a 113954
residential facility without a license issued under this section. 113955

The director may petition the court of common pleas of the 113956
county in which an unlicensed residential facility is located for 113957
an order enjoining the person or governmental agency operating the 113958
facility from continuing to operate without a license. The court 113959
may grant the injunction on a showing that the person or 113960
governmental agency named in the petition is operating a 113961
residential facility without a license. The court may grant the 113962

injunction, regardless of whether the residential facility meets 113963
the requirements for receiving a license under this section. 113964

Sec. 5123.191. (A) The court of common pleas or a judge 113965
thereof in the judge's county, or the probate court, may appoint a 113966
receiver to take possession of and operate a residential facility 113967
licensed by the department of developmental disabilities, in 113968
causes pending in such courts respectively, when conditions 113969
existing at the facility present a substantial risk of physical or 113970
mental harm to residents and no other remedies at law are adequate 113971
to protect the health, safety, and welfare of the residents. 113972
Conditions at the facility that may present such risk of harm 113973
include, but are not limited to, instances when any of the 113974
following occur: 113975

(1) The residential facility is in violation of state or 113976
federal law or regulations. 113977

(2) The facility has had its license revoked or procedures 113978
for revocation have been initiated, or the facility is closing or 113979
intends to cease operations. 113980

(3) Arrangements for relocating residents need to be made. 113981

(4) Insolvency of the operator, licensee, or landowner 113982
threatens the operation of the facility. 113983

(5) The facility or operator has demonstrated a pattern and 113984
practice of repeated violations of state or federal laws or 113985
regulations. 113986

(B) A court in which a petition is filed pursuant to this 113987
section shall notify the person holding the license for the 113988
facility and the department of developmental disabilities of the 113989
filing. The court shall order the department to notify the legal 113990
rights service, facility owner, facility operator, county board of 113991
developmental disabilities, facility residents, and residents' 113992

parents and guardians of the filing of the petition. 113993

The court shall provide a hearing on the petition within five 113994
court days of the time it was filed, except that the court may 113995
appoint a receiver prior to that time if it determines that the 113996
circumstances necessitate such action. Following a hearing on the 113997
petition, and upon a determination that the appointment of a 113998
receiver is warranted, the court shall appoint a receiver and 113999
notify the department of developmental disabilities and 114000
appropriate persons of this action. 114001

(C) A residential facility for which a receiver has been 114002
named is deemed to be in compliance with section 5123.19 and 114003
Chapter 3721. of the Revised Code for the duration of the 114004
receivership. 114005

(D) When the operating revenue of a residential facility in 114006
receivership is insufficient to meet its operating expenses, 114007
including the cost of bringing the facility into compliance with 114008
state or federal laws or regulations, the court may order the 114009
state to provide necessary funding, except as provided in division 114010
(K) of this section. The state shall provide such funding, subject 114011
to the approval of the controlling board. The court may also order 114012
the appropriate authorities to expedite all inspections necessary 114013
for the issuance of licenses or the certification of a facility, 114014
and order a facility to be closed if it determines that reasonable 114015
efforts cannot bring the facility into substantial compliance with 114016
the law. 114017

(E) In establishing a receivership, the court shall set forth 114018
the powers and duties of the receiver. The court may generally 114019
authorize the receiver to do all that is prudent and necessary to 114020
safely and efficiently operate the residential facility within the 114021
requirements of state and federal law, but shall require the 114022
receiver to obtain court approval prior to making any single 114023
expenditure of more than five thousand dollars to correct 114024

deficiencies in the structure or furnishings of a facility. The 114025
court shall closely review the conduct of the receiver it has 114026
appointed and shall require regular and detailed reports. The 114027
receivership shall be reviewed at least every sixty days. 114028

(F) A receivership established pursuant to this section shall 114029
be terminated, following notification of the appropriate parties 114030
and a hearing, if the court determines either of the following: 114031

(1) The residential facility has been closed and the former 114032
residents have been relocated to an appropriate facility. 114033

(2) Circumstances no longer exist at the facility that 114034
present a substantial risk of physical or mental harm to 114035
residents, and there is no deficiency in the facility that is 114036
likely to create a future risk of harm. 114037

Notwithstanding division (F)(2) of this section, the court 114038
shall not terminate a receivership for a residential facility that 114039
has previously operated under another receivership unless the 114040
responsibility for the operation of the facility is transferred to 114041
an operator approved by the court and the department of 114042
developmental disabilities. 114043

(G) The department of developmental disabilities may, upon 114044
its own initiative or at the request of an owner, operator, or 114045
resident of a residential facility, or at the request of a 114046
resident's guardian or relative, a county board of developmental 114047
disabilities, or the legal rights service, petition the court to 114048
appoint a receiver to take possession of and operate a residential 114049
facility. When the department has been requested to file a 114050
petition by any of the parties listed above, it shall, within 114051
forty-eight hours of such request, either file such a petition or 114052
notify the requesting party of its decision not to file. If the 114053
department refuses to file, the requesting party may file a 114054
petition with the court requesting the appointment of a receiver 114055

to take possession of and operate a residential facility. 114056

Petitions filed pursuant to this division shall include the 114057
following: 114058

(1) A description of the specific conditions existing at the 114059
facility which present a substantial risk of physical or mental 114060
harm to residents; 114061

(2) A statement of the absence of other adequate remedies at 114062
law; 114063

(3) The number of individuals residing at the facility; 114064

(4) A statement that the facts have been brought to the 114065
attention of the owner or licensee and that conditions have not 114066
been remedied within a reasonable period of time or that the 114067
conditions, though remedied periodically, habitually exist at the 114068
facility as a pattern or practice; 114069

(5) The name and address of the person holding the license 114070
for the facility and the address of the department of 114071
developmental disabilities. 114072

The court may award to an operator appropriate costs and 114073
expenses, including reasonable attorney's fees, if it determines 114074
that a petitioner has initiated a proceeding in bad faith or 114075
merely for the purpose of harassing or embarrassing the operator. 114076

(H) Except for the department of developmental disabilities 114077
or a county board of developmental disabilities, no party or 114078
person interested in an action shall be appointed a receiver 114079
pursuant to this section. 114080

To assist the court in identifying persons qualified to be 114081
named as receivers, the director of developmental disabilities or 114082
the director's designee shall maintain a list of the names of such 114083
persons. The director shall, in accordance with Chapter 119. of 114084
the Revised Code, establish standards for evaluating persons 114085

desiring to be included on such a list. 114086

(I) Before a receiver enters upon the duties of that person, 114087
the receiver must be sworn to perform the duties of receiver 114088
faithfully, and, with surety approved by the court, judge, or 114089
clerk, execute a bond to such person, and in such sum as the court 114090
or judge directs, to the effect that such receiver will faithfully 114091
discharge the duties of receiver in the action, and obey the 114092
orders of the court therein. 114093

(J) Under the control of the appointing court, a receiver may 114094
bring and defend actions in the receiver's own name as receiver 114095
and take and keep possession of property. 114096

The court shall authorize the receiver to do the following: 114097

(1) Collect payment for all goods and services provided to 114098
the residents or others during the period of the receivership at 114099
the same rate as was charged by the licensee at the time the 114100
petition for receivership was filed, unless a different rate is 114101
set by the court; 114102

(2) Honor all leases, mortgages, and secured transactions 114103
governing all buildings, goods, and fixtures of which the receiver 114104
has taken possession and continues to use, subject to the 114105
following conditions: 114106

(a) In the case of a rental agreement, only to the extent of 114107
payments that are for the use of the property during the period of 114108
the receivership; 114109

(b) In the case of a purchase agreement only to the extent of 114110
payments that come due during the period of the receivership; 114111

~~(c) If the court determines that the cost of the lease, 114112
mortgage, or secured transaction was increased by a transaction 114113
required to be reported under division (B)(3) of section 5123.172 114114
of the Revised Code, only to the extent determined by the court to 114115~~

~~be the fair market value for use of the property during the period
of the receivership.~~ 114116
114117

(3) If transfer of residents is necessary, provide for the 114118
orderly transfer of residents by doing the following: 114119

(a) Cooperating with all appropriate state and local agencies 114120
in carrying out the transfer of residents to alternative community 114121
placements; 114122

(b) Providing for the transportation of residents' belongings 114123
and records; 114124

(c) Helping to locate alternative placements and develop 114125
discharge plans; 114126

(d) Preparing residents for the trauma of discharge; 114127

(e) Permitting residents or guardians to participate in 114128
transfer or discharge planning except when an emergency exists and 114129
immediate transfer is necessary. 114130

(4) Make periodic reports on the status of the residential 114131
program to the appropriate state agency, county board of 114132
developmental disabilities, parents, guardians, and residents; 114133

(5) Compromise demands or claims; 114134

(6) Generally do such acts respecting the residential 114135
facility as the court authorizes. 114136

(K) Neither the receiver nor the department of developmental 114137
disabilities is liable for debts incurred by the owner or operator 114138
of a residential facility for which a receiver has been appointed. 114139

(L) The department of developmental disabilities may contract 114140
for the operation of a residential facility in receivership. The 114141
department shall establish the conditions of a contract. ~~A~~ 114142
~~condition may be the same as, similar to, or different from a~~ 114143
~~condition established by section 5123.18 of the Revised Code and~~ 114144
~~the rules adopted under that section for a contract entered into~~ 114145

~~under that section.~~ Notwithstanding any other provision of law, 114146
contracts that are necessary to carry out the powers and duties of 114147
the receiver need not be competitively bid. 114148

(M) The department of developmental disabilities, the 114149
department of job and family services, and the department of 114150
health shall provide technical assistance to any receiver 114151
appointed pursuant to this section. 114152

Sec. 5123.194. In the case of an individual who resides in a 114153
residential facility and is preparing to move into an independent 114154
living arrangement and the individual's liable relative, the 114155
department of developmental disabilities may waive the support 114156
collection requirements of sections 5121.04, and 5123.122, ~~and~~ 114157
~~5123.18~~ of the Revised Code for the purpose of allowing income or 114158
resources to be used to acquire items necessary for independent 114159
living. The department shall adopt rules in accordance with 114160
section 111.15 of the Revised Code to implement this section, 114161
including rules that establish the method the department shall use 114162
to determine when an individual is preparing to move into an 114163
independent living arrangement. 114164

Sec. 5123.352. There is hereby created in the state treasury 114165
the community developmental disabilities trust fund. The director 114166
of developmental disabilities, not later than sixty days after the 114167
end of each fiscal year, shall certify to the director of budget 114168
and management the amount of all the unexpended, unencumbered 114169
balances of general revenue fund appropriations made to the 114170
department of developmental disabilities for the fiscal year, 114171
excluding appropriations for rental payments to the Ohio public 114172
facilities commission, and the amount of any other funds held by 114173
the department in excess of amounts necessary to meet the 114174
department's operating costs and obligations pursuant to this 114175
chapter and Chapter 5126. of the Revised Code. On receipt of the 114176

certification, the director of budget and management shall 114177
transfer cash to the trust fund in an amount up to, but not 114178
exceeding, the total of the amounts certified by the director of 114179
developmental disabilities, except in cases in which the transfer 114180
will involve more than twenty million dollars. In such cases, the 114181
director of budget and management shall notify the controlling 114182
board and must receive the board's approval of the transfer prior 114183
to making the transfer. 114184

All moneys in the trust fund shall be ~~distributed~~ used for 114185
purposes specified in ~~accordance with~~ section ~~5126.19~~ 5123.0418 of 114186
the Revised Code. 114187

Sec. 5123.45. (A) The department of developmental 114188
disabilities shall establish a program under which the department 114189
issues certificates to the following: 114190

(1) MR/DD personnel, for purposes of meeting the requirement 114191
of division (C)(1) of section 5123.42 of the Revised Code to 114192
obtain a certificate or certificates to administer prescribed 114193
medications, perform health-related activities, and perform tube 114194
feedings; 114195

(2) Registered nurses, for purposes of meeting the 114196
requirement of division (B)(1) of section 5123.441 of the Revised 114197
Code to obtain a certificate or certificates to provide the MR/DD 114198
personnel training courses developed under section 5123.43 of the 114199
Revised Code. 114200

(B)(1) Except as provided in division (B)(2) of this section, 114201
to receive a certificate issued under this section, MR/DD 114202
personnel and registered nurses shall successfully complete the 114203
applicable training course or courses and meet all other 114204
applicable requirements established in rules adopted pursuant to 114205
this section. The department shall issue the appropriate 114206
certificate or certificates to MR/DD personnel and registered 114207

nurses who meet the requirements for the certificate or 114208
certificates. 114209

(2) The department shall include provisions in the program 114210
for issuing certificates to ~~the following:~~ 114211

~~(a) MR/DD personnel and registered nurses who, on March 31,~~ 114212
~~2003, are authorized to provide care to individuals with mental~~ 114213
~~retardation and developmental disabilities pursuant to section~~ 114214
~~5123.193 or sections 5126.351 to 5126.354 of the Revised Code were~~ 114215
~~required to be included in the certificate program pursuant to~~ 114216
~~division (B)(2) of this section as that division existed~~ 114217
~~immediately before the effective date of this amendment. A person~~ 114218
~~MR/DD personnel who receives receive~~ a certificate under division 114219
(B)(2)(a) of this section shall not administer insulin until ~~the~~ 114220
~~person has they have~~ been trained by a registered nurse who has 114221
received a certificate under this section that allows the 114222
registered nurse to provide training courses to MR/DD personnel in 114223
the administration of insulin. 114224

~~(b) Registered nurses who, on March 31, 2003, are authorized~~ 114225
~~to train MR/DD personnel to provide care to individuals with~~ 114226
~~mental retardation and developmental disabilities pursuant to~~ 114227
~~section 5123.193 or sections 5126.351 to 5126.354 of the Revised~~ 114228
~~Code. A registered nurse who receives a certificate under division~~ 114229
(B)(2)(b) of this section shall not provide training courses to 114230
MR/DD personnel in the administration of insulin unless the 114231
registered nurse completes a course developed under section 114232
5123.44 of the Revised Code that enables the registered nurse to 114233
receive a certificate to provide training courses to MR/DD 114234
personnel in the administration of insulin. 114235

(C) Certificates issued to MR/DD personnel are valid for one 114236
year and may be renewed. Certificates issued to registered nurses 114237
are valid for two years and may be renewed. 114238

To be eligible for renewal, MR/DD personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that MR/DD personnel and registered nurses must meet to be eligible to take a training course;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate;

(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of MR/DD personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;

(5) Standards and procedures for suspending or revoking a certificate;

(6) Standards and procedures for suspending a certificate without a hearing pending the outcome of an investigation;

(7) Any other standards or procedures the department considers necessary to administer the certification program.

Sec. 5123.60. (A) A legal rights service is hereby created 114269
and established to protect and advocate the rights of mentally ill 114270
persons, mentally retarded persons, developmentally disabled 114271
persons, and other disabled persons who may be represented by the 114272
service pursuant to division (L) of this section; to receive and 114273
act upon complaints concerning institutional and hospital 114274
practices and conditions of institutions for mentally retarded or 114275
developmentally disabled persons and hospitals for the mentally 114276
ill; and to assure that all persons detained, hospitalized, 114277
discharged, or institutionalized, and all persons whose detention, 114278
hospitalization, discharge, or institutionalization is sought or 114279
has been sought under this chapter or Chapter 5122. of the Revised 114280
Code are fully informed of their rights and adequately represented 114281
by counsel in proceedings under this chapter or Chapter 5122. of 114282
the Revised Code and in any proceedings to secure the rights of 114283
those persons. Notwithstanding the definitions of "mentally 114284
retarded person" and "developmentally disabled person" in section 114285
5123.01 of the Revised Code, the legal rights service shall 114286
determine who is a mentally retarded or developmentally disabled 114287
person for purposes of this section and sections 5123.601 to 114288
5123.604 of the Revised Code. 114289

(B)(1) In regard to those persons detained, hospitalized, or 114290
institutionalized under Chapter 5122. of the Revised Code, the 114291
legal rights service shall undertake formal representation only of 114292
those persons who are involuntarily detained, hospitalized, or 114293
institutionalized pursuant to sections 5122.10 to 5122.15 of the 114294
Revised Code, and those voluntarily detained, hospitalized, or 114295
institutionalized who are minors, who have been adjudicated 114296
incompetent, who have been detained, hospitalized, or 114297
institutionalized in a public hospital, or who have requested 114298
representation by the legal rights service. 114299

(2) If a person referred to in division (A) of this section 114300

voluntarily requests in writing that the legal rights service 114301
terminate participation in the person's case, such involvement 114302
shall cease. 114303

(3) Persons described in divisions (A) and (B)(1) of this 114304
section who are represented by the legal rights service are 114305
clients of the legal rights service. 114306

(C) Any person voluntarily hospitalized or institutionalized 114307
in a public hospital under division (A) of section 5122.02 of the 114308
Revised Code, after being fully informed of the person's rights 114309
under division (A) of this section, may, by written request, waive 114310
assistance by the legal rights service if the waiver is knowingly 114311
and intelligently made, without duress or coercion. 114312

The waiver may be rescinded at any time by the voluntary 114313
patient or resident, or by the voluntary patient's or resident's 114314
legal guardian. 114315

(D)(1) The legal rights service commission is hereby created 114316
for the purposes of appointing an administrator of the legal 114317
rights service, advising the administrator, assisting the 114318
administrator in developing a budget, advising the administrator 114319
in establishing and annually reviewing a strategic plan, creating 114320
a procedure for filing and determination of grievances against the 114321
legal rights service, and establishing general policy guidelines, 114322
including guidelines for the commencement of litigation, for the 114323
legal rights service. The commission may adopt rules to carry 114324
these purposes into effect and may receive and act upon appeals of 114325
personnel decisions by the administrator. 114326

(2) The commission shall consist of seven members. One 114327
member, who shall serve as chairperson, shall be appointed by the 114328
chief justice of the supreme court, three members shall be 114329
appointed by the speaker of the house of representatives, and 114330
three members shall be appointed by the president of the senate. 114331

At least two members shall have experience in the field of 114332
developmental disabilities, and at least two members shall have 114333
experience in the field of mental health. No member shall be a 114334
provider or related to a provider of services to mentally 114335
retarded, developmentally disabled, or mentally ill persons. 114336

(3) Terms of office of the members of the commission shall be 114337
for three years, each term ending on the same day of the month of 114338
the year as did the term which it succeeds. Each member shall 114339
serve subsequent to the expiration of the member's term until a 114340
successor is appointed and qualifies, or until sixty days has 114341
elapsed, whichever occurs first. No member shall serve more than 114342
two consecutive terms. 114343

All vacancies in the membership of the commission shall be 114344
filled in the manner prescribed for regular appointments to the 114345
commission and shall be limited to the unexpired terms. 114346

(4) The commission shall meet at least four times each year. 114347
Members shall be reimbursed for their necessary and actual 114348
expenses incurred in the performance of their official duties. 114349

(5) The administrator of the legal rights service shall serve 114350
at the pleasure of the commission. 114351

The administrator shall be an attorney admitted to practice 114352
law in this state. The salary of the administrator shall be 114353
established in accordance with section 124.14 of the Revised Code. 114354

(E) The legal rights service shall be completely independent 114355
of the department of mental health and the department of 114356
developmental disabilities and, notwithstanding section 109.02 of 114357
the Revised Code, shall also be independent of the office of the 114358
attorney general. The administrator of the legal rights service, 114359
staff, and attorneys designated by the administrator to represent 114360
persons detained, hospitalized, or institutionalized under this 114361
chapter or Chapter 5122. of the Revised Code shall have ready 114362

access to the following: 114363

(1) During normal business hours and at other reasonable 114364
times, all records, except records of community residential 114365
facilities and records of contract agencies of county boards of 114366
developmental disabilities and boards of alcohol, drug addiction, 114367
and mental health services, relating to expenditures of state and 114368
federal funds or to the commitment, care, treatment, and 114369
habilitation of all persons represented by the legal rights 114370
service, including those who may be represented pursuant to 114371
division (L) of this section, or persons detained, hospitalized, 114372
institutionalized, or receiving services under this chapter or 114373
Chapter 340., 5119., 5122., or 5126. of the Revised Code that are 114374
records maintained by the following entities providing services 114375
for those persons: departments; institutions; hospitals; boards of 114376
alcohol, drug addiction, and mental health services; county boards 114377
of developmental disabilities; and any other entity providing 114378
services to persons who may be represented by the service pursuant 114379
to division (L) of this section; 114380

(2) Any records maintained in computerized data banks of the 114381
departments or boards or, in the case of persons who may be 114382
represented by the service pursuant to division (L) of this 114383
section, any other entity that provides services to those persons; 114384

(3) During their normal working hours, personnel of the 114385
departments, facilities, boards, agencies, institutions, 114386
hospitals, and other service-providing entities; 114387

(4) At any time, all persons detained, hospitalized, or 114388
institutionalized; persons receiving services under this chapter 114389
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 114390
persons who may be represented by the service pursuant to division 114391
(L) of this section. 114392

(5) Records of a community residential facility, a contract 114393

agency of a board of alcohol, drug addiction, and mental health 114394
services, or a contract agency of a county board of developmental 114395
disabilities with one of the following consents: 114396

(a) The consent of the person, including when the person is a 114397
minor or has been adjudicated incompetent; 114398

(b) The consent of the person's guardian of the person, if 114399
any, or the parent if the person is a minor; 114400

(c) No consent, if the person is unable to consent for any 114401
reason, and the guardian of the person, if any, or the parent of 114402
the minor, has refused to consent or has not responded to a 114403
request for consent and either of the following has occurred: 114404

(i) A complaint regarding the person has been received by the 114405
legal rights service; 114406

(ii) The legal rights service has determined that there is 114407
probable cause to believe that such person has been subjected to 114408
abuse or neglect. 114409

(F) The administrator of the legal rights service shall do 114410
the following: 114411

(1) Administer and organize the work of the legal rights 114412
service and establish administrative or geographic divisions as 114413
the administrator considers necessary, proper, and expedient; 114414

(2) Adopt and promulgate rules that are not in conflict with 114415
rules adopted by the commission and prescribe duties for the 114416
efficient conduct of the business and general administration of 114417
the legal rights service; 114418

(3) Appoint and discharge employees, and hire experts, 114419
consultants, advisors, or other professionally qualified persons 114420
as the administrator considers necessary to carry out the duties 114421
of the legal rights service; 114422

(4) Apply for and accept grants of funds, and accept 114423

charitable gifts and bequests; 114424

(5) Prepare and submit a budget to the general assembly for 114425
the operation of the legal rights service. At least thirty days 114426
prior to submitting the budget to the general assembly, the 114427
administrator shall provide a copy of the budget to the commission 114428
for review and comment. When submitting the budget to the general 114429
assembly, the administrator shall include a copy of any written 114430
comments returned by the commission to the administrator. 114431

(6) Enter into contracts and make expenditures necessary for 114432
the efficient operation of the legal rights service; 114433

(7) Annually prepare a report of activities and submit copies 114434
of the report to the governor, the chief justice of the supreme 114435
court, the president of the senate, the speaker of the house of 114436
representatives, the director of mental health, and the director 114437
of developmental disabilities, and make the report available to 114438
the public; 114439

(8) Upon request of the commission or of the chairperson of 114440
the commission, report to the commission on specific litigation 114441
issues or activities. 114442

(G)(1) The legal rights service may act directly or contract 114443
with other organizations or individuals for the provision of the 114444
services envisioned under this section. 114445

(2) Whenever possible, the administrator shall attempt to 114446
facilitate the resolution of complaints through administrative 114447
channels. Subject to division (G)(3) of this section, if attempts 114448
at administrative resolution prove unsatisfactory, the 114449
administrator may pursue any legal, administrative, and other 114450
appropriate remedies or approaches that may be necessary to 114451
accomplish the purposes of this section. 114452

(3) The administrator may not pursue a class action lawsuit 114453
under division (G)(2) of this section when attempts at 114454

administrative resolution of a complaint prove unsatisfactory 114455
under that division unless both of the following have first 114456
occurred: 114457

(a) At least four members of the commission, by their 114458
affirmative vote, have consented to the pursuit of the class 114459
action lawsuit; 114460

(b) At least five members of the commission are present at 114461
the meeting of the commission at which that consent is obtained. 114462

(4) The class represented in any class action lawsuit brought 114463
by the legal rights service shall include only persons who are 114464
mentally ill, mentally retarded, or developmentally disabled. 114465

(5) If compensation for the work of attorneys employed by the 114466
legal rights service or another agency or political subdivision of 114467
the state is awarded to the service in a class action lawsuit 114468
pursued by the service, the compensation shall be limited to the 114469
actual hourly rate of pay for that legal work. 114470

(6) All records received or maintained by the legal rights 114471
service in connection with any investigation, representation, or 114472
other activity under this section shall be confidential and shall 114473
not be disclosed except as authorized by the person represented by 114474
the legal rights service or, subject to any privilege, a guardian 114475
of the person or parent of the minor. Subject to division (G)(5) 114476
of this section, relationships between personnel and the agents of 114477
the legal rights service and its clients shall be fiduciary 114478
relationships, and all communications shall be privileged as if 114479
between attorney and client. 114480

~~(5)~~(7) Any person who has been represented by the legal 114481
rights service or who has applied for and been denied 114482
representation and who files a grievance with the service 114483
concerning the representation or application may appeal the 114484
decision of the service on the grievance to the commission. The 114485

person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the legal rights service may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(I) The legal rights service may conduct public hearings.

(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.

(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.

This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.

(L) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted pursuant to division (F)(4) of this section, the legal rights service and its ombudsperson section may provide advocacy or ombudsperson services to those other individuals and exercise any other authority granted by this section or sections 5123.601 to 5123.604 of the Revised Code on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the legal rights service.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;	114549
(b) Adult day care;	114550
(c) Prevocational services;	114551
(d) Sheltered employment;	114552
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	114553 114554 114555 114556 114557 114558 114559
(f) Community employment services and supported employment services.	114560 114561
(B)(1) "Adult day habilitation services" means adult services that do the following:	114562 114563
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	114564 114565 114566 114567 114568 114569 114570 114571
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	114572 114573 114574 114575
(2) "Adult day habilitation services" includes all of the following:	114576 114577
(a) Personal care services needed to ensure an individual's	114578

ability to experience and participate in vocational services, 114579
educational services, community activities, and any other adult 114580
day habilitation services; 114581

(b) Skilled services provided while receiving adult day 114582
habilitation services, including such skilled services as behavior 114583
management intervention, occupational therapy, speech and language 114584
therapy, physical therapy, and nursing services; 114585

(c) Training and education in self-determination designed to 114586
help the individual do one or more of the following: develop 114587
self-advocacy skills, exercise the individual's civil rights, 114588
acquire skills that enable the individual to exercise control and 114589
responsibility over the services received, and acquire skills that 114590
enable the individual to become more independent, integrated, or 114591
productive in the community; 114592

(d) Recreational and leisure activities identified in the 114593
individual's service plan as therapeutic in nature or assistive in 114594
developing or maintaining social supports; 114595

(e) Counseling and assistance provided to obtain housing, 114596
including such counseling as identifying options for either rental 114597
or purchase, identifying financial resources, assessing needs for 114598
environmental modifications, locating housing, and planning for 114599
ongoing management and maintenance of the housing selected; 114600

(f) Transportation necessary to access adult day habilitation 114601
services; 114602

(g) Habilitation management, as described in section 5126.14 114603
of the Revised Code. 114604

(3) "Adult day habilitation services" does not include 114605
activities that are components of the provision of residential 114606
services, family support services, or supported living services. 114607

(C) "Appointing authority" means the following: 114608

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

- (2) It is manifested before age twenty-two; 114639
- (3) It is likely to continue indefinitely; 114640
- (4) It results in one of the following: 114641
- (a) In the case of a person under age three, at least one 114642
developmental delay or an established risk; 114643
- (b) In the case of a person at least age three but under age 114644
six, at least two developmental delays or an established risk; 114645
- (c) In the case of a person age six or older, a substantial 114646
functional limitation in at least three of the following areas of 114647
major life activity, as appropriate for the person's age: 114648
self-care, receptive and expressive language, learning, mobility, 114649
self-direction, capacity for independent living, and, if the 114650
person is at least age sixteen, capacity for economic 114651
self-sufficiency. 114652
- (5) It causes the person to need a combination and sequence 114653
of special, interdisciplinary, or other type of care, treatment, 114654
or provision of services for an extended period of time that is 114655
individually planned and coordinated for the person. 114656
- (F) "Early childhood services" means a planned program of 114657
habilitation designed to meet the needs of individuals with mental 114658
retardation or other developmental disabilities who have not 114659
attained compulsory school age. 114660
- (G)(1) "Environmental modifications" means the physical 114661
adaptations to an individual's home, specified in the individual's 114662
service plan, that are necessary to ensure the individual's 114663
health, safety, and welfare or that enable the individual to 114664
function with greater independence in the home, and without which 114665
the individual would require institutionalization. 114666
- (2) "Environmental modifications" includes such adaptations 114667
as installation of ramps and grab-bars, widening of doorways, 114668

modification of bathroom facilities, and installation of 114669
specialized electric and plumbing systems necessary to accommodate 114670
the individual's medical equipment and supplies. 114671

(3) "Environmental modifications" does not include physical 114672
adaptations or improvements to the home that are of general 114673
utility or not of direct medical or remedial benefit to the 114674
individual, including such adaptations or improvements as 114675
carpeting, roof repair, and central air conditioning. 114676

(H) "Family support services" means the services provided 114677
under a family support services program operated under section 114678
5126.11 of the Revised Code. 114679

(I) "Habilitation" means the process by which the staff of 114680
the facility or agency assists an individual with mental 114681
retardation or other developmental disability in acquiring and 114682
maintaining those life skills that enable the individual to cope 114683
more effectively with the demands of the individual's own person 114684
and environment, and in raising the level of the individual's 114685
personal, physical, mental, social, and vocational efficiency. 114686
Habilitation includes, but is not limited to, programs of formal, 114687
structured education and training. 114688

(J) "Home and community-based services" means medicaid-funded 114689
home and community-based services specified in division (B)(1) of 114690
section 5111.87 of the Revised Code and provided under the 114691
medicaid waiver components the department of developmental 114692
disabilities administers pursuant to section 5111.871 of the 114693
Revised Code. However, home and community-based services provided 114694
under the medicaid waiver component known as the transitions 114695
developmental disabilities waiver are to be considered to be home 114696
and community-based services for the purposes of this chapter only 114697
to the extent, if any, provided by the contract required by 114698
section 5111.871 of the Revised Code regarding the waiver. 114699

(K) "Immediate family" means parents, grandparents, brothers, sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(O) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

(P) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(Q) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer

than any of the other current probate judges of that county. If a 114731
county has only one probate judge, "senior probate judge" means 114732
that probate judge. 114733

(R) "Service and support administration" means the duties 114734
performed by a service and support administrator pursuant to 114735
section 5126.15 of the Revised Code. 114736

(S)(1) "Specialized medical, adaptive, and assistive 114737
equipment, supplies, and supports" means equipment, supplies, and 114738
supports that enable an individual to increase the ability to 114739
perform activities of daily living or to perceive, control, or 114740
communicate within the environment. 114741

(2) "Specialized medical, adaptive, and assistive equipment, 114742
supplies, and supports" includes the following: 114743

(a) Eating utensils, adaptive feeding dishes, plate guards, 114744
mylatex straps, hand splints, reaches, feeder seats, adjustable 114745
pointer sticks, interpreter services, telecommunication devices 114746
for the deaf, computerized communications boards, other 114747
communication devices, support animals, veterinary care for 114748
support animals, adaptive beds, supine boards, prone boards, 114749
wedges, sand bags, sidelayers, bolsters, adaptive electrical 114750
switches, hand-held shower heads, air conditioners, humidifiers, 114751
emergency response systems, folding shopping carts, vehicle lifts, 114752
vehicle hand controls, other adaptations of vehicles for 114753
accessibility, and repair of the equipment received. 114754

(b) Nondisposable items not covered by medicaid that are 114755
intended to assist an individual in activities of daily living or 114756
instrumental activities of daily living. 114757

(T) "Supportive home services" means a range of services to 114758
families of individuals with mental retardation or other 114759
developmental disabilities to develop and maintain increased 114760
acceptance and understanding of such persons, increased ability of 114761

family members to teach the person, better coordination between 114762
school and home, skills in performing specific therapeutic and 114763
management techniques, and ability to cope with specific 114764
situations. 114765

(U)(1) "Supported living" means services provided for as long 114766
as twenty-four hours a day to an individual with mental 114767
retardation or other developmental disability through any public 114768
or private resources, including moneys from the individual, that 114769
enhance the individual's reputation in community life and advance 114770
the individual's quality of life by doing the following: 114771

(a) Providing the support necessary to enable an individual 114772
to live in a residence of the individual's choice, with any number 114773
of individuals who are not disabled, or with not more than three 114774
individuals with mental retardation and developmental disabilities 114775
unless the individuals are related by blood or marriage; 114776

(b) Encouraging the individual's participation in the 114777
community; 114778

(c) Promoting the individual's rights and autonomy; 114779

(d) Assisting the individual in acquiring, retaining, and 114780
improving the skills and competence necessary to live successfully 114781
in the individual's residence. 114782

(2) "Supported living" includes the provision of all of the 114783
following: 114784

(a) Housing, food, clothing, habilitation, staff support, 114785
professional services, and any related support services necessary 114786
to ensure the health, safety, and welfare of the individual 114787
receiving the services; 114788

(b) A combination of lifelong or extended-duration 114789
supervision, training, and other services essential to daily 114790
living, including assessment and evaluation and assistance with 114791

the cost of training materials, transportation, fees, and 114792
supplies; 114793

(c) Personal care services and homemaker services; 114794

(d) Household maintenance that does not include modifications 114795
to the physical structure of the residence; 114796

(e) Respite care services; 114797

(f) Program management, as described in section 5126.14 of 114798
the Revised Code. 114799

Sec. 5126.029. (A) Each county board of developmental 114800
disabilities shall hold an organizational meeting no later than 114801
the thirty-first day of January of each year and shall elect its 114802
officers, which shall include a president, vice-president, and 114803
recording secretary. After its annual organizational meeting, the 114804
board shall meet in such manner and at such times as prescribed by 114805
rules adopted by the board, but the board shall meet at least ~~ten~~ 114806
the following number of times annually in regularly scheduled 114807
sessions in accordance with section 121.22 of the Revised Code, 114808
not including in-service training sessions; 114809

(1) Unless division (A)(2) of this section applies to the 114810
board, ten; 114811

(2) If the board shares a superintendent or other 114812
administrative staff with one or more other boards of 114813
developmental disabilities, eight. A 114814

(B) A majority of the board constitutes a quorum. The board 114815
shall adopt rules for the conduct of its business and a record 114816
shall be kept of board proceedings, which shall be open for public 114817
inspection. 114818

Sec. 5126.04. (A) Each county board of developmental 114819
disabilities shall plan and set priorities based on available 114820

resources for the provision of facilities, programs, and other 114821
services to meet the needs of county residents who are individuals 114822
with mental retardation and other developmental disabilities, 114823
former residents of the county residing in state institutions or, 114824
before the effective date of this amendment, placed under purchase 114825
of service agreements under section 5123.18 of the Revised Code, 114826
and children subject to a determination made pursuant to section 114827
121.38 of the Revised Code. 114828

Each county board shall assess the facility and service needs 114829
of the individuals with mental retardation and other developmental 114830
disabilities who are residents of the county or former residents 114831
of the county residing in state institutions or, before the 114832
effective date of this amendment, placed under purchase of service 114833
agreements under section 5123.18 of the Revised Code. 114834

Each county board shall require individual habilitation or 114835
service plans for individuals with mental retardation and other 114836
developmental disabilities who are being served or who have been 114837
determined eligible for services and are awaiting the provision of 114838
services. Each board shall ensure that methods of having their 114839
service needs evaluated are available. 114840

(B)(1) If a foster child is in need of assessment for 114841
eligible services or is receiving services from a county board of 114842
developmental disabilities and that child is placed in a different 114843
county, the agency that placed the child, immediately upon 114844
placement, shall inform the county board in the new county all of 114845
the following: 114846

(a) That a foster child has been placed in that county; 114847

(b) The name and other identifying information of the foster 114848
child; 114849

(c) The name of the foster child's previous county of 114850
residence; 114851

(d) That the foster child was in need of assessment for 114852
eligible services or was receiving services from the county board 114853
of developmental disabilities in the previous county. 114854

(2) Upon receiving the notice described in division (B)(1) of 114855
this section or otherwise learning that the child was in need of 114856
assessment for eligible services or was receiving services from a 114857
county board of developmental disabilities in the previous county, 114858
the county board in the new county shall communicate with the 114859
county board of the previous county to determine how services for 114860
the foster child shall be provided in accordance with each board's 114861
plan and priorities as described in division (A) of this section. 114862

If the two county boards are unable to reach an agreement 114863
within ten days of the child's placement, the county board in the 114864
new county shall send notice to the Ohio department of 114865
developmental disabilities of the failure to agree. The department 114866
shall decide how services shall be provided for the foster child 114867
within ten days of receiving notice that the county boards could 114868
not reach an agreement. The department may decide that one, or 114869
both, of the county boards shall provide services. The services 114870
shall be provided in accordance with the board's plan and 114871
priorities as described in division (A) of this section. 114872

(C) The department of developmental disabilities may adopt 114873
rules in accordance with Chapter 119. of the Revised Code as 114874
necessary to implement this section. To the extent that rules 114875
adopted under this section apply to the identification and 114876
placement of children with disabilities under Chapter 3323. of the 114877
Revised Code, the rules shall be consistent with the standards and 114878
procedures established under sections 3323.03 to 3323.05 of the 114879
Revised Code. 114880

(D) The responsibility or authority of a county board to 114881
provide services under this chapter does not affect the 114882
responsibility of any other entity of state or local government to 114883

provide services to individuals with mental retardation and 114884
developmental disabilities. 114885

(E) On or before the first day of February prior to a school 114886
year, a county board of developmental disabilities may elect not 114887
to participate during that school year in the provision of or 114888
contracting for educational services for children ages six through 114889
twenty-one years of age, provided that on or before that date the 114890
board gives notice of this election to the superintendent of 114891
public instruction, each school district in the county, and the 114892
educational service center serving the county. If a board makes 114893
this election, it shall not have any responsibility for or 114894
authority to provide educational services that school year for 114895
children ages six through twenty-one years of age. If a board does 114896
not make an election for a school year in accordance with this 114897
division, the board shall be deemed to have elected to participate 114898
during that school year in the provision of or contracting for 114899
educational services for children ages six through twenty-one 114900
years of age. 114901

(F) If a county board of developmental disabilities elects to 114902
provide educational services during a school year to individuals 114903
six through twenty-one years of age who have multiple 114904
disabilities, the board may provide these services to individuals 114905
who are appropriately identified and determined eligible pursuant 114906
to Chapter 3323. of the Revised Code, and in accordance with 114907
applicable rules of the state board of education. The county board 114908
may also provide related services to individuals six through 114909
twenty-one years of age who have one or more disabling conditions, 114910
in accordance with section 3317.20 and Chapter 3323. of the 114911
Revised Code and applicable rules of the state board of education. 114912

Sec. 5126.042. (A) As used in this section: 114913

(1) ~~"Emergency, emergency status" means any situation a~~ 114914

status that ~~creates for~~ an individual with mental retardation or 114915
developmental disabilities ~~a~~ has when the individual is at risk of 114916
substantial self-harm or substantial harm to others if action is 114917
not taken within thirty days. An "emergency status" may include a 114918
status resulting from one or more of the following situations: 114919

~~(a)~~(1) Loss of present residence for any reason, including 114920
legal action; 114921

~~(b)~~(2) Loss of present caretaker for any reason, including 114922
serious illness of the caretaker, change in the caretaker's 114923
status, or inability of the caretaker to perform effectively for 114924
the individual; 114925

~~(c)~~(3) Abuse, neglect, or exploitation of the individual; 114926

~~(d)~~(4) Health and safety conditions that pose a serious risk 114927
to the individual or others of immediate harm or death; 114928

~~(e)~~(5) Change in the emotional or physical condition of the 114929
individual that necessitates substantial accommodation that cannot 114930
be reasonably provided by the individual's existing caretaker. 114931

~~(2) "Service substitution list" means a service substitution 114932
list established by a county board of developmental disabilities 114933
before September 1, 2008, pursuant to division (B) of this section 114934
as this section existed on the day immediately before September 1, 114935
2008. 114936~~

(B) If a county board of developmental disabilities 114937
determines that available resources are not sufficient to meet the 114938
needs of all individuals who request non-medicaid programs ~~and or~~ 114939
services ~~and may be offered the programs and services~~, it shall 114940
establish one or more waiting lists for the non-medicaid programs 114941
or services in accordance with its plan developed under section 114942
5126.04 of the Revised Code. The board may establish priorities 114943
for making placements on its waiting lists ~~according to an~~ 114944
~~individual's emergency status and shall establish priorities in~~ 114945

~~accordance with divisions (D) and (E) of established under this 114946
section division. Any such priorities shall be consistent with the 114947
board's plan and applicable law. 114948~~

~~The individuals who may be placed on a waiting list include 114949
individuals with a need for services on an emergency basis and 114950
individuals who have requested services for which resources are 114951
not available. 114952~~

~~An individual placed on a county board's service substitution 114953
list before September 1, 2008, for the purpose of obtaining home 114954
and community based services shall be deemed to have been placed 114955
on the county board's waiting list for home and community based 114956
services on the date the individual made a request to the county 114957
board that the individual receive home and community based 114958
services instead of the services the individual received at the 114959
time the request for home and community based services was made to 114960
the county board. 114961~~

~~(C) A If a county board shall establish a separate waiting 114962
list for each of the following categories of services, and may 114963
establish separate waiting lists within the waiting lists: 114964~~

~~(1) Early childhood services; 114965~~

~~(2) Educational programs for preschool and school age 114966
children; 114967~~

~~(3) Adult services; 114968~~

~~(4) Service and support administration; 114969~~

~~(5) Residential services and supported living; 114970~~

~~(6) Transportation services; 114971~~

~~(7) Other services determined necessary and appropriate for 114972
persons with mental retardation or a developmental disability 114973
according to their individual habilitation or service plans; 114974~~

~~(8) Family support services provided under section 5126.11 of 114975~~

~~the Revised Code determines that available resources are~~ 114976
~~insufficient to meet the needs of all individuals who request home~~ 114977
~~and community-based services, it shall establish a waiting list~~ 114978
~~for the services. An individual's date of placement on the waiting~~ 114979
~~list shall be the date a request is made to the board for the~~ 114980
~~individual to receive the home and community-based services. The~~ 114981
~~board shall provide for an individual who has an emergency status~~ 114982
~~to receive priority status on the waiting list. The board shall~~ 114983
~~also provide for an individual to whom any of the following apply~~ 114984
~~to receive priority status on the waiting list in accordance with~~ 114985
~~rules adopted under division (E) of this section:~~ 114986

~~(1) The individual is receiving supported living, family~~ 114987
~~support services, or adult services for which no federal financial~~ 114988
~~participation is received under the medicaid program;~~ 114989

~~(2) The individual's primary caregiver is at least sixty~~ 114990
~~years of age;~~ 114991

~~(3) The individual has intensive needs as determined in~~ 114992
~~accordance with rules adopted under division (E) of this section.~~ 114993

~~(D) Except as provided in division (C) of this section, a~~ 114994
~~county board shall do, as priorities, all of the following in~~ 114995
~~accordance with the assessment component, approved under section~~ 114996
~~5123.046 of the Revised Code, of the county board's plan developed~~ 114997
~~under section 5126.054 of the Revised Code:~~ 114998

~~(1) For the purpose of obtaining additional federal medicaid~~ 114999
~~funds for home and community based services and medicaid case~~ 115000
~~management services, do both of the following:~~ 115001

~~(a) Give an individual who is eligible for home and~~ 115002
~~community based services and meets both of the following~~ 115003
~~requirements priority over any other individual on a waiting list~~ 115004
~~established under division (C) of this section for home and~~ 115005
~~community based services that include supported living,~~ 115006

residential services, or family support services:	115007
(i) Is twenty two years of age or older;	115008
(ii) Receives supported living or family support services.	115009
(b) Give an individual who is eligible for home and	115010
community based services and meets both of the following	115011
requirements priority over any other individual on a waiting list	115012
established under division (C) of this section for home and	115013
community based services that include adult services:	115014
(i) Resides in the individual's own home or the home of the	115015
individual's family and will continue to reside in that home after	115016
enrollment in home and community based services;	115017
(ii) Receives adult services from the county board.	115018
(2) As federal medicaid funds become available pursuant to	115019
division (D)(1) of this section, give an individual who is	115020
eligible for home and community based services and meets any of	115021
the following requirements priority for such services over any	115022
other individual on a waiting list established under division (C)	115023
of this section:	115024
(a) Does not receive residential services or supported	115025
living, either needs services in the individual's current living	115026
arrangement or will need services in a new living arrangement, and	115027
has a primary caregiver who is sixty years of age or older;	115028
(b) Is less than twenty two years of age and has at least one	115029
of the following service needs that are unusual in scope or	115030
intensity:	115031
(i) Severe behavior problems for which a behavior support	115032
plan is needed;	115033
(ii) An emotional disorder for which anti psychotic	115034
medication is needed;	115035
(iii) A medical condition that leaves the individual	115036

~~dependent on life support medical technology;~~ 115037

~~(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;~~ 115038
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~~(v) A condition the county board determines to be comparable in severity to any condition described in divisions (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.~~ 115041
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~~(c) Is twenty two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community based services on an in home or out of home basis.~~ 115045
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~~(E) Except as provided in division (C) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community based services, priority over any other individual on a waiting list established under division (C) of this section for home and community based services who does not meet these criteria.~~ 115049
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~~(F) If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division (D)(C)(1) or (2), or (E)(3) of this section, a county board may shall use criteria specified in rules adopted under division (K)(2)(E) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board shall offer the home and community based services to such individuals in the order they are placed on the waiting list.~~ 115058
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~~(G) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status services. An individual who has priority for home and community-based services because the individual has an emergency status has priority for the services over all other individuals on the waiting list who do not have emergency status.~~ 115068
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~~(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section.~~ 115075
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~~Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.~~ 115079
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~~At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.~~ 115087
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~~When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to~~ 115097
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~~receive that program or service. If the reassessment demonstrates 115100
that the individual continues to need the program or service, the 115101
board shall offer the program or service to the individual. If it 115102
determines that an individual no longer needs a program or 115103
service, the county board shall remove the individual from the 115104
waiting list. If it determines that an individual needs a program 115105
or service other than the one for which the individual is on the 115106
waiting list, the county board shall provide the program or 115107
service to the individual or place the individual on a waiting 115108
list for the program or service in accordance with the board's 115109
policy for waiting lists. The county board shall notify the 115110
individual of the individual's placement and position on the 115111
waiting list on which the individual is placed. 115112~~

~~(I) A child subject to a determination made pursuant to 115113
section 121.38 of the Revised Code who requires the home and 115114
community based services provided through a medicaid component 115115
that the department of developmental disabilities administers 115116
under section 5111.871 of the Revised Code shall receive services 115117
through that medicaid component. For all other services, a child 115118
subject to a determination made pursuant to section 121.38 of the 115119
Revised Code shall be treated as an emergency by the county boards 115120
and shall not be subject to a waiting list. 115121~~

~~(J) Not later than the fifteenth day of March of each 115122
even numbered year, each county board shall prepare and submit to 115123
the director of developmental disabilities its recommendations for 115124
the funding of services for individuals with mental retardation 115125
and developmental disabilities and its proposals for reducing the 115126
waiting lists for services. 115127~~

~~(K)(1)(E) The department of developmental disabilities shall 115128
adopt rules in accordance with Chapter 119. of the Revised Code 115129
governing waiting lists established under division (C) of this 115130
section. The rules shall include procedures to be followed to 115131~~

ensure that the due process rights of individuals placed on 115132
waiting lists are not violated. As 115133

~~(2) As part of the rules adopted under this division, the 115134
department shall adopt rules establishing criteria a county board 115135
may shall use under division ~~(F)~~(D) of this section in determining 115136
the order in which individuals with priority for home and 115137
community-based services pursuant to division (C)(1), (2), or (3) 115138
of this section will be offered the services. The rules shall also 115139
~~specify conditions under which a county board, when there is no 115140
individual with priority for home and community based services 115141
pursuant to division (D)(1) or (2) or (E) of this section 115142
available and appropriate for the services, may offer the services 115143
to an individual on a waiting list for the services but not given 115144
such priority for the services.~~ 115145~~

~~(3) As part of the rules adopted under this division, the 115146
department shall adopt rules specifying both of the following for 115147
the priority category established under division (E) of this 115148
section:~~ 115149

~~(a) The number of years, which shall not exceed five, that 115150
the priority category will be in effect;~~ 115151

~~(b) The date that the priority category is to go into effect.~~ 115152

~~(L)~~(F) The following shall take precedence over the 115153
applicable provisions of this section: 115154

(1) Medicaid rules and regulations; 115155

(2) Any specific requirements that may be contained within a 115156
medicaid state plan amendment or waiver program that a county 115157
board has authority to administer or with respect to which it has 115158
authority to provide services, programs, or supports. 115159

Sec. 5126.05. (A) Subject to the rules established by the 115160
director of developmental disabilities pursuant to Chapter 119. of 115161

the Revised Code for programs and services offered pursuant to 115162
this chapter, and subject to the rules established by the state 115163
board of education pursuant to Chapter 119. of the Revised Code 115164
for programs and services offered pursuant to Chapter 3323. of the 115165
Revised Code, the county board of developmental disabilities 115166
shall: 115167

(1) Administer and operate facilities, programs, and services 115168
as provided by this chapter and Chapter 3323. of the Revised Code 115169
and establish policies for their administration and operation; 115170

(2) Coordinate, monitor, and evaluate existing services and 115171
facilities available to individuals with mental retardation and 115172
developmental disabilities; 115173

(3) Provide early childhood services, supportive home 115174
services, and adult services, according to the plan and priorities 115175
developed under section 5126.04 of the Revised Code; 115176

(4) Provide or contract for special education services 115177
pursuant to Chapters ~~3306.7~~ 3317. and 3323. of the Revised Code 115178
and ensure that related services, as defined in section 3323.01 of 115179
the Revised Code, are available according to the plan and 115180
priorities developed under section 5126.04 of the Revised Code; 115181

(5) Adopt a budget, authorize expenditures for the purposes 115182
specified in this chapter and do so in accordance with section 115183
319.16 of the Revised Code, approve attendance of board members 115184
and employees at professional meetings and approve expenditures 115185
for attendance, and exercise such powers and duties as are 115186
prescribed by the director; 115187

(6) Submit annual reports of its work and expenditures, 115188
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 115189
the director, the superintendent of public instruction, and the 115190
board of county commissioners at the close of the fiscal year and 115191
at such other times as may reasonably be requested; 115192

(7) Authorize all positions of employment, establish 115193
compensation, including but not limited to salary schedules and 115194
fringe benefits for all board employees, approve contracts of 115195
employment for management employees that are for a term of more 115196
than one year, employ legal counsel under section 309.10 of the 115197
Revised Code, and contract for employee benefits; 115198

(8) Provide service and support administration in accordance 115199
with section 5126.15 of the Revised Code; 115200

(9) Certify respite care homes pursuant to rules adopted 115201
under section 5123.171 of the Revised Code by the director of 115202
developmental disabilities. 115203

(B) To the extent that rules adopted under this section apply 115204
to the identification and placement of children with disabilities 115205
under Chapter 3323. of the Revised Code, they shall be consistent 115206
with the standards and procedures established under sections 115207
3323.03 to 3323.05 of the Revised Code. 115208

(C) Any county board may enter into contracts with other such 115209
boards and with public or private, nonprofit, or profit-making 115210
agencies or organizations of the same or another county, to 115211
provide the facilities, programs, and services authorized or 115212
required, upon such terms as may be agreeable, and in accordance 115213
with this chapter and Chapter 3323. of the Revised Code and rules 115214
adopted thereunder and in accordance with sections 307.86 and 115215
5126.071 of the Revised Code. 115216

(D) A county board may combine transportation for children 115217
and adults enrolled in programs and services offered under ~~section~~ 115218
~~5126.12~~ Chapter 5126. of the Revised Code with transportation for 115219
children enrolled in classes funded under section 3317.20 or units 115220
approved under section 3317.05 of the Revised Code. 115221

(E) A county board may purchase all necessary insurance 115222
policies, may purchase equipment and supplies through the 115223

department of administrative services or from other sources, and 115224
may enter into agreements with public agencies or nonprofit 115225
organizations for cooperative purchasing arrangements. 115226

(F) A county board may receive by gift, grant, devise, or 115227
bequest any moneys, lands, or property for the benefit of the 115228
purposes for which the board is established and hold, apply, and 115229
dispose of the moneys, lands, and property according to the terms 115230
of the gift, grant, devise, or bequest. All money received by 115231
gift, grant, bequest, or disposition of lands or property received 115232
by gift, grant, devise, or bequest shall be deposited in the 115233
county treasury to the credit of such board and shall be available 115234
for use by the board for purposes determined or stated by the 115235
donor or grantor, but may not be used for personal expenses of the 115236
board members. Any interest or earnings accruing from such gift, 115237
grant, devise, or bequest shall be treated in the same manner and 115238
subject to the same provisions as such gift, grant, devise, or 115239
bequest. 115240

(G) The board of county commissioners shall levy taxes and 115241
make appropriations sufficient to enable the county board of 115242
developmental disabilities to perform its functions and duties, 115243
and may utilize any available local, state, and federal funds for 115244
such purpose. 115245

Sec. 5126.054. (A) Each county board of developmental 115246
disabilities shall, by resolution, develop a three-calendar year 115247
plan that includes the following three components: 115248

(1) An assessment component that includes all of the 115249
following: 115250

(a) The number of individuals with mental retardation or 115251
other developmental disability residing in the county who need the 115252
level of care provided by an intermediate care facility for the 115253
mentally retarded, may seek home and community-based services, and 115254

are given priority on a waiting list established for the services 115255
pursuant to ~~division (D)~~ of section 5126.042 of the Revised Code; 115256
the service needs of those individuals; and the projected 115257
annualized cost for services; 115258

(b) The source of funds available to the county board to pay 115259
the nonfederal share of medicaid expenditures that the county 115260
board is required by sections 5126.059 and 5126.0510 of the 115261
Revised Code to pay; 115262

(c) Any other applicable information or conditions that the 115263
department of developmental disabilities requires as a condition 115264
of approving the component under section 5123.046 of the Revised 115265
Code. 115266

(2) A preliminary implementation component that specifies the 115267
number of individuals to be provided, during the first year that 115268
the plan is in effect, home and community-based services pursuant 115269
to the waiting list priority given to them under ~~divisions (D)(1)~~ 115270
~~and (2)~~ of section 5126.042 of the Revised Code and the types of 115271
home and community-based services the individuals are to receive; 115272

(3) A component that provides for the implementation of 115273
medicaid case management services and home and community-based 115274
services for individuals who begin to receive the services on or 115275
after the date the plan is approved under section 5123.046 of the 115276
Revised Code. A county board shall include all of the following in 115277
the component: 115278

(a) If the department of developmental disabilities or 115279
department of job and family services requires, an agreement to 115280
pay the nonfederal share of medicaid expenditures that the county 115281
board is required by sections 5126.059 and 5126.0510 of the 115282
Revised Code to pay; 115283

(b) How the services are to be phased in over the period the 115284
plan covers, including how the county board will serve individuals 115285

~~who have priority on a waiting list established under division (C) 115286~~
~~of section 5126.042 who are given priority status under division 115287~~
~~(D)(1) of that section of the Revised Code; 115288~~

(c) Any agreement or commitment regarding the county board's 115289
funding of home and community-based services that the county board 115290
has with the department at the time the county board develops the 115291
component; 115292

(d) Assurances adequate to the department that the county 115293
board will comply with all of the following requirements: 115294

(i) To provide the types of home and community-based services 115295
specified in the preliminary implementation component required by 115296
division (A)(2) of this section to at least the number of 115297
individuals specified in that component; 115298

(ii) To use any additional funds the county board receives 115299
for the services to improve the county board's resource 115300
capabilities for supporting such services available in the county 115301
at the time the component is developed and to expand the services 115302
to accommodate the unmet need for those services in the county; 115303

(iii) To employ or contract with a business manager or enter 115304
into an agreement with another county board of developmental 115305
disabilities that employs or contracts with a business manager to 115306
have the business manager serve both county boards. No 115307
superintendent of a county board may serve as the county board's 115308
business manager. 115309

(iv) To employ or contract with a medicaid services manager 115310
or enter into an agreement with another county board of 115311
developmental disabilities that employs or contracts with a 115312
medicaid services manager to have the medicaid services manager 115313
serve both county boards. No superintendent of a county board may 115314
serve as the county board's medicaid services manager. 115315

(e) Programmatic and financial accountability measures and 115316

projected outcomes expected from the implementation of the plan; 115317

(f) Any other applicable information or conditions that the 115318
department requires as a condition of approving the component 115319
under section 5123.046 of the Revised Code. 115320

(B) A county board whose plan developed under division (A) of 115321
this section is approved by the department under section 5123.046 115322
of the Revised Code shall update and renew the plan in accordance 115323
with a schedule the department shall develop. 115324

Sec. 5126.0510. (A) Except as otherwise provided in an 115325
agreement entered into under section 5123.048 of the Revised Code 115326
and subject to divisions (B), (C), and (D) of this section, a 115327
county board of developmental disabilities shall pay the 115328
nonfederal share of medicaid expenditures for the following home 115329
and community-based services provided to an individual with mental 115330
retardation or other developmental disability who the county board 115331
determines under section 5126.041 of the Revised Code is eligible 115332
for county board services: 115333

(1) Home and community-based services provided by the county 115334
board to such an individual; 115335

(2) Home and community-based services provided by a provider 115336
other than the county board to such an individual who is enrolled 115337
as of June 30, 2007, in the medicaid waiver component under which 115338
the services are provided; 115339

(3) Home and community-based services provided by a provider 115340
other than the county board to such an individual who, pursuant to 115341
a request the county board makes, enrolls in the medicaid waiver 115342
component under which the services are provided after June 30, 115343
2007; 115344

(4) Home and community-based services provided by a provider 115345
other than the county board to such an individual for whom there 115346

is in effect an agreement entered into under division (E) of this 115347
section between the county board and director of developmental 115348
disabilities. 115349

(B) In the case of medicaid expenditures for home and 115350
community-based services for which division (A)(2) of this section 115351
requires a county board to pay the nonfederal share, the following 115352
shall apply to such services provided during fiscal year 2008 115353
under the individual options medicaid waiver component: 115354

(1) The county board shall pay no less than the total amount 115355
the county board paid as the nonfederal share for home and 115356
community-based services provided in fiscal year 2007 under the 115357
individual options medicaid waiver component; 115358

(2) The county board shall pay no more than the sum of the 115359
following: 115360

(a) The total amount the county board paid as the nonfederal 115361
share for home and community-based services provided in fiscal 115362
year 2007 under the individual options medicaid waiver component; 115363

(b) An amount equal to one per cent of the total amount the 115364
department of developmental disabilities and county board paid as 115365
the nonfederal share for home and community-based services 115366
provided in fiscal year 2007 under the individual options medicaid 115367
waiver component to individuals the county board determined under 115368
section 5126.041 of the Revised Code are eligible for county board 115369
services. 115370

(C) A county board is not required to pay the nonfederal 115371
share of home and community-based services provided after June 30, 115372
2008, that the county board is otherwise required by division 115373
(A)(2) of this section to pay if the department of developmental 115374
disabilities fails to comply with division (A) of section 115375
5123.0416 of the Revised Code. 115376

(D) A county board is not required to pay the nonfederal 115377

share of home and community-based services that the county board 115378
is otherwise required by division (A)(3) of this section to pay if 115379
both of the following apply: 115380

(1) The services are provided to an individual who enrolls in 115381
the medicaid waiver component under which the services are 115382
provided as the result of an order issued following a state 115383
hearing, administrative appeal, or appeal to a court of common 115384
pleas made under section 5101.35 of the Revised Code; 115385

(2) There are more individuals who are eligible for services 115386
from the county board enrolled in ~~the medicaid waiver component~~ 115387
home and community-based services than is required by section 115388
5126.0512 of the Revised Code. 115389

(E) A county board may enter into an agreement with the 115390
director of developmental disabilities under which the county 115391
board agrees to pay the nonfederal share of medicaid expenditures 115392
for one or more home and community-based services that the county 115393
board is not otherwise required by division (A)(1), (2), or (3) of 115394
this section to pay and that are provided to an individual the 115395
county board determines under section 5126.041 of the Revised Code 115396
is eligible for county board services. The agreement shall specify 115397
which home and community-based services the agreement covers. The 115398
county board shall pay the nonfederal share of medicaid 115399
expenditures for the home and community-based services that the 115400
agreement covers as long as the agreement is in effect. 115401

Sec. 5126.0511. (A) A county board of developmental 115402
disabilities may use the following funds to pay the nonfederal 115403
share of the medicaid expenditures that the county board is 115404
required by sections 5126.059 and 5126.0510 of the Revised Code to 115405
pay: 115406

(1) To the extent consistent with the levy that generated the 115407
taxes, the following taxes: 115408

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code; 115409
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(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board. 115411
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(2) Funds that the department of developmental disabilities distributes to the county board under ~~sections 5126.11 and section~~ 5126.18 of the Revised Code and for purposes of the family support services program established under section 5126.11 of the Revised Code; 115414
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(3) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement; 115419
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(4) Funds that the department of developmental disabilities distributes to the county board as subsidy payments; 115422
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(5) In the case of medicaid expenditures for home and community-based services, funds allocated to or otherwise made available for the county board under section 5123.0416 of the Revised Code to pay the nonfederal share of such medicaid expenditures. 115424
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(B) Each year, each county board shall adopt a resolution specifying the amount of funds it will use in the next year to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The amount specified shall be adequate to assure that the services for which the medicaid expenditures are made will be available in the county in a manner that conforms to all applicable state and federal laws. A county board shall state in its resolution that the payment of the nonfederal share represents an ongoing financial commitment of the county board. A county board shall adopt the resolution in time for the county 115429
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auditor to make the determination required by division (C) of this section. 115440
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(C) Each year, a county auditor shall determine whether the amount of funds a county board specifies in the resolution it adopts under division (B) of this section will be available in the following year for the county board to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The county auditor shall make the determination not later than the last day of the year before the year in which the funds are to be used. 115442
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Sec. 5126.0512. (A) ~~As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community based services are provided.~~ 115451
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~~(B) Effective July 1, 2007, and except~~ Except as provided in rules adopted under section 5123.0413 of the Revised Code, each county board of developmental disabilities shall ensure, ~~for each medicaid waiver component,~~ that the number of individuals eligible under section 5126.041 of the Revised Code for services from the county board who are enrolled in ~~a medicaid waiver component~~ home and community-based services is no less than the sum of the following: 115455
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(1) The number of individuals eligible for services from the county board who are enrolled in ~~the medicaid waiver component~~ home and community-based services on June 30, 2007; 115463
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(2) The number of ~~medicaid waiver component~~ home and community-based services slots the county board requested before July 1, 2007, that were assigned to the county board before that date but in which no individual was enrolled before that date. 115466
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~~(C)(B)~~ An individual enrolled in a ~~medicaid waiver component~~ home and community-based services after March 1, 2007, due to an emergency reserve capacity waiver assignment shall not be counted in determining the number of individuals a county board must ensure under division ~~(B)(A)~~ of this section are enrolled in a ~~medicaid waiver component~~ home and community-based services.

~~(D)(C)~~ An individual who is enrolled in a ~~medicaid waiver component~~ home and community-based services to comply with the terms of the consent order filed March 5, 2007, in *Martin v. Strickland*, Case No. 89-CV-00362, in the United States district court for the southern district of Ohio, eastern division, shall be excluded in determining whether a county board has complied with division ~~(B)(A)~~ of this section.

~~(E)(D)~~ A county board shall make as many requests for individuals to be enrolled in a ~~medicaid waiver component~~ home and community-based services as necessary for the county board to comply with division ~~(B)(A)~~ of this section.

Sec. 5126.08. (A) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code for all programs and services offered by a county board of developmental disabilities. Such rules shall include, but are not limited to, the following:

(1) Determination of what constitutes a program or service;

(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;

(3) Standards for determining the nature and degree of mental retardation, including mild mental retardation, or developmental disability;

(4) Standards for determining eligibility for programs and services under ~~sections 5126.042 and~~ section 5126.15 of the

Revised Code; 115500

(5) Procedures for obtaining consent for the arrangement of 115501
services under section 5126.31 of the Revised Code and for 115502
obtaining signatures on individual service plans under that 115503
section; 115504

(6) Specification of the service and support administration 115505
to be provided by a county board and standards for resolving 115506
grievances in connection with service and support administration; 115507

~~(7) Standards for the provision of environmental 115508
modifications, including standards that require adherence to all 115509
applicable state and local building codes; 115510~~

~~(8) Standards for the provision of specialized medical, 115511
adaptive, and assistive equipment, supplies, and supports. 115512~~

(B) The director shall be the final authority in determining 115513
the nature and degree of mental retardation or developmental 115514
disability. 115515

Sec. 5126.11. (A) As used in this section, "respite care" 115516
means appropriate, short-term, temporary care that is provided to 115517
a mentally retarded or developmentally disabled person to sustain 115518
the family structure or to meet planned or emergency needs of the 115519
family. 115520

(B) Subject to rules adopted by the director of developmental 115521
disabilities, and subject to the availability of money from state 115522
and federal sources, the county board of developmental 115523
disabilities shall establish a family support services program. 115524
Under such a program, the board shall make payments to an 115525
individual with mental retardation or other developmental 115526
disability or the family of an individual with mental retardation 115527
or other developmental disability who desires to remain in and be 115528
supported in the family home. Payments shall be made for all or 115529

part of costs incurred or estimated to be incurred for services 115530
that would promote self-sufficiency and normalization, prevent or 115531
reduce inappropriate institutional care, and further the unity of 115532
the family by enabling the family to meet the special needs of the 115533
individual and to live as much like other families as possible. 115534
Payments may be made in the form of reimbursement for expenditures 115535
or in the form of vouchers to be used to purchase services. 115536

(C) Payment shall not be made under this section to an 115537
individual or the individual's family if the individual is living 115538
in a residential facility that is providing residential services 115539
under contract with the department of developmental disabilities 115540
or a county board. 115541

(D) Payments may be made for the following services: 115542

(1) Respite care, in or out of the home; 115543

(2) Counseling, supervision, training, and education of the 115544
individual, the individual's caregivers, and members of the 115545
individual's family that aid the family in providing proper care 115546
for the individual, provide for the special needs of the family, 115547
and assist in all aspects of the individual's daily living; 115548

(3) Special diets, purchase or lease of special equipment, or 115549
modifications of the home, if such diets, equipment, or 115550
modifications are necessary to improve or facilitate the care and 115551
living environment of the individual; 115552

(4) Providing support necessary for the individual's 115553
continued skill development, including such services as 115554
development of interventions to cope with unique problems that may 115555
occur within the complexity of the family, enrollment of the 115556
individual in special summer programs, provision of appropriate 115557
leisure activities, and other social skills development 115558
activities; 115559

(5) Any other services that are consistent with the purposes 115560

specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by

this division. 115593

(H) A county board shall consider the following objectives in 115594
carrying out a family support services program: 115595

(1) Enabling individuals to return to their families from an 115596
institution under the jurisdiction of the department of 115597
developmental disabilities; 115598

(2) Enabling individuals found to be subject to 115599
institutionalization by court order under section 5123.76 of the 115600
Revised Code to remain with their families with the aid of 115601
payments provided under this section; 115602

(3) Providing services to eligible children and adults 115603
currently residing in the community; 115604

(4) Providing services to individuals with developmental 115605
disabilities who are not receiving other services from the board. 115606

(I) The director shall adopt, and may amend and rescind, 115607
rules for the implementation of family support services programs 115608
by county boards. Such rules shall include the following: 115609

(1) A payment schedule adjusted for income; 115610

(2) ~~A formula for distributing to county boards the money~~ 115611
~~appropriated for family support services;~~ 115612

~~(3)~~ Standards for supervision, training, and quality control 115613
in the provision of respite care services; 115614

~~(4)~~(3) Eligibility standards and procedures for providing 115615
temporary emergency respite care; 115616

~~(5)~~(4) Procedures for hearing and deciding appeals made under 115617
division (F) of this section; 115618

~~(6)~~ Requirements to be followed by county boards regarding 115619
reports submitted under division (K) of this section. 115620

Rules adopted under ~~divisions~~ division (I)(1) ~~and (2)~~ of this 115621

section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)~~(3)~~(2) to ~~(6)~~(4) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

~~(K) The department of developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty first day of December, the thirty first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section.~~

~~(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.~~

Sec. 5126.12. ~~(A) As used in this section:~~

~~(1) "Approved school age class" means a class operated by a county board of developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.~~

~~(2) "Approved preschool unit" means a class or unit operated~~

~~by a county board of developmental disabilities and approved under
division (B) of section 3317.05 of the Revised Code.~~ 115652
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~~(3) "Active treatment" means a continuous treatment program,
which includes aggressive, consistent implementation of a program
of specialized and generic training, treatment, health services,
and related services, that is directed toward the acquisition of
behaviors necessary for an individual with mental retardation or
other developmental disability to function with as much
self-determination and independence as possible and toward the
prevention of deceleration, regression, or loss of current optimal
functional status.~~ 115654
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~~(4) "Eligible for active treatment" means that an individual
with mental retardation or other developmental disability resides
in an intermediate care facility for the mentally retarded
certified under Title XIX of the "Social Security Act," 79 Stat.
286 (1965), 42 U.S.C. 1396, as amended; resides in a state
institution operated by the department of developmental
disabilities; or is enrolled in home and community based services.~~ 115663
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~~(5) "Traditional adult services" means vocational and
nonvocational activities conducted within a sheltered workshop or
adult activity center or supportive home services.~~ 115670
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~~(B) Each On or before the last day of each April, each county
board of developmental disabilities shall certify to the director
of developmental disabilities all of the following:~~ 115673
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~~(1) On or before the fifteenth day of October, the average
daily membership for the first full week of programs and services
during October receiving:~~ 115676
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~~(a) Early childhood services provided pursuant to section
5126.05 of the Revised Code for children who are less than three
years of age on the thirtieth day of September of the academic
year;~~ 115679
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~~(b) Special education for children with disabilities in approved school age classes; 115683
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~~(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following; 115685
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~~(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment; 115689
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~~(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment; 115691
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~~(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment; 115693
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~~(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months. 115695
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~~(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of developmental disabilities. 115699
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~~The membership in each such program and service in the county shall be reported on forms prescribed by the department of developmental disabilities. 115703
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~~The department of developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of 115706
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~~enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.~~

~~(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;~~

~~(3) On or before the thirtieth day of April, an itemized report of all of the county board's income and operating expenditures for the immediately preceding calendar year. The certification shall be provided in an itemized report prepared and submitted in the a format specified by the department of developmental disabilities;~~

~~(4) That each required certification and report is in accordance with rules established by the department of developmental disabilities and the state board of education for the operation and subsidization of the programs and services.~~

Sec. 5126.18. (A) As used in this section:

(1) "Taxable value" means the taxable value of a county certified under division (B) of this section.

(2) "Per-mill yield" means the quotient obtained by dividing the taxable value of a county by one thousand.

(3) "Population" of a county means that shown by the federal census for a census year or, for a noncensus year, the population as estimated by the department of development.

(4) "Six-year moving average" means the average of the per-mill yields of a county for the most recent six years.

(5) "Yield per person" means the quotient obtained by dividing the six-year moving average of a county by the population of that county.

(6) "Tax equity payments" means payments to county boards of developmental disabilities under this section or a prior version of this section from money appropriated by the general assembly to the department of developmental disabilities for that purpose. 115742
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(7) "Eligible county" means a county determined under division (C) of this section to be eligible for tax equity payments for the two-year period for which that determination is made. 115746
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(8) "Threshold county" means the county with the lowest yield per person that is determined not to be eligible to receive tax equity payments. 115750
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(B) At the request of the director of developmental disabilities, the tax commissioner shall certify to the director the taxable value of property on each county's most recent tax list of real and public utility property. The director may request any other tax information necessary for the purposes of this section. 115753
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(C) Beginning in 2011, on or before the thirty-first day of May of that year and of every second year thereafter, the director of developmental disabilities shall determine whether a county is eligible to receive tax equity payments for the ensuing two fiscal years as follows: 115759
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(1) The director shall determine the six-year moving average, population, and yield per person of each county in the state, based on the most recent information available. 115764
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(2) The director shall calculate a tax equity funding threshold by adding the population of the county with the lowest yield per person and the populations of individual counties in order from lowest yield per person to highest yield per person until the addition of the population of another county would increase the aggregate sum to over thirty per cent of the total 115767
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state population. A county is eligible to receive tax equity 115773
payments for the two-year period if its population is included in 115774
the calculation of the threshold and the addition of its 115775
population does not increase such sum to over thirty per cent of 115776
the total state population. 115777

(D)(1) Except as provided in divisions (D)(2) and (3) of this 115778
section, beginning in fiscal year 2012 and for each fiscal year 115779
thereafter, the director shall make tax equity payments to each 115780
eligible county equal to the population of the county multiplied 115781
by the difference between the yield per person of the threshold 115782
county and the yield per person of the eligible county. For 115783
purposes of this division, the population and yield per person of 115784
a county equal the population and yield per person most recently 115785
determined for that county under division (C)(1) of this section. 115786
The payments shall be made in quarterly installments of equal 115787
amounts not later than the thirtieth day of September, the 115788
thirty-first day of December, the thirty-first day of March, and 115789
the thirtieth day of June of each fiscal year. 115790

(2) In fiscal year 2012, if the amount determined under 115791
division (D)(1) of this section for an eligible county is at least 115792
twenty thousand dollars greater than or twenty thousand dollars 115793
less than the amount of tax equity payments the county received in 115794
fiscal year 2011, the county's tax equity payments for fiscal 115795
years 2012 through 2014 shall equal the following: 115796

(a) For fiscal year 2012, one-fourth of the amount calculated 115797
for the eligible county under division (D)(1) of this section plus 115798
three-fourths of the amount of tax equity payments the county 115799
received in fiscal year 2011; 115800

(b) For fiscal year 2013, one-half of the amount calculated 115801
for the eligible county under division (D)(1) of this section plus 115802
one-half of the amount of tax equity payments the county received 115803
in fiscal year 2011; 115804

(c) For fiscal year 2014, three-fourths of the amount 115805
calculated for the eligible county under division (D)(1) of this 115806
section plus one-fourth of the amount of tax equity payments the 115807
county received in fiscal year 2011. 115808

(3) In any fiscal year, if the total amount of tax equity 115809
payments for all eligible counties as determined under divisions 115810
(D)(1) and (2) of this section is greater than the amount 115811
appropriated to the department of developmental disabilities for 115812
the purpose of making such payments in that fiscal year, the 115813
director shall reduce the payments to each eligible county board 115814
in equal proportion. If the total amount of tax equity payments as 115815
determined under that division is less than the amount 115816
appropriated to the department for that purpose, the director 115817
shall determine how to allocate the excess money after 115818
consultation with the Ohio association of county boards serving 115819
people with developmental disabilities. 115820

(4) Tax equity payments shall be paid only to an eligible 115821
county board of developmental disabilities and not to a regional 115822
council established under section 5126.13 of the Revised Code or 115823
any other entity. 115824

(E)(1) Except as provided in division (E)(2) of this section, 115825
a county board of developmental disabilities shall use tax equity 115826
payments solely to pay the nonfederal share of medicaid 115827
expenditures it is required to pay under sections 5126.059 and 115828
5126.0510 of the Revised Code. Tax equity payments shall not be 115829
used to pay any salary or other compensation to county board 115830
personnel. 115831

(2) Upon the written request of a county board, the director 115832
of developmental disabilities may authorize a county board to use 115833
tax equity payments for infrastructure improvements necessary to 115834
support medicaid waiver administration. 115835

(3) The director may audit any county board receiving tax equity payments to ensure appropriate use of the payments in accordance with this section. If the director determines that a county board is using payments inappropriately, the director shall notify the county board in writing of the determination. Within thirty days after receiving the director's notification, the county board shall submit a written plan of correction to the director. The director may accept or reject the plan. If the director rejects the plan, the director may require the county board to repay all or a portion of the amount of tax equity payments used inappropriately. The director shall distribute any tax equity payments returned under this division to other eligible county boards in accordance with a plan developed by the director after consultation with the Ohio association of county boards serving people with developmental disabilities.

Sec. 5126.24. (A) As used in this section:

(1) "License" means an educator license issued by the state board of education under section 3319.22 of the Revised Code or a certificate issued by the department of developmental disabilities.

(2) "Teacher" means a person employed by a county board of developmental disabilities in a position that requires a license.

(3) "Nonteaching employee" means a person employed by a county board of developmental disabilities in a position that does not require a license.

(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.

(B) Subject to rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of developmental disabilities shall

annually adopt separate salary schedules for teachers and 115866
nonteaching employees. 115867

(C) The teachers' salary schedule shall provide for 115868
increments based on training and years of service. The board may 115869
establish its own service requirements provided no teacher 115870
receives less than the salary the teacher would be paid under 115871
section 3317.13 of the Revised Code if the teacher were employed 115872
by a school district board of education and provided full credit 115873
for a minimum of five years of actual teaching and military 115874
experience as defined in division (A) of such section is given to 115875
each teacher. 115876

Each teacher who has completed training that would qualify 115877
the teacher for a higher salary bracket pursuant to this section 115878
shall file by the fifteenth day of September with the fiscal 115879
officer of the board, satisfactory evidence of the completion of 115880
such additional training. The fiscal officer shall then 115881
immediately place the teacher, pursuant to this section, in the 115882
proper salary bracket in accordance with training and years of 115883
service. No teacher shall be paid less than the salary to which 115884
the teacher would be entitled under section 3317.13 of the Revised 115885
Code if the teacher were employed by a school district board of 115886
education. 115887

The superintendent of each county board, on or before the 115888
fifteenth day of October of each year, shall certify to the state 115889
board of education the name of each teacher employed, on an annual 115890
salary, in each special education program operated pursuant to 115891
section 3323.09 of the Revised Code during the first full school 115892
week of October. The superintendent further shall certify, for 115893
each teacher, the number of years of training completed at a 115894
recognized college, the degrees earned from a college recognized 115895
by the state board, the type of license held, the number of months 115896
employed by the board, the annual salary, and other information 115897

that the state board may request. 115898

(D) The nonteaching employees' salary schedule established by 115899
the board shall be based on training, experience, and 115900
qualifications with initial salaries no less than salaries in 115901
effect on July 1, 1985. Each board shall prepare and may amend 115902
from time to time, specifications descriptive of duties, 115903
responsibilities, requirements, and desirable qualifications of 115904
the classifications of employees required to perform the duties 115905
specified in the salary schedule. All nonteaching employees shall 115906
be notified of the position classification to which they are 115907
assigned and the salary for the classification. The compensation 115908
of all nonteaching employees working for a particular board shall 115909
be uniform for like positions except as compensation would be 115910
affected by salary increments based upon length of service. 115911

On the fifteenth day of October of each year the nonteaching 115912
employees' salary schedule and list of job classifications and 115913
salaries in effect on that date shall be filed by each board with 115914
the superintendent of public instruction. If such salary schedule 115915
and classification plan is not filed, the superintendent of public 115916
instruction shall order the board to file such schedule and list 115917
forthwith. If this condition is not corrected within ten days 115918
after receipt of the order from the superintendent, no money shall 115919
be distributed to the ~~district board~~ under Chapter ~~3306~~ or 3317. 115920
of the Revised Code until the superintendent has satisfactory 115921
evidence of the board's full compliance with such order. 115922

Sec. 5126.41. The county board of developmental disabilities 115923
shall identify residents of the county for whom supported living 115924
is to be provided. Identification of the residents shall be made 115925
in accordance with the priorities set under section 5126.04 of the 115926
Revised Code and the waiting ~~list policies developed~~ lists 115927
established under section 5126.042 of the Revised Code. The board 115928

shall assist the residents in identifying their individual service 115929
needs. 115930

To arrange supported living for an individual, the board 115931
shall assist the individual in developing an individual service 115932
plan. In developing the plan, the individual shall choose a 115933
residence that is appropriate according to local standards; the 115934
individuals, if any, with whom the individual will live in the 115935
residence; the services the individual needs to live in the 115936
individual's residence of choice; and the providers from which the 115937
services will be received. The choices available to an individual 115938
shall be based on available resources. 115939

The board shall obtain the consent of the individual or the 115940
individual's guardian and the signature of the individual or 115941
guardian on the individual service plan. The county board shall 115942
ensure that the individual receives from the provider the services 115943
contracted for under section 5126.45 of the Revised Code. 115944

An individual service plan for supported living shall be 115945
effective for a period of time agreed to by the county board and 115946
the individual. In determining that period, the county board and 115947
the individual shall consider the nature of the services to be 115948
provided and the manner in which they are customarily provided. 115949

Sec. 5126.42. (A) A county board of developmental 115950
disabilities shall establish an advisory council composed of board 115951
members or employees of the board, providers, individuals 115952
receiving supported living, and advocates for individuals 115953
receiving supported living to provide on-going communication among 115954
all persons concerned with supported living. 115955

(B) The board shall develop procedures for the resolution of 115956
grievances between the board and providers or between the board 115957
and an entity with which it has a shared funding agreement. 115958

(C) The board shall develop and implement a provider selection system. Each system shall enable an individual to choose to continue receiving supported living from the same providers, to select additional providers, or to choose alternative providers. Annually, the board shall review its provider selection system to determine whether it has been implemented in a manner that allows individuals fair and equitable access to providers.

In developing a provider selection system, the county board shall create a pool of providers for individuals to use in choosing their providers of supported living. The pool shall be created by placing in the pool all providers on record with the board or by placing in the pool all providers approved by the board through soliciting requests for proposals for supported living contracts. In either case, only providers that are certified by the director of developmental disabilities may be placed in the pool.

If the board places all providers on record in the pool, the board shall review the pool at least annually to determine whether each provider has continued interest in being a provider and has maintained its certification by the department. At any time, an interested and certified provider may make a request to the board that it be added to the pool, and the board shall add the provider to the pool not later than seven days after receiving the request.

If the board solicits requests for proposals for inclusion of providers in the pool, the board shall develop standards for selecting the providers to be included. Requests for proposals shall be solicited at least annually. When requests are solicited, the board shall cause legal notices to be published ~~at least~~ once each week for two consecutive weeks in a newspaper ~~with~~ of general circulation within the county or as provided in section 7.16 of the Revised Code. The board's formal request for proposals shall include a description of any applicable contract terms, the

standards that are used to select providers for inclusion in the pool, and the process the board uses to resolve disputes arising from the selection process. The board shall accept requests from any entity interested in being a provider of supported living for individuals served by the board. Requests shall be approved or denied according to the standards developed by the board. Providers that previously have been placed in the pool are not required to resubmit a request for proposal to be included in the pool, unless the board's standards have been changed.

In assisting an individual in choosing a provider, the county board shall provide the individual with uniform and consistent information pertaining to each provider in the pool. An individual may choose to receive supported living from a provider that is not included in the pool, if the provider is certified by the director of developmental disabilities.

Sec. 5139.11. The department of youth services shall do all of the following:

(A) Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes:

(1) Combatting local conditions known to contribute to juvenile delinquency;

(2) Developing recreational and other programs for youth work;

(3) Providing adult sponsors for delinquent children cases;

(4) Dealing with other related problems of the locality.

(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible

methods of the reduction and prevention of juvenile delinquency 116021
and the treatment of delinquent children; 116022

(C) Consult with the schools and courts of this state on the 116023
development of programs for the reduction and prevention of 116024
delinquency and the treatment of delinquents; 116025

(D) Cooperate with other agencies whose services deal with 116026
the care and treatment of delinquent children to the end that 116027
delinquent children who are state wards may be assisted whenever 116028
possible to a successful adjustment outside of institutional care; 116029

(E) Cooperate with other agencies in surveying, developing, 116030
and utilizing the recreational resources of a community as a means 116031
of combatting the problem of juvenile delinquency and effectuating 116032
rehabilitation; 116033

(F) Hold district and state conferences from time to time in 116034
order to acquaint the public with current problems of juvenile 116035
delinquency and develop a sense of civic responsibility toward the 116036
prevention of juvenile delinquency; 116037

(G) Assemble and distribute information relating to juvenile 116038
delinquency and report on studies relating to community conditions 116039
that affect the problem of juvenile delinquency; 116040

(H) Assist any community within the state by conducting a 116041
comprehensive survey of the community's available public and 116042
private resources, and recommend methods of establishing a 116043
community program for combatting juvenile delinquency and crime, 116044
but no survey of that type shall be conducted unless local 116045
individuals and groups request it through their local authorities, 116046
and no request of that type shall be interpreted as binding the 116047
community to following the recommendations made as a result of the 116048
request; 116049

(I) Evaluate the rehabilitation of children committed to the 116050
department and prepare and submit periodic reports to the 116051

committing court for the following purposes:	116052
(1) Evaluating the effectiveness of institutional treatment;	116053
(2) Making recommendations for judicial release under section 2152.22 of the Revised Code if appropriate and recommending conditions for judicial release;	116054 116055 116056
(3) Reviewing the placement of children and recommending alternative placements where appropriate.	116057 116058
(J) Coordinate dates for hearings to be conducted under section 2152.22 of the Revised Code and assist in the transfer and release of children from institutionalization to the custody of the committing court;	116059 116060 116061 116062
(K)(1) Coordinate and assist juvenile justice systems by doing the following:	116063 116064
(a) Performing juvenile justice system planning in the state, including any planning that is required by any federal law;	116065 116066
(b) Collecting, analyzing, and correlating information and data concerning the juvenile justice system in the state;	116067 116068
(c) Cooperating with and providing technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, and agencies, offices, and departments of the juvenile justice system in the state, and other appropriate organizations and persons;	116069 116070 116071 116072 116073 116074
(d) Encouraging and assisting agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the department;	116075 116076 116077 116078
(e) Administering within the state any juvenile justice acts and programs that the governor requires the department to administer;	116079 116080 116081

(f) Implementing the state comprehensive plans;	116082
(g) <u>Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974," 88 Stat. 1109, as amended;</u>	116083 116084 116085 116086 116087 116088
(h) Auditing grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the department;	116089 116090 116091
(h) (i) Monitoring or evaluating the performance of juvenile justice system projects and programs in the state that are financed in whole or in part by funds granted through the department;	116092 116093 116094 116095
(i) (j) Applying for, allocating, disbursing, and accounting for grants that are made available pursuant to federal juvenile justice acts, or made available from other federal, state, or private sources, to improve the criminal and juvenile justice systems in the state. All money from federal juvenile justice act grants shall, if the terms under which the money is received require that the money be deposited into an interest bearing fund or account, be deposited in the state treasury to the credit of the federal juvenile justice program purposes fund, which is hereby created. All investment earnings shall be credited to the fund.	116096 116097 116098 116099 116100 116101 116102 116103 116104 116105 116106
(j) (k) Contracting with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the department;	116107 116108 116109
(k) (l) Overseeing the activities of metropolitan county criminal justice services agencies, administrative planning districts, and juvenile justice coordinating councils in the	116110 116111 116112

state; 116113

~~(l)~~(m) Advising the general assembly and governor on 116114
legislation and other significant matters that pertain to the 116115
improvement and reform of the juvenile justice system in the 116116
state; 116117

~~(m)~~(n) Preparing and recommending legislation to the general 116118
assembly and governor for the improvement of the juvenile justice 116119
system in the state; 116120

~~(n)~~(o) Assisting, advising, and making any reports that are 116121
required by the governor, attorney general, or general assembly; 116122

~~(o)~~(p) Adopting rules pursuant to Chapter 119. of the Revised 116123
Code. 116124

(2) Division (K)(1) of this section does not limit the 116125
discretion or authority of the attorney general with respect to 116126
crime victim assistance and criminal and juvenile justice 116127
programs. 116128

(3) Nothing in division (K)(1) of this section is intended to 116129
diminish or alter the status of the office of the attorney general 116130
as a criminal justice services agency. 116131

(4) The governor may appoint any advisory committees to 116132
assist the department that the governor considers appropriate or 116133
that are required under any state or federal law. 116134

Sec. 5139.43. (A) The department of youth services shall 116135
operate a felony delinquent care and custody program that shall be 116136
operated in accordance with the formula developed pursuant to 116137
section 5139.41 of the Revised Code, subject to the conditions 116138
specified in this section. 116139

(B)(1) Each juvenile court shall use the moneys disbursed to 116140
it by the department of youth services pursuant to division (B) of 116141
section 5139.41 of the Revised Code in accordance with the 116142

applicable provisions of division (B)(2) of this section and shall 116143
transmit the moneys to the county treasurer for deposit in 116144
accordance with this division. The county treasurer shall create 116145
in the county treasury a fund that shall be known as the felony 116146
delinquent care and custody fund and shall deposit in that fund 116147
the moneys disbursed to the juvenile court pursuant to division 116148
(B) of section 5139.41 of the Revised Code. The county treasurer 116149
also shall deposit into that fund the state subsidy funds granted 116150
to the county pursuant to section 5139.34 of the Revised Code. The 116151
moneys disbursed to the juvenile court pursuant to division (B) of 116152
section 5139.41 of the Revised Code and deposited pursuant to this 116153
division in the felony delinquent care and custody fund shall not 116154
be commingled with any other county funds except state subsidy 116155
funds granted to the county pursuant to section 5139.34 of the 116156
Revised Code; shall not be used for any capital construction 116157
projects; upon an order of the juvenile court and subject to 116158
appropriation by the board of county commissioners, shall be 116159
disbursed to the juvenile court for use in accordance with the 116160
applicable provisions of division (B)(2) of this section; shall 116161
not revert to the county general fund at the end of any fiscal 116162
year; and shall carry over in the felony delinquent care and 116163
custody fund from the end of any fiscal year to the next fiscal 116164
year. The maximum balance carry-over at the end of each respective 116165
fiscal year in the felony delinquent care and custody fund in any 116166
county from funds allocated to the county pursuant to sections 116167
5139.34 and 5139.41 of the Revised Code in the previous fiscal 116168
year shall not exceed an amount to be calculated as provided in 116169
the formula set forth in this division, unless that county has 116170
applied for and been granted an exemption by the director of youth 116171
services. Beginning June 30, 2008, the maximum balance carry-over 116172
at the end of each respective fiscal year shall be determined by 116173
the following formula: for fiscal year 2008, the maximum balance 116174
carry-over shall be one hundred per cent of the allocation for 116175

fiscal year 2007, to be applied in determining the fiscal year 116176
2009 allocation; for fiscal year 2009, it shall be fifty per cent 116177
of the allocation for fiscal year 2008, to be applied in 116178
determining the fiscal year 2010 allocation; for fiscal year 2010, 116179
it shall be twenty-five per cent of the allocation for fiscal year 116180
2009, to be applied in determining the fiscal year 2011 116181
allocation; and for each fiscal year subsequent to fiscal year 116182
2010, it shall be twenty-five per cent of the allocation for the 116183
immediately preceding fiscal year, to be applied in determining 116184
the allocation for the next immediate fiscal year. The department 116185
shall withhold from future payments to a county an amount equal to 116186
any moneys in the felony delinquent care and custody fund of the 116187
county that exceed the total maximum balance carry-over that 116188
applies for that county for the fiscal year in which the payments 116189
are being made and shall reallocate the withheld amount. The 116190
department shall adopt rules for the withholding and reallocation 116191
of moneys disbursed under sections 5139.34 and 5139.41 of the 116192
Revised Code and for the criteria and process for a county to 116193
obtain an exemption from the withholding requirement. The moneys 116194
disbursed to the juvenile court pursuant to division (B) of 116195
section 5139.41 of the Revised Code and deposited pursuant to this 116196
division in the felony delinquent care and custody fund shall be 116197
in addition to, and shall not be used to reduce, any usual annual 116198
increase in county funding that the juvenile court is eligible to 116199
receive or the current level of county funding of the juvenile 116200
court and of any programs or services for delinquent children, 116201
unruly children, or juvenile traffic offenders. 116202

(2)(a) A county and the juvenile court that serves the county 116203
shall use the moneys in its felony delinquent care and custody 116204
fund in accordance with rules that the department of youth 116205
services adopts pursuant to division (D) of section 5139.04 of the 116206
Revised Code and as follows: 116207

(i) The moneys in the fund that represent state subsidy funds 116208
granted to the county pursuant to section 5139.34 of the Revised 116209
Code shall be used to aid in the support of prevention, early 116210
intervention, diversion, treatment, and rehabilitation programs 116211
that are provided for alleged or adjudicated unruly children or 116212
delinquent children or for children who are at risk of becoming 116213
unruly children or delinquent children. The county shall not use 116214
for capital improvements more than fifteen per cent of the moneys 116215
in the fund that represent the applicable annual grant of those 116216
state subsidy funds. 116217

(ii) The moneys in the fund that were disbursed to the 116218
juvenile court pursuant to division (B) of section 5139.41 of the 116219
Revised Code and deposited pursuant to division (B)(1) of this 116220
section in the fund shall be used to provide programs and services 116221
for the training, treatment, or rehabilitation of felony 116222
delinquents that are alternatives to their commitment to the 116223
department, including, but not limited to, community residential 116224
programs, day treatment centers, services within the home, and 116225
electronic monitoring, and shall be used in connection with 116226
training, treatment, rehabilitation, early intervention, or other 116227
programs or services for any delinquent child, unruly child, or 116228
juvenile traffic offender who is under the jurisdiction of the 116229
juvenile court. 116230

The fund also may be used for prevention, early intervention, 116231
diversion, treatment, and rehabilitation programs that are 116232
provided for alleged or adjudicated unruly children, delinquent 116233
children, or juvenile traffic offenders or for children who are at 116234
risk of becoming unruly children, delinquent children, or juvenile 116235
traffic offenders. Consistent with division (B)(1) of this 116236
section, a county and the juvenile court of a county shall not use 116237
any of those moneys for capital construction projects. 116238

(iii) Moneys in the fund shall not be used to support 116239

programs or services that do not comply with federal juvenile 116240
justice and delinquency prevention core requirements or to support 116241
programs or services that research has shown to be ineffective. 116242
Moneys in the fund shall be prioritized to research-supported, 116243
outcome-based programs and services. 116244

(iv) The county and the juvenile court that serves the county 116245
may use moneys in the fund to provide out-of-home placement of 116246
children only in detention centers, community rehabilitation 116247
centers, or community corrections facilities approved by the 116248
department pursuant to standards adopted by the department, 116249
licensed by an authorized state agency, or accredited by the 116250
American correctional association or another national organization 116251
recognized by the department. 116252

(b) Each juvenile court shall comply with division (B)(3)(d) 116253
of this section as implemented by the department. If a juvenile 116254
court fails to comply with division (B)(3)(d) of this section, the 116255
department shall not be required to make any disbursements in 116256
accordance with division (C) or (D) of section 5139.41 or division 116257
(C)(2) of section 5139.34 of the Revised Code. 116258

(3) In accordance with rules adopted by the department 116259
pursuant to division (D) of section 5139.04 of the Revised Code, 116260
each juvenile court and the county served by that juvenile court 116261
shall do all of the following that apply: 116262

(a) The juvenile court shall prepare an annual grant 116263
agreement and application for funding that satisfies the 116264
requirements of this section and section 5139.34 of the Revised 116265
Code and that pertains to the use, upon an order of the juvenile 116266
court and subject to appropriation by the board of county 116267
commissioners, of the moneys in its felony delinquent care and 116268
custody fund for specified programs, care, and services as 116269
described in division (B)(2)(a) of this section, shall submit that 116270
agreement and application to the county family and children first 116271

council, the regional family and children first council, or the 116272
local intersystem services to children cluster as described in 116273
sections 121.37 and 121.38 of the Revised Code, whichever is 116274
applicable, and shall file that agreement and application with the 116275
department for its approval. The annual grant agreement and 116276
application for funding shall include a method of ensuring equal 116277
access for minority youth to the programs, care, and services 116278
specified in it. 116279

The department may approve an annual grant agreement and 116280
application for funding only if the juvenile court involved has 116281
complied with the preparation, submission, and filing requirements 116282
described in division (B)(3)(a) of this section. If the juvenile 116283
court complies with those requirements and the department approves 116284
that agreement and application, the juvenile court and the county 116285
served by the juvenile court may expend the state subsidy funds 116286
granted to the county pursuant to section 5139.34 of the Revised 116287
Code only in accordance with division (B)(2)(a) of this section, 116288
the rules pertaining to state subsidy funds that the department 116289
adopts pursuant to division (D) of section 5139.04 of the Revised 116290
Code, and the approved agreement and application. 116291

(b) By the thirty-first day of August of each year, the 116292
juvenile court shall file with the department a report that 116293
contains all of the statistical and other information for each 116294
month of the prior state fiscal year. If the juvenile court fails 116295
to file the report required by division (B)(3)(b) of this section 116296
by the thirty-first day of August of any year, the department 116297
shall not disburse any payment of state subsidy funds to which the 116298
county otherwise is entitled pursuant to section 5139.34 of the 116299
Revised Code and shall not disburse pursuant to division (B) of 116300
section 5139.41 of the Revised Code the applicable allocation 116301
until the juvenile court fully complies with division (B)(3)(b) of 116302
this section. 116303

(c) If the department requires the juvenile court to prepare 116304
monthly statistical reports and to submit the reports on forms 116305
provided by the department, the juvenile court shall file those 116306
reports with the department on the forms so provided. If the 116307
juvenile court fails to prepare and submit those monthly 116308
statistical reports within the department's timelines, the 116309
department shall not disburse any payment of state subsidy funds 116310
to which the county otherwise is entitled pursuant to section 116311
5139.34 of the Revised Code and shall not disburse pursuant to 116312
division (B) of section 5139.41 of the Revised Code the applicable 116313
allocation until the juvenile court fully complies with division 116314
(B)(3)(c) of this section. If the juvenile court fails to prepare 116315
and submit those monthly statistical reports within one hundred 116316
eighty days of the date the department establishes for their 116317
submission, the department shall not disburse any payment of state 116318
subsidy funds to which the county otherwise is entitled pursuant 116319
to section 5139.34 of the Revised Code and shall not disburse 116320
pursuant to division (B) of section 5139.41 of the Revised Code 116321
the applicable allocation, and the state subsidy funds and the 116322
remainder of the applicable allocation shall revert to the 116323
department. If a juvenile court states in a monthly statistical 116324
report that the juvenile court adjudicated within a state fiscal 116325
year five hundred or more children to be delinquent children for 116326
committing acts that would be felonies if committed by adults and 116327
if the department determines that the data in the report may be 116328
inaccurate, the juvenile court shall have an independent auditor 116329
or other qualified entity certify the accuracy of the data on a 116330
date determined by the department. 116331

(d) If the department requires the juvenile court and the 116332
county to participate in a fiscal monitoring program or another 116333
monitoring program that is conducted by the department to ensure 116334
compliance by the juvenile court and the county with division (B) 116335
of this section, the juvenile court and the county shall 116336

participate in the program and fully comply with any guidelines 116337
for the performance of audits adopted by the department pursuant 116338
to that program and all requests made by the department pursuant 116339
to that program for information necessary to reconcile fiscal 116340
accounting. If an audit that is performed pursuant to a fiscal 116341
monitoring program or another monitoring program described in this 116342
division determines that the juvenile court or the county used 116343
moneys in the county's felony delinquent care and custody fund for 116344
expenses that are not authorized under division (B) of this 116345
section, within forty-five days after the department notifies the 116346
county of the unauthorized expenditures, the county either shall 116347
repay the amount of the unauthorized expenditures from the county 116348
general revenue fund to the state's general revenue fund or shall 116349
file a written appeal with the department. If an appeal is timely 116350
filed, the director of the department shall render a decision on 116351
the appeal and shall notify the appellant county or its juvenile 116352
court of that decision within forty-five days after the date that 116353
the appeal is filed. If the director denies an appeal, the 116354
county's fiscal agent shall repay the amount of the unauthorized 116355
expenditures from the county general revenue fund to the state's 116356
general revenue fund within thirty days after receiving the 116357
director's notification of the appeal decision. 116358

(C) The determination of which county a reduction of the care 116359
and custody allocation will be charged against for a particular 116360
youth shall be made as outlined below for all youths who do not 116361
qualify as public safety beds. The determination of which county a 116362
reduction of the care and custody allocation will be charged 116363
against shall be made as follows until each youth is released: 116364

(1) In the event of a commitment, the reduction shall be 116365
charged against the committing county. 116366

(2) In the event of a recommitment, the reduction shall be 116367
charged against the original committing county until the 116368

expiration of the minimum period of institutionalization under the 116369
original order of commitment or until the date on which the youth 116370
is admitted to the department of youth services pursuant to the 116371
order of recommitment, whichever is later. Reductions of the 116372
allocation shall be charged against the county that recommitted 116373
the youth after the minimum expiration date of the original 116374
commitment. 116375

(3) In the event of a revocation of a release on parole, the 116376
reduction shall be charged against the county that revokes the 116377
youth's parole. 116378

(D) A juvenile court is not precluded by its allocation 116379
amount for the care and custody of felony delinquents from 116380
committing a felony delinquent to the department of youth services 116381
for care and custody in an institution or a community corrections 116382
facility when the juvenile court determines that the commitment is 116383
appropriate. 116384

Sec. 5310.35. The board of county commissioners shall conduct 116385
the public hearing required by section 5310.33 of the Revised Code 116386
in accordance with this section. 116387

(A)(1) The board shall prepare a notice of the hearing that 116388
includes each of the following: 116389

(a) A statement that the board is considering abolishing land 116390
registration in the county, that abolition would require the 116391
deregistration of all registered land in the county, and that 116392
after abolition all land in the county would have to be dealt with 116393
as nonregistered land; 116394

(b) A statement that the board seeks evidence with regard to 116395
the matters listed in section 5310.34 of the Revised Code; 116396

(c) The date, time, and place of the hearing, which shall be 116397
not earlier than two nor later than three months after the 116398

resolution to consider the merits of abolishing land registration 116399
was adopted by the board; 116400

(d) A statement that any person affected by the proposed 116401
abolition of land registration may appear at the hearing and 116402
present evidence as provided in division (B) of this section. 116403

(2) The board shall serve the notice by both of the following 116404
means: 116405

(a) Ordinary mail, evidenced by a certificate of mailing, 116406
addressed to each person from whom a receipt or signature card, 116407
giving residence and post-office address, has been taken by the 116408
county recorder under section 5309.30 or 5309.50 of the Revised 116409
Code, and to each person who has filed an affidavit with the 116410
county recorder under section 5309.72 of the Revised Code. The 116411
county recorder, within one month after the adoption of a 116412
resolution to consider the merits of abolishing land registration 116413
in the county, shall provide the board with the names and 116414
respective addresses of the persons who are entitled to notice 116415
under this division. 116416

If a notice is returned with an endorsement showing failure 116417
of delivery, the board is under no further obligation to directly 116418
serve the notice upon the addressee. The board shall preserve the 116419
returned notice in the records pertaining to its consideration of 116420
the merits of abolishing land registration in the county. 116421

(b) Publication twice a week for two consecutive weeks in a 116422
newspaper of general circulation in the county or as provided in 116423
section 7.16 of the Revised Code. Publication of the notice shall 116424
be completed at least one month prior to the date set for the 116425
hearing. 116426

(B) At the date, time, and place specified in the notice, the 116427
board shall conduct a hearing, which may be adjourned from day to 116428
day until complete, at which any person affected by the proposed 116429

abolition of land registration may appear in person, by ~~his~~ 116430
attorney, or both, and present evidence, orally or in writing, 116431
with regard to the costs and benefits of maintaining land 116432
registration in the county. Any person who presents evidence may 116433
also present evidence refuting any evidence offered in opposition 116434
to ~~his~~ the person's evidence. 116435

The board shall cause a stenographic record to be made of the 116436
hearing. The president of the board, or a member ~~he~~ the president 116437
designates, shall preside at the hearing. 116438

Sec. 5321.01. As used in this chapter: 116439

(A) "Tenant" means a person entitled under a rental agreement 116440
to the use and occupancy of residential premises to the exclusion 116441
of others. 116442

(B) "Landlord" means the owner, lessor, or sublessor of 116443
residential premises, the agent of the owner, lessor, or 116444
sublessor, or any person authorized by the owner, lessor, or 116445
sublessor to manage the premises or to receive rent from a tenant 116446
under a rental agreement. 116447

(C) "Residential premises" means a dwelling unit for 116448
residential use and occupancy and the structure of which it is a 116449
part, the facilities and appurtenances in it, and the grounds, 116450
areas, and facilities for the use of tenants generally or the use 116451
of which is promised the tenant. "Residential premises" includes a 116452
dwelling unit that is owned or operated by a college or 116453
university. "Residential premises" does not include any of the 116454
following: 116455

(1) Prisons, jails, workhouses, and other places of 116456
incarceration or correction, including, but not limited to, 116457
halfway houses or residential arrangements that are used or 116458
occupied as a requirement of a community control sanction, a 116459

post-release control sanction, or parole;	116460
(2) Hospitals and similar institutions with the primary purpose of providing medical services, and homes licensed pursuant to Chapter 3721. of the Revised Code;	116461 116462 116463
(3) Tourist homes, hotels, motels, recreational vehicle parks, recreation camps, combined park-camps, temporary park-camps, and other similar facilities where circumstances indicate a transient occupancy;	116464 116465 116466 116467
(4) Elementary and secondary boarding schools, where the cost of room and board is included as part of the cost of tuition;	116468 116469
(5) Orphanages and similar institutions;	116470
(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants;	116471 116472 116473
(7) Dwelling units subject to sections 3733.41 to 3733.49 <u>3733.43</u> of the Revised Code;	116474 116475
(8) Occupancy by an owner of a condominium unit;	116476
(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:	116477 116478 116479 116480 116481 116482 116483
(a) The occupancy is for a period of less than sixty days.	116484
(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:	116485 116486 116487 116488
(i) Services licensed, certified, registered, or approved by	116489

a governmental agency or private accrediting organization for the 116490
rehabilitation of mentally ill persons, developmentally disabled 116491
persons, adults or juveniles convicted of criminal offenses, or 116492
persons suffering from substance abuse; 116493

(ii) Shelter for juvenile runaways, victims of domestic 116494
violence, or homeless persons. 116495

(10) Emergency shelters operated by organizations exempt from 116496
federal income taxation under section 501(c)(3) of the "Internal 116497
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as 116498
amended, for persons whose circumstances indicate a transient 116499
occupancy, including homeless people, victims of domestic 116500
violence, and juvenile runaways. 116501

(D) "Rental agreement" means any agreement or lease, written 116502
or oral, which establishes or modifies the terms, conditions, 116503
rules, or any other provisions concerning the use and occupancy of 116504
residential premises by one of the parties. 116505

(E) "Security deposit" means any deposit of money or property 116506
to secure performance by the tenant under a rental agreement. 116507

(F) "Dwelling unit" means a structure or the part of a 116508
structure that is used as a home, residence, or sleeping place by 116509
one person who maintains a household or by two or more persons who 116510
maintain a common household. 116511

(G) "Controlled substance" has the same meaning as in section 116512
3719.01 of the Revised Code. 116513

(H) "Student tenant" means a person who occupies a dwelling 116514
unit owned or operated by the college or university at which the 116515
person is a student, and who has a rental agreement that is 116516
contingent upon the person's status as a student. 116517

(I) "Recreational vehicle park," "recreation camp," "combined 116518
park-camp," and "temporary park-camp" have the same meanings as in 116519

section 3729.01 of the Revised Code. 116520

(J) "Community control sanction" has the same meaning as in 116521
section 2929.01 of the Revised Code. 116522

(K) "Post-release control sanction" has the same meaning as 116523
in section 2967.01 of the Revised Code. 116524

(L) "School premises" has the same meaning as in section 116525
2925.01 of the Revised Code. 116526

(M) "Sexually oriented offense" and "child-victim oriented 116527
offense" have the same meanings as in section 2950.01 of the 116528
Revised Code. 116529

(N) "Preschool or child day-care center premises" has the ~~the~~ 116530
same meaning as in section 2950.034 of the Revised Code. 116531

Sec. 5501.44. (A) The Notwithstanding section 5735.27 of the 116532
Revised Code, the director of transportation, when ~~he deems the~~ 116533
director determines it in the interest of the welfare and safety 116534
of the citizens of Ohio, may enter into agreements with other 116535
states or subdivisions thereof or the United States relative to 116536
the cooperation in the repair, maintenance, or construction of a 116537
~~toll-free~~ bridge crossing a stream that forms a boundary line of 116538
this state, and may expend state highway funds for said purpose. 116539

(1) No such agreement shall be made that obligates this state 116540
to expend more than the cost of the construction of such portion 116541
of said bridge as is located within the state, and not more than 116542
fifty per cent of the cost of maintenance of any such bridge, and 116543
no such agreement shall be made that obligates the state in excess 116544
of three hundred thousand dollars in any one year for maintenance. 116545

(2) Notwithstanding division (A)(1) of this section, the 116546
director may expend funds for the design, construction, 116547
inspection, maintenance, repair, and replacement of bridge and 116548
bridge approaches for the bridge that were transferred from the 116549

Ohio bridge commission to the control of the state of Ohio, 116550
department of transportation, as provided in Section 4 of Amended 116551
Substitute House Bill No. 98 of the 114th general assembly. 116552
Following the replacement of that bridge, the director may expend 116553
funds for the design, construction, inspection, maintenance, 116554
repair, and replacement of bridge and bridge approaches. 116555

(3) Any such agreements shall be approved by the governor and 116556
attorney general of the state before they become effective. 116557

(4) Each agreement entered into shall designate 116558
responsibility for inspection, provide for annual inspection, and 116559
require that a report of each inspection be filed with the 116560
department of transportation. The director, with regard to all 116561
existing bridges or other bridges on a stream that forms a 116562
boundary line of this state, shall take all reasonable measures to 116563
obtain and to secure the filing of a copy of each inspection 116564
report for each bridge with the department of transportation. 116565

(5) The department, upon hearing that a ~~toll-free~~ bridge 116566
across the Ohio river is scheduled to be closed by a contiguous 116567
state, shall make all reasonable efforts to notify the Ohio 116568
residents likely to be adversely affected by that closing. The 116569
department also shall cooperate and communicate with contiguous 116570
states in trying to resolve bridge closing problems. 116571

(B)(1) The director, when ~~he~~ the director considers it in the 116572
interest of the welfare and safety of the citizens of Ohio, may 116573
enter into agreements with other states, subdivisions thereof, 116574
metropolitan planning organizations, or the United States, 116575
relative to the design, construction, operation, maintenance, and 116576
repair of a regional traffic management system, and may expend 116577
state and federal highway funds for such purposes, notwithstanding 116578
any other provision of the Revised Code. 116579

(2) No such agreement shall be made that obligates this state 116580

to expend more than the cost of construction of such portion of a 116581
regional traffic management system as is located within the state, 116582
and not more than a proportional amount, based upon the system 116583
presence in this state, for costs of design, operation, 116584
maintenance, and repair. 116585

(3) Any such agreements shall be approved by the governor and 116586
attorney general of the state before they become effective. 116587

(4) As used in division (B) of this section, "regional 116588
traffic management system" means an integrated, high-technology 116589
system to provide remote control center surveillance and 116590
monitoring of the regional freeways and main arterial routes in 116591
order to reduce and eliminate major backups and delays to 116592
motorists in the area. 116593

Sec. 5501.73. (A) After selecting a solicited or unsolicited 116594
proposal for a public-private initiative, the department of 116595
transportation shall enter into a public-private agreement for a 116596
transportation facility with the selected private entity or any 116597
configuration of private entities. An affected jurisdiction may be 116598
a party to a public-private agreement entered into by the 116599
department and a selected private entity or combination of private 116600
entities. 116601

(B) A public-private agreement under this section shall 116602
provide for all of the following: 116603

(1) Planning, acquisition, financing, development, design, 116604
construction, reconstruction, replacement, improvement, 116605
maintenance, management, repair, leasing, or operation of a 116606
transportation facility; 116607

(2) Term of the public-private agreement, ~~subject to division~~ 116608
~~(D) of this section;~~ 116609

(3) Type of property interest, if any, the private entity 116610

will have in the transportation facility;	116611
(4) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;	116612 116613 116614 116615
(5) Whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified;	116616 116617 116618
(6) Compliance with applicable federal, state, and local laws;	116619 116620
(7) Grounds for termination of the public-private agreement by the department or operator;	116621 116622
(8) Disposition of the facility upon completion of the agreement;	116623 116624
(9) Procedures for amendment of the agreement.	116625
(C) A public-private agreement under this section may provide for any of the following:	116626 116627
(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;	116628 116629 116630
(2) Inspection by the department of construction of or improvements to the transportation facility;	116631 116632
(3) Maintenance by the operator of a policy of liability insurance or self-insurance;	116633 116634
(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;	116635 116636 116637
(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;	116638 116639

(6) Financing obligations of the operator and the department;	116640
(7) Apportionment of expenses between the operator and the department;	116641 116642
(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;	116643 116644 116645
(9) Rights and remedies available in the event of default or delay;	116646 116647
(10) Terms and conditions of indemnification of the operator by the department;	116648 116649
(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;	116650 116651 116652 116653
(12) Sale or lease to the operator of private property related to the transportation facility;	116654 116655
(13) Traffic enforcement and other policing issues, including any reimbursement by the private entity for such services.	116656 116657
(D) Any public private agreement entered into under this section may be for a period not to exceed the then current two year period for which appropriations have been made by the general assembly to the department; provided, that any agreement may be renewed for succeeding two year periods when the general assembly enacts sufficient appropriations to the department for each successive biennium. Any such agreement may include, without limitation, any agreement by the department with respect to any costs of transportation facilities to be included prior to acquisition and construction of such transportation facilities. Any such agreement shall not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of	116658 116659 116660 116661 116662 116663 116664 116665 116666 116667 116668 116669

~~the state, and the operator shall have no right to have taxes or
excises levied by the general assembly, or the taxing authority of
any political subdivision of the state, for payments under the
agreement. Any such agreement shall contain a statement to that
effect.~~

~~(E)~~ No public-private agreement entered into under this
section shall be construed to transfer to a private entity the
director's authority to appropriate property under Chapters 163.,
5501., and 5519. of the Revised Code.

Sec. 5502.52. (A) There is hereby created the statewide
emergency alert program to aid in the identification and location
of children who are under eighteen years of age, who are abducted,
and whose abduction, as determined by a law enforcement agency,
poses a credible threat of immediate danger of serious bodily harm
or death to a child. The program shall be a coordinated effort
among the governor's office, the department of public safety, the
attorney general, law enforcement agencies, the state's public and
commercial television and radio broadcasters, and others as deemed
necessary by the governor.

(B) The statewide emergency alert program shall not be
implemented unless all of the following activation criteria are
met:

(1) The local investigating law enforcement agency confirms
that an abduction has occurred.

(2) An abducted child is under eighteen years of age.

(3) The abduction poses a credible threat of immediate danger
of serious bodily harm or death to a child.

(4) A law enforcement agency determines that the child is not
a runaway and has not been abducted as a result of a child custody
dispute, unless the dispute poses a credible threat of immediate

danger of serious bodily harm or death to the child. 116700

(5) There is sufficient descriptive information about the 116701
child, the abductor, and the circumstances surrounding the 116702
abduction to indicate that activation of the alert will help 116703
locate the child. 116704

(C) Nothing in division (B) of this section prevents the 116705
activation of a local or regional emergency alert program that may 116706
impose different criteria for the activation of a local or 116707
regional plan. 116708

(D) Any radio broadcast station, television broadcast 116709
station, or cable television system participating in the statewide 116710
emergency alert program or in any local or regional emergency 116711
alert program, and any director, officer, employee, or agent of 116712
any such station or system, shall not be liable to any person for 116713
damages for any loss allegedly caused by or resulting from the 116714
station's or system's broadcast or cablecast of, or failure to 116715
broadcast or cablecast, any information pursuant to the statewide 116716
emergency alert program or the local or regional emergency alert 116717
program. 116718

(E) No person shall knowingly make a false report that a 116719
child has been abducted and that leads to the implementation of 116720
the statewide emergency alert program created under this section 116721
or that leads to the implementation of a local or regional 116722
emergency alert program. Whoever violates this division is guilty 116723
of a felony of the fourth degree. 116724

(F) As used in this section: 116725

(1) "Abducted child" means a child for whom there is credible 116726
evidence to believe that the child has been abducted in violation 116727
of section 2905.01, 2905.02, 2905.03, or 2905.05 of the Revised 116728
Code. 116729

(2) "Cable television system" means a cable system, as 116730

defined in section 2913.04 of the Revised Code. 116731

(3) "Law enforcement agency" includes, but is not limited to, 116732
a county sheriff's office, the office of a village marshal, a 116733
police department of a municipal corporation, a police force of a 116734
regional transit authority, a police force of a metropolitan 116735
housing authority, the state highway patrol, a state university 116736
law enforcement agency, the office of a township police constable, 116737
and the police department of a township or joint township police 116738
district. 116739

Sec. 5502.522. (A) There is hereby created the statewide 116740
emergency alert program to aid in the identification and location 116741
of any individual who has a mental impairment or is sixty-five 116742
years of age or older, who is or is believed to be a temporary or 116743
permanent resident of this state, is at a location that cannot be 116744
determined by an individual familiar with the missing individual, 116745
and is incapable of returning to the missing individual's 116746
residence without assistance, and whose disappearance, as 116747
determined by a law enforcement agency, poses a credible threat of 116748
immediate danger of serious bodily harm or death to the missing 116749
individual. The program shall be a coordinated effort among the 116750
governor's office, the department of public safety, the attorney 116751
general, law enforcement agencies, the state's public and 116752
commercial television and radio broadcasters, and others as 116753
determined necessary by the governor. No name shall be given to 116754
the program created under this division that conflicts with any 116755
alert code standards that are required by federal law and that 116756
govern the naming of emergency alert programs. 116757

(B) The statewide emergency alert program shall not be 116758
implemented unless all of the following activation criteria are 116759
met: 116760

(1) The local investigating law enforcement agency confirms 116761

that the individual is missing. 116762

(2) The individual is sixty-five years of age or older or has 116763
a mental impairment. 116764

(3) The disappearance of the individual poses a credible 116765
threat of immediate danger of serious bodily harm or death to the 116766
individual. 116767

(4) There is sufficient descriptive information about the 116768
individual and the circumstances surrounding the individual's 116769
disappearance to indicate that activation of the alert will help 116770
locate the individual. 116771

(C) Nothing in division (B) of this section prevents the 116772
activation of a local or regional emergency alert program that may 116773
impose different criteria for the activation of a local or 116774
regional plan. 116775

(D) Any radio broadcast station, television broadcast 116776
station, or cable system participating in the statewide emergency 116777
alert program or in any local or regional emergency alert program, 116778
and any director, officer, employee, or agent of any station or 116779
system participating in either type of alert program, shall not be 116780
liable to any person for damages for any loss allegedly caused by 116781
or resulting from the station's or system's broadcast or cablecast 116782
of, or failure to broadcast or cablecast, any information pursuant 116783
to the statewide emergency alert program or the local or regional 116784
emergency alert program. 116785

(E) A local investigating law enforcement agency shall not be 116786
required to notify the statewide emergency alert program that the 116787
law enforcement agency has received information that meets the 116788
activation criteria set forth in division (B) of this section 116789
during the first twenty-four hours after the law enforcement 116790
agency receives the information. 116791

(F) Nothing in this section shall be construed to authorize 116792

the use of the federal emergency alert system unless otherwise 116793
authorized by federal law. 116794

(G) As used in this section: 116795

(1) "Cable system" has the same meaning as in section 2913.04 116796
of the Revised Code. 116797

(2) "Law enforcement agency" includes, but is not limited to, 116798
a county sheriff's office, the office of a village marshal, a 116799
police department of a municipal corporation, a police force of a 116800
regional transit authority, a police force of a metropolitan 116801
housing authority, the state highway patrol, a state university 116802
law enforcement agency, the office of a township police constable, 116803
and the police department of a township or joint ~~township~~ police 116804
district. 116805

(3) "Mental impairment" means a substantial disorder of 116806
thought, mood, perception, orientation, or memory that grossly 116807
impairs judgment, behavior, or ability to live independently or 116808
provide self-care as certified by a licensed physician, 116809
psychiatrist, or psychologist. 116810

Sec. 5502.61. As used in sections 5502.61 to 5502.66 of the 116811
Revised Code: 116812

(A) "Federal criminal justice acts" means any federal law 116813
that authorizes financial assistance and other forms of assistance 116814
to be given by the federal government to the states to be used for 116815
the improvement of the criminal and juvenile justice systems of 116816
the states. 116817

(B)(1) "Criminal justice system" includes all of the 116818
functions of the following: 116819

(a) The state highway patrol, county sheriff offices, 116820
municipal and township police departments, and all other law 116821
enforcement agencies; 116822

(b) The courts of appeals, courts of common pleas, municipal courts, county courts, and mayor's courts, when dealing with criminal cases;

(c) The prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases, and the county and joint county public defenders and other public defender agencies or offices;

(d) The department of rehabilitation and correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders;

(e) Any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders;

(f) Any public or private agency, the purposes of which include assistance to crime victims or witnesses.

(2) The inclusion of any public or private agency, the purposes of which include assistance to crime victims or witnesses, as part of the criminal justice system pursuant to division (B)(1) of this section does not limit, and shall not be construed as limiting, the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.

(C) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

(D) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year

basis, any of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions may include, but are not limited to, any of the following:

(1) Crime and delinquency prevention;

(2) Identification, detection, apprehension, and detention of persons charged with criminal offenses or delinquent acts;

(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;

(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;

(5) Custodial treatment of criminal offenders, delinquent children, or both;

(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.

(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 5502.64 of the Revised Code.

(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 5502.66 of the Revised Code.

(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 5502.66 of the Revised Code.

(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a

city or village council, judge of the court of common pleas, a 116884
municipal court, or a county court, sheriff, county coroner, 116885
prosecuting attorney, city director of law, village solicitor, or 116886
mayor. 116887

(I) "Juvenile justice coordinating council" means a juvenile 116888
justice services agency that is established pursuant to division 116889
(D) of section 5502.66 of the Revised Code. 116890

(J) "Mcgruff house program" means a program in which 116891
individuals or families volunteer to have their homes or other 116892
buildings serve as places of temporary refuge for children and to 116893
display the mcgruff house symbol identifying the home or building 116894
as that type of place. 116895

(K) "Mcgruff house symbol" means the symbol that is 116896
characterized by the image of "mcgruff," the crime dog, and the 116897
slogan "take a bite out of crime," and that has been adopted by 116898
the national crime prevention council as the symbol of its 116899
national citizens' crime prevention campaign. 116900

(L) "Sponsoring agency" means any of the following: 116901

(1) The board of education of any city, local, or exempted 116902
village school district; 116903

(2) The governing board of any educational service center; 116904

(3) The governing authority of any chartered nonpublic 116905
school; 116906

(4) The police department of any municipal corporation, 116907
township, township police district, or joint ~~township~~ police 116908
district; 116909

(5) The office of any township constable or county sheriff. 116910

Sec. 5502.68. (A) There is hereby created in the state 116911
treasury the drug law enforcement fund. Ninety-seven per cent of 116912

three dollars and fifty cents out of each ten-dollar court cost 116913
imposed pursuant to section 2949.094 of the Revised Code shall be 116914
credited to the fund. Money in the fund shall be used only in 116915
accordance with this section to award grants to counties, 116916
municipal corporations, townships, township police districts, and 116917
joint ~~township~~ police districts to defray the expenses that a drug 116918
task force organized in the county, or in the county in which the 116919
municipal corporation, township, or district is located, incurs in 116920
performing its functions related to the enforcement of the state's 116921
drug laws and other state laws related to illegal drug activity. 116922

116923

The division of criminal justice services shall administer 116924
all money deposited into the drug law enforcement fund and, by 116925
rule adopted under Chapter 119. of the Revised Code, shall 116926
establish procedures for a county, municipal corporation, 116927
township, township police district, or joint ~~township~~ police 116928
district to apply for money from the fund to defray the expenses 116929
that a drug task force organized in the county, or in the county 116930
in which the municipal corporation, township, or district is 116931
located, incurs in performing its functions related to the 116932
enforcement of the state's drug laws and other state laws related 116933
to illegal drug activity, procedures and criteria for determining 116934
eligibility of applicants to be provided money from the fund, and 116935
procedures and criteria for determining the amount of money to be 116936
provided out of the fund to eligible applicants. 116937

(B) The procedures and criteria established under division 116938
(A) of this section for applying for money from the fund shall 116939
include, but shall not be limited to, a provision requiring a 116940
county, municipal corporation, township, township police district, 116941
or joint ~~township~~ police district that applies for money from the 116942
fund to specify in its application the amount of money desired 116943
from the fund, provided that the cumulative amount requested in 116944

all applications submitted for any single drug task force may not 116945
exceed more than two hundred fifty thousand dollars in any 116946
calendar year for that task force. 116947

(C) The procedures and criteria established under division 116948
(A) of this section for determining eligibility of applicants to 116949
be provided money from the fund and for determining the amount of 116950
money to be provided out of the fund to eligible applicants shall 116951
include, but not be limited to, all of the following: 116952

(1) Provisions requiring that, in order to be eligible to be 116953
provided money from the fund, a drug task force that applies for 116954
money from the fund must provide evidence that the drug task force 116955
will receive a local funding match of at least twenty-five per 116956
cent of the task force's projected operating costs in the period 116957
of time covered by the grant; 116958

(2) Provisions requiring that money from the fund be 116959
allocated and provided to drug task forces that apply for money 116960
from the fund in accordance with the following priorities: 116961

(a) Drug task forces that apply, that are in existence on the 116962
date of the application, and that are determined to be eligible 116963
applicants, and to which either of the following applies shall be 116964
given first priority to be provided money from the fund: 116965

(i) Drug task forces that received funding through the 116966
division of criminal justice services in calendar year 2007; 116967

(ii) Drug task forces in a county that has a population that 116968
exceeds seven hundred fifty thousand. 116969

(b) If any moneys remain in the fund after all drug task 116970
forces that apply, that are in existence on the date of the 116971
application, that are determined to be eligible applicants, and 116972
that satisfy the criteria set forth in division (C)(2)(a)(i) or 116973
(ii) of this section are provided money from the fund as described 116974
in division (C)(2)(a) of this section, the following categories of 116975

drug task forces that apply and that are determined to be eligible 116976
applicants shall be given priority to be provided money from the 116977
fund in the order in which they apply for money from the fund: 116978

(i) Drug task forces that are not in existence on the date of 116979
the application; 116980

(ii) Drug task forces that are in existence on the date of 116981
the application but that do not satisfy the criteria set forth in 116982
division (C)(2)(a)(i) or (ii) of this section. 116983

(D) The procedures and criteria established under division 116984
(A) of this section for determining the amount of money to be 116985
provided out of the fund to eligible applicants shall include, but 116986
shall not be limited to, a provision specifying that the 116987
cumulative amount provided to any single drug task force may not 116988
exceed more than two hundred fifty thousand dollars in any 116989
calendar year. 116990

(E) As used in this section, "drug task force" means a drug 116991
task force organized in any county by the sheriff of the county, 116992
the prosecuting attorney of the county, the chief of police of the 116993
organized police department of any municipal corporation or 116994
township in the county, and the chief of police of the police 116995
force of any township police district or joint ~~township~~ police 116996
district in the county to perform functions related to the 116997
enforcement of state drug laws and other state laws related to 116998
illegal drug activity. 116999

Sec. 5505.04. (A)(1) The general administration and 117000
management of the state highway patrol retirement system and the 117001
making effective of this chapter are hereby vested in the state 117002
highway patrol retirement board. The board may sue and be sued, 117003
plead and be impleaded, contract and be contracted with, and do 117004
all things necessary to carry out this chapter. 117005

The board shall consist of the following members: 117006

(a) The superintendent of the state highway patrol; 117007

(b) Two retirant members who reside in this state; 117008

(c) Five employee-members; 117009

(d) One member, known as the treasurer of state's investment 117010
designee, who shall be appointed by the treasurer of state for a 117011
term of four years and who shall have the following 117012
qualifications: 117013

(i) The member is a resident of this state. 117014

(ii) Within the three years immediately preceding the 117015
appointment, the member has not been employed by the public 117016
employees retirement system, police and fire pension fund, state 117017
teachers retirement system, school employees retirement system, or 117018
state highway patrol retirement system or by any person, 117019
partnership, or corporation that has provided to one of those 117020
retirement systems services of a financial or investment nature, 117021
including the management, analysis, supervision, or investment of 117022
assets. 117023

(iii) The member has direct experience in the management, 117024
analysis, supervision, or investment of assets. 117025

(iv) The member is not currently employed by the state or a 117026
political subdivision of the state. 117027

(e) Two investment expert members, who shall be appointed to 117028
four-year terms. One investment expert member shall be appointed 117029
by the governor, and one investment expert member shall be jointly 117030
appointed by the speaker of the house of representatives and the 117031
president of the senate. Each investment expert member shall have 117032
the following qualifications: 117033

(i) Each investment expert member shall be a resident of this 117034
state. 117035

(ii) Within the three years immediately preceding the 117036
appointment, each investment expert member shall not have been 117037
employed by the public employees retirement system, police and 117038
fire pension fund, state teachers retirement system, school 117039
employees retirement system, or state highway patrol retirement 117040
system or by any person, partnership, or corporation that has 117041
provided to one of those retirement systems services of a 117042
financial or investment nature, including the management, 117043
analysis, supervision, or investment of assets. 117044

(iii) Each investment expert member shall have direct 117045
experience in the management, analysis, supervision, or investment 117046
of assets. 117047

(2) The board shall annually elect a chairperson and 117048
vice-chairperson from among its members. The vice-chairperson 117049
shall act as chairperson in the absence of the chairperson. A 117050
majority of the members of the board shall constitute a quorum and 117051
any action taken shall be approved by a majority of the members of 117052
the board. The board shall meet not less than once each year, upon 117053
sufficient notice to the members. All meetings of the board shall 117054
be open to the public except executive sessions as set forth in 117055
division (G) of section 121.22 of the Revised Code, and any 117056
portions of any sessions discussing medical records or the degree 117057
of disability of a member excluded from public inspection by this 117058
section. 117059

(3) Any investment expert member appointed to fill a vacancy 117060
occurring prior to the expiration of the term for which the 117061
member's predecessor was appointed holds office until the end of 117062
such term. The member continues in office subsequent to the 117063
expiration date of the member's term until the member's successor 117064
takes office, or until a period of sixty days has elapsed, 117065
whichever occurs first. 117066

(B) The attorney general shall prescribe procedures for the 117067

adoption of rules authorized under this chapter, consistent with 117068
the provision of section 111.15 of the Revised Code under which 117069
all rules shall be filed in order to be effective. Such procedures 117070
shall establish methods by which notice of proposed rules are 117071
given to interested parties and rules adopted by the board 117072
published and otherwise made available. When it files a rule with 117073
the joint committee on agency rule review pursuant to section 117074
111.15 of the Revised Code, the board shall submit to the Ohio 117075
retirement study council a copy of the full text of the rule, and 117076
if applicable, a copy of the rule summary and fiscal analysis 117077
required by division (B) of section 127.18 of the Revised Code. 117078

(C)(1) As used in this division, "personal history record" 117079
means information maintained by the board on an individual who is 117080
a member, former member, retirant, or beneficiary that includes 117081
the address, telephone number, social security number, record of 117082
contributions, correspondence with the system, and other 117083
information the board determines to be confidential. 117084

(2) The records of the board shall be open to public 117085
inspection, except for the following which shall be excluded: the 117086
member's, former member's, retirant's, or beneficiary's personal 117087
history record and the amount of a monthly allowance or benefit 117088
paid to a retirant, beneficiary, or survivor, except with the 117089
written authorization of the individual concerned. 117090

(D) All medical reports and recommendations are privileged 117091
except as follows: 117092

(1) Copies of such medical reports or recommendations shall 117093
be made available to the individual's personal physician, 117094
attorney, or authorized agent upon written release received from 117095
such individual or such individual's agent, or when necessary for 117096
the proper administration of the fund to the board-assigned 117097
physician. 117098

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section. 117099
117100
117101

(E) Notwithstanding the exceptions to public inspection in division (C)(2) of this section, the board may furnish the following information: 117102
117103
117104

(1) If a member, former member, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record. 117105
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(2) Pursuant to a court order issued under Chapters 3119., 3121., and 3123. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under those chapters. 117113
117114
117115
117116

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity. 117117
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(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 117127
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5101.181 of the Revised Code, the board shall inform the auditor 117130
of state of the name, current or most recent employer address, and 117131
social security number of each member whose name and social 117132
security number are the same as those of a person whose name or 117133
social security number was submitted by the director. The board 117134
and its employees, except for purposes of furnishing the auditor 117135
of state with information required by this section, shall preserve 117136
the confidentiality of recipients of public assistance in 117137
compliance with ~~division (A)~~ of section 5101.181 of the Revised 117138
Code. 117139

(5) The system shall comply with orders issued under section 117140
3105.87 of the Revised Code. 117141

On the written request of an alternate payee, as defined in 117142
section 3105.80 of the Revised Code, the system shall furnish to 117143
the alternate payee information on the amount and status of any 117144
amounts payable to the alternate payee under an order issued under 117145
section 3105.171 or 3105.65 of the Revised Code. 117146

(6) At the request of any person, the board shall make 117147
available to the person copies of all documents, including 117148
resumes, in the board's possession regarding filling a vacancy of 117149
an employee member or retirant member of the board. The person who 117150
made the request shall pay the cost of compiling, copying, and 117151
mailing the documents. The information described in this division 117152
is a public record. 117153

(7) The system shall provide the notice required by section 117154
5505.263 of the Revised Code to the prosecutor assigned to the 117155
case. 117156

(F) A statement that contains information obtained from the 117157
system's records that is certified and signed by an officer of the 117158
retirement system and to which the system's official seal is 117159
affixed, or copies of the system's records to which the signature 117160

and seal are attached, shall be received as true copies of the 117161
system's records in any court or before any officer of this state. 117162

Sec. 5505.22. The right of any individual to a pension, or to 117163
the return of accumulated contributions, payable as provided under 117164
this chapter, and all moneys and investments of the state highway 117165
patrol retirement system and income from moneys or investments are 117166
exempt from any state tax, except the tax imposed by section 117167
5747.02 of the Revised Code, and are exempt from any county, 117168
municipal, or other local tax, except income taxes imposed 117169
pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised 117170
Code, and, except as provided in sections 3105.171, 3105.65, 117171
3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 5505.26, 117172
5505.262, and 5505.263 of the Revised Code, shall not be subject 117173
to execution, garnishment, attachment, the operation of bankruptcy 117174
or insolvency laws, or any other process of law whatsoever, and 117175
shall be unassignable except as specifically provided in this 117176
chapter. 117177

Sec. 5525.04. No bidder shall be given a certificate of 117178
qualification unless the bidder's financial statement and the 117179
investigation made by the director of transportation show that the 117180
bidder possesses net current assets or working capital sufficient, 117181
in the judgment of the director, to render it probable that the 117182
bidder can satisfactorily execute the bidder's contracts and meet 117183
all contractual obligations. Any applicant desiring a certificate 117184
of qualification in an amount of ~~two~~ five million dollars or more 117185
shall submit on forms prescribed by the director a financial audit 117186
prepared and attested as correct by an independent certified 117187
public accountant. Any applicant desiring a certificate of 117188
qualification in an amount that is less than ~~two~~ five million 117189
dollars shall submit a financial review on forms prescribed by the 117190
director. The aggregate amount of work set forth in either type of 117191

certificate of qualification shall not exceed ten times the 117192
applicant's net current assets or working capital. At the time of 117193
bidding, a bidder's qualification is determined by the bidder's 117194
qualification amount minus all of the bidder's pending work. 117195

Applicants for qualification shall expressly authorize the 117196
director to obtain any information that the director considers 117197
pertinent, with respect to the financial worth, assets, and 117198
liabilities of the applicant, from banks or other financial 117199
institutions, surety companies, dealers in material, equipment, or 117200
supplies, or other persons having business transactions with the 117201
applicant. Applicants shall expressly authorize all such financial 117202
institutions or other persons to furnish any such information 117203
requested from them by the director. All information filed with or 117204
furnished to the director by applicants or other persons, in 117205
connection with the administration of sections 5525.02 to 5525.09 117206
of the Revised Code, shall be kept in confidence by the director 117207
and not revealed to any person, except upon proper order of a 117208
court. Failure to submit the required information or to expressly 117209
grant the director authority to obtain the required information 117210
shall result in the denial of a certificate of qualification. The 117211
director or the director's subordinates shall have access to the 117212
books of account and financial records of all applicants, unless 117213
the financial statement furnished by any applicant is prepared and 117214
attested as correct by a certified public accountant. 117215

If an applicant for either type of certificate of 117216
qualification is or has been an employer in this state the 117217
application shall be accompanied by satisfactory evidence that the 117218
applicant has complied with Chapter 4123. of the Revised Code. 117219

The director may require all qualified bidders to file 117220
financial statements at such intervals as the director prescribes. 117221
Sections 5525.02 to 5525.09 of the Revised Code shall be 117222
administered without reference to the residence of applicants, and 117223

the rules of the director shall apply equally to residents and 117224
nonresidents of this state. Sections 5525.02 to 5525.09 of the 117225
Revised Code, do not apply to the purchase of material, equipment, 117226
or supplies. 117227

Sec. 5540.03. (A) A transportation improvement district may: 117228

(1) Adopt bylaws for the regulation of its affairs and the 117229
conduct of its business; 117230

(2) Adopt an official seal; 117231

(3) Sue and be sued in its own name, plead and be impleaded, 117232
provided any actions against the district shall be brought in the 117233
court of common pleas of the county in which the principal office 117234
of the district is located, or in the court of common pleas of the 117235
county in which the cause of action arose, and all summonses, 117236
exceptions, and notices of every kind shall be served on the 117237
district by leaving a copy thereof at its principal office with 117238
the secretary-treasurer; 117239

(4) Purchase, construct, maintain, repair, sell, exchange, 117240
police, operate, or lease projects; 117241

(5) Issue either or both of the following for the purpose of 117242
providing funds to pay the costs of any project or part thereof: 117243

(a) Transportation improvement district revenue bonds; 117244

(b) Bonds pursuant to Section 13 of Article VIII, Ohio 117245
Constitution; 117246

(6) Maintain such funds as it considers necessary; 117247

(7) Direct its agents or employees, when properly identified 117248
in writing and after at least five days' written notice, to enter 117249
upon lands within its jurisdiction to make surveys and 117250
examinations preliminary to the location and construction of 117251
projects for the district, without liability of the district or 117252

its agents or employees except for actual damage done; 117253

(8) Make and enter into all contracts and agreements 117254
necessary or incidental to the performance of its functions and 117255
the execution of its powers under this chapter; 117256

(9) Employ or retain or contract for the services of 117257
consulting engineers, superintendents, managers, and such other 117258
engineers, construction and accounting experts, financial 117259
advisers, trustees, marketing, remarketing, and administrative 117260
agents, attorneys, and other employees, independent contractors, 117261
or agents as are necessary in its judgment and fix their 117262
compensation, provided all such expenses shall be payable solely 117263
from the proceeds of bonds or from revenues; 117264

(10) Receive and accept from the federal or any state or 117265
local government, including, but not limited to, any agency, 117266
entity, or instrumentality of any of the foregoing, loans and 117267
grants for or in aid of the construction, maintenance, or repair 117268
of any project, and receive and accept aid or contributions from 117269
any source or person of money, property, labor, or other things of 117270
value, to be held, used, and applied only for the purposes for 117271
which such loans, grants, and contributions are made. Nothing in 117272
division (A)(10) of this section shall be construed as imposing 117273
any liability on this state for any loan received by a 117274
transportation improvement district from a third party unless this 117275
state has entered into an agreement to accept such liability. 117276

(11) Acquire, hold, and dispose of property in the exercise 117277
of its powers and the performance of its duties under this 117278
chapter; 117279

(12) Establish and collect tolls or user charges for its 117280
projects; 117281

(13) Do all acts necessary and proper to carry out the powers 117282
expressly granted in this chapter. 117283

(B) Chapters 123., 124., 125., 153., and 4115., and sections 117284
9.331, ~~9.332, 9.333,~~ to 9.335 and 307.86 of the Revised Code do 117285
not apply to contracts or projects of a transportation improvement 117286
district. 117287

Sec. 5540.031. (A) The board of trustees of a transportation 117288
improvement district may provide for the construction, 117289
reconstruction, improvement, alteration, or repair of any road, 117290
highway, public place, building, or other infrastructure and levy 117291
special assessments, if the board determines that the public 117292
improvement will benefit the area where it will be constructed, 117293
reconstructed, improved, altered, or repaired. However, if the 117294
improvement is proposed for territory in a political subdivision 117295
located outside the district's territory, the legislative 117296
authority of that political subdivision shall approve the 117297
undertaking of the improvement within the political subdivision. 117298

(B) If any improvements are made under this section, 117299
contracts for the improvement may provide that the improvement may 117300
be owned by the district or by the person or corporation supplying 117301
it to the district under a lease. 117302

(C) If the board of trustees of a district proposes an 117303
improvement described in division (A) of this section, the board 117304
shall conduct a hearing on the proposed improvement. The board 117305
shall indicate by metes and bounds the area in which the public 117306
improvement will be made and the area that will benefit from the 117307
improvement. 117308

(D) The board of trustees shall fix a day for a hearing on 117309
the proposed improvement. The secretary-treasurer of the board 117310
shall deliver, to each owner of a parcel of land or a lot that the 117311
board identifies as benefiting from the proposed improvement, a 117312
notice that sets forth the substance of the proposed improvement 117313
and the time and place of the hearing on it. At least fifteen days 117314

before the date set for the hearing, a copy of the notice shall be 117315
served upon the owner or left at ~~his~~ the owner's usual place of 117316
residence, or, if the owner is a corporation, upon an officer or 117317
agent of the corporation. On or before the day of the hearing, the 117318
person serving notice of the hearing shall make return thereon, 117319
under oath, of the time and manner of service, and shall file the 117320
notice with the secretary-treasurer of the board. 117321

At least fifteen days before the day set for the hearing on 117322
the proposed improvement, the secretary-treasurer shall give 117323
notice to each nonresident owner of a lot or parcel of land in the 117324
area to be benefited by the improvement, by publication once in a 117325
newspaper ~~published and~~ of general circulation in the one or more 117326
counties in which this area is located. The publication of the 117327
notice shall be verified by affidavit of the printer or other 117328
person having knowledge of the publication and shall be filed with 117329
the secretary-treasurer of the district on or before the date of 117330
the hearing. 117331

(E) At the time and place specified in the notice for a 117332
hearing on the proposed improvement, the board of trustees of the 117333
district shall meet and hear any and all testimony provided by any 117334
of the parties affected by the proposed improvement and by any 117335
other persons competent to testify. The board or its 117336
representatives shall inspect, by an actual viewing, the area to 117337
be benefited by the proposed improvement. The board shall 117338
determine the necessity of the proposed improvement and may find 117339
that the proposed improvement will result in general as well as 117340
special benefits. The board may adjourn from time to time and to 117341
such places as it considers necessary. 117342

(F)(1) The board may award contracts or enter into a lease 117343
agreement for the construction, reconstruction, improvement, 117344
alteration, or repair of any improvement described in division (A) 117345
of this section and may issue notes, bonds, revenue anticipatory 117346

instruments, or other obligations, as authorized by this chapter, 117347
to finance the improvements. 117348

(2) All or a part of the costs and expenses of providing for 117349
the construction, reconstruction, improvement, alteration, or 117350
repair of any improvement described in division (F)(1) of this 117351
section may be paid from a fund into which may be paid special 117352
assessments levied under this section against the lots and parcels 117353
of land in the area to be benefited by the improvement, if the 117354
board finds that the improvement will result in general or special 117355
benefits to the benefited area. These special assessments shall be 117356
levied not more than one time on the same lot or parcel of land. 117357
Such costs and expenses may also be paid from the treasury of the 117358
district or from other available sources in amounts the board 117359
finds appropriate. 117360

(3) The board shall levy special assessments at an amount not 117361
to exceed ten per cent of the assessable value of the lot or 117362
parcel of land being assessed. The board shall determine the 117363
assessable value of a lot or parcel of land in the following 117364
manner: the board shall first determine the fair market value of 117365
the lot or parcel being assessed in the calendar year in which the 117366
area to be benefited by the public improvement is first designated 117367
and then multiply this amount by the average rate of appreciation 117368
in value of the lot or parcel since that calendar year. The 117369
assessable value of the lot or parcel is the current fair market 117370
value of the lot or parcel minus the amount calculated in the 117371
manner described in the immediately preceding sentence. The board 117372
may adjust the assessable value of a lot or parcel of land to 117373
reflect a sale of the lot or parcel that indicates an appreciation 117374
in its value that exceeds its average rate of appreciation in 117375
value. 117376

(4) Special assessments levied by the board may be paid in 117377
full in a lump sum or may be paid and collected in equal 117378

semiannual installments, equal in number to twice the number of 117379
years for which the lease of the improvement is made or twice the 117380
number of years that the note, bond, instrument, or obligation 117381
that the assessments are pledged to pay requires. The assessments 117382
shall be paid and collected in the same manner and at the same 117383
time as real property taxes are paid and collected, and 117384
assessments in the amount of fifty dollars or less shall be paid 117385
in full, and not in installments, at the time the first or next 117386
installment would otherwise become due and payable. Complaints 117387
regarding assessments may be made to the county board of revision 117388
in the same manner as complaints relating to the valuation and 117389
assessment of real property. 117390

Credits against assessments shall be granted equal to the 117391
value of any construction, reconstruction, improvement, 117392
alteration, or repair that an owner of a parcel of land or lot 117393
makes to an improvement pursuant to an agreement between the owner 117394
and the district. 117395

(5) After the levy of a special assessment, the board, at any 117396
time during any year in which an installment of the assessment 117397
becomes due, may pay out of other available funds of the district, 117398
including any state or federal funds available to the district, 117399
the full amount of the price of the contract that the special 117400
assessments are pledged to pay for that year or any other portion 117401
of the remaining obligation. The board shall be the sole 117402
determiner of the definition, extent, and allocation of the 117403
benefit resulting from an improvement that the board authorizes 117404
under this section. 117405

(G)(1) The board shall certify to the appropriate county 117406
auditor the boundaries of the area that is benefited by any public 117407
improvement the board authorizes under this section and, when the 117408
board so requests, the auditor shall apportion the valuation of 117409
any lot or parcel of land lying partly within and partly outside 117410

the area so benefited. 117411

(2) The board by resolution shall assess against the lots and 117412
parcels of land located in the area that is benefited by a public 117413
improvement such portion of the costs of completing the public 117414
improvement as the board determines, for the period that may be 117415
necessary to pay the note, bond, instrument, or obligation issued 117416
to pay for the improvement and the proceedings in relation to it, 117417
and shall certify these costs to the appropriate county auditor. 117418

(3) Except for assessments that have been paid in full in a 117419
lump sum, the county auditor shall annually place upon the tax 117420
duplicate, for collection in semiannual installments, the two 117421
installments of the assessment for that year, which shall be paid 117422
and collected at the same time and in the same manner as real 117423
property taxes. The collected assessments shall be paid to the 117424
treasury of the district and the board of the district shall use 117425
the assessments for any purpose authorized by this chapter. 117426

Sec. 5540.05. The board of trustees of a district may acquire 117427
real property in fee simple in the name of the district in 117428
connection with, but in excess of that needed for, a project by 117429
any method other than appropriation and hold the property for such 117430
period of time as the board determines. All right, title, and 117431
interest of the district in the property may be sold at public 117432
auction or otherwise, as the board considers in the best interests 117433
of the district; but in no event shall the property be sold for 117434
less than two-thirds of its appraised value. Sale at public 117435
auction shall be undertaken only after the board advertises the 117436
sale in a newspaper of general circulation in the district for ~~at~~ 117437
~~least~~ two weeks or as provided in section 7.16 of the Revised 117438
Code, prior to the date set for the sale. 117439

Sec. 5543.10. (A) The county engineer, upon the order of the 117440

board of county commissioners or board of township trustees, shall 117441
construct sidewalks, curbs, or gutters of suitable materials, 117442
along or connecting the public highways, outside any municipal 117443
corporation, upon the petition of a majority of the abutting 117444
property owners. The expense of the construction of these 117445
improvements may be paid by the county or township, or by the 117446
county or township and abutting property owners in such proportion 117447
as determined by the board of county commissioners or board of 117448
township trustees. The board of county commissioners or board of 117449
township trustees may assess part or all of the cost of these 117450
improvements against the abutting property owners, in proportion 117451
to benefits accruing to their property. 117452

The board of county commissioners or board of township 117453
trustees, by unanimous vote, may order the construction, repair, 117454
or maintenance of sidewalks, curbs, and gutters along or 117455
connecting the public highways, outside a municipal corporation, 117456
without a petition for that construction, repair, or maintenance, 117457
and may assess none, all, or any part of the cost against abutting 117458
property owners, provided that notice is given by publication for 117459
three successive weeks in a newspaper of general circulation 117460
within the county or as provided in section 7.16 of the Revised 117461
Code, stating the intention of the board of county commissioners 117462
or board of township trustees to construct, repair, or maintain 117463
the specified improvements and fixing a date for a hearing on 117464
them. As part of a sidewalk improvement, the board may include the 117465
repair or reconstruction of a driveway within the sidewalk 117466
easement. As part of a curb improvement, the board may include 117467
construction or repair of a driveway apron. 117468

Notice to all abutting property owners shall be given by two 117469
publications in a newspaper of general circulation in the county 117470
or as provided in section 7.16 of the Revised Code, at least ten 117471
days prior to the date fixed in the notice for the making of 117472

assessments. The notice shall state the time and place when 117473
abutting property owners will be given an opportunity to be heard 117474
with reference to assessments. The board of county commissioners 117475
or board of township trustees shall determine whether assessments 117476
shall be paid in one or more installments. 117477

(B) The county engineer may trim or remove any and all trees, 117478
shrubs, and other vegetation growing in or encroaching onto the 117479
right-of-way of the easement of a public sidewalk along or 117480
connecting the public highways and maintained by the county, and 117481
the board of township trustees may trim or remove any and all 117482
trees, shrubs, and other vegetation growing in or encroaching onto 117483
the right-of-way of the easement of a public sidewalk along or 117484
connecting the public highways and maintained by the township, as 117485
is necessary in the engineer's or board's judgment to facilitate 117486
the right of the public to improvement and maintenance of, and 117487
uninterrupted travel on, public sidewalks in the county or 117488
township. 117489

Sec. 5549.21. The board of township trustees may purchase or 117490
lease such machinery and tools as are necessary for use in 117491
constructing, reconstructing, maintaining, and repairing roads and 117492
culverts within the township, and shall provide suitable places 117493
for housing and storing machinery and tools owned by the township. 117494
It may purchase such material and employ such labor as is 117495
necessary for carrying into effect this section, or it may 117496
authorize the purchase or employment of such material and labor by 117497
one of its number, or by the township highway superintendent, at a 117498
price to be fixed by the board. All payments on account of 117499
machinery, tools, material, and labor shall be made from the 117500
township road fund. Except as otherwise provided in sections 117501
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 117502
materials, machinery, and tools shall, if the amount involved 117503
exceeds ~~twenty-five~~ fifty thousand dollars, be made from the 117504

lowest responsible bidder after advertisement, as provided in 117505
section 5575.01 of the Revised Code. 117506

If, in compliance with section 505.10 of the Revised Code, 117507
the board wishes to sell machinery, equipment, or tools owned by 117508
the township to the person from whom it is to purchase other 117509
machinery, equipment, or tools, the board may offer, if the amount 117510
of the purchase alone involved does not exceed ~~twenty-five~~ fifty 117511
thousand dollars, to sell such machinery, equipment, or tools and 117512
have the amount credited by the vendor against the purchase of the 117513
other machinery, equipment, or tools. If the purchase price of the 117514
other machinery, equipment, or tools alone exceeds ~~twenty-five~~ 117515
fifty thousand dollars, the board may give notice to the 117516
competitive bidders of its willingness to accept offers for the 117517
purchase of the old machinery, equipment, or tools, and those 117518
offers shall be subtracted from the selling price of the other 117519
machinery, equipment, or tools as bid, in determining the lowest 117520
responsible bidder. Notice of the willingness of the board to 117521
accept offers for the purchase of the old machinery, equipment, or 117522
tools shall be made as a part of the advertisement for bids. 117523

Sec. 5552.06. (A) A board of county commissioners or a board 117524
of township trustees may adopt access management regulations or 117525
any amendments to those regulations after holding at least two 117526
public hearings at regular or special sessions of the board. The 117527
board shall consider the county engineer's proposed regulations 117528
prepared under division (B) of section 5552.04 or 5552.05 of the 117529
Revised Code and all comments on those regulations. The board, in 117530
its discretion, may, but need not, adopt any or all of those 117531
proposed regulations. After the public hearings, the board may 117532
decide not to adopt any access management regulations. 117533

The board shall publish notice of the public hearings in a 117534
newspaper of general circulation in the county or township, as 117535

applicable, once a week for ~~at least~~ two weeks or as provided in 117536
section 7.16 of the Revised Code, immediately preceding the 117537
hearings. The notice shall include the time, date, and place of 117538
each hearing. Copies of any proposed regulations or amendments 117539
shall be made available to the public at the board's office and, 117540
if the county engineer administers or is proposed to administer a 117541
point of access permit, in the engineer's office. 117542

(B) In addition to the notice required by division (A) of 117543
this section, not less than thirty days before holding a public 117544
hearing, a board of county commissioners shall send a copy of the 117545
county engineer's proposed regulations, a copy of the advisory 117546
committee's recommendations, and a request for written comments to 117547
the board of township trustees of each township in the county, the 117548
department of transportation district deputy director for the 117549
district in which the county is located, a representative of the 117550
metropolitan planning organization, where applicable, and at least 117551
the local professional associations representing the following 117552
professions: 117553

- (1) Homebuilders; 117554
- (2) Realtors; 117555
- (3) Professional surveyors; 117556
- (4) Attorneys; 117557
- (5) Professional engineers. 117558

(C) In addition to the notice required by division (A) of 117559
this section, a board of township trustees shall send a copy of 117560
the county engineer's proposed regulations, a copy of the advisory 117561
committee's recommendations, and a request for written comments, 117562
not less than thirty days before holding a public hearing, to the 117563
department of transportation district deputy director for the 117564
district in which the township is located, a representative of the 117565
metropolitan planning organization, where applicable, and at least 117566

the local professional associations representing the professions 117567
listed in division (B) of this section. 117568

Sec. 5553.05. (A) In the resolution required by section 117569
5553.04 of the Revised Code, the board of county commissioners 117570
shall fix a date when it will view the proposed improvement, and 117571
also a date for a final hearing thereon. 117572

The board shall give notice of the time and place for both 117573
such view and hearing by publication once a week for two 117574
consecutive weeks in a newspaper ~~published and having~~ of general 117575
circulation in the county where such improvement is located, ~~but~~ 117576
~~if there is no such newspaper published in said county, then in a~~ 117577
~~newspaper having general circulation in said county~~ or as provided 117578
in section 7.16 of the Revised Code. Such notice, in addition to 117579
the date and place of such view and place and time of the final 117580
hearing, shall state briefly the character of such improvement. 117581

(B) If the board adopts a resolution to vacate a public road 117582
as provided in section 5553.04 of the Revised Code, or if a 117583
petition to vacate a public road is filed, the board shall, in 117584
addition to the notice of the time and place for hearing 117585
prescribed in division (A) of this section, send written notice of 117586
the hearing by first class mail at least twenty days before the 117587
date of the public hearing to owners of property abutting upon 117588
that portion of the road to be vacated, and to the director of 117589
natural resources. Such notice shall be mailed to the addresses of 117590
such owners appearing on the county auditor's current tax list or 117591
the treasurer's mailing list, and such other list or lists that 117592
may be specified by the board. The failure of the delivery of such 117593
notice does not invalidate any such vacating of the road 117594
authorized in the resolution. 117595

Sec. 5553.19. The county engineer shall view and survey the 117596

road as provided in section 5553.18 of the Revised Code, and shall 117597
make a return of the survey and plat of the road to the board of 117598
county commissioners. Upon the filing of the report of the 117599
engineer, the board shall give notice of the filing of such report 117600
by publication as provided in section 7.16 of the Revised Code or 117601
once each week for three consecutive weeks in a newspaper 117602
~~published and having~~ of general circulation in the county in which 117603
such road is situated, ~~but if there is no such newspaper published~~ 117604
~~in said county, then in a newspaper having general circulation in~~ 117605
~~said county.~~ Such notice shall state the date and time of the 117606
hearing upon the report of the engineer. If exceptions or 117607
objections are made, the board shall hear them, and it may approve 117608
or reject said report. If the report of the engineer is approved, 117609
the board shall cause such report to be recorded together with the 117610
survey and plat of such road. 117611

Sec. 5553.23. If a person through whose land a public road 117612
has been established, which is under the jurisdiction of the board 117613
of county commissioners, desires to turn or change or relocate 117614
such road or any part thereof through any part of ~~his~~ the person's 117615
land, ~~he~~ the person may file a petition with the board of county 117616
commissioners setting forth briefly the particular change ~~he~~ 117617
~~desires~~ desired. Upon the receipt of such petition, the board 117618
shall give notice by publication once not later than two weeks 117619
prior to the date for the hearing on such petition in ~~some a~~ 117620
newspaper ~~published and~~ of general circulation in said county, ~~but~~ 117621
~~if there is no such newspaper published in said county, then in a~~ 117622
~~newspaper having general circulation in said county,~~ stating that 117623
such petition has been filed and setting forth the change desired 117624
in such road and the date and place for the hearing on said 117625
petition. If a public road was once established for public 117626
convenience through private lands, but has not been improved by 117627
public funds and for more than twenty-one years has not been used, 117628

the owner of such land may petition the board to vacate the road 117629
in accordance with proceedings under sections 5553.04 to 5553.11 117630
of the Revised Code. 117631

A person through whose land a trail right of way has been 117632
preserved under section 5553.044 of the Revised Code may file a 117633
petition to turn or change the route of the trail right of way in 117634
the manner provided in this section, and such petition shall be 117635
acted upon in the manner set forth in sections 5553.23 to 5553.31 117636
of the Revised Code. Notice of the hearing in such case shall also 117637
be made by first class mail to the director of natural resources. 117638
If the board turns or changes the route of the trail right of way, 117639
it shall furnish the director with a full and accurate description 117640
or map of the change. 117641

Sec. 5553.42. The board of county commissioners shall give 117642
notice to the owners of lands through which the proposed road will 117643
pass of the filing of the petition provided for in section 5553.41 117644
of the Revised Code and the date and place of the hearing thereon. 117645
Such notice shall be served on such owners personally, or by 117646
leaving a copy of such notice at the usual place of residence of 117647
such owners at least five days before the date of the hearing on 117648
said petition. Proof of service of such notice shall be made by 117649
affidavit of the person serving such notice. If any of such owners 117650
are nonresidents of the county, the board shall give notice to 117651
such nonresidents by publication once each week for two 117652
consecutive weeks in a newspaper ~~published and having~~ of general 117653
circulation ~~within in~~ the county, ~~but if there is no such~~ 117654
~~newspaper published in said county, then in a newspaper having~~ 117655
~~general circulation in said county~~ or as provided in section 7.16 117656
of the Revised Code. A copy of the newspaper containing such 117657
notice shall be mailed by the county auditor to each nonresident 117658
whose post-office address is known to such auditor. Such notice 117659
shall state the time and place of the hearing on claims for 117660

compensation and damages. 117661

Sec. 5555.07. The county engineer shall prepare and file with 117662
the board of county commissioners, by the time fixed therefor by 117663
the board, copies of the surveys, plans, profiles, cross sections, 117664
estimates of costs, and specifications for the improvement and 117665
estimated assessments upon lands benefited thereby. Thereupon such 117666
board shall file such copies in its office for the inspection and 117667
examination of all persons interested. Except in a case involving 117668
the improvement of a public road in which no land or property is 117669
taken or assessed, the board shall publish in a newspaper 117670
~~published and~~ of general circulation in the county, ~~or if no~~ 117671
~~newspaper is published in the county then in a newspaper having~~ 117672
~~general circulation in the county,~~ for the period of two weeks or 117673
as provided in section 7.16 of the Revised Code, notice that a 117674
resolution has been adopted providing for said improvement, and 117675
that copies of the surveys, plans, profiles, cross sections, 117676
estimates, and specifications, together with estimated assessments 117677
upon the lands benefited by such improvement for the proportion of 117678
the cost thereof to be assessed therefor, are on file in the 117679
office of the board for the inspection of persons interested 117680
therein. Such notice shall state the time and place for hearing 117681
objections to said improvement and to such estimated assessments. 117682
In a case involving the improvement of a public road in which no 117683
land or property is taken or assessed, the board shall publish the 117684
notice required by this section once a week for two consecutive 117685
weeks or as provided in section 7.16 of the Revised Code. 117686

At such hearing the board may order said surveys, plans, 117688
profiles, cross sections, estimates, and specifications to be 117689
changed or modified and shall make such adjustments of the 117690
estimated assessments as seem just to it. Thereupon the board may 117691
approve such surveys, plans, profiles, cross sections, 117692

specifications, and estimates and approve and confirm estimated 117693
assessments as made by the engineer or as modified and changed by 117694
the board. Such assessments when so approved and confirmed shall 117695
be certified to the county auditor of the county and shall 117696
thereupon become a lien upon the land charged therewith. The board 117697
may declare against said improvement. 117698

Sec. 5555.27. As soon as the county engineer has transmitted 117699
to the several boards of county commissioners copies of ~~his~~ the 117700
engineer's surveys, plans, profiles, cross sections, estimates, 117701
and specifications for the improvement, the joint board of county 117702
commissioners shall, except in cases of reconstruction or repair 117703
of roads where no lands or property are taken, fix a time and 117704
place for hearing objections to said improvement. The joint board 117705
shall thereupon, except in cases of reconstruction or repair of 117706
roads where no lands or property are taken, publish in a newspaper 117707
~~published and~~ of general circulation within each interested 117708
county, ~~or if there is no such newspaper published in such county~~ 117709
~~then in a newspaper having general circulation in such county,~~ 117710
once a week for two consecutive weeks or as provided in section 117711
7.16 of the Revised Code, a notice that such improvement is to be 117712
made and that copies of the surveys, plans, profiles, cross 117713
sections, estimates, and specifications therefor are on file in 117714
the office of the board of each interested county for the 117715
inspection and examination of all persons interested therein. Such 117716
notice shall also state the time and place for hearing objections 117717
to said improvement. Proceedings for the appropriation of land 117718
needed for such improvement shall be maintained in accordance with 117719
sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 117720

Sec. 5555.42. A board of county commissioners desiring to 117721
construct a county road improvement, and finding that no equitable 117722
method of apportioning the compensation, damages, and expenses 117723

thereof is provided by section 5555.41 of the Revised Code, or 117724
finding that an equitable assessment cannot be made by the use of 117725
any of the several assessment areas authorized by said section, 117726
may order the county engineer to make a tentative plan for such 117727
improvement and an approximate estimate of the cost. Such board 117728
may thereupon file an application in the court of common pleas 117729
describing the improvement in question, and a copy of the 117730
tentative plan and approximate estimate of cost shall be attached 117731
to such application. The board shall set forth in such application 117732
that the compensation, damages, and expenses of the improvement 117733
cannot be equitably apportioned under any of the several plans 117734
provided by said section or that such compensation, damages, and 117735
expenses cannot be equitably assessed by the use of any one of the 117736
several assessment areas authorized by said section, or that both 117737
such conditions exist, and it shall set forth a method of 117738
apportioning the compensation, damages, and expenses and a 117739
definite description of the area against which it desires to 117740
assess any part of such compensation, damages, and expenses. The 117741
application shall contain a prayer requesting authority from such 117742
court to construct the improvement and apportion the compensation, 117743
damages, and expenses according to the plan suggested by such 117744
board and to assess the designated portion of the cost against the 117745
real estate within the area described in the petition. 117746

Notice of the filing and pendency of such application shall 117747
be given once a week for four consecutive weeks by publication in 117748
~~two newspapers published and of general circulation in the county,~~ 117749
~~or if there are no such newspapers then in two newspapers a~~ 117750
newspaper of general circulation in such county or as provided in 117751
section 7.16 of the Revised Code. Such notice shall describe the 117752
route and termini of the improvement and set forth the estimated 117753
cost and the proposed method of apportionment and assessment area. 117754
After such notice has been given, the court or a judge thereof 117755
shall fix a time for a hearing on such application, and, at the 117756

time fixed, the court or a judge thereof shall hear such 117757
application and all evidence offered by the board or any taxpayer 117758
of the county for or against the proposed plan of apportionment 117759
and for or against the use of the suggested assessment area. If 117760
the court finds that the suggested plan of apportionment and the 117761
area against which special assessments are to be made are fair and 117762
just, that the cost of the improvement will not be excessive in 117763
view of the benefits conferred, and that all the real estate 117764
within the suggested assessment area will be benefited by the 117765
construction of the improvement upon the plan suggested and by the 117766
use of the method of apportionment set forth in said application, 117767
such court may authorize the board to proceed upon the suggested 117768
plan and to apportion the compensation, damages, and expenses in 117769
the manner set forth in the application and to assess against the 117770
real estate within the assessment area designated in the 117771
application, according to the benefits, that portion of the cost 117772
to be specially assessed; otherwise the court shall dismiss the 117773
application and the board may not proceed with the improvement. 117774
The court may modify the suggested plan of apportionment or the 117775
suggested assessment area and grant the prayer of the application 117776
subject to such modifications as it determines are just and 117777
proper. The board in its application may set up any division of 117778
cost which it thinks proper among the county, the owners of lands 117779
to be specially assessed, and any municipal corporation within 117780
which such projected improvement is situated in whole or in part, 117781
but no portion of the cost may be apportioned to a municipal 117782
corporation without the consent of such municipal corporation 117783
evidenced by an ordinance or resolution of its legislative 117784
authority. 117785

When the prayer of any such application is granted by the 117786
court or a judge thereof and the plan of apportionment and area of 117787
assessment is approved by such court, either as set forth in the 117788
application or as modified by the court, the board may proceed 117789

with the construction of the improvement and use the method of 117790
apportionment and the assessment area authorized by the court. In 117791
such event, the board may levy taxes and issue bonds in the manner 117792
provided by law with respect to improvements, the compensation, 117793
damages, and expenses of which are apportioned and paid as 117794
provided in section 5555.41 of the Revised Code, and all 117795
proceedings in connection with such improvement shall be conducted 117796
in accordance with sections 5555.01 to 5555.83 of the Revised 117797
Code, except as provided in this section. The special assessments 117798
shall be made by the board against the real estate within the 117799
assessment area authorized by the court, but no assessment against 117800
any lot or parcel of real estate shall exceed the actual benefits 117801
conferred thereon by the construction of the improvement. This 117802
section also applies to improvements of sections of a state 117803
highway within counties having a tax duplicate of real and 117804
personal property in excess of three hundred million dollars, and 117805
with respect to which the board desires to co-operate with the 117806
department of transportation. 117807

Sec. 5559.06. Upon the completion of the surveys, plans, 117808
profiles, cross sections, estimates, and specifications for an 117809
improvement under section 5559.02 of the Revised Code by the 117810
county engineer, ~~he~~ the engineer shall transmit to the board of 117811
county commissioners copies of such surveys, plans, profiles, 117812
cross sections, estimates, and specifications. The board shall 117813
then publish, in a newspaper ~~published and~~ of general circulation 117814
within the county, ~~and if there is no such newspaper published in~~ 117815
~~the county then in one having general circulation in such county,~~ 117816
once a week for two consecutive weeks or as provided in section 117817
7.16 of the Revised Code, a notice that such improvement is to be 117818
made and that copies of the surveys, plans, profiles, cross 117819
sections, estimates, and specifications for it are on file in the 117820
office of the board for the inspection and examination of all 117821

persons interested. Such notice shall also state the time and 117822
place for hearing objections to the improvement. 117823

In the event that land or property is to be taken for such 117824
improvement, such taking shall be in accordance with sections 117825
163.01 to 163.22, ~~inclusive,~~ of the Revised Code. 117826

Sec. 5559.10. As soon as all questions of compensation and 117827
damages have been determined in a road improvement case, the 117828
county engineer shall make, upon actual view, an estimated 117829
assessment upon the real estate to be charged therewith, of the 117830
compensation, damages, and costs of an improvement as provided by 117831
section 5559.02 of the Revised Code. Such estimated assessment 117832
shall be according to the benefit which will result to the real 117833
estate. In making such assessment the engineer may take into 117834
consideration any previous special assessments made upon the real 117835
estate for road improvements. The schedule of such assessments 117836
shall be filed in the office of the board of county commissioners 117837
for the inspection of the persons interested. Before adopting the 117838
assessment, the board shall publish, once each week for two 117839
consecutive weeks, in ~~some a newspaper published and~~ of general 117840
circulation in the county or as provided in section 7.16 of the 117841
Revised Code, but if there is no such newspaper then in one having 117842
general circulation in the county, notice that such assessment has 117843
been made, is on file in the office of the board, and the date 117844
when objections will be heard to such assessment. If any owner of 117845
property affected thereby desires, ~~he~~ the owner may file ~~his~~ 117846
objections to said assessments, in writing, with the board before 117847
the time for hearing. If any objections are filed the board shall 117848
hear them and act as an equalizing board. It may change such 117849
assessments if, in its opinion, any change is necessary to make 117850
them just and equitable, and the board shall approve and confirm 117851
such assessments as reported by the engineer or modified by it. 117852
Such assessments, when so approved and confirmed, shall be a lien 117853

on the land chargeable therewith. 117854

Sec. 5559.12. After the board of county commissioners has 117855
decided to proceed with an improvement as provided by section 117856
5559.02 of the Revised Code, it shall advertise for bids once, not 117857
later than two weeks prior to the date fixed for the letting of 117858
the contract, in a newspaper ~~published and~~ of general circulation 117859
in the county, ~~but if there is no such newspaper then in one~~ 117860
~~having general circulation in such county.~~ Such notice shall state 117861
that copies of the surveys, plans, profiles, cross sections, 117862
estimates, and specifications for such improvement are on file in 117863
the office of the board, and the time within which bids will be 117864
received. The board shall award the contract to the lowest 117865
responsible bidder. 117866

The contract shall be let upon the basis of lump sum bids, 117867
unless the board orders that it be let upon the basis of unit 117868
price bids, in which event it shall be let upon such basis. The 117869
bids received shall be opened at the time stated in the notice. 117870
The board may reject all bids. 117871

Sec. 5561.04. The board of county commissioners, desiring to 117872
proceed under sections 4957.06 and 5561.01 to 5561.15 of the 117873
Revised Code, shall, after receipt of the certificate of necessity 117874
and expediency from the director of transportation, as provided in 117875
section 5561.03 of the Revised Code, hold a public hearing as to 117876
the expediency of constructing such improvement, notice of which 117877
shall be given by publication in ~~two newspapers published and a~~ 117878
newspaper of general circulation in the county, ~~if such there be,~~ 117879
~~otherwise in two newspapers of general circulation in such county,~~ 117880
for two weeks prior to the date set for such hearing or as 117881
provided in section 7.16 of the Revised Code, and shall be served 117882
upon the railroad or interurban railway companies in the manner 117883
for the service of summons in civil actions, not less than twenty 117884

days prior to the date of such hearing. 117885

The board, after such hearing and for the purpose of making 117886
or causing such an improvement to be made, may, by resolution 117887
adopted by unanimous vote, require the railroad company, in 117888
co-operation with the county engineer or any engineer designated 117889
by the board, to prepare and submit to the board within six 117890
months, unless longer time is mutually agreed upon in writing, 117891
plans and specifications for such improvements, specifying the 117892
number, character, and location of all piers and supports which 117893
are to be permanently placed in any road or highway, specifying 117894
the grades to be established for the roads and the height, 117895
character, and estimated cost of any viaduct or way above or below 117896
any railroad track, and the change of grade required to be made of 117897
such tracks including side tracks and switches. But in changing 117898
the grade of any railroad, no grade shall be required in excess of 117899
that adopted by the railroad company for its construction work on 117900
that division or part of the railroad on which the improvement is 117901
to be made, without the consent of the railroad company, nor shall 117902
the railroad company's tracks be required to be placed below 117903
high-water mark. 117904

Such resolution shall be published in the same manner as 117905
resolutions of the legislative authority of a municipal 117906
corporation declaring the necessity of a contemplated public 117907
improvement, and shall be served by the sheriff upon the railroad 117908
or interurban railway companies in the manner provided for the 117909
service of summons in civil actions. If the proposed public 117910
improvement is to be made within a municipal corporation, notice 117911
of the passage of the same shall be served upon the municipal 117912
corporation by delivering to the clerk of the village or 117913
legislative authority of a city a true copy thereof. 117914

If, at the expiration of six months from the passage of such 117915
resolution, the railroad company has refused or failed to 117916

co-operate in the preparation of such plans and specifications, or 117917
if the county engineer or engineer designated by the board and the 117918
railroad company fail to agree upon the plans and specification of 117919
such improvement, then either the railroad company or the county 117920
may submit the matter of determining the method by which the 117921
improvement shall be made to the court of common pleas of such 117922
county. Either the county or company, after the expiration of six 117923
months from the passage of the resolution, may apply to such court 117924
by petition, accompanied by the necessary plans prepared by the 117925
county or railroad company, covering the grade crossing proposed 117926
to be abolished. Such plans must show the grades to be established 117927
for such roads or highways, the changes to be made in the location 117928
of roads or highways, the height, character, and estimated cost of 117929
any viaduct or way above or below the railroad tracks, the number, 117930
character, and location of piers, abutments, or supports to be 117931
permanently located in the roads or highways, and the change of 117932
grade to be made in any railroad tracks, including sidetracks and 117933
switches. 117934

Sec. 5561.08. Notice of the passage of a resolution for a 117935
grade crossing improvement shall be served by the sheriff of the 117936
county, upon the owner of each piece of property which will be 117937
affected by any change of grade, in the manner provided for the 117938
service of summons in civil actions. If any of such owners are 117939
nonresidents of the county, or if it appears from the return that 117940
they cannot be found, the notice shall be published for at least 117941
two weeks in ~~an English language~~ a newspaper published of general 117942
circulation in such the county or as provided in section 7.16 of 117943
the Revised Code. Notice shall be completed at least twenty days 117944
before any work is done on such improvement, and the sheriff's 117945
return shall be prima-facie evidence of the facts recited therein. 117946

Section 727.18 of the Revised Code shall apply to the notice 117947
provided for in this section, and to all claims for damages by 117948

reason of such improvement. Such claims shall be filed with the county auditor within the time, and rights thereunder shall pass to vendees, as provided in such section. After the expiration of the time provided for the filing of claims, the board of county commissioners, when claims have been filed within the time limited, shall determine, by resolution, whether such claims are to be judicially inquired into before commencing or after the completion of the proposed improvement. Thereupon, the county prosecutor shall make application for a jury, to the court of common pleas, or probate court of the county, before commencing or after the completion of the improvement, as the board determines, and all proceedings upon such application shall be governed by the laws relating to similar applications provided for in cases of city improvements.

Sec. 5571.011. If a person through whose land a public road has been established which is under the jurisdiction of a board of township trustees, desires to turn or change or relocate such road or any part thereof through any part of ~~his~~ the person's land, ~~he~~ the person may file a petition with such board of township trustees setting forth briefly the particular change ~~he desires~~ desired. Upon receipt of such petition, the board of township trustees shall give notice by publication once, not later than two weeks prior to the date which such board shall fix for a hearing on such petition, in a newspaper ~~published or~~ of general circulation in said township, stating that such petition has been filed and setting forth the change desired in such road and the date and place of such hearing.

Upon receipt of such a petition the board of township trustees shall cause a competent engineer to make a survey of the ground over which the road is proposed to be changed, and to make a report in writing, together with a plat and survey of the proposed change and ~~his~~ the engineer's opinion as to its advantage

or disadvantage. The report of such engineer shall be filed with 117981
the board prior to the hearing of such petition. 117982

At the hearing had on the petition the board of township 117983
trustees may hear evidence for or against changing the road, and 117984
if the board is satisfied that the proposed change will not cause 117985
serious injury or disadvantage to the public, it may make a 117986
finding of such fact in its journal and authorize the petitioner 117987
to change such road in conformity with the prayer of the petition. 117988
The board may grant the change as prayed for in the petition, or 117989
it may order such change of the route of such road as will, in its 117990
judgment, be for the best interest of the public. 117991

Upon receiving satisfactory evidence that the road has been 117992
changed as authorized by it, and opened to the legal width and 117993
improved as required by it, the board of township trustees shall 117994
declare such new road a public highway and cause a record thereof 117995
to be made and at the same time vacate so much of the old road as 117996
is rendered unnecessary by the new road. The person petitioning 117997
for such change shall in all cases pay all costs and expenses in 117998
connection with the proceeding, as found and determined by the 117999
board, and the expense of making such change, including the cost 118000
of relocation of any conduits, cables, wires, towers, poles or 118001
other equipment or appliances of any public utility, located on, 118002
over or under such road. The petitioner shall, on the filing of 118003
the petition for such change, give bond to the satisfaction of the 118004
board in such amount as it determines to secure payment of the 118005
costs of the proceeding and to cover the expense of making the 118006
change asked for by the petition. 118007

Sec. 5573.02. Upon the completion of the surveys, plans, 118008
profiles, cross sections, estimates, and specifications for a road 118009
improvement by the county engineer, ~~he~~ the engineer shall transmit 118010
to the board of township trustees copies of the same. Except in 118011

cases of reconstruction or repair of roads, where no land or 118012
property is taken, the board shall then cause to be published in a 118013
newspaper, ~~published in the county and~~ of general circulation 118014
within the township, ~~but if no such paper is published in the~~ 118015
~~county then in one having general circulation in such township,~~ 118016
once a week for two consecutive weeks or as provided in section 118017
7.16 of the Revised Code, a notice that such improvement is to be 118018
made and that copies of the surveys, plans, profiles, cross 118019
sections, estimates, and specifications for it are on file with 118020
the board for the inspection and examination of all persons 118021
interested. 118022

In the event that land or property is to be taken for such 118023
improvement, proceedings shall be had in accordance with sections 118024
163.01 to 163.22, ~~inclusive~~, of the Revised Code. 118025

Sec. 5573.10. As soon as all questions of compensation and 118026
damages have been determined for any road improvement, the county 118027
engineer shall make, upon actual view, an estimated assessment, 118028
upon the real estate to be charged, of such part of the 118029
compensation, damages, and costs of such improvement as is to be 118030
specially assessed. Such assessment shall be according to the 118031
benefits which will result to the real estate. In making such 118032
assessment the engineer may take into consideration any previous 118033
special assessment made upon such real estate for road 118034
improvements. 118035

The schedule for such assessments shall be filed with the 118036
board of township trustees for the inspection of the persons 118037
interested. Before adopting the estimated assessment, the board 118038
shall publish once each week for two consecutive weeks, in ~~some a~~ 118039
newspaper ~~published in the county and~~ of general circulation 118040
within such township, ~~but if there is no such paper published in~~ 118041
~~said county then in one having general circulation in such~~ 118042

~~township~~ or as provided in section 7.16 of the Revised Code, 118043
notice that such assessment has been made and is on file with the 118044
board, and the date when objections will be heard to such 118045
assessment. 118046

If any owner of property affected desires to make objections, 118047
~~he~~ the owner may file ~~his~~ objections to such assessments, in 118048
writing, with the board, before the time of such hearing. If any 118049
objections are filed the board shall hear them and act as an 118050
equalizing board, and may change assessments if, in its opinion, 118051
any changes are necessary to make them just and equitable. The 118052
board shall approve and confirm assessments as reported by the 118053
engineer or modified by the board. Such assessments, when approved 118054
and confirmed, shall be a lien on the land chargeable therewith. 118055

Sec. 5575.01. (A) In the maintenance and repair of roads, the 118056
board of township trustees may proceed either by contract or force 118057
account, but, unless the exemption specified in division (C) of 118058
this section applies, if the board wishes to proceed by force 118059
account, it first shall cause the county engineer to complete the 118060
force account assessment form developed by the auditor of state 118061
under section 117.16 of the Revised Code. Except as otherwise 118062
provided in sections 505.08 and 505.101 of the Revised Code, when 118063
the board proceeds by contract, the contract shall, if the amount 118064
involved exceeds forty-five thousand dollars, be let by the board 118065
to the lowest responsible bidder after advertisement for bids 118066
once, not later than two weeks, prior to the date fixed for the 118067
letting of the contract, in a newspaper ~~published in the county~~ 118068
~~and~~ of general circulation within the township ~~or, if no newspaper~~ 118069
~~is published in the county, in a newspaper having general~~ 118070
~~circulation in the township.~~ If the amount involved is forty-five 118071
thousand dollars or less, a contract may be let without 118072
competitive bidding, or the work may be done by force account. 118073
Such a contract shall be performed under the supervision of a 118074

member of the board or the township road superintendent. 118075

(B) Before undertaking the construction or reconstruction of 118076
a township road, the board shall cause to be made by the county 118077
engineer an estimate of the cost of the work, which estimate shall 118078
include labor, material, freight, fuel, hauling, use of machinery 118079
and equipment, and all other items of cost. If the board finds it 118080
in the best interest of the public, it may, in lieu of 118081
constructing the road by contract, proceed to construct the road 118082
by force account. Except as otherwise provided under sections 118083
505.08 and 505.101 of the Revised Code, where the total ~~estimate~~ 118084
estimated cost of the work exceeds fifteen thousand dollars per 118085
mile, the board shall invite and receive competitive bids for 118086
furnishing all the labor, materials, and equipment and doing the 118087
work, as provided in section 5575.02 of the Revised Code, and 118088
shall consider and reject them before ordering the work done by 118089
force account. When such bids are received, considered, and 118090
rejected, and the work is done by force account, the work shall be 118091
performed in compliance with the plans and specifications upon 118092
which the bids were based. 118093

(C) Force account assessment forms are not required under 118094
division (A) of this section for road maintenance or repair 118095
projects of less than fifteen thousand dollars, or under division 118096
(B) of this section for road construction or reconstruction 118097
projects of less than five thousand dollars per mile. 118098

(D) All force account work under this section shall be done 118099
under the direction of a member of the board or the township road 118100
superintendent. 118101

Sec. 5575.02. After the board of township trustees has 118102
decided to proceed with a road improvement, it shall advertise for 118103
bids once, not later than two weeks prior to the date fixed for 118104
the letting of contracts, in a newspaper ~~published in the county~~ 118105

~~and of general circulation within such the township, but if there~~ 118106
~~is no such paper published in the county then in one having~~ 118107
~~general circulation in the township.~~ Such notice shall state that 118108
copies of the surveys, plans, profiles, cross sections, estimates, 118109
and specifications for such improvement are on file with the 118110
board, and the time within which bids will be received. The board 118111
may let the work as a whole or in convenient sections, as it 118112
determines. The contract shall be awarded to the lowest and best 118113
bidder who meets the requirements of section 153.54 of the Revised 118114
Code, and shall be let upon the basis of lump sum bids, unless the 118115
board orders that it be let upon the basis of unit price bids, in 118116
which event it shall be let upon such basis. 118117

Sec. 5577.042. (A) As used in this section: 118118

(1) "Farm machinery" has the same meaning as in section 118119
4501.01 of the Revised Code. 118120

(2) "Farm commodities" includes livestock, bulk milk, corn, 118121
soybeans, tobacco, and wheat. 118122

(3) "Farm truck" means a truck used in the transportation 118123
from a farm of farm commodities when the truck is operated in 118124
accordance with this section. 118125

(4) "Log truck" means a truck used in the transportation of 118126
timber from the site of its cutting when the truck is operated in 118127
accordance with this section. 118128

(5) "Coal truck" means a truck transporting coal from the 118129
site where it is mined when the truck is operated in accordance 118130
with this section. 118131

(6) "Solid waste" has the same meaning as in section 3734.01 118132
of the Revised Code. 118133

(7) "Solid waste haul vehicle" means a vehicle hauling solid 118134
waste for which a bill of lading has not been issued. 118135

(B)~~(1)~~ Notwithstanding sections 5577.02 and 5577.04 of the Revised Code, the following vehicles under the described conditions may exceed by no more than seven and one-half per cent the weight provisions of sections 5577.01 to 5577.09 of the Revised Code and no penalty prescribed in section 5577.99 of the Revised Code shall be imposed:

~~(a)~~(1) A coal truck transporting coal, from the place of production to the first point of delivery where title to the coal is transferred;

~~(b)~~(2) A farm truck or farm machinery transporting farm commodities, from the place of production to the first point of delivery where the commodities are weighed and title to the commodities is transferred;

~~(c)~~(3) A log truck transporting timber, from the site of its cutting to the first point of delivery where the timber is transferred;

~~(d)~~(4) A solid waste haul vehicle hauling solid waste, from the place of production to the first point of delivery where the solid waste is disposed of or title to the solid waste is transferred.

~~(2) In addition, if any of the vehicles listed in division (B)(1) of this section and operated under the conditions described in that division does not exceed by more than seven and one half per cent the gross vehicle weight provisions of sections 5577.01 to 5577.09 of the Revised Code, no wheel or axle load limits shall apply and no penalty prescribed in section 5577.99 of the Revised Code for a wheel or axle overload shall be imposed.~~

(C) If any of the vehicles listed in division (B)~~(1)~~ of this section and operated under the conditions described in that division exceeds by more than seven and one-half per cent the weight provisions of sections 5577.01 to 5577.09 of the Revised

Code, both of the following apply without regard to the seven and 118167
one-half per cent allowance provided by division (B) of this 118168
section: 118169

(1) The applicable penalty prescribed in section 5577.99 of 118170
the Revised Code; 118171

(2) The civil liability imposed by section 5577.12 of the 118172
Revised Code. 118173

(D)(1) Division (B) of this section does not apply to the 118174
operation of a farm truck, log truck, or farm machinery 118175
transporting farm commodities during the months of February and 118176
March. 118177

(2) Regardless of when the operation occurs, division (B) of 118178
this section does not apply to the operation of a vehicle on 118179
either of the following: 118180

(a) A highway that is part of the interstate system; 118181

(b) A highway, road, or bridge that is subject to reduced 118182
maximum weights under section 4513.33, 5577.07, 5577.071, 5577.08, 118183
5577.09, or 5591.42 of the Revised Code. 118184

Sec. 5577.043. (A) Notwithstanding sections 5577.02 and 118185
5577.04 of the Revised Code, the following vehicles under the 118186
described conditions may exceed by no more than five per cent the 118187
weight provisions of sections 5577.01 to 5577.09 of the Revised 118188
Code and no penalty prescribed in section 5577.99 of the Revised 118189
Code shall be imposed: 118190

(1) A surface mining truck transporting minerals from the 118191
place where the minerals are loaded to any of the following: 118192

(a) The construction site where the minerals are discharged; 118193

(b) The place where title to the minerals is transferred; 118194

(c) The place of processing. 118195

(2) A vehicle transporting hot mix asphalt material from the place where the material is first mixed to the paving site where the material is discharged;

(3) A vehicle transporting concrete from the place where the material is first mixed to the site where the material is discharged;

(4) A vehicle transporting manure, turf, sod, or silage from the site where the material is first produced to the first place of delivery;

(5) A vehicle transporting chips, sawdust, mulch, bark, pulpwood, biomass, or firewood from the site where the product is first produced or harvested to the first point where the product is transferred.

~~(B) In addition, if any of the vehicles listed in division (A) of this section and operated under the conditions described in that division does not exceed by more than five per cent the gross vehicle weight provisions of sections 5577.01 to 5577.09 of the Revised Code, no wheel or axle load limits shall apply and no penalty prescribed in section 5577.99 of the Revised Code for a wheel or axle overload shall be imposed.~~

~~(C)~~ If any of the vehicles listed in division (A) of this section and operated under the conditions described in that division exceeds by more than five per cent the weight provisions of sections 5577.01 to 5577.09 of the Revised Code, both of the following apply without regard to the allowance provided by division (A) of this section:

(1) The applicable penalty prescribed in section 5577.99 of the Revised Code;

(2) The civil liability imposed by section 5577.12 of the Revised Code.

~~(D) Divisions~~ (C) Division (A) and ~~(B)~~ of this section ~~do~~ 118226
does not apply to the operation of a vehicle listed in division 118227
(A) of this section on either of the following: 118228

(1) A highway that is part of the interstate system; 118229

(2) A highway, road, or bridge that is subject to reduced 118230
maximum weights under section 4513.33, 5577.07, 5577.071, 5577.08, 118231
5577.09, or 5591.42 of the Revised Code. 118232

Sec. 5591.15. All resolutions and notices provided for in 118233
sections 5591.03 to 5591.17 of the Revised Code, shall be 118234
published in a newspaper ~~published in and~~ of general circulation 118235
in the county where the improvement provided in such sections is 118236
to be made, and such publication shall be complete when published 118237
once a week, on the same day of the week, for two consecutive 118238
weeks or as provided in section 7.16 of the Revised Code. 118239

Sec. 5593.08. The bridge commission of any county or city 118240
may: 118241

(A) Adopt bylaws for the regulation of its affairs and the 118242
conduct of its business; 118243

(B) Adopt an official seal, which shall not be the seal of 118244
Ohio; 118245

(C) Maintain a principal office and suboffices at such places 118246
within the county or city as it designates; 118247

(D) Sue and be sued in its own name, and plead and be 118248
impleaded. Any actions against a bridge commission shall be 118249
brought in the court of common pleas of the county in which the 118250
principal office of the commission is located, or in the court of 118251
common pleas of the county in which the cause of action arose, 118252
when such county is located within this state. All summonses, 118253
exceptions, and notices of every kind shall be served on the 118254

commission by leaving a copy thereof at the principal office with 118255
the secretary-treasurer or the person in charge. 118256

(E) Construct, acquire by purchase or condemnation, improve, 118257
maintain, repair, police, and operate any bridge, and establish 118258
rules for the use of any such bridge; 118259

(F) Issue bridge revenue bonds of the county or city, payable 118260
solely from revenues, as provided in sections 5593.10 and 5593.16 118261
of the Revised Code, for the purpose of paying any part of the 118262
cost of any bridge or bridges; 118263

(G) Fix and revise from time to time and charge and collect 118264
tolls for transit over each bridge constructed or acquired by it; 118265

(H) Acquire, hold, and dispose of real and personal property 118266
in the exercise of its powers and the performance of its duties 118267
under this chapter; 118268

(I) Acquire, in the name of the county or city, as the case 118269
may be, by purchase or otherwise, on such terms and in such manner 118270
as it determines proper, or by the exercise of the right of 118271
condemnation in the manner provided by sections 163.01 to 163.22 118272
of the Revised Code, any bridge, land, rights, easements, 118273
franchises, and other property necessary or convenient for the 118274
construction of a bridge or the improvement or efficient operation 118275
of any property acquired or constructed under this chapter, or for 118276
securing right-of-way leading to any such bridge or its approach 118277
facilities; 118278

(J) Make and enter into all contracts and agreements 118279
necessary or incidental to the performance of its duties and the 118280
execution of its powers under this chapter: 118281

(1) When the cost under any such contract or agreement, other 118282
than compensation for personal services, involves an expenditure 118283
of more than ten thousand dollars, the commission shall make a 118284
written contract with the lowest and best bidder after 118285

advertisement for not less than two consecutive weeks, or as 118286
provided in section 7.16 of the Revised Code, in a newspaper of 118287
general circulation in Franklin county, and in such other 118288
publications as the commission determines, which notice shall 118289
state the general character of the work and the general character 118290
of the materials to be furnished, the place where plans and 118291
specifications therefor may be examined, and the time and place of 118292
receiving bids. 118293

(2) Each bid for a contract for the construction, demolition, 118294
alteration, repair, or reconstruction of an improvement shall 118295
contain the full name of every person interested in it and meets 118296
the requirements of section 153.54 of the Revised Code. 118297

(3) Each bid for a contract except as provided in division 118298
(J)(2) of this section shall contain the full name of every person 118299
or company interested in it and shall be accompanied by a bond or 118300
certified check on a solvent bank, in such amount as the 118301
commission determines sufficient, that if the bid is accepted a 118302
contract will be entered into and the performance of its proposal 118303
secured. 118304

(4) The commission may reject any and all bids. 118305

(5) A bond with good and sufficient surety, approved by the 118306
commission, shall be required of every contractor awarded a 118307
contract except as provided in division (J)(2) of this section, in 118308
an amount equal to at least fifty per cent of the contract price, 118309
conditioned upon the faithful performance of the contract. 118310

(K) Employ consulting engineers, superintendents, managers, 118311
engineers, construction and accounting experts, attorneys, and 118312
other employees and agents as are necessary in its judgment, and 118313
fix their compensation. All such expenses are payable solely from 118314
the proceeds of bridge revenue bonds issued under this chapter, or 118315
from revenues. 118316

(L) Receive and accept from any federal agency, subject to the approval of the board of county commissioners or the legislative authority of the city, as the case may be, grants for or in aid of the construction, acquisition, improvement, or operation of any bridge, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(M) Provide coverage for its employees under sections 4123.01 to 4123.94 and 4141.01 to 4141.46 of the Revised Code;

(N) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 5701.13. (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "Adult care facility" means an adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code that is issued a license pursuant to section ~~3722.04~~ 5119.73 of the Revised Code.

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that

satisfies divisions (B)(1)(a) to (e) of this section: 118347

(a) It is a nursing home, residential care facility, or adult care facility. 118348
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(b) It is owned by a corporation, unincorporated association, or trust of a charitable, religious, or fraternal nature, which is organized and operated not for profit, which is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and which is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 118350
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(c) It is open to the public without regard to race, color, or national origin. 118358
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(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building, equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high. 118360
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(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services. 118365
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(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home," or "residential care facility," ~~or "adult care facility"~~ under section 3721.01 of the Revised Code or ~~3722.01~~ the definition of "adult care facility" under section 5119.70 of the Revised Code regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on account of their service without compensation to a charitable, religious, fraternal, or educational institution, which individuals are aged or infirm and are members of the corporation, 118368
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association, or trust that owns the place of residence. For the 118378
purposes of division (B)(2) of this section, "compensation" does 118379
not include furnishing room and board, clothing, health care, or 118380
other necessities, or stipends or other de minimis payments to 118381
defray the cost thereof. 118382

Exemption from taxation shall be accorded, on proper 118383
application, only to those homes or parts of homes which meet the 118384
standards and provide the services specified in this section. 118385

Nothing in this section shall be construed as preventing a 118386
home from requiring a resident with financial need to apply for 118387
any applicable financial assistance or requiring a home to retain 118388
a resident who willfully refuses to pay for services for which the 118389
resident has contracted even though the resident has sufficient 118390
resources to do so. 118391

(C)(1) If a corporation, unincorporated association, or trust 118392
described in division (B)(1)(b) of this section is granted a 118393
certificate of need pursuant to section 3702.52 of the Revised 118394
Code to construct, add to, or otherwise modify a nursing home, or 118395
is given approval pursuant to section 3791.04 of the Revised Code 118396
to construct, add to, or otherwise modify a residential care 118397
facility or adult care facility and if the corporation, 118398
association, or trust submits an affidavit to the tax commissioner 118399
stating that, commencing on the date of licensure and continuing 118400
thereafter, the home or facility will be operated in accordance 118401
with the requirements of divisions (B)(1)(a) to (e) of this 118402
section, the corporation, association, or trust shall be 118403
considered to be operating a "home for the aged" within the 118404
meaning of division (B)(1) of this section, beginning on the first 118405
day of January of the year in which such certificate is granted or 118406
approval is given. 118407

(2) If a corporation, association, or trust is considered to 118408
be operating a "home for the aged" pursuant to division (C)(1) of 118409

this section, the corporation, association, or trust shall notify 118410
the tax commissioner in writing upon the occurrence of any of the 118411
following events: 118412

(a) The corporation, association, or trust no longer intends 118413
to complete the construction of, addition to, or modification of 118414
the home or facility, to obtain the appropriate license for the 118415
home or facility, or to commence operation of the home or facility 118416
in accordance with the requirements of divisions (B)(1)(a) to (e) 118417
of this section; 118418

(b) The certificate of approval referred to in division 118419
(C)(1) of this section expires, is revoked, or is otherwise 118420
terminated prior to the completion of the construction of, 118421
addition to, or modification of the home or facility; 118422

(c) The license to operate the home or facility is not 118423
granted by the director of health within one year following 118424
completion of the construction of, addition to, or modification of 118425
the home or facility; 118426

(d) The license to operate the home or facility is not 118427
granted by the director of health within four years following the 118428
date upon which the certificate or approval referred to in 118429
division (C)(1) of this section was granted or given; 118430

(e) The home or facility is granted a license to operate as a 118431
nursing home, residential care facility, or adult care facility. 118432

(3) Upon the occurrence of any of the events referred to in 118433
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 118434
corporation, association, or trust shall no longer be considered 118435
to be operating a "home for the aged" pursuant to division (C)(1) 118436
of this section, except that the tax commissioner, for good cause 118437
shown and to the extent the commissioner considers appropriate, 118438
may extend the time period specified in division (C)(2)(c) or (d) 118439
of this section, or both. Nothing in division (C)(3) of this 118440

section shall be construed to prevent a nursing home, residential 118441
care facility, or adult care facility from qualifying as a "home 118442
for the aged" if, upon proper application made pursuant to 118443
division (B) of this section, it is found to meet the requirements 118444
of divisions (A) and (B) of this section. 118445

Sec. 5703.05. All powers, duties, and functions of the 118446
department of taxation are vested in and shall be performed by the 118447
tax commissioner, which powers, duties, and functions shall 118448
include, but shall not be limited to, the following: 118449

(A) Prescribing all blank forms which the department is 118450
authorized to prescribe, and to provide such forms and distribute 118451
the same as required by law and the rules of the department. ~~The 118452
tax commissioner shall include a mail in registration form 118453
prescribed in section 3503.14 of the Revised Code within the 118454
return and instructions for the tax levied in odd numbered years 118455
under section 5747.02 of the Revised Code, beginning with the tax 118456
levied for 1995. The secretary of state shall bear all costs for 118457
the inclusion of the mail in registration form. That form shall be 118458
addressed for return to the office of the secretary of state.~~ 118459

(B) Exercising the authority provided by law, including 118460
orders from bankruptcy courts, relative to remitting or refunding 118461
taxes or assessments, including penalties and interest thereon, 118462
illegally or erroneously assessed or collected, or for any other 118463
reason overpaid, and in addition, the commissioner may on written 118464
application of any person, firm, or corporation claiming to have 118465
overpaid to the treasurer of state at any time within five years 118466
prior to the making of such application any tax payable under any 118467
law which the department of taxation is required to administer 118468
which does not contain any provision for refund, or on the 118469
commissioner's own motion investigate the facts and make in 118470
triplicate a written statement of the commissioner's findings, 118471

and, if the commissioner finds that there has been an overpayment, 118472
issue in triplicate a certificate of abatement payable to the 118473
taxpayer, the taxpayer's assigns, or legal representative which 118474
shows the amount of the overpayment and the kind of tax overpaid. 118475
One copy of such statement shall be entered on the journal of the 118476
commissioner, one shall be certified to the attorney general, and 118477
one certified copy shall be delivered to the taxpayer. All copies 118478
of the certificate of abatement shall be transmitted to the 118479
attorney general, and if the attorney general finds it to be 118480
correct the attorney general shall so certify on each copy, and 118481
deliver one copy to the taxpayer, one copy to the commissioner, 118482
and the third copy to the treasurer of state. Except as provided 118483
in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's 118484
copy of any certificates of abatement may be tendered by the payee 118485
or transferee thereof to the treasurer of state as payment, to the 118486
extent of the amount thereof, of any tax payable to the treasurer 118487
of state. 118488

(C) Exercising the authority provided by law relative to 118489
consenting to the compromise and settlement of tax claims; 118490

(D) Exercising the authority provided by law relative to the 118491
use of alternative tax bases by taxpayers in the making of 118492
personal property tax returns; 118493

(E) Exercising the authority provided by law relative to 118494
authorizing the prepayment of taxes on retail sales of tangible 118495
personal property or on the storage, use, or consumption of 118496
personal property, and waiving the collection of such taxes from 118497
the consumers; 118498

(F) Exercising the authority provided by law to revoke 118499
licenses; 118500

(G) Maintaining a continuous study of the practical operation 118501
of all taxation and revenue laws of the state, the manner in which 118502

and extent to which such laws provide revenues for the support of 118503
the state and its political subdivisions, the probable effect upon 118504
such revenue of possible changes in existing laws, and the 118505
possible enactment of measures providing for other forms of 118506
taxation. For this purpose the commissioner may establish and 118507
maintain a division of research and statistics, and may appoint 118508
necessary employees who shall be in the unclassified civil 118509
service; the results of such study shall be available to the 118510
members of the general assembly and the public. 118511

(H) Making all tax assessments, valuations, findings, 118512
determinations, computations, and orders the department of 118513
taxation is by law authorized and required to make and, pursuant 118514
to time limitations provided by law, on the commissioner's own 118515
motion, reviewing, redetermining, or correcting any tax 118516
assessments, valuations, findings, determinations, computations, 118517
or orders the commissioner has made, but the commissioner shall 118518
not review, redetermine, or correct any tax assessment, valuation, 118519
finding, determination, computation, or order which the 118520
commissioner has made as to which an appeal or application for 118521
rehearing, review, redetermination, or correction has been filed 118522
with the board of tax appeals, unless such appeal or application 118523
is withdrawn by the appellant or applicant or dismissed; 118524

(I) Appointing not more than five deputy tax commissioners, 118525
who, under such regulations as the rules of the department of 118526
taxation prescribe, may act for the commissioner in the 118527
performance of such duties as the commissioner prescribes in the 118528
administration of the laws which the commissioner is authorized 118529
and required to administer, and who shall serve in the 118530
unclassified civil service at the pleasure of the commissioner, 118531
but if a person who holds a position in the classified service is 118532
appointed, it shall not affect the civil service status of such 118533
person. The commissioner may designate not more than two of the 118534

deputy commissioners to act as commissioner in case of the 118535
absence, disability, or recusal of the commissioner or vacancy in 118536
the office of commissioner. The commissioner may adopt rules 118537
relating to the order of precedence of such designated deputy 118538
commissioners and to their assumption and administration of the 118539
office of commissioner. 118540

(J) Appointing and prescribing the duties of all other 118541
employees of the department of taxation necessary in the 118542
performance of the work of the department which the tax 118543
commissioner is by law authorized and required to perform, and 118544
creating such divisions or sections of employees as, in the 118545
commissioner's judgment, is proper; 118546

(K) Organizing the work of the department, which the 118547
commissioner is by law authorized and required to perform, so 118548
that, in the commissioner's judgment, an efficient and economical 118549
administration of the laws will result; 118550

(L) Maintaining a journal, which is open to public 118551
inspection, in which the tax commissioner shall keep a record of 118552
all final determinations of the commissioner; 118553

(M) Adopting and promulgating, in the manner provided by 118554
section 5703.14 of the Revised Code, all rules of the department, 118555
including rules for the administration of sections 3517.16, 118556
3517.17, and 5747.081 of the Revised Code; 118557

(N) Destroying any or all returns or assessment certificates 118558
in the manner authorized by law; 118559

(O) Adopting rules, in accordance with division (B) of 118560
section 325.31 of the Revised Code, governing the expenditure of 118561
moneys from the real estate assessment fund under that division. 118562

Sec. 5703.059. (A) The tax commissioner may adopt rules 118563
requiring returns, including any accompanying schedule or 118564

statement, for any of the following taxes to be filed 118565
electronically using the Ohio business gateway as defined in 118566
section 718.051 of the Revised Code, filed telephonically using 118567
the system known as the Ohio telefile system, or filed by any 118568
other electronic means prescribed by the commissioner: 118569

(1) Employer income tax withholding under Chapter 5747. of 118570
the Revised Code; 118571

(2) Motor fuel tax under Chapter 5735. of the Revised Code; 118572

(3) Cigarette and tobacco product tax under Chapter 5743. of 118573
the Revised Code; 118574

(4) Severance tax under Chapter 5749. of the Revised Code; 118575

(5) Use tax under Chapter 5741. of the Revised Code. 118576

(B) The tax commissioner may adopt rules requiring any 118577
payment of tax shown on such a return to be due to be made 118578
electronically in a manner approved by the commissioner. 118579

(C) A rule adopted under this section does not apply to 118580
returns or reports filed or payments made before six months after 118581
the effective date of the rule. The commissioner shall publicize 118582
any new electronic filing requirement on the department's web 118583
site. The commissioner shall educate the public of the requirement 118584
through seminars, workshops, conferences, or other outreach 118585
activities. 118586

(D) Any person required to file returns and make payments 118587
electronically under rules adopted under this section may apply to 118588
the commissioner, on a form prescribed by the commissioner, to be 118589
excused from that requirement. For good cause shown, the 118590
commissioner may excuse the applicant from the requirement and 118591
permit the applicant to file the returns or reports or make the 118592
payments required under this section by nonelectronic means. 118593

Sec. 5703.37. (A)(1) Except as provided in division (B) of 118594
this section, whenever service of a notice or order is required in 118595
the manner provided in this section, a copy of the notice or order 118596
shall be served upon the person affected thereby either by 118597
personal service ~~or~~, by certified mail, or by a delivery service 118598
authorized under section 5703.056 of the Revised Code that 118599
notifies the tax commissioner of the date of delivery. 118600

(2) With the permission of the person affected by the notice 118601
or order, the commissioner may enter into a written agreement to 118602
deliver a notice or order by alternative means as provided in this 118603
section, including, but not limited to, delivery by secure 118604
electronic mail. Delivery by such means satisfies the requirements 118605
for delivery under this section. 118606

(B)(1)(a) If certified mail is returned because of an 118607
undeliverable address, the commissioner shall first utilize 118608
reasonable means to ascertain a new last known address, including 118609
the use of a change of address service offered by the United 118610
States postal service. If, after using reasonable means, the 118611
commissioner is unable to ascertain a new last known address, the 118612
assessment is final for purposes of section 131.02 of the Revised 118613
Code sixty days after the notice or order sent by certified mail 118614
is first returned to the commissioner, and the commissioner shall 118615
certify the notice or order, if applicable, to the attorney 118616
general for collection under section 131.02 of the Revised Code. 118617

(b) Notwithstanding certification to the attorney general 118618
under division (B)(1)(a) of this section, once the commissioner or 118619
attorney general, or the designee of either, makes an initial 118620
contact with the person to whom the notice or order is directed, 118621
the person may protest an assessment by filing a petition for 118622
reassessment within sixty days after the initial contact. The 118623
certification of an assessment under division (B)(1)(a) of this 118624

section is prima-facie evidence that delivery is complete and that 118625
the notice or order is served. 118626

(2) If mailing of a notice or order by certified mail is 118627
returned for some cause other than an undeliverable address, the 118628
tax commissioner shall resend the notice or order by ordinary 118629
mail. The notice or order shall show the date the commissioner 118630
sends the notice or order and include the following statement: 118631

"This notice or order is deemed to be served on the addressee 118632
under applicable law ten days from the date this notice or order 118633
was mailed by the commissioner as shown on the notice or order, 118634
and all periods within which an appeal may be filed apply from and 118635
after that date." 118636

Unless the mailing is returned because of an undeliverable 118637
address, the mailing of that information is prima-facie evidence 118638
that delivery of the notice or order was completed ten days after 118639
the commissioner sent the notice or order by ordinary mail and 118640
that the notice or order was served. 118641

If the ordinary mail is subsequently returned because of an 118642
undeliverable address, the commissioner shall proceed under 118643
division (B)(1)(a) of this section. A person may challenge the 118644
presumption of delivery and service under this division in 118645
accordance with division (C) of this section. 118646

(C)(1) A person disputing the presumption of delivery and 118647
service under division (B) of this section bears the burden of 118648
proving by a preponderance of the evidence that the address to 118649
which the notice or order was sent was not an address with which 118650
the person was associated at the time the commissioner originally 118651
mailed the notice or order by certified mail. For the purposes of 118652
this section, a person is associated with an address at the time 118653
the commissioner originally mailed the notice or order if, at that 118654
time, the person was residing, receiving legal documents, or 118655

conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the tax commissioner.

(D) Nothing in this section prohibits the tax commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service.

(2) "Undeliverable address" means an address to which the United States postal service is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.58. (A) Subject to ~~division (C)~~ divisions (B) and (D) of this section, the tax commissioner shall not make or issue an assessment for any tax payable to the state that is administered by the tax commissioner, or any penalty, interest, or additional charge on such tax, after the expiration of ten years, including any extension, from the date the tax return or report was due when such amount was not reported and paid, provided that the ten-year period shall be extended by the period of any lawful stay to such assessment. As used in this section, "assessment" has the same meaning as in section 5703.50 of the Revised Code.

(B) Subject to division (D) of this section, the tax commissioner shall not make or issue an assessment against any person for any tax due under Chapter 5741. of the Revised Code, or any penalty, interest, or additional charge on such tax, after the expiration of seven years, including any extension, from the date the tax return or report was due if the amount of tax due was not reported and paid, provided that the seven-year period shall be extended by the period of any lawful stay to the assessment. The commissioner shall not make or issue an assessment against a consumer for any tax due under Chapter 5741. of the Revised Code, or for any penalty, interest, or additional charge on such tax, if the tax was due before January 1, 2008.

(C) This section does not apply to either of the following:

(1) Any amount collected for the state by a vendor or seller under Chapter 5739. or 5741. of the Revised Code or withheld by an employer under Chapter 5747. of the Revised Code.

(2) Any person who fraudulently attempts to avoid such tax.

~~(C)~~(D) This section does not authorize the assessment or 118718
collection of a tax for which the applicable period of limitation 118719
prescribed by law has expired and for which no valid assessment 118720
has been made and served as prescribed by law. 118721

Sec. 5705.01. As used in this chapter: 118722

(A) "Subdivision" means any county; municipal corporation; 118723
township; township police district; joint police district; 118724
township fire district; joint fire district; joint ambulance 118725
district; joint emergency medical services district; fire and 118726
ambulance district; joint recreation district; township waste 118727
disposal district; township road district; community college 118728
district; technical college district; detention facility district; 118729
a district organized under section 2151.65 of the Revised Code; a 118730
combined district organized under sections 2152.41 and 2151.65 of 118731
the Revised Code; a joint-county alcohol, drug addiction, and 118732
mental health service district; a drainage improvement district 118733
created under section 6131.52 of the Revised Code; a lake 118734
facilities authority created under Chapter 353. of the Revised 118735
Code; a union cemetery district; a county school financing 118736
district; a city, local, exempted village, cooperative education, 118737
or joint vocational school district; or a regional student 118738
education district created under section 3313.83 of the Revised 118739
Code. 118740

(B) "Municipal corporation" means all municipal corporations, 118741
including those that have adopted a charter under Article XVIII, 118742
Ohio Constitution. 118743

(C) "Taxing authority" or "bond issuing authority" means, in 118744
the case of any county, the board of county commissioners; in the 118745
case of a municipal corporation, the council or other legislative 118746
authority of the municipal corporation; in the case of a city, 118747
local, exempted village, cooperative education, or joint 118748

vocational school district, the board of education; in the case of 118749
a community college district, the board of trustees of the 118750
district; in the case of a technical college district, the board 118751
of trustees of the district; in the case of a detention facility 118752
district, a district organized under section 2151.65 of the 118753
Revised Code, or a combined district organized under sections 118754
2152.41 and 2151.65 of the Revised Code, the joint board of county 118755
commissioners of the district; in the case of a township, the 118756
board of township trustees; in the case of a joint police 118757
district, the joint police district board; in the case of a joint 118758
fire district, the board of fire district trustees; in the case of 118759
a joint recreation district, the joint recreation district board 118760
of trustees; in the case of a joint-county alcohol, drug 118761
addiction, and mental health service district, the district's 118762
board of alcohol, drug addiction, and mental health services; in 118763
the case of a joint ambulance district or a fire and ambulance 118764
district, the board of trustees of the district; in the case of a 118765
union cemetery district, the legislative authority of the 118766
municipal corporation and the board of township trustees, acting 118767
jointly as described in section 759.341 of the Revised Code; in 118768
the case of a drainage improvement district, the board of county 118769
commissioners of the county in which the drainage district is 118770
located; in the case of a lake facilities authority, the board of 118771
directors; in the case of a joint emergency medical services 118772
district, the joint board of county commissioners of all counties 118773
in which all or any part of the district lies; and in the case of 118774
a township police district, a township fire district, a township 118775
road district, or a township waste disposal district, the board of 118776
township trustees of the township in which the district is 118777
located. "Taxing authority" also means the educational service 118778
center governing board that serves as the taxing authority of a 118779
county school financing district as provided in section 3311.50 of 118780
the Revised Code, and the board of directors of a regional student 118781

education district created under section 3313.83 of the Revised Code. 118782
118783

(D) "Fiscal officer" in the case of a county, means the 118784
county auditor; in the case of a municipal corporation, the city 118785
auditor or village clerk, or an officer who, by virtue of the 118786
charter, has the duties and functions of the city auditor or 118787
village clerk, except that in the case of a municipal university 118788
the board of directors of which have assumed, in the manner 118789
provided by law, the custody and control of the funds of the 118790
university, the chief accounting officer of the university shall 118791
perform, with respect to the funds, the duties vested in the 118792
fiscal officer of the subdivision by sections 5705.41 and 5705.44 118793
of the Revised Code; in the case of a school district, the 118794
treasurer of the board of education; in the case of a county 118795
school financing district, the treasurer of the educational 118796
service center governing board that serves as the taxing 118797
authority; in the case of a township, the township fiscal officer; 118798
in the case of a joint police district, the treasurer of the 118799
district; in the case of a joint fire district, the clerk of the 118800
board of fire district trustees; in the case of a joint ambulance 118801
district, the clerk of the board of trustees of the district; in 118802
the case of a joint emergency medical services district, the 118803
person appointed as fiscal officer pursuant to division (D) of 118804
section 307.053 of the Revised Code; in the case of a fire and 118805
ambulance district, the person appointed as fiscal officer 118806
pursuant to division (B) of section 505.375 of the Revised Code; 118807
in the case of a joint recreation district, the person designated 118808
pursuant to section 755.15 of the Revised Code; in the case of a 118809
union cemetery district, the clerk of the municipal corporation 118810
designated in section 759.34 of the Revised Code; in the case of a 118811
children's home district, educational service center, general 118812
health district, joint-county alcohol, drug addiction, and mental 118813
health service district, county library district, detention 118814

facility district, district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a metropolitan park district for which no treasurer has been appointed pursuant to section 1545.07 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district; in the case of a metropolitan park district which has appointed a treasurer pursuant to section 1545.07 of the Revised Code, that treasurer; in the case of a drainage improvement district, the auditor of the county in which the drainage improvement district is located; in the case of a lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code; in the case of a regional student education district, the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the

district or issue bonds that constitute a charge against the 118847
property of the district, including conservancy districts, 118848
metropolitan park districts, sanitary districts, road districts, 118849
and other districts. 118850

(I) "District authority" means any board of directors, 118851
trustees, commissioners, or other officers controlling a district 118852
institution or activity that derives its income or funds from two 118853
or more subdivisions, such as the educational service center, the 118854
trustees of district children's homes, the district board of 118855
health, a joint-county alcohol, drug addiction, and mental health 118856
service district's board of alcohol, drug addiction, and mental 118857
health services, detention facility districts, a joint recreation 118858
district board of trustees, districts organized under section 118859
2151.65 of the Revised Code, combined districts organized under 118860
sections 2152.41 and 2151.65 of the Revised Code, and other such 118861
boards. 118862

(J) "Tax list" and "tax duplicate" mean the general tax lists 118863
and duplicates prescribed by sections 319.28 and 319.29 of the 118864
Revised Code. 118865

(K) "Property" as applied to a tax levy means taxable 118866
property listed on general tax lists and duplicates. 118867

(L) "School library district" means a school district in 118868
which a free public library has been established that is under the 118869
control and management of a board of library trustees as provided 118870
in section 3375.15 of the Revised Code. 118871

Sec. 5705.14. No transfer shall be made from one fund of a 118872
subdivision to any other fund, by order of the court or otherwise, 118873
except as follows: 118874

(A) The unexpended balance in a bond fund that is no longer 118875
needed for the purpose for which such fund was created shall be 118876

transferred to the sinking fund or bond retirement fund from which 118877
such bonds are payable. 118878

(B) The unexpended balance in any specific permanent 118879
improvement fund, other than a bond fund, after the payment of all 118880
obligations incurred in the acquisition of such improvement, shall 118881
be transferred to the sinking fund or bond retirement fund of the 118882
subdivision; provided that if such money is not required to meet 118883
the obligations payable from such funds, it may be transferred to 118884
a special fund for the acquisition of permanent improvements, or, 118885
with the approval of the court of common pleas of the county in 118886
which such subdivision is located, to the general fund of the 118887
subdivision. 118888

(C) The (1) Except as provided in division (C)(2) of this 118889
section, the unexpended balance in the sinking fund or bond 118890
retirement fund of a subdivision, after all indebtedness, 118891
interest, and other obligations for the payment of which such fund 118892
exists have been paid and retired, shall be transferred, in the 118893
case of the sinking fund, to the bond retirement fund, and in the 118894
case of the bond retirement fund, to the sinking fund; provided 118895
that if such transfer is impossible by reason of the nonexistence 118896
of the fund to receive the transfer, such unexpended balance, with 118897
the approval of the court of common pleas of the county in which 118898
such division is located, may be transferred to any other fund of 118899
the subdivision. 118900

(2) Money in a bond fund or bond retirement fund of a city, 118901
local, exempted village, cooperative education, or joint 118902
vocational school district may be transferred to a specific 118903
permanent improvement fund provided that the county budget 118904
commission of the county in which the school district is located 118905
approves the transfer upon its determination that the money 118906
transferred will not be required to meet the obligations payable 118907
from the bond fund or bond retirement fund. In arriving at such a 118908

determination, the county budget commission shall consider the 118909
balance of the bond fund or bond retirement fund, the outstanding 118910
obligations payable from the fund, and the sources and timing of 118911
the fund's revenue. 118912

(D) The unexpended balance in any special fund, other than an 118913
improvement fund, existing in accordance with division (D), (F), 118914
or (G) of section 5705.09 or section 5705.12 of the Revised Code, 118915
may be transferred to the general fund or to the sinking fund or 118916
bond retirement fund after the termination of the activity, 118917
service, or other undertaking for which such special fund existed, 118918
but only after the payment of all obligations incurred and payable 118919
from such special fund. 118920

(E) Money may be transferred from the general fund to any 118921
other fund of the subdivision. 118922

(F) Moneys retained or received by a county under section 118923
4501.04 or division (A)(3) of section 5735.27 of the Revised Code 118924
may be transferred from the fund into which they were deposited to 118925
the sinking fund or bond retirement fund from which any principal, 118926
interest, or charges for which such moneys may be used is payable. 118927

(G) Moneys retained or received by a municipal corporation 118928
under section 4501.04 or division (A)(1) or (2) of section 5735.27 118929
of the Revised Code may be transferred from the fund into which 118930
they were deposited to the sinking fund or bond retirement fund 118931
from which any principal, interest, or charges for which such 118932
moneys may be used is payable. 118933

(H)(1) Money may be transferred from the county developmental 118934
disabilities general fund to the county developmental disabilities 118935
capital fund established under section 5705.091 of the Revised 118936
Code or to any other fund created for the purposes of the county 118937
board of developmental disabilities, so long as money in the fund 118938
to which the money is transferred can be spent for the particular 118939

purpose of the transferred money. The county board of 118940
developmental disabilities may request, by resolution, that the 118941
board of county commissioners make the transfer. The county board 118942
of developmental disabilities shall transmit a certified copy of 118943
the resolution to the board of county commissioners. Upon 118944
receiving the resolution, the board of county commissioners may 118945
make the transfer. Money transferred to a fund shall be credited 118946
to an account appropriate to its particular purpose. 118947

(2) An unexpended balance in an account in the county 118948
developmental disabilities capital fund or any other fund created 118949
for the purposes of the county board of developmental disabilities 118950
may be transferred back to the county developmental disabilities 118951
general fund. The transfer may be made if the unexpended balance 118952
is no longer needed for its particular purpose and all outstanding 118953
obligations have been paid. Money transferred back to the county 118954
developmental disabilities general fund shall be credited to an 118955
account for current expenses within that fund. The county board of 118956
developmental disabilities may request, by resolution, that the 118957
board of county commissioners make the transfer. The county board 118958
of developmental disabilities shall transmit a certified copy of 118959
the resolution to the board of county commissioners. Upon 118960
receiving the resolution, the board of county commissioners may 118961
make the transfer. 118962

(I) Money may be transferred from the public assistance fund 118963
established under section 5101.161 of the Revised Code to either 118964
of the following funds, so long as the money to be transferred 118965
from the public assistance fund may be spent for the purposes for 118966
which money in the receiving fund may be used: 118967

(1) The children services fund established under section 118968
5101.144 of the Revised Code; 118969

(2) The child support enforcement administrative fund 118970
established, as authorized under rules adopted by the director of 118971

job and family services, in the county treasury for use by any 118972
county family services agency. 118973

Except in the case of transfer pursuant to division (E) of 118974
this section, transfers authorized by this section shall only be 118975
made by resolution of the taxing authority passed with the 118976
affirmative vote of two-thirds of the members. 118977

Sec. 5705.16. A resolution of the taxing authority of any 118978
political subdivision shall be passed by a majority of all the 118979
members thereof, declaring the necessity for the transfer of funds 118980
authorized by section 5705.15 of the Revised Code, and such taxing 118981
authority shall prepare a petition addressed to the court of 118982
common pleas of the county in which the funds are held. The 118983
petition shall set forth the name and amount of the fund, the fund 118984
to which it is desired to be transferred, a copy of such 118985
resolution with a full statement of the proceedings pertaining to 118986
its passage, and the reason or necessity for the transfer. A 118987
duplicate copy of said petition shall be forwarded to the tax 118988
commissioner for ~~his~~ the commissioner's examination and approval. 118989

If the petition is disapproved by the commissioner, it shall 118990
be returned within ten days of its receipt to the officers who 118991
submitted it, with a memorandum of the commissioner's objections. 118992
This disapproval shall not prejudice a later application for 118993
approval. If the petition is approved by the commissioner, it 118994
shall be forwarded within ten days of its receipt to the clerk of 118995
the court of common pleas of the county to whose court of common 118996
pleas the petition is addressed, marked with the approval of the 118997
commissioner. If the commissioner approves the petition, ~~he~~ the 118998
commissioner shall notify immediately the officers who submitted 118999
the petition, who then may file the petition in the court to which 119000
it is addressed. 119001

The petitioner shall give notice of the filing, object, and 119002

prayer of the petition, and of the time when it will be heard. The 119003
notice shall be given by one publication in ~~two newspapers having~~ 119004
a newspaper of general circulation in the territory to be affected 119005
by such transfer of funds, ~~preference being given to newspapers~~ 119006
~~published within the territory~~. If there are is no such ~~newspapers~~ 119007
newspaper, the notice shall be posted in ten conspicuous places 119008
within the territory for ~~the~~ a period of four weeks. 119009

The petition may be heard at the time stated in the notice, 119010
or as soon thereafter as convenient for the court. Any person who 119011
objects to the prayer of such petition shall file ~~his~~ the person's 119012
objections in such cause on or before the time fixed in the notice 119013
for hearing, and ~~he~~ that person shall be entitled to be heard. 119014

If, upon hearing, the court finds that the notice has been 119015
given as required by this section, that the petition states 119016
sufficient facts, that there are good reasons, or that a necessity 119017
exists, for the transfer, and that no injury will result 119018
therefrom, it shall grant the prayer of the petition and order the 119019
petitioners to make such transfer. 119020

A copy of the findings, orders, and judgments of the court 119021
shall be certified by the clerk and entered on the records of the 119022
petitioning officers or board, and thereupon the petitioners may 119023
make the transfer of funds as directed by the court. All costs of 119024
such proceedings shall be paid by the petitioners, except that if 119025
objections are filed the court may order such objectors to pay all 119026
or a portion of the costs. 119027

Sec. 5705.19. This section does not apply to school districts 119028
~~or~~, county school financing districts, or lake facilities 119029
authorities. 119030

The taxing authority of any subdivision at any time and in 119031
any year, by vote of two-thirds of all the members of the taxing 119032
authority, may declare by resolution and certify the resolution to 119033

the board of elections not less than ninety days before the 119034
election upon which it will be voted that the amount of taxes that 119035
may be raised within the ten-mill limitation will be insufficient 119036
to provide for the necessary requirements of the subdivision and 119037
that it is necessary to levy a tax in excess of that limitation 119038
for any of the following purposes: 119039

(A) For current expenses of the subdivision, except that the 119040
total levy for current expenses of a detention facility district 119041
or district organized under section 2151.65 of the Revised Code 119042
shall not exceed two mills and that the total levy for current 119043
expenses of a combined district organized under sections 2151.65 119044
and 2152.41 of the Revised Code shall not exceed four mills; 119045

(B) For the payment of debt charges on certain described 119046
bonds, notes, or certificates of indebtedness of the subdivision 119047
issued subsequent to January 1, 1925; 119048

(C) For the debt charges on all bonds, notes, and 119049
certificates of indebtedness issued and authorized to be issued 119050
prior to January 1, 1925; 119051

(D) For a public library of, or supported by, the subdivision 119052
under whatever law organized or authorized to be supported; 119053

(E) For a municipal university, not to exceed two mills over 119054
the limitation of one mill prescribed in section 3349.13 of the 119055
Revised Code; 119056

(F) For the construction or acquisition of any specific 119057
permanent improvement or class of improvements that the taxing 119058
authority of the subdivision may include in a single bond issue; 119059

(G) For the general construction, reconstruction, 119060
resurfacing, and repair of streets, roads, and bridges in 119061
municipal corporations, counties, or townships; 119062

(H) For parks and recreational purposes; 119063

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of ~~firefighting companies or permanent, part-time, or volunteer firefighters or~~ firefighting companies, emergency medical service, administrative, or communications personnel to operate the same, including the payment of ~~the firefighter employers' contribution~~ any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;

(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of ~~the police officer employers' contribution~~ any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance or emergency medical services operated by a police department;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and	119096
operating schools, district detention facilities, forestry camps,	119097
or other facilities, or any combination thereof, established under	119098
section 2151.65 or 2152.41 of the Revised Code or both of those	119099
sections;	119100
(O) For providing for flood defense, providing and	119101
maintaining a flood wall or pumps, and other purposes to prevent	119102
floods;	119103
(P) For maintaining and operating sewage disposal plants and	119104
facilities;	119105
(Q) For the purpose of purchasing, acquiring, constructing,	119106
enlarging, improving, equipping, repairing, maintaining, or	119107
operating, or any combination of the foregoing, a county transit	119108
system pursuant to sections 306.01 to 306.13 of the Revised Code,	119109
or of making any payment to a board of county commissioners	119110
operating a transit system or a county transit board pursuant to	119111
section 306.06 of the Revised Code;	119112
(R) For the subdivision's share of the cost of acquiring or	119113
constructing any schools, forestry camps, detention facilities, or	119114
other facilities, or any combination thereof, under section	119115
2151.65 or 2152.41 of the Revised Code or both of those sections;	119116
(S) For the prevention, control, and abatement of air	119117
pollution;	119118
(T) For maintaining and operating cemeteries;	119119
(U) For providing ambulance service, emergency medical	119120
service, or both;	119121
(V) For providing for the collection and disposal of garbage	119122
or refuse, including yard waste;	119123
(W) For the payment of the police officer employers'	119124
contribution or the firefighter employers' contribution required	119125

under sections 742.33 and 742.34 of the Revised Code;	119126
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	119127 119128
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	119129 119130 119131
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	119132 119133 119134
(AA) For the maintenance and operation of a free public museum of art, science, or history;	119135 119136
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;	119137 119138
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	119139 119140 119141 119142 119143
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;	119144 119145 119146
(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such	119147 119148 119149 119150 119151 119152 119153 119154 119155

operations and expenses; 119156

(FF) For the purpose of acquiring, establishing, 119157
constructing, improving, equipping, maintaining, or operating, or 119158
any combination of the foregoing, a township airport, landing 119159
field, or other air navigation facility pursuant to section 505.15 119160
of the Revised Code; 119161

(GG) For the payment of costs incurred by a township as a 119162
result of a contract made with a county pursuant to section 119163
505.263 of the Revised Code in order to pay all or any part of the 119164
cost of constructing, maintaining, repairing, or operating a water 119165
supply improvement; 119166

(HH) For a board of township trustees to acquire, other than 119167
by appropriation, an ownership interest in land, water, or 119168
wetlands, or to restore or maintain land, water, or wetlands in 119169
which the board has an ownership interest, not for purposes of 119170
recreation, but for the purposes of protecting and preserving the 119171
natural, scenic, open, or wooded condition of the land, water, or 119172
wetlands against modification or encroachment resulting from 119173
occupation, development, or other use, which may be styled as 119174
protecting or preserving "greenspace" in the resolution, notice of 119175
election, or ballot form. Except as otherwise provided in this 119176
division, land is not acquired for purposes of recreation, even if 119177
the land is used for recreational purposes, so long as no 119178
building, structure, or fixture used for recreational purposes is 119179
permanently attached or affixed to the land. Except as otherwise 119180
provided in this division, land that previously has been acquired 119181
in a township for these greenspace purposes may subsequently be 119182
used for recreational purposes if the board of township trustees 119183
adopts a resolution approving that use and no building, structure, 119184
or fixture used for recreational purposes is permanently attached 119185
or affixed to the land. The authorization to use greenspace land 119186
for recreational use does not apply to land located in a township 119187

that had a population, at the time it passed its first greenspace 119188
levy, of more than thirty-eight thousand within a county that had 119189
a population, at that time, of at least eight hundred sixty 119190
thousand. 119191

(II) For the support by a county of a crime victim assistance 119192
program that is provided and maintained by a county agency or a 119193
private, nonprofit corporation or association under section 307.62 119194
of the Revised Code; 119195

(JJ) For any or all of the purposes set forth in divisions 119196
(I) and (J) of this section. This division applies only to a 119197
township. 119198

(KK) For a countywide public safety communications system 119199
under section 307.63 of the Revised Code. This division applies 119200
only to counties. 119201

(LL) For the support by a county of criminal justice services 119202
under section 307.45 of the Revised Code; 119203

(MM) For the purpose of maintaining and operating a jail or 119204
other detention facility as defined in section 2921.01 of the 119205
Revised Code; 119206

(NN) For purchasing, maintaining, or improving, or any 119207
combination of the foregoing, real estate on which to hold 119208
agricultural fairs. This division applies only to a county. 119209

(OO) For constructing, rehabilitating, repairing, or 119210
maintaining sidewalks, walkways, trails, bicycle pathways, or 119211
similar improvements, or acquiring ownership interests in land 119212
necessary for the foregoing improvements; 119213

(PP) For both of the purposes set forth in divisions (G) and 119214
(OO) of this section. 119215

(QQ) For both of the purposes set forth in divisions (H) and 119216
(HH) of this section. This division applies only to a township. 119217

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

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(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

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(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

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(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

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(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;

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(WW) For the Ohio cooperative extension service fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

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The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

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The resolution shall specify the amount of the increase in

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rate that it is necessary to levy, the purpose of that increase in 119249
rate, and the number of years during which the increase in rate 119250
shall be in effect, which may or may not include a levy upon the 119251
duplicate of the current year. The number of years may be any 119252
number not exceeding five, except as follows: 119253

(1) When the additional rate is for the payment of debt 119254
charges, the increased rate shall be for the life of the 119255
indebtedness. 119256

(2) When the additional rate is for any of the following, the 119257
increased rate shall be for a continuing period of time: 119258

(a) For the current expenses for a detention facility 119259
district, a district organized under section 2151.65 of the 119260
Revised Code, or a combined district organized under sections 119261
2151.65 and 2152.41 of the Revised Code; 119262

(b) For providing a county's share of the cost of maintaining 119263
and operating schools, district detention facilities, forestry 119264
camps, or other facilities, or any combination thereof, 119265
established under section 2151.65 or 2152.41 of the Revised Code 119266
or under both of those sections. 119267

(3) When the additional rate is for either of the following, 119268
the increased rate may be for a continuing period of time: 119269

(a) For the purposes set forth in division (I), (J), (U), or 119270
(KK) of this section; 119271

(b) For the maintenance and operation of a joint recreation 119272
district. 119273

(4) When the increase is for the purpose or purposes set 119274
forth in division (D), (G), (H), (CC), or (PP) of this section, 119275
the tax levy may be for any specified number of years or for a 119276
continuing period of time, as set forth in the resolution. 119277

(5) When the additional rate is for the purpose described in 119278

division (Z) of this section, the increased rate shall be for any 119279
number of years not exceeding ten. 119280

A levy for one of the purposes set forth in division (G), 119281
(I), (J), or (U) of this section may be reduced pursuant to 119282
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 119283
the purposes set forth in division (G), (I), (J), or (U) of this 119284
section may also be terminated or permanently reduced by the 119285
taxing authority if it adopts a resolution stating that the 119286
continuance of the levy is unnecessary and the levy shall be 119287
terminated or that the millage is excessive and the levy shall be 119288
decreased by a designated amount. 119289

A resolution of a detention facility district, a district 119290
organized under section 2151.65 of the Revised Code, or a combined 119291
district organized under both sections 2151.65 and 2152.41 of the 119292
Revised Code may include both current expenses and other purposes, 119293
provided that the resolution shall apportion the annual rate of 119294
levy between the current expenses and the other purpose or 119295
purposes. The apportionment need not be the same for each year of 119296
the levy, but the respective portions of the rate actually levied 119297
each year for the current expenses and the other purpose or 119298
purposes shall be limited by the apportionment. 119299

Whenever a board of county commissioners, acting either as 119300
the taxing authority of its county or as the taxing authority of a 119301
sewer district or subdistrict created under Chapter 6117. of the 119302
Revised Code, by resolution declares it necessary to levy a tax in 119303
excess of the ten-mill limitation for the purpose of constructing, 119304
improving, or extending sewage disposal plants or sewage systems, 119305
the tax may be in effect for any number of years not exceeding 119306
twenty, and the proceeds of the tax, notwithstanding the general 119307
provisions of this section, may be used to pay debt charges on any 119308
obligations issued and outstanding on behalf of the subdivision 119309
for the purposes enumerated in this paragraph, provided that any 119310

such obligations have been specifically described in the 119311
resolution. 119312

The resolution shall go into immediate effect upon its 119313
passage, and no publication of the resolution is necessary other 119314
than that provided for in the notice of election. 119315

When the electors of a subdivision have approved a tax levy 119316
under this section, the taxing authority of the subdivision may 119317
anticipate a fraction of the proceeds of the levy and issue 119318
anticipation notes in accordance with section 5705.191 or 5705.193 119319
of the Revised Code. 119320

Sec. 5705.191. The taxing authority of any subdivision, other 119321
than the board of education of a school district or the taxing 119322
authority of a county school financing district, by a vote of 119323
two-thirds of all its members, may declare by resolution that the 119324
amount of taxes that may be raised within the ten-mill limitation 119325
by levies on the current tax duplicate will be insufficient to 119326
provide an adequate amount for the necessary requirements of the 119327
subdivision, and that it is necessary to levy a tax in excess of 119328
such limitation for any of the purposes in section 5705.19 of the 119329
Revised Code, or to supplement the general fund for the purpose of 119330
making appropriations for one or more of the following purposes: 119331
public assistance, human or social services, relief, welfare, 119332
hospitalization, health, and support of general hospitals, and 119333
that the question of such additional tax levy shall be submitted 119334
to the electors of the subdivision at a general, primary, or 119335
special election to be held at a time therein specified. Such 119336
resolution shall not include a levy on the current tax list and 119337
duplicate unless such election is to be held at or prior to the 119338
general election day of the current tax year. Such resolution 119339
shall conform to the requirements of section 5705.19 of the 119340
Revised Code, except that a levy to supplement the general fund 119341

for the purposes of public assistance, human or social services, 119342
relief, welfare, hospitalization, health, or the support of 119343
general or tuberculosis hospitals may not be for a longer period 119344
than ten years. All other levies under this section may not be for 119345
a longer period than five years unless a longer period is 119346
permitted by section 5705.19 of the Revised Code, and the 119347
resolution shall specify the date of holding such election, which 119348
shall not be earlier than ninety days after the adoption and 119349
certification of such resolution. The resolution shall go into 119350
immediate effect upon its passage and no publication of the same 119351
is necessary other than that provided for in the notice of 119352
election. A copy of such resolution, immediately after its 119353
passage, shall be certified to the board of elections of the 119354
proper county or counties in the manner provided by section 119355
5705.25 of the Revised Code, and such section shall govern the 119356
arrangements for the submission of such question and other matters 119357
with respect to such election, to which section 5705.25 of the 119358
Revised Code refers, excepting that such election shall be held on 119359
the date specified in the resolution, which shall be consistent 119360
with the requirements of section 3501.01 of the Revised Code, 119361
provided that only one special election for the submission of such 119362
question may be held in any one calendar year and provided that a 119363
special election may be held upon the same day a primary election 119364
is held. Publication of notice of that election shall be made in 119365
~~one or more newspapers~~ a newspaper of general circulation in the 119366
county once a week for two consecutive weeks, or as provided in 119367
section 7.16 of the Revised Code, prior to the election, ~~and, if,~~ 119368
If the board of elections operates and maintains a web site, the 119369
board of elections shall post notice of the election on its web 119370
site for thirty days prior to the election. 119371

If a majority of the electors voting on the question vote in 119372
favor thereof, the taxing authority of the subdivision may make 119373
the necessary levy within such subdivision at the additional rate 119374

or at any lesser rate outside the ten-mill limitation on the tax 119375
list and duplicate for the purpose stated in the resolution. Such 119376
tax levy shall be included in the next annual tax budget that is 119377
certified to the county budget commission. 119378

After the approval of such a levy by the electors, the taxing 119379
authority of the subdivision may anticipate a fraction of the 119380
proceeds of such levy and issue anticipation notes. In the case of 119381
a continuing levy that is not levied for the purpose of current 119382
expenses, notes may be issued at any time after approval of the 119383
levy in an amount not more than fifty per cent of the total 119384
estimated proceeds of the levy for the succeeding ten years, less 119385
an amount equal to the fraction of the proceeds of the levy 119386
previously anticipated by the issuance of anticipation notes. In 119387
the case of a levy for a fixed period that is not for the purpose 119388
of current expenses, notes may be issued at any time after 119389
approval of the levy in an amount not more than fifty per cent of 119390
the total estimated proceeds of the levy throughout the remaining 119391
life of the levy, less an amount equal to the fraction of the 119392
proceeds of the levy previously anticipated by the issuance of 119393
anticipation notes. In the case of a levy for current expenses, 119394
notes may be issued after the approval of the levy by the electors 119395
and prior to the time when the first tax collection from the levy 119396
can be made. Such notes may be issued in an amount not more than 119397
fifty per cent of the total estimated proceeds of the levy 119398
throughout the term of the levy in the case of a levy for a fixed 119399
period, or fifty per cent of the total estimated proceeds for the 119400
first ten years of the levy in the case of a continuing levy. 119401

No anticipation notes that increase the net indebtedness of a 119402
county may be issued without the prior consent of the board of 119403
county commissioners of that county. The notes shall be issued as 119404
provided in section 133.24 of the Revised Code, shall have 119405
principal payments during each year after the year of their 119406

issuance over a period not exceeding the life of the levy 119407
anticipated, and may have a principal payment in the year of their 119408
issuance. 119409

"Taxing authority" and "subdivision" have the same meanings 119410
as in section 5705.01 of the Revised Code. 119411

This section is supplemental to and not in derogation of 119412
sections 5705.20, 5705.21, and 5705.22 of the Revised Code. 119413

Sec. 5705.194. The board of education of any city, local, 119414
exempted village, cooperative education, or joint vocational 119415
school district at any time may declare by resolution that the 119416
revenue that will be raised by all tax levies which the district 119417
is authorized to impose, when combined with state and federal 119418
revenues, will be insufficient to provide for the emergency 119419
requirements of the school district or to avoid an operating 119420
deficit, and that it is therefore necessary to levy an additional 119421
tax in excess of the ten-mill limitation. The resolution shall be 119422
confined to a single purpose and shall specify that purpose. If 119423
the levy is proposed to renew all or a portion of the proceeds 119424
derived from one or more existing levies imposed pursuant to this 119425
section, it shall be called a renewal levy and shall be so 119426
designated on the ballot. If two or more existing levies are to be 119427
included in a single renewal levy but are not scheduled to expire 119428
in the same year, the resolution shall specify that the existing 119429
levies to be renewed shall not be levied after the year preceding 119430
the year in which the renewal levy is first imposed. 119431
Notwithstanding the original purpose of any one or more existing 119432
levies that are to be in any single renewal levy, the purpose of 119433
the renewal levy may be either to avoid an operating deficit or to 119434
provide for the emergency requirements of the school district. The 119435
resolution shall further specify the amount of money it is 119436
necessary to raise for the specified purpose for each calendar 119437

year the millage is to be imposed; if a renewal levy, whether the 119438
levy is to renew all, or a portion of, the proceeds derived from 119439
one or more existing levies; and the number of years in which the 119440
millage is to be in effect, which may include a levy upon the 119441
current year's tax list. The number of years may be any number not 119442
exceeding ten. 119443

The question shall be submitted at a special election on a 119444
date specified in the resolution. The date shall not be earlier 119445
than eighty days after the adoption and certification of the 119446
resolution to the county auditor and shall be consistent with the 119447
requirements of section 3501.01 of the Revised Code. A resolution 119448
for a renewal levy shall not be placed on the ballot unless the 119449
question is submitted on a date on which a special election may be 119450
held under division (D) of section 3501.01 of the Revised Code, 119451
except for the first Tuesday after the first Monday in February 119452
and August, during the last year the levy to be renewed may be 119453
extended on the real and public utility property tax list and 119454
duplicate, or at any election held in the ensuing year, except 119455
that if the resolution proposes renewing two or more existing 119456
levies, the question shall be submitted on the date of the general 119457
or primary election held during the last year at least one of the 119458
levies to be renewed may be extended on that list and duplicate, 119459
or at any election held during the ensuing year. For purposes of 119460
this section, a levy shall be considered to be an "existing levy" 119461
through the year following the last year it can be placed on the 119462
real and public utility property tax list and duplicate. 119463

The submission of questions to the electors under this 119464
section is subject to the limitation on the number of election 119465
dates established by section 5705.214 of the Revised Code. 119466

The resolution shall go into immediate effect upon its 119467
passage, and no publication of the resolution shall be necessary 119468
other than that provided for in the notice of election. A copy of 119469

the resolution shall immediately after its passing be certified to 119470
the county auditor of the proper county. Section 5705.195 of the 119471
Revised Code shall govern the arrangements for the submission of 119472
questions to the electors under this section and other matters 119473
concerning the election. Publication of notice of the election 119474
shall be made in one ~~or more newspapers~~ newspaper of general 119475
circulation in the county once a week for two consecutive weeks, 119476
or as provided in section 7.16 of the Revised Code, prior to the 119477
election, ~~and, if.~~ If the board of elections operates and 119478
maintains a web site, the board of elections shall post notice of 119479
the election on its web site for thirty days prior to the 119480
election. If a majority of the electors voting on the question 119481
submitted in an election vote in favor of the levy, the board of 119482
education of the school district may make the additional levy 119483
necessary to raise the amount specified in the resolution for the 119484
purpose stated in the resolution. The tax levy shall be included 119485
in the next tax budget that is certified to the county budget 119486
commission. 119487

After the approval of the levy and prior to the time when the 119488
first tax collection from the levy can be made, the board of 119489
education may anticipate a fraction of the proceeds of the levy 119490
and issue anticipation notes in an amount not exceeding the total 119491
estimated proceeds of the levy to be collected during the first 119492
year of the levy. 119493

The notes shall be issued as provided in section 133.24 of 119494
the Revised Code, shall have principal payments during each year 119495
after the year of their issuance over a period not to exceed five 119496
years, and may have principal payment in the year of their 119497
issuance. 119498

Sec. 5705.196. The election provided for in section 5705.194 119499
of the Revised Code shall be held at the regular places for voting 119500

in the district, and shall be conducted, canvassed, and certified 119501
in the same manner as regular elections in the district for the 119502
election of county officers, provided that in any such election in 119503
which only part of the electors of a precinct are qualified to 119504
vote, the board of elections may assign voters in such part to an 119505
adjoining precinct. Such an assignment may be made to an adjoining 119506
precinct in another county with the consent and approval of the 119507
board of elections of such other county. Notice of the election 119508
shall be published in one ~~or more newspapers~~ newspaper of general 119509
circulation in the district once a week for two consecutive weeks 119510
or as provided in section 7.16 of the Revised Code, prior to the 119511
election, ~~and, if.~~ If the board of elections operates and 119512
maintains a web site, the board of elections shall post notice of 119513
the election on its web site for thirty days prior to the 119514
election. Such notice shall state the annual proceeds of the 119515
proposed levy, the purpose for which such proceeds are to be used, 119516
the number of years during which the levy shall run, and the 119517
estimated average additional tax rate expressed in dollars and 119518
cents for each one hundred dollars of valuation as well as in 119519
mills for each one dollar of valuation, outside the limitation 119520
imposed by Section 2 of Article XII, Ohio Constitution, as 119521
certified by the county auditor. 119522

Sec. 5705.21. (A) At any time, the board of education of any 119523
city, local, exempted village, cooperative education, or joint 119524
vocational school district, by a vote of two-thirds of all its 119525
members, may declare by resolution that the amount of taxes which 119526
may be raised within the ten-mill limitation by levies on the 119527
current tax duplicate will be insufficient to provide an adequate 119528
amount for the necessary requirements of the school district, that 119529
it is necessary to levy a tax in excess of such limitation for one 119530
of the purposes specified in division (A), (D), (F), (H), or (DD) 119531
of section 5705.19 of the Revised Code, for general permanent 119532

improvements, for the purpose of operating a cultural center, or 119533
for the purpose of providing education technology, and that the 119534
question of such additional tax levy shall be submitted to the 119535
electors of the school district at a special election on a day to 119536
be specified in the resolution. If the resolution states that the 119537
levy is for the purpose of operating a cultural center, the ballot 119538
shall state that the levy is "for the purpose of operating the 119539
..... (name of cultural center)." 119540

As used in this section, "cultural center" means a 119541
freestanding building, separate from a public school building, 119542
that is open to the public for educational, musical, artistic, and 119543
cultural purposes; "education technology" means, but is not 119544
limited to, computer hardware, equipment, materials, and 119545
accessories, equipment used for two-way audio or video, and 119546
software; and "general permanent improvements" means permanent 119547
improvements without regard to the limitation of division (F) of 119548
section 5705.19 of the Revised Code that the improvements be a 119549
specific improvement or a class of improvements that may be 119550
included in a single bond issue. 119551

The submission of questions to the electors under this 119552
section is subject to the limitation on the number of election 119553
dates established by section 5705.214 of the Revised Code. 119554

(B) Such resolution shall be confined to a single purpose and 119555
shall specify the amount of the increase in rate that it is 119556
necessary to levy, the purpose of the levy, and the number of 119557
years during which the increase in rate shall be in effect. The 119558
number of years may be any number not exceeding five or, if the 119559
levy is for current expenses of the district or for general 119560
permanent improvements, for a continuing period of time. The 119561
resolution shall specify the date of holding such election, which 119562
shall not be earlier than ninety days after the adoption and 119563
certification of the resolution and which shall be consistent with 119564

the requirements of section 3501.01 of the Revised Code. 119565

The resolution may propose to renew one or more existing 119566
levies imposed under this section or to increase or decrease a 119567
single levy imposed under this section. If the board of education 119568
imposes one or more existing levies for the purpose specified in 119569
division (F) of section 5705.19 of the Revised Code, the 119570
resolution may propose to renew one or more of those existing 119571
levies, or to increase or decrease a single such existing levy, 119572
for the purpose of general permanent improvements. If the 119573
resolution proposes to renew two or more existing levies, the 119574
levies shall be levied for the same purpose. The resolution shall 119575
identify those levies and the rates at which they are levied. The 119576
resolution also shall specify that the existing levies shall not 119577
be extended on the tax lists after the year preceding the year in 119578
which the renewal levy is first imposed, regardless of the years 119579
for which those levies originally were authorized to be levied. 119580

The resolution shall go into immediate effect upon its 119581
passage, and no publication of the resolution shall be necessary 119582
other than that provided for in the notice of election. A copy of 119583
the resolution shall immediately after its passing be certified to 119584
the board of elections of the proper county in the manner provided 119585
by section 5705.25 of the Revised Code, and that section shall 119586
govern the arrangements for the submission of such question and 119587
other matters concerning such election, to which that section 119588
refers, except that such election shall be held on the date 119589
specified in the resolution. Publication of notice of that 119590
election shall be made in ~~one or more newspapers~~ a newspaper of 119591
general circulation in the county once a week for two consecutive 119592
weeks, or as provided in section 7.16 of the Revised Code, prior 119593
to the election, ~~and, if.~~ If the board of elections operates and 119594
maintains a web site, the board of elections shall post notice of 119595
the election on its web site for thirty days prior to the 119596

election. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

Sec. 5705.211. (A) As used in this section:

(1) "Adjusted charge-off increase" for a tax year means two ~~and two-tenths~~ per cent of the cumulative carryover property value increase. ~~If the cumulative carryover property value increase is computed on the basis of a school district's recognized valuation for a fiscal year before fiscal year 2014, the adjusted charge-off increase shall be adjusted to account for the greater charge-off rates prescribed for such fiscal years under sections 3317.022 and 3306.13 of the Revised Code.~~

(2) "Cumulative carryover property value increase" means the sum of the increases in carryover value certified under division (B)(2) of section 3317.015 of the Revised Code and included in a school district's total taxable value in the computation of recognized valuation under division (B) of that section for all fiscal years from the fiscal year that ends in the first tax year a levy under this section is extended on the tax list of real and public utility property until and including the fiscal year that ends in the current tax year.

(3) "Taxes charged and payable" means the taxes charged and

payable from a tax levy extended on the real and public utility 119660
property tax list and the general list of personal property before 119661
any reduction under section 319.302, 323.152, or 323.158 of the 119662
Revised Code. 119663

(B) The board of education of a city, local, or exempted 119664
village school district may adopt a resolution proposing the levy 119665
of a tax in excess of the ten-mill limitation for the purpose of 119666
paying the current operating expenses of the district. If the 119667
resolution is approved as provided in division (D) of this 119668
section, the tax may be levied at such a rate each tax year that 119669
the total taxes charged and payable from the levy equals the 119670
adjusted charge-off increase for the tax year or equals a lesser 119671
amount as prescribed under division (C) of this section. The tax 119672
may be levied for a continuing period of time or for a specific 119673
number of years, but not fewer than five years, as provided in the 119674
resolution. The tax may not be placed on the tax list for a tax 119675
year beginning before the first day of January following adoption 119676
of the resolution. A board of education may not adopt a resolution 119677
under this section proposing to levy a tax under this section 119678
concurrently with any other tax levied by the board under this 119679
section. 119680

(C) After the first year a tax is levied under this section, 119681
the rate of the tax in any year shall not exceed the rate, 119682
estimated by the county auditor, that would cause the sums levied 119683
from the tax against carryover property to exceed one hundred four 119684
per cent of the sums levied from the tax against carryover 119685
property in the preceding year. A board of education imposing a 119686
tax under this section may specify in the resolution imposing the 119687
tax that the percentage shall be less than one hundred four per 119688
cent, but the percentage shall not be less than one hundred per 119689
cent. At any time after a resolution adopted under this section is 119690
approved by a majority of electors as provided in division (D) of 119691

this section, the board of education, by resolution, may decrease 119692
the percentage specified in the resolution levying the tax. 119693

(D) A resolution adopted under this section shall state that 119694
the purpose of the tax is to pay current operating expenses of the 119695
district, and shall specify the first year in which the tax is to 119696
be levied, the number of years the tax will be levied or that it 119697
will be levied for a continuing period of time, and the election 119698
at which the question of the tax is to appear on the ballot, which 119699
shall be a general or special election consistent with the 119700
requirements of section 3501.01 of the Revised Code. If the board 119701
of education specifies a percentage less than one hundred four per 119702
cent pursuant to division (C) of this section, the percentage 119703
shall be specified in the resolution. 119704

Upon adoption of the resolution, the board of education may 119705
certify a copy of the resolution to the proper county board of 119706
elections. The copy of the resolution shall be certified to the 119707
board of elections not later than ninety days before the day of 119708
the election at which the question of the tax is to appear on the 119709
ballot. Upon receiving a timely certified copy of such a 119710
resolution, the board of elections shall make the necessary 119711
arrangements for the submission of the question to the electors of 119712
the school district, and the election shall be conducted, 119713
canvassed, and certified in the same manner as regular elections 119714
in the school district for the election of members of the board of 119715
education. Notice of the election shall be published in ~~one or~~ 119716
~~more newspapers~~ a newspaper of general circulation in the school 119717
district once per week for four consecutive weeks or as provided 119718
in section 7.16 of the Revised Code. The notice shall state that 119719
the purpose of the tax is for the current operating expenses of 119720
the school district, the first year the tax is to be levied, the 119721
number of years the tax is to be levied or that it is to be levied 119722
for a continuing period of time, that the tax is to be levied each 119723

year in an amount estimated to offset decreases in state base cost 119724
funding caused by appreciation in real estate values, and that the 119725
estimated additional tax in any year shall not exceed the previous 119726
year's by more than four per cent, or a lesser percentage 119727
specified in the resolution levying the tax, except for increases 119728
caused by the addition of new taxable property. 119729

The question shall be submitted as a separate proposition but 119730
may be printed on the same ballot with any other proposition 119731
submitted at the same election other than the election of 119732
officers. 119733

The form of the ballot shall be substantially as follows: 119734

"An additional tax for the benefit of (name of school 119735
district) for the purpose of paying the current operating expenses 119736
of the district, for (number of years or for continuing 119737
period of time), at a rate sufficient to offset any reduction in 119738
basic state funding caused by appreciation in real estate values? 119739
This levy will permit variable annual growth in revenue up to 119740
..... (amount specified by school district) per cent for the 119741
duration of the levy. 119742

	For the tax levy	
	Against the tax levy	"

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If a majority of the electors of the school district voting 119747
on the question vote in favor of the question, the board of 119748
elections shall certify the results of the election to the board 119749
of education and to the tax commissioner immediately after the 119750
canvass. 119751

(E) When preparing any estimate of the contemplated receipts 119752
from a tax levied pursuant to this section for the purposes of 119753
sections 5705.28 to 5705.40 of the Revised Code, and in preparing 119754

to certify the tax under section 5705.34 of the Revised Code, a 119755
board of education authorized to levy such a tax shall use 119756
information supplied by the department of education to determine 119757
the adjusted charge-off increase for the tax year for which that 119758
certification is made. If the board levied a tax under this 119759
section in the preceding tax year, the sum to be certified for 119760
collection from the tax shall not exceed the sum that would exceed 119761
the limitation imposed under division (C) of this section. At the 119762
request of the board of education or the treasurer of the school 119763
district, the county auditor shall assist the board of education 119764
in determining the rate or sum that may be levied under this 119765
section. 119766

The board of education shall certify the sum authorized to be 119767
levied to the county auditor, and, for the purpose of the county 119768
auditor determining the rate at which the tax is to be levied in 119769
the tax year, the sum so certified shall be the sum to be raised 119770
by the tax unless the sum exceeds the limitation imposed by 119771
division (C) of this section. A tax levied pursuant to this 119772
section shall not be levied at a rate in excess of the rate 119773
estimated by the county auditor to produce the sum certified by 119774
the board of education before the reductions under sections 119775
319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding 119776
section 5705.34 of the Revised Code, a board of education 119777
authorized to levy a tax under this section shall certify the tax 119778
to the county auditor before the first day of October of the tax 119779
year in which the tax is to be levied, or at a later date as 119780
approved by the tax commissioner. 119781

Sec. 5705.214. Not more than three elections during any 119782
calendar year shall include the questions by a school district of 119783
tax levies proposed under any one or any combination of the 119784
following sections: sections 5705.194, 5705.199, 5705.21, 119785
5705.212, 5705.213, 5705.217, 5705.218, ~~and~~ 5705.219, and 5748.09 119786

of the Revised Code. 119787

Sec. 5705.218. (A) The board of education of a city, local, 119788
or exempted village school district, at any time by a vote of 119789
two-thirds of all its members, may declare by resolution that it 119790
may be necessary for the school district to issue general 119791
obligation bonds for permanent improvements. The resolution shall 119792
state all of the following: 119793

(1) The necessity and purpose of the bond issue; 119794

(2) The date of the special election at which the question 119795
shall be submitted to the electors; 119796

(3) The amount, approximate date, estimated rate of interest, 119797
and maximum number of years over which the principal of the bonds 119798
may be paid; 119799

(4) The necessity of levying a tax outside the ten-mill 119800
limitation to pay debt charges on the bonds and any anticipatory 119801
securities. 119802

On adoption of the resolution, the board shall certify a copy 119803
of it to the county auditor. The county auditor promptly shall 119804
estimate and certify to the board the average annual property tax 119805
rate required throughout the stated maturity of the bonds to pay 119806
debt charges on the bonds, in the same manner as under division 119807
(C) of section 133.18 of the Revised Code. 119808

(B) After receiving the county auditor's certification under 119809
division (A) of this section, the board of education of the city, 119810
local, or exempted village school district, by a vote of 119811
two-thirds of all its members, may declare by resolution that the 119812
amount of taxes that can be raised within the ten-mill limitation 119813
will be insufficient to provide an adequate amount for the present 119814
and future requirements of the school district; that it is 119815
necessary to issue general obligation bonds of the school district 119816

for permanent improvements and to levy an additional tax in excess 119817
of the ten-mill limitation to pay debt charges on the bonds and 119818
any anticipatory securities; that it is necessary for a specified 119819
number of years or for a continuing period of time to levy 119820
additional taxes in excess of the ten-mill limitation to provide 119821
funds for the acquisition, construction, enlargement, renovation, 119822
and financing of permanent improvements or to pay for current 119823
operating expenses, or both; and that the question of the bonds 119824
and taxes shall be submitted to the electors of the school 119825
district at a special election, which shall not be earlier than 119826
ninety days after certification of the resolution to the board of 119827
elections, and the date of which shall be consistent with section 119828
3501.01 of the Revised Code. The resolution shall specify all of 119829
the following: 119830

(1) The county auditor's estimate of the average annual 119831
property tax rate required throughout the stated maturity of the 119832
bonds to pay debt charges on the bonds; 119833

(2) The proposed rate of the tax, if any, for current 119834
operating expenses, the first year the tax will be levied, and the 119835
number of years it will be levied, or that it will be levied for a 119836
continuing period of time; 119837

(3) The proposed rate of the tax, if any, for permanent 119838
improvements, the first year the tax will be levied, and the 119839
number of years it will be levied, or that it will be levied for a 119840
continuing period of time. 119841

The resolution shall apportion the annual rate of the tax 119842
between current operating expenses and permanent improvements, if 119843
both taxes are proposed. The apportionment may but need not be the 119844
same for each year of the tax, but the respective portions of the 119845
rate actually levied each year for current operating expenses and 119846
permanent improvements shall be limited by the apportionment. The 119847
resolution shall go into immediate effect upon its passage, and no 119848

publication of it is necessary other than that provided in the 119849
notice of election. The board of education shall certify a copy of 119850
the resolution, along with copies of the auditor's estimate and 119851
its resolution under division (A) of this section, to the board of 119852
elections immediately after its adoption. 119853

(C) The board of elections shall make the arrangements for 119854
the submission of the question to the electors of the school 119855
district, and the election shall be conducted, canvassed, and 119856
certified in the same manner as regular elections in the district 119857
for the election of county officers. The resolution shall be put 119858
before the electors as one ballot question, with a favorable vote 119859
indicating approval of the bond issue, the levy to pay debt 119860
charges on the bonds and any anticipatory securities, the current 119861
operating expenses levy, and the permanent improvements levy, if 119862
either or both levies are proposed. The board of elections shall 119863
publish notice of the election in ~~one or more newspapers~~ a 119864
newspaper of general circulation in the school district once a 119865
week for two consecutive weeks, or as provided in section 7.16 of 119866
the Revised Code, prior to the election, ~~and, if~~. If a board of 119867
elections operates and maintains a web site, that board also shall 119868
post notice of the election on its web site for thirty days prior 119869
to the election. The notice of election shall state all of the 119870
following: 119871

(1) The principal amount of the proposed bond issue; 119872

(2) The permanent improvements for which the bonds are to be 119873
issued; 119874

(3) The maximum number of years over which the principal of 119875
the bonds may be paid; 119876

(4) The estimated additional average annual property tax rate 119877
to pay the debt charges on the bonds, as certified by the county 119878
auditor; 119879

(5) The proposed rate of the additional tax, if any, for current operating expenses;	119880 119881
(6) The number of years the current operating expenses tax will be in effect, or that it will be in effect for a continuing period of time;	119882 119883 119884
(7) The proposed rate of the additional tax, if any, for permanent improvements;	119885 119886
(8) The number of years the permanent improvements tax will be in effect, or that it will be in effect for a continuing period of time;	119887 119888 119889
(9) The time and place of the special election.	119890
(D) The form of the ballot for an election under this section is as follows:	119891 119892
"Shall the school district be authorized to do the following:	119893 119894
(1) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation, estimated by the county auditor to average over the bond repayment period mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"	119895 119896 119897 119898 119899 119900 119901 119902 119903 119904
If either a levy for permanent improvements or a levy for current operating expenses is proposed, or both are proposed, the ballot also shall contain the following language, as appropriate:	119905 119906 119907
"(2) Levy an additional property tax to provide funds for the acquisition, construction, enlargement, renovation, and financing	119908 119909

of permanent improvements at a rate not exceeding mills 119910
 for each one dollar of tax valuation, which amounts to 119911
 (rate expressed in cents or dollars and cents) for each \$100 of 119912
 tax valuation, for (number of years of the levy, or a 119913
 continuing period of time)? 119914

(3) Levy an additional property tax to pay current operating 119915
 expenses at a rate not exceeding mills for each one dollar 119916
 of tax valuation, which amounts to (rate expressed in 119917
 cents or dollars and cents) for each \$100 of tax valuation, for 119918
 (number of years of the levy, or a continuing period of 119919
 time)? 119920

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)	
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)	"

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(E) The board of elections promptly shall certify the results 119925
 of the election to the tax commissioner and the county auditor of 119926
 the county in which the school district is located. If a majority 119927
 of the electors voting on the question vote for it, the board of 119928
 education may proceed with issuance of the bonds and with the levy 119929
 and collection of the property tax or taxes at the additional rate 119930
 or any lesser rate in excess of the ten-mill limitation. Any 119931
 securities issued by the board of education under this section are 119932
 Chapter 133. securities, as that term is defined in section 133.01 119933
 of the Revised Code. 119934

(F)(1) After the approval of a tax for current operating 119935
 expenses under this section and prior to the time the first 119936
 collection and distribution from the levy can be made, the board 119937
 of education may anticipate a fraction of the proceeds of such 119938
 levy and issue anticipation notes in a principal amount not 119939
 exceeding fifty per cent of the total estimated proceeds of the 119940

tax to be collected during the first year of the levy. 119941

(2) After the approval of a tax under this section for 119942
permanent improvements having a specific purpose, the board of 119943
education may anticipate a fraction of the proceeds of such tax 119944
and issue anticipation notes in a principal amount not exceeding 119945
fifty per cent of the total estimated proceeds of the tax 119946
remaining to be collected in each year over a period of five years 119947
after issuance of the notes. 119948

(3) After the approval of a tax for general, on-going 119949
permanent improvements under this section, the board of education 119950
may anticipate a fraction of the proceeds of such tax and issue 119951
anticipation notes in a principal amount not exceeding fifty per 119952
cent of the total estimated proceeds of the tax to be collected in 119953
each year over a specified period of years, not exceeding ten, 119954
after issuance of the notes. 119955

Anticipation notes under this section shall be issued as 119956
provided in section 133.24 of the Revised Code. Notes issued under 119957
division (F)(1) or (2) of this section shall have principal 119958
payments during each year after the year of their issuance over a 119959
period not to exceed five years, and may have a principal payment 119960
in the year of their issuance. Notes issued under division (F)(3) 119961
of this section shall have principal payments during each year 119962
after the year of their issuance over a period not to exceed ten 119963
years, and may have a principal payment in the year of their 119964
issuance. 119965

(G) A tax for current operating expenses or for permanent 119966
improvements levied under this section for a specified number of 119967
years may be renewed or replaced in the same manner as a tax for 119968
current operating expenses or for permanent improvements levied 119969
under section 5705.21 of the Revised Code. A tax for current 119970
operating expenses or for permanent improvements levied under this 119971
section for a continuing period of time may be decreased in 119972

accordance with section 5705.261 of the Revised Code. 119973

(H) The submission of a question to the electors under this 119974
section is subject to the limitation on the number of elections 119975
that can be held in a year under section 5705.214 of the Revised 119976
Code. 119977

(I) A school district board of education proposing a ballot 119978
measure under this section to generate local resources for a 119979
project under the school building assistance expedited local 119980
partnership program under section 3318.36 of the Revised Code may 119981
combine the questions under division (D) of this section with a 119982
question for the levy of a property tax to generate moneys for 119983
maintenance of the classroom facilities acquired under that 119984
project as prescribed in section 3318.361 of the Revised Code. 119985

Sec. 5705.25. (A) A copy of any resolution adopted as 119986
provided in section 5705.19 or 5705.2111 of the Revised Code shall 119987
be certified by the taxing authority to the board of elections of 119988
the proper county not less than ninety days before the general 119989
election in any year, and the board shall submit the proposal to 119990
the electors of the subdivision at the succeeding November 119991
election. Except as otherwise provided in this division, a 119992
resolution to renew an existing levy, regardless of the section of 119993
the Revised Code under which the tax was imposed, shall not be 119994
placed on the ballot unless the question is submitted at the 119995
general election held during the last year the tax to be renewed 119996
or replaced may be extended on the real and public utility 119997
property tax list and duplicate, or at any election held in the 119998
ensuing year. The limitation of the foregoing sentence does not 119999
apply to a resolution to renew and increase or to renew part of an 120000
existing levy that was imposed under section 5705.191 of the 120001
Revised Code to supplement the general fund for the purpose of 120002
making appropriations for one or more of the following purposes: 120003

for public assistance, human or social services, relief, welfare, 120004
hospitalization, health, and support of general hospitals. The 120005
limitation of the second preceding sentence also does not apply to 120006
a resolution that proposes to renew two or more existing levies 120007
imposed under section 5705.21 of the Revised Code, in which case 120008
the question shall be submitted on the date of the general or 120009
primary election held during the last year at least one of the 120010
levies to be renewed may be extended on the real and public 120011
utility property tax list and duplicate, or at any election held 120012
during the ensuing year. For purposes of this section, a levy 120013
shall be considered to be an "existing levy" through the year 120014
following the last year it can be placed on that tax list and 120015
duplicate. 120016

The board shall make the necessary arrangements for the 120017
submission of such questions to the electors of such subdivision, 120018
and the election shall be conducted, canvassed, and certified in 120019
the same manner as regular elections in such subdivision for the 120020
election of county officers. Notice of the election shall be 120021
published in a newspaper of general circulation in the subdivision 120022
once a week for two consecutive weeks, or as provided in section 120023
7.16 of the Revised Code, prior to the election, ~~and, if~~. If the 120024
board of elections operates and maintains a web site, the board of 120025
elections shall post notice of the election on its web site for 120026
thirty days prior to the election. The notice shall state the 120027
purpose, the proposed increase in rate expressed in dollars and 120028
cents for each one hundred dollars of valuation as well as in 120029
mills for each one dollar of valuation, the number of years during 120030
which the increase will be in effect, the first month and year in 120031
which the tax will be levied, and the time and place of the 120032
election. 120033

(B) The form of the ballots cast at an election held pursuant 120034
to division (A) of this section shall be as follows: 120035

"An additional tax for the benefit of (name of subdivision or public library) for the purpose of (purpose stated in the resolution) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

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(C) If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

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If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

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If the levy submitted is a proposal to renew, increase, or decrease an existing levy, the form of the ballot specified in division (B) of this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in case of a proposal to renew an existing levy in the same amount; the words "A renewal of mills and an increase of mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of mills, to constitute a" in the case of a decrease in the proposed levy.

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If the levy submitted is a proposal to renew two or more

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existing levies imposed under section 5705.21 of the Revised Code, 120067
the form of the ballot specified in division (B) of this section 120068
shall be modified by substituting for the words "an additional 120069
tax" the words "a renewal of(insert the number of levies to 120070
be renewed) existing taxes." 120071

The question covered by such resolution shall be submitted as 120072
a separate proposition but may be printed on the same ballot with 120073
any other proposition submitted at the same election, other than 120074
the election of officers. More than one such question may be 120075
submitted at the same election. 120076

(D) A levy voted in excess of the ten-mill limitation under 120077
this section shall be certified to the tax commissioner. In the 120078
first year of the levy, it shall be extended on the tax lists 120079
after the February settlement succeeding the election. If the 120080
additional tax is to be placed upon the tax list of the current 120081
year, as specified in the resolution providing for its submission, 120082
the result of the election shall be certified immediately after 120083
the canvass by the board of elections to the taxing authority, who 120084
shall make the necessary levy and certify it to the county 120085
auditor, who shall extend it on the tax lists for collection. 120086
After the first year, the tax levy shall be included in the annual 120087
tax budget that is certified to the county budget commission. 120088

Sec. 5705.251. (A) A copy of a resolution adopted under 120089
section 5705.212 or 5705.213 of the Revised Code shall be 120090
certified by the board of education to the board of elections of 120091
the proper county not less than ninety days before the date of the 120092
election specified in the resolution, and the board of elections 120093
shall submit the proposal to the electors of the school district 120094
at a special election to be held on that date. The board of 120095
elections shall make the necessary arrangements for the submission 120096
of the question or questions to the electors of the school 120097

district, and the election shall be conducted, canvassed, and 120098
certified in the same manner as regular elections in the school 120099
district for the election of county officers. Notice of the 120100
election shall be published in a newspaper of general circulation 120101
in the subdivision once a week for two consecutive weeks, or as 120102
provided in section 7.16 of the Revised Code, prior to the 120103
election, ~~and, if.~~ If the board of elections operates and 120104
maintains a web site, the board of elections shall post notice of 120105
the election on its web site for thirty days prior to the 120106
election. 120107

(1) In the case of a resolution adopted under section 120108
5705.212 of the Revised Code, the notice shall state separately, 120109
for each tax being proposed, the purpose; the proposed increase in 120110
rate, expressed in dollars and cents for each one hundred dollars 120111
of valuation as well as in mills for each one dollar of valuation; 120112
the number of years during which the increase will be in effect; 120113
and the first calendar year in which the tax will be due. For an 120114
election on the question of a renewal levy, the notice shall state 120115
the purpose; the proposed rate, expressed in dollars and cents for 120116
each one hundred dollars of valuation as well as in mills for each 120117
one dollar of valuation; and the number of years the tax will be 120118
in effect. 120119

(2) In the case of a resolution adopted under section 120120
5705.213 of the Revised Code, the notice shall state the purpose; 120121
the amount proposed to be raised by the tax in the first year it 120122
is levied; the estimated average additional tax rate for the first 120123
year it is proposed to be levied, expressed in mills for each one 120124
dollar of valuation and in dollars and cents for each one hundred 120125
dollars of valuation; the number of years during which the 120126
increase will be in effect; and the first calendar year in which 120127
the tax will be due. The notice also shall state the amount by 120128
which the amount to be raised by the tax may be increased in each 120129

year after the first year. The amount of the allowable increase 120130
may be expressed in terms of a dollar increase over, or a 120131
percentage of, the amount raised by the tax in the immediately 120132
preceding year. For an election on the question of a renewal levy, 120133
the notice shall state the purpose; the amount proposed to be 120134
raised by the tax; the estimated tax rate, expressed in mills for 120135
each one dollar of valuation and in dollars and cents for each one 120136
hundred dollars of valuation; and the number of years the tax will 120137
be in effect. 120138

In any case, the notice also shall state the time and place 120139
of the election. 120140

(B) The form of the ballot in an election on taxes proposed 120141
under section 5705.212 of the Revised Code shall be as follows: 120142

"Shall the school district be authorized to levy 120143
taxes for current expenses, the aggregate rate of which may 120144
increase in (number) increment(s) of not more than 120145
mill(s) for each dollar of valuation, from an original rate of 120146
..... mill(s) for each dollar of valuation, which amounts to 120147
..... (rate expressed in dollars and cents) for each one hundred 120148
dollars of valuation, to a maximum rate of mill(s) for each 120149
dollar of valuation, which amounts to (rate expressed in 120150
dollars and cents) for each one hundred dollars of valuation? The 120151
original tax is first proposed to be levied in (the first 120152
year of the tax), and the incremental tax in (the first 120153
year of the increment) (if more than one incremental tax is 120154
proposed in the resolution, the first year that each incremental 120155
tax is proposed to be levied shall be stated in the preceding 120156
format, and the increments shall be referred to as the first, 120157
second, third, or fourth increment, depending on their number). 120158
The aggregate rate of tax so authorized will (insert 120159
either, "expire with the original rate of tax which shall be in 120160
effect for years" or "be in effect for a continuing period 120161

of time"). 120162

120163

	FOR THE TAX LEVIES
	AGAINST THE TAX LEVIES

120164

"

120165

120166

The form of the ballot in an election on the question of a 120167
renewal levy under section 5705.212 of the Revised Code shall be 120168
as follows: 120169

"Shall the school district be authorized to renew a 120170
tax for current expenses at a rate not exceeding mills 120171
for each dollar of valuation, which amounts to (rate 120172
expressed in dollars and cents) for each one hundred dollars of 120173
valuation, for (number of years the levy shall be in 120174
effect, or a continuing period of time)? 120175

120176

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

"

120177

120178

120179

If the tax is to be placed on the current tax list, the form 120180
of the ballot shall be modified by adding, after the statement of 120181
the number of years the levy is to be in effect, the phrase ", 120182
commencing in (first year the tax is to be levied), 120183
first due in calendar year (first calendar year in 120184
which the tax shall be due)." 120185

(C) The form of the ballot in an election on a tax proposed 120186
under section 5705.213 of the Revised Code shall be as follows: 120187

"Shall the school district be authorized to levy the 120188
following tax for current expenses? The tax will first be levied 120189
in (year) to raise (dollars). In the (number 120190
of years) following years, the tax will increase by not more than 120191

..... (per cent or dollar amount of increase) each year, so that, 120192
 during (last year of the tax), the tax will raise 120193
 approximately (dollars). The county auditor estimates that 120194
 the rate of the tax per dollar of valuation will be 120195
 mill(s), which amounts to \$..... per one hundred dollars of 120196
 valuation, both during (first year of the tax) and 120197
 mill(s), which amounts to \$..... per one hundred dollars of 120198
 valuation, during (last year of the tax). The tax will not 120199
 be levied after (year). 120200

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

120201
 120202
 120203
 120204

The form of the ballot in an election on the question of a 120205
 renewal levy under section 5705.213 of the Revised Code shall be 120206
 as follows: 120207

"Shall the school district be authorized to renew a 120208
 tax for current expenses which will raise (dollars), 120209
 estimated by the county auditor to be mills for each 120210
 dollar of valuation, which amounts to (rate expressed in 120211
 dollars and cents) for each one hundred dollars of valuation? The 120212
 tax shall be in effect for (the number of years the levy 120213
 shall be in effect, or a continuing period of time). 120214

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

120215
 120216
 120217
 120218

If the tax is to be placed on the current tax list, the form 120219
 of the ballot shall be modified by adding, after the statement of 120220
 the number of years the levy is to be in effect, the phrase ", 120221
 commencing in (first year the tax is to be levied), 120222

first due in calendar year (first calendar year in 120223
which the tax shall be due)." 120224

(D) The question covered by a resolution adopted under 120225
section 5705.212 or 5705.213 of the Revised Code shall be 120226
submitted as a separate question, but may be printed on the same 120227
ballot with any other question submitted at the same election, 120228
other than the election of officers. More than one question may be 120229
submitted at the same election. 120230

(E) Taxes voted in excess of the ten-mill limitation under 120231
division (B) or (C) of this section shall be certified to the tax 120232
commissioner. If an additional tax is to be placed upon the tax 120233
list of the current year, as specified in the resolution providing 120234
for its submission, the result of the election shall be certified 120235
immediately after the canvass by the board of elections to the 120236
board of education. The board of education immediately shall make 120237
the necessary levy and certify it to the county auditor, who shall 120238
extend it on the tax list for collection. After the first year, 120239
the levy shall be included in the annual tax budget that is 120240
certified to the county budget commission. 120241

Sec. 5705.261. The question of decrease of an increased rate 120242
of levy approved for a continuing period of time by the voters of 120243
a subdivision may be initiated by the filing of a petition with 120244
the board of elections of the proper county not less than ninety 120245
days before the general election in any year requesting that an 120246
election be held on such question. Such petition shall state the 120247
amount of the proposed decrease in the rate of levy and shall be 120248
signed by qualified electors residing in the subdivision equal in 120249
number to at least ten per cent of the total number of votes cast 120250
in the subdivision for the office of governor at the most recent 120251
general election for that office. Only one such petition may be 120252
filed during each five-year period following the election at which 120253

the voters approved the increased rate for a continuing period of 120254
time. 120255

After determination by it that such petition is valid, the 120256
board of elections shall submit the question to the electors of 120257
the district at the succeeding general election. The election 120258
shall be conducted, canvassed, and certified in the same manner as 120259
regular elections in such subdivision for county offices. Notice 120260
of the election shall be published in a newspaper of general 120261
circulation in the district once a week for two consecutive weeks, 120262
or as provided in section 7.16 of the Revised Code, prior to the 120263
election, ~~and, if.~~ If the board of elections operates and 120264
maintains a web site, the board of elections shall post notice of 120265
the election on its web site for thirty days prior to the 120266
election. The notice shall state the purpose, the amount of the 120267
proposed decrease in rate, and the time and place of the election. 120268
The form of the ballot cast at such election shall be prescribed 120269
by the secretary of state. The question covered by such petition 120270
shall be submitted as a separate proposition but it may be printed 120271
on the same ballot with any other propositions submitted at the 120272
same election other than the election of officers. If a majority 120273
of the qualified electors voting on the question of a decrease at 120274
such election approve the proposed decrease in rate, the result of 120275
the election shall be certified immediately after the canvass by 120276
the board of elections to the subdivision's taxing authority, 120277
which shall thereupon, after the current year, cease to levy such 120278
increased rate or levy such tax at such reduced rate upon the 120279
duplicate of the subdivision. If notes have been issued in 120280
anticipation of the collection of such levy, the taxing authority 120281
shall continue to levy and collect under authority of the election 120282
authorizing the original levy such amounts as will be sufficient 120283
to pay the principal of and interest on such anticipation notes as 120284
the same fall due. 120285

Sec. 5705.29. This section does not apply to a subdivision or 120286
taxing unit for which the county budget commission has waived the 120287
requirement to adopt a tax budget pursuant to section 5705.281 of 120288
the Revised Code. The tax budget shall present the following 120289
information in such detail as is prescribed by the auditor of 120290
state: 120291

(A)(1) A statement of the necessary current operating 120292
expenses for the ensuing fiscal year for each department and 120293
division of the subdivision, classified as to personal services 120294
and other expenses, and the fund from which such expenditures are 120295
to be made. Except in the case of a school district, this estimate 120296
may include a contingent expense not designated for any particular 120297
purpose, and not to exceed three per cent of the total amount of 120298
appropriations for current expenses. In the case of a school 120299
district, this estimate may include a contingent expense not 120300
designated for any particular purpose and not to exceed thirteen 120301
per cent of the total amount of appropriations for current 120302
expenses. 120303

(2) A statement of the expenditures for the ensuing fiscal 120304
year necessary for permanent improvements, exclusive of any 120305
expense to be paid from bond issues, classified as to the 120306
improvements contemplated by the subdivision and the fund from 120307
which such expenditures are to be made; 120308

(3) The amounts required for the payment of final judgments; 120309

(4) A statement of expenditures for the ensuing fiscal year 120310
necessary for any purpose for which a special levy is authorized, 120311
and the fund from which such expenditures are to be made; 120312

(5) Comparative statements, so far as possible, in parallel 120313
columns of corresponding items of expenditures for the current 120314
fiscal year and the two preceding fiscal years. 120315

(B)(1) An estimate of receipts from other sources than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited;

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy

proposed under section 5748.09, or the original levy under section 120347
5705.212 of the Revised Code is first extended on the tax list and 120348
duplicate an estimate of expenditures to be known as a voluntary 120349
contingency reserve balance, which shall not be greater than 120350
twenty-five per cent of the total amount of the levy estimated to 120351
be available for appropriation in such year. 120352

(2) A board of education may include in its budget for the 120353
fiscal year following the year in which a levy proposed under 120354
section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a 120355
property tax levy proposed under section 5748.09, or the original 120356
levy under section 5705.212 of the Revised Code is first extended 120357
on the tax list and duplicate an estimate of expenditures to be 120358
known as a voluntary contingency reserve balance, which shall not 120359
be greater than twenty per cent of the amount of the levy 120360
estimated to be available for appropriation in such year. 120361

(3) Except as provided in division (E)(4) of this section, 120362
the full amount of any reserve balance the board includes in its 120363
budget shall be retained by the county auditor and county 120364
treasurer out of the first semiannual settlement of taxes until 120365
the beginning of the next succeeding fiscal year, and thereupon, 120366
with the depository interest apportioned thereto, it shall be 120367
turned over to the board of education, to be used for the purposes 120368
of such fiscal year. 120369

(4) A board of education, by a two-thirds vote of all members 120370
of the board, may appropriate any amount withheld as a voluntary 120371
contingency reserve balance during the fiscal year for any lawful 120372
purpose, provided that prior to such appropriation the board of 120373
education has authorized the expenditure of all amounts 120374
appropriated for contingencies under section 5705.40 of the 120375
Revised Code. Upon request by the board of education, the county 120376
auditor shall draw a warrant on the district's account in the 120377
county treasury payable to the district in the amount requested. 120378

(F)(1) A board of education may include a spending reserve in its budget for fiscal years ending on or before June 30, 2002. The spending reserve shall consist of an estimate of expenditures not to exceed the district's spending reserve balance. A district's spending reserve balance is the amount by which the designated percentage of the district's estimated personal property taxes to be settled during the calendar year in which the fiscal year ends exceeds the estimated amount of personal property taxes to be so settled and received by the district during that fiscal year. Moneys from a spending reserve shall be appropriated in accordance with section 133.301 of the Revised Code.

(2) For the purposes of computing a school district's spending reserve balance for a fiscal year, the designated percentage shall be as follows:

Fiscal year ending in:	Designated percentage
1998	50%
1999	40%
2000	30%
2001	20%
2002	10%

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as

revenue for the purposes of section 5747.51 of the Revised Code 120411
and may take such amounts into consideration when determining 120412
whether to reduce the taxing authority of a subdivision. 120413

Sec. 5705.314. If the board of education of a city, local, or 120414
exempted village school district proposes to change its levy 120415
within the ten-mill limitation in a manner that will result in an 120416
increase in the amount of real property taxes levied by the board 120417
in the tax year the change takes effect, the board shall hold a 120418
public hearing solely on the proposal before adopting a resolution 120419
to implement the proposal. The board shall publish notice of the 120420
hearing in a newspaper of general circulation in the school 120421
district once a week for two consecutive weeks or as provided in 120422
section 7.16 of the Revised Code. The second publication shall be 120423
not less than ten nor more than thirty days before the date of the 120424
hearing. ~~The,~~ and the notice shall include the date, time, place, 120425
and subject of the hearing, and a statement that the change 120426
proposed by the board may result in an increase in the amount of 120427
real property taxes levied by the board. At the time the board 120428
submits the notice for publication, the board shall send a copy of 120429
the notice to the auditor of the county where the school district 120430
is located or, if the school district is located in more than one 120431
county, to the auditor of each of those counties. 120432

Sec. 5705.392. (A) A board of county commissioners may adopt 120433
as a part of its annual appropriation measure a spending plan, or 120434
in the case of an amended appropriation measure, an amended 120435
spending plan, setting forth a quarterly schedule of expenses and 120436
expenditures of all appropriations for the fiscal year from the 120437
county general fund. The spending plan shall be classified to set 120438
forth separately a quarterly schedule of expenses and expenditures 120439
for each office, department, and division, and within each, the 120440
amount appropriated for personal services. Each office, 120441

department, and division shall be limited in its expenses and 120442
expenditures of moneys appropriated from the general fund during 120443
any quarter by the schedule established in the spending plan. The 120444
schedule established in the spending plan shall serve as a 120445
limitation during a quarter on the making of contracts and giving 120446
of orders involving the expenditure of money during that quarter 120447
for purposes of division (D) of section 5705.41 of the Revised 120448
Code. 120449

(B)(1) A board of county commissioners, by resolution, may 120450
adopt a spending plan or an amended spending plan setting forth 120451
separately a quarterly schedule of expenses and expenditures of 120452
appropriations from any county fund, for the second half of a 120453
fiscal year and any subsequent fiscal year, for any county office, 120454
department, or division that has spent or encumbered more than 120455
six-tenths of the amount appropriated for personal services and 120456
payrolls during the first half of any fiscal year. 120457

(2) During any fiscal year, a board of county commissioners, 120458
by resolution, may adopt a spending plan or an amended spending 120459
plan setting forth separately a quarterly schedule of expenses and 120460
expenditures of appropriations from any county fund, for any 120461
county office, department, or division that, during the previous 120462
fiscal year, spent one hundred ten per cent or more of the total 120463
amount appropriated for personal services and payrolls by the 120464
board in its annual appropriation measure required by section 120465
5705.38 of the Revised Code. The spending plan or amended spending 120466
plan shall remain in effect two fiscal years, or until the county 120467
officer of the office for which the plan was adopted is no longer 120468
in office, including terms of office to which the county officer 120469
is re-elected, whichever is later. 120470

(3) At least thirty days before adopting a resolution under 120471
division (B)(1) or (2) of this section, the board of county 120472
commissioners shall provide written notice to each county office, 120473

department, or division for which it intends to adopt a spending plan or an amended spending plan. The notice shall be sent by regular first class mail or provided by personal service, and shall include a copy of the proposed spending plan or proposed amended spending plan. The county office, department, or division may meet with the board at any regular session of the board to comment on the notice, or to express concerns or ask questions about the proposed spending plan or proposed amended spending plan.

Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts:

(1) Five hundred thousand dollars;

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code.

(B)(1) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a

number of days in succeeding fiscal years equal to the number of 120505
days instruction was held or is scheduled for the current fiscal 120506
year, as follows: 120507

~~(1)~~(a) A certificate attached to an appropriation measure 120508
under this section shall cover only the fiscal year in which the 120509
appropriation measure is effective and shall not consider the 120510
renewal or replacement of an existing levy as the authority to 120511
levy taxes that are subject to appropriation in the current fiscal 120512
year unless the renewal or replacement levy has been approved by 120513
the electors and is subject to appropriation in the current fiscal 120514
year. 120515

~~(2)~~(b) A certificate attached, in accordance with this 120516
section, to any qualifying contract shall cover the term of the 120517
contract. 120518

~~(3)~~(c) A certificate attached under this section to a wage or 120519
salary schedule shall cover the term of the schedule. 120520

If the board of education has not adopted a school calendar 120521
for the school year beginning on the first day of the fiscal year 120522
in which a certificate is required, the certificate attached to an 120523
appropriation measure shall include the number of days on which 120524
instruction was held in the preceding fiscal year and other 120525
certificates required under this section shall include that number 120526
of days for the fiscal year in which the certificate is required 120527
and any succeeding fiscal years that the certificate must cover. 120528

The certificate shall be signed by the treasurer and 120529
president of the board of education and the superintendent of the 120530
school district, unless the district is in a state of fiscal 120531
emergency declared under Chapter 3316. of the Revised Code. In 120532
that case, the certificate shall be signed by a member of the 120533
district's financial planning and supervision commission who is 120534
designated by the commission for this purpose. 120535

(2) In lieu of the certificate required under division (B) of this section, an alternative certificate stating the following may be attached: 120536
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(a) The contract is a multi-year contract for materials, equipment, or nonpayroll services essential to the education program of the district; 120539
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120541

(b) The multi-year contract demonstrates savings over the duration of the contract as compared to costs that otherwise would have been demonstrated in a single year contract, and the terms will allow the district to reduce the deficit it is currently facing in future years as demonstrated in its five-year forecast adopted in accordance with section 5705.391 of the Revised Code. 120542
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The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose. 120548
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(C) Every qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made. 120555
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120557

(D) The department of education and the auditor of state jointly shall adopt rules governing the methods by which treasurers, presidents of boards of education, superintendents, and members of financial planning and supervision commissions shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section. 120558
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(E) The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At 120565
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the time a school district is audited pursuant to section 117.11 120567
of the Revised Code, the auditor of state shall review each 120568
certificate issued under this section since the district's last 120569
audit, and the appropriation measure, contract, or wage and salary 120570
schedule to which such certificate was attached. If the auditor of 120571
state determines that a school district has not complied with this 120572
section with respect to any qualifying contract or wage or salary 120573
schedule, the auditor of state shall notify the prosecuting 120574
attorney for the county, the city director of law, or other chief 120575
law officer of the school district. That officer may file a civil 120576
action in any court of appropriate jurisdiction to seek a 120577
declaration that the contract or wage or salary schedule is void, 120578
to recover for the school district from the payee the amount of 120579
payments already made under it, or both, except that the officer 120580
shall not seek to recover payments made under any collective 120581
bargaining agreement entered into under Chapter 4117. of the 120582
Revised Code. If the officer does not file such an action within 120583
one hundred twenty days after receiving notice of noncompliance 120584
from the auditor of state, any taxpayer may institute the action 120585
in the taxpayer's own name on behalf of the school district. 120586

(F) This section does not apply to any contract or increase 120587
in any wage or salary schedule that is necessary in order to 120588
enable a board of education to comply with division (B) of section 120589
3317.13 of the Revised Code, provided the contract or increase 120590
does not exceed the amount required to be paid to be in compliance 120591
with such division. 120592

(G) Any officer, employee, or other person who expends or 120593
authorizes the expenditure of any public funds or authorizes or 120594
executes any contract or schedule contrary to this section, 120595
expends or authorizes the expenditure of any public funds on the 120596
void contract or schedule, or issues a certificate under this 120597
section which contains any false statements is liable to the 120598

school district for the full amount paid from the district's funds 120599
on the contract or schedule. The officer, employee, or other 120600
person is jointly and severally liable in person and upon any 120601
official bond that the officer, employee, or other person has 120602
given to the school district to the extent of any payments on the 120603
void claim, not to exceed ten thousand dollars. However, no 120604
officer, employee, or other person shall be liable for a mistaken 120605
estimate of available resources made in good faith and based upon 120606
reasonable grounds. If an officer, employee, or other person is 120607
found to have complied with rules jointly adopted by the 120608
department of education and the auditor of state under this 120609
section governing methods by which revenue shall be estimated and 120610
determined sufficient to provide necessary operating revenue for 120611
the purpose of making certifications required by this section, the 120612
officer, employee, or other person shall not be liable under this 120613
section if the estimates and determinations made according to 120614
those rules do not, in fact, conform with actual revenue. The 120615
prosecuting attorney of the county, the city director of law, or 120616
other chief law officer of the district shall enforce this 120617
liability by civil action brought in any court of appropriate 120618
jurisdiction in the name of and on behalf of the school district. 120619
If the prosecuting attorney, city director of law, or other chief 120620
law officer of the district fails, upon the written request of any 120621
taxpayer, to institute action for the enforcement of the 120622
liability, the attorney general, or the taxpayer in the taxpayer's 120623
own name, may institute the action on behalf of the subdivision. 120624

(H) This section does not require the attachment of an 120625
additional certificate beyond that required by section 5705.41 of 120626
the Revised Code for current payrolls of, or contracts of 120627
employment with, any employees or officers of the school district. 120628

This section does not require the attachment of a certificate 120629
to a temporary appropriation measure if all of the following 120630

apply: 120631

(1) The amount appropriated does not exceed twenty-five per 120632
cent of the total amount from all sources available for 120633
expenditure from any fund during the preceding fiscal year; 120634

(2) The measure will not be in effect on or after the 120635
thirtieth day following the earliest date on which the district 120636
may pass an annual appropriation measure; 120637

(3) An amended official certificate of estimated resources 120638
for the current year, if required, has not been certified to the 120639
board of education under division (B) of section 5705.36 of the 120640
Revised Code. 120641

Sec. 5705.55. (A) The board of directors of a lake facilities 120642
authority, by a vote of two-thirds of all its members, may at any 120643
time declare by resolution that the amount of taxes which may be 120644
raised within the ten-mill limitation by levies on the current tax 120645
duplicate will be insufficient to provide an adequate amount for 120646
the necessary requirements of the authority, that it is necessary 120647
to levy a tax in excess of such limitation for any of the purposes 120648
specified in divisions (A), (B), (F), and (H) of section 5705.19 120649
of the Revised Code, and that the question of such additional tax 120650
levy shall be submitted by the board to the electors residing 120651
within the boundaries of the impacted lake district on the day of 120652
a primary or general election. The resolution shall conform to 120653
section 5705.19 of the Revised Code, except that the tax levy may 120654
be in effect for no more than five years, as set forth in the 120655
resolution, unless the levy is for the payment of debt charges, 120656
and the total number of mills levied for each dollar of taxable 120657
valuation that may be levied under this section for any tax year 120658
shall not exceed one mill. If the levy is for the payment of debt 120659
charges, the levy shall be for the life of the bond indebtedness. 120660
120661

The resolution shall specify the date of holding the election, which shall not be earlier than ninety days after the adoption and certification of the resolution to the board of elections. The resolution shall not include a levy on the current tax list and duplicate unless the election is to be held at or prior to the first Tuesday after the first Monday in November of the current tax year. 120662
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The resolution shall be certified to the board of elections of the proper county or counties not less than ninety days before the date of the election. The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided in the notice of election. Section 5705.25 of the Revised Code shall govern the arrangements for the submission of such question and other matters concerning the election, to which that section refers, except that the election shall be held on the date specified in the resolution. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of directors may forthwith make the necessary levy within the boundaries of the impacted lake district at the additional rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. The tax levy shall be included in the next annual tax budget that is certified to the county budget commission. 120669
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(B) The form of the ballot in an election held on the question of levying a tax proposed pursuant to this section shall be as follows or in any other form acceptable to the secretary of state: 120686
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120689

"A tax for the benefit of (name of lake facilities authority) for the purpose of at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one 120690
120691
120692
120693

hundred dollars of valuation, for (life of 120694
indebtedness or number of years the levy is to run). 120695

	<u>For the Tax Levy</u>		120697
	<u>Against the Tax Levy</u>	"	120698

120696
120699

(C) On approval of the levy, notes may be issued in 120700
anticipation of the collection of the proceeds of the tax levy, 120701
other than the proceeds to be received for the payment of bond 120702
debt charges, in the amount and manner and at the times as are 120703
provided in section 5705.193 of the Revised Code, for the issuance 120704
of notes by a county in anticipation of the proceeds of a tax 120705
levy. The lake facilities authority may borrow money in 120706
anticipation of the collection of current revenues as provided in 120707
section 133.10 of the Revised Code. 120708

(D) If a tax is levied under this section in a tax year, no 120709
other taxing authority of a subdivision or taxing unit, including 120710
a port authority, may levy a tax on property in the impacted lake 120711
district in the same tax year if the purpose of the levy is 120712
substantially the same as the purpose for which the lake 120713
facilities authority of the impacted lake district was created. 120714

Sec. 5705.71. (A) The electors of a county may initiate the 120715
question of a tax levy for support of senior citizens services or 120716
facilities by the filing of a petition with the board of elections 120717
of that county not less than ninety days before the date of any 120718
primary or general election requesting that an election be held on 120719
such question. The petition shall be signed by at least ten per 120720
cent of the qualified electors residing in the county and voting 120721
for the office of governor at the last general election. 120722

(B) The petition shall state the purpose for which the senior 120723

citizens tax levy is being proposed, shall specify the amount of 120724
the proposed increase in rate, the period of time during which the 120725
increase is to be in effect, and whether the levy is to be imposed 120726
in the current year. The number of years may be any number not 120727
exceeding five, except that when the additional rate is for the 120728
payment of debt charges the increased rate shall be for the life 120729
of the indebtedness. 120730

(C) After determination by it that such petition is valid, 120731
the board of elections shall submit the question to the electors 120732
of the county at the succeeding primary or general election. 120733

(D) The election shall be conducted, canvassed, and certified 120734
in the same manner as regular elections in such county for county 120735
offices. Notice of the election shall be published in a newspaper 120736
of general circulation in the county once a week for two 120737
consecutive weeks, or as provided in section 7.16 of the Revised 120738
Code, prior to the election, ~~and, if~~. If the board of elections 120739
operates and maintains a web site, the board of elections shall 120740
post notice of the election on its web site for thirty days prior 120741
to the election. The notice shall state the purpose, the amount of 120742
the proposed increase in rate, and the time and place of the 120743
election. 120744

(E) The form of the ballot cast at such election shall be 120745
prescribed by the secretary of state. If the tax is to be placed 120746
on the tax list of the current tax year, the form of the ballot 120747
shall include a statement to that effect and shall indicate the 120748
first calendar year the tax will be due. The question covered by 120749
such petition shall be submitted as a separate proposition but it 120750
may be printed on the same ballot with any other propositions 120751
submitted at the same election other than the election of 120752
officers. 120753

(F) If a majority of electors voting on the question vote in 120754
favor of the levy, the board of county commissioners shall levy a 120755

tax, for the period and the purpose stated within the petition. If 120756
the tax is to be placed upon the tax list of the current year, as 120757
specified in the petition, the result of the election shall be 120758
certified immediately after the canvass by the board of elections 120759
to the board of county commissioners, which shall forthwith make 120760
the necessary levy and certify it to the county auditor, who shall 120761
extend it on the tax list for collection. After the first year, 120762
the tax levy shall be included in the annual tax budget that is 120763
certified to the county budget commission. 120764

Sec. 5707.031. As used in this section, "qualifying dealer in 120765
intangibles" ~~has the same meaning as "qualifying dealer" in~~ 120766
~~section 5725.24 of the Revised Code~~ means a dealer in intangibles 120767
that is a qualifying dealer in intangibles as defined in section 120768
5733.45 of the Revised Code or a member of a qualifying controlled 120769
group, as defined in section 5733.04 of the Revised Code, of which 120770
an insurance company also is a member on the first day of January 120771
of the year in and for which the tax imposed by section 5707.03 of 120772
the Revised Code is required to be paid by the dealer. 120773

Upon the issuance of a tax credit certificate by the Ohio 120774
venture capital authority under section 150.07 of the Revised 120775
Code, a refundable credit may be claimed against the tax imposed 120776
on a qualifying dealer in intangibles under section 5707.03 and 120777
Chapter 5725. of the Revised Code. The credit shall be claimed on 120778
a return due under section 5725.14 of the Revised Code after the 120779
certificate is issued by the authority. 120780

Sec. 5709.07. (A) The following property shall be exempt from 120781
taxation: 120782

(1) ~~Public schoolhouses, the books and furniture in them, and~~ 120783
~~the ground attached to them necessary for the proper occupancy,~~ 120784
~~use, and enjoyment of the schoolhouses, and not leased or~~ 120785

otherwise used with a view to profit; Real property used by a 120786
school for primary or secondary educational purposes, including 120787
only so much of the land as is necessary for the proper occupancy, 120788
use, and enjoyment of such real property by the school for primary 120789
or secondary educational purposes. The exemption under division 120790
(A)(1) of this section does not apply to any portion of the real 120791
property not used for primary or secondary educational purposes. 120792

For purposes of division (A)(1) of this section: 120793

(a) "School" means a public or nonpublic school. "School" 120794
excludes home instruction as authorized under section 3321.04 of 120795
the Revised Code. 120796

(b) "Public school" includes schools of a school district, 120797
STEM schools established under Chapter 3326. of the Revised Code, 120798
community schools established under Chapter 3314. of the Revised 120799
Code, and educational service centers established under section 120800
3311.05 of the Revised Code. 120801

(c) "Nonpublic school" means a nonpublic school for which the 120802
state board of education has issued a charter pursuant to section 120803
3301.16 of the Revised Code and prescribes minimum standards under 120804
division (D)(2) of section 3301.07 of the Revised Code. 120805

(2) Houses used exclusively for public worship, the books and 120806
furniture in them, and the ground attached to them that is not 120807
leased or otherwise used with a view to profit and that is 120808
necessary for their proper occupancy, use, and enjoyment; 120809

(3) Real property owned and operated by a church that is used 120810
primarily for church retreats or church camping, and that is not 120811
used as a permanent residence. Real property exempted under 120812
division (A)(3) of this section may be made available by the 120813
church on a limited basis to charitable and educational 120814
institutions if the property is not leased or otherwise made 120815
available with a view to profit. 120816

(4) Public colleges and academies and all buildings connected 120817
with them, and all lands connected with public institutions of 120818
learning, not used with a view to profit, including those 120819
buildings and lands that satisfy all of the following: 120820

(a) The buildings are used for housing for full-time students 120821
or housing-related facilities for students, faculty, or employees 120822
of a state university, or for other purposes related to the state 120823
university's educational purpose, and the lands are underneath the 120824
buildings or are used for common space, walkways, and green spaces 120825
for the state university's students, faculty, or employees. As 120826
used in this division, "housing-related facilities" includes both 120827
parking facilities related to the buildings and common buildings 120828
made available to students, faculty, or employees of a state 120829
university. The leasing of space in housing-related facilities 120830
shall not be considered an activity with a view to profit for 120831
purposes of division (A)(4) of this section. 120832

(b) The buildings and lands are supervised or otherwise under 120833
the control, directly or indirectly, of an organization that is 120834
exempt from federal income taxation under section 501(c)(3) of the 120835
Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as 120836
amended, and the state university has entered into a qualifying 120837
joint use agreement with the organization that entitles the 120838
students, faculty, or employees of the state university to use the 120839
lands or buildings; 120840

(c) The state university has agreed, under the terms of the 120841
qualifying joint use agreement with the organization described in 120842
division (A)(4)(b) of this section, that the state university, to 120843
the extent applicable under the agreement, will make payments to 120844
the organization in amounts sufficient to maintain agreed-upon 120845
debt service coverage ratios on bonds related to the lands or 120846
buildings. 120847

(B) This section shall not extend to leasehold estates or 120848

real property held under the authority of a college or university 120849
of learning in this state; but leaseholds, or other estates or 120850
property, real or personal, the rents, issues, profits, and income 120851
of which is given to a municipal corporation, school district, or 120852
subdistrict in this state exclusively for the use, endowment, or 120853
support of schools for the free education of youth without charge 120854
shall be exempt from taxation as long as such property, or the 120855
rents, issues, profits, or income of the property is used and 120856
exclusively applied for the support of free education by such 120857
municipal corporation, district, or subdistrict. Division (B) of 120858
this section shall not apply with respect to buildings and lands 120859
that satisfy all of the requirements specified in divisions 120860
(A)(4)(a) to (c) of this section. 120861

(C) For purposes of this section, if the requirements 120862
specified in divisions (A)(4)(a) to (c) of this section are 120863
satisfied, the buildings and lands with respect to which exemption 120864
is claimed under division (A)(4) of this section shall be deemed 120865
to be used with reasonable certainty in furthering or carrying out 120866
the necessary objects and purposes of a state university. 120867

(D) As used in this section: 120868

(1) "Church" means a fellowship of believers, congregation, 120869
society, corporation, convention, or association that is formed 120870
primarily or exclusively for religious purposes and that is not 120871
formed for the private profit of any person. 120872

(2) "State university" has the same meaning as in section 120873
3345.011 of the Revised Code. 120874

(3) "Qualifying joint use agreement" means an agreement that 120875
satisfies all of the following: 120876

(a) The agreement was entered into before June 30, 2004; 120877

(b) The agreement is between a state university and an 120878
organization that is exempt from federal income taxation under 120879

section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 120880
2085, 26 U.S.C. 1, as amended; and 120881

(c) The state university that is a party to the agreement 120882
reported to the Ohio board of regents that the university 120883
maintained a headcount of at least twenty-five thousand students 120884
on its main campus during the academic school year that began in 120885
calendar year 2003 and ended in calendar year 2004. 120886

Sec. 5709.40. (A) As used in this section: 120887

(1) "Blighted area" and "impacted city" have the same 120888
meanings as in section 1728.01 of the Revised Code. 120889

(2) "Business day" means a day of the week excluding 120890
Saturday, Sunday, and a legal holiday as defined under section 120891
1.14 of the Revised Code. 120892

(3) "Housing renovation" means a project carried out for 120893
residential purposes. 120894

(4) "Improvement" means the increase in the assessed value of 120895
any real property that would first appear on the tax list and 120896
duplicate of real and public utility property after the effective 120897
date of an ordinance adopted under this section were it not for 120898
the exemption granted by that ordinance. 120899

(5) "Incentive district" means an area not more than three 120900
hundred acres in size enclosed by a continuous boundary in which a 120901
project is being, or will be, undertaken and having one or more of 120902
the following distress characteristics: 120903

(a) At least fifty-one per cent of the residents of the 120904
district have incomes of less than eighty per cent of the median 120905
income of residents of the political subdivision in which the 120906
district is located, as determined in the same manner specified 120907
under section 119(b) of the "Housing and Community Development Act 120908
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 120909

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when

determined to be necessary for economic development purposes; 120941
stormwater and flood remediation projects, including such projects 120942
on private property when determined to be necessary for public 120943
health, safety, and welfare; the provision of gas, electric, and 120944
communications service facilities; and the enhancement of public 120945
waterways through improvements that allow for greater public 120946
access. 120947

(B) The legislative authority of a municipal corporation, by 120948
ordinance, may declare improvements to certain parcels of real 120949
property located in the municipal corporation to be a public 120950
purpose. Improvements with respect to a parcel that is used or to 120951
be used for residential purposes may be declared a public purpose 120952
under this division only if the parcel is located in a blighted 120953
area of an impacted city. Except with the approval under division 120954
(D) of this section of the board of education of each city, local, 120955
~~or~~ exempted village, and joint vocational school district within 120956
which the improvements are located, not more than seventy-five per 120957
cent of an improvement thus declared to be a public purpose may be 120958
exempted from real property taxation for a period of not more than 120959
ten years. The ordinance shall specify the percentage of the 120960
improvement to be exempted from taxation and the life of the 120961
exemption. 120962

An ordinance adopted or amended under this division shall 120963
designate the specific public infrastructure improvements made, to 120964
be made, or in the process of being made by the municipal 120965
corporation that directly benefit, or that once made will directly 120966
benefit, the parcels for which improvements are declared to be a 120967
public purpose. The service payments provided for in section 120968
5709.42 of the Revised Code shall be used to finance the public 120969
infrastructure improvements designated in the ordinance, for the 120970
purpose described in division (D)(1) of this section or as 120971
provided in section 5709.43 of the Revised Code. 120972

(C)(1) The legislative authority of a municipal corporation 120973
may adopt an ordinance creating an incentive district and 120974
declaring improvements to parcels within the district to be a 120975
public purpose and, except as provided in division (F) of this 120976
section, exempt from taxation as provided in this section, but no 120977
legislative authority of a municipal corporation that has a 120978
population that exceeds twenty-five thousand, as shown by the most 120979
recent federal decennial census, shall adopt an ordinance that 120980
creates an incentive district if the sum of the taxable value of 120981
real property in the proposed district for the preceding tax year 120982
and the taxable value of all real property in the municipal 120983
corporation that would have been taxable in the preceding year 120984
were it not for the fact that the property was in an existing 120985
incentive district and therefore exempt from taxation exceeds 120986
twenty-five per cent of the taxable value of real property in the 120987
municipal corporation for the preceding tax year. The ordinance 120988
shall delineate the boundary of the district and specifically 120989
identify each parcel within the district. A district may not 120990
include any parcel that is or has been exempted from taxation 120991
under division (B) of this section or that is or has been within 120992
another district created under this division. An ordinance may 120993
create more than one such district, and more than one ordinance 120994
may be adopted under division (C)(1) of this section. 120995

(2) Not later than thirty days prior to adopting an ordinance 120996
under division (C)(1) of this section, if the municipal 120997
corporation intends to apply for exemptions from taxation under 120998
section 5709.911 of the Revised Code on behalf of owners of real 120999
property located within the proposed incentive district, the 121000
legislative authority of a municipal corporation shall conduct a 121001
public hearing on the proposed ordinance. Not later than thirty 121002
days prior to the public hearing, the legislative authority shall 121003
give notice of the public hearing and the proposed ordinance by 121004
first class mail to every real property owner whose property is 121005

located within the boundaries of the proposed incentive district 121006
that is the subject of the proposed ordinance. 121007

(3)(a) An ordinance adopted under division (C)(1) of this 121008
section shall specify the life of the incentive district and the 121009
percentage of the improvements to be exempted, shall designate the 121010
public infrastructure improvements made, to be made, or in the 121011
process of being made, that benefit or serve, or, once made, will 121012
benefit or serve parcels in the district. The ordinance also shall 121013
identify one or more specific projects being, or to be, undertaken 121014
in the district that place additional demand on the public 121015
infrastructure improvements designated in the ordinance. The 121016
project identified may, but need not be, the project under 121017
division (C)(3)(b) of this section that places real property in 121018
use for commercial or industrial purposes. Except as otherwise 121019
permitted under that division, the service payments provided for 121020
in section 5709.42 of the Revised Code shall be used to finance 121021
the designated public infrastructure improvements, for the purpose 121022
described in division (D)(1) or (E) of this section, or as 121023
provided in section 5709.43 of the Revised Code. 121024

An ordinance adopted under division (C)(1) of this section on 121025
or after ~~the effective date of this amendment~~ March 30, 2006, 121026
shall not designate police or fire equipment as public 121027
infrastructure improvements, and no service payment provided for 121028
in section 5709.42 of the Revised Code and received by the 121029
municipal corporation under the ordinance shall be used for police 121030
or fire equipment. 121031

(b) An ordinance adopted under division (C)(1) of this 121032
section may authorize the use of service payments provided for in 121033
section 5709.42 of the Revised Code for the purpose of housing 121034
renovations within the incentive district, provided that the 121035
ordinance also designates public infrastructure improvements that 121036
benefit or serve the district, and that a project within the 121037

district places real property in use for commercial or industrial 121038
purposes. Service payments may be used to finance or support 121039
loans, deferred loans, and grants to persons for the purpose of 121040
housing renovations within the district. The ordinance shall 121041
designate the parcels within the district that are eligible for 121042
housing renovation. The ordinance shall state separately the 121043
amounts or the percentages of the expected aggregate service 121044
payments that are designated for each public infrastructure 121045
improvement and for the general purpose of housing renovations. 121046

(4) Except with the approval of the board of education of 121047
each city, local, ~~or~~ exempted village, and joint vocational school 121048
district within the territory of which the incentive district is 121049
or will be located, and subject to division (E) of this section, 121050
the life of an incentive district shall not exceed ten years, and 121051
the percentage of improvements to be exempted shall not exceed 121052
seventy-five per cent. With approval of the board of education, 121053
the life of a district may be not more than thirty years, and the 121054
percentage of improvements to be exempted may be not more than one 121055
hundred per cent. The approval of a board of education shall be 121056
obtained in the manner provided in division (D) of this section. 121057

(D)(1) If the ordinance declaring improvements to a parcel to 121058
be a public purpose or creating an incentive district specifies 121059
that payments in lieu of taxes provided for in section 5709.42 of 121060
the Revised Code shall be paid to the city, local, ~~or~~ exempted 121061
village, or joint vocational school district in which the parcel 121062
or incentive district is located in the amount of the taxes that 121063
would have been payable to the school district if the improvements 121064
had not been exempted from taxation, the percentage of the 121065
improvement that may be exempted from taxation may exceed 121066
seventy-five per cent, and the exemption may be granted for up to 121067
thirty years, without the approval of the board of education as 121068
otherwise required under division (D)(2) of this section. 121069

(2) Improvements with respect to a parcel may be exempted 121070
from taxation under division (B) of this section, and improvements 121071
to parcels within an incentive district may be exempted from 121072
taxation under division (C) of this section, for up to ten years 121073
or, with the approval under this paragraph of the board of 121074
education of the city, local, ~~or~~ exempted village, and joint 121075
vocational school district within which the parcel or district is 121076
located, for up to thirty years. The percentage of the improvement 121077
exempted from taxation may, with such approval, exceed 121078
seventy-five per cent, but shall not exceed one hundred per cent. 121079
Not later than forty-five business days prior to adopting an 121080
ordinance under this section declaring improvements to be a public 121081
purpose that is subject to approval by a board of education under 121082
this division, the legislative authority shall deliver to the 121083
board of education a notice stating its intent to adopt an 121084
ordinance making that declaration. The notice regarding 121085
improvements with respect to a parcel under division (B) of this 121086
section shall identify the parcels for which improvements are to 121087
be exempted from taxation, provide an estimate of the true value 121088
in money of the improvements, specify the period for which the 121089
improvements would be exempted from taxation and the percentage of 121090
the improvement that would be exempted, and indicate the date on 121091
which the legislative authority intends to adopt the ordinance. 121092
The notice regarding improvements to parcels within an incentive 121093
district under division (C) of this section shall delineate the 121094
boundaries of the district, specifically identify each parcel 121095
within the district, identify each anticipated improvement in the 121096
district, provide an estimate of the true value in money of each 121097
such improvement, specify the life of the district and the 121098
percentage of improvements that would be exempted, and indicate 121099
the date on which the legislative authority intends to adopt the 121100
ordinance. The board of education, by resolution adopted by a 121101
majority of the board, may approve the exemption for the period or 121102

for the exemption percentage specified in the notice; may 121103
disapprove the exemption for the number of years in excess of ten, 121104
may disapprove the exemption for the percentage of the improvement 121105
to be exempted in excess of seventy-five per cent, or both; or may 121106
approve the exemption on the condition that the legislative 121107
authority and the board negotiate an agreement providing for 121108
compensation to the school district equal in value to a percentage 121109
of the amount of taxes exempted in the eleventh and subsequent 121110
years of the exemption period or, in the case of exemption 121111
percentages in excess of seventy-five per cent, compensation equal 121112
in value to a percentage of the taxes that would be payable on the 121113
portion of the improvement in excess of seventy-five per cent were 121114
that portion to be subject to taxation, or other mutually 121115
agreeable compensation. 121116

(3) The board of education shall certify its resolution to 121117
the legislative authority not later than fourteen days prior to 121118
the date the legislative authority intends to adopt the ordinance 121119
as indicated in the notice. If the board of education and the 121120
legislative authority negotiate a mutually acceptable compensation 121121
agreement, the ordinance may declare the improvements a public 121122
purpose for the number of years specified in the ordinance or, in 121123
the case of exemption percentages in excess of seventy-five per 121124
cent, for the exemption percentage specified in the ordinance. In 121125
either case, if the board and the legislative authority fail to 121126
negotiate a mutually acceptable compensation agreement, the 121127
ordinance may declare the improvements a public purpose for not 121128
more than ten years, and shall not exempt more than seventy-five 121129
per cent of the improvements from taxation. If the board fails to 121130
certify a resolution to the legislative authority within the time 121131
prescribed by this division, the legislative authority thereupon 121132
may adopt the ordinance and may declare the improvements a public 121133
purpose for up to thirty years, or, in the case of exemption 121134
percentages proposed in excess of seventy-five per cent, for the 121135

exemption percentage specified in the ordinance. The legislative 121136
authority may adopt the ordinance at any time after the board of 121137
education certifies its resolution approving the exemption to the 121138
legislative authority, or, if the board approves the exemption on 121139
the condition that a mutually acceptable compensation agreement be 121140
negotiated, at any time after the compensation agreement is agreed 121141
to by the board and the legislative authority. 121142

(4) If a board of education has adopted a resolution waiving 121143
its right to approve exemptions from taxation under this section 121144
and the resolution remains in effect, approval of exemptions by 121145
the board is not required under division (D) of this section. If a 121146
board of education has adopted a resolution allowing a legislative 121147
authority to deliver the notice required under division (D) of 121148
this section fewer than forty-five business days prior to the 121149
legislative authority's adoption of the ordinance, the legislative 121150
authority shall deliver the notice to the board not later than the 121151
number of days prior to such adoption as prescribed by the board 121152
in its resolution. If a board of education adopts a resolution 121153
waiving its right to approve agreements or shortening the 121154
notification period, the board shall certify a copy of the 121155
resolution to the legislative authority. If the board of education 121156
rescinds such a resolution, it shall certify notice of the 121157
rescission to the legislative authority. 121158

(5) If the legislative authority is not required by division 121159
(D) of this section to notify the board of education of the 121160
legislative authority's intent to declare improvements to be a 121161
public purpose, the legislative authority shall comply with the 121162
notice requirements imposed under section 5709.83 of the Revised 121163
Code, unless the board has adopted a resolution under that section 121164
waiving its right to receive such a notice. 121165

(E)(1) If a proposed ordinance under division (C)(1) of this 121166
section exempts improvements with respect to a parcel within an 121167

incentive district for more than ten years, or the percentage of 121168
the improvement exempted from taxation exceeds seventy-five per 121169
cent, not later than forty-five business days prior to adopting 121170
the ordinance the legislative authority of the municipal 121171
corporation shall deliver to the board of county commissioners of 121172
the county within which the incentive district will be located a 121173
notice that states its intent to adopt an ordinance creating an 121174
incentive district. The notice shall include a copy of the 121175
proposed ordinance, identify the parcels for which improvements 121176
are to be exempted from taxation, provide an estimate of the true 121177
value in money of the improvements, specify the period of time for 121178
which the improvements would be exempted from taxation, specify 121179
the percentage of the improvements that would be exempted from 121180
taxation, and indicate the date on which the legislative authority 121181
intends to adopt the ordinance. 121182

(2) The board of county commissioners, by resolution adopted 121183
by a majority of the board, may object to the exemption for the 121184
number of years in excess of ten, may object to the exemption for 121185
the percentage of the improvement to be exempted in excess of 121186
seventy-five per cent, or both. If the board of county 121187
commissioners objects, the board may negotiate a mutually 121188
acceptable compensation agreement with the legislative authority. 121189
In no case shall the compensation provided to the board exceed the 121190
property taxes ~~foregone~~ forgone due to the exemption. If the board 121191
of county commissioners objects, and the board and legislative 121192
authority fail to negotiate a mutually acceptable compensation 121193
agreement, the ordinance adopted under division (C)(1) of this 121194
section shall provide to the board compensation in the eleventh 121195
and subsequent years of the exemption period equal in value to not 121196
more than fifty per cent of the taxes that would be payable to the 121197
county or, if the board's objection includes an objection to an 121198
exemption percentage in excess of seventy-five per cent, 121199
compensation equal in value to not more than fifty per cent of the 121200

taxes that would be payable to the county, on the portion of the 121201
improvement in excess of seventy-five per cent, were that portion 121202
to be subject to taxation. The board of county commissioners shall 121203
certify its resolution to the legislative authority not later than 121204
thirty days after receipt of the notice. 121205

(3) If the board of county commissioners does not object or 121206
fails to certify its resolution objecting to an exemption within 121207
thirty days after receipt of the notice, the legislative authority 121208
may adopt the ordinance, and no compensation shall be provided to 121209
the board of county commissioners. If the board timely certifies 121210
its resolution objecting to the ordinance, the legislative 121211
authority may adopt the ordinance at any time after a mutually 121212
acceptable compensation agreement is agreed to by the board and 121213
the legislative authority, or, if no compensation agreement is 121214
negotiated, at any time after the legislative authority agrees in 121215
the proposed ordinance to provide compensation to the board of 121216
fifty per cent of the taxes that would be payable to the county in 121217
the eleventh and subsequent years of the exemption period or on 121218
the portion of the improvement in excess of seventy-five per cent, 121219
were that portion to be subject to taxation. 121220

(F) Service payments in lieu of taxes that are attributable 121221
to any amount by which the effective tax rate of either a renewal 121222
levy with an increase or a replacement levy exceeds the effective 121223
tax rate of the levy renewed or replaced, or that are attributable 121224
to an additional levy, for a levy authorized by the voters for any 121225
of the following purposes on or after January 1, 2006, and which 121226
are provided pursuant to an ordinance creating an incentive 121227
district under division (C)(1) of this section that is adopted on 121228
or after January 1, 2006, shall be distributed to the appropriate 121229
taxing authority as required under division (C) of section 5709.42 121230
of the Revised Code in an amount equal to the amount of taxes from 121231
that additional levy or from the increase in the effective tax 121232

rate of such renewal or replacement levy that would have been 121233
payable to that taxing authority from the following levies were it 121234
not for the exemption authorized under division (C) of this 121235
section: 121236

(1) A tax levied under division (L) of section 5705.19 or 121237
section 5705.191 of the Revised Code for community mental 121238
retardation and developmental disabilities programs and services 121239
pursuant to Chapter 5126. of the Revised Code; 121240

(2) A tax levied under division (Y) of section 5705.19 of the 121241
Revised Code for providing or maintaining senior citizens services 121242
or facilities; 121243

(3) A tax levied under section 5705.22 of the Revised Code 121244
for county hospitals; 121245

(4) A tax levied by a joint-county district or by a county 121246
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 121247
for alcohol, drug addiction, and mental health services or 121248
facilities; 121249

(5) A tax levied under section 5705.23 of the Revised Code 121250
for library purposes; 121251

(6) A tax levied under section 5705.24 of the Revised Code 121252
for the support of children services and the placement and care of 121253
children; 121254

(7) A tax levied under division (Z) of section 5705.19 of the 121255
Revised Code for the provision and maintenance of zoological park 121256
services and facilities under section 307.76 of the Revised Code; 121257

(8) A tax levied under section 511.27 or division (H) of 121258
section 5705.19 of the Revised Code for the support of township 121259
park districts; 121260

(9) A tax levied under division (A), (F), or (H) of section 121261
5705.19 of the Revised Code for parks and recreational purposes of 121262

a joint recreation district organized pursuant to division (B) of 121263
section 755.14 of the Revised Code; 121264

(10) A tax levied under section 1545.20 or 1545.21 of the 121265
Revised Code for park district purposes; 121266

(11) A tax levied under section 5705.191 of the Revised Code 121267
for the purpose of making appropriations for public assistance; 121268
human or social services; public relief; public welfare; public 121269
health and hospitalization; and support of general hospitals; 121270

(12) A tax levied under section 3709.29 of the Revised Code 121271
for a general health district program. 121272

(G) An exemption from taxation granted under this section 121273
commences with the tax year specified in the ordinance so long as 121274
the year specified in the ordinance commences after the effective 121275
date of the ordinance. If the ordinance specifies a year 121276
commencing before the effective date of the resolution or 121277
specifies no year whatsoever, the exemption commences with the tax 121278
year in which an exempted improvement first appears on the tax 121279
list and duplicate of real and public utility property and that 121280
commences after the effective date of the ordinance. Except as 121281
otherwise provided in this division, the exemption ends on the 121282
date specified in the ordinance as the date the improvement ceases 121283
to be a public purpose or the incentive district expires, or ends 121284
on the date on which the public infrastructure improvements and 121285
housing renovations are paid in full from the municipal public 121286
improvement tax increment equivalent fund established under 121287
division (A) of section 5709.43 of the Revised Code, whichever 121288
occurs first. The exemption of an improvement with respect to a 121289
parcel or within an incentive district may end on a later date, as 121290
specified in the ordinance, if the legislative authority and the 121291
board of education of the city, local, ~~or~~ exempted village, or 121292
joint vocational school district within which the parcel or 121293
district is located have entered into a compensation agreement 121294

under section 5709.82 of the Revised Code with respect to the 121295
improvement, and the board of education has approved the term of 121296
the exemption under division (D)(2) of this section, but in no 121297
case shall the improvement be exempted from taxation for more than 121298
thirty years. Exemptions shall be claimed and allowed in the same 121299
manner as in the case of other real property exemptions. If an 121300
exemption status changes during a year, the procedure for the 121301
apportionment of the taxes for that year is the same as in the 121302
case of other changes in tax exemption status during the year. 121303

(H) Additional municipal financing of public infrastructure 121304
improvements and housing renovations may be provided by any 121305
methods that the municipal corporation may otherwise use for 121306
financing such improvements or renovations. If the municipal 121307
corporation issues bonds or notes to finance the public 121308
infrastructure improvements and housing renovations and pledges 121309
money from the municipal public improvement tax increment 121310
equivalent fund to pay the interest on and principal of the bonds 121311
or notes, the bonds or notes are not subject to Chapter 133. of 121312
the Revised Code. 121313

(I) The municipal corporation, not later than fifteen days 121314
after the adoption of an ordinance under this section, shall 121315
submit to the director of development a copy of the ordinance. On 121316
or before the thirty-first day of March of each year, the 121317
municipal corporation shall submit a status report to the director 121318
of development. The report shall indicate, in the manner 121319
prescribed by the director, the progress of the project during 121320
each year that an exemption remains in effect, including a summary 121321
of the receipts from service payments in lieu of taxes; 121322
expenditures of money from the funds created under section 5709.43 121323
of the Revised Code; a description of the public infrastructure 121324
improvements and housing renovations financed with such 121325
expenditures; and a quantitative summary of changes in employment 121326

and private investment resulting from each project. 121327

(J) Nothing in this section shall be construed to prohibit a 121328
legislative authority from declaring to be a public purpose 121329
improvements with respect to more than one parcel. 121330

Sec. 5709.41. (A) As used in this section: 121331

(1) "Business day" means a day of the week excluding 121332
Saturday, Sunday, and a legal holiday as defined under section 121333
1.14 of the Revised Code. 121334

(2) "Improvement" means the increase in assessed value of any 121335
parcel of property subsequent to the acquisition of the parcel by 121336
a municipal corporation engaged in urban redevelopment. 121337

(B) The legislative authority of a municipal corporation, by 121338
ordinance, may declare to be a public purpose any improvement to a 121339
parcel of real property if both of the following apply: 121340

(1) The municipal corporation held fee title to the parcel 121341
prior to the adoption of the ordinance; 121342

(2) The parcel is leased, or the fee of the parcel is 121343
conveyed, to any person either before or after adoption of the 121344
ordinance. 121345

Improvements used or to be used for residential purposes may 121346
be declared a public purpose under this section only if the parcel 121347
is located in a blighted area of an impacted city as those terms 121348
are defined in section 1728.01 of the Revised Code. 121349

(C) Except as otherwise provided in division (C)(1), (2), or 121350
(3) of this section, not more than seventy-five per cent of an 121351
improvement thus declared to be a public purpose may be exempted 121352
from real property taxation. The ordinance shall specify the 121353
percentage of the improvement to be exempted from taxation. 121354

(1) If the ordinance declaring improvements to a parcel to be 121355

a public purpose specifies that payments in lieu of taxes provided 121356
for in section 5709.42 of the Revised Code shall be paid to the 121357
city, local, ~~or~~ exempted village, and joint vocational school 121358
district in which the parcel is located in the amount of the taxes 121359
that would have been payable to the school district if the 121360
improvements had not been exempted from taxation, the percentage 121361
of the improvement that may be exempted from taxation may exceed 121362
seventy-five per cent, and the exemption may be granted for up to 121363
thirty years, without the approval of the board of education as 121364
otherwise required under division (C)(2) of this section. 121365

(2) Improvements may be exempted from taxation for up to ten 121366
years or, with the approval of the board of education of ~~the~~ each 121367
city, local, ~~or~~ exempted village, and joint vocational school 121368
district within the territory of which the improvements are or 121369
will be located, for up to thirty years. The percentage of the 121370
improvement exempted from taxation may, with such approval, exceed 121371
seventy-five per cent, but shall not exceed one hundred per cent. 121372
Not later than forty-five business days prior to adopting an 121373
ordinance under this section, the legislative authority shall 121374
deliver to the board of education a notice stating its intent to 121375
declare improvements to be a public purpose under this section. 121376
The notice shall describe the parcel and the improvements, provide 121377
an estimate of the true value in money of the improvements, 121378
specify the period for which the improvements would be exempted 121379
from taxation and the percentage of the improvements that would be 121380
exempted, and indicate the date on which the legislative authority 121381
intends to adopt the ordinance. The board of education, by 121382
resolution adopted by a majority of the board, may approve the 121383
exemption for the period or for the exemption percentage specified 121384
in the notice, may disapprove the exemption for the number of 121385
years in excess of ten, may disapprove the exemption for the 121386
percentage of the improvements to be exempted in excess of 121387
seventy-five per cent, or both, or may approve the exemption on 121388

the condition that the legislative authority and the board 121389
negotiate an agreement providing for compensation to the school 121390
district equal in value to a percentage of the amount of taxes 121391
exempted in the eleventh and subsequent years of the exemption 121392
period, or, in the case of exemption percentages in excess of 121393
seventy-five per cent, compensation equal in value to a percentage 121394
of the taxes that would be payable on the portion of the 121395
improvement in excess of seventy-five per cent were that portion 121396
to be subject to taxation. The board of education shall certify 121397
its resolution to the legislative authority not later than 121398
fourteen days prior to the date the legislative authority intends 121399
to adopt the ordinance as indicated in the notice. If the board of 121400
education approves the exemption on the condition that a 121401
compensation agreement be negotiated, the board in its resolution 121402
shall propose a compensation percentage. If the board of education 121403
and the legislative authority negotiate a mutually acceptable 121404
compensation agreement, the ordinance may declare the improvements 121405
a public purpose for the number of years specified in the 121406
ordinance or, in the case of exemption percentages in excess of 121407
seventy-five per cent, for the exemption percentage specified in 121408
the ordinance. In either case, if the board and the legislative 121409
authority fail to negotiate a mutually acceptable compensation 121410
agreement, the ordinance may declare the improvements a public 121411
purpose for not more than ten years, but shall not exempt more 121412
than seventy-five per cent of the improvements from taxation. If 121413
the board fails to certify a resolution to the legislative 121414
authority within the time prescribed by this division, the 121415
legislative authority thereupon may adopt the ordinance and may 121416
declare the improvements a public purpose for up to thirty years. 121417
The legislative authority may adopt the ordinance at any time 121418
after the board of education certifies its resolution approving 121419
the exemption to the legislative authority, or, if the board 121420
approves the exemption on the condition that a mutually acceptable 121421

compensation agreement be negotiated, at any time after the 121422
compensation agreement is agreed to by the board and the 121423
legislative authority. 121424

(3) If a board of education has adopted a resolution waiving 121425
its right to approve exemptions from taxation and the resolution 121426
remains in effect, approval of exemptions by the board is not 121427
required under this division. If a board of education has adopted 121428
a resolution allowing a legislative authority to deliver the 121429
notice required under this division fewer than forty-five business 121430
days prior to the legislative authority's adoption of the 121431
ordinance, the legislative authority shall deliver the notice to 121432
the board not later than the number of days prior to such adoption 121433
as prescribed by the board in its resolution. If a board of 121434
education adopts a resolution waiving its right to approve 121435
exemptions or shortening the notification period, the board shall 121436
certify a copy of the resolution to the legislative authority. If 121437
the board of education rescinds such a resolution, it shall 121438
certify notice of the rescission to the legislative authority. 121439

(4) If the legislative authority is not required by division 121440
(C)(1), (2), or (3) of this section to notify the board of 121441
education of the legislative authority's intent to declare 121442
improvements to be a public purpose, the legislative authority 121443
shall comply with the notice requirements imposed under section 121444
5709.83 of the Revised Code, unless the board has adopted a 121445
resolution under that section waiving its right to receive such a 121446
notice. 121447

(D) The exemption commences on the effective date of the 121448
ordinance and ends on the date specified in the ordinance as the 121449
date the improvement ceases to be a public purpose. The exemption 121450
shall be claimed and allowed in the same or a similar manner as in 121451
the case of other real property exemptions. If an exemption status 121452
changes during a tax year, the procedure for the apportionment of 121453

the taxes for that year is the same as in the case of other 121454
changes in tax exemption status during the year. 121455

(E) A municipal corporation, not later than fifteen days 121456
after the adoption of an ordinance granting a tax exemption under 121457
this section, shall submit to the director of development a copy 121458
of the ordinance. On or before the thirty-first day of March each 121459
year, the municipal corporation shall submit a status report to 121460
the director of development outlining the progress of the project 121461
during each year that the exemption remains in effect. 121462

Sec. 5709.42. (A) A municipal corporation that has declared 121463
an improvement to be a public purpose under section 5709.40 or 121464
5709.41 of the Revised Code may require the owner of any structure 121465
located on the parcel to make annual service payments in lieu of 121466
taxes to the county treasurer on or before the final dates for 121467
payment of real property taxes. Each such payment shall be charged 121468
and collected in the same manner and in the same amount as the 121469
real property taxes that would have been charged and payable 121470
against the improvement if it were not exempt from taxation. If 121471
any reduction in the levies otherwise applicable to such exempt 121472
property is made by the county budget commission under section 121473
5705.31 of the Revised Code, the amount of the service payment in 121474
lieu of taxes shall be calculated as if such reduction in levies 121475
had not been made. 121476

(B) Moneys collected as service payments in lieu of taxes 121477
shall be distributed at the same time and in the same manner as 121478
real property tax payments. However, subject to division (C) of 121479
this section or section 5709.913 of the Revised Code, the entire 121480
amount so collected shall be distributed to the municipal 121481
corporation in which the improvement is located. If an ordinance 121482
adopted under section 5709.40 or 5709.41 of the Revised Code 121483
specifies that service payments shall be paid to ~~the~~ a city, 121484

local, ~~or~~ exempted village, or joint vocational school district in 121485
which the improvements are located, the county treasurer shall 121486
distribute the portion of the service payments to that school 121487
district in an amount equal to the property tax payments the 121488
school district would have received from the portion of the 121489
improvements exempted from taxation had the improvements not been 121490
exempted, as directed in the ordinance. The treasurer shall 121491
maintain a record of the service payments in lieu of taxes made 121492
from property in each municipal corporation. 121493

(C) If annual service payments in lieu of taxes are required 121494
under this section, the county treasurer shall distribute to the 121495
appropriate taxing authorities the portion of the service payments 121496
that represents payments required under division (F) of section 121497
5709.40 of the Revised Code. 121498

(D) Nothing in this section or section 5709.40 or 5709.41 of 121499
the Revised Code affects the taxes levied against that portion of 121500
the value of any parcel of property that is not exempt from 121501
taxation. 121502

Sec. 5709.62. (A) In any municipal corporation that is 121503
defined by the United States office of management and budget as a 121504
principal city of a metropolitan statistical area, the legislative 121505
authority of the municipal corporation may designate one or more 121506
areas within its municipal corporation as proposed enterprise 121507
zones. Upon designating an area, the legislative authority shall 121508
petition the director of development for certification of the area 121509
as having the characteristics set forth in division (A)(1) of 121510
section 5709.61 of the Revised Code as amended by Substitute 121511
Senate Bill No. 19 of the 120th general assembly. Except as 121512
otherwise provided in division (E) of this section, on and after 121513
July 1, 1994, legislative authorities shall not enter into 121514
agreements under this section unless the legislative authority has 121515

petitioned the director and the director has certified the zone 121516
under this section as amended by that act; however, all agreements 121517
entered into under this section as it existed prior to July 1, 121518
1994, and the incentives granted under those agreements shall 121519
remain in effect for the period agreed to under those agreements. 121520
Within sixty days after receiving such a petition, the director 121521
shall determine whether the area has the characteristics set forth 121522
in division (A)(1) of section 5709.61 of the Revised Code, and 121523
shall forward the findings to the legislative authority of the 121524
municipal corporation. If the director certifies the area as 121525
having those characteristics, and thereby certifies it as a zone, 121526
the legislative authority may enter into an agreement with an 121527
enterprise under division (C) of this section. 121528

(B) Any enterprise that wishes to enter into an agreement 121529
with a municipal corporation under division (C) of this section 121530
shall submit a proposal to the legislative authority of the 121531
municipal corporation on a form prescribed by the director of 121532
development, together with the application fee established under 121533
section 5709.68 of the Revised Code. The form shall require the 121534
following information: 121535

(1) An estimate of the number of new employees whom the 121536
enterprise intends to hire, or of the number of employees whom the 121537
enterprise intends to retain, within the zone at a facility that 121538
is a project site, and an estimate of the amount of payroll of the 121539
enterprise attributable to these employees; 121540

(2) An estimate of the amount to be invested by the 121541
enterprise to establish, expand, renovate, or occupy a facility, 121542
including investment in new buildings, additions or improvements 121543
to existing buildings, machinery, equipment, furniture, fixtures, 121544
and inventory; 121545

(3) A listing of the enterprise's current investment, if any, 121546
in a facility as of the date of the proposal's submission. 121547

The enterprise shall review and update the listings required 121548
under this division to reflect material changes, and any agreement 121549
entered into under division (C) of this section shall set forth 121550
final estimates and listings as of the time the agreement is 121551
entered into. The legislative authority may, on a separate form 121552
and at any time, require any additional information necessary to 121553
determine whether an enterprise is in compliance with an agreement 121554
and to collect the information required to be reported under 121555
section 5709.68 of the Revised Code. 121556

(C) Upon receipt and investigation of a proposal under 121557
division (B) of this section, if the legislative authority finds 121558
that the enterprise submitting the proposal is qualified by 121559
financial responsibility and business experience to create and 121560
preserve employment opportunities in the zone and improve the 121561
economic climate of the municipal corporation, the legislative 121562
authority, on or before October 15, ~~2011~~ 2012, may do one of the 121563
following: 121564

(1) Enter into an agreement with the enterprise under which 121565
the enterprise agrees to establish, expand, renovate, or occupy a 121566
facility and hire new employees, or preserve employment 121567
opportunities for existing employees, in return for one or more of 121568
the following incentives: 121569

(a) Exemption for a specified number of years, not to exceed 121570
fifteen, of a specified portion, up to seventy-five per cent, of 121571
the assessed value of tangible personal property first used in 121572
business at the project site as a result of the agreement. If an 121573
exemption for inventory is specifically granted in the agreement 121574
pursuant to this division, the exemption applies to inventory 121575
required to be listed pursuant to sections 5711.15 and 5711.16 of 121576
the Revised Code, except that, in the instance of an expansion or 121577
other situations in which an enterprise was in business at the 121578
facility prior to the establishment of the zone, the inventory 121579

that is exempt is that amount or value of inventory in excess of 121580
the amount or value of inventory required to be listed in the 121581
personal property tax return of the enterprise in the return for 121582
the tax year in which the agreement is entered into. 121583

(b) Exemption for a specified number of years, not to exceed 121584
fifteen, of a specified portion, up to seventy-five per cent, of 121585
the increase in the assessed valuation of real property 121586
constituting the project site subsequent to formal approval of the 121587
agreement by the legislative authority; 121588

(c) Provision for a specified number of years, not to exceed 121589
fifteen, of any optional services or assistance that the municipal 121590
corporation is authorized to provide with regard to the project 121591
site. 121592

(2) Enter into an agreement under which the enterprise agrees 121593
to remediate an environmentally contaminated facility, to spend an 121594
amount equal to at least two hundred fifty per cent of the true 121595
value in money of the real property of the facility prior to 121596
remediation as determined for the purposes of property taxation to 121597
establish, expand, renovate, or occupy the remediated facility, 121598
and to hire new employees or preserve employment opportunities for 121599
existing employees at the remediated facility, in return for one 121600
or more of the following incentives: 121601

(a) Exemption for a specified number of years, not to exceed 121602
fifteen, of a specified portion, not to exceed fifty per cent, of 121603
the assessed valuation of the real property of the facility prior 121604
to remediation; 121605

(b) Exemption for a specified number of years, not to exceed 121606
fifteen, of a specified portion, not to exceed one hundred per 121607
cent, of the increase in the assessed valuation of the real 121608
property of the facility during or after remediation; 121609

(c) The incentive under division (C)(1)(a) of this section, 121610

except that the percentage of the assessed value of such property 121611
exempted from taxation shall not exceed one hundred per cent; 121612

(d) The incentive under division (C)(1)(c) of this section. 121613

(3) Enter into an agreement with an enterprise that plans to 121614
purchase and operate a large manufacturing facility that has 121615
ceased operation or announced its intention to cease operation, in 121616
return for exemption for a specified number of years, not to 121617
exceed fifteen, of a specified portion, up to one hundred per 121618
cent, of the assessed value of tangible personal property used in 121619
business at the project site as a result of the agreement, or of 121620
the assessed valuation of real property constituting the project 121621
site, or both. 121622

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 121623
section, the portion of the assessed value of tangible personal 121624
property or of the increase in the assessed valuation of real 121625
property exempted from taxation under those divisions may exceed 121626
seventy-five per cent in any year for which that portion is 121627
exempted if the average percentage exempted for all years in which 121628
the agreement is in effect does not exceed sixty per cent, or if 121629
the board of education of the city, local, or exempted village 121630
school district within the territory of which the property is or 121631
will be located approves a percentage in excess of seventy-five 121632
per cent. 121633

(2) Notwithstanding any provision of the Revised Code to the 121634
contrary, the exemptions described in divisions (C)(1)(a), (b), 121635
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 121636
be for up to fifteen years if the board of education of the city, 121637
local, or exempted village school district within the territory of 121638
which the property is or will be located approves a number of 121639
years in excess of ten. 121640

(3) For the purpose of obtaining the approval of a city, 121641

local, or exempted village school district under division (D)(1) 121642
or (2) of this section, the legislative authority shall deliver to 121643
the board of education a notice not later than forty-five days 121644
prior to approving the agreement, excluding Saturdays, Sundays, 121645
and legal holidays as defined in section 1.14 of the Revised Code. 121646
The notice shall state the percentage to be exempted, an estimate 121647
of the true value of the property to be exempted, and the number 121648
of years the property is to be exempted. The board of education, 121649
by resolution adopted by a majority of the board, shall approve or 121650
disapprove the agreement and certify a copy of the resolution to 121651
the legislative authority not later than fourteen days prior to 121652
the date stipulated by the legislative authority as the date upon 121653
which approval of the agreement is to be formally considered by 121654
the legislative authority. The board of education may include in 121655
the resolution conditions under which the board would approve the 121656
agreement, including the execution of an agreement to compensate 121657
the school district under division (B) of section 5709.82 of the 121658
Revised Code. The legislative authority may approve the agreement 121659
at any time after the board of education certifies its resolution 121660
approving the agreement to the legislative authority, or, if the 121661
board approves the agreement conditionally, at any time after the 121662
conditions are agreed to by the board and the legislative 121663
authority. 121664

If a board of education has adopted a resolution waiving its 121665
right to approve agreements and the resolution remains in effect, 121666
approval of an agreement by the board is not required under this 121667
division. If a board of education has adopted a resolution 121668
allowing a legislative authority to deliver the notice required 121669
under this division fewer than forty-five business days prior to 121670
the legislative authority's approval of the agreement, the 121671
legislative authority shall deliver the notice to the board not 121672
later than the number of days prior to such approval as prescribed 121673
by the board in its resolution. If a board of education adopts a 121674

resolution waiving its right to approve agreements or shortening 121675
the notification period, the board shall certify a copy of the 121676
resolution to the legislative authority. If the board of education 121677
rescinds such a resolution, it shall certify notice of the 121678
rescission to the legislative authority. 121679

(4) The legislative authority shall comply with section 121680
5709.83 of the Revised Code unless the board of education has 121681
adopted a resolution under that section waiving its right to 121682
receive such notice. 121683

(E) This division applies to zones certified by the director 121684
of development under this section prior to July 22, 1994. 121685

On or before October 15, ~~2011~~ 2012, the legislative authority 121686
that designated a zone to which this division applies may enter 121687
into an agreement with an enterprise if the legislative authority 121688
finds that the enterprise satisfies one of the criteria described 121689
in divisions (E)(1) to (5) of this section: 121690

(1) The enterprise currently has no operations in this state 121691
and, subject to approval of the agreement, intends to establish 121692
operations in the zone; 121693

(2) The enterprise currently has operations in this state 121694
and, subject to approval of the agreement, intends to establish 121695
operations at a new location in the zone that would not result in 121696
a reduction in the number of employee positions at any of the 121697
enterprise's other locations in this state; 121698

(3) The enterprise, subject to approval of the agreement, 121699
intends to relocate operations, currently located in another 121700
state, to the zone; 121701

(4) The enterprise, subject to approval of the agreement, 121702
intends to expand operations at an existing site in the zone that 121703
the enterprise currently operates; 121704

(5) The enterprise, subject to approval of the agreement, 121705
intends to relocate operations, currently located in this state, 121706
to the zone, and the director of development has issued a waiver 121707
for the enterprise under division (B) of section 5709.633 of the 121708
Revised Code. 121709

The agreement shall require the enterprise to agree to 121710
establish, expand, renovate, or occupy a facility in the zone and 121711
hire new employees, or preserve employment opportunities for 121712
existing employees, in return for one or more of the incentives 121713
described in division (C) of this section. 121714

(F) All agreements entered into under this section shall be 121715
in the form prescribed under section 5709.631 of the Revised Code. 121716
After an agreement is entered into under this section, if the 121717
legislative authority revokes its designation of a zone, or if the 121718
director of development revokes a zone's certification, any 121719
entitlements granted under the agreement shall continue for the 121720
number of years specified in the agreement. 121721

(G) Except as otherwise provided in this division, an 121722
agreement entered into under this section shall require that the 121723
enterprise pay an annual fee equal to the greater of one per cent 121724
of the dollar value of incentives offered under the agreement or 121725
five hundred dollars; provided, however, that if the value of the 121726
incentives exceeds two hundred fifty thousand dollars, the fee 121727
shall not exceed two thousand five hundred dollars. The fee shall 121728
be payable to the legislative authority once per year for each 121729
year the agreement is effective on the days and in the form 121730
specified in the agreement. Fees paid shall be deposited in a 121731
special fund created for such purpose by the legislative authority 121732
and shall be used by the legislative authority exclusively for the 121733
purpose of complying with section 5709.68 of the Revised Code and 121734
by the tax incentive review council created under section 5709.85 121735
of the Revised Code exclusively for the purposes of performing the 121736

duties prescribed under that section. The legislative authority 121737
may waive or reduce the amount of the fee charged against an 121738
enterprise, but such a waiver or reduction does not affect the 121739
obligations of the legislative authority or the tax incentive 121740
review council to comply with section 5709.68 or 5709.85 of the 121741
Revised Code. 121742

(H) When an agreement is entered into pursuant to this 121743
section, the legislative authority authorizing the agreement shall 121744
forward a copy of the agreement to the director of development and 121745
to the tax commissioner within fifteen days after the agreement is 121746
entered into. If any agreement includes terms not provided for in 121747
section 5709.631 of the Revised Code affecting the revenue of a 121748
city, local, or exempted village school district or causing 121749
revenue to be forgone by the district, including any compensation 121750
to be paid to the school district pursuant to section 5709.82 of 121751
the Revised Code, those terms also shall be forwarded in writing 121752
to the director of development along with the copy of the 121753
agreement forwarded under this division. 121754

(I) After an agreement is entered into, the enterprise shall 121755
file with each personal property tax return required to be filed, 121756
or annual report required to be filed under section 5727.08 of the 121757
Revised Code, while the agreement is in effect, an informational 121758
return, on a form prescribed by the tax commissioner for that 121759
purpose, setting forth separately the property, and related costs 121760
and values, exempted from taxation under the agreement. 121761

(J) Enterprises may agree to give preference to residents of 121762
the zone within which the agreement applies relative to residents 121763
of this state who do not reside in the zone when hiring new 121764
employees under the agreement. 121765

(K) An agreement entered into under this section may include 121766
a provision requiring the enterprise to create one or more 121767
temporary internship positions for students enrolled in a course 121768

of study at a school or other educational institution in the 121769
vicinity, and to create a scholarship or provide another form of 121770
educational financial assistance for students holding such a 121771
position in exchange for the student's commitment to work for the 121772
enterprise at the completion of the internship. 121773

(L) The tax commissioner's authority in determining the 121774
accuracy of any exemption granted by an agreement entered into 121775
under this section is limited to divisions (C)(1)(a) and (b), 121776
(C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and 121777
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 121778
and, as authorized by law, to enforcing any modification to, or 121779
revocation of, that agreement by the legislative authority of a 121780
municipal corporation or the director of development. 121781

Sec. 5709.63. (A) With the consent of the legislative 121782
authority of each affected municipal corporation or of a board of 121783
township trustees, a board of county commissioners may, in the 121784
manner set forth in section 5709.62 of the Revised Code, designate 121785
one or more areas in one or more municipal corporations or in 121786
unincorporated areas of the county as proposed enterprise zones. A 121787
board of county commissioners may designate no more than one area 121788
within a township, or within adjacent townships, as a proposed 121789
enterprise zone. The board shall petition the director of 121790
development for certification of the area as having the 121791
characteristics set forth in division (A)(1) or (2) of section 121792
5709.61 of the Revised Code as amended by Substitute Senate Bill 121793
No. 19 of the 120th general assembly. Except as otherwise provided 121794
in division (D) of this section, on and after July 1, 1994, boards 121795
of county commissioners shall not enter into agreements under this 121796
section unless the board has petitioned the director and the 121797
director has certified the zone under this section as amended by 121798
that act; however, all agreements entered into under this section 121799
as it existed prior to July 1, 1994, and the incentives granted 121800

under those agreements shall remain in effect for the period 121801
agreed to under those agreements. The director shall make the 121802
determination in the manner provided under section 5709.62 of the 121803
Revised Code. 121804

Any enterprise wishing to enter into an agreement with the 121805
board under division (B) or (D) of this section shall submit a 121806
proposal to the board on the form and accompanied by the 121807
application fee prescribed under division (B) of section 5709.62 121808
of the Revised Code. The enterprise shall review and update the 121809
estimates and listings required by the form in the manner required 121810
under that division. The board may, on a separate form and at any 121811
time, require any additional information necessary to determine 121812
whether an enterprise is in compliance with an agreement and to 121813
collect the information required to be reported under section 121814
5709.68 of the Revised Code. 121815

(B) If the board of county commissioners finds that an 121816
enterprise submitting a proposal is qualified by financial 121817
responsibility and business experience to create and preserve 121818
employment opportunities in the zone and to improve the economic 121819
climate of the municipal corporation or municipal corporations or 121820
the unincorporated areas in which the zone is located and to which 121821
the proposal applies, the board, on or before October 15, ~~2011~~ 121822
2012, and with the consent of the legislative authority of each 121823
affected municipal corporation or of the board of township 121824
trustees may do either of the following: 121825

(1) Enter into an agreement with the enterprise under which 121826
the enterprise agrees to establish, expand, renovate, or occupy a 121827
facility in the zone and hire new employees, or preserve 121828
employment opportunities for existing employees, in return for the 121829
following incentives: 121830

(a) When the facility is located in a municipal corporation, 121831
the board may enter into an agreement for one or more of the 121832

incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has

ceased operation or has announced its intention to cease 121864
operation, in return for exemption for a specified number of 121865
years, not to exceed fifteen, of a specified portion, up to one 121866
hundred per cent, of tangible personal property used in business 121867
at the project site as a result of the agreement, or of real 121868
property constituting the project site, or both. 121869

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 121870
this section, the portion of the assessed value of tangible 121871
personal property or of the increase in the assessed valuation of 121872
real property exempted from taxation under those divisions may 121873
exceed sixty per cent in any year for which that portion is 121874
exempted if the average percentage exempted for all years in which 121875
the agreement is in effect does not exceed fifty per cent, or if 121876
the board of education of the city, local, or exempted village 121877
school district within the territory of which the property is or 121878
will be located approves a percentage in excess of sixty per cent. 121879

(b) Notwithstanding any provision of the Revised Code to the 121880
contrary, the exemptions described in divisions (B)(1)(b)(i), 121881
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 121882
fifteen years if the board of education of the city, local, or 121883
exempted village school district within the territory of which the 121884
property is or will be located approves a number of years in 121885
excess of ten. 121886

(c) For the purpose of obtaining the approval of a city, 121887
local, or exempted village school district under division 121888
(C)(1)(a) or (b) of this section, the board of county 121889
commissioners shall deliver to the board of education a notice not 121890
later than forty-five days prior to approving the agreement, 121891
excluding Saturdays, Sundays, and legal holidays as defined in 121892
section 1.14 of the Revised Code. The notice shall state the 121893
percentage to be exempted, an estimate of the true value of the 121894
property to be exempted, and the number of years the property is 121895

to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board

of county commissioners. 121929

(2) The board of county commissioners shall comply with 121930
section 5709.83 of the Revised Code unless the board of education 121931
has adopted a resolution under that section waiving its right to 121932
receive such notice. 121933

(D) This division applies to zones certified by the director 121934
of development under this section prior to July 22, 1994. 121935

On or before October 15, ~~2011~~ 2012, and with the consent of 121936
the legislative authority of each affected municipal corporation 121937
or board of township trustees of each affected township, the board 121938
of county commissioners that designated a zone to which this 121939
division applies may enter into an agreement with an enterprise if 121940
the board finds that the enterprise satisfies one of the criteria 121941
described in divisions (D)(1) to (5) of this section: 121942

(1) The enterprise currently has no operations in this state 121943
and, subject to approval of the agreement, intends to establish 121944
operations in the zone; 121945

(2) The enterprise currently has operations in this state 121946
and, subject to approval of the agreement, intends to establish 121947
operations at a new location in the zone that would not result in 121948
a reduction in the number of employee positions at any of the 121949
enterprise's other locations in this state; 121950

(3) The enterprise, subject to approval of the agreement, 121951
intends to relocate operations, currently located in another 121952
state, to the zone; 121953

(4) The enterprise, subject to approval of the agreement, 121954
intends to expand operations at an existing site in the zone that 121955
the enterprise currently operates; 121956

(5) The enterprise, subject to approval of the agreement, 121957
intends to relocate operations, currently located in this state, 121958

to the zone, and the director of development has issued a waiver 121959
for the enterprise under division (B) of section 5709.633 of the 121960
Revised Code. 121961

The agreement shall require the enterprise to agree to 121962
establish, expand, renovate, or occupy a facility in the zone and 121963
hire new employees, or preserve employment opportunities for 121964
existing employees, in return for one or more of the incentives 121965
described in division (B) of this section. 121966

(E) All agreements entered into under this section shall be 121967
in the form prescribed under section 5709.631 of the Revised Code. 121968
After an agreement under this section is entered into, if the 121969
board of county commissioners revokes its designation of a zone, 121970
or if the director of development revokes a zone's certification, 121971
any entitlements granted under the agreement shall continue for 121972
the number of years specified in the agreement. 121973

(F) Except as otherwise provided in this division, an 121974
agreement entered into under this section shall require that the 121975
enterprise pay an annual fee equal to the greater of one per cent 121976
of the dollar value of incentives offered under the agreement or 121977
five hundred dollars; provided, however, that if the value of the 121978
incentives exceeds two hundred fifty thousand dollars, the fee 121979
shall not exceed two thousand five hundred dollars. The fee shall 121980
be payable to the board of county commissioners once per year for 121981
each year the agreement is effective on the days and in the form 121982
specified in the agreement. Fees paid shall be deposited in a 121983
special fund created for such purpose by the board and shall be 121984
used by the board exclusively for the purpose of complying with 121985
section 5709.68 of the Revised Code and by the tax incentive 121986
review council created under section 5709.85 of the Revised Code 121987
exclusively for the purposes of performing the duties prescribed 121988
under that section. The board may waive or reduce the amount of 121989
the fee charged against an enterprise, but such waiver or 121990

reduction does not affect the obligations of the board or the tax 121991
incentive review council to comply with section 5709.68 or 5709.85 121992
of the Revised Code, respectively. 121993

(G) With the approval of the legislative authority of a 121994
municipal corporation or the board of township trustees of a 121995
township in which a zone is designated under division (A) of this 121996
section, the board of county commissioners may delegate to that 121997
legislative authority or board any powers and duties of the board 121998
of county commissioners to negotiate and administer agreements 121999
with regard to that zone under this section. 122000

(H) When an agreement is entered into pursuant to this 122001
section, the board of county commissioners authorizing the 122002
agreement or the legislative authority or board of township 122003
trustees that negotiates and administers the agreement shall 122004
forward a copy of the agreement to the director of development and 122005
to the tax commissioner within fifteen days after the agreement is 122006
entered into. If any agreement includes terms not provided for in 122007
section 5709.631 of the Revised Code affecting the revenue of a 122008
city, local, or exempted village school district or causing 122009
revenue to be foregone by the district, including any compensation 122010
to be paid to the school district pursuant to section 5709.82 of 122011
the Revised Code, those terms also shall be forwarded in writing 122012
to the director of development along with the copy of the 122013
agreement forwarded under this division. 122014

(I) After an agreement is entered into, the enterprise shall 122015
file with each personal property tax return required to be filed, 122016
or annual report that is required to be filed under section 122017
5727.08 of the Revised Code, while the agreement is in effect, an 122018
informational return, on a form prescribed by the tax commissioner 122019
for that purpose, setting forth separately the property, and 122020
related costs and values, exempted from taxation under the 122021
agreement. 122022

(J) Enterprises may agree to give preference to residents of 122023
the zone within which the agreement applies relative to residents 122024
of this state who do not reside in the zone when hiring new 122025
employees under the agreement. 122026

(K) An agreement entered into under this section may include 122027
a provision requiring the enterprise to create one or more 122028
temporary internship positions for students enrolled in a course 122029
of study at a school or other educational institution in the 122030
vicinity, and to create a scholarship or provide another form of 122031
educational financial assistance for students holding such a 122032
position in exchange for the student's commitment to work for the 122033
enterprise at the completion of the internship. 122034

(L) The tax commissioner's authority in determining the 122035
accuracy of any exemption granted by an agreement entered into 122036
under this section is limited to divisions (B)(1)(b)(i) and (ii), 122037
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 122038
this section as it pertains to divisions (C)(2)(a), (b), and (c) 122039
of section 5709.62 of the Revised Code, and divisions (B)(1) to 122040
(10) of section 5709.631 of the Revised Code and, as authorized by 122041
law, to enforcing any modification to, or revocation of, that 122042
agreement by the board of county commissioners or the director of 122043
development or, if the board's powers and duties are delegated 122044
under division (G) of this section, by the legislative authority 122045
of a municipal corporation or board of township trustees. 122046

Sec. 5709.632. (A)(1) The legislative authority of a 122047
municipal corporation defined by the United States office of 122048
management and budget as a principal city of a metropolitan 122049
statistical area may, in the manner set forth in section 5709.62 122050
of the Revised Code, designate one or more areas in the municipal 122051
corporation as a proposed enterprise zone. 122052

(2) With the consent of the legislative authority of each 122053

affected municipal corporation or of a board of township trustees, 122054
a board of county commissioners may, in the manner set forth in 122055
section 5709.62 of the Revised Code, designate one or more areas 122056
in one or more municipal corporations or in unincorporated areas 122057
of the county as proposed urban jobs and enterprise zones, except 122058
that a board of county commissioners may designate no more than 122059
one area within a township, or within adjacent townships, as a 122060
proposed urban jobs and enterprise zone. 122061

(3) The legislative authority or board of county 122062
commissioners may petition the director of development for 122063
certification of the area as having the characteristics set forth 122064
in division (A)(3) of section 5709.61 of the Revised Code. Within 122065
sixty days after receiving such a petition, the director shall 122066
determine whether the area has the characteristics set forth in 122067
that division and forward the findings to the legislative 122068
authority or board of county commissioners. If the director 122069
certifies the area as having those characteristics and thereby 122070
certifies it as a zone, the legislative authority or board may 122071
enter into agreements with enterprises under division (B) of this 122072
section. Any enterprise wishing to enter into an agreement with a 122073
legislative authority or board of county commissioners under this 122074
section and satisfying one of the criteria described in divisions 122075
(B)(1) to (5) of this section shall submit a proposal to the 122076
legislative authority or board on the form prescribed under 122077
division (B) of section 5709.62 of the Revised Code and shall 122078
review and update the estimates and listings required by the form 122079
in the manner required under that division. The legislative 122080
authority or board may, on a separate form and at any time, 122081
require any additional information necessary to determine whether 122082
an enterprise is in compliance with an agreement and to collect 122083
the information required to be reported under section 5709.68 of 122084
the Revised Code. 122085

(B) Prior to entering into an agreement with an enterprise, 122086
the legislative authority or board of county commissioners shall 122087
determine whether the enterprise submitting the proposal is 122088
qualified by financial responsibility and business experience to 122089
create and preserve employment opportunities in the zone and to 122090
improve the economic climate of the municipal corporation or 122091
municipal corporations or the unincorporated areas in which the 122092
zone is located and to which the proposal applies, and whether the 122093
enterprise satisfies one of the following criteria: 122094

(1) The enterprise currently has no operations in this state 122095
and, subject to approval of the agreement, intends to establish 122096
operations in the zone; 122097

(2) The enterprise currently has operations in this state 122098
and, subject to approval of the agreement, intends to establish 122099
operations at a new location in the zone that would not result in 122100
a reduction in the number of employee positions at any of the 122101
enterprise's other locations in this state; 122102

(3) The enterprise, subject to approval of the agreement, 122103
intends to relocate operations, currently located in another 122104
state, to the zone; 122105

(4) The enterprise, subject to approval of the agreement, 122106
intends to expand operations at an existing site in the zone that 122107
the enterprise currently operates; 122108

(5) The enterprise, subject to approval of the agreement, 122109
intends to relocate operations, currently located in this state, 122110
to the zone, and the director of development has issued a waiver 122111
for the enterprise under division (B) of section 5709.633 of the 122112
Revised Code. 122113

(C) If the legislative authority or board determines that the 122114
enterprise is so qualified and satisfies one of the criteria 122115
described in divisions (B)(1) to (5) of this section, the 122116

legislative authority or board may, after complying with section 122117
5709.83 of the Revised Code and on or before October 15, ~~2011~~ 122118
2012, and, in the case of a board of commissioners, with the 122119
consent of the legislative authority of each affected municipal 122120
corporation or of the board of township trustees, enter into an 122121
agreement with the enterprise under which the enterprise agrees to 122122
establish, expand, renovate, or occupy a facility in the zone and 122123
hire new employees, or preserve employment opportunities for 122124
existing employees, in return for the following incentives: 122125

(1) When the facility is located in a municipal corporation, 122126
a legislative authority or board of commissioners may enter into 122127
an agreement for one or more of the incentives provided in 122128
division (C) of section 5709.62 of the Revised Code, subject to 122129
division (D) of that section; 122130

(2) When the facility is located in an unincorporated area, a 122131
board of commissioners may enter into an agreement for one or more 122132
of the incentives provided in divisions (B)(1)(b), (B)(2), and 122133
(B)(3) of section 5709.63 of the Revised Code, subject to division 122134
(C) of that section. 122135

(D) All agreements entered into under this section shall be 122136
in the form prescribed under section 5709.631 of the Revised Code. 122137
After an agreement under this section is entered into, if the 122138
legislative authority or board of county commissioners revokes its 122139
designation of the zone, or if the director of development revokes 122140
the zone's certification, any entitlements granted under the 122141
agreement shall continue for the number of years specified in the 122142
agreement. 122143

(E) Except as otherwise provided in this division, an 122144
agreement entered into under this section shall require that the 122145
enterprise pay an annual fee equal to the greater of one per cent 122146
of the dollar value of incentives offered under the agreement or 122147
five hundred dollars; provided, however, that if the value of the 122148

incentives exceeds two hundred fifty thousand dollars, the fee 122149
shall not exceed two thousand five hundred dollars. The fee shall 122150
be payable to the legislative authority or board of commissioners 122151
once per year for each year the agreement is effective on the days 122152
and in the form specified in the agreement. Fees paid shall be 122153
deposited in a special fund created for such purpose by the 122154
legislative authority or board and shall be used by the 122155
legislative authority or board exclusively for the purpose of 122156
complying with section 5709.68 of the Revised Code and by the tax 122157
incentive review council created under section 5709.85 of the 122158
Revised Code exclusively for the purposes of performing the duties 122159
prescribed under that section. The legislative authority or board 122160
may waive or reduce the amount of the fee charged against an 122161
enterprise, but such waiver or reduction does not affect the 122162
obligations of the legislative authority or board or the tax 122163
incentive review council to comply with section 5709.68 or 5709.85 122164
of the Revised Code, respectively. 122165

(F) With the approval of the legislative authority of a 122166
municipal corporation or the board of township trustees of a 122167
township in which a zone is designated under division (A)(2) of 122168
this section, the board of county commissioners may delegate to 122169
that legislative authority or board any powers and duties of the 122170
board to negotiate and administer agreements with regard to that 122171
zone under this section. 122172

(G) When an agreement is entered into pursuant to this 122173
section, the legislative authority or board of commissioners 122174
authorizing the agreement shall forward a copy of the agreement to 122175
the director of development and to the tax commissioner within 122176
fifteen days after the agreement is entered into. If any agreement 122177
includes terms not provided for in section 5709.631 of the Revised 122178
Code affecting the revenue of a city, local, or exempted village 122179
school district or causing revenue to be forgone by the district, 122180

including any compensation to be paid to the school district 122181
pursuant to section 5709.82 of the Revised Code, those terms also 122182
shall be forwarded in writing to the director of development along 122183
with the copy of the agreement forwarded under this division. 122184

(H) After an agreement is entered into, the enterprise shall 122185
file with each personal property tax return required to be filed 122186
while the agreement is in effect, an informational return, on a 122187
form prescribed by the tax commissioner for that purpose, setting 122188
forth separately the property, and related costs and values, 122189
exempted from taxation under the agreement. 122190

(I) An agreement entered into under this section may include 122191
a provision requiring the enterprise to create one or more 122192
temporary internship positions for students enrolled in a course 122193
of study at a school or other educational institution in the 122194
vicinity, and to create a scholarship or provide another form of 122195
educational financial assistance for students holding such a 122196
position in exchange for the student's commitment to work for the 122197
enterprise at the completion of the internship. 122198

Sec. 5709.73. (A) As used in this section and section 5709.74 122199
of the Revised Code: 122200

(1) "Business day" means a day of the week excluding 122201
Saturday, Sunday, and a legal holiday as defined in section 1.14 122202
of the Revised Code. 122203

(2) "Further improvements" or "improvements" means the 122204
increase in the assessed value of real property that would first 122205
appear on the tax list and duplicate of real and public utility 122206
property after the effective date of a resolution adopted under 122207
this section were it not for the exemption granted by that 122208
resolution. For purposes of division (B) of this section, 122209
"improvements" do not include any property used or to be used for 122210
residential purposes. 122211

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, ~~or~~ exempted village, and joint vocational school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would

have been taxable in the preceding year were it not for the fact 122244
that the property was in an existing incentive district and 122245
therefore exempt from taxation exceeds twenty-five per cent of the 122246
taxable value of real property in the township for the preceding 122247
tax year. The district shall be located within the unincorporated 122248
area of the township and shall not include any territory that is 122249
included within a district created under division (B) of section 122250
5709.78 of the Revised Code. The resolution shall delineate the 122251
boundary of the district and specifically identify each parcel 122252
within the district. A district may not include any parcel that is 122253
or has been exempted from taxation under division (B) of this 122254
section or that is or has been within another district created 122255
under this division. A resolution may create more than one 122256
district, and more than one resolution may be adopted under 122257
division (C)(1) of this section. 122258

(2) Not later than thirty days prior to adopting a resolution 122259
under division (C)(1) of this section, if the township intends to 122260
apply for exemptions from taxation under section 5709.911 of the 122261
Revised Code on behalf of owners of real property located within 122262
the proposed incentive district, the board shall conduct a public 122263
hearing on the proposed resolution. Not later than thirty days 122264
prior to the public hearing, the board shall give notice of the 122265
public hearing and the proposed resolution by first class mail to 122266
every real property owner whose property is located within the 122267
boundaries of the proposed incentive district that is the subject 122268
of the proposed resolution. 122269

(3)(a) A resolution adopted under division (C)(1) of this 122270
section shall specify the life of the incentive district and the 122271
percentage of the improvements to be exempted, shall designate the 122272
public infrastructure improvements made, to be made, or in the 122273
process of being made, that benefit or serve, or, once made, will 122274
benefit or serve parcels in the district. The resolution also 122275

shall identify one or more specific projects being, or to be, 122276
undertaken in the district that place additional demand on the 122277
public infrastructure improvements designated in the resolution. 122278
The project identified may, but need not be, the project under 122279
division (C)(3)(b) of this section that places real property in 122280
use for commercial or industrial purposes. 122281

A resolution adopted under division (C)(1) of this section on 122282
or after ~~the effective date of this amendment~~ March 30, 2006, 122283
shall not designate police or fire equipment as public 122284
infrastructure improvements, and no service payment provided for 122285
in section 5709.74 of the Revised Code and received by the 122286
township under the resolution shall be used for police or fire 122287
equipment. 122288

(b) A resolution adopted under division (C)(1) of this 122289
section may authorize the use of service payments provided for in 122290
section 5709.74 of the Revised Code for the purpose of housing 122291
renovations within the incentive district, provided that the 122292
resolution also designates public infrastructure improvements that 122293
benefit or serve the district, and that a project within the 122294
district places real property in use for commercial or industrial 122295
purposes. Service payments may be used to finance or support 122296
loans, deferred loans, and grants to persons for the purpose of 122297
housing renovations within the district. The resolution shall 122298
designate the parcels within the district that are eligible for 122299
housing renovations. The resolution shall state separately the 122300
amount or the percentages of the expected aggregate service 122301
payments that are designated for each public infrastructure 122302
improvement and for the purpose of housing renovations. 122303

(4) Except with the approval of the board of education of 122304
each city, local, ~~or~~ exempted village, and joint vocational school 122305
district within the territory of which the incentive district is 122306
or will be located, and subject to division (E) of this section, 122307

the life of an incentive district shall not exceed ten years, and 122308
the percentage of improvements to be exempted shall not exceed 122309
seventy-five per cent. With approval of the board of education, 122310
the life of a district may be not more than thirty years, and the 122311
percentage of improvements to be exempted may be not more than one 122312
hundred per cent. The approval of a board of education shall be 122313
obtained in the manner provided in division (D) of this section ~~§~~. 122314

(D) Improvements with respect to a parcel may be exempted 122315
from taxation under division (B) of this section, and improvements 122316
to parcels within an incentive district may be exempted from 122317
taxation under division (C) of this section, for up to ten years 122318
or, with the approval of the board of education of ~~the~~ each city, 122319
local, ~~or~~ exempted village, and joint vocational school district 122320
within which the parcel or district is located, for up to thirty 122321
years. The percentage of the improvements exempted from taxation 122322
may, with such approval, exceed seventy-five per cent, but shall 122323
not exceed one hundred per cent. Not later than forty-five 122324
business days prior to adopting a resolution under this section 122325
declaring improvements to be a public purpose that is subject to 122326
approval by a board of education under this division, the board of 122327
township trustees shall deliver to the board of education a notice 122328
stating its intent to adopt a resolution making that declaration. 122329
The notice regarding improvements with respect to a parcel under 122330
division (B) of this section shall identify the parcels for which 122331
improvements are to be exempted from taxation, provide an estimate 122332
of the true value in money of the improvements, specify the period 122333
for which the improvements would be exempted from taxation and the 122334
percentage of the improvements that would be exempted, and 122335
indicate the date on which the board of township trustees intends 122336
to adopt the resolution. The notice regarding improvements made 122337
under division (C) of this section to parcels within an incentive 122338
district shall delineate the boundaries of the district, 122339
specifically identify each parcel within the district, identify 122340

each anticipated improvement in the district, provide an estimate 122341
of the true value in money of each such improvement, specify the 122342
life of the district and the percentage of improvements that would 122343
be exempted, and indicate the date on which the board of township 122344
trustees intends to adopt the resolution. The board of education, 122345
by resolution adopted by a majority of the board, may approve the 122346
exemption for the period or for the exemption percentage specified 122347
in the notice; may disapprove the exemption for the number of 122348
years in excess of ten, may disapprove the exemption for the 122349
percentage of the improvements to be exempted in excess of 122350
seventy-five per cent, or both; or may approve the exemption on 122351
the condition that the board of township trustees and the board of 122352
education negotiate an agreement providing for compensation to the 122353
school district equal in value to a percentage of the amount of 122354
taxes exempted in the eleventh and subsequent years of the 122355
exemption period or, in the case of exemption percentages in 122356
excess of seventy-five per cent, compensation equal in value to a 122357
percentage of the taxes that would be payable on the portion of 122358
the improvements in excess of seventy-five per cent were that 122359
portion to be subject to taxation, or other mutually agreeable 122360
compensation. 122361

The board of education shall certify its resolution to the 122362
board of township trustees not later than fourteen days prior to 122363
the date the board of township trustees intends to adopt the 122364
resolution as indicated in the notice. If the board of education 122365
and the board of township trustees negotiate a mutually acceptable 122366
compensation agreement, the resolution may declare the 122367
improvements a public purpose for the number of years specified in 122368
the resolution or, in the case of exemption percentages in excess 122369
of seventy-five per cent, for the exemption percentage specified 122370
in the resolution. In either case, if the board of education and 122371
the board of township trustees fail to negotiate a mutually 122372
acceptable compensation agreement, the resolution may declare the 122373

improvements a public purpose for not more than ten years, and 122374
shall not exempt more than seventy-five per cent of the 122375
improvements from taxation. If the board of education fails to 122376
certify a resolution to the board of township trustees within the 122377
time prescribed by this section, the board of township trustees 122378
thereupon may adopt the resolution and may declare the 122379
improvements a public purpose for up to thirty years or, in the 122380
case of exemption percentages proposed in excess of seventy-five 122381
per cent, for the exemption percentage specified in the 122382
resolution. The board of township trustees may adopt the 122383
resolution at any time after the board of education certifies its 122384
resolution approving the exemption to the board of township 122385
trustees, or, if the board of education approves the exemption on 122386
the condition that a mutually acceptable compensation agreement be 122387
negotiated, at any time after the compensation agreement is agreed 122388
to by the board of education and the board of township trustees. 122389

If a board of education has adopted a resolution waiving its 122390
right to approve exemptions from taxation under this section and 122391
the resolution remains in effect, approval of such exemptions by 122392
the board of education is not required under division (D) of this 122393
section. If a board of education has adopted a resolution allowing 122394
a board of township trustees to deliver the notice required under 122395
division (D) of this section fewer than forty-five business days 122396
prior to adoption of the resolution by the board of township 122397
trustees, the board of township trustees shall deliver the notice 122398
to the board of education not later than the number of days prior 122399
to the adoption as prescribed by the board of education in its 122400
resolution. If a board of education adopts a resolution waiving 122401
its right to approve exemptions or shortening the notification 122402
period, the board of education shall certify a copy of the 122403
resolution to the board of township trustees. If the board of 122404
education rescinds the resolution, it shall certify notice of the 122405
rescission to the board of township trustees. 122406

If the board of township trustees is not required by division 122407
(D) of this section to notify the board of education of the board 122408
of township trustees' intent to declare improvements to be a 122409
public purpose, the board of township trustees shall comply with 122410
the notice requirements imposed under section 5709.83 of the 122411
Revised Code before taking formal action to adopt the resolution 122412
making that declaration, unless the board of education has adopted 122413
a resolution under that section waiving its right to receive the 122414
notice. 122415

(E)(1) If a proposed resolution under division (C)(1) of this 122416
section exempts improvements with respect to a parcel within an 122417
incentive district for more than ten years, or the percentage of 122418
the improvement exempted from taxation exceeds seventy-five per 122419
cent, not later than forty-five business days prior to adopting 122420
the resolution the board of township trustees shall deliver to the 122421
board of county commissioners of the county within which the 122422
incentive district is or will be located a notice that states its 122423
intent to adopt a resolution creating an incentive district. The 122424
notice shall include a copy of the proposed resolution, identify 122425
the parcels for which improvements are to be exempted from 122426
taxation, provide an estimate of the true value in money of the 122427
improvements, specify the period of time for which the 122428
improvements would be exempted from taxation, specify the 122429
percentage of the improvements that would be exempted from 122430
taxation, and indicate the date on which the board of township 122431
trustees intends to adopt the resolution. 122432

(2) The board of county commissioners, by resolution adopted 122433
by a majority of the board, may object to the exemption for the 122434
number of years in excess of ten, may object to the exemption for 122435
the percentage of the improvement to be exempted in excess of 122436
seventy-five per cent, or both. If the board of county 122437
commissioners objects, the board may negotiate a mutually 122438

acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the

eleventh and subsequent years of the exemption period or on the 122472
portion of the improvement in excess of seventy-five per cent, 122473
were that portion to be subject to taxation. 122474

(F) Service payments in lieu of taxes that are attributable 122475
to any amount by which the effective tax rate of either a renewal 122476
levy with an increase or a replacement levy exceeds the effective 122477
tax rate of the levy renewed or replaced, or that are attributable 122478
to an additional levy, for a levy authorized by the voters for any 122479
of the following purposes on or after January 1, 2006, and which 122480
are provided pursuant to a resolution creating an incentive 122481
district under division (C)(1) of this section that is adopted on 122482
or after January 1, 2006, shall be distributed to the appropriate 122483
taxing authority as required under division (C) of section 5709.74 122484
of the Revised Code in an amount equal to the amount of taxes from 122485
that additional levy or from the increase in the effective tax 122486
rate of such renewal or replacement levy that would have been 122487
payable to that taxing authority from the following levies were it 122488
not for the exemption authorized under division (C) of this 122489
section: 122490

(1) A tax levied under division (L) of section 5705.19 or 122491
section 5705.191 of the Revised Code for community mental 122492
retardation and developmental disabilities programs and services 122493
pursuant to Chapter 5126. of the Revised Code; 122494

(2) A tax levied under division (Y) of section 5705.19 of the 122495
Revised Code for providing or maintaining senior citizens services 122496
or facilities; 122497

(3) A tax levied under section 5705.22 of the Revised Code 122498
for county hospitals; 122499

(4) A tax levied by a joint-county district or by a county 122500
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 122501
for alcohol, drug addiction, and mental health services or 122502

families;	122503
(5) A tax levied under section 5705.23 of the Revised Code for library purposes;	122504 122505
(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;	122506 122507 122508
(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;	122509 122510 122511
(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;	122512 122513 122514
(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;	122515 122516 122517 122518
(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;	122519 122520
(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;	122521 122522 122523 122524
(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.	122525 122526
(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax	122527 122528 122529 122530 122531 122532

year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, ~~or~~ exempted village, and joint vocational school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing

renovations made pursuant to this section. The notes shall be 122566
signed by the board and attested by the signature of the township 122567
fiscal officer, shall bear interest not to exceed the rate 122568
provided in section 9.95 of the Revised Code, and are not subject 122569
to Chapter 133. of the Revised Code. The resolution authorizing 122570
the issuance of the notes shall pledge the funds of the township 122571
public improvement tax increment equivalent fund established 122572
pursuant to section 5709.75 of the Revised Code to pay the 122573
interest on and principal of the notes. The notes, which may 122574
contain a clause permitting prepayment at the option of the board, 122575
shall be offered for sale on the open market or given to the 122576
vendor or contractor if no sale is made. 122577

(I) The township, not later than fifteen days after the 122578
adoption of a resolution under this section, shall submit to the 122579
director of development a copy of the resolution. On or before the 122580
thirty-first day of March of each year, the township shall submit 122581
a status report to the director of development. The report shall 122582
indicate, in the manner prescribed by the director, the progress 122583
of the project during each year that the exemption remains in 122584
effect, including a summary of the receipts from service payments 122585
in lieu of taxes; expenditures of money from the fund created 122586
under section 5709.75 of the Revised Code; a description of the 122587
public infrastructure improvements and housing renovations 122588
financed with the expenditures; and a quantitative summary of 122589
changes in private investment resulting from each project. 122590

(J) Nothing in this section shall be construed to prohibit a 122591
board of township trustees from declaring to be a public purpose 122592
improvements with respect to more than one parcel. 122593

(K) A board of township trustees that adopted a resolution 122594
under this section prior to July 21, 1994, may amend that 122595
resolution to include any additional public infrastructure 122596
improvement. A board of township trustees that seeks by the 122597

amendment to utilize money from its township public improvement 122598
tax increment equivalent fund for land acquisition in aid of 122599
industry, commerce, distribution, or research, demolition on 122600
private property, or stormwater and flood remediation projects may 122601
do so provided that the board currently is a party to a 122602
hold-harmless agreement with the board of education of ~~the~~ each 122603
city, local, ~~or~~ exempted village, and joint vocational school 122604
district within the territory of which are located the parcels 122605
that are subject to an exemption. For the purposes of this 122606
division, a "hold-harmless agreement" means an agreement under 122607
which the board of township trustees agrees to compensate the 122608
school district for one hundred per cent of the tax revenue that 122609
the school district would have received from further improvements 122610
to parcels designated in the resolution were it not for the 122611
exemption granted by the resolution. 122612

Sec. 5709.78. (A) A board of county commissioners may, by 122613
resolution, declare improvements to certain parcels of real 122614
property located in the unincorporated territory of the county to 122615
be a public purpose. Except with the approval under division (C) 122616
of this section of the board of education of each city, local, ~~or~~ 122617
exempted village, and joint vocational school district within 122618
which the improvements are located, not more than seventy-five per 122619
cent of an improvement thus declared to be a public purpose may be 122620
exempted from real property taxation, for a period of not more 122621
than ten years. The resolution shall specify the percentage of the 122622
improvement to be exempted and the life of the exemption. 122623

A resolution adopted under this division shall designate the 122624
specific public infrastructure improvements made, to be made, or 122625
in the process of being made by the county that directly benefit, 122626
or that once made will directly benefit, the parcels for which 122627
improvements are declared to be a public purpose. The service 122628
payments provided for in section 5709.79 of the Revised Code shall 122629

be used to finance the public infrastructure improvements 122630
designated in the resolution, or as provided in section 5709.80 of 122631
the Revised Code. 122632

(B)(1) A board of county commissioners may adopt a resolution 122633
creating an incentive district and declaring improvements to 122634
parcels within the district to be a public purpose and, except as 122635
provided in division (E) of this section, exempt from taxation as 122636
provided in this section, but no board of county commissioners of 122637
a county that has a population that exceeds twenty-five thousand, 122638
as shown by the most recent federal decennial census, shall adopt 122639
a resolution that creates an incentive district if the sum of the 122640
taxable value of real property in the proposed district for the 122641
preceding tax year and the taxable value of all real property in 122642
the county that would have been taxable in the preceding year were 122643
it not for the fact that the property was in an existing incentive 122644
district and therefore exempt from taxation exceeds twenty-five 122645
per cent of the taxable value of real property in the county for 122646
the preceding tax year. The district shall be located within the 122647
unincorporated territory of the county and shall not include any 122648
territory that is included within a district created under 122649
division (C) of section 5709.73 of the Revised Code. The 122650
resolution shall delineate the boundary of the district and 122651
specifically identify each parcel within the district. A district 122652
may not include any parcel that is or has been exempted from 122653
taxation under division (A) of this section or that is or has been 122654
within another district created under this division. A resolution 122655
may create more than one such district, and more than one 122656
resolution may be adopted under division (B)(1) of this section. 122657

(2) Not later than thirty days prior to adopting a resolution 122658
under division (B)(1) of this section, if the county intends to 122659
apply for exemptions from taxation under section 5709.911 of the 122660
Revised Code on behalf of owners of real property located within 122661

the proposed incentive district, the board of county commissioners 122662
shall conduct a public hearing on the proposed resolution. Not 122663
later than thirty days prior to the public hearing, the board 122664
shall give notice of the public hearing and the proposed 122665
resolution by first class mail to every real property owner whose 122666
property is located within the boundaries of the proposed 122667
incentive district that is the subject of the proposed resolution. 122668
The board also shall provide the notice by first class mail to the 122669
clerk of each township in which the proposed incentive district 122670
will be located. 122671

(3)(a) A resolution adopted under division (B)(1) of this 122672
section shall specify the life of the incentive district and the 122673
percentage of the improvements to be exempted, shall designate the 122674
public infrastructure improvements made, to be made, or in the 122675
process of being made, that benefit or serve, or, once made, will 122676
benefit or serve parcels in the district. The resolution also 122677
shall identify one or more specific projects being, or to be, 122678
undertaken in the district that place additional demand on the 122679
public infrastructure improvements designated in the resolution. 122680
The project identified may, but need not be, the project under 122681
division (B)(3)(b) of this section that places real property in 122682
use for commercial or industrial purposes. 122683

A resolution adopted under division (B)(1) of this section on 122684
or after ~~the effective date of this amendment~~ March 30, 2006, 122685
shall not designate police or fire equipment as public 122686
infrastructure improvements, and no service payment provided for 122687
in section 5709.79 of the Revised Code and received by the county 122688
under the resolution shall be used for police or fire equipment. 122689

(b) A resolution adopted under division (B)(1) of this 122690
section may authorize the use of service payments provided for in 122691
section 5709.79 of the Revised Code for the purpose of housing 122692
renovations within the incentive district, provided that the 122693

resolution also designates public infrastructure improvements that 122694
benefit or serve the district, and that a project within the 122695
district places real property in use for commercial or industrial 122696
purposes. Service payments may be used to finance or support 122697
loans, deferred loans, and grants to persons for the purpose of 122698
housing renovations within the district. The resolution shall 122699
designate the parcels within the district that are eligible for 122700
housing renovations. The resolution shall state separately the 122701
amount or the percentages of the expected aggregate service 122702
payments that are designated for each public infrastructure 122703
improvement and for the purpose of housing renovations. 122704

(4) Except with the approval of the board of education of 122705
each city, local, ~~or~~ exempted village, and joint vocational school 122706
district within the territory of which the incentive district is 122707
or will be located, and subject to division (D) of this section, 122708
the life of an incentive district shall not exceed ten years, and 122709
the percentage of improvements to be exempted shall not exceed 122710
seventy-five per cent. With approval of the board of education, 122711
the life of a district may be not more than thirty years, and the 122712
percentage of improvements to be exempted may be not more than one 122713
hundred per cent. The approval of a board of education shall be 122714
obtained in the manner provided in division (C) of this section. 122715

(C)(1) Improvements with respect to a parcel may be exempted 122716
from taxation under division (A) of this section, and improvements 122717
to parcels within an incentive district may be exempted from 122718
taxation under division (B) of this section, for up to ten years 122719
or, with the approval of the board of education of ~~the~~ each city, 122720
local, ~~or~~ exempted village, and joint vocational school district 122721
within which the parcel or district is located, for up to thirty 122722
years. The percentage of the improvements exempted from taxation 122723
may, with such approval, exceed seventy-five per cent, but shall 122724
not exceed one hundred per cent. Not later than forty-five 122725

business days prior to adopting a resolution under this section 122726
declaring improvements to be a public purpose that is subject to 122727
the approval of a board of education under this division, the 122728
board of county commissioners shall deliver to the board of 122729
education a notice stating its intent to adopt a resolution making 122730
that declaration. The notice regarding improvements with respect 122731
to a parcel under division (A) of this section shall identify the 122732
parcels for which improvements are to be exempted from taxation, 122733
provide an estimate of the true value in money of the 122734
improvements, specify the period for which the improvements would 122735
be exempted from taxation and the percentage of the improvements 122736
that would be exempted, and indicate the date on which the board 122737
of county commissioners intends to adopt the resolution. The 122738
notice regarding improvements to parcels within an incentive 122739
district under division (B) of this section shall delineate the 122740
boundaries of the district, specifically identify each parcel 122741
within the district, identify each anticipated improvement in the 122742
district, provide an estimate of the true value in money of each 122743
such improvement, specify the life of the district and the 122744
percentage of improvements that would be exempted, and indicate 122745
the date on which the board of county commissioners intends to 122746
adopt the resolution. The board of education, by resolution 122747
adopted by a majority of the board, may approve the exemption for 122748
the period or for the exemption percentage specified in the 122749
notice; may disapprove the exemption for the number of years in 122750
excess of ten, may disapprove the exemption for the percentage of 122751
the improvements to be exempted in excess of seventy-five per 122752
cent, or both; or may approve the exemption on the condition that 122753
the board of county commissioners and the board of education 122754
negotiate an agreement providing for compensation to the school 122755
district equal in value to a percentage of the amount of taxes 122756
exempted in the eleventh and subsequent years of the exemption 122757
period or, in the case of exemption percentages in excess of 122758

seventy-five per cent, compensation equal in value to a percentage 122759
of the taxes that would be payable on the portion of the 122760
improvements in excess of seventy-five per cent were that portion 122761
to be subject to taxation, or other mutually agreeable 122762
compensation. 122763

(2) The board of education shall certify its resolution to 122764
the board of county commissioners not later than fourteen days 122765
prior to the date the board of county commissioners intends to 122766
adopt its resolution as indicated in the notice. If the board of 122767
education and the board of county commissioners negotiate a 122768
mutually acceptable compensation agreement, the resolution of the 122769
board of county commissioners may declare the improvements a 122770
public purpose for the number of years specified in that 122771
resolution or, in the case of exemption percentages in excess of 122772
seventy-five per cent, for the exemption percentage specified in 122773
the resolution. In either case, if the board of education and the 122774
board of county commissioners fail to negotiate a mutually 122775
acceptable compensation agreement, the resolution may declare the 122776
improvements a public purpose for not more than ten years, and 122777
shall not exempt more than seventy-five per cent of the 122778
improvements from taxation. If the board of education fails to 122779
certify a resolution to the board of county commissioners within 122780
the time prescribed by this section, the board of county 122781
commissioners thereupon may adopt the resolution and may declare 122782
the improvements a public purpose for up to thirty years or, in 122783
the case of exemption percentages proposed in excess of 122784
seventy-five per cent, for the exemption percentage specified in 122785
the resolution. The board of county commissioners may adopt the 122786
resolution at any time after the board of education certifies its 122787
resolution approving the exemption to the board of county 122788
commissioners, or, if the board of education approves the 122789
exemption on the condition that a mutually acceptable compensation 122790
agreement be negotiated, at any time after the compensation 122791

agreement is agreed to by the board of education and the board of county commissioners. 122792
122793

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners. 122794
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(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the 122812
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improvements, specify the period of time for which the 122824
improvements would be exempted from taxation, specify the 122825
percentage of the improvements that would be exempted from 122826
taxation, and indicate the date on which the board intends to 122827
adopt the resolution. 122828

(2) The board of township trustees, by resolution adopted by 122829
a majority of the board, may object to the exemption for the 122830
number of years in excess of ten, may object to the exemption for 122831
the percentage of the improvement to be exempted in excess of 122832
seventy-five per cent, or both. If the board of township trustees 122833
objects, the board of township trustees may negotiate a mutually 122834
acceptable compensation agreement with the board of county 122835
commissioners. In no case shall the compensation provided to the 122836
board of township trustees exceed the property taxes ~~foregone~~ 122837
forgone due to the exemption. If the board of township trustees 122838
objects, and the board of township trustees and the board of 122839
county commissioners fail to negotiate a mutually acceptable 122840
compensation agreement, the resolution adopted under division 122841
(B)(1) of this section shall provide to the board of township 122842
trustees compensation in the eleventh and subsequent years of the 122843
exemption period equal in value to not more than fifty per cent of 122844
the taxes that would be payable to the township or, if the board 122845
of township trustee's objection includes an objection to an 122846
exemption percentage in excess of seventy-five per cent, 122847
compensation equal in value to not more than fifty per cent of the 122848
taxes that would be payable to the township on the portion of the 122849
improvement in excess of seventy-five per cent, were that portion 122850
to be subject to taxation. The board of township trustees shall 122851
certify its resolution to the board of county commissioners not 122852
later than thirty days after receipt of the notice. 122853

(3) If the board of township trustees does not object or 122854
fails to certify a resolution objecting to an exemption within 122855

thirty days after receipt of the notice, the board of county 122856
commissioners may adopt its resolution, and no compensation shall 122857
be provided to the board of township trustees. If the board of 122858
township trustees certifies its resolution objecting to the 122859
commissioners' resolution, the board of county commissioners may 122860
adopt its resolution at any time after a mutually acceptable 122861
compensation agreement is agreed to by the board of county 122862
commissioners and the board of township trustees. If the board of 122863
township trustees certifies a resolution objecting to the 122864
commissioners' resolution, the board of county commissioners may 122865
adopt its resolution at any time after a mutually acceptable 122866
compensation agreement is agreed to by the board of county 122867
commissioners and the board of township trustees, or, if no 122868
compensation agreement is negotiated, at any time after the board 122869
of county commissioners in the proposed resolution to provide 122870
compensation to the board of township trustees of fifty per cent 122871
of the taxes that would be payable to the township in the eleventh 122872
and subsequent years of the exemption period or on the portion of 122873
the improvement in excess of seventy-five per cent, were that 122874
portion to be subject to taxation. 122875

(E) Service payments in lieu of taxes that are attributable 122876
to any amount by which the effective tax rate of either a renewal 122877
levy with an increase or a replacement levy exceeds the effective 122878
tax rate of the levy renewed or replaced, or that are attributable 122879
to an additional levy, for a levy authorized by the voters for any 122880
of the following purposes on or after January 1, 2006, and which 122881
are provided pursuant to a resolution creating an incentive 122882
district under division (B)(1) of this section that is adopted on 122883
or after January 1, 2006, shall be distributed to the appropriate 122884
taxing authority as required under division (D) of section 5709.79 122885
of the Revised Code in an amount equal to the amount of taxes from 122886
that additional levy or from the increase in the effective tax 122887
rate of such renewal or replacement levy that would have been 122888

payable to that taxing authority from the following levies were it 122889
not for the exemption authorized under division (B) of this 122890
section: 122891

(1) A tax levied under division (L) of section 5705.19 or 122892
section 5705.191 of the Revised Code for community mental 122893
retardation and developmental disabilities programs and services 122894
pursuant to Chapter 5126. of the Revised Code; 122895

(2) A tax levied under division (Y) of section 5705.19 of the 122896
Revised Code for providing or maintaining senior citizens services 122897
or facilities; 122898

(3) A tax levied under section 5705.22 of the Revised Code 122899
for county hospitals; 122900

(4) A tax levied by a joint-county district or by a county 122901
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 122902
for alcohol, drug addiction, and mental health services or 122903
facilities; 122904

(5) A tax levied under section 5705.23 of the Revised Code 122905
for library purposes; 122906

(6) A tax levied under section 5705.24 of the Revised Code 122907
for the support of children services and the placement and care of 122908
children; 122909

(7) A tax levied under division (Z) of section 5705.19 of the 122910
Revised Code for the provision and maintenance of zoological park 122911
services and facilities under section 307.76 of the Revised Code; 122912

(8) A tax levied under section 511.27 or division (H) of 122913
section 5705.19 of the Revised Code for the support of township 122914
park districts; 122915

(9) A tax levied under division (A), (F), or (H) of section 122916
5705.19 of the Revised Code for parks and recreational purposes of 122917
a joint recreation district organized pursuant to division (B) of 122918

section 755.14 of the Revised Code; 122919

(10) A tax levied under section 1545.20 or 1545.21 of the 122920
Revised Code for park district purposes; 122921

(11) A tax levied under section 5705.191 of the Revised Code 122922
for the purpose of making appropriations for public assistance; 122923
human or social services; public relief; public welfare; public 122924
health and hospitalization; and support of general hospitals; 122925

(12) A tax levied under section 3709.29 of the Revised Code 122926
for a general health district program. 122927

(F) An exemption from taxation granted under this section 122928
commences with the tax year specified in the resolution so long as 122929
the year specified in the resolution commences after the effective 122930
date of the resolution. If the resolution specifies a year 122931
commencing before the effective date of the resolution or 122932
specifies no year whatsoever, the exemption commences with the tax 122933
year in which an exempted improvement first appears on the tax 122934
list and duplicate of real and public utility property and that 122935
commences after the effective date of the resolution. Except as 122936
otherwise provided in this division, the exemption ends on the 122937
date specified in the resolution as the date the improvement 122938
ceases to be a public purpose or the incentive district expires, 122939
or ends on the date on which the county can no longer require 122940
annual service payments in lieu of taxes under section 5709.79 of 122941
the Revised Code, whichever occurs first. The exemption of an 122942
improvement with respect to a parcel or within an incentive 122943
district may end on a later date, as specified in the resolution, 122944
if the board of commissioners and the board of education of ~~the~~ 122945
each city, local, ~~or~~ exempted village, and joint vocational school 122946
district within which the parcel or district is located have 122947
entered into a compensation agreement under section 5709.82 of the 122948
Revised Code with respect to the improvement, and the board of 122949
education has approved the term of the exemption under division 122950

(C)(1) of this section, but in no case shall the improvement be 122951
exempted from taxation for more than thirty years. Exemptions 122952
shall be claimed and allowed in the same or a similar manner as in 122953
the case of other real property exemptions. If an exemption status 122954
changes during a tax year, the procedure for the apportionment of 122955
the taxes for that year is the same as in the case of other 122956
changes in tax exemption status during the year. 122957

(G) If the board of county commissioners is not required by 122958
this section to notify the board of education of the board of 122959
county commissioners' intent to declare improvements to be a 122960
public purpose, the board of county commissioners shall comply 122961
with the notice requirements imposed under section 5709.83 of the 122962
Revised Code before taking formal action to adopt the resolution 122963
making that declaration, unless the board of education has adopted 122964
a resolution under that section waiving its right to receive such 122965
a notice. 122966

(H) The county, not later than fifteen days after the 122967
adoption of a resolution under this section, shall submit to the 122968
director of development a copy of the resolution. On or before the 122969
thirty-first day of March of each year, the county shall submit a 122970
status report to the director of development. The report shall 122971
indicate, in the manner prescribed by the director, the progress 122972
of the project during each year that an exemption remains in 122973
effect, including a summary of the receipts from service payments 122974
in lieu of taxes; expenditures of money from the fund created 122975
under section 5709.80 of the Revised Code; a description of the 122976
public infrastructure improvements and housing renovations 122977
financed with such expenditures; and a quantitative summary of 122978
changes in employment and private investment resulting from each 122979
project. 122980

(I) Nothing in this section shall be construed to prohibit a 122981
board of county commissioners from declaring to be a public 122982

purpose improvements with respect to more than one parcel. 122983

Sec. 5713.01. (A) Each county shall be the unit for assessing 122984
real estate for taxation purposes. The county auditor shall be the 122985
assessor of all the real estate in the auditor's county for 122986
purposes of taxation, but this section does not affect the power 122987
conferred by Chapter 5727. of the Revised Code upon the tax 122988
commissioner regarding the valuation and assessment of real 122989
property used in railroad operations. 122990

(B) The auditor shall assess all the real estate situated in 122991
the county at its taxable value in accordance with sections 122992
5713.03, 5713.31, and 5715.01 of the Revised Code and with the 122993
rules and methods applicable to the auditor's county adopted, 122994
prescribed, and promulgated by the tax commissioner. The auditor 122995
shall view and appraise or cause to be viewed and appraised at its 122996
true value in money, each lot or parcel of real estate, including 122997
land devoted exclusively to agricultural use, and the improvements 122998
located thereon at least once in each six-year period and the 122999
taxable values required to be derived therefrom shall be placed on 123000
the auditor's tax list and the county treasurer's duplicate for 123001
the tax year ordered by the commissioner pursuant to section 123002
5715.34 of the Revised Code. The commissioner may grant an 123003
extension of one year or less if the commissioner finds that good 123004
cause exists for the extension. When the auditor so views and 123005
appraises, the auditor may enter each structure located thereon to 123006
determine by actual view what improvements have been made therein 123007
or additions made thereto since the next preceding valuation. The 123008
auditor shall revalue and assess at any time all or any part of 123009
the real estate in such county, including land devoted exclusively 123010
to agricultural use, where the auditor finds that the true or 123011
taxable values thereof have changed, and when a conservation 123012
easement is created under sections 5301.67 to 5301.70 of the 123013
Revised Code. The auditor may increase or decrease the true or 123014

taxable value of any lot or parcel of real estate in any township, 123015
municipal corporation, or other taxing district by an amount which 123016
will cause all real property on the tax list to be valued as 123017
required by law, or the auditor may increase or decrease the 123018
aggregate value of all real property, or any class of real 123019
property, in the county, township, municipal corporation, or other 123020
taxing district, or in any ward or other division of a municipal 123021
corporation by a per cent or amount which will cause all property 123022
to be properly valued and assessed for taxation in accordance with 123023
Section 36, Article II, Section 2, Article XII, Ohio Constitution, 123024
this section, and sections 5713.03, 5713.31, and 5715.01 of the 123025
Revised Code. 123026

(C) When the auditor determines to reappraise all the real 123027
estate in the county or any class thereof, when the tax 123028
commissioner orders an increase in the aggregate true or taxable 123029
value of the real estate in any taxing subdivision, or when the 123030
taxable value of real estate is increased by the application of a 123031
uniform taxable value per cent of true value pursuant to the order 123032
of the commissioner, the auditor shall advertise the completion of 123033
the reappraisal or equalization action in a newspaper of general 123034
circulation in the county once a week for the three consecutive 123035
weeks next preceding the issuance of the tax bills, or as provided 123036
in section 7.16 of the Revised Code for the two consecutive weeks 123037
next preceding the issuance of the tax bills. When the auditor 123038
changes the true or taxable value of any individual parcels of 123039
real estate, the auditor shall notify the owner of the real 123040
estate, or the person in whose name the same stands charged on the 123041
duplicate, by mail or in person, of the changes the auditor has 123042
made in the assessments of such property. Such notice shall be 123043
given at least thirty days prior to the issuance of the tax bills. 123044
Failure to receive notice shall not invalidate any proceeding 123045
under this section. 123046

(D) The auditor shall make the necessary abstracts from books 123047
of the auditor's office containing descriptions of real estate in 123048
such county, together with such platbooks and lists of transfers 123049
of title to land as the auditor deems necessary in the performance 123050
of the auditor's duties in valuing such property for taxation. 123051
Such abstracts, platbooks, and lists shall be in such form and 123052
detail as the tax commissioner prescribes. 123053

(E) The auditor, with the approval of the tax commissioner, 123054
may appoint and employ such experts, deputies, clerks, or other 123055
employees as the auditor deems necessary to the performance of the 123056
auditor's duties as assessor, or, with the approval of the tax 123057
commissioner, the auditor may enter into a contract with an 123058
individual, partnership, firm, company, or corporation to do all 123059
or any part of the work; the amount to be expended in the payment 123060
of the compensation of such employees shall be fixed by the board 123061
of county commissioners. If, in the opinion of the auditor, the 123062
board of county commissioners fails to provide a sufficient amount 123063
for the compensation of such employees, the auditor may apply to 123064
the tax commissioner for an additional allowance, and the 123065
additional amount of compensation allowed by the commissioner 123066
shall be certified to the board of county commissioners, and the 123067
same shall be final. The salaries and compensation of such 123068
experts, deputies, clerks, and employees shall be paid upon the 123069
warrant of the auditor out of the general fund or the real estate 123070
assessment fund of the county, or both. If the salaries and 123071
compensation are in whole or in part fixed by the commissioner, 123072
they shall constitute a charge against the county regardless of 123073
the amount of money in the county treasury levied or appropriated 123074
for such purposes. 123075

(F) Any contract for goods or services related to the 123076
auditor's duties as assessor, including contracts for mapping, 123077
computers, and reproduction on any medium of any documents, 123078

records, photographs, microfiche, or magnetic tapes, but not 123079
including contracts for the professional services of an appraiser, 123080
shall be awarded pursuant to the competitive bidding procedures 123081
set forth in sections 307.86 to 307.92 of the Revised Code and 123082
shall be paid for, upon the warrant of the auditor, from the real 123083
estate assessment fund. 123084

(G) Experts, deputies, clerks, and other employees, in 123085
addition to their other duties, shall perform such services as the 123086
auditor directs in ascertaining such facts, description, location, 123087
character, dimensions of buildings and improvements, and other 123088
circumstances reflecting upon the value of real estate as will aid 123089
the auditor in fixing its true and taxable value and, in the case 123090
of land valued in accordance with section 5713.31 of the Revised 123091
Code, its current agricultural use value. The auditor may also 123092
summon and examine any person under oath in respect to any matter 123093
pertaining to the value of any real property within the county. 123094

Sec. 5715.17. When the county board of revision has completed 123095
its work of equalization and transmitted the returns to ~~him~~ the 123096
county auditor, the ~~county~~ auditor shall give notice by 123097
advertising in ~~two newspapers of opposite politics published in~~ 123098
~~and a newspaper~~ of general circulation throughout the county that 123099
the tax returns for the current year have been revised and the 123100
valuations have been completed and are open for public inspection 123101
in ~~his~~ the auditor's office, and that complaints against any 123102
valuation or assessment, except the valuations fixed and 123103
assessments made by the department of taxation, will be heard by 123104
the board, stating in the notice the time and place of the meeting 123105
of such board. Such advertisement shall be inserted in a 123106
conspicuous place in ~~each~~ such newspaper and be published daily 123107
for ten days, ~~unless there is no daily newspaper published in and~~ 123108
~~of general circulation throughout such county, in which event such~~ 123109
~~advertisement shall be so published once each week for two weeks~~ 123110

or as provided in section 7.16 of the Revised Code. 123111

The auditor shall, upon request, furnish to any person a 123112
certificate setting forth the assessment and valuation of any 123113
tract, lot, or parcel of real estate or any specific personal 123114
property, and mail the same when requested to do so upon receipt 123115
of sufficient postage. 123116

The auditor shall furnish notice to boards of education of 123117
school districts within the county of all hearings, and the 123118
results of such hearings, held in regard to the reduction or 123119
increasing of tax valuations in excess of one hundred thousand 123120
dollars directly affecting the revenue of such district. 123121

Sec. 5715.23. Annually, immediately after the county board of 123122
revision has acted upon the assessments for the current year as 123123
required under section 5715.16 of the Revised Code and the county 123124
auditor has given notice by advertisement in ~~two newspapers a~~ 123125
newspaper of general circulation in the county that the valuations 123126
have been revised and are open for public inspection as provided 123127
in section 5715.17 of the Revised Code, each auditor shall make 123128
out and transmit to the tax commissioner an abstract of the real 123129
property of each taxing district in ~~his~~ the auditor's county, in 123130
which ~~he~~ the auditor shall set forth the aggregate amount and 123131
valuation of each class of real property in such county and in 123132
each taxing district therein as it appears on ~~his~~ the auditor's 123133
tax list or the statements and returns on file in ~~his~~ the 123134
auditor's office and an abstract of the current year's true value 123135
of land valued for such year under section 5713.31 of the Revised 123136
Code as it appears in the current year's agricultural land tax 123137
list. 123138

Sec. 5715.26. (A)(1) Upon receiving the statement required by 123139
section 5715.25 of the Revised Code, the county auditor shall 123140

forthwith add to or deduct from each tract, lot, or parcel of real 123141
property or class of real property the required percentage or 123142
amount of the valuation thereof, adding or deducting any sum less 123143
than five dollars so that the value of any separate tract, lot, or 123144
parcel of real property shall be ten dollars or some multiple 123145
thereof. 123146

(2) After making the additions or deductions required by this 123147
section, the auditor shall transmit to the tax commissioner the 123148
appropriate adjusted abstract of the real property of each taxing 123149
district in the auditor's county in which an adjustment was 123150
required. 123151

(3) If the commissioner increases or decreases the aggregate 123152
value of the real property or any class thereof in any county or 123153
taxing district thereof and does not receive within ninety days 123154
thereafter an adjusted abstract conforming to its statement for 123155
such county or taxing district therein, the commissioner shall 123156
withhold from such county or taxing district therein fifty per 123157
cent of its share in the distribution of state revenues to local 123158
governments pursuant to sections 5747.50 to 5747.55 of the Revised 123159
Code and shall direct the department of education to withhold 123160
therefrom fifty per cent of state revenues to school districts 123161
pursuant to ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code. 123162
The commissioner shall withhold the distribution of such funds 123163
until such county auditor has complied with this division, and the 123164
department shall withhold the distribution of such funds until the 123165
commissioner has notified the department that such county auditor 123166
has complied with this division. 123167

(B)(1) If the commissioner's determination is appealed under 123168
section 5715.251 of the Revised Code, the county auditor, 123169
treasurer, and all other officers shall forthwith proceed with the 123170
levy and collection of the current year's taxes in the manner 123171
prescribed by law. The taxes shall be determined and collected as 123172

if the commissioner had determined under section 5715.24 of the Revised Code that the real property and the various classes thereof in the county as shown in the auditor's abstract were assessed for taxation and the true and agricultural use values were recorded on the agricultural land tax list as required by law.

(2) If as a result of the appeal to the board it is finally determined either that all real property and the various classes thereof have not been assessed as required by law or that the values set forth in the agricultural land tax list do not correctly reflect the true and agricultural use values of the lands contained therein, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation in accordance with the order of the board or judgment of the court to which the board's order was appealed, and the taxes on each tract, lot, or parcel and the percentages required by section 319.301 of the Revised Code shall be recomputed using the valuation as finally determined. The order or judgment making the final determination shall prescribe the time and manner for collecting, crediting, or refunding the resultant increases or decreases in taxes.

Sec. 5719.04. (A) Immediately after each settlement required by division (D) of section 321.24 of the Revised Code the county auditor shall make a tax list and duplicates thereof of all general personal and classified property taxes remaining unpaid, as shown by the county treasurer's books and the list of taxes returned as delinquent by the treasurer to the auditor at such settlement. The county auditor shall also include in such list all taxes assessed by the tax commissioner pursuant to law which were not charged upon the tax lists and duplicates on which such settlements were made nor previously charged upon a delinquent tax

list and duplicates pursuant to this section, but the auditor 123205
shall not include taxes specifically excepted from collection 123206
pursuant to section 5711.32 of the Revised Code. Such tax list and 123207
duplicates shall contain the name of the person charged and the 123208
amount of such taxes, and the penalty, due and unpaid, and shall 123209
set forth separately the amount charged or chargeable on the 123210
general and on the classified list and duplicate. The auditor 123211
shall deliver one such duplicate to the treasurer on the first day 123212
of December, annually. Upon receipt of the duplicate the treasurer 123213
may prepare and mail tax bills to all persons charged with such 123214
delinquent taxes. Each bill shall include a notice that the 123215
interest charge prescribed by section 5719.041 of the Revised Code 123216
has begun to accrue. 123217

The auditor shall cause a copy of the delinquent personal and 123218
classified property tax list and duplicate provided for in this 123219
division to be published twice within sixty days after delivery of 123220
such duplicate to the treasurer in a newspaper ~~published in the~~ 123221
~~English language in the county and~~ of general circulation ~~therein;~~ 123222
~~provided that before~~ in the county. The newspaper shall meet the 123223
requirements of section 7.12 of the Revised Code. The auditor may 123224
publish the tax list on a pre-printed insert in the newspaper. The 123225
cost of the second publication of the list shall not exceed 123226
three-fourths of the cost of the first publication of the list. 123227

Before such publication, the auditor shall cause a display 123228
notice of the forthcoming publication of such delinquent personal 123229
and classified property tax list to be inserted once a week for 123230
two consecutive weeks in a newspaper ~~published in the English~~ 123231
~~language in the county and~~ of general circulation ~~therein~~ in the 123232
county. Copy for such display notice shall be furnished by the 123233
auditor to the newspaper selected to publish such delinquent tax 123234
lists simultaneously with the delivery of the duplicate to the 123235
treasurer. ~~If there is only one newspaper published in the county,~~ 123236

~~such display notice and delinquent personal and classified~~ 123237
~~property tax lists shall be published in it.~~ Publication of the 123238
delinquent lists may be made by a newspaper in installments, 123239
provided that complete publication thereof is made twice during 123240
said sixty-day period. 123241

The office of the county treasurer shall be kept open to 123242
receive the payment of delinquent general and classified property 123243
taxes from the day of delivery of the duplicate thereof until the 123244
final publication of the delinquent tax list. The name of any 123245
taxpayer who prior to seven days before either the first or second 123246
publication of said list pays such taxes in full or enters into a 123247
delinquent tax contract to pay such taxes in installments pursuant 123248
to section 5719.05 of the Revised Code shall be stricken from such 123249
list, and the taxpayer's name shall not be included in the list 123250
for that publication. 123251

The other such duplicate, from which shall first be 123252
eliminated the names of persons whose total liability for taxes 123253
and penalty is less than one hundred dollars, shall be filed by 123254
the auditor on the first day of December, annually, in the office 123255
of the county recorder, and the same shall constitute a notice of 123256
lien and operate as of the date of delivery as a lien on the lands 123257
and tenements, vested legal interests therein, and permanent 123258
leasehold estates of each person named therein having such real 123259
estate in such county. Such notice of lien and such lien shall not 123260
be valid as against any mortgagee, pledgee, purchaser, or judgment 123261
creditor whose rights have attached prior to the date of such 123262
delivery. Such duplicate shall be kept by the recorder, designated 123263
as the personal tax lien record, and indexed under the name of the 123264
person charged with such tax. No fee shall be charged by the 123265
recorder for the services required under this section. 123266

The auditor shall add to the tax list made pursuant to this 123267
section all such taxes omitted in a previous year when assessed by 123268

the auditor or finally assessed by the tax commissioner pursuant 123269
to law, and by proper certificates cause the same to be added to 123270
the treasurer's delinquent tax duplicate provided for in this 123271
section, and, in proper cases, file notice of the lien with the 123272
recorder, as provided in this section. 123273

If the authority making any assessment believes that the 123274
collection of such taxes will be jeopardized by delay, such 123275
assessing authority shall so certify on the assessment certificate 123276
thereof, and the auditor shall include a certificate of such 123277
jeopardy in the certificate given by the auditor to the treasurer. 123278
In such event the treasurer shall proceed immediately to collect 123279
such taxes, and to enforce the collection thereof by any means 123280
provided by law, and the treasurer may not accept a tender of any 123281
part of such taxes; but the person or the representatives of the 123282
person against whom such assessment is made may, in the event of 123283
an appeal to the tax commissioner therefrom, obtain a stay of 123284
collection of the whole or any part of the amount of such 123285
assessment by filing with the treasurer a bond in an amount not 123286
exceeding double the amount as to which the stay is desired, with 123287
such surety as the treasurer deems necessary, conditioned upon the 123288
payment of the amount determined to be due by the decision of the 123289
commissioner which has become final, and further conditioned that 123290
if an appeal is not filed within the period provided by law, the 123291
amount of collection which is stayed by the bond will be paid on 123292
notice and demand of the treasurer at any time after the 123293
expiration of such period. The taxpayer may waive such stay as to 123294
the whole or any part of the amount covered by the bond, and if as 123295
the result of such waiver any part of the amount covered by the 123296
bond is paid, then the bond shall be proportionately reduced on 123297
the request of the taxpayer. 123298

(B) Immediately after each settlement required by division 123299
(D) of section 321.24 of the Revised Code the auditor shall make a 123300

separate list and duplicate, prepared as prescribed in division 123301
(A) of this section, of all general personal and classified 123302
property taxes that remain unpaid but are excepted from collection 123303
pursuant to section 5711.32 of the Revised Code. The duplicate of 123304
such list shall be delivered to the treasurer at the time of 123305
delivery of the delinquent personal and classified property tax 123306
duplicate. 123307

Sec. 5721.01. (A) As used in this chapter: 123308

(1) "Delinquent lands" means all lands upon which delinquent 123309
taxes, as defined in section 323.01 of the Revised Code, remain 123310
unpaid at the time a settlement is made between the county 123311
treasurer and auditor pursuant to division (C) of section 321.24 123312
of the Revised Code. 123313

(2) "Delinquent vacant lands" means all lands that have been 123314
delinquent lands for at least one year and that are unimproved by 123315
any dwelling. 123316

(3) "County land reutilization corporation" means a county 123317
land reutilization corporation organized under Chapter 1724. of 123318
the Revised Code. 123319

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the 123320
Revised Code and in any other sections of the Revised Code to 123321
which those sections are applicable, a "newspaper" or "newspaper 123322
of general circulation ~~shall be a publication bearing a title or~~ 123323
~~name, regularly issued as frequently as once a week for a definite~~ 123324
~~price or consideration paid for by not less than fifty per cent of~~ 123325
~~those to whom distribution is made, having a second class mailing~~ 123326
~~privilege, being not less than four pages, published continuously~~ 123327
~~during the immediately preceding one year period, and circulated~~ 123328
~~generally in the political subdivision in which it is published.~~ 123329
Such publication shall be of a type to which the general public 123330
resorts for passing events of a political, religious, commercial, 123331

~~and social nature, current happenings, announcements,
miscellaneous reading matter, advertisements, and other notices"~~ 123332
has the same meaning as in section 7.12 of the Revised Code. 123333
123334

Sec. 5721.03. (A) At the time of making the delinquent land 123335
list, as provided in section 5721.011 of the Revised Code, the 123336
county auditor shall compile a delinquent tax list consisting of 123337
all lands on the delinquent land list on which taxes have become 123338
delinquent at the close of the collection period immediately 123339
preceding the making of the delinquent land list. The auditor 123340
shall also compile a delinquent vacant land tax list of all 123341
delinquent vacant lands prior to the institution of any 123342
foreclosure and forfeiture actions against delinquent vacant lands 123343
under section 5721.14 of the Revised Code or any foreclosure 123344
actions against delinquent vacant lands under section 5721.18 of 123345
the Revised Code. 123346

The delinquent tax list, and the delinquent vacant land tax 123347
list if one is compiled, shall contain all of the information 123348
included on the delinquent land list, except that, if the 123349
auditor's records show that the name of the person in whose name 123350
the property currently is listed is not the name that appears on 123351
the delinquent land list, the name used in the delinquent tax list 123352
or the delinquent vacant land tax list shall be the name of the 123353
person the auditor's records show as the person in whose name the 123354
property currently is listed. 123355

Lands that have been included in a previously published 123356
delinquent tax list shall not be included in the delinquent tax 123357
list so long as taxes have remained delinquent on such lands for 123358
the entire intervening time. 123359

In either list, there may be included lands that have been 123360
omitted in error from a prior list and lands with respect to which 123361
the auditor has received a certification that a delinquent tax 123362

contract has become void since the publication of the last 123363
previously published list, provided the name of the owner was 123364
stricken from a prior list under section 5721.02 of the Revised 123365
Code. 123366

(B)(1) The auditor shall cause the delinquent tax list and 123367
the delinquent vacant land tax list, if one is compiled, to be 123368
published twice within sixty days after the delivery of the 123369
delinquent land duplicate to the county treasurer, in a newspaper 123370
of general circulation in the county. The newspaper shall meet the 123371
requirements of section 7.12 of the Revised Code. ~~The publication 123372~~
~~shall be printed in the English language~~ auditor may publish the 123373
list or lists on a pre-printed insert in the newspaper. The cost 123374
of the second publication of the list or lists shall not exceed 123375
three-fourths of the cost of the first publication of the list or 123376
lists. 123377

The auditor shall insert display notices of the forthcoming 123378
publication of the delinquent tax list and, if it is to be 123379
published, the delinquent vacant land tax list once a week for two 123380
consecutive weeks in a newspaper of general circulation in the 123381
county. The display notices shall contain the times and methods of 123382
payment of taxes provided by law, including information concerning 123383
installment payments made in accordance with a written delinquent 123384
tax contract. The display notice for the delinquent tax list also 123385
shall include a notice that an interest charge will accrue on 123386
accounts remaining unpaid after the last day of November unless 123387
the taxpayer enters into a written delinquent tax contract to pay 123388
such taxes in installments. The display notice for the delinquent 123389
vacant land tax list if it is to be published also shall include a 123390
notice that delinquent vacant lands in the list are lands on which 123391
taxes have remained unpaid for one year after being certified 123392
delinquent, and that they are subject to foreclosure proceedings 123393
as provided in section 323.25, sections 323.65 to 323.79, or 123394

section 5721.18 of the Revised Code, or foreclosure and forfeiture 123395
proceedings as provided in section 5721.14 of the Revised Code. 123396
Each display notice also shall state that the lands are subject to 123397
a tax certificate sale under section 5721.32 or 5721.33 of the 123398
Revised Code or assignment to a county land reutilization 123399
corporation, as the case may be, and shall include any other 123400
information that the auditor considers pertinent to the purpose of 123401
the notice. The display notices shall be furnished by the auditor 123402
to the ~~newspapers~~ newspaper selected to publish the lists at least 123403
ten days before their first publication. 123404

(2) Publication of the list or lists may be made by a 123405
newspaper in installments, provided the complete publication of 123406
each list is made twice during the sixty-day period. 123407

(3) There shall be attached to the delinquent tax list a 123408
notice that the delinquent lands will be certified for foreclosure 123409
by the auditor unless the taxes, assessments, interest, and 123410
penalties due and owing on them are paid. There shall be attached 123411
to the delinquent vacant land tax list, if it is to be published, 123412
a notice that delinquent vacant lands will be certified for 123413
foreclosure or foreclosure and forfeiture by the auditor unless 123414
the taxes, assessments, interest, and penalties due and owing on 123415
them are paid within twenty-eight days after the final publication 123416
of the notice. 123417

(4) The auditor shall review the first publication of each 123418
list for accuracy and completeness and may correct any errors 123419
appearing in the list in the second publication. 123420

(C) For the purposes of section 5721.18 of the Revised Code, 123421
land is first certified delinquent on the date of the 123422
certification of the delinquent land list containing that land. 123423

Sec. 5721.04. The proper and necessary expenses of publishing 123424
the delinquent tax lists, delinquent vacant land tax lists, and 123425

display notices provided for by sections 5719.04 and 5721.03 of 123426
the Revised Code shall be paid from the county treasury as county 123427
expenses are paid, and the board of county commissioners shall 123428
make provision for them in the annual budget of the county 123429
submitted to the budget commission, and shall make the necessary 123430
appropriations. If the board fails to make such appropriations, or 123431
if an appropriation is insufficient to meet such an expense, any 123432
person interested may apply to the court of common pleas of the 123433
county for an allowance to cover the expense, and the court shall 123434
issue an order instructing the county auditor to issue ~~his~~ a 123435
warrant upon the county treasurer for the amount necessary. The 123436
order by the court shall be final and shall be complied with 123437
immediately. 123438

The aggregate amount paid ~~shall for publication may be~~ 123439
apportioned by the county auditor among the taxing districts in 123440
which the lands on each list are located in proportion to the 123441
amount of delinquent taxes so advertised in such subdivision, or 123442
the county auditor may charge the property owner of land on a list 123443
a flat fee established under section 319.54 of the Revised Code 123444
for the cost of publishing the list and, if the fee is not paid, 123445
may place the fee upon the tax duplicate as a lien on the land, to 123446
be collected as other taxes. Thereafter, the auditor, in making 123447
~~his~~ the auditor's semiannual apportionment of funds, shall retain 123448
at each semiannual apportionment one half the amount apportioned 123449
to each such taxing district. The amounts retained shall be 123450
credited to the general fund of the county until the aggregate of 123451
all amounts paid in the first instance out of the treasury have 123452
been fully reimbursed. 123453

Sec. 5721.18. The county prosecuting attorney, upon the 123454
delivery to the prosecuting attorney by the county auditor of a 123455
delinquent land or delinquent vacant land tax certificate, or of a 123456
master list of delinquent or delinquent vacant tracts, shall 123457

institute a foreclosure proceeding under this section in the name 123458
of the county treasurer to foreclose the lien of the state, in any 123459
court with jurisdiction or in the county board of revision with 123460
jurisdiction pursuant to section 323.66 of the Revised Code, 123461
unless the taxes, assessments, charges, penalties, and interest 123462
are paid prior to the time a complaint is filed, or unless a 123463
foreclosure or foreclosure and forfeiture action has been or will 123464
be instituted under section 323.25, sections 323.65 to 323.79, or 123465
section 5721.14 of the Revised Code. If the delinquent land or 123466
delinquent vacant land tax certificate or the master list of 123467
delinquent or delinquent vacant tracts lists minerals or rights to 123468
minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 123469
of the Revised Code, the county prosecuting attorney may institute 123470
a foreclosure proceeding in the name of the county treasurer, in 123471
any court with jurisdiction, to foreclose the lien of the state 123472
against such minerals or rights to minerals, unless the taxes, 123473
assessments, charges, penalties, and interest are paid prior to 123474
the time the complaint is filed, or unless a foreclosure or 123475
foreclosure and forfeiture action has been or will be instituted 123476
under section 323.25, sections 323.65 to 323.79, or section 123477
5721.14 of the Revised Code. 123478

The prosecuting attorney shall prosecute the proceeding to 123479
final judgment and satisfaction. Within ten days after obtaining a 123480
judgment, the prosecuting attorney shall notify the treasurer in 123481
writing that judgment has been rendered. If there is a copy of a 123482
written delinquent tax contract attached to the certificate or an 123483
asterisk next to an entry on the master list, or if a copy of a 123484
delinquent tax contract is received from the auditor prior to the 123485
commencement of the proceeding under this section, the prosecuting 123486
attorney shall not institute the proceeding under this section, 123487
unless the prosecuting attorney receives a certification of the 123488
treasurer that the delinquent tax contract has become void. 123489

(A) This division applies to all foreclosure proceedings not 123490
instituted and prosecuted under section 323.25 of the Revised Code 123491
or division (B) or (C) of this section. The foreclosure 123492
proceedings shall be instituted and prosecuted in the same manner 123493
as is provided by law for the foreclosure of mortgages on land, 123494
except that, if service by publication is necessary, such 123495
publication shall be made once a week for three consecutive weeks 123496
instead of as provided by the Rules of Civil Procedure, and the 123497
service shall be complete at the expiration of three weeks after 123498
the date of the first publication. In any proceeding prosecuted 123499
under this section, if the prosecuting attorney determines that 123500
service upon a defendant may be obtained ultimately only by 123501
publication, the prosecuting attorney may cause service to be made 123502
simultaneously by certified mail, return receipt requested, 123503
ordinary mail, and publication. 123504

In any county that has adopted a permanent parcel number 123505
system, the parcel may be described in the notice by parcel number 123506
only, instead of also with a complete legal description, if the 123507
prosecuting attorney determines that the publication of the 123508
complete legal description is not necessary to provide reasonable 123509
notice of the foreclosure proceeding to the interested parties. If 123510
the complete legal description is not published, the notice shall 123511
indicate where the complete legal description may be obtained. 123512

It is sufficient, having been made a proper party to the 123513
foreclosure proceeding, for the treasurer to allege in the 123514
treasurer's complaint that the certificate or master list has been 123515
duly filed by the auditor, that the amount of money appearing to 123516
be due and unpaid is due and unpaid, and that there is a lien 123517
against the property described in the certificate or master list, 123518
without setting forth in the complaint any other or special matter 123519
relating to the foreclosure proceeding. The prayer of the 123520
complaint shall be that the court or the county board of revision 123521

with jurisdiction pursuant to section 323.66 of the Revised Code 123522
issue an order that the property be sold or conveyed by the 123523
sheriff or otherwise be disposed of, and the equity of redemption 123524
be extinguished, according to the alternative redemption 123525
procedures prescribed in sections 323.65 to 323.79 of the Revised 123526
Code, or if the action is in the municipal court by the bailiff, 123527
in the manner provided in section 5721.19 of the Revised Code. 123528

In the foreclosure proceeding, the treasurer may join in one 123529
action any number of lots or lands, but the decree shall be 123530
rendered separately, and any proceedings may be severed, in the 123531
discretion of the court or board of revision, for the purpose of 123532
trial or appeal, and the court or board of revision shall make 123533
such order for the payment of costs as is considered proper. The 123534
certificate or master list filed by the auditor with the 123535
prosecuting attorney is prima-facie evidence at the trial of the 123536
foreclosure action of the amount and validity of the taxes, 123537
assessments, charges, penalties, and interest appearing due and 123538
unpaid and of their nonpayment. 123539

(B) Foreclosure proceedings constituting an action in rem may 123540
be commenced by the filing of a complaint after the end of the 123541
second year from the date on which the delinquency was first 123542
certified by the auditor. Prior to filing such an action in rem, 123543
the prosecuting attorney shall cause a title search to be 123544
conducted for the purpose of identifying any lienholders or other 123545
persons with interests in the property subject to foreclosure. 123546
Following the title search, the action in rem shall be instituted 123547
by filing in the office of the clerk of a court with jurisdiction 123548
a complaint bearing a caption substantially in the form set forth 123549
in division (A) of section 5721.181 of the Revised Code. 123550

Any number of parcels may be joined in one action. Each 123551
separate parcel included in a complaint shall be given a serial 123552
number and shall be separately indexed and docketed by the clerk 123553

of the court in a book kept by the clerk for such purpose. A 123554
complaint shall contain the permanent parcel number of each parcel 123555
included in it, the full street address of the parcel when 123556
available, a description of the parcel as set forth in the 123557
certificate or master list, the name and address of the last known 123558
owner of the parcel if they appear on the general tax list, the 123559
name and address of each lienholder and other person with an 123560
interest in the parcel identified in the title search relating to 123561
the parcel that is required by this division, and the amount of 123562
taxes, assessments, charges, penalties, and interest due and 123563
unpaid with respect to the parcel. It is sufficient for the 123564
treasurer to allege in the complaint that the certificate or 123565
master list has been duly filed by the auditor with respect to 123566
each parcel listed, that the amount of money with respect to each 123567
parcel appearing to be due and unpaid is due and unpaid, and that 123568
there is a lien against each parcel, without setting forth any 123569
other or special matters. The prayer of the complaint shall be 123570
that the court issue an order that the land described in the 123571
complaint be sold in the manner provided in section 5721.19 of the 123572
Revised Code. 123573

(1) Within thirty days after the filing of a complaint, the 123574
clerk of the court in which the complaint was filed shall cause a 123575
notice of foreclosure substantially in the form of the notice set 123576
forth in division (B) of section 5721.181 of the Revised Code to 123577
be published once a week for three consecutive weeks in a 123578
newspaper of general circulation in the county. The newspaper 123579
shall meet the requirements of section 7.12 of the Revised Code. 123580
In any county that has adopted a permanent parcel number system, 123581
the parcel may be described in the notice by parcel number only, 123582
instead of also with a complete legal description, if the 123583
prosecuting attorney determines that the publication of the 123584
complete legal description is not necessary to provide reasonable 123585
notice of the foreclosure proceeding to the interested parties. If 123586

the complete legal description is not published, the notice shall 123587
indicate where the complete legal description may be obtained. 123588

After the third publication, the publisher shall file with 123589
the clerk of the court an affidavit stating the fact of the 123590
publication and including a copy of the notice of foreclosure as 123591
published. Service of process for purposes of the action in rem 123592
shall be considered as complete on the date of the last 123593
publication. 123594

Within thirty days after the filing of a complaint and before 123595
the final date of publication of the notice of foreclosure, the 123596
clerk of the court also shall cause a copy of a notice 123597
substantially in the form of the notice set forth in division (C) 123598
of section 5721.181 of the Revised Code to be mailed by certified 123599
mail, with postage prepaid, to each person named in the complaint 123600
as being the last known owner of a parcel included in it, or as 123601
being a lienholder or other person with an interest in a parcel 123602
included in it. The notice shall be sent to the address of each 123603
such person, as set forth in the complaint, and the clerk shall 123604
enter the fact of such mailing upon the appearance docket. If the 123605
name and address of the last known owner of a parcel included in a 123606
complaint is not set forth in it, the auditor shall file an 123607
affidavit with the clerk stating that the name and address of the 123608
last known owner does not appear on the general tax list. 123609

(2)(a) An answer may be filed in an action in rem under this 123610
division by any person owning or claiming any right, title, or 123611
interest in, or lien upon, any parcel described in the complaint. 123612
The answer shall contain the caption and number of the action and 123613
the serial number of the parcel concerned. The answer shall set 123614
forth the nature and amount of interest claimed in the parcel and 123615
any defense or objection to the foreclosure of the lien of the 123616
state for delinquent taxes, assessments, charges, penalties, and 123617
interest as shown in the complaint. The answer shall be filed in 123618

the office of the clerk of the court, and a copy of the answer 123619
shall be served on the prosecuting attorney, not later than 123620
twenty-eight days after the date of final publication of the 123621
notice of foreclosure. If an answer is not filed within such time, 123622
a default judgment may be taken as to any parcel included in a 123623
complaint as to which no answer has been filed. A default judgment 123624
is valid and effective with respect to all persons owning or 123625
claiming any right, title, or interest in, or lien upon, any such 123626
parcel, notwithstanding that one or more of such persons are 123627
minors, incompetents, absentees or nonresidents of the state, or 123628
convicts in confinement. 123629

(b)(i) A receiver appointed pursuant to divisions (C)(2) and 123630
(3) of section 3767.41 of the Revised Code may file an answer 123631
pursuant to division (B)(2)(a) of this section, but is not 123632
required to do so as a condition of receiving proceeds in a 123633
distribution under division (B)(1) of section 5721.17 of the 123634
Revised Code. 123635

(ii) When a receivership under section 3767.41 of the Revised 123636
Code is associated with a parcel, the notice of foreclosure set 123637
forth in division (B) of section 5721.181 of the Revised Code and 123638
the notice set forth in division (C) of that section shall be 123639
modified to reflect the provisions of division (B)(2)(b)(i) of 123640
this section. 123641

(3) At the trial of an action in rem under this division, the 123642
certificate or master list filed by the auditor with the 123643
prosecuting attorney shall be prima-facie evidence of the amount 123644
and validity of the taxes, assessments, charges, penalties, and 123645
interest appearing due and unpaid on the parcel to which the 123646
certificate or master list relates and their nonpayment. If an 123647
answer is properly filed, the court may, in its discretion, and 123648
shall, at the request of the person filing the answer, grant a 123649
severance of the proceedings as to any parcel described in such 123650

answer for purposes of trial or appeal. 123651

(C) In addition to the actions in rem authorized under 123652
division (B) of this section and section 5721.14 of the Revised 123653
Code, an action in rem may be commenced under this division. An 123654
action commenced under this division shall conform to all of the 123655
requirements of division (B) of this section except as follows: 123656

(1) The prosecuting attorney shall not cause a title search 123657
to be conducted for the purpose of identifying any lienholders or 123658
other persons with interests in the property subject to 123659
foreclosure, except that the prosecuting attorney shall cause a 123660
title search to be conducted to identify any receiver's lien. 123661

(2) The names and addresses of lienholders and persons with 123662
an interest in the parcel shall not be contained in the complaint, 123663
and notice shall not be mailed to lienholders and persons with an 123664
interest as provided in division (B)(1) of this section, except 123665
that the name and address of a receiver under section 3767.41 of 123666
the Revised Code shall be contained in the complaint and notice 123667
shall be mailed to the receiver. 123668

(3) With respect to the forms applicable to actions commenced 123669
under division (B) of this section and contained in section 123670
5721.181 of the Revised Code: 123671

(a) The notice of foreclosure prescribed by division (B) of 123672
section 5721.181 of the Revised Code shall be revised to exclude 123673
any reference to the inclusion of the name and address of each 123674
lienholder and other person with an interest in the parcel 123675
identified in a statutorily required title search relating to the 123676
parcel, and to exclude any such names and addresses from the 123677
published notice, except that the revised notice shall refer to 123678
the inclusion of the name and address of a receiver under section 123679
3767.41 of the Revised Code and the published notice shall include 123680
the receiver's name and address. The notice of foreclosure also 123681

shall include the following in boldface type: 123682

"If pursuant to the action the parcel is sold, the sale shall 123683
not affect or extinguish any lien or encumbrance with respect to 123684
the parcel other than a receiver's lien and other than the lien 123685
for land taxes, assessments, charges, interest, and penalties for 123686
which the lien is foreclosed and in satisfaction of which the 123687
property is sold. All other liens and encumbrances with respect to 123688
the parcel shall survive the sale." 123689

(b) The notice to the owner, lienholders, and other persons 123690
with an interest in a parcel shall be a notice only to the owner 123691
and to any receiver under section 3767.41 of the Revised Code, and 123692
the last two sentences of the notice shall be omitted. 123693

(4) As used in this division, a "receiver's lien" means the 123694
lien of a receiver appointed pursuant to divisions (C)(2) and (3) 123695
of section 3767.41 of the Revised Code that is acquired pursuant 123696
to division (H)(2)(b) of that section for any unreimbursed 123697
expenses and other amounts paid in accordance with division (F) of 123698
that section by the receiver and for the fees of the receiver 123699
approved pursuant to division (H)(1) of that section. 123700

(D) If the prosecuting attorney determines that an action in 123701
rem under division (B) or (C) of this section is precluded by law, 123702
then foreclosure proceedings shall be filed pursuant to division 123703
(A) of this section, and the complaint in the action in personam 123704
shall set forth the grounds upon which the action in rem is 123705
precluded. 123706

(E) The conveyance by the owner of any parcel against which a 123707
complaint has been filed pursuant to this section at any time 123708
after the date of publication of the parcel on the delinquent tax 123709
list but before the date of a judgment of foreclosure pursuant to 123710
section 5721.19 of the Revised Code shall not nullify the right of 123711
the county to proceed with the foreclosure. 123712

Sec. 5721.19. (A) In its judgment of foreclosure rendered 123713
with respect to actions filed pursuant to section 5721.18 of the 123714
Revised Code, the court or the county board of revision with 123715
jurisdiction pursuant to section 323.66 of the Revised Code shall 123716
enter a finding with respect to each parcel of the amount of the 123717
taxes, assessments, charges, penalties, and interest, and the 123718
costs incurred in the foreclosure proceeding instituted against 123719
it, that are due and unpaid. The court or the county board of 123720
revision shall order such premises to be transferred pursuant to 123721
division (I) of this section or may order each parcel to be sold, 123722
without appraisal, for not less than either of the following: 123723

(1) The fair market value of the parcel, as determined by the 123724
county auditor, plus the costs incurred in the foreclosure 123725
proceeding; 123726

(2) The total amount of the finding entered by the court or 123727
the county board of revision, including all taxes, assessments, 123728
charges, penalties, and interest payable subsequent to the 123729
delivery to the county prosecuting attorney of the delinquent land 123730
tax certificate or master list of delinquent tracts and prior to 123731
the transfer of the deed of the parcel to the purchaser following 123732
confirmation of sale, plus the costs incurred in the foreclosure 123733
proceeding. For purposes of determining such amount, the county 123734
treasurer may estimate the amount of taxes, assessments, interest, 123735
penalties, and costs that will be payable at the time the deed of 123736
the property is transferred to the purchaser. 123737

Notwithstanding the minimum sales price provisions of 123738
divisions (A)(1) and (2) of this section to the contrary, a parcel 123739
sold pursuant to this section shall not be sold for less than the 123740
amount described in division (A)(2) of this section if the highest 123741
bidder is the owner of record of the parcel immediately prior to 123742
the judgment of foreclosure or a member of the following class of 123743

parties connected to that owner: a member of that owner's 123744
immediate family, a person with a power of attorney appointed by 123745
that owner who subsequently transfers the parcel to the owner, a 123746
sole proprietorship owned by that owner or a member of that 123747
owner's immediate family, or a partnership, trust, business trust, 123748
corporation, or association in which the owner or a member of the 123749
owner's immediate family owns or controls directly or indirectly 123750
more than fifty per cent. If a parcel sells for less than the 123751
amount described in division (A)(2) of this section, the officer 123752
conducting the sale shall require the buyer to complete an 123753
affidavit stating that the buyer is not the owner of record 123754
immediately prior to the judgment of foreclosure or a member of 123755
the specified class of parties connected to that owner, and the 123756
affidavit shall become part of the court records of the 123757
proceeding. If the county auditor discovers within three years 123758
after the date of the sale that a parcel was sold to that owner or 123759
a member of the specified class of parties connected to that owner 123760
for a price less than the amount so described, and if the parcel 123761
is still owned by that owner or a member of the specified class of 123762
parties connected to that owner, the auditor within thirty days 123763
after such discovery shall add the difference between that amount 123764
and the sale price to the amount of taxes that then stand charged 123765
against the parcel and is payable at the next succeeding date for 123766
payment of real property taxes. As used in this paragraph, 123767
"immediate family" means a spouse who resides in the same 123768
household and children. 123769

(B) Each parcel affected by the court's finding and order of 123770
sale shall be separately sold, unless the court orders any of such 123771
parcels to be sold together. 123772

Each parcel shall be advertised and sold by the officer to 123773
whom the order of sale is directed in the manner provided by law 123774
for the sale of real property on execution. The advertisement for 123775

sale of each parcel shall be published once a week for three 123776
consecutive weeks and shall include the date on which a second 123777
sale will be conducted if no bid is accepted at the first sale. 123778
Any number of parcels may be included in one advertisement. 123779

The notice of the advertisement shall be substantially in the 123780
form of the notice set forth in section 5721.191 of the Revised 123781
Code. In any county that has adopted a permanent parcel number 123782
system, the parcel may be described in the notice by parcel number 123783
only, instead of also with a complete legal description, if the 123784
prosecuting attorney determines that the publication of the 123785
complete legal description is not necessary to provide reasonable 123786
notice of the foreclosure sale to potential bidders. If the 123787
complete legal description is not published, the notice shall 123788
indicate where the complete legal description may be obtained. 123789

(C)(1) Whenever the officer charged to conduct the sale 123790
offers any parcel for sale the officer first shall read aloud a 123791
complete legal description of the parcel, or in the alternative, 123792
may read aloud only a summary description, including the complete 123793
street address of the parcel, if any, and a parcel number if the 123794
county has adopted a permanent parcel number system and if the 123795
advertising notice prepared pursuant to this section includes a 123796
complete legal description or indicates where the complete legal 123797
description may be obtained. Whenever the officer charged to 123798
conduct the sale offers any parcel for sale and no bids are made 123799
equal to the lesser of the amounts described in divisions (A)(1) 123800
and (2) of this section, the officer shall adjourn the sale of the 123801
parcel to the second date that was specified in the advertisement 123802
of sale. The second date shall be not less than two weeks or more 123803
than six weeks from the day on which the parcel was first offered 123804
for sale. The second sale shall be held at the same place and 123805
commence at the same time as set forth in the advertisement of 123806
sale. The officer shall offer any parcel not sold at the first 123807

sale. Upon the conclusion of any sale, or if any parcel remains 123808
unsold after being offered at two sales, the officer conducting 123809
the sale shall report the results to the court. 123810

(2)(a) If a parcel remains unsold after being offered at two 123811
sales, or one sale in the case of abandoned lands foreclosed under 123812
sections 323.65 to 323.79 of the Revised Code, or if a parcel 123813
sells at any sale but the amount of the price is less than the 123814
costs incurred in the proceeding instituted against the parcel 123815
under section 5721.18 of the Revised Code, then the clerk of the 123816
court shall certify to the county auditor the amount of those 123817
costs that remains unpaid. At the next semiannual apportionment of 123818
real property taxes that occurs following any such certification, 123819
the auditor shall reduce the real property taxes that the auditor 123820
otherwise would distribute to each taxing district. In making the 123821
reductions, the auditor shall subtract from the otherwise 123822
distributable real property taxes to a taxing district an amount 123823
that shall be determined by multiplying the certified costs by a 123824
fraction the numerator of which shall be the amount of the taxes, 123825
assessments, charges, penalties, and interest on the parcel owed 123826
to that taxing district at the time the parcel first was offered 123827
for sale pursuant to this section, and the denominator of which 123828
shall be the total of the taxes, assessments, charges, penalties, 123829
and interest on the parcel owed to all the taxing districts at 123830
that time. The auditor promptly shall pay to the clerk of the 123831
court the amounts of the reductions. 123832

(b) If reductions occur pursuant to division (C)(2)(a) of 123833
this section, and if at a subsequent time a parcel is sold at a 123834
foreclosure sale or a forfeiture sale pursuant to Chapter 5723. of 123835
the Revised Code, then, notwithstanding other provisions of the 123836
Revised Code, except section 5721.17 of the Revised Code, 123837
governing the distribution of the proceeds of a foreclosure or 123838
forfeiture sale, the proceeds first shall be distributed to 123839

reimburse the taxing districts subjected to reductions in their 123840
otherwise distributable real property taxes. The distributions 123841
shall be based on the same proportions used for purposes of 123842
division (C)(2)(a) of this section. 123843

(3) The court, in its discretion, may order any parcel not 123844
sold pursuant to the original order of sale to be advertised and 123845
offered for sale at a subsequent foreclosure sale. For such 123846
purpose, the court may direct the parcel to be appraised and fix a 123847
minimum price for which it may be sold. 123848

(D) Except as otherwise provided in division (B)(1) of 123849
section 5721.17 of the Revised Code, upon the confirmation of a 123850
sale, the proceeds of the sale shall be applied as follows: 123851

(1) The costs incurred in any proceeding filed against the 123852
parcel pursuant to section 5721.18 of the Revised Code shall be 123853
paid first. 123854

(2) Following the payment required by division (D)(1) of this 123855
section, the part of the proceeds that is equal to five per cent 123856
of the taxes and assessments due shall be deposited in equal 123857
shares into each of the delinquent tax and assessment collection 123858
~~fund~~ funds created pursuant to section 321.261 of the Revised 123859
Code. If a county land reutilization corporation is operating in 123860
the county, the board of county commissioners, by resolution, may 123861
provide that an additional amount, not to exceed five per cent of 123862
such taxes and assessments, shall be credited to the county land 123863
reutilization corporation fund created by section 321.263 of the 123864
Revised Code to pay for the corporation's expenses. If such a 123865
resolution is in effect, the percentage of such taxes and 123866
assessments so provided shall be credited to that fund. 123867

(3) Following the payment required by division (D)(2) of this 123868
section, the amount found due for taxes, assessments, charges, 123869
penalties, and interest shall be paid, including all taxes, 123870

assessments, charges, penalties, and interest payable subsequent 123871
to the delivery to the county prosecuting attorney of the 123872
delinquent land tax certificate or master list of delinquent 123873
tracts and prior to the transfer of the deed of the parcel to the 123874
purchaser following confirmation of sale. If the proceeds 123875
available for distribution pursuant to division (D)(3) of this 123876
section are sufficient to pay the entire amount of those taxes, 123877
assessments, charges, penalties, and interest, the portion of the 123878
proceeds representing taxes, interest, and penalties shall be paid 123879
to each claimant in proportion to the amount of taxes levied by 123880
the claimant in the preceding tax year, and the amount 123881
representing assessments and other charges shall be paid to each 123882
claimant in the order in which they became due. If the proceeds 123883
are not sufficient to pay that entire amount, the proportion of 123884
the proceeds representing taxes, penalties, and interest shall be 123885
paid to each claimant in the same proportion that the amount of 123886
taxes levied by the claimant against the parcel in the preceding 123887
tax year bears to the taxes levied by all such claimants against 123888
the parcel in the preceding tax year, and the proportion of the 123889
proceeds representing items of assessments and other charges shall 123890
be credited to those items in the order in which they became due. 123891

(E) If the proceeds from the sale of a parcel are 123892
insufficient to pay in full the amount of the taxes, assessments, 123893
charges, penalties, and interest which are due and unpaid; the 123894
costs incurred in the foreclosure proceeding instituted against it 123895
which are due and unpaid; and, if division (B)(1) of section 123896
5721.17 of the Revised Code is applicable, any notes issued by a 123897
receiver pursuant to division (F) of section 3767.41 of the 123898
Revised Code and any receiver's lien as defined in division (C)(4) 123899
of section 5721.18 of the Revised Code, the court, pursuant to 123900
section 5721.192 of the Revised Code, may enter a deficiency 123901
judgment against the owner of record of the parcel for the unpaid 123902
amount. If that owner of record is a corporation, the court may 123903

enter the deficiency judgment against the stockholder holding a majority of that corporation's stock.

If after distribution of proceeds from the sale of the parcel under division (D) of this section the amount of proceeds to be applied to pay the taxes, assessments, charges, penalties, interest, and costs is insufficient to pay them in full, and the court does not enter a deficiency judgment against the owner of record pursuant to this division, the taxes, assessments, charges, penalties, interest, and costs shall be deemed satisfied.

(F)(1) Upon confirmation of a sale, a spouse of the party charged with the delinquent taxes or assessments shall thereby be barred of the right of dower in the property sold, though such spouse was not a party to the action. No statute of limitations shall apply to such action. When the land or lots stand charged on the tax duplicate as certified delinquent, it is not necessary to make the state a party to the foreclosure proceeding, but the state shall be deemed a party to such action through and be represented by the county treasurer.

(2) Except as otherwise provided in divisions (F)(3) and (G) of this section, unless such land or lots were previously redeemed pursuant to section 5721.25 of the Revised Code, upon the filing of the entry of confirmation of any sale or the expiration of the alternative redemption period as defined in section 323.65 of the Revised Code, if applicable, the title to such land or lots shall be incontestable in the purchaser and shall be free and clear of all liens and encumbrances, except a federal tax lien notice of which is properly filed in accordance with section 317.09 of the Revised Code prior to the date that a foreclosure proceeding is instituted pursuant to division (B) of section 5721.18 of the Revised Code and the easements and covenants of record running with the land or lots that were created prior to the time the taxes or assessments, for the nonpayment of which the land or lots

are sold at foreclosure, became due and payable. 123936

(3) When proceedings for foreclosure are instituted under 123937
division (C) of section 5721.18 of the Revised Code, unless the 123938
land or lots were previously redeemed pursuant to section 5721.25 123939
of the Revised Code or before the expiration of the alternative 123940
redemption period, upon the filing of the entry of confirmation of 123941
sale or after the expiration of the alternative redemption period, 123942
as may apply to the case, the title to such land or lots shall be 123943
incontestable in the purchaser and shall be free of any receiver's 123944
lien as defined in division (C)(4) of section 5721.18 of the 123945
Revised Code and, except as otherwise provided in division (G) of 123946
this section, the liens for land taxes, assessments, charges, 123947
interest, and penalties for which the lien was foreclosed and in 123948
satisfaction of which the property was sold. All other liens and 123949
encumbrances with respect to the land or lots shall survive the 123950
sale. 123951

(4) The title shall not be invalid because of any 123952
irregularity, informality, or omission of any proceedings under 123953
this chapter, or in any processes of taxation, if such 123954
irregularity, informality, or omission does not abrogate the 123955
provision for notice to holders of title, lien, or mortgage to, or 123956
other interests in, such foreclosed lands or lots, as prescribed 123957
in this chapter. 123958

(G) If a parcel is sold under this section for the amount 123959
described in division (A)(2) of this section, and the county 123960
treasurer's estimate exceeds the amount of taxes, assessments, 123961
interest, penalties, and costs actually payable when the deed is 123962
transferred to the purchaser, the officer who conducted the sale 123963
shall refund to the purchaser the difference between the estimate 123964
and the amount actually payable. If the amount of taxes, 123965
assessments, interest, penalties, and costs actually payable when 123966
the deed is transferred to the purchaser exceeds the county 123967

treasurer's estimate, the officer shall certify the amount of the 123968
excess to the treasurer, who shall enter that amount on the real 123969
and public utility property tax duplicate opposite the property; 123970
the amount of the excess shall be payable at the next succeeding 123971
date prescribed for payment of taxes in section 323.12 of the 123972
Revised Code. 123973

(H) If a parcel is sold or transferred under this section or 123974
sections 323.28 and 323.65 to 323.78 of the Revised Code, the 123975
officer who conducted the sale or made the transfer of the 123976
property shall collect the recording fee and any associated costs 123977
to cover the recording from the purchaser or transferee at the 123978
time of the sale or transfer and, following confirmation of the 123979
sale or transfer, shall execute and record the deed conveying 123980
title to the parcel to the purchaser or transferee. For purposes 123981
of recording such deed, by placement of a bid or making a 123982
statement of interest by any party ultimately awarded the parcel, 123983
that purchaser or transferee thereby appoints the officer who 123984
makes the sale or is charged with executing and delivering the 123985
deed as agent for the purchaser or transferee for the sole purpose 123986
of accepting delivery of the deed. For such purposes, the 123987
confirmation of any such sale or order to transfer the parcel 123988
without appraisal or sale shall be deemed delivered upon the 123989
confirmation of such sale or transfer. 123990

(I) Notwithstanding section 5722.03 of the Revised Code, if 123991
the complaint alleges that the property is delinquent vacant land 123992
as defined in section 5721.01 of the Revised Code, abandoned lands 123993
as defined in section 323.65 of the Revised Code, or lands 123994
described in division (E) of section 5722.01 of the Revised Code, 123995
and the value of the taxes, assessments, penalties, interest, and 123996
all other charges and costs of the action exceed the auditor's 123997
fair market value of the parcel, then the court or board of 123998
revision having jurisdiction over the matter on motion of the 123999

plaintiff, or on the court's or board's own motion, shall, upon 124000
any adjudication of foreclosure, order, without appraisal and 124001
without sale, the fee simple title of the property to be 124002
transferred to and vested in an electing subdivision as defined in 124003
division (A) of section 5722.01 of the Revised Code. For purposes 124004
of determining whether the taxes, assessments, penalties, 124005
interest, and all other charges and costs of the action exceed the 124006
actual fair market value of the parcel, the auditor's most current 124007
valuation shall be rebuttably presumed to be, and constitute 124008
prima-facie evidence of, the fair market value of the parcel. In 124009
such case, the filing for journalization of a decree of 124010
foreclosure ordering that direct transfer without appraisal or 124011
sale shall constitute confirmation of the transfer and thereby 124012
terminate any further statutory or common law right of redemption. 124013

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the 124014
Revised Code: 124015

(A) "Tax certificate," "certificate," or "duplicate 124016
certificate" means a document that may be issued as a physical 124017
certificate, in book-entry form, or through an electronic medium, 124018
at the discretion of the county treasurer. Such document shall 124019
contain the information required by section 5721.31 of the Revised 124020
Code and shall be prepared, transferred, or redeemed in the manner 124021
prescribed by sections 5721.30 to 5721.43 of the Revised Code. As 124022
used in those sections, "tax certificate," "certificate," and 124023
"duplicate certificate" do not refer to the delinquent land tax 124024
certificate or the delinquent vacant land tax certificate issued 124025
under section 5721.13 of the Revised Code. 124026

(B) "Certificate parcel" means the parcel of delinquent land 124027
that is the subject of and is described in a tax certificate. 124028

(C) "Certificate holder" means a person, including a county 124029
land reutilization corporation, that purchases or otherwise 124030

acquires a tax certificate under section 5721.32, 5721.33, or 124031
5721.42 of the Revised Code, or a person to whom a tax certificate 124032
has been transferred pursuant to section 5721.36 of the Revised 124033
Code. 124034

(D) "Certificate purchase price" means, with respect to the 124035
sale of tax certificates under sections 5721.32, 5721.33, and 124036
5721.42 of the Revised Code, the amount equal to delinquent taxes 124037
charged against a certificate parcel at the time the tax 124038
certificate respecting that parcel is sold or transferred, not 124039
including any delinquent taxes the lien for which has been 124040
conveyed to a certificate holder through a prior sale of a tax 124041
certificate respecting that parcel. Payment of the certificate 124042
purchase price in a sale under section 5721.33 of the Revised Code 124043
may be made wholly in cash or partially in cash and partially by 124044
noncash consideration acceptable to the county treasurer from the 124045
purchaser, and, in the case of a county land reutilization 124046
corporation, with notes. In the event that any such noncash 124047
consideration is delivered to pay a portion of the certificate 124048
purchase price, such noncash consideration may be subordinate to 124049
the rights of the holders of other obligations whose proceeds paid 124050
the cash portion of the certificate purchase price. 124051

"Certificate purchase price" also includes the amount of the 124052
fee charged by the county treasurer to the purchaser of the 124053
certificate under division (H) of section 5721.32 of the Revised 124054
Code. 124055

(E)(1) With respect to a sale of tax certificates under 124056
section 5721.32 of the Revised Code, and except as provided in 124057
division (E)(2) of this section, "certificate redemption price" 124058
means the certificate purchase price plus the greater of the 124059
following: 124060

(a) Simple interest, at the certificate rate of interest, 124061
accruing during the certificate interest period on the certificate 124062

purchase price, calculated in accordance with section 5721.41 of the Revised Code; 124063
124064

(b) Six per cent of the certificate purchase price. 124065

(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code. 124066
124067
124068
124069
124070

(F) With respect to a sale or transfer of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following: 124071
124072
124073

(1) The certificate purchase price; 124074

(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid; 124075
124076
124077
124078
124079

(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33 of the Revised Code; 124080
124081
124082

(4) Any other fees charged by any county office in connection with the recording of tax certificates. 124083
124084

(G) "Certificate rate of interest" means the rate of simple interest per year bid by the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code, or the rate of simple interest per year not to exceed eighteen per cent per year fixed pursuant to section 5721.42 of the Revised Code or by the county treasurer with respect to any tax certificate sold or transferred pursuant to a negotiated sale under section 5721.33 of the Revised Code. The certificate rate of interest shall not be 124085
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less than zero per cent per year. 124093

(H) "Cash" means United States currency, certified checks, 124094
money orders, bank drafts, electronic transfer of funds, or other 124095
forms of payment authorized by the county treasurer, and excludes 124096
any other form of payment not so authorized. 124097

(I) "The date on which a tax certificate is sold or 124098
transferred," "the date the certificate was sold or transferred," 124099
"the date the certificate is purchased," and any other phrase of 124100
similar content mean, with respect to a sale pursuant to an 124101
auction under section 5721.32 of the Revised Code, the date 124102
designated by the county treasurer for the submission of bids and, 124103
with respect to a negotiated sale or transfer under section 124104
5721.33 of the Revised Code, the date of delivery of the tax 124105
certificates to the purchasers thereof pursuant to a tax 124106
certificate sale/purchase agreement. 124107

(J) "Certificate interest period" means, with respect to a 124108
tax certificate sold under section 5721.32 or 5721.42 of the 124109
Revised Code and for the purpose of accruing interest under 124110
section 5721.41 of the Revised Code, the period beginning on the 124111
date on which the certificate is purchased and, with respect to a 124112
tax certificate sold or transferred under section 5721.33 of the 124113
Revised Code, the period beginning on the date of delivery of the 124114
tax certificate, and in either case ending on one of the following 124115
dates: 124116

(1) The date the certificate holder files a request for 124117
foreclosure or notice of intent to foreclose under division (A) of 124118
section 5721.37 of the Revised Code and submits the payment 124119
required under division (B) of that section; 124120

(2) The date the owner of record of the certificate parcel, 124121
or any other person entitled to redeem that parcel, redeems the 124122
certificate parcel under division (A) or (C) of section 5721.38 of 124123

the Revised Code or redeems the certificate under section 5721.381 124124
of the Revised Code. 124125

(K) "Qualified trustee" means a trust company within the 124126
state or a bank having the power of a trust company within the 124127
state with a combined capital stock, surplus, and undivided 124128
profits of at least one hundred million dollars. 124129

(L) "Tax certificate sale/purchase agreement" means the 124130
purchase and sale agreement described in division (C) of section 124131
5721.33 of the Revised Code setting forth the certificate purchase 124132
price, plus any applicable premium or less any applicable 124133
discount, including, without limitation, the amount to be paid in 124134
cash and the amount and nature of any noncash consideration, the 124135
date of delivery of the tax certificates, and the other terms and 124136
conditions of the sale, including, without limitation, the rate of 124137
interest that the tax certificates shall bear. 124138

(M) "Noncash consideration" means any form of consideration 124139
other than cash, including, but not limited to, promissory notes 124140
whether subordinate or otherwise. 124141

(N) "Private attorney" means any attorney licensed to 124142
practice law in this state whose license has not been revoked and 124143
is not currently suspended, and who is retained to bring 124144
foreclosure proceedings pursuant to section 5721.37 of the Revised 124145
Code on behalf of a certificate holder. 124146

(O) "Related certificate parcel" means, with respect to a 124147
certificate holder, the certificate parcel with respect to which 124148
the certificate holder has purchased and holds a tax certificate 124149
pursuant to sections 5721.30 to 5721.43 of the Revised Code and, 124150
with respect to a tax certificate, the certificate parcel against 124151
which the tax certificate has been sold pursuant to those 124152
sections. 124153

(P) "Delinquent taxes" means delinquent taxes as defined in 124154

section 323.01 of the Revised Code and includes assessments and 124155
charges, and penalties and interest computed under section 323.121 124156
of the Revised Code. 124157

(Q) "Certificate period" means the period of time after the 124158
sale or delivery of a tax certificate within which a certificate 124159
holder must initiate an action to foreclose the tax lien 124160
represented by the certificate as specified under division (A) of 124161
section 5721.32 of the Revised Code or as negotiated under section 124162
5721.33 of the Revised Code. 124163

Sec. 5721.31. (A)(1) After receipt of a duplicate of the 124164
delinquent land list compiled under section 5721.011 of the 124165
Revised Code, or a delinquent land list compiled previously under 124166
that section, the county treasurer may select from the list 124167
parcels of delinquent land the lien against which the county 124168
treasurer may attempt to transfer by the sale of tax certificates 124169
under sections 5721.30 to 5721.43 of the Revised Code. None of the 124170
following parcels may be selected for a tax certificate sale: 124171

(a) A parcel for which the full amount of taxes, assessments, 124172
penalties, interest, and charges have been paid; 124173

(b) A parcel for which a valid contract under section 124174
323.122, 323.31, or 5713.20 of the Revised Code is in force; 124175

(c) A parcel the owner of which has filed a petition in 124176
bankruptcy, so long as the parcel is property of the bankruptcy 124177
estate. 124178

(2) The county treasurer shall compile a separate list of 124179
parcels selected for tax certificate sales, including the same 124180
information as is required to be included in the delinquent land 124181
list. 124182

Upon compiling the list of parcels selected for tax 124183
certificate sales, the county treasurer may conduct a title search 124184

for any parcel on the list. 124185

(B)(1) Except as otherwise provided in division (B)(3) of 124186
this section, when tax certificates are to be sold under section 124187
5721.32 of the Revised Code with respect to parcels, the county 124188
treasurer shall send written notice by certified mail to either 124189
the owner of record or all interested parties discoverable through 124190
a title search, or both, of each parcel on the list. A notice to 124191
an owner shall be sent to the owner's last known tax-mailing 124192
address. The notice shall inform the owner or interested parties 124193
that a tax certificate will be offered for sale on the parcel, and 124194
that the owner or interested parties may incur additional expenses 124195
as a result of the sale. 124196

(2) Except as otherwise provided in division (B)(3) of this 124197
section, when tax certificates are to be sold or transferred under 124198
section 5721.33 of the Revised Code with respect to parcels, the 124199
county treasurer, at least thirty days prior to the date of sale 124200
or transfer of such tax certificates, shall send written notice of 124201
the sale or transfer by certified mail to the last known 124202
tax-mailing address of the record owner of the property or parcel 124203
and may send such notice to all parties with an interest in the 124204
property that has been recorded in the property records of the 124205
county pursuant to section 317.08 of the Revised Code. The notice 124206
shall state that a tax certificate will be offered for sale or 124207
transfer on the parcel, and that the owner or interested parties 124208
may incur additional expenses as a result of the sale or transfer. 124209

(3) The county treasurer is not required to send a notice 124210
under division (B)(1) or (B)(2) of this section if the treasurer 124211
previously has attempted to send such notice to the owner of the 124212
parcel and the notice has been returned by the post office as 124213
undeliverable. The absence of a valid tax-mailing address for the 124214
owner of a parcel does not preclude the county treasurer from 124215
selling or transferring a tax certificate for the parcel. 124216

(C) The county treasurer shall advertise the sale of tax certificates under section 5721.32 of the Revised Code in a newspaper of general circulation in the county, once a week for two consecutive weeks. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The advertisement shall include the date, the time, and the place of the public auction, abbreviated legal descriptions of the parcels, and the names of the owners of record of the parcels. The advertisement also shall include the certificate purchase prices of the parcels or the total purchase price of tax certificates for sale in blocks of tax certificates.

(D) After the county treasurer has compiled the list of parcels selected for tax certificate sales but before a tax certificate respecting a parcel is sold or transferred, if the owner of record of the parcel pays to the county treasurer in cash the delinquent taxes respecting the parcel or otherwise acts so that any condition in division (A)(1)(a), (b), or (c) of this section applies to the parcel, the owner of record of the parcel also shall pay a fee in an amount prescribed by the treasurer to cover the administrative costs of the treasurer under this section respecting the parcel. The fee shall be deposited in the county treasury to the credit of the tax certificate administration fund.

(E) A tax certificate administration fund shall be created in the county treasury of each county selling tax certificates under sections 5721.30 to 5721.43 of the Revised Code. The fund shall be administered by the county treasurer, and used solely for the purposes of sections 5721.30 to 5721.43 of the Revised Code or as otherwise permitted in this division. Any fee received by the treasurer under sections 5721.30 to 5721.43 of the Revised Code shall be credited to the fund, except the bidder registration fee under division (B) of section 5721.32 of the Revised Code and the county prosecuting attorney's fee under division (B)(3) of section

5721.37 of the Revised Code. To the extent there is a surplus in 124249
the fund from time to time, the surplus may, with the approval of 124250
the county treasurer, be utilized for the purposes of a county 124251
land reutilization corporation operating in the county. 124252

(F) The county treasurers of more than one county may jointly 124253
conduct a regional sale of tax certificates under section 5721.32 124254
of the Revised Code. A regional sale shall be held at a single 124255
location in one county, where the tax certificates from each of 124256
the participating counties shall be offered for sale at public 124257
auction. Before the regional sale, each county treasurer shall 124258
advertise the sale for the parcels in the treasurer's county as 124259
required by division (C) of this section. At the regional sale, 124260
tax certificates shall be sold on parcels from one county at a 124261
time, with all of the certificates for one county offered for sale 124262
before any certificates for the next county are offered for sale. 124263

(G) The tax commissioner shall prescribe the form of the tax 124264
certificate under this section, and county treasurers shall use 124265
the form so prescribed. 124266

Sec. 5721.32. (A) The sale of tax certificates by public 124267
auction may be conducted at any time after completion of the 124268
advertising of the sale under section 5721.31 of the Revised Code, 124269
on the date and at the time and place designated in the 124270
advertisements, and may be continued from time to time as the 124271
county treasurer directs. The county treasurer may offer the tax 124272
certificates for sale in blocks of tax certificates, consisting of 124273
any number of tax certificates as determined by the county 124274
treasurer, and may specify a certificate period of not less than 124275
three years and not more than six years. 124276

(B)(1) The sale of tax certificates under this section shall 124277
be conducted at a public auction by the county treasurer or a 124278
designee of the county treasurer. 124279

(2) No person shall be permitted to bid without completing a bidder registration form, in the form prescribed by the tax commissioner, and without filing the form with the county treasurer prior to the start of the auction, together with remittance of a registration fee, in cash, of five hundred dollars. The bidder registration form shall include a tax identification number of the registrant. The registration fee is refundable at the end of bidding on the day of the auction, unless the registrant is the winning bidder for one or more tax certificates or one or more blocks of tax certificates, in which case the fee may be applied toward the deposit required by this section.

(3) The county treasurer may require a person who wishes to bid on one or more parcels to submit a letter from a financial institution stating that the bidder has sufficient funds available to pay the purchase price of the parcels and a written authorization for the treasurer to verify such information with the financial institution. The county treasurer may require submission of the letter and authorization sufficiently in advance of the auction to allow for verification. No person who fails to submit the required letter and authorization, or whose financial institution fails to provide the requested verification, shall be permitted to bid.

(C) At the public auction, the county treasurer or the treasurer's designee or agent shall begin the bidding at eighteen per cent per year simple interest, and accept lower bids in even increments of one-fourth of one per cent to the rate of zero per cent. The county treasurer, designee, or agent shall award the tax certificate to the person bidding the lowest certificate rate of interest. The county treasurer shall decide which person is the winning bidder in the event of a tie for the lowest bid offered, or if a person contests the lowest bid offered. The county

treasurer's decision is not appealable. 124312

(D)(1) The winning bidder shall pay the county treasurer a 124313
cash deposit of at least ten per cent of the certificate purchase 124314
price not later than the close of business on the day of the sale. 124315
The winning bidder shall pay the balance and the fee required 124316
under division (H) of this section not later than five business 124317
days after the day on which the certificate is sold. Except as 124318
provided under division (D)(2) of this section, if the winning 124319
bidder fails to pay the balance and fee within the prescribed 124320
time, the bidder forfeits the deposit, and the county treasurer 124321
shall retain the tax certificate and may attempt to sell it at any 124322
auction conducted at a later date. 124323

(2) At the request of a winning bidder, the county treasurer 124324
may release the bidder from the bidder's tax certificate purchase 124325
obligation. The county treasurer may retain all or any portion of 124326
the deposit of a bidder granted a release. After granting a 124327
release under this division, the county treasurer may award the 124328
tax certificate to the person that submitted the second lowest bid 124329
at the auction. 124330

(3) The county treasurer shall deposit the deposit forfeited 124331
or retained under divisions (D)(1) or (2) of this section in the 124332
county treasury to the credit of the tax certificate 124333
administration fund. 124334

(E) Upon receipt of the full payment of the certificate 124335
purchase price from the purchaser, the county treasurer shall 124336
issue the tax certificate and record the tax certificate sale by 124337
entering into a tax certificate register the certificate purchase 124338
price, the certificate rate of interest, the date the certificate 124339
was sold, the certificate period, the name and address of the 124340
certificate holder, and any other information the county treasurer 124341
considers necessary. The county treasurer may keep the tax 124342
certificate register in a hard-copy format or in an electronic 124343

format. The name and address of the certificate holder may be, 124344
upon receipt of instructions from the purchaser, that of the 124345
secured party of the actual purchaser, or an agent or custodian 124346
for the purchaser or secured party. The county treasurer also 124347
shall transfer the tax certificate to the certificate holder. The 124348
county treasurer shall apportion the part of the proceeds from the 124349
sale representing taxes, penalties, and interest among the several 124350
taxing districts in the same proportion that the amount of taxes 124351
levied by each district against the certificate parcel in the 124352
preceding tax year bears to the taxes levied by all such districts 124353
against the certificate parcel in the preceding tax year, and 124354
credit the part of the proceeds representing assessments and other 124355
charges to the items of assessments and charges in the order in 124356
which those items became due. Upon issuing a tax certificate, the 124357
delinquent taxes that make up the certificate purchase price are 124358
transferred, and the superior lien of the state and its taxing 124359
districts for those delinquent taxes is conveyed intact to the 124360
certificate holder. 124361

(F) If a tax certificate is offered for sale under this 124362
section but is not sold, the county treasurer may sell the 124363
certificate in a negotiated sale authorized under section 5721.33 124364
of the Revised Code, or may strike the corresponding certificate 124365
parcel from the list of parcels selected for tax certificate 124366
sales. The lien for taxes, assessments, charges, penalties, and 124367
interest against a parcel stricken from the list thereafter may be 124368
foreclosed in the manner prescribed by section 323.25, sections 124369
323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised 124370
Code unless, prior to the institution of such proceedings against 124371
the parcel, the county treasurer restores the parcel to the list 124372
of parcels selected for tax certificate sales. 124373

(G) A certificate holder shall not be liable for damages 124374
arising from a violation of sections 3737.87 to 3737.891 or 124375

Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 124376
6111. of the Revised Code, or a rule adopted or order, permit, 124377
license, variance, or plan approval issued under any of those 124378
chapters, that is or was committed by another person in connection 124379
with the parcel for which the tax certificate is held. 124380

(H) When selling a tax certificate under this section, the 124381
county treasurer shall charge a fee to the purchaser of the 124382
certificate. The county treasurer shall set the fee at a 124383
reasonable amount that covers the treasurer's costs of 124384
administering the sale of the tax certificate. The county 124385
treasurer shall deposit the fee in the county treasury to the 124386
credit of the tax certificate administration fund. 124387

(I) After selling a tax certificate under this section, the 124388
county treasurer shall send written notice by certified mail to 124389
the owner of the certificate parcel at the owner's last known 124390
tax-mailing address. The notice shall inform the owner that the 124391
tax certificate was sold, shall describe the owner's options to 124392
redeem the parcel, including entering into a redemption payment 124393
plan under division (C)(1) of section 5721.38 of the Revised Code, 124394
and shall name the certificate holder and its secured party, if 124395
any. However, the county treasurer is not required to send a 124396
notice under this division if the treasurer previously has 124397
attempted to send a notice to the owner of the parcel at the 124398
owner's last known tax-mailing address, and the postal service has 124399
returned the notice as undeliverable. 124400

(J) A tax certificate shall not be sold to the owner of the 124401
certificate parcel. 124402

Sec. 5721.37. ~~(A)(1) Division (A)(1) of this section applies 124403
to tax certificates purchased under section 5721.32 of the Revised 124404
Code, or under section 5721.42 of the Revised Code by the holder 124405
of a certificate issued under section 5721.32 of the Revised Code. 124406~~

At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than ~~six years after that date~~ the end of the certificate period, a certificate holder, except for a county land reutilization corporation, may file with the county treasurer a request for foreclosure, or a private attorney on behalf of the certificate holder may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the certificate parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.

~~(2) Division (A)(2) of this section applies to tax certificates purchased under section 5721.33 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code. At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than six years after that date or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or not earlier or later than the dates negotiated by the county treasurer and specified in the tax certificate sale/purchase agreement, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of a certificate holder other than a county land reutilization corporation may file~~

~~with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.~~

~~(3)(a) Division (A)(3)(a) of this section applies to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, and not held by a county land reutilization corporation. If, before the expiration of six years after the date a tax certificate was sold, the owner of the property for which the certificate was sold files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or the private attorney may file a notice of intent to foreclose is the later of six years after the date the certificate was sold or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the six-year period measured from the date the certificate was sold is tolled while the property owner's~~

~~bankruptcy case remains open.~~ 124473

~~(b) Division (A)(3)(b) of this section applies to a tax~~ 124474
~~certificate purchased under section 5721.33 of the Revised Code,~~ 124475
~~or under section 5721.42 of the Revised Code by the holder of a~~ 124476
~~certificate issued under section 5721.33 of the Revised Code, and~~ 124477
~~not held by a county land reutilization corporation. If, before~~ 124478
~~six years after the date a tax certificate was sold or before the~~ 124479
~~date negotiated by the county treasurer~~ If, before the expiration 124480
of the certificate period, the owner of the property files a 124481
petition in bankruptcy, the county treasurer, upon being notified 124482
of the filing of the petition, shall notify the certificate holder 124483
by ordinary first-class or certified mail or by binary means of 124484
the filing of the petition. It is the obligation of the 124485
certificate holder to file a proof of claim with the bankruptcy 124486
court to protect the holder's interest in the certificate parcel. 124487
The last day on which the certificate holder may file a request 124488
for foreclosure or a notice of intent to foreclose is the later of 124489
~~six years after the date the tax certificate was sold or the date~~ 124490
~~negotiated by the county treasurer,~~ the expiration of the 124491
certificate period or one hundred eighty days after the 124492
certificate parcel is no longer property of the bankruptcy estate; 124493
however, the ~~six year or negotiated period being measured after~~ 124494
~~the date the certificate was sold~~ certificate period is tolled 124495
while the property owner's bankruptcy case remains open. If the 124496
certificate holder is a county land reutilization corporation, the 124497
corporation may institute a foreclosure action under the statutes 124498
pertaining to the foreclosure of mortgages or as permitted under 124499
sections 323.65 to 323.79 of the Revised Code at any time after it 124500
acquires such tax certificate, subject to any restrictions under 124501
such bankruptcy law or proceeding. 124502

~~(e)~~ Interest at the certificate rate of interest continues to 124503
accrue during any extension of time required by division ~~(A)(3)(a)~~ 124504

~~er (b)(A)(2)~~ of this section unless otherwise provided under Title 124505
11 of the United States Code. 124506

~~(4)(3)~~ If, before the expiration of three years from the date 124507
a tax certificate was sold, the owner of property for which the 124508
certificate was sold applies for an exemption under section 124509
3735.67 or 5715.27 of the Revised Code or under any other section 124510
of the Revised Code under the jurisdiction of the director of 124511
environmental protection, the county treasurer shall notify the 124512
certificate holder by ordinary first-class or certified mail or by 124513
binary means of the filing of the application. Once a 124514
determination has been made on the exemption application, the 124515
county treasurer shall notify the certificate holder of the 124516
determination by ordinary first-class or certified mail or by 124517
binary means. Except with respect to a county land reutilization 124518
corporation, the last day on which the certificate holder may file 124519
a request for foreclosure shall be the later of three years from 124520
the date the certificate was sold or forty-five days after notice 124521
of the determination was provided. 124522

(B) When a request for foreclosure or a notice of intent to 124523
foreclose is filed under ~~division (A)(1) or (2)~~ of this section, 124524
the certificate holder shall submit a payment to the county 124525
treasurer equal to the sum of the following: 124526

(1) The certificate redemption prices of all outstanding tax 124527
certificates that have been sold on the parcel, other than tax 124528
certificates held by the person requesting foreclosure; 124529

(2) Any taxes, assessments, penalties, interest, and charges 124530
appearing on the tax duplicate charged against the certificate 124531
parcel that is the subject of the foreclosure proceedings and that 124532
are not covered by a tax certificate, but such amounts are not 124533
payable if the certificate holder is a county land reutilization 124534
corporation; 124535

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding.

(C)(1) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall certify notice to that effect to the county prosecuting attorney and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the tax certificates is forthcoming. Within ninety days of receiving the copy of the foreclosure request, the prosecuting attorney shall commence a foreclosure proceeding in the name of the county treasurer in the manner provided under section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, to enforce the lien vested in the certificate holder by the certificate. The prosecuting attorney shall attach to the complaint the foreclosure request and the county treasurer's written certification.

(2) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the

certificate parcel has not been redeemed, at least one certificate 124568
respecting the certificate parcel, held by the certificate holder 124569
filing the notice of intent to foreclose and eligible to be 124570
enforced through a foreclosure proceeding, has not been voided 124571
under section 5721.381 of the Revised Code, a notice of intent to 124572
foreclose has been filed, and the payment required under division 124573
(B) of this section has been made, the county treasurer shall 124574
certify notice to that effect to the private attorney. The county 124575
treasurer also shall send notice by ordinary first class or 124576
certified mail or by binary means to all certificate holders other 124577
than the certificate holder represented by the attorney that a 124578
notice of intent to foreclose has been filed and that payment for 124579
the tax certificates is forthcoming. After receipt of the 124580
treasurer's certification and not later than one hundred twenty 124581
days after the filing of the intent to foreclose or the number of 124582
days specified under the terms of a negotiated sale under section 124583
5721.33 of the Revised Code, the private attorney shall commence a 124584
foreclosure proceeding in the name of the certificate holder in 124585
the manner provided under division (F) of this section to enforce 124586
the lien vested in the certificate holder by the certificate. The 124587
private attorney shall attach to the complaint the notice of 124588
intent to foreclose and the county treasurer's written 124589
certification. 124590

(D) The county treasurer shall credit the amount received 124591
under division (B)(1) of this section to the tax certificate 124592
redemption fund. The tax certificates respecting the payment shall 124593
be paid as provided in division (D) of section 5721.38 of the 124594
Revised Code. The amount received under division (B)(2) of this 124595
section shall be distributed to the taxing districts to which the 124596
delinquent and unpaid amounts are owed. The county treasurer shall 124597
deposit the fee received under division (B)(3) of this section in 124598
the county treasury to the credit of the delinquent tax and 124599
assessment collection fund. 124600

~~(E)(1)(a) Except with respect to a county land reutilization corporation, if, in the case of a certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with the required payment within six years after the date shown on the tax certificate as the date the certificate was sold or within the period provided under division (A)(3)(a) of this section, and during that time the certificate has not been voided under section 5721.381 of the Revised Code and the parcel has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel is canceled, and the certificate is voided, subject to division (E)(1)(b) of this section.~~

~~(b) In the case of any tax certificate purchased under section 5721.32 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code prior to June 24, 2008, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three year period prescribed by division (E)(1) of this section, as that division existed prior to that date, to six years after the date shown on the original certificate as the date it was sold or any extension of that date.~~

~~(2)(a) Except with respect to a county land reutilization corporation, if, in the case of a certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with respect to a certificate parcel~~

with the required payment within ~~six years after the date shown on~~ 124633
~~the tax certificate as the date the certificate was sold the~~ 124634
certificate period or any extension of that ~~date~~ period pursuant 124635
to division (C)(2) of section 5721.38 of the Revised Code, or 124636
within the period provided under division ~~(A)(3)(b)~~(A)(2) of this 124637
section ~~or as specified under the terms of a negotiated sale under~~ 124638
~~section 5721.33 of the Revised Code~~, and during that time the 124639
certificate has not been voided under section 5721.381 of the 124640
Revised Code and the certificate parcel has not been redeemed or 124641
foreclosed upon, the certificate holder's lien against the parcel 124642
is canceled and the certificate is voided, subject to division 124643
~~(E)(2)(b)~~(E)(2) of this section. 124644

~~(b)(2)~~ In the case of any tax certificate purchased under 124645
section ~~5721.33~~ 5721.32 of the Revised Code or under section 124646
5721.42 of the Revised Code by the holder of a certificate issued 124647
under section 5721.32 of the Revised Code prior to ~~October 10,~~ 124648
~~2000~~ June 24, 2008, the county treasurer, upon application by the 124649
certificate holder, may sell to the certificate holder a new 124650
certificate extending the three-year period prescribed by division 124651
~~(E)(2)(E)(1)~~ of this section, as that division existed prior to 124652
~~October 10, 2000~~ that date, to six years after the date shown on 124653
the original certificate as the date it was sold or any extension 124654
of that date. 124655

~~(3)~~ The county treasurer and the certificate holder shall 124656
negotiate the premium, in cash, to be paid for a new certificate 124657
sold under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section. If 124658
the county treasurer and certificate holder do not negotiate a 124659
mutually acceptable premium, the county treasurer and certificate 124660
holder may agree to engage a person experienced in the valuation 124661
of financial assets to appraise a fair premium for the new 124662
certificate. The certificate holder has the option to purchase the 124663
new certificate for the fair premium so appraised. Not less than 124664

one-half of the fee of the person so engaged shall be paid by the certificate holder requesting the new certificate; the remainder of the fee shall be paid from the proceeds of the sale of the new certificate. If the certificate holder does not purchase the new certificate for the premium so appraised, the certificate holder shall pay the entire fee. The county treasurer shall credit the remaining proceeds from the sale to the items of taxes, assessments, penalties, interest, and charges in the order in which they became due.

~~(4)~~ A certificate issued under division ~~(E)(1)(b)~~ (2)(b)(E)(2) of this section vests in the certificate holder and its secured party, if any, the same rights, interests, privileges, and immunities as are vested by the original certificate under sections 5721.30 to 5721.43 of the Revised Code. The certificate shall be issued in the same form as the form prescribed for the original certificate issued except for any modifications necessary, in the county treasurer's discretion, to reflect the extension under this division of the certificate holder's lien to six years after the date shown on the original certificate as the date it was sold or any extension of that date. The certificate holder may record a certificate issued under division ~~(E)(1)(b)~~ (2)(b)(E)(2) of this section or memorandum thereof as provided in division (B) of section 5721.35 of the Revised Code, and the county recorder shall index the certificate and record any subsequent cancellation of the lien as provided in that section. The sale of a certificate extending the lien under division ~~(E)(1)(b)~~ (2)(b)(E)(2) of this section does not impair the right of redemption of the owner of record of the certificate parcel or of any other person entitled to redeem the property.

~~(5)~~(3) If the holder of a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice of intent to foreclose to the county treasurer but fails to file a

foreclosure action in a court of competent jurisdiction within the 124697
time specified in division (C)(2) of this section, the liens 124698
represented by all tax certificates respecting the certificate 124699
parcel held by that certificate holder, and for which the deadline 124700
for filing a notice of intent to foreclose has passed, are 124701
canceled and the certificates voided, and the certificate holder 124702
forfeits the payment of the amounts described in division (B)(2) 124703
of this section. 124704

(F) With respect to tax certificates purchased under section 124705
5721.32, 5721.33, or 5721.42 of the Revised Code, upon the 124706
delivery to the private attorney by the county treasurer of the 124707
certification provided for under division (C)(2) of this section, 124708
the private attorney shall institute a foreclosure proceeding 124709
under this division in the name of the certificate holder to 124710
enforce the holder's lien, in any court or board of revision with 124711
jurisdiction, unless the certificate redemption price is paid 124712
prior to the time a complaint is filed. The attorney shall 124713
prosecute the proceeding to final judgment and satisfaction, 124714
whether through sale of the property or the vesting of title and 124715
possession in the certificate holder or other disposition under 124716
sections 323.65 to 323.79 of the Revised Code or as may otherwise 124717
be provided by law. 124718

The foreclosure proceedings under this division, except as 124719
otherwise provided in this division, shall be instituted and 124720
prosecuted in the same manner as is provided by law for the 124721
foreclosure of mortgages on land, except that, if service by 124722
publication is necessary, such publication shall be made once a 124723
week for three consecutive weeks and the service shall be complete 124724
at the expiration of three weeks after the date of the first 124725
publication. 124726

Any notice given under this division shall include the name 124727
of the owner of the parcel as last set forth in the records of the 124728

county recorder, the owner's last known mailing address, the 124729
address of the subject parcel if different from that of the owner, 124730
and a complete legal description of the subject parcel. In any 124731
county that has adopted a permanent parcel number system, such 124732
notice may include the permanent parcel number in addition to a 124733
complete legal description. 124734

It is sufficient, having been made a proper party to the 124735
foreclosure proceeding, for the certificate holder to allege in 124736
such holder's complaint that the tax certificate has been duly 124737
purchased by the certificate holder, that the certificate 124738
redemption price is due and unpaid, that there is a lien against 124739
the property described in the tax certificate, and, if applicable, 124740
that the certificate holder desires to invoke the alternative 124741
redemption period prescribed in sections 323.65 to 323.79 of the 124742
Revised Code, without setting forth in such holder's complaint any 124743
other special matter relating to the foreclosure proceeding. The 124744
complaint shall pray for an order directing the sheriff, or the 124745
bailiff if the complaint is filed in municipal court, to offer the 124746
property for sale in the manner provided in section 5721.19 of the 124747
Revised Code or otherwise transferred according to any applicable 124748
procedures provided in sections 323.65 to 323.79 of the Revised 124749
Code, unless the complaint documents that the county auditor has 124750
determined that the true value of the certificate parcel is less 124751
than the certificate purchase price. In that case, the prayer of 124752
the complaint shall request that fee simple title to the property 124753
be transferred to and vested in the certificate holder free and 124754
clear of all subordinate liens. 124755

In the foreclosure proceeding, the certificate holder may 124756
join in one action any number of tax certificates relating to the 124757
same owner. However, the decree for each tax certificate shall be 124758
rendered separately and any proceeding may be severed, in the 124759
discretion of the court or board of revision, for the purpose of 124760

trial or appeal. Except as may otherwise be provided in sections 124761
323.65 to 323.79 of the Revised Code, upon confirmation of sale, 124762
the court or board of revision shall order payment of all costs 124763
related directly or indirectly to the tax certificate, including, 124764
without limitation, attorney's fees of the holder's attorney in 124765
accordance with section 5721.371 of the Revised Code. The tax 124766
certificate purchased by the certificate holder is presumptive 124767
evidence in all courts and boards of revision and in all 124768
proceedings, including, without limitation, at the trial of the 124769
foreclosure action, of the amount and validity of the taxes, 124770
assessments, charges, penalties by the court and added to such 124771
principal amount, and interest appearing due and unpaid and of 124772
their nonpayment. 124773

(G) If a parcel is sold under this section, the officer who 124774
conducted the sale shall collect the recording fee from the 124775
purchaser at the time of the sale and, following confirmation of 124776
the sale, shall prepare and record the deed conveying the title to 124777
the parcel to the purchaser. 124778

Sec. 5721.38. (A) At any time prior to payment to the county 124779
treasurer by the certificate holder to initiate foreclosure 124780
proceedings under division (B) of section 5721.37 of the Revised 124781
Code, the owner of record of the certificate parcel, or any other 124782
person entitled to redeem that parcel, may redeem the parcel by 124783
paying to the county treasurer an amount equal to the total of the 124784
certificate redemption prices of all tax certificates respecting 124785
that parcel. 124786

(B) At any time after payment to the county treasurer by the 124787
certificate holder to initiate foreclosure proceedings under 124788
section 5721.37 of the Revised Code, and before the filing of the 124789
entry of confirmation of sale of a certificate parcel, or the 124790
expiration of the alternative redemption period defined in section 124791

323.65 of the Revised Code under foreclosure proceedings filed by 124792
the county prosecuting attorney, and before the decree conveying 124793
title to the certificate holder is rendered as provided for in 124794
division (F) of section 5721.37 of the Revised Code, the owner of 124795
record of the certificate parcel or any other person entitled to 124796
redeem that parcel may redeem the parcel by paying to the county 124797
treasurer the sum of the following amounts: 124798

(1) The amount described in division (A) of this section; 124799

(2) Interest on the certificate purchase price for each tax 124800
certificate sold respecting the parcel at the rate of eighteen per 124801
cent per year for the period beginning on the day on which the 124802
payment was submitted by the certificate holder and ending on the 124803
day the parcel is redeemed under this division; 124804

(3) An amount equal to the sum of the county prosecuting 124805
attorney's fee under division (B)(3) of section 5721.37 of the 124806
Revised Code plus interest on that amount at the rate of eighteen 124807
per cent per year beginning on the day on which the payment was 124808
submitted by the certificate holder and ending on the day the 124809
parcel is redeemed under this division. If the parcel is redeemed 124810
before the complaint has been filed, the prosecuting attorney 124811
shall adjust the fee to reflect services performed to the date of 124812
redemption, and the county treasurer shall calculate the interest 124813
based on the adjusted fee and refund any excess fee to the 124814
certificate holder. 124815

(4) Reasonable attorney's fees in accordance with section 124816
5721.371 of the Revised Code if the certificate holder retained a 124817
private attorney to foreclose the lien; 124818

(5) Any other costs and fees of the proceeding allocable to 124819
the certificate parcel as determined by the court or board of 124820
revision. 124821

The county treasurer may collect the total amount due under 124822

divisions (B)(1) to (5) of this section in the form of guaranteed 124823
funds acceptable to the treasurer. Immediately upon receipt of 124824
such payments, the county treasurer shall reimburse the 124825
certificate holder who initiated foreclosure proceedings as 124826
provided in division (D) of this section. The county treasurer 124827
shall pay the certificate holder interest at the rate of eighteen 124828
per cent per year on amounts paid under divisions (B)(2) and (3) 124829
of section 5721.37 of the Revised Code, beginning on the day the 124830
certificate holder paid the amounts under those divisions and 124831
ending on the day the parcel is redeemed under this section. 124832

(C)(1) During the period beginning on the date a tax 124833
certificate is sold under section 5721.32 of the Revised Code and 124834
ending one year from that date, the county treasurer may enter 124835
into a redemption payment plan with the owner of record of the 124836
certificate parcel or any other person entitled to redeem that 124837
parcel. The plan shall require the owner or other person to pay 124838
the certificate redemption price for the tax certificate in 124839
installments, with the final installment due no later than one 124840
year after the date the tax certificate is sold. The certificate 124841
holder may at any time, by written notice to the county treasurer, 124842
agree to accept installments collected to the date of notice as 124843
payment in full. Receipt of such notice by the treasurer shall 124844
constitute satisfaction of the payment plan and redemption of the 124845
tax certificate. 124846

(2) During the period beginning on the date a tax certificate 124847
is sold under section 5721.33 of the Revised Code and ending on 124848
the date the decree is rendered on the foreclosure proceeding 124849
under division (F) of section 5721.37 of the Revised Code, the 124850
owner of record of the certificate parcel, or any other person 124851
entitled to redeem that parcel, may enter into a redemption 124852
payment plan with the certificate holder and all secured parties 124853
of the certificate holder. The plan shall require the owner or 124854

other person to pay the certificate redemption price for the tax certificate, an administrative fee not to exceed one hundred dollars per year, and the actual fees and costs incurred, in installments, with the final installment due no later than ~~six~~ years after the date the tax certificate is sold the expiration of the certificate period. The certificate holder shall give written notice of the plan to the applicable county treasurer within sixty days after entering into the plan and written notice of default under the plan within ninety days after the default. If such a plan is entered into, the time period for filing a request for foreclosure or a notice of intent to foreclose under section 5721.37 of the Revised Code is extended by the length of time the plan is in effect and not in default.

(D)(1) Immediately upon receipt of full payment under division (A) or (B) of this section, the county treasurer shall make an entry to that effect in the tax certificate register, credit the payment to the tax certificate redemption fund created in the county treasury, and shall notify the certificate holder or holders by ordinary first class or certified mail or by binary means that the parcel has been redeemed and the lien or liens canceled, and that payment on the certificate or certificates is forthcoming. The treasurer shall pay the tax certificate holder or holders promptly.

The county treasurer shall administer the tax certificate redemption fund for the purpose of redeeming tax certificates. Interest earned on the fund shall be credited to the county general fund. If the county has established a county land reutilization corporation, the county treasurer may apply interest earned on the fund to the payment of the expenses of such corporation.

(2) If a redemption payment plan is entered into pursuant to division (C)(1) of this section, the county treasurer immediately

shall notify each certificate holder by ordinary first class or 124887
certified mail or by binary means of the terms of the plan. 124888
Installment payments made pursuant to the plan shall be deposited 124889
in the tax certificate redemption fund. Any overpayment of the 124890
installments shall be refunded to the person responsible for 124891
causing the overpayment if the person applies for a refund under 124892
this section. If the person responsible for causing the 124893
overpayment fails to apply for a refund under this section within 124894
five years from the date the plan is satisfied, an amount equal to 124895
the overpayment shall be deposited into the general fund of the 124896
county. If the county has established a county land reutilization 124897
corporation, the county treasurer may apply such overpayment to 124898
the payment of the expenses of the corporation. 124899

Upon satisfaction of the plan, the county treasurer shall 124900
indicate in the tax certificate register that the plan has been 124901
satisfied, and shall notify each certificate holder by ordinary 124902
first class or certified mail or by binary means that the plan has 124903
been satisfied and that payment on the certificate or certificates 124904
is forthcoming. The treasurer shall pay each certificate holder 124905
promptly. 124906

If a redemption payment plan becomes void, the county 124907
treasurer shall notify each certificate holder by ordinary first 124908
class or certified mail or by binary means. If a certificate 124909
holder files a request for foreclosure under section 5721.37 of 124910
the Revised Code, upon the filing of the request for foreclosure, 124911
any money paid under the plan shall be refunded to the person that 124912
paid the money under the plan. 124913

(3) Upon receipt of the payment required under division 124914
(B)(1) of section 5721.37 of the Revised Code, the treasurer shall 124915
pay all other certificate holders and indicate in the tax 124916
certificate register that such certificates have been satisfied. 124917
If a county has organized a county land reutilization corporation, 124918

the county treasurer may apply the redemption price and any 124919
applicable interest payable under division (B) of this section to 124920
the payment of the expenses of the corporation. 124921

Sec. 5721.42. After the settlement required under division 124922
(C) of section 321.24 of the Revised Code, the county treasurer 124923
shall notify the certificate holder of the most recently issued 124924
tax certificate, by ordinary first class or certified mail or by 124925
binary means, that the certificate holder may purchase a 124926
subsequent tax certificate by paying all delinquent taxes on the 124927
related certificate parcel, the lien against which has not been 124928
transferred by the sale of a tax certificate. During the thirty 124929
days after receiving the notice, the certificate holder possesses 124930
the exclusive right to purchase the subsequent tax certificate by 124931
paying those amounts to the county treasurer. The amount of the 124932
payment shall constitute a separate lien against the certificate 124933
parcel that shall be evidenced by the issuance by the treasurer to 124934
the certificate holder of an additional tax certificate with 124935
respect to the delinquent taxes so paid on the related certificate 124936
parcel. The amount of the payment as set forth in the tax 124937
certificate shall earn interest at the rate of eighteen per cent 124938
per year. The certificate period of each subsequent tax 124939
certificate shall terminate on the expiration date of the 124940
certificate period of the most recent tax certificate for the same 124941
certificate parcel. 124942

Sec. 5722.13. Real property acquired and held by an electing 124943
subdivision pursuant to this chapter that is not sold or otherwise 124944
transferred within fifteen years after such acquisition shall be 124945
offered for sale at public auction during the sixteenth year after 124946
acquisition. If the real property is not sold at that time, it may 124947
be disposed of or retained for any lawful purpose without further 124948
application of this chapter. 124949

Notice of the sale shall contain a description of each 124950
parcel, the permanent parcel number, and the full street address 124951
when available. The notice shall be published once a week for 124952
three consecutive weeks prior to the sale in a newspaper of 124953
general circulation within the electing subdivision. The newspaper 124954
shall meet the requirements of section 7.12 of the Revised Code. 124955

Each parcel subsequent to the fifteenth year after its 124956
acquisition as part of a land reutilization program shall be sold 124957
for an amount equal to not less than the greater of: 124958

(A) Two-thirds of its fair market value; 124959

(B) The total amount of accrued taxes, assessments, 124960
penalties, interest, charges, and costs incurred by the electing 124961
subdivision in the acquisition, maintenance, and disposal of each 124962
parcel and the parcel's share of the costs and expenses of the 124963
land reutilization program. 124964

The sale requirements of this section do not apply to real 124965
property acquired and held by a county land reutilization 124966
corporation. 124967

Sec. 5723.05. If the taxes, assessments, charges, penalties, 124968
interest, and costs due on the forfeited lands have not been paid 124969
when the county auditor fixes the date for the sale of forfeited 124970
lands, the auditor shall give notice of them once a week for two 124971
consecutive weeks prior to the date fixed by the auditor for the 124972
sale, ~~in two newspapers~~ as provided in section 5721.03 of the 124973
Revised Code. The notice shall state that if the taxes, 124974
assessments, charges, penalties, interest, and costs charged 124975
against the lands forfeited to the state for nonpayment of taxes 124976
are not paid into the county treasury, and the county treasurer's 124977
receipt produced for the payment before the time specified in the 124978
notice for the sale of the lands, which day shall be named in the 124979
notice, each forfeited tract on which the taxes, assessments, 124980

charges, penalties, interest, and costs remain unpaid will be 124981
offered for sale beginning on the date set by the auditor, at the 124982
courthouse in the county, in order to satisfy the unpaid taxes, 124983
assessments, charges, penalties, interest, and costs, and that the 124984
sale will continue from day to day until each of the tracts is 124985
sold or offered for sale. 124986

The notice also shall state that, if the forfeited land is 124987
sold for an amount that is less than the amount of the delinquent 124988
taxes, assessments, charges, penalties, and interest against it, 124989
and, if division (B)(2) of section 5721.17 of the Revised Code is 124990
applicable, any notes issued by a receiver pursuant to division 124991
(F) of section 3767.41 of the Revised Code and any receiver's lien 124992
as defined in division (C)(4) of section 5721.18 of the Revised 124993
Code, the court, in a separate order, may enter a deficiency 124994
judgment against the last owner of record of the land before its 124995
forfeiture to the state, for the amount of the difference; and 124996
that, if that owner of record is a corporation, the court may 124997
enter the deficiency judgment against the stockholder holding a 124998
majority of that corporation's stock. 124999

Sec. 5723.18. (A) Except as otherwise provided in division 125000
(B)(2) of section 5721.17 and division (B) of section 319.43 of 125001
the Revised Code, the proceeds from a forfeiture sale shall be 125002
distributed as follows: 125003

(1) The county auditor shall deduct all costs pertaining to 125004
the forfeiture and sale of forfeited lands, including costs 125005
pertaining to a foreclosure and forfeiture proceeding instituted 125006
under section 5721.14 of the Revised Code, except those paid under 125007
section 5721.04 of the Revised Code, from the moneys received from 125008
the sale of land and town lots forfeited to the state for the 125009
nonpayment of taxes, and shall pay such costs into the proper 125010
fund. In the case of the forfeiture sale of a parcel against which 125011

a foreclosure and forfeiture proceeding was instituted under 125012
section 5721.14 of the Revised Code, if the proceeds from the 125013
forfeiture sale are insufficient to pay the costs pertaining to 125014
such proceeding, the county auditor, at the next semiannual 125015
apportionment of real property taxes, shall reduce the amount of 125016
real property taxes that the auditor otherwise would distribute to 125017
each subdivision to which taxes, assessments, charges, penalties, 125018
or interest charged against the parcel are due. The reduction in 125019
each subdivision's real property tax distribution shall equal the 125020
amount of the unpaid costs multiplied by a fraction, the numerator 125021
of which is the amount of taxes, assessments, charges, penalties, 125022
and interest due the subdivision, and the denominator of which is 125023
the total amount of taxes, assessments, charges, penalties, and 125024
interest due all such subdivisions. 125025

(2) Following the payment required by division (A)(1) of this 125026
section, the part of the proceeds that is equal to ten per cent of 125027
the taxes and assessments due shall be deposited in equal shares 125028
into each of the delinquent tax and assessment collection ~~fund~~ 125029
funds created pursuant to section 321.261 of the Revised Code. 125030

(3) Following the payment required by division (A)(2) of this 125031
section, the remaining proceeds shall be distributed by the 125032
auditor to the appropriate subdivisions to pay the taxes, 125033
assessments, charges, penalties, and interest which are due and 125034
unpaid. If the proceeds available for distribution under this 125035
division are insufficient to pay the entire amount of those taxes, 125036
assessments, charges, penalties, and interest, the auditor shall 125037
distribute the proceeds available for distribution under this 125038
division to the appropriate subdivisions in proportion to the 125039
amount of those taxes, assessments, charges, penalties, and 125040
interest that each is due. 125041

(B) If the proceeds from the sale of forfeited land are 125042
insufficient to pay in full the amount of the taxes, assessments, 125043

charges, penalties, and interest; the costs incurred in the 125044
proceedings instituted pursuant to this chapter and section 125045
5721.18 of the Revised Code, or the foreclosure and forfeiture 125046
proceeding instituted pursuant to section 5721.14 of the Revised 125047
Code; and, if division (B)(2) of section 5721.17 of the Revised 125048
Code is applicable, any notes issued by a receiver pursuant to 125049
division (F) of section 3767.41 of the Revised Code and any 125050
receiver's lien as defined in division (C)(4) of section 5721.18 125051
of the Revised Code, the court may enter a deficiency judgment 125052
against the last owner of record of the land before its forfeiture 125053
to the state, for the unpaid amount. The court shall enter the 125054
judgment pursuant to section 5721.192 of the Revised Code. Except 125055
as otherwise provided in division (B) of section 319.43 of the 125056
Revised Code, the proceeds paid pursuant to the entry and 125057
satisfaction of such a judgment shall be distributed as if they 125058
had been received as a part of the proceeds from the sale of the 125059
land to satisfy the amount of the taxes, assessments, charges, 125060
penalties, and interest which are due and unpaid; the costs 125061
incurred in the associated proceedings which were due and unpaid; 125062
and, if division (B)(2) of section 5721.17 of the Revised Code is 125063
applicable, any notes issued by a receiver pursuant to division 125064
(F) of section 3767.41 of the Revised Code and any receiver's lien 125065
as defined in division (C)(4) of section 5721.18 of the Revised 125066
Code. 125067

Sec. 5725.151. (A) As used in this section, "certificate 125068
owner" has the same meaning as in section 149.311 of the Revised 125069
Code. 125070

(B) There is allowed a credit against the tax imposed by 125071
section 5707.03 and assessed under section 5725.15 of the Revised 125072
Code for a dealer in intangibles subject to that tax that is a 125073
certificate owner of a rehabilitation tax credit certificate 125074
issued under section 149.311 of the Revised Code. The credit shall 125075

equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any dealer for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the dealer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The dealer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

~~(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

Sec. 5725.24. (A) ~~As used in this section, "qualifying dealer" means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company~~

~~also is a member on the first day of January of the year in and 125107
for which the tax imposed by section 5707.03 of the Revised Code 125108
is required to be paid by the dealer. 125109~~

~~(B) The taxes levied by section 5725.18 of the Revised Code 125110
and collected pursuant to this chapter shall be paid into the 125111
state treasury to the credit of the general revenue fund. 125112~~

~~(C)(B) The taxes levied by section 5707.03 of the Revised 125113
Code on the value of shares in and capital employed by all dealers 125114
in intangibles ~~other than those that are qualifying dealers~~ shall 125115
be ~~for the use of~~ paid into the state treasury to the credit of 125116
the general revenue fund ~~of the state and the local government~~ 125117
~~funds of the several counties in which the taxes originate as~~ 125118
~~provided in this division. 125119~~~~

~~During each month for which there is money in the state 125120
treasury for disbursement under this division, the tax 125121
commissioner shall provide for payment to the county treasurer of 125122
each county of five eighths of the amount of the taxes collected 125123
on account of shares in and capital employed by dealers in 125124
intangibles other than those that are qualifying dealers, 125125
representing capital employed in the county. The balance of the 125126
money received and credited on account of taxes assessed on shares 125127
in and capital employed by such dealers in intangibles shall be 125128
credited to the general revenue fund. 125129~~

~~Reductions in the amount of taxes collected on account of 125130
credits allowed under section 5725.151 of the Revised Code shall 125131
be applied to reduce the amount credited to the general revenue 125132
fund and shall not be applied to reduce the amount to be credited 125133
to the undivided local government funds of the counties in which 125134
such taxes originate. 125135~~

~~For the purpose of this division, such taxes are deemed to 125136
originate in the counties in which such dealers in intangibles 125137~~

~~have their offices.~~ 125138

~~Money received into the treasury of a county pursuant to this 125139
section shall be credited to the undivided local government fund 125140
of the county and shall be distributed by the budget commission as 125141
provided by law.~~ 125142

~~(D) All of the taxes levied under section 5707.03 of the 125143
Revised Code on the value of the shares in and capital employed by 125144
dealers in intangibles that are qualifying dealers shall be paid 125145
into the state treasury to the credit of the general revenue fund.~~ 125146

Sec. 5725.34. (A) As used in this section, "certificate 125147
owner" has the same meaning as in section 149.311 of the Revised 125148
Code. 125149

(B) There is allowed a credit against the tax imposed by 125150
section 5725.18 of the Revised Code for an insurance company 125151
subject to that tax that is a certificate owner of a 125152
rehabilitation tax credit certificate issued under section 149.311 125153
of the Revised Code. The credit shall equal twenty-five per cent 125154
of the dollar amount indicated on the certificate, but the amount 125155
of the credit allowed for any company for any year shall not 125156
exceed five million dollars. The credit shall be claimed in the 125157
calendar year specified in the certificate and in the order 125158
required under section 5725.98 of the Revised Code. If the credit 125159
exceeds the amount of tax otherwise due in that year, the excess 125160
shall be refunded to the company but, if any amount of the credit 125161
is refunded, the sum of the amount refunded and the amount applied 125162
to reduce the tax otherwise due in that year shall not exceed 125163
three million dollars. The company may carry forward any balance 125164
of the credit in excess of the amount claimed in that year for not 125165
more than five ensuing years, and shall deduct any amount claimed 125166
in any such year from the amount claimed in an ensuing year. 125167

(C) An insurance company claiming a credit under this section 125168

shall retain the rehabilitation tax credit certificate for four 125169
years following the end of the year in which the credit was 125170
claimed, and shall make the certificate available for inspection 125171
by the tax commissioner upon the request of the tax commissioner 125172
during that period. 125173

Sec. 5725.98. (A) To provide a uniform procedure for 125174
calculating the amount of tax imposed by section 5725.18 of the 125175
Revised Code that is due under this chapter, a taxpayer shall 125176
claim any credits and offsets against tax liability to which it is 125177
entitled in the following order: 125178

(1) The credit for an insurance company or insurance company 125179
group under section 5729.031 of the Revised Code; 125180

(2) The credit for eligible employee training costs under 125181
section 5725.31 of the Revised Code; 125182

(3) The credit for purchasers of qualified low-income 125183
community investments under section 5725.33 of the Revised Code; 125184

(4) The nonrefundable job retention credit under division 125185
(B)(1) of section 122.171 of the Revised Code; 125186

(5) The offset of assessments by the Ohio life and health 125187
insurance guaranty association permitted by section 3956.20 of the 125188
Revised Code; 125189

(6) The refundable credit for rehabilitating a historic 125190
building under section 5725.34 of the Revised Code. 125191

(7) The refundable credit for Ohio job retention under 125192
division (B)(2) or (3) of section 122.171 of the Revised Code; 125193

~~(7)~~(8) The refundable credit for Ohio job creation under 125194
section 5725.32 of the Revised Code; 125195

~~(8)~~(9) The refundable credit under section 5725.19 of the 125196
Revised Code for losses on loans made under the Ohio venture 125197

capital program under sections 150.01 to 150.10 of the Revised Code. 125198
125199

(B) For any credit except the refundable credits enumerated 125200
in this section, the amount of the credit for a taxable year shall 125201
not exceed the tax due after allowing for any other credit that 125202
precedes it in the order required under this section. Any excess 125203
amount of a particular credit may be carried forward if authorized 125204
under the section creating that credit. Nothing in this chapter 125205
shall be construed to allow a taxpayer to claim, directly or 125206
indirectly, a credit more than once for a taxable year. 125207

Sec. 5727.57. In addition to all other remedies for the 125208
collection of any taxes or penalties due under law, whenever any 125209
taxes, fees, or penalties due from any public utility have 125210
remained unpaid for a period of ninety days, or whenever any 125211
public utility has failed for a period of ninety days to make any 125212
report or return required by law, or to pay any penalty for 125213
failure to make or file such report or return, the attorney 125214
general, upon the request of the tax commissioner, shall file a 125215
petition in the court of common pleas in the county of the state 125216
in which such public utility has its principal place of business 125217
for a judgment for the amount of the taxes and penalties appearing 125218
to be due, the enforcement of any lien in favor of the state, and 125219
an injunction to restrain such public utility and its officers, 125220
directors, and managing agents from the transaction of any 125221
business within this state, other than such acts as are incidental 125222
to liquidation or winding up, until the payment of such taxes, 125223
fees, penalties, and the costs of the proceeding, which shall be 125224
fixed by the court, or the making and filing of such report or 125225
return. 125226

Such petition shall be in the name of the state. All or any 125227
of the public utilities having their principal places of business 125228

in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permit process to be served by certified mail and by publication in a newspaper of general circulation ~~published~~ in the county, which publication need not be made more than once, setting forth the name of each delinquent public utility, the matter in which such public utility is delinquent, the names of its officers, directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by said public utility.

All of the officers, directors, shareholders, or managing agents of any public utility may be joined as defendants with such public utility.

If it appears to the court upon hearing that any public utility which is a party to such proceeding is indebted to the state for taxes, fees, or penalties, judgment shall be entered therefor with interest, which shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code; and if it appears that any public utility has failed to make or file any report or return, a mandatory injunction may be issued against such public utility, its officers, directors, and managing agents, as such enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and the payment in full of all taxes, fees, and penalties.

If the officers, directors, shareholders, or managing agents of a public utility are not made parties in the first instance, and a judgment or an injunction is rendered or issued against such public utility, such officers, directors, shareholders, or managing agents, or any of them, may be made parties to such

proceedings upon the motion of the attorney general, and, upon 125261
notice to them of the form and terms of such injunction, they 125262
shall be bound thereby as fully as if they had been made parties 125263
in the first instance. 125264

In any action authorized by this section, a statement of the 125265
commissioner or the secretary of state, when duly certified shall 125266
be prima-facie evidence of the amount of taxes, fees, or penalties 125267
due from any public utility, or of the failure of any public 125268
utility to file with the commissioner or the secretary of state 125269
any report required by law, and any such certificate of the 125270
commissioner or the secretary of state may be required in evidence 125271
in any such proceeding. 125272

On the application of any defendant and for good cause shown, 125273
the court may order a separate hearing of the issues as to any 125274
defendant. 125275

The costs of the proceeding shall be apportioned among the 125276
parties as the court deems proper. 125277

The court in such proceeding may make, enter, and enforce 125278
such other judgments and orders and grant such other relief as is 125279
necessary or incidental to the enforcement of the claims and lien 125280
of the state. 125281

In the performance of the duties enjoined ~~upon him~~ by this 125282
section the attorney general may direct any prosecuting attorney 125283
to bring an action, as authorized by this section, in the name of 125284
the state with respect to any delinquent public utilities within 125285
~~his~~ the prosecuting attorney's county, and like proceedings and 125286
orders shall be had as if such action were instituted by the 125287
attorney general. 125288

Sec. 5727.75. (A) For purposes of this section: 125289

(1) "Qualified energy project" means an energy project 125290

certified by the director of development pursuant to this section. 125291

(2) "Energy project" means a project to provide electric 125292
power through the construction, installation, and use of an energy 125293
facility. 125294

(3) "Alternative energy zone" means a county declared as such 125295
by the board of county commissioners under division (E)(1)(b) or 125296
(c) of this section. 125297

(4) "Full-time equivalent employee" means the total number of 125298
employee-hours for which compensation was paid to individuals 125299
employed at a qualified energy project for services performed at 125300
the project during the calendar year divided by two thousand 125301
eighty hours. 125302

(5) "Solar energy project" means an energy project composed 125303
of an energy facility using solar panels to generate electricity. 125304

(B)(1) Tangible personal property of a qualified energy 125305
project using renewable energy resources is exempt from taxation 125306
for tax years 2011 ~~and~~, 2012, 2013, 2014, and 2015 if all of the 125307
following conditions are satisfied: 125308

(a) On or before December 31, ~~2011~~ 2014, the owner or a 125309
lessee pursuant to a sale and leaseback transaction of the project 125310
submits an application to the power siting board for a certificate 125311
under section 4906.20 of the Revised Code, or if that section does 125312
not apply, submits an application for any approval, consent, 125313
permit, or certificate or satisfies any condition required by a 125314
public agency or political subdivision of this state for the 125315
construction or initial operation of an energy project. 125316

(b) Construction or installation of the energy facility 125317
begins on or after January 1, 2009, and before January 1, ~~2012~~ 125318
2015. For the purposes of this division, construction begins on 125319
the earlier of the date of application for a certificate or other 125320
approval or permit described in division (B)(1)(a) of this 125321

section, or the date the contract for the construction or 125322
installation of the energy facility is entered into. 125323

(c) For a qualified energy project with a nameplate capacity 125324
of five megawatts or greater, a board of county commissioners of a 125325
county in which property of the project is located has adopted a 125326
resolution under division (E)(1)(b) or (c) of this section to 125327
approve the application submitted under division (E) of this 125328
section to exempt the property located in that county from 125329
taxation. A board's adoption of a resolution rejecting an 125330
application or its failure to adopt a resolution approving the 125331
application does not affect the tax-exempt status of the qualified 125332
energy project's property that is located in another county. 125333

(2) If tangible personal property of a qualified energy 125334
project using renewable energy resources was exempt from taxation 125335
under this section ~~for~~ beginning in any of tax years 2011 and, 125336
2012, 2013, 2014, or 2015, and the certification under division 125337
(E)(2) of this section has not been revoked, the tangible personal 125338
property of the qualified energy project is exempt from taxation 125339
for tax year ~~2013~~ 2016 and all ensuing tax years if the property 125340
was placed into service before January 1, ~~2013~~ 2016, as certified 125341
in the construction progress report required under division (F)(2) 125342
of this section. Tangible personal property that has not been 125343
placed into service before that date is taxable property subject 125344
to taxation. An energy project for which certification has been 125345
revoked is ineligible for further exemption under this section. 125346
Revocation does not affect the tax-exempt status of the project's 125347
tangible personal property for the tax year in which revocation 125348
occurs or any prior tax year. 125349

(C) Tangible personal property of a qualified energy project 125350
using clean coal technology, advanced nuclear technology, or 125351
cogeneration technology is exempt from taxation for the first tax 125352
year that the property would be listed for taxation and all 125353

subsequent years if all of the following circumstances are met: 125354

(1) The property was placed into service before January 1, 125355
~~2017~~ 2020. Tangible personal property that has not been placed 125356
into service before that date is taxable property subject to 125357
taxation. 125358

(2) For such a qualified energy project with a nameplate 125359
capacity of five megawatts or greater, a board of county 125360
commissioners of a county in which property of the qualified 125361
energy project is located has adopted a resolution under division 125362
(E)(1)(b) or (c) of this section to approve the application 125363
submitted under division (E) of this section to exempt the 125364
property located in that county from taxation. A board's adoption 125365
of a resolution rejecting the application or its failure to adopt 125366
a resolution approving the application does not affect the 125367
tax-exempt status of the qualified energy project's property that 125368
is located in another county. 125369

(3) The certification for the qualified energy project issued 125370
under division (E)(2) of this section has not been revoked. An 125371
energy project for which certification has been revoked is 125372
ineligible for exemption under this section. Revocation does not 125373
affect the tax-exempt status of the project's tangible personal 125374
property for the tax year in which revocation occurs or any prior 125375
tax year. 125376

(D) Except as otherwise provided in this ~~division~~ section, 125377
real property of a qualified energy project is exempt from 125378
taxation for any tax year for which the tangible personal property 125379
of the qualified energy project is exempted under this section. 125380

(E)(1)(a) A person may apply to the director of development 125381
for certification of an energy project as a qualified energy 125382
project on or before the following dates: 125383

(i) December 31, ~~2011~~ 2014, for an energy project using 125384

renewable energy resources; 125385

(ii) December 31, ~~2013~~ 2016, for an energy project using 125386
clean coal technology, advanced nuclear technology, or 125387
cogeneration technology. 125388

(b) The director shall forward a copy of each application for 125389
certification of an energy project with a nameplate capacity of 125390
five megawatts or greater to the board of county commissioners of 125391
each county in which the project is located and to each taxing 125392
unit with territory located in each of the affected counties. Any 125393
board that receives from the director a copy of an application 125394
submitted under this division shall adopt a resolution approving 125395
or rejecting the application unless it has adopted a resolution 125396
under division (E)(1)(c) of this section. A resolution adopted 125397
under division (E)(1)(b) or (c) of this section may require an 125398
annual service payment to be made in addition to the service 125399
payment required under division (G) of this section. The sum of 125400
the service payment required in the resolution and the service 125401
payment required under division (G) of this section shall not 125402
exceed nine thousand dollars per megawatt of nameplate capacity 125403
located in the county. The resolution shall specify the time and 125404
manner in which the payments required by the resolution shall be 125405
paid to the county treasurer. The county treasurer shall deposit 125406
the payment to the credit of the county's general fund to be used 125407
for any purpose for which money credited to that fund may be used. 125408

The board shall send copies of the resolution by certified 125409
mail to the owner of the facility and the director within thirty 125410
days after receipt of the application, or a longer period of time 125411
if authorized by the director. 125412

(c) A board of county commissioners may adopt a resolution 125413
declaring the county to be an alternative energy zone and 125414
declaring all applications submitted to the director of 125415
development under this division after the adoption of the 125416

resolution, and prior to its repeal, to be approved by the board. 125417

All tangible personal property and real property of an energy 125418
project with a nameplate capacity of five megawatts or greater is 125419
taxable if it is located in a county in which the board of county 125420
commissioners adopted a resolution rejecting the application 125421
submitted under this division or failed to adopt a resolution 125422
approving the application under division (E)(1)(b) or (c) of this 125423
section. 125424

(2) The director shall certify an energy project if all of 125425
the following circumstances exist: 125426

(a) The application was timely submitted. 125427

(b) For an energy project with a nameplate capacity of five 125428
megawatts or greater, a board of county commissioners of at least 125429
one county in which the project is located has adopted a 125430
resolution approving the application under division (E)(1)(b) or 125431
(c) of this section. 125432

(c) No portion of the project's facility was used to supply 125433
electricity before December 31, 2009. 125434

(3) The director shall deny a certification application if 125435
the director determines the person has failed to comply with any 125436
requirement under this section. The director may revoke a 125437
certification if the director determines the person, or subsequent 125438
owner or lessee pursuant to a sale and leaseback transaction of 125439
the qualified energy project, has failed to comply with any 125440
requirement under this section. Upon certification or revocation, 125441
the director shall notify the person, owner, or lessee, the tax 125442
commissioner, and the county auditor of a county in which the 125443
project is located of the certification or revocation. Notice 125444
shall be provided in a manner convenient to the director. 125445

(F) The owner or a lessee pursuant to a sale and leaseback 125446
transaction of a qualified energy project shall do each of the 125447

following: 125448

(1) Comply with all applicable regulations; 125449

(2) File with the director of development a certified 125450
construction progress report before the first day of March of each 125451
year during the energy facility's construction or installation 125452
indicating the percentage of the project completed, and the 125453
project's nameplate capacity, as of the preceding thirty-first day 125454
of December. Unless otherwise instructed by the director of 125455
development, the owner or lessee of an energy project shall file a 125456
report with the director on or before the first day of March each 125457
year after completion of the energy facility's construction or 125458
installation indicating the project's nameplate capacity as of the 125459
preceding thirty-first day of December. Not later than sixty days 125460
after ~~the effective date of this section~~ June 17, 2010, the owner 125461
or lessee of an energy project, the construction of which was 125462
completed before ~~the effective date of this section~~ June 17, 2010, 125463
shall file a certificate indicating the project's nameplate 125464
capacity. 125465

(3) File with the director of development, in a manner 125466
prescribed by the director, a report of the total number of 125467
full-time equivalent employees, and the total number of full-time 125468
equivalent employees domiciled in Ohio, who are employed in the 125469
construction or installation of the energy facility; 125470

(4) For energy projects with a nameplate capacity of five 125471
megawatts or greater, repair all roads, bridges, and culverts 125472
affected by construction as reasonably required to restore them to 125473
their preconstruction condition, as determined by the county 125474
engineer in consultation with the local jurisdiction responsible 125475
for the roads, bridges, and culverts. In the event that the county 125476
engineer deems any road, bridge, or culvert to be inadequate to 125477
support the construction or decommissioning of the energy 125478
facility, the road, bridge, or culvert shall be rebuilt or 125479

reinforced to the specifications established by the county 125480
engineer prior to the construction or decommissioning of the 125481
facility. The owner or lessee of the facility shall post a bond in 125482
an amount established by the county engineer and to be held by the 125483
board of county commissioners to ensure funding for repairs of 125484
roads, bridges, and culverts affected during the construction. The 125485
bond shall be released by the board not later than one year after 125486
the date the repairs are completed. The energy facility owner or 125487
lessee pursuant to a sale and leaseback transaction shall post a 125488
bond, as may be required by the Ohio power siting board in the 125489
certificate authorizing commencement of construction issued 125490
pursuant to section 4906.10 of the Revised Code, to ensure funding 125491
for repairs to roads, bridges, and culverts resulting from 125492
decommissioning of the facility. The energy facility owner or 125493
lessee and the county engineer may enter into an agreement 125494
regarding specific transportation plans, reinforcements, 125495
modifications, use and repair of roads, financial security to be 125496
provided, and any other relevant issue. 125497

(5) Provide or facilitate training for fire and emergency 125498
responders for response to emergency situations related to the 125499
energy project and, for energy projects with a nameplate capacity 125500
of five megawatts or greater, at the person's expense, equip the 125501
fire and emergency responders with proper equipment as reasonably 125502
required to enable them to respond to such emergency situations; 125503

(6) Maintain a ratio of Ohio-domiciled full-time equivalent 125504
employees employed in the construction or installation of the 125505
energy project to total full-time equivalent employees employed in 125506
the construction or installation of the energy project of not less 125507
than eighty per cent in the case of a solar energy project, and 125508
not less than fifty per cent in the case of any other energy 125509
project. In the case of an energy project for which certification 125510
from the power siting board is required under section 4906.20 of 125511

the Revised Code, the number of full-time equivalent employees 125512
employed in the construction or installation of the energy project 125513
equals the number actually employed or the number projected to be 125514
employed in the certificate application, if such projection is 125515
required under regulations adopted pursuant to section 4906.03 of 125516
the Revised Code, whichever is greater. For all other energy 125517
projects, the number of full-time equivalent employees employed in 125518
the construction or installation of the energy project equals the 125519
number actually employed or the number projected to be employed by 125520
the director of development, whichever is greater. To estimate the 125521
number of employees to be employed in the construction or 125522
installation of an energy project, the director shall use a 125523
generally accepted job-estimating model in use for renewable 125524
energy projects, including but not limited to the job and economic 125525
development impact model. The director may adjust an estimate 125526
produced by a model to account for variables not accounted for by 125527
the model. 125528

(7) For energy projects with a nameplate capacity in excess 125529
of two megawatts, establish a relationship with a member of the 125530
university system of Ohio as defined in section 3345.011 of the 125531
Revised Code or with a person offering an apprenticeship program 125532
registered with the employment and training administration within 125533
the United States department of labor or with the apprenticeship 125534
council created by section 4139.02 of the Revised Code, to educate 125535
and train individuals for careers in the wind or solar energy 125536
industry. The relationship may include endowments, cooperative 125537
programs, internships, apprenticeships, research and development 125538
projects, and curriculum development. 125539

(8) Offer to sell power or renewable energy credits from the 125540
energy project to electric distribution utilities or electric 125541
service companies subject to renewable energy resource 125542
requirements under section 4928.64 of the Revised Code that have 125543

issued requests for proposal for such power or renewable energy 125544
credits. If no electric distribution utility or electric service 125545
company issues a request for proposal on or before December 31, 125546
2010, or accepts an offer for power or renewable energy credits 125547
within forty-five days after the offer is submitted, power or 125548
renewable energy credits from the energy project may be sold to 125549
other persons. Division (F)(8) of this section does not apply if: 125550

(a) The owner or lessee is a rural electric company or a 125551
municipal power agency as defined in section 3734.058 of the 125552
Revised Code. 125553

(b) The owner or lessee is a person that, before completion 125554
of the energy project, contracted for the sale of power or 125555
renewable energy credits with a rural electric company or a 125556
municipal power agency. 125557

(c) The owner or lessee contracts for the sale of power or 125558
renewable energy credits from the energy project before ~~the~~ 125559
~~effective date of this section as enacted by this act~~ June 17, 125560
2010. 125561

(9) Make annual service payments as required by division (G) 125562
of this section and as may be required in a resolution adopted by 125563
a board of county commissioners under division (E) of this 125564
section. 125565

(G) The owner or a lessee pursuant to a sale and leaseback 125566
transaction of a qualified energy project shall make annual 125567
service payments in lieu of taxes to the county treasurer on or 125568
before the final dates for payments of taxes on public utility 125569
personal property on the real and public utility personal property 125570
tax list for each tax year for which property of the energy 125571
project is exempt from taxation under this section. The county 125572
treasurer shall allocate the payment on the basis of the project's 125573
physical location. Upon receipt of a payment, or if timely payment 125574

has not been received, the county treasurer shall certify such 125575
receipt or non-receipt to the director of development and tax 125576
commissioner in a form determined by the director and 125577
commissioner, respectively. Each payment shall be in the following 125578
amount: 125579

(1) In the case of a solar energy project, seven thousand 125580
dollars per megawatt of nameplate capacity located in the county 125581
as of December 31, 2010, for tax year 2011, as of December 31, 125582
2011, for tax year 2012, ~~and~~ as of December 31, 2012, for tax year 125583
2013, as of December 31, 2013, for tax year 2014, as of December 125584
31, 2014, for tax year 2015, and as of December 31, 2015, for tax 125585
year 2016 and each tax year thereafter; 125586

(2) In the case of any other energy project using renewable 125587
energy resources, the following: 125588

(a) If the project maintains during the construction or 125589
installation of the energy facility a ratio of Ohio-domiciled 125590
full-time equivalent employees to total full-time equivalent 125591
employees of not less than seventy-five per cent, six thousand 125592
dollars per megawatt of nameplate capacity located in the county 125593
as of the thirty-first day of December of the preceding tax year; 125594

(b) If the project maintains during the construction or 125595
installation of the energy facility a ratio of Ohio-domiciled 125596
full-time equivalent employees to total full-time equivalent 125597
employees of less than seventy-five per cent but not less than 125598
sixty per cent, seven thousand dollars per megawatt of nameplate 125599
capacity located in the county as of the thirty-first day of 125600
December of the preceding tax year; 125601

(c) If the project maintains during the construction or 125602
installation of the energy facility a ratio of Ohio-domiciled 125603
full-time equivalent employees to total full-time equivalent 125604
employees of less than sixty per cent but not less than fifty per 125605

cent, eight thousand dollars per megawatt of nameplate capacity 125606
located in the county as of the thirty-first day of December of 125607
the preceding tax year. 125608

(3) In the case of an energy project using clean coal 125609
technology, advanced nuclear technology, or cogeneration 125610
technology, the following: 125611

(a) If the project maintains during the construction or 125612
installation of the energy facility a ratio of Ohio-domiciled 125613
full-time equivalent employees to total full-time equivalent 125614
employees of not less than seventy-five per cent, six thousand 125615
dollars per megawatt of nameplate capacity located in the county 125616
as of the thirty-first day of December of the preceding tax year; 125617

(b) If the project maintains during the construction or 125618
installation of the energy facility a ratio of Ohio-domiciled 125619
full-time equivalent employees to total full-time equivalent 125620
employees of less than seventy-five per cent but not less than 125621
sixty per cent, seven thousand dollars per megawatt of nameplate 125622
capacity located in the county as of the thirty-first day of 125623
December of the preceding tax year; 125624

(c) If the project maintains during the construction or 125625
installation of the energy facility a ratio of Ohio-domiciled 125626
full-time equivalent employees to total full-time equivalent 125627
employees of less than sixty per cent but not less than fifty per 125628
cent, eight thousand dollars per megawatt of nameplate capacity 125629
located in the county as of the thirty-first day of December of 125630
the preceding tax year. 125631

(H) The director of development in consultation with the tax 125632
commissioner shall adopt rules pursuant to Chapter 119. of the 125633
Revised Code to implement and enforce this section. 125634

Sec. 5727.84. (A) As used in this section and sections 125635

5727.85, 5727.86, and 5727.87 of the Revised Code: 125636

(1) "School district" means a city, local, or exempted 125637
village school district. 125638

(2) "Joint vocational school district" means a joint 125639
vocational school district created under section 3311.16 of the 125640
Revised Code, and includes a cooperative education school district 125641
created under section 3311.52 or 3311.521 of the Revised Code and 125642
a county school financing district created under section 3311.50 125643
of the Revised Code. 125644

(3) "Local taxing unit" means a subdivision or taxing unit, 125645
as defined in section 5705.01 of the Revised Code, a park district 125646
created under Chapter 1545. of the Revised Code, or a township 125647
park district established under section 511.23 of the Revised 125648
Code, but excludes school districts and joint vocational school 125649
districts. 125650

(4) "State education aid," for a school district, means the 125651
following: 125652

(a) For fiscal years prior to fiscal year 2010, the sum of 125653
state aid amounts computed for the district under the following 125654
provisions, as they existed for the applicable fiscal year: 125655

divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 125656
3317.022; divisions (B), (C), and (D) of section 3317.023; 125657
divisions (G), (L), and (N) of section 3317.024; and sections 125658
3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 125659
3317.053 of the Revised Code; and the adjustments required by: 125660
division (C) of section 3310.08; division (C)(2) of section 125661
3310.41; division (C) of section 3314.08; division (D)(2) of 125662
section 3314.091; division (D) of section 3314.13; divisions (E), 125663
(K), (L), (M), and (N) of section 3317.023; division (C) of 125664
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 125665
Code. However, when calculating state education aid for a school 125666

district for fiscal years 2008 and 2009, include the amount 125667
computed for the district under Section 269.20.80 of H.B. 119 of 125668
the 127th general assembly, as subsequently amended, instead of 125669
division (D) of section 3317.022 of the Revised Code; and include 125670
amounts calculated under Section 269.30.80 of ~~this act~~ H.B. 119 of 125671
the 127th general assembly, as subsequently amended. 125672

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year~~ 125673
~~thereafter~~ 2011, the sum of the amounts computed for the district 125674
under former sections 3306.052, 3306.12, 3306.13, 3306.19, 125675
3306.191, and 3306.192; of the Revised Code and the following 125676
provisions, as they existed for the applicable fiscal year: 125677
division (G) of section 3317.024; sections 3317.05, 3317.052, and 125678
3317.053 of the Revised Code; and the adjustments required by 125679
division (C) of section 3310.08; division (C)(2) of section 125680
3310.41; division (C) of section 3314.08; division (D)(2) of 125681
section 3314.091; division (D) of section 3314.13; divisions (E), 125682
(K), (L), (M), and (N) of section 3317.023; division (C) of 125683
section 3317.20; and sections 3313.979 ~~and~~, 3313.981, and 3326.33 125684
of the Revised Code. 125685

(c) For fiscal years 2012 and 2013, the amount paid in 125686
accordance with the section of H.B. 153 of the 129th general 125687
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 125688
SCHOOL DISTRICTS" and the adjustments required by division (C) of 125689
section 3310.08; division (C)(2) of section 3310.41; section 125690
3310.55; division (C) of section 3314.08; division (D)(2) of 125691
section 3314.091; division (D) of section 3314.13; divisions (B), 125692
(H), (I), (J), and (K) of section 3317.023; division (C) of 125693
section 3317.20; and sections 3313.979 and 3313.981 of the Revised 125694
Code. 125695

(5) "State education aid," for a joint vocational school 125696
district, means the following: 125697

(a) For fiscal years prior to fiscal year 2010, the sum of 125698

the state aid amounts computed for the district under division (N) 125699
of section 3317.024 and section 3317.16 of the Revised Code. 125700
However, when calculating state education aid for a joint 125701
vocational school district for fiscal years 2008 and 2009, include 125702
the amount computed for the district under Section 269.30.90 of 125703
H.B. 119 of the 127th general assembly, as subsequently amended. 125704

(b) For fiscal years 2010 and 2011, the amount computed for 125705
the district in accordance with the section of ~~this act~~ H.B. 1 of 125706
the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL 125707
SCHOOL DISTRICTS". 125708

(c) For fiscal years 2012 and 2013, the amount paid in 125709
accordance with the section of H.B. 153 of the 129th general 125710
assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 125711

(6) "State education aid offset" means the amount determined 125712
for each school district or joint vocational school district under 125713
division (A)(1) of section 5727.85 of the Revised Code. 125714

(7) "Recognized valuation" has the same meaning as in section 125715
3317.02 of the Revised Code. 125716

(8) "Electric company tax value loss" means the amount 125717
determined under division (D) of this section. 125718

(9) "Natural gas company tax value loss" means the amount 125719
determined under division (E) of this section. 125720

(10) "Tax value loss" means the sum of the electric company 125721
tax value loss and the natural gas company tax value loss. 125722

(11) "Fixed-rate levy" means any tax levied on property other 125723
than a fixed-sum levy. 125724

(12) "Fixed-rate levy loss" means the amount determined under 125725
division (G) of this section. 125726

(13) "Fixed-sum levy" means a tax levied on property at 125727
whatever rate is required to produce a specified amount of tax 125728

money or levied in excess of the ten-mill limitation to pay debt 125729
charges, and includes school district emergency levies imposed 125730
pursuant to section 5705.194 of the Revised Code. 125731

(14) "Fixed-sum levy loss" means the amount determined under 125732
division (H) of this section. 125733

(15) "Consumer price index" means the consumer price index 125734
(all items, all urban consumers) prepared by the bureau of labor 125735
statistics of the United States department of labor. 125736

(16) "Total resources" has the same meaning as in section 125737
5751.20 of the Revised Code. 125738

(17) "2011 current expense S.B. 3 allocation" means the sum 125739
of payments received by a school district or joint vocational 125740
school district in fiscal year 2011 for current expense levy 125741
losses pursuant to division (C)(2) of section 5727.85 of the 125742
Revised Code. If a fixed-rate levy eligible for reimbursement is 125743
not imposed in any year after tax year 2010, "2011 current expense 125744
S.B. 3 allocation" used to compute payments to be made under 125745
division (C)(3) of section 5727.85 of the Revised Code in the tax 125746
years following the last year the levy is imposed shall be reduced 125747
by the amount of those payments attributable to the fixed-rate 125748
levy loss of that levy. 125749

(18) "2010 current expense S.B. 3 allocation" means the sum 125750
of payments received by a municipal corporation in calendar year 125751
2010 for current expense levy losses pursuant to division (A)(1) 125752
of section 5727.86 of the Revised Code. If a fixed-rate levy 125753
eligible for reimbursement is not imposed in any year after tax 125754
year 2010, "2010 current expense S.B. 3 allocation" used to 125755
compute payments to be made under division (A)(1)(d) of section 125756
5727.86 of the Revised Code in the tax years following the last 125757
year the levy is imposed shall be reduced by the amount of those 125758
payments attributable to the fixed-rate levy loss of that levy. 125759

(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "total S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 or division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85 or division (A)(1)(b) of section 5727.86 of the Revised Code.

(21) "2011 non-current expense S.B. 3 allocation" means the difference of a school district's or joint vocational school district's total S.B. 3 allocation minus the sum of the school district's 2011 current expense S.B. 3 allocation and the portion of the school district's total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (D) of section 5727.85 of the Revised Code.

(22) "2010 non-current expense S.B. 3 allocation" means the difference of a municipal corporation's total S.B. 3 allocation minus the sum of its 2010 current expense S.B. 3 allocation and the portion of its total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (A)(4) of section 5727.86 of the Revised Code.

(23) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

~~(1) Sixty three per cent shall be credited to the general revenue fund.~~

~~(2) Twenty five and four tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.~~

~~(3) Eleven and six tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.~~

<u>Fiscal Year</u>	<u>General Revenue Fund</u>	<u>School District Property Tax Replacement Fund</u>	<u>Local Government Property Tax Replacement Fund</u>	
2001-2011	63.0%	25.4%	11.6%	125820

2012 and 88.0% 9.0% 3.0% 125821
thereafter

(C) The natural gas tax receipts fund is hereby created in 125822
the state treasury and shall consist of money arising from the tax 125823
imposed by section 5727.811 of the Revised Code. All money in the 125824
fund shall be credited as follows: 125825

(1) For fiscal years before fiscal year 2012: 125826

(a) Sixty-eight and seven-tenths per cent shall be credited 125827
to the school district property tax replacement fund for the 125828
purpose of making the payments described in section 5727.85 of the 125829
Revised Code. 125830

~~(2)~~(b) Thirty-one and three-tenths per cent shall be credited 125831
to the local government property tax replacement fund for the 125832
purpose of making the payments described in section 5727.86 of the 125833
Revised Code. 125834

(2) For fiscal years 2012 and thereafter, one hundred per 125835
cent to the general revenue fund. 125836

(D) Not later than January 1, 2002, the tax commissioner 125837
shall determine for each taxing district its electric company tax 125838
value loss, which is the sum of the applicable amounts described 125839
in divisions (D)(1) to (4) of this section: 125840

(1) The difference obtained by subtracting the amount 125841
described in division (D)(1)(b) from the amount described in 125842
division (D)(1)(a) of this section. 125843

(a) The value of electric company and rural electric company 125844
tangible personal property as assessed by the tax commissioner for 125845
tax year 1998 on a preliminary assessment, or an amended 125846
preliminary assessment if issued prior to March 1, 1999, and as 125847
apportioned to the taxing district for tax year 1998; 125848

(b) The value of electric company and rural electric company 125849

tangible personal property as assessed by the tax commissioner for 125850
tax year 1998 had the property been apportioned to the taxing 125851
district for tax year 2001, and assessed at the rates in effect 125852
for tax year 2001. 125853

(2) The difference obtained by subtracting the amount 125854
described in division (D)(2)(b) from the amount described in 125855
division (D)(2)(a) of this section. 125856

(a) The three-year average for tax years 1996, 1997, and 1998 125857
of the assessed value from nuclear fuel materials and assemblies 125858
assessed against a person under Chapter 5711. of the Revised Code 125859
from the leasing of them to an electric company for those 125860
respective tax years, as reflected in the preliminary assessments; 125861

(b) The three-year average assessed value from nuclear fuel 125862
materials and assemblies assessed under division (D)(2)(a) of this 125863
section for tax years 1996, 1997, and 1998, as reflected in the 125864
preliminary assessments, using an assessment rate of twenty-five 125865
per cent. 125866

(3) In the case of a taxing district having a nuclear power 125867
plant within its territory, any amount, resulting in an electric 125868
company tax value loss, obtained by subtracting the amount 125869
described in division (D)(1) of this section from the difference 125870
obtained by subtracting the amount described in division (D)(3)(b) 125871
of this section from the amount described in division (D)(3)(a) of 125872
this section. 125873

(a) The value of electric company tangible personal property 125874
as assessed by the tax commissioner for tax year 2000 on a 125875
preliminary assessment, or an amended preliminary assessment if 125876
issued prior to March 1, 2001, and as apportioned to the taxing 125877
district for tax year 2000; 125878

(b) The value of electric company tangible personal property 125879
as assessed by the tax commissioner for tax year 2001 on a 125880

preliminary assessment, or an amended preliminary assessment if 125881
issued prior to March 1, 2002, and as apportioned to the taxing 125882
district for tax year 2001. 125883

(4) In the case of a taxing district having a nuclear power 125884
plant within its territory, the difference obtained by subtracting 125885
the amount described in division (D)(4)(b) of this section from 125886
the amount described in division (D)(4)(a) of this section, 125887
provided that such difference is greater than ten per cent of the 125888
amount described in division (D)(4)(a) of this section. 125889

(a) The value of electric company tangible personal property 125890
as assessed by the tax commissioner for tax year 2005 on a 125891
preliminary assessment, or an amended preliminary assessment if 125892
issued prior to March 1, 2006, and as apportioned to the taxing 125893
district for tax year 2005; 125894

(b) The value of electric company tangible personal property 125895
as assessed by the tax commissioner for tax year 2006 on a 125896
preliminary assessment, or an amended preliminary assessment if 125897
issued prior to March 1, 2007, and as apportioned to the taxing 125898
district for tax year 2006. 125899

(E) Not later than January 1, 2002, the tax commissioner 125900
shall determine for each taxing district its natural gas company 125901
tax value loss, which is the sum of the amounts described in 125902
divisions (E)(1) and (2) of this section: 125903

(1) The difference obtained by subtracting the amount 125904
described in division (E)(1)(b) from the amount described in 125905
division (E)(1)(a) of this section. 125906

(a) The value of all natural gas company tangible personal 125907
property, other than property described in division (E)(2) of this 125908
section, as assessed by the tax commissioner for tax year 1999 on 125909
a preliminary assessment, or an amended preliminary assessment if 125910
issued prior to March 1, 2000, and apportioned to the taxing 125911

district for tax year 1999; 125912

(b) The value of all natural gas company tangible personal 125913
property, other than property described in division (E)(2) of this 125914
section, as assessed by the tax commissioner for tax year 1999 had 125915
the property been apportioned to the taxing district for tax year 125916
2001, and assessed at the rates in effect for tax year 2001. 125917

(2) The difference in the value of current gas obtained by 125918
subtracting the amount described in division (E)(2)(b) from the 125919
amount described in division (E)(2)(a) of this section. 125920

(a) The three-year average assessed value of current gas as 125921
assessed by the tax commissioner for tax years 1997, 1998, and 125922
1999 on a preliminary assessment, or an amended preliminary 125923
assessment if issued prior to March 1, 2001, and as apportioned in 125924
the taxing district for those respective years; 125925

(b) The three-year average assessed value from current gas 125926
under division (E)(2)(a) of this section for tax years 1997, 1998, 125927
and 1999, as reflected in the preliminary assessment, using an 125928
assessment rate of twenty-five per cent. 125929

(F) The tax commissioner may request that natural gas 125930
companies, electric companies, and rural electric companies file a 125931
report to help determine the tax value loss under divisions (D) 125932
and (E) of this section. The report shall be filed within thirty 125933
days of the commissioner's request. A company that fails to file 125934
the report or does not timely file the report is subject to the 125935
penalty in section 5727.60 of the Revised Code. 125936

(G) Not later than January 1, 2002, the tax commissioner 125937
shall determine for each school district, joint vocational school 125938
district, and local taxing unit its fixed-rate levy loss, which is 125939
the sum of its electric company tax value loss multiplied by the 125940
tax rate in effect in tax year 1998 for fixed-rate levies and its 125941
natural gas company tax value loss multiplied by the tax rate in 125942

effect in tax year 1999 for fixed-rate levies. 125943

(H) Not later than January 1, 2002, the tax commissioner 125944
shall determine for each school district, joint vocational school 125945
district, and local taxing unit its fixed-sum levy loss, which is 125946
the amount obtained by subtracting the amount described in 125947
division (H)(2) of this section from the amount described in 125948
division (H)(1) of this section: 125949

(1) The sum of the electric company tax value loss multiplied 125950
by the tax rate in effect in tax year 1998, and the natural gas 125951
company tax value loss multiplied by the tax rate in effect in tax 125952
year 1999, for fixed-sum levies for all taxing districts within 125953
each school district, joint vocational school district, and local 125954
taxing unit. For the years 2002 through 2006, this computation 125955
shall include school district emergency levies that existed in 125956
1998 in the case of the electric company tax value loss, and 1999 125957
in the case of the natural gas company tax value loss, and all 125958
other fixed-sum levies that existed in 1998 in the case of the 125959
electric company tax value loss and 1999 in the case of the 125960
natural gas company tax value loss and continue to be charged in 125961
the tax year preceding the distribution year. For the years 2007 125962
through 2016 in the case of school district emergency levies, and 125963
for all years after 2006 in the case of all other fixed-sum 125964
levies, this computation shall exclude all fixed-sum levies that 125965
existed in 1998 in the case of the electric company tax value loss 125966
and 1999 in the case of the natural gas company tax value loss, 125967
but are no longer in effect in the tax year preceding the 125968
distribution year. For the purposes of this section, an emergency 125969
levy that existed in 1998 in the case of the electric company tax 125970
value loss, and 1999 in the case of the natural gas company tax 125971
value loss, continues to exist in a year beginning on or after 125972
January 1, 2007, but before January 1, 2017, if, in that year, the 125973
board of education levies a school district emergency levy for an 125974

annual sum at least equal to the annual sum levied by the board in 125975
tax year 1998 or 1999, respectively, less the amount of the 125976
payment certified under this division for 2002. 125977

(2) The total taxable value in tax year 1999 less the tax 125978
value loss in each school district, joint vocational school 125979
district, and local taxing unit multiplied by one-fourth of one 125980
mill. 125981

If the amount computed under division (H) of this section for 125982
any school district, joint vocational school district, or local 125983
taxing unit is greater than zero, that amount shall equal the 125984
fixed-sum levy loss reimbursed pursuant to division ~~(E)~~(F) of 125985
section 5727.85 of the Revised Code or division (A)(2) of section 125986
5727.86 of the Revised Code, and the one-fourth of one mill that 125987
is subtracted under division (H)(2) of this section shall be 125988
apportioned among all contributing fixed-sum levies in the 125989
proportion of each levy to the sum of all fixed-sum levies within 125990
each school district, joint vocational school district, or local 125991
taxing unit. 125992

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 125993
section, in computing the tax value loss, fixed-rate levy loss, 125994
and fixed-sum levy loss, the tax commissioner shall use the 125995
greater of the 1998 tax rate or the 1999 tax rate in the case of 125996
levy losses associated with the electric company tax value loss, 125997
but the 1999 tax rate shall not include for this purpose any tax 125998
levy approved by the voters after June 30, 1999, and the tax 125999
commissioner shall use the greater of the 1999 or the 2000 tax 126000
rate in the case of levy losses associated with the natural gas 126001
company tax value loss. 126002

(J) Not later than January 1, 2002, the tax commissioner 126003
shall certify to the department of education the tax value loss 126004
determined under divisions (D) and (E) of this section for each 126005
taxing district, the fixed-rate levy loss calculated under 126006

division (G) of this section, and the fixed-sum levy loss 126007
calculated under division (H) of this section. The calculations 126008
under divisions (G) and (H) of this section shall separately 126009
display the levy loss for each levy eligible for reimbursement. 126010

(K) Not later than September 1, 2001, the tax commissioner 126011
shall certify the amount of the fixed-sum levy loss to the county 126012
auditor of each county in which a school district with a fixed-sum 126013
levy loss has territory. 126014

Sec. 5727.85. (A) By the thirty-first day of July of each 126015
year, beginning in 2002 and ending in ~~2016~~ 2010, the department of 126016
education shall determine the following for each school district 126017
and each joint vocational school district: 126018

(1) The state education aid offset, which, except as provided 126019
in division (A)(1)(c) of this section, is the difference obtained 126020
by subtracting the amount described in division (A)(1)(b) of this 126021
section from the amount described in division (A)(1)(a) of this 126022
section: 126023

(a) The state education aid computed for the school district 126024
or joint vocational school district for the current fiscal year as 126025
of the thirty-first day of July; 126026

(b) The state education aid that would be computed for the 126027
school district or joint vocational school district for the 126028
current fiscal year as of the thirty-first day of July if the 126029
recognized valuation included the tax value loss for the school 126030
district or joint vocational school district; 126031

(c) The state education aid offset for fiscal year 2010 and 126032
fiscal year 2011 equals the greater of the state education aid 126033
offset calculated for that fiscal year under divisions (A)(1)(a) 126034
and (b) of this section or the state education aid offset 126035
calculated for fiscal year 2009. 126036

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of 126037
zero or the difference obtained by subtracting the state education 126038
aid offset determined under division (A)(1) of this section from 126039
the fixed-rate levy loss certified under division (J) of section 126040
5727.84 of the Revised Code for all taxing districts in each 126041
school district and joint vocational school district. 126042

By the fifth day of August of each such year, the department 126043
of education shall certify the amount so determined under division 126044
(A)(1) of this section to the director of budget and management. 126045

(B) Not later than the thirty-first day of October of the 126046
years 2006 through ~~2016~~ 2010, the department of education shall 126047
determine all of the following for each school district: 126048

(1) The amount obtained by subtracting the district's state 126049
education aid computed for fiscal year 2002 from the district's 126050
state education aid computed for the current fiscal year as of the 126051
fifteenth day of July, by including in the definition of 126052
recognized valuation the machinery and equipment, inventory, 126053
furniture and fixtures, and telephone property tax value losses, 126054
as defined in section 5751.20 of the Revised Code, for the school 126055
district or joint vocational school district for the preceding tax 126056
year; 126057

(2) The inflation-adjusted property tax loss. The 126058
inflation-adjusted property tax loss equals the fixed-rate levy 126059
loss, excluding the tax loss from levies within the ten-mill 126060
limitation to pay debt charges, determined under division (G) of 126061
section 5727.84 of the Revised Code for all taxing districts in 126062
each school district, plus the product obtained by multiplying 126063
that loss by the cumulative percentage increase in the consumer 126064
price index from January 1, 2002, to the thirtieth day of June of 126065
the current year. 126066

(3) The difference obtained by subtracting the amount 126067

computed under division (B)(1) from the amount of the 126068
inflation-adjusted property tax loss. If this difference is zero 126069
or a negative number, no further payments shall be made under 126070
division (C) of this section to the school district from the 126071
school district property tax replacement fund. 126072

(C) The Beginning in 2002 for school districts and beginning 126073
in August 2011 for joint vocational school districts, the 126074
department of education shall pay from the school district 126075
property tax replacement fund to each school district all of the 126076
following: 126077

(1) In February 2002, one-half of the fixed-rate levy loss 126078
certified under division (J) of section 5727.84 of the Revised 126079
Code between the twenty-first and twenty-eighth days of February. 126080

(2) From August 2002 through ~~August 2017~~ February 2011, 126081
one-half of the amount calculated for that fiscal year under 126082
division (A)(2) of this section between the twenty-first and 126083
twenty-eighth days of August and of February, provided the 126084
difference computed under division (B)(3) of this section is not 126085
less than or equal to zero. 126086

~~For~~ (3) For fiscal years 2012 and thereafter, the sum of the 126087
amounts in divisions (C)(3)(a) or (b) and (c) of this section 126088
shall be paid on or before the thirty-first day of August and the 126089
twenty-eighth day of February: 126090

(a) If the ratio of 2011 current expense S.B. 3 allocation to 126091
total resources is equal to or less than the threshold per cent, 126092
zero; 126093

(b) If the ratio of 2011 current expense S.B. 3 allocation to 126094
total resources is greater than the threshold per cent, fifty per 126095
cent of the difference of 2011 current expense S.B. 3 allocation 126096
minus the product of total resources multiplied by the threshold 126097
per cent; 126098

(c) Fifty per cent of the product of 2011 non-current expense 126099
S.B. 3 allocation multiplied by seventy-five per cent for fiscal 126100
year 2012 and fifty per cent for fiscal years 2013 and thereafter. 126101

The department of education shall report to each school 126102
district the apportionment of the payments among the school 126103
district's funds based on the certifications under division (J) of 126104
section 5727.84 of the Revised Code. 126105

(D) For taxes levied within the ten-mill limitation for debt 126106
purposes in tax year 1998 in the case of electric company tax 126107
value losses, and in tax year 1999 in the case of natural gas 126108
company tax value losses, payments shall be made equal to one 126109
hundred per cent of the loss computed as if the tax were a 126110
fixed-rate levy, but those payments shall extend from fiscal year 126111
2006 through fiscal year 2016. 126112

~~The department of education shall report to each school~~ 126113
~~district the apportionment of the payments among the school~~ 126114
~~district's funds based on the certifications under division (J) of~~ 126115
~~section 5727.84 of the Revised Code.~~ 126116

~~(D)~~(E) Not later than January 1, 2002, for all taxing 126117
districts in each joint vocational school district, the tax 126118
commissioner shall certify to the department of education the 126119
fixed-rate levy loss determined under division (G) of section 126120
5727.84 of the Revised Code. From February 2002 ~~to August 2016~~ 126121
through February 2011, the department shall pay from the school 126122
district property tax replacement fund to the joint vocational 126123
school district one-half of the amount calculated for that fiscal 126124
year under division (A)(2) of this section between the 126125
twenty-first and twenty-eighth days of August and of February. 126126

~~(E)~~(F)(1) Not later than January 1, 2002, for each fixed-sum 126127
levy levied by each school district or joint vocational school 126128
district and for each year for which a determination is made under 126129

division (H) of section 5727.84 of the Revised Code that a 126130
fixed-sum levy loss is to be reimbursed, the tax commissioner 126131
shall certify to the department of education the fixed-sum levy 126132
loss determined under that division. The certification shall cover 126133
a time period sufficient to include all fixed-sum levies for which 126134
the tax commissioner made such a determination. The department 126135
shall pay from the school district property tax replacement fund 126136
to the school district or joint vocational school district 126137
one-half of the fixed-sum levy loss so certified for each year 126138
between the twenty-first and twenty-eighth days of August and of 126139
February. 126140

(2) Beginning in 2003, by the thirty-first day of January of 126141
each year, the tax commissioner shall review the certification 126142
originally made under division ~~(E)~~(F)(1) of this section. If the 126143
commissioner determines that a debt levy that had been scheduled 126144
to be reimbursed in the current year has expired, a revised 126145
certification for that and all subsequent years shall be made to 126146
the department of education. 126147

~~(F)~~(G) If the balance of the half-mill equalization fund 126148
created under section 3318.18 of the Revised Code is insufficient 126149
to make the full amount of payments required under division (D) of 126150
that section, the department of education, at the end of the third 126151
quarter of the fiscal year, shall certify to the director of 126152
budget and management the amount of the deficiency, and the 126153
director shall transfer an amount equal to the deficiency from the 126154
school district property tax replacement fund to the half-mill 126155
equalization fund. 126156

~~(G)~~(H) Beginning in August 2002, and ending in May ~~2017~~ 2011, 126157
the director of budget and management shall transfer from the 126158
school district property tax replacement fund to the general 126159
revenue fund each of the following: 126160

(1) Between the twenty-eighth day of August and the fifth day 126161

of September, the lesser of one-half of the amount certified for 126162
that fiscal year under division (A)(2) of this section or the 126163
balance in the school district property tax replacement fund; 126164

(2) Between the first and fifth days of May, the lesser of 126165
one-half of the amount certified for that fiscal year under 126166
division (A)(2) of this section or the balance in the school 126167
district property tax replacement fund. 126168

~~(H)~~(I) On the first day of June each year, the director of 126169
budget and management shall transfer any balance remaining in the 126170
school district property tax replacement fund after the payments 126171
have been made under divisions (C), (D), (E), (F), ~~and~~ (G), and 126172
(H) of this section to the half-mill equalization fund created 126173
under section 3318.18 of the Revised Code to the extent required 126174
to make any payments in the current fiscal year under that 126175
section, and shall transfer the remaining balance to the general 126176
revenue fund. 126177

~~(I)~~ From (J) After fiscal year 2002 ~~through fiscal year 2016~~, 126178
if the total amount in the school district property tax 126179
replacement fund is insufficient to make all payments under 126180
divisions (C), (D), (E), ~~and~~ (F), and (G) of this section at the 126181
time the payments are to be made, the director of budget and 126182
management shall transfer from the general revenue fund to the 126183
school district property tax replacement fund the difference 126184
between the total amount to be paid and the total amount in the 126185
school district property tax replacement fund, except that no 126186
transfer shall be made by reason of a deficiency to the extent 126187
that it results from the amendment of section 5727.84 of the 126188
Revised Code by Amended Substitute House Bill No. 95 of the 125th 126189
general assembly. 126190

~~(J)~~(K) If all of the territory of a school district or joint 126191
vocational school district is merged with an existing district, or 126192
if a part of the territory of a school district or joint 126193

vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the ~~fixed rate levy loss and the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and~~ fixed-sum levy loss of the successor district shall be equal to the sum of the ~~fixed rate levy losses and the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and~~ fixed-sum levy ~~losses~~ loss for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the ~~fixed rate levy loss total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation~~ that is transferred to the recipient district shall be an amount equal to the transferring district's ~~total fixed rate levy loss total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation~~ times a fraction, the numerator of which is the ~~value of electric company tangible personal property located in the part of the territory that was~~ number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership as reported under division (A) of section 3317.03 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of that section, and the denominator of which is the ~~total value of electric company tangible personal property located in the entire district from which the territory was transferred. The value of electric company tangible personal property under this division~~

shall be determined for the most recent year for which data is available average daily membership or formula ADM of the transferor district. Fixed-sum levy losses for both districts shall be determined under division ~~(J)~~(K)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2009. ~~From~~ In February 2010 ~~to~~, August 2016 2010, and February 2011, the new district shall be paid fifty per cent of the lesser of: (i) the amount calculated under division (C)(2) of this section or (ii) an amount equal to seventy per cent of the new district's fixed-rate levy loss ~~multiplied by the percentage prescribed by the following schedule:~~

YEAR	PERCENTAGE
2010	70%
2011	70%
2012	60%
2013	50%
2014	40%
2015	24%
2016	11.5%
2017 and thereafter	0%

Beginning in fiscal year 2012, the new district shall be paid as provided in division (C) of this section.

Fixed-sum levy losses for the districts shall be determined under division ~~(J)~~(K)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division ~~(J)~~(K)(4) of this

section, fixed-sum levy loss. The district or districts from which 126257
the territory was transferred shall have no reduction in their 126258
fixed-rate levy loss, or, except as provided in division ~~(J)~~(K)(4) 126259
of this section, their fixed-sum levy loss. 126260

(4) If a recipient district under division ~~(J)~~(K)(2) of this 126261
section or a new district under division ~~(J)~~(K)(3)(a) or (b) of 126262
this section takes on debt from one or more of the districts from 126263
which territory was transferred, and any of the districts 126264
transferring the territory had fixed-sum levy losses, the 126265
department of education, in consultation with the tax 126266
commissioner, shall make an equitable division of the fixed-sum 126267
levy losses. 126268

~~(K) There is hereby created the public utility property tax 126269
study committee, effective January 1, 2011. The committee shall 126270
consist of the following seven members: the tax commissioner, 126271
three members of the senate appointed by the president of the 126272
senate, and three members of the house of representatives 126273
appointed by the speaker of the house of representatives. The 126274
appointments shall be made not later than January 31, 2011. The 126275
tax commissioner shall be the chairperson of the committee. 126276~~

~~The committee shall study the extent to which each school 126277
district or joint vocational school district has been compensated, 126278
under sections 5727.84 and 5727.85 of the Revised Code as enacted 126279
by Substitute Senate Bill No. 3 of the 123rd general assembly and 126280
any subsequent acts, for the property tax loss caused by the 126281
reduction in the assessment rates for natural gas, electric, and 126282
rural electric company tangible personal property. Not later than 126283
June 30, 2011, the committee shall issue a report of its findings, 126284
including any recommendations for providing additional 126285
compensation for the property tax loss or regarding remedial 126286
legislation, to the president of the senate and the speaker of the 126287
house of representatives, at which time the committee shall cease 126288~~

~~to exist.~~ 126289

~~The department of taxation and department of education shall~~ 126290
~~provide such information and assistance as is required for the~~ 126291
~~committee to carry out its duties.~~ 126292

Sec. 5727.86. (A) Not later than January 1, 2002, the tax 126293
commissioner shall compute the payments to be made to each local 126294
taxing unit for each year according to divisions (A)(1), (2), (3), 126295
and (4) and division (E) of this section, and shall distribute the 126296
payments in the manner prescribed by division (C) of this section. 126297
The calculation of the fixed-sum levy loss shall cover a time 126298
period sufficient to include all fixed-sum levies for which the 126299
tax commissioner determined, pursuant to division (H) of section 126300
5727.84 of the Revised Code, that a fixed-sum levy loss is to be 126301
reimbursed. 126302

(1) Except as provided in divisions (A)(3) and (4) of this 126303
section, ~~for fixed rate levy losses determined under division (G)~~ 126304
~~of section 5727.84 of the Revised Code, payments shall be made in~~ 126305
~~each of the following years at the following percentage of the~~ 126306
~~fixed rate levy loss certified under division (A) of this section:~~ 126307

YEAR	PERCENTAGE	
2002	100%	126308
2003	100%	126309
2004	100%	126310
2005	100%	126311
2006	100%	126312
2007	80%	126313
2008	80%	126314
2009	80%	126315
2010	80%	126316
2011	80%	126317
2012	66.7%	126318
		126319

2013	53.4%	126320
2014	40.1%	126321
2015	26.8%	126322
2016	13.5%	126323
2017 and thereafter	0%	126324

the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February: 126325
126326

(a) For years 2002 through 2006, fifty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code; 126327
126328
126329

(b) For years 2007 through 2010, forty per cent of the fixed rate levy loss computed under division (G) of section 5727.84 of the Revised Code; 126330
126331
126332

(c) For the payment in 2011 to be made on or before the twentieth day of February, the amount required to be paid in 2010 on or before the twentieth day of February; 126333
126334
126335

(d) For the payment in 2011 to be made on or before the thirty-first day of August and for all payments to be made in years 2012 and thereafter, the sum of the amounts in divisions (A)(1)(d)(i) or (ii) and (iii) of this section: 126336
126337
126338
126339

(i) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero; 126340
126341
126342

(ii) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is greater than the threshold per cent, the difference of fifty per cent of the 2010 S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent; 126343
126344
126345
126346
126347

(iii) In the case of a municipal corporation, fifty per cent of the product of its 2010 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for year 2011, fifty per cent 126348
126349
126350

for year 2012, and twenty-five percent for years 2013 and 126351
thereafter. 126352

(2) For fixed-sum levy losses determined under division (H) 126353
of section 5727.84 of the Revised Code, payments shall be made in 126354
the amount of one hundred per cent of the fixed-sum levy loss for 126355
payments required to be made in 2002 and thereafter. 126356

(3) A local taxing unit in a county of less than two hundred 126357
fifty square miles that receives eighty per cent or more of its 126358
combined general fund and bond retirement fund revenues from 126359
property taxes and rollbacks based on 1997 actual revenues as 126360
presented in its 1999 tax budget, and in which electric companies 126361
and rural electric companies comprise over twenty per cent of its 126362
property valuation, shall receive one hundred per cent of its 126363
fixed-rate levy losses from electric company tax value losses 126364
certified under division (A) of this section in years 2002 to ~~2016~~ 126365
2010. Beginning in 2011, payments for such local taxing units 126366
shall be determined under division (A)(1) of this section. 126367

(4) For taxes levied within the ten-mill limitation or 126368
pursuant to a municipal charter for debt purposes in tax year 1998 126369
in the case of electric company tax value losses, and in tax year 126370
1999 in the case of natural gas company tax value losses, payments 126371
shall be made equal to one hundred per cent of the loss computed 126372
as if the tax were a fixed-rate levy, but those payments shall 126373
extend from ~~fiscal year 2006~~ 2011 through ~~fiscal year~~ 2016 if the 126374
levy was imposed for debt purposes in tax year 2010. If the levy 126375
is not imposed for debt purposes in tax year 2010 or any following 126376
tax year before tax year 2016, payments for that levy shall be 126377
made under division (A)(1) of this section beginning with the 126378
first year after the year the levy is imposed for a purpose other 126379
than debt. For the purposes of this division, taxes levied 126380
pursuant to a municipal charter refer to taxes levied pursuant to 126381
a provision of a municipal charter that permits the tax to be 126382

levied without prior voter approval. 126383

(B) Beginning in 2003, by the thirty-first day of January of 126384
each year, the tax commissioner shall review the calculation 126385
originally made under division (A) of this section of the 126386
fixed-sum levy loss determined under division (H) of section 126387
5727.84 of the Revised Code. If the commissioner determines that a 126388
fixed-sum levy that had been scheduled to be reimbursed in the 126389
current year has expired, a revised calculation for that and all 126390
subsequent years shall be made. 126391

(C) Payments to local taxing units required to be made under 126392
divisions (A) and (E) of this section shall be paid from the local 126393
government property tax replacement fund to the county undivided 126394
income tax fund in the proper county treasury. ~~One half of the~~ 126395
~~amount certified under those divisions shall be paid between the~~ 126396
~~twenty first and twenty eighth days of August and of February.~~ The 126397
county treasurer shall distribute amounts paid under division (A) 126398
of this section to the proper local taxing unit as if they had 126399
been levied and collected as taxes, and the local taxing unit 126400
shall apportion the amounts so received among its funds in the 126401
same proportions as if those amounts had been levied and collected 126402
as taxes. Except in the case of amounts distributed to the county 126403
as a local taxing unit, amounts distributed under division (E)(2) 126404
of this section shall be credited to the general fund of the local 126405
taxing unit that receives them. Amounts distributed to each county 126406
as a local taxing unit under division (E)(2) of this section shall 126407
be credited in the proportion that the current taxes charged and 126408
payable from each levy of or by the county bears to the total 126409
current taxes charged and payable from all levies of or by the 126410
county. 126411

(D) By February 5, 2002, the tax commissioner shall estimate 126412
the amount of money in the local government property tax 126413
replacement fund in excess of the amount necessary to make 126414

payments in that month under division (C) of this section. 126415
Notwithstanding division (A) of this section, the tax commissioner 126416
may pay any local taxing unit, from those excess funds, nine and 126417
four-tenths times the amount computed for 2002 under division 126418
(A)(1) of this section. A payment made under this division shall 126419
be in lieu of the payment to be made in February 2002 under 126420
division (A)(1) of this section. A local taxing unit receiving a 126421
payment under this division will no longer be entitled to any 126422
further payments under division (A)(1) of this section. A payment 126423
made under this division shall be paid from the local government 126424
property tax replacement fund to the county undivided income tax 126425
fund in the proper county treasury. The county treasurer shall 126426
distribute the payment to the proper local taxing unit as if it 126427
had been levied and collected as taxes, and the local taxing unit 126428
shall apportion the amounts so received among its funds in the 126429
same proportions as if those amounts had been levied and collected 126430
as taxes. 126431

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 126432
2005, and 2006, and on the thirty-first day of January and July of 126433
2007 ~~and each year thereafter~~ through January 2011, if the amount 126434
credited to the local government property tax replacement fund 126435
exceeds the amount needed to be distributed from the fund under 126436
division (A) of this section in the following month, the tax 126437
commissioner shall distribute the excess to each county as 126438
follows: 126439

(a) One-half shall be distributed to each county in 126440
proportion to each county's population. 126441

(b) One-half shall be distributed to each county in the 126442
proportion that the amounts determined under divisions (G) and (H) 126443
of section 5727.84 of the Revised Code for all local taxing units 126444
in the county is of the total amounts so determined for all local 126445
taxing units in the state. 126446

(2) The amounts distributed to each county under division (E) 126447
of this section shall be distributed by the county auditor to each 126448
local taxing unit in the county in the proportion that the unit's 126449
current taxes charged and payable are of the total current taxes 126450
charged and payable of all the local taxing units in the county. 126451
If the amount that the county auditor determines to be distributed 126452
to a local taxing unit is less than five dollars, that amount 126453
shall not be distributed, and the amount not distributed shall 126454
remain credited to the county undivided income tax fund. At the 126455
time of the next distribution under division (E)(2) of this 126456
section, any amount that had not been distributed in the prior 126457
distribution shall be added to the amount available for the next 126458
distribution prior to calculation of the amount to be distributed. 126459
As used in this division, "current taxes charged and payable" 126460
means the taxes charged and payable as most recently determined 126461
for local taxing units in the county. 126462

~~(3) If, in the opinion of the tax commissioner, the excess 126463
remaining in the local government property tax replacement fund in 126464
any year is not sufficient to warrant distribution After January 126465
2011, any amount that exceeds the amount needed to be distributed
from the fund under division ~~(E)(A)~~ of this section, ~~the excess 126467
shall remain to the credit of~~ in the following month shall be
transferred to the general revenue fund. 126468
126469~~

~~(F) From fiscal year 2002 through fiscal year 2016, if If the 126470
total amount in the local government property tax replacement fund 126471
is insufficient to make all payments under division (C) of this 126472
section at the times the payments are to be made, the director of 126473
budget and management shall transfer from the general revenue fund 126474
to the local government property tax replacement fund the 126475
difference between the total amount to be paid and the amount in 126476
the local government property tax replacement fund, except that no 126477
transfer shall be made by reason of a deficiency to the extent 126478~~

that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill 95 of the 125th general assembly.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the ~~tax value less~~ square mileage apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5729.17. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5729.03 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5729.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance

of the credit in excess of the amount claimed in that year for not 126510
more than five ensuing years, and shall deduct any amount claimed 126511
in any such year from the amount claimed in an ensuing year. 126512

(C) An insurance company claiming a credit under this section 126513
shall retain the rehabilitation tax credit certificate for four 126514
years following the end of the year in which the credit was 126515
claimed, and shall make the certificate available for inspection 126516
by the tax commissioner upon the request of the tax commissioner 126517
during that period. 126518

Sec. 5729.98. (A) To provide a uniform procedure for 126519
calculating the amount of tax due under this chapter, a taxpayer 126520
shall claim any credits and offsets against tax liability to which 126521
it is entitled in the following order: 126522

(1) The credit for an insurance company or insurance company 126523
group under section 5729.031 of the Revised Code; 126524

(2) The credit for eligible employee training costs under 126525
section 5729.07 of the Revised Code; 126526

(3) The credit for purchases of qualified low-income 126527
community investments under section 5729.16 of the Revised Code; 126528

(4) The nonrefundable job retention credit under division 126529
(B)(1) of section 122.171 of the Revised Code; 126530

(5) The offset of assessments by the Ohio life and health 126531
insurance guaranty association against tax liability permitted by 126532
section 3956.20 of the Revised Code; 126533

(6) The refundable credit for rehabilitating a historic 126534
building under section 5729.17 of the Revised Code. 126535

(7) The refundable credit for Ohio job retention under 126536
division (B)(2) or (3) of section 122.171 of the Revised Code; 126537

~~(7)~~(8) The refundable credit for Ohio job creation under 126538

section 5729.032 of the Revised Code; 126539

~~(8)~~(9) The refundable credit under section 5729.08 of the 126540
Revised Code for losses on loans made under the Ohio venture 126541
capital program under sections 150.01 to 150.10 of the Revised 126542
Code. 126543

(B) For any credit except the refundable credits enumerated 126544
in this section, the amount of the credit for a taxable year shall 126545
not exceed the tax due after allowing for any other credit that 126546
precedes it in the order required under this section. Any excess 126547
amount of a particular credit may be carried forward if authorized 126548
under the section creating that credit. Nothing in this chapter 126549
shall be construed to allow a taxpayer to claim, directly or 126550
indirectly, a credit more than once for a taxable year. 126551

Sec. 5731.02. (A) A tax is hereby levied on the transfer of 126552
the taxable estate, determined as provided in section 5731.14 of 126553
the Revised Code, of every person dying on or after July 1, 1968, 126554
and before January 1, 2013, who at the time of death was a 126555
resident of this state, as follows: 126556

If the taxable estate is:	The tax shall be:	
Not over \$40,000	2% of the taxable estate	126557
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	126558
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	126559
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	126560
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	126561
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000.	126562

(B) A credit shall be allowed against the tax imposed by 126563

division (A) of this section equal to the lesser of five hundred 126565
dollars or the amount of the tax for persons dying on or after 126566
July 1, 1968, but before January 1, 2001; the lesser of six 126567
thousand six hundred dollars or the amount of the tax for persons 126568
dying on or after January 1, 2001, but before January 1, 2002; or 126569
the lesser of thirteen thousand nine hundred dollars or the amount 126570
of the tax for persons dying on or after January 1, 2002. 126571

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of 126572
so much of the taxable estate of every person dying on or after 126573
July 1, 1968, and before January 1, 2013, who, at the time of ~~his~~ 126574
death, was not a resident of this state, as consists of real 126575
property situated in this state, tangible personal property having 126576
an actual situs in this state, and intangible personal property 126577
employed in carrying on a business within this state unless 126578
exempted from tax under the provisions of section 5731.34 of the 126579
Revised Code. 126580

(B) The amount of the tax on such real and tangible personal 126581
property shall be determined as follows: 126582

(1) Determine the amount of tax which would be payable under 126583
Chapter 5731. of the Revised Code if the decedent had died a 126584
resident of this state with all ~~his~~ the decedent's property 126585
situated or located within this state; 126586

(2) Multiply the tax so determined by a fraction, the 126587
denominator of which shall be the value of the gross estate 126588
wherever situated and the numerator of which shall be the said 126589
gross estate value of the real property situated and the tangible 126590
personal property having an actual situs in this state and 126591
intangible personal property employed in carrying on a business 126592
within this state and not exempted from tax under section 5731.34 126593
of the Revised Code. The product shall be the amount of tax 126594
payable to this state. 126595

(C) In addition to the tax levied by division (A) of this section, an additional tax is hereby levied on such real and tangible personal property determined as follows:

(1) Determine the amount of tax which would be payable under division (A) of section 5731.18 of the Revised Code, if the decedent had died a resident of this state with all ~~his~~ the decedent's property situated or located within this state;

(2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product so derived shall be credited with the amount of the tax determined under division (B) of this section.

Sec. 5731.21. (A)(1)(a) Except as provided under division (A)(3) of this section, the executor or administrator, or, if no executor or administrator has been appointed, another person in possession of property the transfer of which is subject to estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, shall file an estate tax return, within nine months of the date of the decedent's death, in the form prescribed by the tax commissioner, in duplicate, with the probate court of the county. The return shall include all property the transfer of which is subject to estate taxes, whether that property is transferred under the last will and testament of the decedent or otherwise. The time for filing the return may be extended by the tax commissioner.

(b) The estate tax return described in division (A)(1)(a) of this section shall be accompanied by a certificate, in the form

prescribed by the tax commissioner, that is signed by the 126627
executor, administrator, or other person required to file the 126628
return, and that states all of the following: 126629

(i) The fact that the return was filed; 126630

(ii) The date of the filing of the return; 126631

(iii) The fact that the estate taxes under section 5731.02 or 126632
division (A) of section 5731.19 of the Revised Code, that are 126633
shown to be due in the return, have been paid in full; 126634

(iv) If applicable, the fact that real property listed in the 126635
inventory for the decedent's estate is included in the return; 126636

(v) If applicable, the fact that real property not listed in 126637
the inventory for the decedent's estate, including, but not 126638
limited to, survivorship tenancy property as described in section 126639
5302.17 of the Revised Code or transfer on death property as 126640
described in sections 5302.22 and 5302.23 of the Revised Code, 126641
also is included in the return. In this regard, the certificate 126642
additionally shall describe that real property by the same 126643
description used in the return. 126644

(2) The probate court shall forward one copy of the estate 126645
tax return described in division (A)(1)(a) of this section to the 126646
tax commissioner. 126647

(3) A person shall not be required to file a return under 126648
division (A) of this section if the decedent was a resident of 126649
this state and the value of the decedent's gross estate is 126650
twenty-five thousand dollars or less in the case of a decedent 126651
dying on or after July 1, 1968, but before January 1, 2001; two 126652
hundred thousand dollars or less in the case of a decedent dying 126653
on or after January 1, 2001, but before January 1, 2002; or three 126654
hundred thirty-eight thousand three hundred thirty-three dollars 126655
or less in the case of a decedent dying on or after January 1, 126656
2002. No return shall be filed for estates of decedents dying on 126657

or after January 1, 2013. 126658

(4)(a) Upon receipt of the estate tax return described in 126659
division (A)(1)(a) of this section and the accompanying 126660
certificate described in division (A)(1)(b) of this section, the 126661
probate court promptly shall give notice of the return, by a form 126662
prescribed by the tax commissioner, to the county auditor. The 126663
auditor then shall make a charge based upon the notice and shall 126664
certify a duplicate of the charge to the county treasurer. The 126665
treasurer then shall collect, subject to division (A) of section 126666
5731.25 of the Revised Code or any other statute extending the 126667
time for payment of an estate tax, the tax so charged. 126668

(b) Upon receipt of the return and the accompanying 126669
certificate, the probate court also shall forward the certificate 126670
to the auditor. When satisfied that the estate taxes under section 126671
5731.02 or division (A) of section 5731.19 of the Revised Code, 126672
that are shown to be due in the return, have been paid in full, 126673
the auditor shall stamp the certificate so forwarded to verify 126674
that payment. The auditor then shall return the stamped 126675
certificate to the probate court. 126676

(5)(a) The certificate described in division (A)(1)(b) of 126677
this section is a public record subject to inspection and copying 126678
in accordance with section 149.43 of the Revised Code. It shall be 126679
kept in the records of the probate court pertaining to the 126680
decedent's estate and is not subject to the confidentiality 126681
provisions of section 5731.90 of the Revised Code. 126682

(b) All persons are entitled to rely on the statements 126683
contained in a certificate as described in division (A)(1)(b) of 126684
this section if it has been filed in accordance with that 126685
division, forwarded to a county auditor and stamped in accordance 126686
with division (A)(4) of this section, and placed in the records of 126687
the probate court pertaining to the decedent's estate in 126688
accordance with division (A)(5)(a) of this section. The real 126689

property referred to in the certificate shall be free of, and may 126690
be regarded by all persons as being free of, any lien for estate 126691
taxes under section 5731.02 and division (A) of section 5731.19 of 126692
the Revised Code. 126693

(B) An estate tax return filed under this section, in the 126694
form prescribed by the tax commissioner, and showing that no 126695
estate tax is due shall result in a determination that no estate 126696
tax is due, if the tax commissioner within three months after the 126697
receipt of the return by the department of taxation, fails to file 126698
exceptions to the return in the probate court of the county in 126699
which the return was filed. A copy of exceptions to a return of 126700
that nature, when the tax commissioner files them within that 126701
period, shall be sent by ordinary mail to the person who filed the 126702
return. The tax commissioner is not bound under this division by a 126703
determination that no estate tax is due, with respect to property 126704
not disclosed in the return. 126705

(C) If the executor, administrator, or other person required 126706
to file an estate tax return fails to file it within nine months 126707
of the date of the decedent's death, the tax commissioner may 126708
determine the estate tax in that estate and issue a certificate of 126709
determination in the same manner as is provided in division (B) of 126710
section 5731.27 of the Revised Code. A certificate of 126711
determination of that nature has the same force and effect as 126712
though a return had been filed and a certificate of determination 126713
issued with respect to the return. 126714

Sec. 5731.39. (A) No corporation organized or existing under 126715
the laws of this state shall transfer on its books or issue a new 126716
certificate for any share of its capital stock registered in the 126717
name of a decedent, or in trust for a decedent, or in the name of 126718
a decedent and another person or persons, without the written 126719
consent of the tax commissioner. 126720

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension or profit sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in

possession, control, or custody securities, assets, or other 126753
property (including the shares of the capital stock of, or other 126754
interest in, such safe deposit company, trust company, financial 126755
institution as defined in division (A) of section 5725.01 of the 126756
Revised Code, or other corporation), standing in the name of a 126757
decedent, or in trust for a decedent, or in the name of a decedent 126758
and another person or persons, and the transfer of which is 126759
taxable under Chapter 5731. of the Revised Code, shall deliver or 126760
transfer any such securities, assets, or other property which have 126761
a value as of the date of decedent's death in excess of 126762
three-fourths of the total value thereof, without the written 126763
consent of the tax commissioner. The written consent of the tax 126764
commissioner need not be obtained prior to the delivery or 126765
transfer of any such securities, assets, or other property having 126766
a value of three-fourths or less of said total value. 126767

(F) No safe deposit company, financial institution as defined 126768
in division (A) of section 5725.01 of the Revised Code, or other 126769
corporation or person having possession or control of a safe 126770
deposit box or similar receptacle standing in the name of a 126771
decedent or in the name of the decedent and another person or 126772
persons, or to which the decedent had a right of access, except 126773
when such safe deposit box or other receptacle stands in the name 126774
of a corporation or partnership, or in the name of the decedent as 126775
guardian or executor, shall deliver any of the contents thereof 126776
unless the safe deposit box or similar receptacle has been opened 126777
and inventoried in the presence of the tax commissioner or the 126778
commissioner's agent, and a written consent to transfer issued; 126779
provided, however, that a safe deposit company, financial 126780
institution, or other corporation or person having possession or 126781
control of a safe deposit box may deliver wills, deeds to burial 126782
lots, and insurance policies to a representative of the decedent, 126783
but that a representative of the safe deposit company, financial 126784
institution, or other corporation or person must supervise the 126785

opening of the box and make a written record of the wills, deeds, 126786
and policies removed. Such written record shall be included in the 126787
tax commissioner's inventory records. 126788

(G) Notwithstanding any provision of this section: 126789

(1) The tax commissioner may authorize any delivery or 126790
transfer or waive any of the foregoing requirements under such 126791
terms and conditions as the commissioner may prescribe; 126792

(2) An adult care facility, as defined in section ~~3722.01~~ 126793
5119.70 of the Revised Code, or a home, as defined in section 126794
3721.10 of the Revised Code, may transfer or use the money in a 126795
personal needs allowance account in accordance with section 126796
5111.113 of the Revised Code without the written consent of the 126797
tax commissioner, and without the account having been opened and 126798
inventoried in the presence of the commissioner or the 126799
commissioner's agent. 126800

Failure to comply with this section shall render such safe 126801
deposit company, trust company, life insurance company, financial 126802
institution as defined in division (A) of section 5725.01 of the 126803
Revised Code, or other corporation or person liable for the amount 126804
of the taxes and interest due under the provisions of Chapter 126805
5731. of the Revised Code on the transfer of such stock, deposit, 126806
proceeds of an annuity or matured endowment contract or of a life 126807
insurance contract payable to the estate of a decedent, or other 126808
insurance contract taxable under Chapter 5731. of the Revised 126809
Code, proceeds of any death benefit, retirement, pension, or 126810
profit sharing plan in excess of two thousand dollars, or 126811
securities, assets, or other property of any resident decedent, 126812
and in addition thereto, to a penalty of not less than five 126813
hundred or more than five thousand dollars. 126814

Sec. 5733.0610. (A) A refundable corporation franchise tax 126815
credit granted by the tax credit authority under section 122.17 or 126816

division (B)(2) or (3) of section 122.171 of the Revised Code may 126817
be claimed under this chapter in the order required under section 126818
5733.98 of the Revised Code. For purposes of making tax payments 126819
under this chapter, taxes equal to the amount of the refundable 126820
credit shall be considered to be paid to this state on the first 126821
day of the tax year. The refundable credit shall not be claimed 126822
for any tax years following the calendar year in which a 126823
relocation of employment positions occurs in violation of an 126824
agreement entered into under section 122.171 of the Revised Code. 126825

(B) A nonrefundable corporation franchise tax credit granted 126826
by the tax credit authority under division (B)(1) of section 126827
122.171 of the Revised Code may be claimed under this chapter in 126828
the order required under section 5733.98 of the Revised Code. 126829

Sec. 5733.23. In addition to all other remedies for the 126830
collection of any taxes or penalties due under law, whenever any 126831
taxes, fees, or penalties due from any corporation have remained 126832
unpaid for a period of ninety days, or whenever any corporation 126833
has failed for a period of ninety days to make any report or 126834
return required by law, or to pay any penalty for failure to make 126835
or file such report or return, the attorney general, upon the 126836
request of the tax commissioner, shall file a petition in the 126837
court of common pleas in the county of the state in which such 126838
corporation has its principal place of business for a judgment for 126839
the amount of the taxes or penalties appearing to be due, the 126840
enforcement of any lien in favor of the state, and an injunction 126841
to restrain such corporation and its officers, directors, and 126842
managing agents from the transaction of any business within this 126843
state, other than such acts as are incidental to liquidation or 126844
winding up, until the payment of such taxes, fees, and penalties, 126845
and the costs of the proceeding which shall be fixed by the court, 126846
or the making and filing of such report or return. 126847

Such petition shall be in the name of the state. All or any 126848
of the corporations having their principal places of business in 126849
the county may be joined in one suit. On the motion of the 126850
attorney general, the court of common pleas shall enter an order 126851
requiring all defendants to answer by a day certain, and may 126852
appoint a special master commissioner to take testimony, with such 126853
other power and authority as the court confers, and permitting 126854
process to be served by registered mail and by publication in a 126855
newspaper of general circulation ~~published~~ in the county, which 126856
publication need not be made more than once, setting forth the 126857
name of each delinquent corporation, the matter in which such 126858
corporation is delinquent, the names of its officers, directors, 126859
and managing agents, if set forth in the petition, and the amount 126860
of any taxes, fees, or penalties claimed to be owing by said 126861
corporation. 126862

All or any of the officers, directors, shareholders, or 126863
managing agents of any corporation may be joined as defendants 126864
with such corporation. 126865

If it appears to the court upon hearing that any corporation 126866
which is a party to such proceeding is indebted to the state for 126867
taxes, fees, or penalties, judgment shall be entered therefor with 126868
interest; and if it appears that any corporation has failed to 126869
make or file any report or return, a mandatory injunction may be 126870
issued against such corporation, its officers, directors, and 126871
managing agents, enjoining them from the transaction of any 126872
business within this state, other than acts incidental to 126873
liquidation or winding up, until the making and filing of all 126874
proper reports or returns and until the payment in full of all 126875
taxes, fees, and penalties. 126876

If the officers, directors, shareholders, or managing agents 126877
of a corporation are not made parties in the first instance, and a 126878
judgment or an injunction is rendered or issued against such 126879

corporation, such officers, directors, shareholders, or managing 126880
agents may be made parties to such proceedings upon the motion of 126881
the attorney general, and, upon notice to them of the form and 126882
terms of such injunction, they shall be bound thereby as fully as 126883
if they had been made parties in the first instance. 126884

In any action authorized by this section, a statement of the 126885
commissioner, or the secretary of state, when duly certified, 126886
shall be prima-facie evidence of the amount of taxes, fees, or 126887
penalties due from any corporation, or of the failure of any 126888
corporation to file with the commissioner or the secretary of 126889
state any report required by law, and any such certificate of the 126890
commissioner or the secretary of state may be required in evidence 126891
in any such proceeding. 126892

On the application of any defendant and for good cause shown, 126893
the court may order a separate hearing of the issues as to any 126894
defendant. 126895

The costs of the proceeding shall be apportioned among the 126896
parties as the court deems proper. 126897

The court in such proceeding may make, enter, and enforce 126898
such other judgments and orders and grant such other relief as is 126899
necessary or incidental to the enforcement of the claims and lien 126900
of the state. 126901

In the performance of the duties enjoined upon ~~him~~ the 126902
attorney general by this section the attorney general may direct 126903
any prosecuting attorney to bring an action, as authorized by this 126904
section, in the name of the state with respect to any delinquent 126905
corporations within ~~his~~ the prosecuting attorney's county, and 126906
like proceedings and orders shall be had as if such action were 126907
instituted by the attorney general. 126908

Sec. 5733.351. (A) As used in this section, "qualified 126909

research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for tax year 2002 for a taxpayer whose taxable year for tax year 2002 ended before July 1, 2001. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer between January 1, 2001, and the end of the taxable year, over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax imposed by section 5733.06 of the Revised Code for each tax year, commencing with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer for the taxable year over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(3) The taxpayer shall claim the credit allowed under division (B)(1) or (2) of this section in the order required by section 5733.98 of the Revised Code. Any credit amount in excess of the tax due under section 5733.06 of the Revised Code, after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, may be carried forward for seven taxable years, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.51 of

the Revised Code, provided that the total number of taxable years 126942
under this section and calendar years under Chapter 5751. of the 126943
Revised Code for which the credit is carried forward shall not 126944
exceed seven. 126945

(C) In the case of a qualifying controlled group, the credit 126946
allowed under division (B)(1) or (2) of this section to taxpayers 126947
in the qualifying controlled group shall be computed as if all 126948
corporations in the qualifying controlled group were a 126949
consolidated, single taxpayer. For purposes of this division, an 126950
insurance company subject to the tax levied under section 5727.18 126951
or Chapter 5729. of the Revised Code may be considered a member of 126952
a qualifying controlled group by the group, even though the 126953
insurance company is not subject to the tax levied under section 126954
5733.06 of the Revised Code. The credit shall be allocated to such 126955
taxpayers in any amount elected for the taxable year by the 126956
qualifying controlled group. The election shall be revocable and 126957
amendable during the period prescribed by division (B) of section 126958
5733.12 of the Revised Code. 126959

Sec. 5739.01. As used in this chapter: 126960

(A) "Person" includes individuals, receivers, assignees, 126961
trustees in bankruptcy, estates, firms, partnerships, 126962
associations, joint-stock companies, joint ventures, clubs, 126963
societies, corporations, the state and its political subdivisions, 126964
and combinations of individuals of any form. 126965

(B) "Sale" and "selling" include all of the following 126966
transactions for a consideration in any manner, whether absolutely 126967
or conditionally, whether for a price or rental, in money or by 126968
exchange, and by any means whatsoever: 126969

(1) All transactions by which title or possession, or both, 126970
of tangible personal property, is or is to be transferred, or a 126971
license to use or consume tangible personal property is or is to 126972

be granted;	126973
(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;	126974 126975
(3) All transactions by which:	126976
(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;	126977 126978 126979
(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;	126980 126981 126982 126983 126984 126985
(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;	126986 126987
(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;	126988 126989 126990
(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one	126991 126992 126993 126994 126995 126996 126997 126998 126999 127000 127001 127002 127003

corporation owns or controls another if it owns more than fifty 127004
per cent of the other corporation's common stock with voting 127005
rights. 127006

(f) Telecommunications service, including prepaid calling 127007
service, prepaid wireless calling service, or ancillary service, 127008
is or is to be provided, but not including coin-operated telephone 127009
service; 127010

(g) Landscaping and lawn care service is or is to be 127011
provided; 127012

(h) Private investigation and security service is or is to be 127013
provided; 127014

(i) Information services or tangible personal property is 127015
provided or ordered by means of a nine hundred telephone call; 127016

(j) Building maintenance and janitorial service is or is to 127017
be provided; 127018

(k) Employment service is or is to be provided; 127019

(l) Employment placement service is or is to be provided; 127020

(m) Exterminating service is or is to be provided; 127021

(n) Physical fitness facility service is or is to be 127022
provided; 127023

(o) Recreation and sports club service is or is to be 127024
provided; 127025

(p) On and after August 1, 2003, satellite broadcasting 127026
service is or is to be provided; 127027

(q) On and after August 1, 2003, personal care service is or 127028
is to be provided to an individual. As used in this division, 127029
"personal care service" includes skin care, the application of 127030
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 127031
piercing, tanning, massage, and other similar services. "Personal 127032

care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either

directly or indirectly the materials used in the production of 127064
fabrication work; and include the furnishing, preparing, or 127065
serving for a consideration of any tangible personal property 127066
consumed on the premises of the person furnishing, preparing, or 127067
serving such tangible personal property. Except as provided in 127068
section 5739.03 of the Revised Code, a construction contract 127069
pursuant to which tangible personal property is or is to be 127070
incorporated into a structure or improvement on and becoming a 127071
part of real property is not a sale of such tangible personal 127072
property. The construction contractor is the consumer of such 127073
tangible personal property, provided that the sale and 127074
installation of carpeting, the sale and installation of 127075
agricultural land tile, the sale and erection or installation of 127076
portable grain bins, or the provision of landscaping and lawn care 127077
service and the transfer of property as part of such service is 127078
never a construction contract. 127079

As used in division (B)(5) of this section: 127080

(a) "Agricultural land tile" means fired clay or concrete 127081
tile, or flexible or rigid perforated plastic pipe or tubing, 127082
incorporated or to be incorporated into a subsurface drainage 127083
system appurtenant to land used or to be used ~~directly~~ primarily 127084
in production by farming, agriculture, horticulture, or 127085
floriculture. The term does not include such materials when they 127086
are or are to be incorporated into a drainage system appurtenant 127087
to a building or structure even if the building or structure is 127088
used or to be used in such production. 127089

(b) "Portable grain bin" means a structure that is used or to 127090
be used by a person engaged in farming or agriculture to shelter 127091
the person's grain and that is designed to be disassembled without 127092
significant damage to its component parts. 127093

(6) All transactions in which all of the shares of stock of a 127094
closely held corporation are transferred, if the corporation is 127095

not engaging in business and its entire assets consist of boats, 127096
planes, motor vehicles, or other tangible personal property 127097
operated primarily for the use and enjoyment of the shareholders; 127098

(7) All transactions in which a warranty, maintenance or 127099
service contract, or similar agreement by which the vendor of the 127100
warranty, contract, or agreement agrees to repair or maintain the 127101
tangible personal property of the consumer is or is to be 127102
provided; 127103

(8) The transfer of copyrighted motion picture films used 127104
solely for advertising purposes, except that the transfer of such 127105
films for exhibition purposes is not a sale; 127106

(9) On and after August 1, 2003, all transactions by which 127107
tangible personal property is or is to be stored, except such 127108
property that the consumer of the storage holds for sale in the 127109
regular course of business; 127110

(10) All transactions in which "guaranteed auto protection" 127111
is provided whereby a person promises to pay to the consumer the 127112
difference between the amount the consumer receives from motor 127113
vehicle insurance and the amount the consumer owes to a person 127114
holding title to or a lien on the consumer's motor vehicle in the 127115
event the consumer's motor vehicle suffers a total loss under the 127116
terms of the motor vehicle insurance policy or is stolen and not 127117
recovered, if the protection and its price are included in the 127118
purchase or lease agreement; 127119

(11)(a) Except as provided in division (B)(11)(b) of this 127120
section, on and after October 1, 2009, all transactions by which 127121
health care services are paid for, reimbursed, provided, 127122
delivered, arranged for, or otherwise made available by a medicaid 127123
health insuring corporation pursuant to the corporation's contract 127124
with the state. 127125

(b) If the centers for medicare and medicaid services of the 127126

United States department of health and human services determines 127127
that the taxation of transactions described in division (B)(11)(a) 127128
of this section constitutes an impermissible health care-related 127129
tax under section 1903(w) of the "Social Security Act," 49 Stat. 127130
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 127131
adopted thereunder, the director of job and family services shall 127132
notify the tax commissioner of that determination. Beginning with 127133
the first day of the month following that notification, the 127134
transactions described in division (B)(11)(a) of this section are 127135
not sales for the purposes of this chapter or Chapter 5741. of the 127136
Revised Code. The tax commissioner shall order that the collection 127137
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 127138
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 127139
shall cease for transactions occurring on or after that date. 127140

Except as provided in this section, "sale" and "selling" do 127141
not include transfers of interest in leased property where the 127142
original lessee and the terms of the original lease agreement 127143
remain unchanged, or professional, insurance, or personal service 127144
transactions that involve the transfer of tangible personal 127145
property as an inconsequential element, for which no separate 127146
charges are made. 127147

(C) "Vendor" means the person providing the service or by 127148
whom the transfer effected or license given by a sale is or is to 127149
be made or given and, for sales described in division (B)(3)(i) of 127150
this section, the telecommunications service vendor that provides 127151
the nine hundred telephone service; if two or more persons are 127152
engaged in business at the same place of business under a single 127153
trade name in which all collections on account of sales by each 127154
are made, such persons shall constitute a single vendor. 127155

Physicians, dentists, hospitals, and veterinarians who are 127156
engaged in selling tangible personal property as received from 127157
others, such as eyeglasses, mouthwashes, dentifrices, or similar 127158

articles, are vendors. Veterinarians who are engaged in 127159
transferring to others for a consideration drugs, the dispensing 127160
of which does not require an order of a licensed veterinarian or 127161
physician under federal law, are vendors. 127162

(D)(1) "Consumer" means the person for whom the service is 127163
provided, to whom the transfer effected or license given by a sale 127164
is or is to be made or given, to whom the service described in 127165
division (B)(3)(f) or (i) of this section is charged, or to whom 127166
the admission is granted. 127167

(2) Physicians, dentists, hospitals, and blood banks operated 127168
by nonprofit institutions and persons licensed to practice 127169
veterinary medicine, surgery, and dentistry are consumers of all 127170
tangible personal property and services purchased by them in 127171
connection with the practice of medicine, dentistry, the rendition 127172
of hospital or blood bank service, or the practice of veterinary 127173
medicine, surgery, and dentistry. In addition to being consumers 127174
of drugs administered by them or by their assistants according to 127175
their direction, veterinarians also are consumers of drugs that 127176
under federal law may be dispensed only by or upon the order of a 127177
licensed veterinarian or physician, when transferred by them to 127178
others for a consideration to provide treatment to animals as 127179
directed by the veterinarian. 127180

(3) A person who performs a facility management, or similar 127181
service contract for a contractee is a consumer of all tangible 127182
personal property and services purchased for use in connection 127183
with the performance of such contract, regardless of whether title 127184
to any such property vests in the contractee. The purchase of such 127185
property and services is not subject to the exception for resale 127186
under division (E)(1) of this section. 127187

(4)(a) In the case of a person who purchases printed matter 127188
for the purpose of distributing it or having it distributed to the 127189
public or to a designated segment of the public, free of charge, 127190

that person is the consumer of that printed matter, and the 127191
purchase of that printed matter for that purpose is a sale. 127192

(b) In the case of a person who produces, rather than 127193
purchases, printed matter for the purpose of distributing it or 127194
having it distributed to the public or to a designated segment of 127195
the public, free of charge, that person is the consumer of all 127196
tangible personal property and services purchased for use or 127197
consumption in the production of that printed matter. That person 127198
is not entitled to claim exemption under division (B)(42)(f) of 127199
section 5739.02 of the Revised Code for any material incorporated 127200
into the printed matter or any equipment, supplies, or services 127201
primarily used to produce the printed matter. 127202

(c) The distribution of printed matter to the public or to a 127203
designated segment of the public, free of charge, is not a sale to 127204
the members of the public to whom the printed matter is 127205
distributed or to any persons who purchase space in the printed 127206
matter for advertising or other purposes. 127207

(5) A person who makes sales of any of the services listed in 127208
division (B)(3) of this section is the consumer of any tangible 127209
personal property used in performing the service. The purchase of 127210
that property is not subject to the resale exception under 127211
division (E)(1) of this section. 127212

(6) A person who engages in highway transportation for hire 127213
is the consumer of all packaging materials purchased by that 127214
person and used in performing the service, except for packaging 127215
materials sold by such person in a transaction separate from the 127216
service. 127217

(7) In the case of a transaction for health care services 127218
under division (B)(11) of this section, a medicaid health insuring 127219
corporation is the consumer of such services. The purchase of such 127220
services by a medicaid health insuring corporation is not subject 127221

to the exception for resale under division (E)(1) of this section 127222
or to the exemptions provided under divisions (B)(12), (18), (19), 127223
and (22) of section 5739.02 of the Revised Code. 127224

(E) "Retail sale" and "sales at retail" include all sales, 127225
except those in which the purpose of the consumer is to resell the 127226
thing transferred or benefit of the service provided, by a person 127227
engaging in business, in the form in which the same is, or is to 127228
be, received by the person. 127229

(F) "Business" includes any activity engaged in by any person 127230
with the object of gain, benefit, or advantage, either direct or 127231
indirect. "Business" does not include the activity of a person in 127232
managing and investing the person's own funds. 127233

(G) "Engaging in business" means commencing, conducting, or 127234
continuing in business, and liquidating a business when the 127235
liquidator thereof holds itself out to the public as conducting 127236
such business. Making a casual sale is not engaging in business. 127237

(H)(1)(a) "Price," except as provided in divisions (H)(2), 127238
(3), and (4) of this section, means the total amount of 127239
consideration, including cash, credit, property, and services, for 127240
which tangible personal property or services are sold, leased, or 127241
rented, valued in money, whether received in money or otherwise, 127242
without any deduction for any of the following: 127243

(i) The vendor's cost of the property sold; 127244

(ii) The cost of materials used, labor or service costs, 127245
interest, losses, all costs of transportation to the vendor, all 127246
taxes imposed on the vendor, including the tax imposed under 127247
Chapter 5751. of the Revised Code, and any other expense of the 127248
vendor; 127249

(iii) Charges by the vendor for any services necessary to 127250
complete the sale; 127251

(iv) On and after August 1, 2003, delivery charges. As used	127252
in this division, "delivery charges" means charges by the vendor	127253
for preparation and delivery to a location designated by the	127254
consumer of tangible personal property or a service, including	127255
transportation, shipping, postage, handling, crating, and packing.	127256
(v) Installation charges;	127257
(vi) Credit for any trade-in.	127258
(b) "Price" includes consideration received by the vendor	127259
from a third party, if the vendor actually receives the	127260
consideration from a party other than the consumer, and the	127261
consideration is directly related to a price reduction or discount	127262
on the sale; the vendor has an obligation to pass the price	127263
reduction or discount through to the consumer; the amount of the	127264
consideration attributable to the sale is fixed and determinable	127265
by the vendor at the time of the sale of the item to the consumer;	127266
and one of the following criteria is met:	127267
(i) The consumer presents a coupon, certificate, or other	127268
document to the vendor to claim a price reduction or discount	127269
where the coupon, certificate, or document is authorized,	127270
distributed, or granted by a third party with the understanding	127271
that the third party will reimburse any vendor to whom the coupon,	127272
certificate, or document is presented;	127273
(ii) The consumer identifies the consumer's self to the	127274
seller as a member of a group or organization entitled to a price	127275
reduction or discount. A preferred customer card that is available	127276
to any patron does not constitute membership in such a group or	127277
organization.	127278
(iii) The price reduction or discount is identified as a	127279
third party price reduction or discount on the invoice received by	127280
the consumer, or on a coupon, certificate, or other document	127281
presented by the consumer.	127282

(c) "Price" does not include any of the following:	127283
(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;	127284 127285 127286
(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;	127287 127288 127289 127290
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.	127291 127292 127293 127294 127295 127296
(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.	127297 127298 127299 127300
<u>(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card.</u>	127301 127302 127303 127304 127305 127306 127307 127308 127309 127310 127311
(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised	127312 127313

Code, in which another motor vehicle is accepted by the dealer as 127314
part of the consideration received, "price" has the same meaning 127315
as in division (H)(1) of this section, reduced by the credit 127316
afforded the consumer by the dealer for the motor vehicle received 127317
in trade. 127318

(3) In the case of a sale of any watercraft or outboard motor 127319
by a watercraft dealer licensed in accordance with section 127320
1547.543 of the Revised Code, in which another watercraft, 127321
watercraft and trailer, or outboard motor is accepted by the 127322
dealer as part of the consideration received, "price" has the same 127323
meaning as in division (H)(1) of this section, reduced by the 127324
credit afforded the consumer by the dealer for the watercraft, 127325
watercraft and trailer, or outboard motor received in trade. As 127326
used in this division, "watercraft" includes an outdrive unit 127327
attached to the watercraft. 127328

(4) In the case of transactions for health care services 127329
under division (B)(11) of this section, "price" means the amount 127330
of managed care premiums received each month by a medicaid health 127331
insuring corporation. 127332

(I) "Receipts" means the total amount of the prices of the 127333
sales of vendors, provided that the dollar value of gift cards 127334
distributed pursuant to an awards, loyalty, or promotional 127335
program, and cash discounts allowed and taken on sales at the time 127336
they are consummated are not included, minus any amount deducted 127337
as a bad debt pursuant to section 5739.121 of the Revised Code. 127338
"Receipts" does not include the sale price of property returned or 127339
services rejected by consumers when the full sale price and tax 127340
are refunded either in cash or by credit. 127341

(J) "Place of business" means any location at which a person 127342
engages in business. 127343

(K) "Premises" includes any real property or portion thereof 127344

upon which any person engages in selling tangible personal 127345
property at retail or making retail sales and also includes any 127346
real property or portion thereof designated for, or devoted to, 127347
use in conjunction with the business engaged in by such person. 127348

(L) "Casual sale" means a sale of an item of tangible 127349
personal property that was obtained by the person making the sale, 127350
through purchase or otherwise, for the person's own use and was 127351
previously subject to any state's taxing jurisdiction on its sale 127352
or use, and includes such items acquired for the seller's use that 127353
are sold by an auctioneer employed directly by the person for such 127354
purpose, provided the location of such sales is not the 127355
auctioneer's permanent place of business. As used in this 127356
division, "permanent place of business" includes any location 127357
where such auctioneer has conducted more than two auctions during 127358
the year. 127359

(M) "Hotel" means every establishment kept, used, maintained, 127360
advertised, or held out to the public to be a place where sleeping 127361
accommodations are offered to guests, in which five or more rooms 127362
are used for the accommodation of such guests, whether the rooms 127363
are in one or several structures, except as otherwise provided in 127364
division (G) of section 5739.09 of the Revised Code. 127365

(N) "Transient guests" means persons occupying a room or 127366
rooms for sleeping accommodations for less than thirty consecutive 127367
days. 127368

(O) "Making retail sales" means the effecting of transactions 127369
wherein one party is obligated to pay the price and the other 127370
party is obligated to provide a service or to transfer title to or 127371
possession of the item sold. "Making retail sales" does not 127372
include the preliminary acts of promoting or soliciting the retail 127373
sales, other than the distribution of printed matter which 127374
displays or describes and prices the item offered for sale, nor 127375
does it include delivery of a predetermined quantity of tangible 127376

personal property or transportation of property or personnel to or 127377
from a place where a service is performed, regardless of whether 127378
the vendor is a delivery vendor. 127379

(P) "Used directly in the rendition of a public utility 127380
service" means that property that is to be incorporated into and 127381
will become a part of the consumer's production, transmission, 127382
transportation, or distribution system and that retains its 127383
classification as tangible personal property after such 127384
incorporation; fuel or power used in the production, transmission, 127385
transportation, or distribution system; and tangible personal 127386
property used in the repair and maintenance of the production, 127387
transmission, transportation, or distribution system, including 127388
only such motor vehicles as are specially designed and equipped 127389
for such use. Tangible personal property and services used 127390
primarily in providing highway transportation for hire are not 127391
used directly in the rendition of a public utility service. In 127392
this definition, "public utility" includes a citizen of the United 127393
States holding, and required to hold, a certificate of public 127394
convenience and necessity issued under 49 U.S.C. 41102. 127395

(Q) "Refining" means removing or separating a desirable 127396
product from raw or contaminated materials by distillation or 127397
physical, mechanical, or chemical processes. 127398

(R) "Assembly" and "assembling" mean attaching or fitting 127399
together parts to form a product, but do not include packaging a 127400
product. 127401

(S) "Manufacturing operation" means a process in which 127402
materials are changed, converted, or transformed into a different 127403
state or form from which they previously existed and includes 127404
refining materials, assembling parts, and preparing raw materials 127405
and parts by mixing, measuring, blending, or otherwise committing 127406
such materials or parts to the manufacturing process. 127407
"Manufacturing operation" does not include packaging. 127408

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of

others' data, including keypunching or similar data entry services 127440
together with verification thereof, or providing access to 127441
computer equipment for the purpose of processing data. 127442

(b) "Computer services" means providing services consisting 127443
of specifying computer hardware configurations and evaluating 127444
technical processing characteristics, computer programming, and 127445
training of computer programmers and operators, provided in 127446
conjunction with and to support the sale, lease, or operation of 127447
taxable computer equipment or systems. 127448

(c) "Electronic information services" means providing access 127449
to computer equipment by means of telecommunications equipment for 127450
the purpose of either of the following: 127451

(i) Examining or acquiring data stored in or accessible to 127452
the computer equipment; 127453

(ii) Placing data into the computer equipment to be retrieved 127454
by designated recipients with access to the computer equipment. 127455

For transactions occurring on or after the effective date of 127456
the amendment of this section by H.B. 157 of the 127th general 127457
assembly, December 21, 2007, "electronic information services" 127458
does not include electronic publishing as defined in division 127459
(LLL) of this section. 127460

(d) "Automatic data processing, computer services, or 127461
electronic information services" shall not include personal or 127462
professional services. 127463

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 127464
section, "personal and professional services" means all services 127465
other than automatic data processing, computer services, or 127466
electronic information services, including but not limited to: 127467

(a) Accounting and legal services such as advice on tax 127468
matters, asset management, budgetary matters, quality control, 127469

information security, and auditing and any other situation where	127470
the service provider receives data or information and studies,	127471
alters, analyzes, interprets, or adjusts such material;	127472
(b) Analyzing business policies and procedures;	127473
(c) Identifying management information needs;	127474
(d) Feasibility studies, including economic and technical	127475
analysis of existing or potential computer hardware or software	127476
needs and alternatives;	127477
(e) Designing policies, procedures, and custom software for	127478
collecting business information, and determining how data should	127479
be summarized, sequenced, formatted, processed, controlled, and	127480
reported so that it will be meaningful to management;	127481
(f) Developing policies and procedures that document how	127482
business events and transactions are to be authorized, executed,	127483
and controlled;	127484
(g) Testing of business procedures;	127485
(h) Training personnel in business procedure applications;	127486
(i) Providing credit information to users of such information	127487
by a consumer reporting agency, as defined in the "Fair Credit	127488
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	127489
as hereafter amended, including but not limited to gathering,	127490
organizing, analyzing, recording, and furnishing such information	127491
by any oral, written, graphic, or electronic medium;	127492
(j) Providing debt collection services by any oral, written,	127493
graphic, or electronic means.	127494
The services listed in divisions (Y)(2)(a) to (j) of this	127495
section are not automatic data processing or computer services.	127496
(Z) "Highway transportation for hire" means the	127497
transportation of personal property belonging to others for	127498
consideration by any of the following:	127499

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare; 127500
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(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section; 127505
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(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section. 127512
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(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following: 127514
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(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information; 127526
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(b) Installation or maintenance of wiring or equipment on a customer's premises;	127531 127532
(c) Tangible personal property;	127533
(d) Advertising, including directory advertising;	127534
(e) Billing and collection services provided to third parties;	127535 127536
(f) Internet access service;	127537
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	127538 127539 127540 127541 127542 127543 127544 127545
(h) Ancillary service;	127546
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	127547 127548
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	127549 127550 127551 127552 127553
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	127554 127555 127556 127557 127558
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to	127559 127560

individual calls on a customer's billing statement. 127561

(c) "Directory assistance" means an ancillary service of 127562
providing telephone number or address information. 127563

(d) "Vertical service" means an ancillary service that is 127564
offered in connection with one or more telecommunications 127565
services, which offers advanced calling features that allow 127566
customers to identify callers and manage multiple calls and call 127567
connections, including conference bridging service. 127568

(e) "Voice mail service" means an ancillary service that 127569
enables the customer to store, send, or receive recorded messages. 127570
"Voice mail service" does not include any vertical services that 127571
the customer may be required to have in order to utilize the voice 127572
mail service. 127573

(3) "900 service" means an inbound toll telecommunications 127574
service purchased by a subscriber that allows the subscriber's 127575
customers to call in to the subscriber's prerecorded announcement 127576
or live service, and which is typically marketed under the name 127577
"900" service and any subsequent numbers designated by the federal 127578
communications commission. "900 service" does not include the 127579
charge for collection services provided by the seller of the 127580
telecommunications service to the subscriber, or services or 127581
products sold by the subscriber to the subscriber's customer. 127582

(4) "Prepaid calling service" means the right to access 127583
exclusively telecommunications services, which must be paid for in 127584
advance and which enables the origination of calls using an access 127585
number or authorization code, whether manually or electronically 127586
dialed, and that is sold in predetermined units of dollars of 127587
which the number declines with use in a known amount. 127588

(5) "Prepaid wireless calling service" means a 127589
telecommunications service that provides the right to utilize 127590
mobile telecommunications service as well as other 127591

non-telecommunications services, including the download of digital 127592
products delivered electronically, and content and ancillary 127593
services, that must be paid for in advance and that is sold in 127594
predetermined units of dollars of which the number declines with 127595
use in a known amount. 127596

(6) "Value-added non-voice data service" means a 127597
telecommunications service in which computer processing 127598
applications are used to act on the form, content, code, or 127599
protocol of the information or data primarily for a purpose other 127600
than transmission, conveyance, or routing. 127601

(7) "Coin-operated telephone service" means a 127602
telecommunications service paid for by inserting money into a 127603
telephone accepting direct deposits of money to operate. 127604

(8) "Customer" has the same meaning as in section 5739.034 of 127605
the Revised Code. 127606

(BB) "Laundry and dry cleaning services" means removing soil 127607
or dirt from towels, linens, articles of clothing, or other fabric 127608
items that belong to others and supplying towels, linens, articles 127609
of clothing, or other fabric items. "Laundry and dry cleaning 127610
services" does not include the provision of self-service 127611
facilities for use by consumers to remove soil or dirt from 127612
towels, linens, articles of clothing, or other fabric items. 127613

(CC) "Magazines distributed as controlled circulation 127614
publications" means magazines containing at least twenty-four 127615
pages, at least twenty-five per cent editorial content, issued at 127616
regular intervals four or more times a year, and circulated 127617
without charge to the recipient, provided that such magazines are 127618
not owned or controlled by individuals or business concerns which 127619
conduct such publications as an auxiliary to, and essentially for 127620
the advancement of the main business or calling of, those who own 127621
or control them. 127622

(DD) "Landscaping and lawn care service" means the services 127623
of planting, seeding, sodding, removing, cutting, trimming, 127624
pruning, mulching, aerating, applying chemicals, watering, 127625
fertilizing, and providing similar services to establish, promote, 127626
or control the growth of trees, shrubs, flowers, grass, ground 127627
cover, and other flora, or otherwise maintaining a lawn or 127628
landscape grown or maintained by the owner for ornamentation or 127629
other nonagricultural purpose. However, "landscaping and lawn care 127630
service" does not include the providing of such services by a 127631
person who has less than five thousand dollars in sales of such 127632
services during the calendar year. 127633

(EE) "Private investigation and security service" means the 127634
performance of any activity for which the provider of such service 127635
is required to be licensed pursuant to Chapter 4749. of the 127636
Revised Code, or would be required to be so licensed in performing 127637
such services in this state, and also includes the services of 127638
conducting polygraph examinations and of monitoring or overseeing 127639
the activities on or in, or the condition of, the consumer's home, 127640
business, or other facility by means of electronic or similar 127641
monitoring devices. "Private investigation and security service" 127642
does not include special duty services provided by off-duty police 127643
officers, deputy sheriffs, and other peace officers regularly 127644
employed by the state or a political subdivision. 127645

(FF) "Information services" means providing conversation, 127646
giving consultation or advice, playing or making a voice or other 127647
recording, making or keeping a record of the number of callers, 127648
and any other service provided to a consumer by means of a nine 127649
hundred telephone call, except when the nine hundred telephone 127650
call is the means by which the consumer makes a contribution to a 127651
recognized charity. 127652

(GG) "Research and development" means designing, creating, or 127653
formulating new or enhanced products, equipment, or manufacturing 127654

processes, and also means conducting scientific or technological 127655
inquiry and experimentation in the physical sciences with the goal 127656
of increasing scientific knowledge which may reveal the bases for 127657
new or enhanced products, equipment, or manufacturing processes. 127658

(HH) "Qualified research and development equipment" means 127659
capitalized tangible personal property, and leased personal 127660
property that would be capitalized if purchased, used by a person 127661
primarily to perform research and development. Tangible personal 127662
property primarily used in testing, as defined in division (A)(4) 127663
of section 5739.011 of the Revised Code, or used for recording or 127664
storing test results, is not qualified research and development 127665
equipment unless such property is primarily used by the consumer 127666
in testing the product, equipment, or manufacturing process being 127667
created, designed, or formulated by the consumer in the research 127668
and development activity or in recording or storing such test 127669
results. 127670

(II) "Building maintenance and janitorial service" means 127671
cleaning the interior or exterior of a building and any tangible 127672
personal property located therein or thereon, including any 127673
services incidental to such cleaning for which no separate charge 127674
is made. However, "building maintenance and janitorial service" 127675
does not include the providing of such service by a person who has 127676
less than five thousand dollars in sales of such service during 127677
the calendar year. 127678

(JJ) "Employment service" means providing or supplying 127679
personnel, on a temporary or long-term basis, to perform work or 127680
labor under the supervision or control of another, when the 127681
personnel so provided or supplied receive their wages, salary, or 127682
other compensation from the provider or supplier of the employment 127683
service or from a third party that provided or supplied the 127684
personnel to the provider or supplier. "Employment service" does 127685
not include: 127686

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.	127687 127688 127689
(2) Medical and health care services.	127690
(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.	127691 127692 127693 127694
(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.	127695 127696
(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.	127697 127698 127699 127700 127701
(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.	127702 127703 127704
(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.	127705 127706 127707 127708 127709
(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.	127710 127711 127712 127713 127714 127715 127716

(NN) "Recreation and sports club service" means all 127717
transactions by which a membership is granted, maintained, or 127718
renewed, including initiation fees, membership dues, renewal fees, 127719
monthly minimum fees, and other similar fees and dues, by a 127720
recreation and sports club, which entitles the member to use the 127721
facilities of the organization. "Recreation and sports club" means 127722
an organization that has ownership of, or controls or leases on a 127723
continuing, long-term basis, the facilities used by its members 127724
and includes an aviation club, gun or shooting club, yacht club, 127725
card club, swimming club, tennis club, golf club, country club, 127726
riding club, amateur sports club, or similar organization. 127727

(OO) "Livestock" means farm animals commonly raised for food 127728
~~or~~, food production, ~~and includes~~ or other agricultural purposes, 127729
including, but ~~is~~ not limited to, cattle, sheep, goats, swine, ~~and~~ 127730
poultry, and captive deer. "Livestock" does not include 127731
invertebrates, ~~fish,~~ amphibians, reptiles, ~~horses,~~ domestic pets, 127732
animals for use in laboratories or for exhibition, or other 127733
animals not commonly raised for food or food production. 127734

(PP) "Livestock structure" means a building or structure used 127735
exclusively for the housing, raising, feeding, or sheltering of 127736
livestock, and includes feed storage or handling structures and 127737
structures for livestock waste handling. 127738

(QQ) "Horticulture" means the growing, cultivation, and 127739
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 127740
and nursery stock. As used in this division, "nursery stock" has 127741
the same meaning as in section 927.51 of the Revised Code. 127742

(RR) "Horticulture structure" means a building or structure 127743
used exclusively for the commercial growing, raising, or 127744
overwintering of horticultural products, and includes the area 127745
used for stocking, storing, and packing horticultural products 127746
when done in conjunction with the production of those products. 127747

(SS) "Newspaper" means an unbound publication bearing a title 127748
or name that is regularly published, at least as frequently as 127749
biweekly, and distributed from a fixed place of business to the 127750
public in a specific geographic area, and that contains a 127751
substantial amount of news matter of international, national, or 127752
local events of interest to the general public. 127753

(TT) "Professional racing team" means a person that employs 127754
at least twenty full-time employees for the purpose of conducting 127755
a motor vehicle racing business for profit. The person must 127756
conduct the business with the purpose of racing one or more motor 127757
racing vehicles in at least ten competitive professional racing 127758
events each year that comprise all or part of a motor racing 127759
series sanctioned by one or more motor racing sanctioning 127760
organizations. A "motor racing vehicle" means a vehicle for which 127761
the chassis, engine, and parts are designed exclusively for motor 127762
racing, and does not include a stock or production model vehicle 127763
that may be modified for use in racing. For the purposes of this 127764
division: 127765

(1) A "competitive professional racing event" is a motor 127766
vehicle racing event sanctioned by one or more motor racing 127767
sanctioning organizations, at which aggregate cash prizes in 127768
excess of eight hundred thousand dollars are awarded to the 127769
competitors. 127770

(2) "Full-time employee" means an individual who is employed 127771
for consideration for thirty-five or more hours a week, or who 127772
renders any other standard of service generally accepted by custom 127773
or specified by contract as full-time employment. 127774

(UU)(1) "Lease" or "rental" means any transfer of the 127775
possession or control of tangible personal property for a fixed or 127776
indefinite term, for consideration. "Lease" or "rental" includes 127777
future options to purchase or extend, and agreements described in 127778
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 127779

the amount of consideration may be increased or decreased by 127780
reference to the amount realized upon the sale or disposition of 127781
the property. "Lease" or "rental" does not include: 127782

(a) A transfer of possession or control of tangible personal 127783
property under a security agreement or a deferred payment plan 127784
that requires the transfer of title upon completion of the 127785
required payments; 127786

(b) A transfer of possession or control of tangible personal 127787
property under an agreement that requires the transfer of title 127788
upon completion of required payments and payment of an option 127789
price that does not exceed the greater of one hundred dollars or 127790
one per cent of the total required payments; 127791

(c) Providing tangible personal property along with an 127792
operator for a fixed or indefinite period of time, if the operator 127793
is necessary for the property to perform as designed. For purposes 127794
of this division, the operator must do more than maintain, 127795
inspect, or set-up the tangible personal property. 127796

(2) "Lease" and "rental," as defined in division (UU) of this 127797
section, shall not apply to leases or rentals that exist before 127798
June 26, 2003. 127799

(3) "Lease" and "rental" have the same meaning as in division 127800
(UU)(1) of this section regardless of whether a transaction is 127801
characterized as a lease or rental under generally accepted 127802
accounting principles, the Internal Revenue Code, Title XIII of 127803
the Revised Code, or other federal, state, or local laws. 127804

(VV) "Mobile telecommunications service" has the same meaning 127805
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 127806
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 127807
on and after August 1, 2003, includes related fees and ancillary 127808
services, including universal service fees, detailed billing 127809
service, directory assistance, service initiation, voice mail 127810

service, and vertical services, such as caller ID and three-way calling. 127811
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(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. 127813
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(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service. 127815
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(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software. 127824
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(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address. 127830
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(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a 127840
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result based on a sequence of instructions. 127842

(BBB) "Computer software" means a set of coded instructions 127843
designed to cause a computer or automatic data processing 127844
equipment to perform a task. 127845

(CCC) "Delivered electronically" means delivery of computer 127846
software from the seller to the purchaser by means other than 127847
tangible storage media. 127848

(DDD) "Prewritten computer software" means computer software, 127849
including prewritten upgrades, that is not designed and developed 127850
by the author or other creator to the specifications of a specific 127851
purchaser. The combining of two or more prewritten computer 127852
software programs or prewritten portions thereof does not cause 127853
the combination to be other than prewritten computer software. 127854
"Prewritten computer software" includes software designed and 127855
developed by the author or other creator to the specifications of 127856
a specific purchaser when it is sold to a person other than the 127857
purchaser. If a person modifies or enhances computer software of 127858
which the person is not the author or creator, the person shall be 127859
deemed to be the author or creator only of such person's 127860
modifications or enhancements. Prewritten computer software or a 127861
prewritten portion thereof that is modified or enhanced to any 127862
degree, where such modification or enhancement is designed and 127863
developed to the specifications of a specific purchaser, remains 127864
prewritten computer software; provided, however, that where there 127865
is a reasonable, separately stated charge or an invoice or other 127866
statement of the price given to the purchaser for the modification 127867
or enhancement, the modification or enhancement shall not 127868
constitute prewritten computer software. 127869

(EEE)(1) "Food" means substances, whether in liquid, 127870
concentrated, solid, frozen, dried, or dehydrated form, that are 127871
sold for ingestion or chewing by humans and are consumed for their 127872
taste or nutritional value. "Food" does not include alcoholic 127873

beverages, dietary supplements, soft drinks, or tobacco. 127874

(2) As used in division (EEE)(1) of this section: 127875

(a) "Alcoholic beverages" means beverages that are suitable 127876
for human consumption and contain one-half of one per cent or more 127877
of alcohol by volume. 127878

(b) "Dietary supplements" means any product, other than 127879
tobacco, that is intended to supplement the diet and that is 127880
intended for ingestion in tablet, capsule, powder, softgel, 127881
gelcap, or liquid form, or, if not intended for ingestion in such 127882
a form, is not represented as conventional food for use as a sole 127883
item of a meal or of the diet; that is required to be labeled as a 127884
dietary supplement, identifiable by the "supplement facts" box 127885
found on the label, as required by 21 C.F.R. 101.36; and that 127886
contains one or more of the following dietary ingredients: 127887

(i) A vitamin; 127888

(ii) A mineral; 127889

(iii) An herb or other botanical; 127890

(iv) An amino acid; 127891

(v) A dietary substance for use by humans to supplement the 127892
diet by increasing the total dietary intake; 127893

(vi) A concentrate, metabolite, constituent, extract, or 127894
combination of any ingredient described in divisions 127895
(EEE)(2)(b)(i) to (v) of this section. 127896

(c) "Soft drinks" means nonalcoholic beverages that contain 127897
natural or artificial sweeteners. "Soft drinks" does not include 127898
beverages that contain milk or milk products, soy, rice, or 127899
similar milk substitutes, or that contains greater than fifty per 127900
cent vegetable or fruit juice by volume. 127901

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 127902
tobacco, or any other item that contains tobacco. 127903

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a

missing portion of the body, prevent or correct physical deformity 127936
or malfunction, or support a weak or deformed portion of the body. 127937
As used in this division, "prosthetic device" does not include 127938
corrective eyeglasses, contact lenses, or dental prosthesis. 127939

(KKK)(1) "Fractional aircraft ownership program" means a 127940
program in which persons within an affiliated group sell and 127941
manage fractional ownership program aircraft, provided that at 127942
least one hundred airworthy aircraft are operated in the program 127943
and the program meets all of the following criteria: 127944

(a) Management services are provided by at least one program 127945
manager within an affiliated group on behalf of the fractional 127946
owners. 127947

(b) Each program aircraft is owned or possessed by at least 127948
one fractional owner. 127949

(c) Each fractional owner owns or possesses at least a 127950
one-sixteenth interest in at least one fixed-wing program 127951
aircraft. 127952

(d) A dry-lease aircraft interchange arrangement is in effect 127953
among all of the fractional owners. 127954

(e) Multi-year program agreements are in effect regarding the 127955
fractional ownership, management services, and dry-lease aircraft 127956
interchange arrangement aspects of the program. 127957

(2) As used in division (KKK)(1) of this section: 127958

(a) "Affiliated group" has the same meaning as in division 127959
(B)(3)(e) of this section. 127960

(b) "Fractional owner" means a person that owns or possesses 127961
at least a one-sixteenth interest in a program aircraft and has 127962
entered into the agreements described in division (KKK)(1)(e) of 127963
this section. 127964

(c) "Fractional ownership program aircraft" or "program 127965

aircraft" means a turbojet aircraft that is owned or possessed by 127966
a fractional owner and that has been included in a dry-lease 127967
aircraft interchange arrangement and agreement under divisions 127968
(KKK)(1)(d) and (e) of this section, or an aircraft a program 127969
manager owns or possesses primarily for use in a fractional 127970
aircraft ownership program. 127971

(d) "Management services" means administrative and aviation 127972
support services furnished under a fractional aircraft ownership 127973
program in accordance with a management services agreement under 127974
division (KKK)(1)(e) of this section, and offered by the program 127975
manager to the fractional owners, including, at a minimum, the 127976
establishment and implementation of safety guidelines; the 127977
coordination of the scheduling of the program aircraft and crews; 127978
program aircraft maintenance; program aircraft insurance; crew 127979
training for crews employed, furnished, or contracted by the 127980
program manager or the fractional owner; the satisfaction of 127981
record-keeping requirements; and the development and use of an 127982
operations manual and a maintenance manual for the fractional 127983
aircraft ownership program. 127984

(e) "Program manager" means the person that offers management 127985
services to fractional owners pursuant to a management services 127986
agreement under division (KKK)(1)(e) of this section. 127987

(LLL) "Electronic publishing" means providing access to one 127988
or more of the following primarily for business customers, 127989
including the federal government or a state government or a 127990
political subdivision thereof, to conduct research: news; 127991
business, financial, legal, consumer, or credit materials; 127992
editorials, columns, reader commentary, or features; photos or 127993
images; archival or research material; legal notices, identity 127994
verification, or public records; scientific, educational, 127995
instructional, technical, professional, trade, or other literary 127996
materials; or other similar information which has been gathered 127997

and made available by the provider to the consumer in an 127998
electronic format. Providing electronic publishing includes the 127999
functions necessary for the acquisition, formatting, editing, 128000
storage, and dissemination of data or information that is the 128001
subject of a sale. 128002

(MMM) "Medicaid health insuring corporation" means a health 128003
insuring corporation that holds a certificate of authority under 128004
Chapter 1751. of the Revised Code and is under contract with the 128005
department of job and family services pursuant to section 5111.17 128006
of the Revised Code. 128007

(NNN) "Managed care premium" means any premium, capitation, 128008
or other payment a medicaid health insuring corporation receives 128009
for providing or arranging for the provision of health care 128010
services to its members or enrollees residing in this state. 128011

(OOO) "Captive deer" means deer and other cervidae that have 128012
been legally acquired, or their offspring, that are privately 128013
owned for agricultural or farming purposes. 128014

(PPP) "Gift card" means a document, card, certificate, or 128015
other record, whether tangible or intangible, that may be redeemed 128016
by a consumer for a dollar value when making a purchase of 128017
tangible personal property or services. 128018

Sec. 5739.02. For the purpose of providing revenue with which 128019
to meet the needs of the state, for the use of the general revenue 128020
fund of the state, for the purpose of securing a thorough and 128021
efficient system of common schools throughout the state, for the 128022
purpose of affording revenues, in addition to those from general 128023
property taxes, permitted under constitutional limitations, and 128024
from other sources, for the support of local governmental 128025
functions, and for the purpose of reimbursing the state for the 128026
expense of administering this chapter, an excise tax is hereby 128027
levied on each retail sale made in this state. 128028

(A)(1) The tax shall be collected as provided in section 128029
5739.025 of the Revised Code. The rate of the tax shall be five 128030
and one-half per cent. The tax applies and is collectible when the 128031
sale is made, regardless of the time when the price is paid or 128032
delivered. 128033

(2) In the case of the lease or rental, with a fixed term of 128034
more than thirty days or an indefinite term with a minimum period 128035
of more than thirty days, of any motor vehicles designed by the 128036
manufacturer to carry a load of not more than one ton, watercraft, 128037
outboard motor, or aircraft, or of any tangible personal property, 128038
other than motor vehicles designed by the manufacturer to carry a 128039
load of more than one ton, to be used by the lessee or renter 128040
primarily for business purposes, the tax shall be collected by the 128041
vendor at the time the lease or rental is consummated and shall be 128042
calculated by the vendor on the basis of the total amount to be 128043
paid by the lessee or renter under the lease agreement. If the 128044
total amount of the consideration for the lease or rental includes 128045
amounts that are not calculated at the time the lease or rental is 128046
executed, the tax shall be calculated and collected by the vendor 128047
at the time such amounts are billed to the lessee or renter. In 128048
the case of an open-end lease or rental, the tax shall be 128049
calculated by the vendor on the basis of the total amount to be 128050
paid during the initial fixed term of the lease or rental, and for 128051
each subsequent renewal period as it comes due. As used in this 128052
division, "motor vehicle" has the same meaning as in section 128053
4501.01 of the Revised Code, and "watercraft" includes an outdrive 128054
unit attached to the watercraft. 128055

A lease with a renewal clause and a termination penalty or 128056
similar provision that applies if the renewal clause is not 128057
exercised is presumed to be a sham transaction. In such a case, 128058
the tax shall be calculated and paid on the basis of the entire 128059
length of the lease period, including any renewal periods, until 128060

the termination penalty or similar provision no longer applies. 128061
The taxpayer shall bear the burden, by a preponderance of the 128062
evidence, that the transaction or series of transactions is not a 128063
sham transaction. 128064

(3) Except as provided in division (A)(2) of this section, in 128065
the case of a sale, the price of which consists in whole or in 128066
part of the lease or rental of tangible personal property, the tax 128067
shall be measured by the installments of that lease or rental. 128068

(4) In the case of a sale of a physical fitness facility 128069
service or recreation and sports club service, the price of which 128070
consists in whole or in part of a membership for the receipt of 128071
the benefit of the service, the tax applicable to the sale shall 128072
be measured by the installments thereof. 128073

(B) The tax does not apply to the following: 128074

(1) Sales to the state or any of its political subdivisions, 128075
or to any other state or its political subdivisions if the laws of 128076
that state exempt from taxation sales made to this state and its 128077
political subdivisions; 128078

(2) Sales of food for human consumption off the premises 128079
where sold; 128080

(3) Sales of food sold to students only in a cafeteria, 128081
dormitory, fraternity, or sorority maintained in a private, 128082
public, or parochial school, college, or university; 128083

(4) Sales of newspapers and of magazine subscriptions and 128084
sales or transfers of magazines distributed as controlled 128085
circulation publications; 128086

(5) The furnishing, preparing, or serving of meals without 128087
charge by an employer to an employee provided the employer records 128088
the meals as part compensation for services performed or work 128089
done; 128090

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided

in division (B)(9)(b) of this section. If the number of days on 128123
which such sales are made exceeds six in any calendar year, the 128124
church or organization shall be considered to be engaged in 128125
business and all subsequent sales by it shall be subject to the 128126
tax. In counting the number of days, all sales by groups within a 128127
church or within an organization shall be considered to be sales 128128
of that church or organization. 128129

(b) The limitation on the number of days on which tax-exempt 128130
sales may be made by a church or organization under division 128131
(B)(9)(a) of this section does not apply to sales made by student 128132
clubs and other groups of students of a primary or secondary 128133
school, or a parent-teacher association, booster group, or similar 128134
organization that raises money to support or fund curricular or 128135
extracurricular activities of a primary or secondary school. 128136

(c) Divisions (B)(9)(a) and (b) of this section do not apply 128137
to sales by a noncommercial educational radio or television 128138
broadcasting station. 128139

(10) Sales not within the taxing power of this state under 128140
the Constitution of the United States; 128141

(11) Except for transactions that are sales under division 128142
(B)(3)(r) of section 5739.01 of the Revised Code, the 128143
transportation of persons or property, unless the transportation 128144
is by a private investigation and security service; 128145

(12) Sales of tangible personal property or services to 128146
churches, to organizations exempt from taxation under section 128147
501(c)(3) of the Internal Revenue Code of 1986, and to any other 128148
nonprofit organizations operated exclusively for charitable 128149
purposes in this state, no part of the net income of which inures 128150
to the benefit of any private shareholder or individual, and no 128151
substantial part of the activities of which consists of carrying 128152
on propaganda or otherwise attempting to influence legislation; 128153

sales to offices administering one or more homes for the aged or 128154
one or more hospital facilities exempt under section 140.08 of the 128155
Revised Code; and sales to organizations described in division (D) 128156
of section 5709.12 of the Revised Code. 128157

"Charitable purposes" means the relief of poverty; the 128158
improvement of health through the alleviation of illness, disease, 128159
or injury; the operation of an organization exclusively for the 128160
provision of professional, laundry, printing, and purchasing 128161
services to hospitals or charitable institutions; the operation of 128162
a home for the aged, as defined in section 5701.13 of the Revised 128163
Code; the operation of a radio or television broadcasting station 128164
that is licensed by the federal communications commission as a 128165
noncommercial educational radio or television station; the 128166
operation of a nonprofit animal adoption service or a county 128167
humane society; the promotion of education by an institution of 128168
learning that maintains a faculty of qualified instructors, 128169
teaches regular continuous courses of study, and confers a 128170
recognized diploma upon completion of a specific curriculum; the 128171
operation of a parent-teacher association, booster group, or 128172
similar organization primarily engaged in the promotion and 128173
support of the curricular or extracurricular activities of a 128174
primary or secondary school; the operation of a community or area 128175
center in which presentations in music, dramatics, the arts, and 128176
related fields are made in order to foster public interest and 128177
education therein; the production of performances in music, 128178
dramatics, and the arts; or the promotion of education by an 128179
organization engaged in carrying on research in, or the 128180
dissemination of, scientific and technological knowledge and 128181
information primarily for the public. 128182

Nothing in this division shall be deemed to exempt sales to 128183
any organization for use in the operation or carrying on of a 128184
trade or business, or sales to a home for the aged for use in the 128185

operation of independent living facilities as defined in division 128186
(A) of section 5709.12 of the Revised Code. 128187

(13) Building and construction materials and services sold to 128188
construction contractors for incorporation into a structure or 128189
improvement to real property under a construction contract with 128190
this state or a political subdivision of this state, or with the 128191
United States government or any of its agencies; building and 128192
construction materials and services sold to construction 128193
contractors for incorporation into a structure or improvement to 128194
real property that are accepted for ownership by this state or any 128195
of its political subdivisions, or by the United States government 128196
or any of its agencies at the time of completion of the structures 128197
or improvements; building and construction materials sold to 128198
construction contractors for incorporation into a horticulture 128199
structure or livestock structure for a person engaged in the 128200
business of horticulture or producing livestock; building 128201
materials and services sold to a construction contractor for 128202
incorporation into a house of public worship or religious 128203
education, or a building used exclusively for charitable purposes 128204
under a construction contract with an organization whose purpose 128205
is as described in division (B)(12) of this section; building 128206
materials and services sold to a construction contractor for 128207
incorporation into a building under a construction contract with 128208
an organization exempt from taxation under section 501(c)(3) of 128209
the Internal Revenue Code of 1986 when the building is to be used 128210
exclusively for the organization's exempt purposes; building and 128211
construction materials sold for incorporation into the original 128212
construction of a sports facility under section 307.696 of the 128213
Revised Code; building and construction materials and services 128214
sold to a construction contractor for incorporation into real 128215
property outside this state if such materials and services, when 128216
sold to a construction contractor in the state in which the real 128217
property is located for incorporation into real property in that 128218

state, would be exempt from a tax on sales levied by that state; 128219
and, until one calendar year after the construction of a 128220
convention center that qualifies for property tax exemption under 128221
section 5709.084 of the Revised Code is completed, building and 128222
construction materials and services sold to a construction 128223
contractor for incorporation into the real property comprising 128224
that convention center; 128225

(14) Sales of ships or vessels or rail rolling stock used or 128226
to be used principally in interstate or foreign commerce, and 128227
repairs, alterations, fuel, and lubricants for such ships or 128228
vessels or rail rolling stock; 128229

(15) Sales to persons primarily engaged in any of the 128230
activities mentioned in division (B)(42)(a) ~~or~~, (g), or (h) of 128231
this section, to persons engaged in making retail sales, or to 128232
persons who purchase for sale from a manufacturer tangible 128233
personal property that was produced by the manufacturer in 128234
accordance with specific designs provided by the purchaser, of 128235
packages, including material, labels, and parts for packages, and 128236
of machinery, equipment, and material for use primarily in 128237
packaging tangible personal property produced for sale, including 128238
any machinery, equipment, and supplies used to make labels or 128239
packages, to prepare packages or products for labeling, or to 128240
label packages or products, by or on the order of the person doing 128241
the packaging, or sold at retail. "Packages" includes bags, 128242
baskets, cartons, crates, boxes, cans, bottles, bindings, 128243
wrappings, and other similar devices and containers, but does not 128244
include motor vehicles or bulk tanks, trailers, or similar devices 128245
attached to motor vehicles. "Packaging" means placing in a 128246
package. Division (B)(15) of this section does not apply to 128247
persons engaged in highway transportation for hire. 128248

(16) Sales of food to persons using supplemental nutrition 128249
assistance program benefits to purchase the food. As used in this 128250

division, "food" has the same meaning as in 7 U.S.C. 2012 and 128251
federal regulations adopted pursuant to the Food and Nutrition Act 128252
of 2008. 128253

(17) Sales to persons engaged in farming, agriculture, 128254
horticulture, or floriculture, of tangible personal property for 128255
use or consumption ~~directly~~ primarily in the production by 128256
farming, agriculture, horticulture, or floriculture of other 128257
tangible personal property for use or consumption ~~directly~~ 128258
primarily in the production of tangible personal property for sale 128259
by farming, agriculture, horticulture, or floriculture; or 128260
material and parts for incorporation into any such tangible 128261
personal property for use or consumption in production; and of 128262
tangible personal property for such use or consumption in the 128263
conditioning or holding of products produced by and for such use, 128264
consumption, or sale by persons engaged in farming, agriculture, 128265
horticulture, or floriculture, except where such property is 128266
incorporated into real property; 128267

(18) Sales of drugs for a human being that may be dispensed 128268
only pursuant to a prescription; insulin as recognized in the 128269
official United States pharmacopoeia; urine and blood testing 128270
materials when used by diabetics or persons with hypoglycemia to 128271
test for glucose or acetone; hypodermic syringes and needles when 128272
used by diabetics for insulin injections; epoetin alfa when 128273
purchased for use in the treatment of persons with medical 128274
disease; hospital beds when purchased by hospitals, nursing homes, 128275
or other medical facilities; and medical oxygen and medical 128276
oxygen-dispensing equipment when purchased by hospitals, nursing 128277
homes, or other medical facilities; 128278

(19) Sales of prosthetic devices, durable medical equipment 128279
for home use, or mobility enhancing equipment, when made pursuant 128280
to a prescription and when such devices or equipment are for use 128281
by a human being. 128282

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats,

cartons, closure materials, labels, and labeling materials, and	128315
"packaging" means placing therein.	128316
(25)(a) Sales of water to a consumer for residential use,	128317
except the sale of bottled water, distilled water, mineral water,	128318
carbonated water, or ice;	128319
(b) Sales of water by a nonprofit corporation engaged	128320
exclusively in the treatment, distribution, and sale of water to	128321
consumers, if such water is delivered to consumers through pipes	128322
or tubing.	128323
(26) Fees charged for inspection or reinspection of motor	128324
vehicles under section 3704.14 of the Revised Code;	128325
(27) Sales to persons licensed to conduct a food service	128326
operation pursuant to section 3717.43 of the Revised Code, of	128327
tangible personal property primarily used directly for the	128328
following:	128329
(a) To prepare food for human consumption for sale;	128330
(b) To preserve food that has been or will be prepared for	128331
human consumption for sale by the food service operator, not	128332
including tangible personal property used to display food for	128333
selection by the consumer;	128334
(c) To clean tangible personal property used to prepare or	128335
serve food for human consumption for sale.	128336
(28) Sales of animals by nonprofit animal adoption services	128337
or county humane societies;	128338
(29) Sales of services to a corporation described in division	128339
(A) of section 5709.72 of the Revised Code, and sales of tangible	128340
personal property that qualifies for exemption from taxation under	128341
section 5709.72 of the Revised Code;	128342
(30) Sales and installation of agricultural land tile, as	128343
defined in division (B)(5)(a) of section 5739.01 of the Revised	128344

Code;	128345
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	128346 128347 128348
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	128349 128350 128351 128352 128353 128354
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	128355 128356 128357 128358 128359
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) <u>or</u> <u>(n)</u> of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.	128360 128361 128362 128363 128364 128365 128366 128367 128368 128369 128370 128371 128372 128373 128374
(35)(a) Sales where the purpose of the consumer is to use or	128375

consume the things transferred in making retail sales and 128376
consisting of newspaper inserts, catalogues, coupons, flyers, gift 128377
certificates, or other advertising material that prices and 128378
describes tangible personal property offered for retail sale. 128379

(b) Sales to direct marketing vendors of preliminary 128380
materials such as photographs, artwork, and typesetting that will 128381
be used in printing advertising material; of printed matter that 128382
offers free merchandise or chances to win sweepstake prizes and 128383
that is mailed to potential customers with advertising material 128384
described in division (B)(35)(a) of this section; and of equipment 128385
such as telephones, computers, facsimile machines, and similar 128386
tangible personal property primarily used to accept orders for 128387
direct marketing retail sales. 128388

(c) Sales of automatic food vending machines that preserve 128389
food with a shelf life of forty-five days or less by refrigeration 128390
and dispense it to the consumer. 128391

For purposes of division (B)(35) of this section, "direct 128392
marketing" means the method of selling where consumers order 128393
tangible personal property by United States mail, delivery 128394
service, or telecommunication and the vendor delivers or ships the 128395
tangible personal property sold to the consumer from a warehouse, 128396
catalogue distribution center, or similar fulfillment facility by 128397
means of the United States mail, delivery service, or common 128398
carrier. 128399

(36) Sales to a person engaged in the business of 128400
horticulture or producing livestock of materials to be 128401
incorporated into a horticulture structure or livestock structure; 128402

(37) Sales of personal computers, computer monitors, computer 128403
keyboards, modems, and other peripheral computer equipment to an 128404
individual who is licensed or certified to teach in an elementary 128405
or a secondary school in this state for use by that individual in 128406

preparation for teaching elementary or secondary school students;	128407
(38) Sales to a professional racing team of any of the	128408
following:	128409
(a) Motor racing vehicles;	128410
(b) Repair services for motor racing vehicles;	128411
(c) Items of property that are attached to or incorporated in	128412
motor racing vehicles, including engines, chassis, and all other	128413
components of the vehicles, and all spare, replacement, and	128414
rebuilt parts or components of the vehicles; except not including	128415
tires, consumable fluids, paint, and accessories consisting of	128416
instrumentation sensors and related items added to the vehicle to	128417
collect and transmit data by means of telemetry and other forms of	128418
communication.	128419
(39) Sales of used manufactured homes and used mobile homes,	128420
as defined in section 5739.0210 of the Revised Code, made on or	128421
after January 1, 2000;	128422
(40) Sales of tangible personal property and services to a	128423
provider of electricity used or consumed directly and primarily in	128424
generating, transmitting, or distributing electricity for use by	128425
others, including property that is or is to be incorporated into	128426
and will become a part of the consumer's production, transmission,	128427
or distribution system and that retains its classification as	128428
tangible personal property after incorporation; fuel or power used	128429
in the production, transmission, or distribution of electricity;	128430
energy conversion equipment as defined in section 5727.01 of the	128431
Revised Code; and tangible personal property and services used in	128432
the repair and maintenance of the production, transmission, or	128433
distribution system, including only those motor vehicles as are	128434
specially designed and equipped for such use. The exemption	128435
provided in this division shall be in lieu of all other exemptions	128436
in division (B)(42)(a) <u>or (n)</u> of this section to which a provider	128437

of electricity may otherwise be entitled based on the use of the 128438
tangible personal property or service purchased in generating, 128439
transmitting, or distributing electricity. 128440

(41) Sales to a person providing services under division 128441
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 128442
personal property and services used directly and primarily in 128443
providing taxable services under that section. 128444

(42) Sales where the purpose of the purchaser is to do any of 128445
the following: 128446

(a) To incorporate the thing transferred as a material or a 128447
part into tangible personal property to be produced for sale by 128448
manufacturing, assembling, processing, or refining; or to use or 128449
consume the thing transferred directly in producing tangible 128450
personal property for sale by mining, including, without 128451
limitation, the extraction from the earth of all substances that 128452
are classed geologically as minerals, production of crude oil and 128453
natural gas, ~~farming, agriculture, horticulture, or floriculture,~~ 128454
or directly in the rendition of a public utility service, except 128455
that the sales tax levied by this section shall be collected upon 128456
all meals, drinks, and food for human consumption sold when 128457
transporting persons. Persons engaged in rendering ~~farming,~~ 128458
~~agricultural, horticultural, or floricultural services, and~~ 128459
services in the exploration for, and production of, crude oil and 128460
natural gas, for others are deemed engaged directly in ~~farming,~~ 128461
~~agriculture, horticulture, and floriculture, or the~~ exploration 128462
for, and production of, crude oil and natural gas. This paragraph 128463
does not exempt from "retail sale" or "sales at retail" the sale 128464
of tangible personal property that is to be incorporated into a 128465
structure or improvement to real property. 128466

(b) To hold the thing transferred as security for the 128467
performance of an obligation of the vendor; 128468

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	128469 128470
(d) To use or consume the thing directly in commercial fishing;	128471 128472
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	128473 128474 128475 128476
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	128477 128478 128479 128480 128481
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	128482 128483 128484
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	128485 128486 128487 128488 128489 128490
(i) To use the thing transferred as qualified research and development equipment;	128491 128492
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or	128493 128494 128495 128496 128497 128498 128499

by means of direct marketing. This division does not apply to 128500
motor vehicles registered for operation on the public highways. As 128501
used in this division, "affiliated group" has the same meaning as 128502
in division (B)(3)(e) of section 5739.01 of the Revised Code and 128503
"direct marketing" has the same meaning as in division (B)(35) of 128504
this section. 128505

(k) To use or consume the thing transferred to fulfill a 128506
contractual obligation incurred by a warrantor pursuant to a 128507
warranty provided as a part of the price of the tangible personal 128508
property sold or by a vendor of a warranty, maintenance or service 128509
contract, or similar agreement the provision of which is defined 128510
as a sale under division (B)(7) of section 5739.01 of the Revised 128511
Code; 128512

(l) To use or consume the thing transferred in the production 128513
of a newspaper for distribution to the public; 128514

(m) To use tangible personal property to perform a service 128515
listed in division (B)(3) of section 5739.01 of the Revised Code, 128516
if the property is or is to be permanently transferred to the 128517
consumer of the service as an integral part of the performance of 128518
the service; 128519

(n) To use or consume the thing transferred primarily in 128520
producing tangible personal property for sale by farming, 128521
agriculture, horticulture, or floriculture. Persons engaged in 128522
rendering farming, agriculture, horticulture, or floriculture 128523
services for others are deemed engaged primarily in farming, 128524
agriculture, horticulture, or floriculture. This paragraph does 128525
not exempt from "retail sale" or "sales at retail" the sale of 128526
tangible personal property that is to be incorporated into a 128527
structure or improvement to real property. 128528

(o) To use or consume the thing transferred in acquiring, 128529
formatting, editing, storing, and disseminating data or 128530

information by electronic publishing. 128531

As used in division (B)(42) of this section, "thing" includes 128532
all transactions included in divisions (B)(3)(a), (b), and (e) of 128533
section 5739.01 of the Revised Code. 128534

(43) Sales conducted through a coin operated device that 128535
activates vacuum equipment or equipment that dispenses water, 128536
whether or not in combination with soap or other cleaning agents 128537
or wax, to the consumer for the consumer's use on the premises in 128538
washing, cleaning, or waxing a motor vehicle, provided no other 128539
personal property or personal service is provided as part of the 128540
transaction. 128541

(44) Sales of replacement and modification parts for engines, 128542
airframes, instruments, and interiors in, and paint for, aircraft 128543
used primarily in a fractional aircraft ownership program, and 128544
sales of services for the repair, modification, and maintenance of 128545
such aircraft, and machinery, equipment, and supplies primarily 128546
used to provide those services. 128547

(45) Sales of telecommunications service that is used 128548
directly and primarily to perform the functions of a call center. 128549
As used in this division, "call center" means any physical 128550
location where telephone calls are placed or received in high 128551
volume for the purpose of making sales, marketing, customer 128552
service, technical support, or other specialized business 128553
activity, and that employs at least fifty individuals that engage 128554
in call center activities on a full-time basis, or sufficient 128555
individuals to fill fifty full-time equivalent positions. 128556

(46) Sales by a telecommunications service vendor of 900 128557
service to a subscriber. This division does not apply to 128558
information services, as defined in division (FF) of section 128559
5739.01 of the Revised Code. 128560

(47) Sales of value-added non-voice data service. This 128561

division does not apply to any similar service that is not 128562
otherwise a telecommunications service. 128563

(48)(a) Sales of machinery, equipment, and software to a 128564
qualified direct selling entity for use in a warehouse or 128565
distribution center primarily for storing, transporting, or 128566
otherwise handling inventory that is held for sale to independent 128567
salespersons who operate as direct sellers and that is held 128568
primarily for distribution outside this state; 128569

(b) As used in division (B)(48)(a) of this section: 128570

(i) "Direct seller" means a person selling consumer products 128571
to individuals for personal or household use and not from a fixed 128572
retail location, including selling such product at in-home product 128573
demonstrations, parties, and other one-on-one selling. 128574

(ii) "Qualified direct selling entity" means an entity 128575
selling to direct sellers at the time the entity enters into a tax 128576
credit agreement with the tax credit authority pursuant to section 128577
122.17 of the Revised Code, provided that the agreement was 128578
entered into on or after January 1, 2007. Neither contingencies 128579
relevant to the granting of, nor later developments with respect 128580
to, the tax credit shall impair the status of the qualified direct 128581
selling entity under division (B)(48) of this section after 128582
execution of the tax credit agreement by the tax credit authority. 128583

(c) Division (B)(48) of this section is limited to machinery, 128584
equipment, and software first stored, used, or consumed in this 128585
state within the period commencing June 24, 2008, and ending on 128586
the date that is five years after that date. 128587

(49) Sales of materials, parts, equipment, or engines used in 128588
the repair or maintenance of aircraft or avionics systems of such 128589
aircraft, and sales of repair, remodeling, replacement, or 128590
maintenance services in this state performed on aircraft or on an 128591
aircraft's avionics, engine, or component materials or parts. As 128592

used in division (B)(49) of this section, "aircraft" means 128593
aircraft of more than six thousand pounds maximum certified 128594
takeoff weight or used exclusively in general aviation. 128595

(50) Sales of full flight simulators that are used for pilot 128596
or flight-crew training, sales of repair or replacement parts or 128597
components, and sales of repair or maintenance services for such 128598
full flight simulators. "Full flight simulator" means a replica of 128599
a specific type, or make, model, and series of aircraft cockpit. 128600
It includes the assemblage of equipment and computer programs 128601
necessary to represent aircraft operations in ground and flight 128602
conditions, a visual system providing an out-of-the-cockpit view, 128603
and a system that provides cues at least equivalent to those of a 128604
three-degree-of-freedom motion system, and has the full range of 128605
capabilities of the systems installed in the device as described 128606
in appendices A and B of part 60 of chapter 1 of title 14 of the 128607
Code of Federal Regulations. 128608

(51) Any transfer or lease of tangible personal property 128609
between the state and a successful proposer in accordance with 128610
sections 126.60 to 126.605 of the Revised Code, provided the 128611
property is part of a project as defined in section 126.60 of the 128612
Revised Code and the state retains ownership of the project or 128613
part thereof that is being transferred or leased, between the 128614
state and JobsOhio in accordance with section 4313.02 of the 128615
Revised Code. 128616

(C) For the purpose of the proper administration of this 128617
chapter, and to prevent the evasion of the tax, it is presumed 128618
that all sales made in this state are subject to the tax until the 128619
contrary is established. 128620

(D) The levy of this tax on retail sales of recreation and 128621
sports club service shall not prevent a municipal corporation from 128622
levying any tax on recreation and sports club dues or on any 128623
income generated by recreation and sports club dues. 128624

(E) The tax collected by the vendor from the consumer under 128625
this chapter is not part of the price, but is a tax collection for 128626
the benefit of the state, and of counties levying an additional 128627
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 128628
Code and of transit authorities levying an additional sales tax 128629
pursuant to section 5739.023 of the Revised Code. Except for the 128630
discount authorized under section 5739.12 of the Revised Code and 128631
the effects of any rounding pursuant to section 5703.055 of the 128632
Revised Code, no person other than the state or such a county or 128633
transit authority shall derive any benefit from the collection or 128634
payment of the tax levied by this section or section 5739.021, 128635
5739.023, or 5739.026 of the Revised Code. 128636

Sec. 5739.021. (A) For the purpose of providing additional 128637
general revenues for the county or supporting criminal and 128638
administrative justice services in the county, or both, and to pay 128639
the expenses of administering such levy, any county may levy a tax 128640
at the rate of not more than one per cent at any multiple of 128641
one-fourth of one per cent upon every retail sale made in the 128642
county, except sales of watercraft and outboard motors required to 128643
be titled pursuant to Chapter 1548. of the Revised Code and sales 128644
of motor vehicles, and may increase the rate of an existing tax to 128645
not more than one per cent at any multiple of one-fourth of one 128646
per cent. 128647

The tax shall be levied and the rate increased pursuant to a 128648
resolution of the board of county commissioners. The resolution 128649
shall state the purpose for which the tax is to be levied and the 128650
number of years for which the tax is to be levied, or that it is 128651
for a continuing period of time. If the tax is to be levied for 128652
the purpose of providing additional general revenues and for the 128653
purpose of supporting criminal and administrative justice 128654
services, the resolution shall state the rate or amount of the tax 128655
to be apportioned to each such purpose. The rate or amount may be 128656

different for each year the tax is to be levied, but the rates or 128657
amounts actually apportioned each year shall not be different from 128658
that stated in the resolution for that year. If the resolution is 128659
adopted as an emergency measure necessary for the immediate 128660
preservation of the public peace, health, or safety, it must 128661
receive an affirmative vote of all of the members of the board of 128662
county commissioners and shall state the reasons for such 128663
necessity. The board shall deliver a certified copy of the 128664
resolution to the tax commissioner, not later than the sixty-fifth 128665
day prior to the date on which the tax is to become effective, 128666
which shall be the first day of the calendar quarter. 128667

Prior to the adoption of any resolution under this section, 128668
the board of county commissioners shall conduct two public 128669
hearings on the resolution, the second hearing to be not less than 128670
three nor more than ten days after the first. Notice of the date, 128671
time, and place of the hearings shall be given by publication in a 128672
newspaper of general circulation in the county, or as provided in 128673
section 7.16 of the Revised Code, once a week on the same day of 128674
the week for two consecutive weeks, the second publication being 128675
not less than ten nor more than thirty days prior to the first 128676
hearing. 128677

Except as provided in division (B)(3) of this section, the 128678
resolution shall be subject to a referendum as provided in 128679
sections 305.31 to 305.41 of the Revised Code. 128680

If a petition for a referendum is filed, the county auditor 128681
with whom the petition was filed shall, within five days, notify 128682
the board of county commissioners and the tax commissioner of the 128683
filing of the petition by certified mail. If the board of 128684
elections with which the petition was filed declares the petition 128685
invalid, the board of elections, within five days, shall notify 128686
the board of county commissioners and the tax commissioner of that 128687
declaration by certified mail. If the petition is declared to be 128688

invalid, the effective date of the tax or increased rate of tax 128689
levied by this section shall be the first day of a calendar 128690
quarter following the expiration of sixty-five days from the date 128691
the commissioner receives notice from the board of elections that 128692
the petition is invalid. 128693

(B)(1) A resolution that is not adopted as an emergency 128694
measure may direct the board of elections to submit the question 128695
of levying the tax or increasing the rate of tax to the electors 128696
of the county at a special election held on the date specified by 128697
the board of county commissioners in the resolution, provided that 128698
the election occurs not less than ninety days after a certified 128699
copy of such resolution is transmitted to the board of elections 128700
and the election is not held in February or August of any year. 128701
Upon transmission of the resolution to the board of elections, the 128702
board of county commissioners shall notify the tax commissioner in 128703
writing of the levy question to be submitted to the electors. No 128704
resolution adopted under this division shall go into effect unless 128705
approved by a majority of those voting upon it, and, except as 128706
provided in division (B)(3) of this section, shall become 128707
effective on the first day of a calendar quarter following the 128708
expiration of sixty-five days from the date the tax commissioner 128709
receives notice from the board of elections of the affirmative 128710
vote. 128711

(2) A resolution that is adopted as an emergency measure 128712
shall go into effect as provided in division (A) of this section, 128713
but may direct the board of elections to submit the question of 128714
repealing the tax or increase in the rate of the tax to the 128715
electors of the county at the next general election in the county 128716
occurring not less than ninety days after a certified copy of the 128717
resolution is transmitted to the board of elections. Upon 128718
transmission of the resolution to the board of elections, the 128719
board of county commissioners shall notify the tax commissioner in 128720

writing of the levy question to be submitted to the electors. The 128721
ballot question shall be the same as that prescribed in section 128722
5739.022 of the Revised Code. The board of elections shall notify 128723
the board of county commissioners and the tax commissioner of the 128724
result of the election immediately after the result has been 128725
declared. If a majority of the qualified electors voting on the 128726
question of repealing the tax or increase in the rate of the tax 128727
vote for repeal of the tax or repeal of the increase, the board of 128728
county commissioners, on the first day of a calendar quarter 128729
following the expiration of sixty-five days after the date the 128730
board and tax commissioner receive notice of the result of the 128731
election, shall, in the case of a repeal of the tax, cease to levy 128732
the tax, or, in the case of a repeal of an increase in the rate of 128733
the tax, cease to levy the increased rate and levy the tax at the 128734
rate at which it was imposed immediately prior to the increase in 128735
rate. 128736

(3) If a vendor that is registered with the central 128737
electronic registration system provided for in section 5740.05 of 128738
the Revised Code makes a sale in this state by printed catalog and 128739
the consumer computed the tax on the sale based on local rates 128740
published in the catalog, any tax levied or repealed or rate 128741
changed under this section shall not apply to such a sale until 128742
the first day of a calendar quarter following the expiration of 128743
one hundred twenty days from the date of notice by the tax 128744
commissioner pursuant to division (H) of this section. 128745

(C) If a resolution is rejected at a referendum or if a 128746
resolution adopted after January 1, 1982, as an emergency measure 128747
is repealed by the electors pursuant to division (B)(2) of this 128748
section or section 5739.022 of the Revised Code, then for one year 128749
after the date of the election at which the resolution was 128750
rejected or repealed the board of county commissioners may not 128751
adopt any resolution authorized by this section as an emergency 128752

measure. 128753

(D) The board of county commissioners, at any time while a 128754
tax levied under this section is in effect, may by resolution 128755
reduce the rate at which the tax is levied to a lower rate 128756
authorized by this section. Any reduction in the rate at which the 128757
tax is levied shall be made effective on the first day of a 128758
calendar quarter next following the sixty-fifth day after a 128759
certified copy of the resolution is delivered to the tax 128760
commissioner. 128761

(E) The tax on every retail sale subject to a tax levied 128762
pursuant to this section shall be in addition to the tax levied by 128763
section 5739.02 of the Revised Code and any tax levied pursuant to 128764
section 5739.023 or 5739.026 of the Revised Code. 128765

A county that levies a tax pursuant to this section shall 128766
levy a tax at the same rate pursuant to section 5741.021 of the 128767
Revised Code. 128768

The additional tax levied by the county shall be collected 128769
pursuant to section 5739.025 of the Revised Code. If the 128770
additional tax or some portion thereof is levied for the purpose 128771
of criminal and administrative justice services, the revenue from 128772
the tax, or the amount or rate apportioned to that purpose, shall 128773
be credited to a special fund created in the county treasury for 128774
receipt of that revenue. 128775

Any tax levied pursuant to this section is subject to the 128776
exemptions provided in section 5739.02 of the Revised Code and in 128777
addition shall not be applicable to sales not within the taxing 128778
power of a county under the Constitution of the United States or 128779
the Ohio Constitution. 128780

(F) For purposes of this section, a copy of a resolution is 128781
"certified" when it contains a written statement attesting that 128782
the copy is a true and exact reproduction of the original 128783

resolution. 128784

(G) If a board of commissioners intends to adopt a resolution 128785
to levy a tax in whole or in part for the purpose of criminal and 128786
administrative justice services, the board shall prepare and make 128787
available at the first public hearing at which the resolution is 128788
considered a statement containing the following information: 128789

(1) For each of the two preceding fiscal years, the amount of 128790
expenditures made by the county from the county general fund for 128791
the purpose of criminal and administrative justice services; 128792

(2) For the fiscal year in which the resolution is adopted, 128793
the board's estimate of the amount of expenditures to be made by 128794
the county from the county general fund for the purpose of 128795
criminal and administrative justice services; 128796

(3) For each of the two fiscal years after the fiscal year in 128797
which the resolution is adopted, the board's preliminary plan for 128798
expenditures to be made from the county general fund for the 128799
purpose of criminal and administrative justice services, both 128800
under the assumption that the tax will be imposed for that purpose 128801
and under the assumption that the tax would not be imposed for 128802
that purpose, and for expenditures to be made from the special 128803
fund created under division (E) of this section under the 128804
assumption that the tax will be imposed for that purpose. 128805

The board shall prepare the statement and the preliminary 128806
plan using the best information available to the board at the time 128807
the statement is prepared. Neither the statement nor the 128808
preliminary plan shall be used as a basis to challenge the 128809
validity of the tax in any court of competent jurisdiction, nor 128810
shall the statement or preliminary plan limit the authority of the 128811
board to appropriate, pursuant to section 5705.38 of the Revised 128812
Code, an amount different from that specified in the preliminary 128813
plan. 128814

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

Sec. 5739.022. (A) The question of repeal of either a county 128848
permissive tax or an increase in the rate of a county permissive 128849
tax that was adopted as an emergency measure pursuant to section 128850
5739.021 or 5739.026 of the Revised Code may be initiated by 128851
filing with the board of elections of the county not less than 128852
ninety days before the general election in any year a petition 128853
requesting that an election be held on the question. The question 128854
of repealing an increase in the rate of the county permissive tax 128855
shall be submitted to the electors as a separate question from the 128856
repeal of the tax in effect prior to the increase in the rate. Any 128857
petition filed under this section shall be signed by qualified 128858
electors residing in the county equal in number to ten per cent of 128859
those voting for governor at the most recent gubernatorial 128860
election. 128861

After determination by it that the petition is valid, the 128862
board of elections shall submit the question to the electors of 128863
the county at the next general election. The election shall be 128864
conducted, canvassed, and certified in the same manner as regular 128865
elections for county offices in the county. The board of elections 128866
shall notify the tax commissioner, in writing, of the election 128867
upon determining that the petition is valid. Notice of the 128868
election shall also be published in a newspaper of general 128869
circulation in the district once a week for two consecutive weeks, 128870
or as provided in section 7.16 of the Revised Code, prior to the 128871
election, and, if, If the board of elections operates and 128872
maintains a web site, the board of elections shall post notice of 128873
the election on its web site for thirty days prior to the 128874
election. The notice shall state the purpose, time, and place of 128875
the election. The form of the ballot cast at the election shall be 128876
prescribed by the secretary of state; however, the ballot question 128877
shall read, "shall the tax (or, increase in the rate of the tax) 128878
be retained? 128879

	Yes
	No

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The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

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(B) If a majority of the qualified electors voting on the question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax approve the repeal, the board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. The board of county commissioners shall, on the first day of the calendar quarter following the expiration of sixty-five days after the date the board and the tax commissioner receive the notice, in the case of a repeal of a county permissive tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of a county permissive tax, levy the tax at the rate at which it was imposed immediately prior to the increase in rate and cease to levy the increased rate.

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(C) Upon receipt from a board of elections of a notice of the results of an election required by division (B) of this section, the tax commissioner shall provide notice of a tax repeal or rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

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(D) If a vendor that is registered with the central

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electronic registration system provided for in section 5740.05 of 128911
the Revised Code makes a sale in this state by printed catalog and 128912
the consumer computed the tax on the sale based on local rates 128913
published in the catalog, any tax repealed or rate changed under 128914
this section shall not apply to such a sale until the first day of 128915
a calendar quarter following the expiration of one hundred twenty 128916
days from the date of notice by the tax commissioner pursuant to 128917
division (C) of this section. 128918

Sec. 5739.026. (A) A board of county commissioners may levy a 128919
tax of one-fourth or one-half of one per cent on every retail sale 128920
in the county, except sales of watercraft and outboard motors 128921
required to be titled pursuant to Chapter 1548. of the Revised 128922
Code and sales of motor vehicles, and may increase an existing 128923
rate of one-fourth of one per cent to one-half of one per cent, to 128924
pay the expenses of administering the tax and, except as provided 128925
in division (A)(6) of this section, for any one or more of the 128926
following purposes provided that the aggregate levy for all such 128927
purposes does not exceed one-half of one per cent: 128928

(1) To provide additional revenues for the payment of bonds 128929
or notes issued in anticipation of bonds issued by a convention 128930
facilities authority established by the board of county 128931
commissioners under Chapter 351. of the Revised Code and to 128932
provide additional operating revenues for the convention 128933
facilities authority; 128934

(2) To provide additional revenues for a transit authority 128935
operating in the county; 128936

(3) To provide additional revenue for the county's general 128937
fund; 128938

(4) To provide additional revenue for permanent improvements 128939
within the county to be distributed by the community improvements 128940
board in accordance with section 307.283 and to pay principal, 128941

interest, and premium on bonds issued under section 307.284 of the Revised Code; 128942
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(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements; 128944
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(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition. 128954
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If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section. 128966
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(7) To provide additional revenue for the operation or 128973

maintenance of a detention facility, as that term is defined under 128974
division (F) of section 2921.01 of the Revised Code; 128975

(8) To provide revenue to finance the construction or 128976
renovation of a sports facility, but only if the tax is levied for 128977
that purpose in the manner prescribed by section 5739.028 of the 128978
Revised Code. 128979

As used in division (A)(8) of this section: 128980

(a) "Sports facility" means a facility intended to house 128981
major league professional athletic teams. 128982

(b) "Constructing" or "construction" includes providing 128983
fixtures, furnishings, and equipment. 128984

(9) To provide additional revenue for the acquisition of 128985
agricultural easements, as defined in section 5301.67 of the 128986
Revised Code; to pay principal, interest, and premium on bonds 128987
issued under section 133.60 of the Revised Code; and for the 128988
supervision and enforcement of agricultural easements held by the 128989
county; 128990

(10) To provide revenue for the provision of ambulance, 128991
paramedic, or other emergency medical services; 128992

(11) To provide revenue for the operation of a lake 128993
facilities authority and the remediation of a distressed watershed 128994
by a lake facilities authority, as provided in Chapter 353. of the 128995
Revised Code. 128996

Pursuant to section 755.171 of the Revised Code, a board of 128997
county commissioners may pledge and contribute revenue from a tax 128998
levied for the purpose of division (A)(5) of this section to the 128999
payment of debt charges on bonds issued under section 755.17 of 129000
the Revised Code. 129001

The rate of tax shall be a multiple of one-fourth of one per 129002
cent, unless a portion of the rate of an existing tax levied under 129003

section 5739.023 of the Revised Code has been reduced, and the 129004
rate of tax levied under this section has been increased, pursuant 129005
to section 5739.028 of the Revised Code, in which case the 129006
aggregate of the rates of tax levied under this section and 129007
section 5739.023 of the Revised Code shall be a multiple of 129008
one-fourth of one per cent. The tax shall be levied and the rate 129009
increased pursuant to a resolution adopted by a majority of the 129010
members of the board. The board shall deliver a certified copy of 129011
the resolution to the tax commissioner, not later than the 129012
sixty-fifth day prior to the date on which the tax is to become 129013
effective, which shall be the first day of a calendar quarter. 129014

Prior to the adoption of any resolution to levy the tax or to 129015
increase the rate of tax exclusively for the purpose set forth in 129016
division (A)(3) of this section, the board of county commissioners 129017
shall conduct two public hearings on the resolution, the second 129018
hearing to be no fewer than three nor more than ten days after the 129019
first. Notice of the date, time, and place of the hearings shall 129020
be given by publication in a newspaper of general circulation in 129021
the county, or as provided in section 7.16 of the Revised Code, 129022
once a week on the same day of the week for two consecutive weeks, 129023
~~the.~~ The second publication being shall be no fewer than ten nor 129024
more than thirty days prior to the first hearing. Except as 129025
provided in division (E) of this section, the resolution shall be 129026
subject to a referendum as provided in sections 305.31 to 305.41 129027
of the Revised Code. If the resolution is adopted as an emergency 129028
measure necessary for the immediate preservation of the public 129029
peace, health, or safety, it must receive an affirmative vote of 129030
all of the members of the board of county commissioners and shall 129031
state the reasons for the necessity. 129032

If the tax is for more than one of the purposes set forth in 129033
divisions (A)(1) to (7), (9), and (10) of this section, or is 129034
exclusively for one of the purposes set forth in division (A)(1), 129035

(2), (4), (5), (6), (7), (9), or (10) of this section, the 129036
resolution shall not go into effect unless it is approved by a 129037
majority of the electors voting on the question of the tax. 129038

(B) The board of county commissioners shall adopt a 129039
resolution under section 351.02 of the Revised Code creating the 129040
convention facilities authority, or under section 307.283 of the 129041
Revised Code creating the community improvements board, before 129042
adopting a resolution levying a tax for the purpose of a 129043
convention facilities authority under division (A)(1) of this 129044
section or for the purpose of a community improvements board under 129045
division (A)(4) of this section. 129046

(C)(1) If the tax is to be used for more than one of the 129047
purposes set forth in divisions (A)(1) to (7), (9), and (10) of 129048
this section, the board of county commissioners shall establish 129049
the method that will be used to determine the amount or proportion 129050
of the tax revenue received by the county during each year that 129051
will be distributed for each of those purposes, including, if 129052
applicable, provisions governing the reallocation of a convention 129053
facilities authority's allocation if the authority is dissolved 129054
while the tax is in effect. The allocation method may provide that 129055
different proportions or amounts of the tax shall be distributed 129056
among the purposes in different years, but it shall clearly 129057
describe the method that will be used for each year. Except as 129058
otherwise provided in division (C)(2) of this section, the 129059
allocation method established by the board is not subject to 129060
amendment during the life of the tax. 129061

(2) Subsequent to holding a public hearing on the proposed 129062
amendment, the board of county commissioners may amend the 129063
allocation method established under division (C)(1) of this 129064
section for any year, if the amendment is approved by the 129065
governing board of each entity whose allocation for the year would 129066
be reduced by the proposed amendment. In the case of a tax that is 129067

levied for a continuing period of time, the board may not so amend 129068
the allocation method for any year before the sixth year that the 129069
tax is in effect. 129070

(a) If the additional revenues provided to the convention 129071
facilities authority are pledged by the authority for the payment 129072
of convention facilities authority revenue bonds for as long as 129073
such bonds are outstanding, no reduction of the authority's 129074
allocation of the tax shall be made for any year except to the 129075
extent that the reduced authority allocation, when combined with 129076
the authority's other revenues pledged for that purpose, is 129077
sufficient to meet the debt service requirements for that year on 129078
such bonds. 129079

(b) If the additional revenues provided to the county are 129080
pledged by the county for the payment of bonds or notes described 129081
in division (A)(4) or (5) of this section, for as long as such 129082
bonds or notes are outstanding, no reduction of the county's or 129083
the community improvements board's allocation of the tax shall be 129084
made for any year, except to the extent that the reduced county or 129085
community improvements board allocation is sufficient to meet the 129086
debt service requirements for that year on such bonds or notes. 129087

(c) If the additional revenues provided to the transit 129088
authority are pledged by the authority for the payment of revenue 129089
bonds issued under section 306.37 of the Revised Code, for as long 129090
as such bonds are outstanding, no reduction of the authority's 129091
allocation of tax shall be made for any year, except to the extent 129092
that the authority's reduced allocation, when combined with the 129093
authority's other revenues pledged for that purpose, is sufficient 129094
to meet the debt service requirements for that year on such bonds. 129095

(d) If the additional revenues provided to the county are 129096
pledged by the county for the payment of bonds or notes issued 129097
under section 133.60 of the Revised Code, for so long as the bonds 129098
or notes are outstanding, no reduction of the county's allocation 129099

of the tax shall be made for any year, except to the extent that 129100
the reduced county allocation is sufficient to meet the debt 129101
service requirements for that year on the bonds or notes. 129102

(D)(1) The resolution levying the tax or increasing the rate 129103
of tax shall state the rate of the tax or the rate of the 129104
increase; the purpose or purposes for which it is to be levied; 129105
the number of years for which it is to be levied or that it is for 129106
a continuing period of time; the allocation method required by 129107
division (C) of this section; and if required to be submitted to 129108
the electors of the county under division (A) of this section, the 129109
date of the election at which the proposal shall be submitted to 129110
the electors of the county, which shall be not less than ninety 129111
days after the certification of a copy of the resolution to the 129112
board of elections and, if the tax is to be levied exclusively for 129113
the purpose set forth in division (A)(3) of this section, shall 129114
not occur in February or August of any year. Upon certification of 129115
the resolution to the board of elections, the board of county 129116
commissioners shall notify the tax commissioner in writing of the 129117
levy question to be submitted to the electors. If approved by a 129118
majority of the electors, the tax shall become effective on the 129119
first day of a calendar quarter next following the sixty-fifth day 129120
following the date the board of county commissioners and tax 129121
commissioner receive from the board of elections the certification 129122
of the results of the election, except as provided in division (E) 129123
of this section. 129124

(2)(a) A resolution specifying that the tax is to be used 129125
exclusively for the purpose set forth in division (A)(3) of this 129126
section that is not adopted as an emergency measure may direct the 129127
board of elections to submit the question of levying the tax or 129128
increasing the rate of the tax to the electors of the county at a 129129
special election held on the date specified by the board of county 129130
commissioners in the resolution, provided that the election occurs 129131

not less than ninety days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the

result of the election, shall, in the case of a repeal of the tax, 129165
cease to levy the tax, or, in the case of a repeal of an increase 129166
in the rate of the tax, cease to levy the increased rate and levy 129167
the tax at the rate at which it was imposed immediately prior to 129168
the increase in rate. 129169

(c) A board of county commissioners, by resolution, may 129170
reduce the rate of a tax levied exclusively for the purpose set 129171
forth in division (A)(3) of this section to a lower rate 129172
authorized by this section. Any such reduction shall be made 129173
effective on the first day of the calendar quarter next following 129174
the sixty-fifth day after the tax commissioner receives a 129175
certified copy of the resolution from the board. 129176

(E) If a vendor that is registered with the central 129177
electronic registration system provided for in section 5740.05 of 129178
the Revised Code makes a sale in this state by printed catalog and 129179
the consumer computed the tax on the sale based on local rates 129180
published in the catalog, any tax levied or repealed or rate 129181
changed under this section shall not apply to such a sale until 129182
the first day of a calendar quarter following the expiration of 129183
one hundred twenty days from the date of notice by the tax 129184
commissioner pursuant to division (G) of this section. 129185

(F) The tax levied pursuant to this section shall be in 129186
addition to the tax levied by section 5739.02 of the Revised Code 129187
and any tax levied pursuant to section 5739.021 or 5739.023 of the 129188
Revised Code. 129189

A county that levies a tax pursuant to this section shall 129190
levy a tax at the same rate pursuant to section 5741.023 of the 129191
Revised Code. 129192

The additional tax levied by the county shall be collected 129193
pursuant to section 5739.025 of the Revised Code. 129194

Any tax levied pursuant to this section is subject to the 129195

exemptions provided in section 5739.02 of the Revised Code and in 129196
addition shall not be applicable to sales not within the taxing 129197
power of a county under the Constitution of the United States or 129198
the Ohio Constitution. 129199

(G) Upon receipt from a board of county commissioners of a 129200
certified copy of a resolution required by division (A) of this 129201
section, or from the board of elections a notice of the results of 129202
an election required by division (D)(1), (2)(a), (b), or (c) of 129203
this section, the tax commissioner shall provide notice of a tax 129204
rate change in a manner that is reasonably accessible to all 129205
affected vendors. The commissioner shall provide this notice at 129206
least sixty days prior to the effective date of the rate change. 129207
The commissioner, by rule, may establish the method by which 129208
notice will be provided. 129209

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor 129210
has paid taxes to the treasurer of state or the treasurer of 129211
state's agent, or to the tax commissioner or the commissioner's 129212
agent, the commissioner shall refund to the vendor the amount of 129213
taxes paid if the vendor has refunded to the consumer the full 129214
amount of taxes the consumer paid illegally or erroneously or if 129215
the vendor has illegally or erroneously billed the consumer but 129216
has not collected the taxes from the consumer. 129217

(B) When, pursuant to this chapter, a consumer has paid taxes 129218
directly to the treasurer of state or the treasurer of state's 129219
agent, or to the tax commissioner or the commissioner's agent, and 129220
the payment or assessment was illegal or erroneous, the 129221
commissioner shall refund to the consumer the full amount of 129222
illegal or erroneous taxes paid. 129223

(C) The commissioner shall refund to the consumer taxes paid 129224
illegally or erroneously to a vendor only if: 129225

(1) The commissioner has not refunded the tax to the vendor 129226

and the vendor has not refunded the tax to the consumer; or 129227

(2) The consumer has received a refund from a manufacturer or 129228
other person, other than the vendor, of the full purchase price, 129229
but not the tax, paid to the vendor in settlement of a complaint 129230
by the consumer about the property or service purchased. 129231

The commissioner may require the consumer to obtain or the 129232
vendor to provide a written statement confirming that the vendor 129233
has not refunded the tax to the consumer and has not filed an 129234
application for refund of the tax with the commissioner. 129235

(D) An Subject to division (E) of this section, an 129236
application for refund shall be filed with the tax commissioner on 129237
the form prescribed by the commissioner within four years from the 129238
date of the illegal or erroneous payment of the tax, unless the 129239
vendor or consumer waives the time limitation under division 129240
(A)(3) of section 5739.16 of the Revised Code. If the time 129241
limitation is waived, the refund application period shall be 129242
extended for the same period as the waiver. 129243

(E) An application for refund shall be filed in accordance 129244
with division (D) of this section unless a person is subject to an 129245
assessment that is subject to the time limit of division (B) of 129246
section 5703.58 of the Revised Code for a tax not reported and 129247
paid between the four-year time limit described in division (D) of 129248
this section and the seven-year limit described in division (B) of 129249
section 5703.58 of the Revised Code, in which case the person may 129250
file an application for refund for the year in which the 129251
assessment is issued or any following year. 129252

(F) On the filing of an application for a refund, the 129253
commissioner shall determine the amount of refund to which the 129254
applicant is entitled. If the amount is not less than that 129255
claimed, the commissioner shall certify that amount to the 129256
director of budget and management and the treasurer of state for 129257

payment from the tax refund fund created by section 5703.052 of 129258
the Revised Code. If the amount is less than that claimed, the 129259
commissioner shall proceed in accordance with section 5703.70 of 129260
the Revised Code. 129261

~~(F)~~(G) When a refund is granted under this section, it shall 129262
include interest thereon as provided by section 5739.132 of the 129263
Revised Code. 129264

Sec. 5739.101. (A) The legislative authority of a municipal 129265
corporation, by ordinance, or of a township, by resolution, may 129266
declare the municipal corporation or township to be a resort area 129267
for the purposes of this section, if all of the following criteria 129268
are met: 129269

(1) According to statistics published by the federal 129270
government based on data compiled during the most recent decennial 129271
census of the United States, at least sixty-two per cent of total 129272
housing units in the municipal corporation or township are 129273
classified as "for seasonal, recreational, or occasional use"; 129274

(2) Entertainment and recreation facilities are provided 129275
within the municipal corporation or township that are primarily 129276
intended to provide seasonal leisure time activities for persons 129277
other than permanent residents of the municipal corporation or 129278
township; 129279

(3) The municipal corporation or township experiences 129280
seasonal peaks of employment and demand for government services as 129281
a direct result of the seasonal population increase. 129282

(B) For the purpose of providing revenue for its general 129283
fund, the legislative authority of a municipal corporation or 129284
township, in its ordinance or resolution declaring itself a resort 129285
area under this section, may levy a tax on the privilege of 129286
engaging in the business of either of the following: 129287

(1) Making sales in the municipal corporation or township, 129288
whether wholesale or retail, but including sales of food only to 129289
the extent such sales are subject to the tax levied under section 129290
5739.02 of the Revised Code; 129291

(2) Intrastate transportation of passengers or property 129292
primarily to or from the municipal corporation or township by a 129293
railroad, watercraft, or motor vehicle subject to regulation by 129294
the public utilities commission, except not including 129295
transportation of passengers as part of a tour or cruise in which 129296
the passengers will stay in the municipal corporation or township 129297
for no more than one hour. 129298

The tax is imposed upon and shall be paid by the person 129299
making the sales or transporting the passengers or property. The 129300
rate of the tax shall be one-half, one, or one and one-half per 129301
cent of the person's gross receipts derived from making the sales 129302
or transporting the passengers or property to or from the 129303
municipal corporation or township. 129304

(C) The tax shall take effect on the first day of the month 129305
that begins at least sixty days after the effective date of the 129306
ordinance or resolution in which it is levied. The legislative 129307
authority shall certify copies of the ordinance or resolution to 129308
the tax commissioner and treasurer of state within five days after 129309
its adoption. In addition, one time each week during the two weeks 129310
following the adoption of the ordinance or resolution, the 129311
legislative authority shall cause to be published in a newspaper 129312
of general circulation in the municipal corporation or township or 129313
as provided in section 7.16 of the Revised Code, a notice 129314
explaining the tax and stating the rate of the tax, the date it 129315
will take effect, and that persons subject to the tax must 129316
register with the tax commissioner under section 5739.103 of the 129317
Revised Code. 129318

(D) No more than once a year, and subject to the rates 129319

prescribed in division (B) of this section, the legislative 129320
authority of the municipal corporation or township, by ordinance 129321
or resolution, may increase or decrease the rate of a tax levied 129322
under this section. The legislative authority, by ordinance or 129323
resolution, at any time may repeal such a tax. The legislative 129324
authority shall certify to the tax commissioner and treasurer of 129325
state copies of the ordinance or resolution repealing or changing 129326
the rate of the tax within five days after its adoption. In 129327
addition, one time each week during the two weeks following the 129328
adoption of the ordinance or resolution, the legislative authority 129329
shall cause to be published in a newspaper of general circulation 129330
in the municipal corporation or township or as provided in section 129331
7.16 of the Revised Code, notice of the repeal or change. 129332

Sec. 5739.19. The tax commissioner may revoke any retail 129333
vendor's license upon ascertaining that the vendor has no need for 129334
the license because the vendor is not engaged in making taxable 129335
retail sales. Notice of the revocation shall be delivered to the 129336
vendor personally or by certified mail, ~~return receipt requested~~ 129337
or by an alternative delivery service as authorized under section 129338
5703.37 of the Revised Code. The revocation shall be effective on 129339
the first day of the month following the expiration of fifteen 129340
days after the vendor received the notice of the revocation. 129341

The revocation of the vendor's license shall be stayed if, 129342
within fifteen days after receiving notice of the revocation, the 129343
vendor objects, in writing, to the revocation. The commissioner 129344
shall consider the written objections of the vendor and issue a 129345
final determination on the revocation of the vendor's license. The 129346
commissioner's final determination may be appealed to the board of 129347
tax appeals pursuant to section 5717.02 of the Revised Code. The 129348
revocation shall be effective on the first day of the month 129349
following the expiration of all time limits for appeal. 129350

Sec. 5739.30. (A) No person, including any officer, employee, 129351
or trustee of a corporation or business trust, shall fail to file 129352
any return or report required to be filed by this chapter, or file 129353
or cause to be filed any incomplete, false or fraudulent return, 129354
report, or statement, or aid or abet another in the filing of any 129355
false or fraudulent return, report, or statement. 129356

129357

(B) If any vendor required to file monthly returns under 129358
section 5739.12 of the Revised Code fails, on two consecutive 129359
months or on three or more months within a twelve-month period, to 129360
file such returns when due or to pay the tax thereon, or if any 129361
vendor authorized by the tax commissioner to file semiannual 129362
returns fails on two or more occasions within a twenty-four month 129363
period, to file such returns when due or to pay the tax due 129364
thereon, the commissioner may do any of the following: 129365

(1) Require the vendor to furnish security in an amount equal 129366
to the average tax liability of the vendor for a period of one 129367
year, as determined by the commissioner from a review of returns 129368
or other information pertaining to the vendor, which amount shall 129369
in no event be less than one thousand dollars. The security may be 129370
in the form of a corporate surety bond, satisfactory to the 129371
commissioner, conditioned upon payment of the tax due with the 129372
returns from the vendor. The security shall be filed within ten 129373
days following the vendor's receipt of the notice from the 129374
commissioner of its requirements. 129375

(2) Suspend the license issued to the vendor pursuant to 129376
section 5739.17 of the Revised Code. The suspension shall be 129377
effective ten days after service of written notice to the vendor 129378
of the commissioner's intention to do so. The notice shall be 129379
served upon the vendor personally ~~or~~, by certified mail, or by an 129380
alternative delivery service as authorized under section 5703.37 129381

of the Revised Code. On the first day of the suspension, the 129382
commissioner shall cause to be posted, at every public entrance of 129383
the vendor's premises, a notice identifying the vendor and the 129384
location and informing the public that the vendor's license is 129385
under suspension and that no retail sales may be transacted at 129386
that location. No person, other than the commissioner or the 129387
commissioner's agent or employee, shall remove, cover, or deface 129388
the posted notice. No license which has been suspended under this 129389
section shall be reinstated, and no posted notice shall be 129390
removed, until the vendor has filed complete and correct returns 129391
for all periods in which no return had been filed and paid the 129392
full amount of the tax, penalties, and other charges due on those 129393
returns. 129394

A corporate surety bond filed under this section shall be 129395
returned to the vendor if, for a period of twelve consecutive 129396
months following the date the bond was filed, the vendor has filed 129397
all returns and remitted payment with them within the time 129398
prescribed in section 5739.12 of the Revised Code. 129399

Sec. 5747.01. Except as otherwise expressly provided or 129400
clearly appearing from the context, any term used in this chapter 129401
that is not otherwise defined in this section has the same meaning 129402
as when used in a comparable context in the laws of the United 129403
States relating to federal income taxes or if not used in a 129404
comparable context in those laws, has the same meaning as in 129405
section 5733.40 of the Revised Code. Any reference in this chapter 129406
to the Internal Revenue Code includes other laws of the United 129407
States relating to federal income taxes. 129408

As used in this chapter: 129409

(A) "Adjusted gross income" or "Ohio adjusted gross income" 129410
means federal adjusted gross income, as defined and used in the 129411
Internal Revenue Code, adjusted as provided in this section: 129412

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross

income required under division (A) of this section and (ii) the 129444
personal exemptions allowed to the trust pursuant to section 129445
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 129446
deductions to adjusted gross income required under division (A) of 129447
this section, (ii) the amount of federal income taxes attributable 129448
to such income, and (iii) the amount of taxable income that has 129449
been included in the adjusted gross income of a beneficiary by 129450
reason of a prior accumulation distribution. Any undistributed net 129451
income included in the adjusted gross income of a beneficiary 129452
shall reduce the undistributed net income of the trust commencing 129453
with the earliest years of the accumulation period. 129454

(7) Deduct the amount of wages and salaries, if any, not 129455
otherwise allowable as a deduction but that would have been 129456
allowable as a deduction in computing federal adjusted gross 129457
income for the taxable year, had the targeted jobs credit allowed 129458
and determined under sections 38, 51, and 52 of the Internal 129459
Revenue Code not been in effect. 129460

(8) Deduct any interest or interest equivalent on public 129461
obligations and purchase obligations to the extent that the 129462
interest or interest equivalent is included in federal adjusted 129463
gross income. 129464

(9) Add any loss or deduct any gain resulting from the sale, 129465
exchange, or other disposition of public obligations to the extent 129466
that the loss has been deducted or the gain has been included in 129467
computing federal adjusted gross income. 129468

(10) Deduct or add amounts, as provided under section 5747.70 129469
of the Revised Code, related to contributions to variable college 129470
savings program accounts made or tuition units purchased pursuant 129471
to Chapter 3334. of the Revised Code. 129472

(11)(a) Deduct, to the extent not otherwise allowable as a 129473
deduction or exclusion in computing federal or Ohio adjusted gross 129474

income for the taxable year, the amount the taxpayer paid during 129475
the taxable year for medical care insurance and qualified 129476
long-term care insurance for the taxpayer, the taxpayer's spouse, 129477
and dependents. No deduction for medical care insurance under 129478
division (A)(11) of this section shall be allowed either to any 129479
taxpayer who is eligible to participate in any subsidized health 129480
plan maintained by any employer of the taxpayer or of the 129481
taxpayer's spouse, or to any taxpayer who is entitled to, or on 129482
application would be entitled to, benefits under part A of Title 129483
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 129484
301, as amended. For the purposes of division (A)(11)(a) of this 129485
section, "subsidized health plan" means a healthplan for which 129486
the employer pays any portion of the plan's cost. The deduction 129487
allowed under division (A)(11)(a) of this section shall be the net 129488
of any related premium refunds, related premium reimbursements, or 129489
related insurance premium dividends received during the taxable 129490
year. 129491

(b) Deduct, to the extent not otherwise deducted or excluded 129492
in computing federal or Ohio adjusted gross income during the 129493
taxable year, the amount the taxpayer paid during the taxable 129494
year, not compensated for by any insurance or otherwise, for 129495
medical care of the taxpayer, the taxpayer's spouse, and 129496
dependents, to the extent the expenses exceed seven and one-half 129497
per cent of the taxpayer's federal adjusted gross income. 129498

(c) Deduct, to the extent not otherwise deducted or excluded 129499
in computing federal or Ohio adjusted gross income, any amount 129500
included in federal adjusted gross income under section 105 or not 129501
excluded under section 106 of the Internal Revenue Code solely 129502
because it relates to an accident and health plan for a person who 129503
otherwise would be a "qualifying relative" and thus a "dependent" 129504
under section 152 of the Internal Revenue Code but for the fact 129505
that the person fails to meet the income and support limitations 129506

under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 129507

(d) For purposes of division (A)(11) of this section, 129508
"medical care" has the meaning given in section 213 of the 129509
Internal Revenue Code, subject to the special rules, limitations, 129510
and exclusions set forth therein, and "qualified long-term care" 129511
has the same meaning given in section 7702B(c) of the Internal 129512
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 129513
of this section, "dependent" includes a person who otherwise would 129514
be a "qualifying relative" and thus a "dependent" under section 129515
152 of the Internal Revenue Code but for the fact that the person 129516
fails to meet the income and support limitations under section 129517
152(d)(1)(B) and (C) of the Internal Revenue Code. 129518

(12)(a) Deduct any amount included in federal adjusted gross 129519
income solely because the amount represents a reimbursement or 129520
refund of expenses that in any year the taxpayer had deducted as 129521
an itemized deduction pursuant to section 63 of the Internal 129522
Revenue Code and applicable United States department of the 129523
treasury regulations. The deduction otherwise allowed under 129524
division (A)(12)(a) of this section shall be reduced to the extent 129525
the reimbursement is attributable to an amount the taxpayer 129526
deducted under this section in any taxable year. 129527

(b) Add any amount not otherwise included in Ohio adjusted 129528
gross income for any taxable year to the extent that the amount is 129529
attributable to the recovery during the taxable year of any amount 129530
deducted or excluded in computing federal or Ohio adjusted gross 129531
income in any taxable year. 129532

(13) Deduct any portion of the deduction described in section 129533
1341(a)(2) of the Internal Revenue Code, for repaying previously 129534
reported income received under a claim of right, that meets both 129535
of the following requirements: 129536

(a) It is allowable for repayment of an item that was 129537

included in the taxpayer's adjusted gross income for a prior 129538
taxable year and did not qualify for a credit under division (A) 129539
or (B) of section 5747.05 of the Revised Code for that year; 129540

(b) It does not otherwise reduce the taxpayer's adjusted 129541
gross income for the current or any other taxable year. 129542

(14) Deduct an amount equal to the deposits made to, and net 129543
investment earnings of, a medical savings account during the 129544
taxable year, in accordance with section 3924.66 of the Revised 129545
Code. The deduction allowed by division (A)(14) of this section 129546
does not apply to medical savings account deposits and earnings 129547
otherwise deducted or excluded for the current or any other 129548
taxable year from the taxpayer's federal adjusted gross income. 129549

(15)(a) Add an amount equal to the funds withdrawn from a 129550
medical savings account during the taxable year, and the net 129551
investment earnings on those funds, when the funds withdrawn were 129552
used for any purpose other than to reimburse an account holder 129553
for, or to pay, eligible medical expenses, in accordance with 129554
section 3924.66 of the Revised Code; 129555

(b) Add the amounts distributed from a medical savings 129556
account under division (A)(2) of section 3924.68 of the Revised 129557
Code during the taxable year. 129558

(16) Add any amount claimed as a credit under section 129559
5747.059 of the Revised Code to the extent that such amount 129560
satisfies either of the following: 129561

(a) The amount was deducted or excluded from the computation 129562
of the taxpayer's federal adjusted gross income as required to be 129563
reported for the taxpayer's taxable year under the Internal 129564
Revenue Code; 129565

(b) The amount resulted in a reduction of the taxpayer's 129566
federal adjusted gross income as required to be reported for any 129567
of the taxpayer's taxable years under the Internal Revenue Code. 129568

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

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(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

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(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

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(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or

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distributive share of the amount of depreciation expense allowed 129601
by that subsection to a pass-through entity in which the taxpayer 129602
has a direct or indirect ownership interest. 129603

(ii) Add five-sixths of the amount of qualifying section 179 129604
depreciation expense, including a person's proportionate or 129605
distributive share of the amount of qualifying section 179 129606
depreciation expense allowed to any pass-through entity in which 129607
the person has a direct or indirect ownership. For the purposes of 129608
this division, "qualifying section 179 depreciation expense" means 129609
the difference between (I) the amount of depreciation expense 129610
directly or indirectly allowed to the taxpayer under section 179 129611
of the Internal Revenue Code, and (II) the amount of depreciation 129612
expense directly or indirectly allowed to the taxpayer under 129613
section 179 of the Internal Revenue Code as that section existed 129614
on December 31, 2002. 129615

The tax commissioner, under procedures established by the 129616
commissioner, may waive the add-backs related to a pass-through 129617
entity if the taxpayer owns, directly or indirectly, less than 129618
five per cent of the pass-through entity. 129619

(b) Nothing in division (A)(20) of this section shall be 129620
construed to adjust or modify the adjusted basis of any asset. 129621

(c) To the extent the add-back required under division 129622
(A)(20)(a) of this section is attributable to property generating 129623
nonbusiness income or loss allocated under section 5747.20 of the 129624
Revised Code, the add-back shall be situated to the same location 129625
as the nonbusiness income or loss generated by the property for 129626
the purpose of determining the credit under division (A) of 129627
section 5747.05 of the Revised Code. Otherwise, the add-back shall 129628
be apportioned, subject to one or more of the four alternative 129629
methods of apportionment enumerated in section 5747.21 of the 129630
Revised Code. 129631

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded 129663
in computing federal or Ohio adjusted gross income for the taxable 129664
year, the amount the taxpayer received during the taxable year as 129665
a death benefit paid by the adjutant general under section 5919.33 129666
of the Revised Code. 129667

(24) Deduct, to the extent included in federal adjusted gross 129668
income and not otherwise allowable as a deduction or exclusion in 129669
computing federal or Ohio adjusted gross income for the taxable 129670
year, military pay and allowances received by the taxpayer during 129671
the taxable year for active duty service in the United States 129672
army, air force, navy, marine corps, or coast guard or reserve 129673
components thereof or the national guard. The deduction may not be 129674
claimed for military pay and allowances received by the taxpayer 129675
while the taxpayer is stationed in this state. 129676

(25) Deduct, to the extent not otherwise allowable as a 129677
deduction or exclusion in computing federal or Ohio adjusted gross 129678
income for the taxable year and not otherwise compensated for by 129679
any other source, the amount of qualified organ donation expenses 129680
incurred by the taxpayer during the taxable year, not to exceed 129681
ten thousand dollars. A taxpayer may deduct qualified organ 129682
donation expenses only once for all taxable years beginning with 129683
taxable years beginning in 2007. 129684

For the purposes of division (A)(25) of this section: 129685

(a) "Human organ" means all or any portion of a human liver, 129686
pancreas, kidney, intestine, or lung, and any portion of human 129687
bone marrow. 129688

(b) "Qualified organ donation expenses" means travel 129689
expenses, lodging expenses, and wages and salary forgone by a 129690
taxpayer in connection with the taxpayer's donation, while living, 129691
of one or more of the taxpayer's human organs to another human 129692
being. 129693

(26) Deduct, to the extent not otherwise deducted or excluded 129694
in computing federal or Ohio adjusted gross income for the taxable 129695
year, amounts received by the taxpayer as retired military 129696
personnel pay for service in the United States army, navy, air 129697
force, coast guard, or marine corps or reserve components thereof, 129698
or the national guard, or received by the surviving spouse or 129699
former spouse of such a taxpayer under the survivor benefit plan 129700
on account of such a taxpayer's death. If the taxpayer receives 129701
income on account of retirement paid under the federal civil 129702
service retirement system or federal employees retirement system, 129703
or under any successor retirement program enacted by the congress 129704
of the United States that is established and maintained for 129705
retired employees of the United States government, and such 129706
retirement income is based, in whole or in part, on credit for the 129707
taxpayer's military service, the deduction allowed under this 129708
division shall include only that portion of such retirement income 129709
that is attributable to the taxpayer's military service, to the 129710
extent that portion of such retirement income is otherwise 129711
included in federal adjusted gross income and is not otherwise 129712
deducted under this section. Any amount deducted under division 129713
(A)(26) of this section is not included in a taxpayer's adjusted 129714
gross income for the purposes of section 5747.055 of the Revised 129715
Code. No amount may be deducted under division (A)(26) of this 129716
section on the basis of which a credit was claimed under section 129717
5747.055 of the Revised Code. 129718

(27) Deduct, to the extent not otherwise deducted or excluded 129719
in computing federal or Ohio adjusted gross income for the taxable 129720
year, the amount the taxpayer received during the taxable year 129721
from the military injury relief fund created in section 5101.98 of 129722
the Revised Code. 129723

(28) Deduct, to the extent not otherwise deducted or excluded 129724
in computing federal or Ohio adjusted gross income for the taxable 129725

year, the amount the taxpayer received as a veterans bonus during 129726
the taxable year from the Ohio department of veterans services as 129727
authorized by Section 2r of Article VIII, Ohio Constitution. 129728

(29) Deduct, to the extent not otherwise deducted or excluded 129729
in computing federal or Ohio adjusted gross income for the taxable 129730
year, any loss from wagering transactions that is allowed as an 129731
itemized deduction under section 165 of the Internal Revenue Code 129732
and that the taxpayer deducted in computing federal taxable 129733
income. 129734

(30) Deduct, to the extent not otherwise deducted or excluded 129735
in computing federal or Ohio adjusted gross income for the taxable 129736
year, any income derived from providing public services under a 129737
contract through a project owned by the state, as described in 129738
section 126.604 of the Revised Code or derived from a transfer 129739
agreement or from the enterprise transferred under that agreement 129740
under section 4313.02 of the Revised Code. 129741

(B) "Business income" means income, including gain or loss, 129742
arising from transactions, activities, and sources in the regular 129743
course of a trade or business and includes income, gain, or loss 129744
from real property, tangible property, and intangible property if 129745
the acquisition, rental, management, and disposition of the 129746
property constitute integral parts of the regular course of a 129747
trade or business operation. "Business income" includes income, 129748
including gain or loss, from a partial or complete liquidation of 129749
a business, including, but not limited to, gain or loss from the 129750
sale or other disposition of goodwill. 129751

(C) "Nonbusiness income" means all income other than business 129752
income and may include, but is not limited to, compensation, rents 129753
and royalties from real or tangible personal property, capital 129754
gains, interest, dividends and distributions, patent or copyright 129755
royalties, or lottery winnings, prizes, and awards. 129756

(D) "Compensation" means any form of remuneration paid to an employee for personal services. 129757
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(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate. 129759
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(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. 129762
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(G) "Individual" means any natural person. 129764

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 129765
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(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter: 129767
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(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 129770
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(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section. 129772
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(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 129776
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For the purposes of division (I)(3) of this section: 129779

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following: 129780
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(i) A person, a court, or a governmental entity or 129786

instrumentality on account of the death of a decedent, but only if 129787
the trust is described in division (I)(3)(e)(i) or (ii) of this 129788
section; 129789

(ii) A person who was domiciled in this state for the 129790
purposes of this chapter when the person directly or indirectly 129791
transferred assets to an irrevocable trust, but only if at least 129792
one of the trust's qualifying beneficiaries is domiciled in this 129793
state for the purposes of this chapter during all or some portion 129794
of the trust's current taxable year; 129795

(iii) A person who was domiciled in this state for the 129796
purposes of this chapter when the trust document or instrument or 129797
part of the trust document or instrument became irrevocable, but 129798
only if at least one of the trust's qualifying beneficiaries is a 129799
resident domiciled in this state for the purposes of this chapter 129800
during all or some portion of the trust's current taxable year. If 129801
a trust document or instrument became irrevocable upon the death 129802
of a person who at the time of death was domiciled in this state 129803
for purposes of this chapter, that person is a person described in 129804
division (I)(3)(a)(iii) of this section. 129805

(b) A trust is irrevocable to the extent that the transferor 129806
is not considered to be the owner of the net assets of the trust 129807
under sections 671 to 678 of the Internal Revenue Code. 129808

(c) With respect to a trust other than a charitable lead 129809
trust, "qualifying beneficiary" has the same meaning as "potential 129810
current beneficiary" as defined in section 1361(e)(2) of the 129811
Internal Revenue Code, and with respect to a charitable lead trust 129812
"qualifying beneficiary" is any current, future, or contingent 129813
beneficiary, but with respect to any trust "qualifying 129814
beneficiary" excludes a person or a governmental entity or 129815
instrumentality to any of which a contribution would qualify for 129816
the charitable deduction under section 170 of the Internal Revenue 129817
Code. 129818

(d) For the purposes of division (I)(3)(a) of this section, 129819
the extent to which a trust consists directly or indirectly, in 129820
whole or in part, of assets, net of any related liabilities, that 129821
were transferred directly or indirectly, in whole or part, to the 129822
trust by any of the sources enumerated in that division shall be 129823
ascertained by multiplying the fair market value of the trust's 129824
assets, net of related liabilities, by the qualifying ratio, which 129825
shall be computed as follows: 129826

(i) The first time the trust receives assets, the numerator 129827
of the qualifying ratio is the fair market value of those assets 129828
at that time, net of any related liabilities, from sources 129829
enumerated in division (I)(3)(a) of this section. The denominator 129830
of the qualifying ratio is the fair market value of all the 129831
trust's assets at that time, net of any related liabilities. 129832

(ii) Each subsequent time the trust receives assets, a 129833
revised qualifying ratio shall be computed. The numerator of the 129834
revised qualifying ratio is the sum of (1) the fair market value 129835
of the trust's assets immediately prior to the subsequent 129836
transfer, net of any related liabilities, multiplied by the 129837
qualifying ratio last computed without regard to the subsequent 129838
transfer, and (2) the fair market value of the subsequently 129839
transferred assets at the time transferred, net of any related 129840
liabilities, from sources enumerated in division (I)(3)(a) of this 129841
section. The denominator of the revised qualifying ratio is the 129842
fair market value of all the trust's assets immediately after the 129843
subsequent transfer, net of any related liabilities. 129844

(iii) Whether a transfer to the trust is by or from any of 129845
the sources enumerated in division (I)(3)(a) of this section shall 129846
be ascertained without regard to the domicile of the trust's 129847
beneficiaries. 129848

(e) For the purposes of division (I)(3)(a)(i) of this 129849
section: 129850

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the

transferor and either the decedent or the estate of the decedent 129882
at any time prior to the date of the decedent's death, and the 129883
decedent was domiciled in this state at the time of death for 129884
purposes of the taxes levied under Chapter 5731. of the Revised 129885
Code. 129886

(iv) The transfer is made to a trust on account of a 129887
contractual relationship existing directly or indirectly between 129888
the transferor and another person who at the time of the 129889
decedent's death was domiciled in this state for purposes of this 129890
chapter. 129891

(v) The transfer is made to a trust on account of the will of 129892
a testator who was domiciled in this state at the time of the 129893
testator's death for purposes of the taxes levied under Chapter 129894
5731. of the Revised Code. 129895

(vi) The transfer is made to a trust created by or caused to 129896
be created by a court, and the trust was directly or indirectly 129897
created in connection with or as a result of the death of an 129898
individual who, for purposes of the taxes levied under Chapter 129899
5731. of the Revised Code, was domiciled in this state at the time 129900
of the individual's death. 129901

(g) The tax commissioner may adopt rules to ascertain the 129902
part of a trust residing in this state. 129903

(J) "Nonresident" means an individual or estate that is not a 129904
resident. An individual who is a resident for only part of a 129905
taxable year is a nonresident for the remainder of that taxable 129906
year. 129907

(K) "Pass-through entity" has the same meaning as in section 129908
5733.04 of the Revised Code. 129909

(L) "Return" means the notifications and reports required to 129910
be filed pursuant to this chapter for the purpose of reporting the 129911
tax due and includes declarations of estimated tax when so 129912

required.	129913
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	129914 129915 129916 129917
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.	129918 129919 129920 129921
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	129922 129923 129924 129925 129926
(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.	129927 129928 129929 129930 129931
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	129932 129933
(1) "Subdivision" means any county, municipal corporation, park district, or township.	129934 129935
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	129936 129937 129938 129939
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	129940 129941
(S) "Taxable income" or "Ohio taxable income" applies only to	129942

estates and trusts, and means federal taxable income, as defined 129943
and used in the Internal Revenue Code, adjusted as follows: 129944

(1) Add interest or dividends, net of ordinary, necessary, 129945
and reasonable expenses not deducted in computing federal taxable 129946
income, on obligations or securities of any state or of any 129947
political subdivision or authority of any state, other than this 129948
state and its subdivisions and authorities, but only to the extent 129949
that such net amount is not otherwise includible in Ohio taxable 129950
income and is described in either division (S)(1)(a) or (b) of 129951
this section: 129952

(a) The net amount is not attributable to the S portion of an 129953
electing small business trust and has not been distributed to 129954
beneficiaries for the taxable year; 129955

(b) The net amount is attributable to the S portion of an 129956
electing small business trust for the taxable year. 129957

(2) Add interest or dividends, net of ordinary, necessary, 129958
and reasonable expenses not deducted in computing federal taxable 129959
income, on obligations of any authority, commission, 129960
instrumentality, territory, or possession of the United States to 129961
the extent that the interest or dividends are exempt from federal 129962
income taxes but not from state income taxes, but only to the 129963
extent that such net amount is not otherwise includible in Ohio 129964
taxable income and is described in either division (S)(1)(a) or 129965
(b) of this section; 129966

(3) Add the amount of personal exemption allowed to the 129967
estate pursuant to section 642(b) of the Internal Revenue Code; 129968

(4) Deduct interest or dividends, net of related expenses 129969
deducted in computing federal taxable income, on obligations of 129970
the United States and its territories and possessions or of any 129971
authority, commission, or instrumentality of the United States to 129972
the extent that the interest or dividends are exempt from state 129973

taxes under the laws of the United States, but only to the extent 129974
that such amount is included in federal taxable income and is 129975
described in either division (S)(1)(a) or (b) of this section; 129976

(5) Deduct the amount of wages and salaries, if any, not 129977
otherwise allowable as a deduction but that would have been 129978
allowable as a deduction in computing federal taxable income for 129979
the taxable year, had the targeted jobs credit allowed under 129980
sections 38, 51, and 52 of the Internal Revenue Code not been in 129981
effect, but only to the extent such amount relates either to 129982
income included in federal taxable income for the taxable year or 129983
to income of the S portion of an electing small business trust for 129984
the taxable year; 129985

(6) Deduct any interest or interest equivalent, net of 129986
related expenses deducted in computing federal taxable income, on 129987
public obligations and purchase obligations, but only to the 129988
extent that such net amount relates either to income included in 129989
federal taxable income for the taxable year or to income of the S 129990
portion of an electing small business trust for the taxable year; 129991

(7) Add any loss or deduct any gain resulting from sale, 129992
exchange, or other disposition of public obligations to the extent 129993
that such loss has been deducted or such gain has been included in 129994
computing either federal taxable income or income of the S portion 129995
of an electing small business trust for the taxable year; 129996

(8) Except in the case of the final return of an estate, add 129997
any amount deducted by the taxpayer on both its Ohio estate tax 129998
return pursuant to section 5731.14 of the Revised Code, and on its 129999
federal income tax return in determining federal taxable income; 130000

(9)(a) Deduct any amount included in federal taxable income 130001
solely because the amount represents a reimbursement or refund of 130002
expenses that in a previous year the decedent had deducted as an 130003
itemized deduction pursuant to section 63 of the Internal Revenue 130004

Code and applicable treasury regulations. The deduction otherwise 130005
allowed under division (S)(9)(a) of this section shall be reduced 130006
to the extent the reimbursement is attributable to an amount the 130007
taxpayer or decedent deducted under this section in any taxable 130008
year. 130009

(b) Add any amount not otherwise included in Ohio taxable 130010
income for any taxable year to the extent that the amount is 130011
attributable to the recovery during the taxable year of any amount 130012
deducted or excluded in computing federal or Ohio taxable income 130013
in any taxable year, but only to the extent such amount has not 130014
been distributed to beneficiaries for the taxable year. 130015

(10) Deduct any portion of the deduction described in section 130016
1341(a)(2) of the Internal Revenue Code, for repaying previously 130017
reported income received under a claim of right, that meets both 130018
of the following requirements: 130019

(a) It is allowable for repayment of an item that was 130020
included in the taxpayer's taxable income or the decedent's 130021
adjusted gross income for a prior taxable year and did not qualify 130022
for a credit under division (A) or (B) of section 5747.05 of the 130023
Revised Code for that year. 130024

(b) It does not otherwise reduce the taxpayer's taxable 130025
income or the decedent's adjusted gross income for the current or 130026
any other taxable year. 130027

(11) Add any amount claimed as a credit under section 130028
5747.059 of the Revised Code to the extent that the amount 130029
satisfies either of the following: 130030

(a) The amount was deducted or excluded from the computation 130031
of the taxpayer's federal taxable income as required to be 130032
reported for the taxpayer's taxable year under the Internal 130033
Revenue Code; 130034

(b) The amount resulted in a reduction in the taxpayer's 130035

federal taxable income as required to be reported for any of the 130036
taxpayer's taxable years under the Internal Revenue Code. 130037

(12) Deduct any amount, net of related expenses deducted in 130038
computing federal taxable income, that a trust is required to 130039
report as farm income on its federal income tax return, but only 130040
if the assets of the trust include at least ten acres of land 130041
satisfying the definition of "land devoted exclusively to 130042
agricultural use" under section 5713.30 of the Revised Code, 130043
regardless of whether the land is valued for tax purposes as such 130044
land under sections 5713.30 to 5713.38 of the Revised Code. If the 130045
trust is a pass-through entity investor, section 5747.231 of the 130046
Revised Code applies in ascertaining if the trust is eligible to 130047
claim the deduction provided by division (S)(12) of this section 130048
in connection with the pass-through entity's farm income. 130049

Except for farm income attributable to the S portion of an 130050
electing small business trust, the deduction provided by division 130051
(S)(12) of this section is allowed only to the extent that the 130052
trust has not distributed such farm income. Division (S)(12) of 130053
this section applies only to taxable years of a trust beginning in 130054
2002 or thereafter. 130055

(13) Add the net amount of income described in section 641(c) 130056
of the Internal Revenue Code to the extent that amount is not 130057
included in federal taxable income. 130058

(14) Add or deduct the amount the taxpayer would be required 130059
to add or deduct under division (A)(20) or (21) of this section if 130060
the taxpayer's Ohio taxable income were computed in the same 130061
manner as an individual's Ohio adjusted gross income is computed 130062
under this section. In the case of a trust, division (S)(14) of 130063
this section applies only to any of the trust's taxable years 130064
beginning in 2002 or thereafter. 130065

(T) "School district income" and "school district income tax" 130066

have the same meanings as in section 5748.01 of the Revised Code. 130067

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 130068
of this section, "public obligations," "purchase obligations," and 130069
"interest or interest equivalent" have the same meanings as in 130070
section 5709.76 of the Revised Code. 130071

(V) "Limited liability company" means any limited liability 130072
company formed under Chapter 1705. of the Revised Code or under 130073
the laws of any other state. 130074

(W) "Pass-through entity investor" means any person who, 130075
during any portion of a taxable year of a pass-through entity, is 130076
a partner, member, shareholder, or equity investor in that 130077
pass-through entity. 130078

(X) "Banking day" has the same meaning as in section 1304.01 130079
of the Revised Code. 130080

(Y) "Month" means a calendar month. 130081

(Z) "Quarter" means the first three months, the second three 130082
months, the third three months, or the last three months of the 130083
taxpayer's taxable year. 130084

(AA)(1) "Eligible institution" means a state university or 130085
state institution of higher education as defined in section 130086
3345.011 of the Revised Code, or a private, nonprofit college, 130087
university, or other post-secondary institution located in this 130088
state that possesses a certificate of authorization issued by the 130089
Ohio board of regents pursuant to Chapter 1713. of the Revised 130090
Code or a certificate of registration issued by the state board of 130091
career colleges and schools under Chapter 3332. of the Revised 130092
Code. 130093

(2) "Qualified tuition and fees" means tuition and fees 130094
imposed by an eligible institution as a condition of enrollment or 130095
attendance, not exceeding two thousand five hundred dollars in 130096

each of the individual's first two years of post-secondary 130097
education. If the individual is a part-time student, "qualified 130098
tuition and fees" includes tuition and fees paid for the academic 130099
equivalent of the first two years of post-secondary education 130100
during a maximum of five taxable years, not exceeding a total of 130101
five thousand dollars. "Qualified tuition and fees" does not 130102
include: 130103

(a) Expenses for any course or activity involving sports, 130104
games, or hobbies unless the course or activity is part of the 130105
individual's degree or diploma program; 130106

(b) The cost of books, room and board, student activity fees, 130107
athletic fees, insurance expenses, or other expenses unrelated to 130108
the individual's academic course of instruction; 130109

(c) Tuition, fees, or other expenses paid or reimbursed 130110
through an employer, scholarship, grant in aid, or other 130111
educational benefit program. 130112

(BB)(1) "Modified business income" means the business income 130113
included in a trust's Ohio taxable income after such taxable 130114
income is first reduced by the qualifying trust amount, if any. 130115

(2) "Qualifying trust amount" of a trust means capital gains 130116
and losses from the sale, exchange, or other disposition of equity 130117
or ownership interests in, or debt obligations of, a qualifying 130118
investee to the extent included in the trust's Ohio taxable 130119
income, but only if the following requirements are satisfied: 130120

(a) The book value of the qualifying investee's physical 130121
assets in this state and everywhere, as of the last day of the 130122
qualifying investee's fiscal or calendar year ending immediately 130123
prior to the date on which the trust recognizes the gain or loss, 130124
is available to the trust. 130125

(b) The requirements of section 5747.011 of the Revised Code 130126
are satisfied for the trust's taxable year in which the trust 130127

recognizes the gain or loss. 130128

Any gain or loss that is not a qualifying trust amount is 130129
modified business income, qualifying investment income, or 130130
modified nonbusiness income, as the case may be. 130131

(3) "Modified nonbusiness income" means a trust's Ohio 130132
taxable income other than modified business income, other than the 130133
qualifying trust amount, and other than qualifying investment 130134
income, as defined in section 5747.012 of the Revised Code, to the 130135
extent such qualifying investment income is not otherwise part of 130136
modified business income. 130137

(4) "Modified Ohio taxable income" applies only to trusts, 130138
and means the sum of the amounts described in divisions (BB)(4)(a) 130139
to (c) of this section: 130140

(a) The fraction, calculated under section 5747.013, and 130141
applying section 5747.231 of the Revised Code, multiplied by the 130142
sum of the following amounts: 130143

(i) The trust's modified business income; 130144

(ii) The trust's qualifying investment income, as defined in 130145
section 5747.012 of the Revised Code, but only to the extent the 130146
qualifying investment income does not otherwise constitute 130147
modified business income and does not otherwise constitute a 130148
qualifying trust amount. 130149

(b) The qualifying trust amount multiplied by a fraction, the 130150
numerator of which is the sum of the book value of the qualifying 130151
investee's physical assets in this state on the last day of the 130152
qualifying investee's fiscal or calendar year ending immediately 130153
prior to the day on which the trust recognizes the qualifying 130154
trust amount, and the denominator of which is the sum of the book 130155
value of the qualifying investee's total physical assets 130156
everywhere on the last day of the qualifying investee's fiscal or 130157
calendar year ending immediately prior to the day on which the 130158

trust recognizes the qualifying trust amount. If, for a taxable 130159
year, the trust recognizes a qualifying trust amount with respect 130160
to more than one qualifying investee, the amount described in 130161
division (BB)(4)(b) of this section shall equal the sum of the 130162
products so computed for each such qualifying investee. 130163

(c)(i) With respect to a trust or portion of a trust that is 130164
a resident as ascertained in accordance with division (I)(3)(d) of 130165
this section, its modified nonbusiness income. 130166

(ii) With respect to a trust or portion of a trust that is 130167
not a resident as ascertained in accordance with division 130168
(I)(3)(d) of this section, the amount of its modified nonbusiness 130169
income satisfying the descriptions in divisions (B)(2) to (5) of 130170
section 5747.20 of the Revised Code, except as otherwise provided 130171
in division (BB)(4)(c)(ii) of this section. With respect to a 130172
trust or portion of a trust that is not a resident as ascertained 130173
in accordance with division (I)(3)(d) of this section, the trust's 130174
portion of modified nonbusiness income recognized from the sale, 130175
exchange, or other disposition of a debt interest in or equity 130176
interest in a section 5747.212 entity, as defined in section 130177
5747.212 of the Revised Code, without regard to division (A) of 130178
that section, shall not be allocated to this state in accordance 130179
with section 5747.20 of the Revised Code but shall be apportioned 130180
to this state in accordance with division (B) of section 5747.212 130181
of the Revised Code without regard to division (A) of that 130182
section. 130183

If the allocation and apportionment of a trust's income under 130184
divisions (BB)(4)(a) and (c) of this section do not fairly 130185
represent the modified Ohio taxable income of the trust in this 130186
state, the alternative methods described in division (C) of 130187
section 5747.21 of the Revised Code may be applied in the manner 130188
and to the same extent provided in that section. 130189

(5)(a) Except as set forth in division (BB)(5)(b) of this 130190

section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another

pass-through entity, and "lower level pass-through entity" means 130223
that other pass-through entity. 130224

An upper level pass-through entity, whether or not it is also 130225
a qualifying investee, is deemed to own, on the last day of the 130226
upper level pass-through entity's calendar or fiscal year, the 130227
proportionate share of the lower level pass-through entity's 130228
physical assets that the lower level pass-through entity directly 130229
or indirectly owns on the last day of the lower level pass-through 130230
entity's calendar or fiscal year ending within or with the last 130231
day of the upper level pass-through entity's fiscal or calendar 130232
year. If the upper level pass-through entity directly and 130233
indirectly owns less than fifty per cent of the equity of the 130234
lower level pass-through entity on each day of the upper level 130235
pass-through entity's calendar or fiscal year in which or with 130236
which ends the calendar or fiscal year of the lower level 130237
pass-through entity and if, based upon clear and convincing 130238
evidence, complete information about the location and cost of the 130239
physical assets of the lower pass-through entity is not available 130240
to the upper level pass-through entity, then solely for purposes 130241
of ascertaining if a gain or loss constitutes a qualifying trust 130242
amount, the upper level pass-through entity shall be deemed as 130243
owning no equity of the lower level pass-through entity for each 130244
day during the upper level pass-through entity's calendar or 130245
fiscal year in which or with which ends the lower level 130246
pass-through entity's calendar or fiscal year. Nothing in division 130247
(BB)(5)(a)(iii) of this section shall be construed to provide for 130248
any deduction or exclusion in computing any trust's Ohio taxable 130249
income. 130250

(b) With respect to a trust that is not a resident for the 130251
taxable year and with respect to a part of a trust that is not a 130252
resident for the taxable year, "qualifying investee" for that 130253
taxable year does not include a C corporation if both of the 130254

following apply:	130255
(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.	130256 130257 130258 130259
(ii) Such gain or loss constitutes nonbusiness income.	130260
(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.	130261 130262 130263 130264
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	130265 130266
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	130267 130268
(EE)(1) For the purposes of division (EE) of this section:	130269
(a) "Qualifying person" means any person other than a qualifying corporation.	130270 130271
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	130272 130273 130274
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	130275 130276 130277 130278
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	130279 130280 130281 130282
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly	130283 130284

or indirectly owned by any qualifying corporation. 130285

(FF) For purposes of this chapter and Chapter 5751. of the 130286
Revised Code: 130287

(1) "Trust" does not include a qualified pre-income tax 130288
trust. 130289

(2) A "qualified pre-income tax trust" is any pre-income tax 130290
trust that makes a qualifying pre-income tax trust election as 130291
described in division (FF)(3) of this section. 130292

(3) A "qualifying pre-income tax trust election" is an 130293
election by a pre-income tax trust to subject to the tax imposed 130294
by section 5751.02 of the Revised Code the pre-income tax trust 130295
and all pass-through entities of which the trust owns or controls, 130296
directly, indirectly, or constructively through related interests, 130297
five per cent or more of the ownership or equity interests. The 130298
trustee shall notify the tax commissioner in writing of the 130299
election on or before April 15, 2006. The election, if timely 130300
made, shall be effective on and after January 1, 2006, and shall 130301
apply for all tax periods and tax years until revoked by the 130302
trustee of the trust. 130303

(4) A "pre-income tax trust" is a trust that satisfies all of 130304
the following requirements: 130305

(a) The document or instrument creating the trust was 130306
executed by the grantor before January 1, 1972; 130307

(b) The trust became irrevocable upon the creation of the 130308
trust; and 130309

(c) The grantor was domiciled in this state at the time the 130310
trust was created. 130311

Sec. 5747.058. (A) A refundable income tax credit granted by 130312
the tax credit authority under section 122.17 or division (B)(2) 130313
or (3) of section 122.171 of the Revised Code may be claimed under 130314

this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. The refundable credit shall not be claimed for any taxable years ending with or following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable income tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code.

Sec. 5747.113. (A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code ~~for taxable years ending on or after October 14, 1983,~~ who wishes to contribute any part of the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5101.98 of the Revised Code, the Ohio historical society income tax contribution fund created in section 149.308 of the Revised Code, or all of those funds, may designate on the taxpayer's income tax return the amount that the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return and shall be made in the full amount designated if the refund found due the taxpayer upon the initial processing of the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution

from the amount of the refund initially found due the taxpayer and 130347
shall certify the difference to the director of budget and 130348
management and treasurer of state for payment to the taxpayer in 130349
accordance with section 5747.11 of the Revised Code. For the 130350
purpose of any subsequent determination of the taxpayer's net tax 130351
payment, the contribution shall be considered a part of the refund 130352
paid to the taxpayer. 130353

(B) The tax commissioner shall provide a space on the income 130354
tax return form in which a taxpayer may indicate that the taxpayer 130355
wishes to make a donation in accordance with this section. The tax 130356
commissioner shall also print in the instructions accompanying the 130357
income tax return form a description of the purposes for which the 130358
natural areas and preserves fund, the nongame and endangered 130359
wildlife fund, ~~and~~ the military injury relief fund, and the Ohio 130360
historical society income tax contribution fund were created and 130361
the use of moneys from the income tax refund contribution system 130362
established in this section. No person shall designate on the 130363
person's income tax return any part of a refund claimed under 130364
section 5747.11 of the Revised Code as a contribution to any fund 130365
other than the natural areas and preserves fund, the nongame and 130366
endangered wildlife fund, the military injury relief fund, or all 130367
of those funds the Ohio historical society income tax contribution 130368
fund. 130369

(C) The money collected under the income tax refund 130370
contribution system established in this section shall be deposited 130371
by the tax commissioner into the natural areas and preserves fund, 130372
the nongame and endangered wildlife fund, ~~and~~ the military injury 130373
relief fund, and the Ohio historical society income tax 130374
contribution fund in the amounts designated on the tax returns. 130375

(D) No later than the thirtieth day of September each year, 130376
the tax commissioner shall determine the total amount contributed 130377
to each fund under this section during the preceding eight months, 130378

any adjustments to prior months, and the cost to the department of 130379
taxation of administering the income tax refund contribution 130380
system during that eight-month period. The commissioner shall make 130381
an additional determination no later than the thirty-first day of 130382
January of each year of the total amount contributed to each fund 130383
under this section during the preceding four calendar months, any 130384
adjustments to prior years made during that four-month period, and 130385
the cost to the department of taxation of administering the income 130386
tax contribution system during that period. The cost of 130387
administering the income tax contribution system shall be 130388
certified by the tax commissioner to the director of budget and 130389
management, who shall transfer an amount equal to ~~one-third~~ 130390
one-fourth of such administrative costs from the natural areas and 130391
preserves fund, ~~one-third~~ one-fourth of such costs from the 130392
nongame and endangered wildlife fund, ~~and one-third~~ one-fourth of 130393
such costs from the military injury relief fund, and one-fourth of 130394
such costs from the Ohio historical society income tax 130395
contribution fund to the litter control and natural resource tax 130396
administration fund, which is hereby created, provided that the 130397
moneys that the department receives to pay the cost of 130398
administering the income tax refund contribution system in any 130399
year shall not exceed two and one-half per cent of the total 130400
amount contributed under that system during that year. 130401

(E)(1) The director of natural resources, in January of every 130402
odd-numbered year, shall report to the general assembly on the 130403
effectiveness of the income tax refund contribution system as it 130404
pertains to the natural areas and preserves fund and the nongame 130405
and endangered wildlife fund. The report shall include the amount 130406
of money contributed to each fund in each of the previous five 130407
years, the amount of money contributed directly to each fund in 130408
addition to or independently of the income tax refund contribution 130409
system in each of the previous five years, and the purposes for 130410
which the money was expended. 130411

(2) The director of job and family services and the director 130412
of the Ohio historical society, in January of every odd-numbered 130413
year, each shall report to the general assembly on the 130414
effectiveness of the income tax refund contribution system as it 130415
pertains to the military injury relief fund and the Ohio 130416
historical society income tax contribution fund, respectively. The 130417
report shall include the amount of money contributed to the fund 130418
in each of the previous five years, the amount of money 130419
contributed directly to the fund in addition to or independently 130420
of the income tax refund contribution system in each of the 130421
previous five years, and the purposes for which the money was 130422
expended. 130423

Sec. 5747.451. (A) The mere retirement from business or 130424
voluntary dissolution of a domestic or foreign qualifying entity 130425
does not exempt it from the requirements to make reports as 130426
required under sections 5747.42 to 5747.44 or to pay the taxes 130427
imposed under section 5733.41 or 5747.41 of the Revised Code. If 130428
any qualifying entity subject to the taxes imposed under section 130429
5733.41 or 5747.41 of the Revised Code sells its business or stock 130430
of merchandise or quits its business, the taxes required to be 130431
paid prior to that time, together with any interest or penalty 130432
thereon, become due and payable immediately, and the qualifying 130433
entity shall make a final return within fifteen days after the 130434
date of selling or quitting business. The successor of the 130435
qualifying entity shall withhold a sufficient amount of the 130436
purchase money to cover the amount of such taxes, interest, and 130437
penalties due and unpaid until the qualifying entity produces a 130438
receipt from the tax commissioner showing that the taxes, 130439
interest, and penalties have been paid, or a certificate 130440
indicating that no taxes are due. If the purchaser of the business 130441
or stock of goods fails to withhold purchase money, the purchaser 130442
is personally liable for the payment of the taxes, interest, and 130443

penalties accrued and unpaid during the operation of the business 130444
by the qualifying entity. If the amount of those taxes, interest, 130445
and penalty unpaid at the time of the purchase exceeds the total 130446
purchase money, the tax commissioner may adjust the qualifying 130447
entity's liability for those taxes, interest, and penalty, or 130448
adjust the responsibility of the purchaser to pay that liability, 130449
in a manner calculated to maximize the collection of those 130450
liabilities. 130451

(B) Annually, on the last day of each qualifying taxable year 130452
of a qualifying entity, the taxes imposed under section 5733.41 or 130453
5747.41 of the Revised Code, together with any penalties 130454
subsequently accruing thereon, become a lien on all property in 130455
this state of the qualifying entity, whether such property is 130456
employed by the qualifying entity in the prosecution of its 130457
business or is in the hands of an assignee, trustee, or receiver 130458
for the benefit of the qualifying entity's creditors and 130459
investors. The lien shall continue until those taxes, together 130460
with any penalties subsequently accruing, are paid. 130461

Upon failure of such a qualifying entity to pay those taxes 130462
on the day fixed for payment, the treasurer of state shall 130463
thereupon notify the tax commissioner, and the commissioner may 130464
file in the office of the county recorder in each county in this 130465
state in which the qualifying entity owns or has a beneficial 130466
interest in real estate, notice of the lien containing a brief 130467
description of such real estate. No fee shall be charged for such 130468
a filing. The lien is not valid as against any mortgagee, 130469
purchaser, or judgment creditor whose rights have attached prior 130470
to the time the notice is so filed in the county in which the real 130471
estate which is the subject of such mortgage, purchase, or 130472
judgment lien is located. The notice shall be recorded in a book 130473
kept by the recorder, called the qualifying entity tax lien 130474
record, and indexed under the name of the qualifying entity 130475

charged with the tax. When the tax, together with any penalties 130476
subsequently accruing thereon, have been paid, the tax 130477
commissioner shall furnish to the qualifying entity an 130478
acknowledgment of such payment that the qualifying entity may 130479
record with the recorder of each county in which notice of such 130480
lien has been filed, for which recording the recorder shall charge 130481
and receive a fee of two dollars. 130482

(C) In addition to all other remedies for the collection of 130483
any taxes or penalties due under law, whenever any taxes, 130484
interest, or penalties due from any qualifying entity under 130485
section 5733.41 of the Revised Code or this chapter have remained 130486
unpaid for a period of ninety days, or whenever any qualifying 130487
entity has failed for a period of ninety days to make any report 130488
or return required by law, or to pay any penalty for failure to 130489
make or file such report or return, the attorney general, upon the 130490
request of the tax commissioner, shall file a petition in the 130491
court of common pleas in the county of the state in which such 130492
qualifying entity has its principal place of business for a 130493
judgment for the amount of the taxes, interest, or penalties 130494
appearing to be due, the enforcement of any lien in favor of the 130495
state, and an injunction to restrain such qualifying entity and 130496
its officers, directors, and managing agents from the transaction 130497
of any business within this state, other than such acts as are 130498
incidental to liquidation or winding up, until the payment of such 130499
taxes, interest, and penalties, and the costs of the proceeding 130500
fixed by the court, or the making and filing of such report or 130501
return. 130502

The petition shall be in the name of the state. Any of the 130503
qualifying entities having its principal places of business in the 130504
county may be joined in one suit. On the motion of the attorney 130505
general, the court of common pleas shall enter an order requiring 130506
all defendants to answer by a day certain, and may appoint a 130507

special master commissioner to take testimony, with such other 130508
power and authority as the court confers, and permitting process 130509
to be served by registered mail and by publication in a newspaper 130510
of general circulation ~~published~~ in the county, which publication 130511
need not be made more than once, setting forth the name of each 130512
delinquent qualifying entity, the matter in which the qualifying 130513
entity is delinquent, the names of its officers, directors, and 130514
managing agents, if set forth in the petition, and the amount of 130515
any taxes, fees, or penalties claimed to be owing by the 130516
qualifying entity. 130517

All or any of the trustees or other fiduciaries, officers, 130518
directors, investors, beneficiaries, or managing agents of any 130519
qualifying entity may be joined as defendants with the qualifying 130520
entity. 130521

If it appears to the court upon hearing that any qualifying 130522
entity that is a party to the proceeding is indebted to the state 130523
for taxes imposed under section 5733.41 or 5747.41 of the Revised 130524
Code, or interest or penalties thereon, judgment shall be entered 130525
therefor with interest; and if it appears that any qualifying 130526
entity has failed to make or file any report or return, a 130527
mandatory injunction may be issued against the qualifying entity, 130528
its trustees or other fiduciaries, officers, directors, and 130529
managing agents, enjoining them from the transaction of any 130530
business within this state, other than acts incidental to 130531
liquidation or winding up, until the making and filing of all 130532
proper reports or returns and until the payment in full of all 130533
taxes, interest, and penalties. 130534

If the trustees or other fiduciaries, officers, directors, 130535
investors, beneficiaries, or managing agents of a qualifying 130536
entity are not made parties in the first instance, and a judgment 130537
or an injunction is rendered or issued against the qualifying 130538
entity, those officers, directors, investors, or managing agents 130539

may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this division, a statement of the tax commissioner, or the secretary of state, when duly certified, shall be prima-facie evidence of the amount of taxes, interest, or penalties due from any qualifying entity, or of the failure of any qualifying entity to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined upon the attorney general by this division, the attorney general may direct any prosecuting attorney to bring an action, as authorized by this division, in the name of the state with respect to any delinquent qualifying entities within the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by the attorney general.

(D) If any qualifying entity fails to make and file the reports or returns required under this chapter, or to pay the penalties provided by law for failure to make and file such

reports or returns for a period of ninety days after the time 130571
prescribed by this chapter, the attorney general, on the request 130572
of the tax commissioner, shall commence an action in quo warranto 130573
in the court of appeals of the county in which that qualifying 130574
entity has its principal place of business to forfeit and annul 130575
its privileges and franchises. If the court is satisfied that any 130576
such qualifying entity is in default, it shall render judgment 130577
ousting such qualifying entity from the exercise of its privileges 130578
and franchises within this state, and shall otherwise proceed as 130579
provided in sections 2733.02 to 2733.39 of the Revised Code. 130580

Sec. 5747.46. As used in sections 5747.46 and 5747.47 of the 130581
Revised Code: 130582

(A) "Year's fund balance" means the amount credited to the 130583
public library fund during a calendar year. 130584

(B) "Distribution year" means the calendar year during which 130585
a year's fund balance is distributed under section 5747.47 of the 130586
Revised Code. 130587

(C) "CPI" means the consumer price index for all urban 130588
consumers (United States city average, all items), prepared by the 130589
United States department of labor, bureau of labor statistics. 130590

(D) "Inflation factor" means the quotient obtained by 130591
dividing the CPI for May of the year preceding the distribution 130592
year by the CPI for May of the second preceding year. If the 130593
quotient so obtained is less than one, the inflation factor shall 130594
equal one. 130595

(E) "Population" means whichever of the following has most 130596
recently been issued, as of the first day of June preceding the 130597
distribution year: 130598

(1) The most recent decennial census figures that include 130599
population figures for each county in the state; 130600

(2) The most current issue of "Current Population Reports: Local Population Estimates" issued by the United States bureau of the census that contains population estimates for each county in the state and the state.

(F) "County's equalization ratio for a distribution year" means a percentage computed for that county as follows:

(1) Square the per cent that the county's population is of the state's population;

(2) Divide the product so obtained by the per cent that the county's total entitlement for the preceding year is of all counties' total entitlements for the preceding year;

(3) Divide the quotient so obtained by the sum of the quotients so obtained for all counties.

(G) "Total entitlement" means, with respect to a distribution year, the sum of a county's guaranteed share plus its share of the excess. For the 2012 distribution year, "total entitlement" equals the sum of payments made to a county public library fund during that year.

(1) "Guaranteed share" means, for a distribution year, the product obtained by multiplying a county's total entitlement for the preceding distribution year by the ~~inflation~~ inflation factor. If the sum of the guaranteed shares for all counties exceeds the year's fund balance, the guaranteed shares of all counties shall be reduced by a percentage that will result in the sum of such guaranteed shares being equal to the year's fund balance.

(2) "Share of excess" means, for a distribution year, the product obtained by multiplying a county's equalization ratio by the difference between the year's fund balance and the sum of the guaranteed shares for all counties. If the sum of the guaranteed shares for all counties exceeds the year's fund balance the share

of the excess for all counties is zero. 130632

(H) "Net distribution" means the sum of the payments made to 130633
a county's public library fund during a distribution year, 130634
adjusted as follows: 130635

(1) If the county received an overpayment during the 130636
preceding distribution year, add the amount of the overpayment; 130637

(2) If the county received an underpayment during the 130638
preceding distribution year, deduct the amount of the 130639
underpayment. 130640

(I) "Overpayment" or "underpayment" for a distribution year 130641
means the amount by which the net distribution to a county's 130642
public library fund during that distribution year exceeded or was 130643
less than the county's total entitlement for that year. 130644

All computations made under this section shall be rounded to 130645
the nearest one-hundredth of one per cent. 130646

Sec. 5747.51. ~~(A) On or before the twenty-fifth day of July 130647
of each year, the tax commissioner shall make and certify to the 130648
county auditor of each county an estimate of the amount of the 130649
local government fund to be allocated to the undivided local 130650
government fund of each county for the ensuing calendar year ~~and~~ 130651
~~the estimated amount to be received by the undivided local~~ 130652
~~government fund of each county from the taxes levied pursuant to~~ 130653
~~section 5707.03 of the Revised Code for the ensuing calendar year.~~ 130654
Upon the auditor's receipt of the estimate, the county budget 130655
commission shall determine the amount that shall be distributed 130656
from the undivided local government fund to each subdivision under 130657
section 5747.52 or 5747.53 of the Revised Code. The commission's 130658
determination is final and may not be appealed unless the 130659
commission failed to comply with the formula under section 5747.52 130660
or 5747.53 of the Revised Code. 130661~~

~~(B) At each annual regular session of the county budget commission convened pursuant to section 5705.27 of the Revised Code, each auditor shall present to the commission the certificate of the commissioner, the annual tax budget and estimates, and the records showing the action of the commission in its last preceding regular session. The estimates shown on the certificate of the commissioner of the amount to be allocated from the local government fund and the amount to be received from taxes levied pursuant to section 5707.03 of the Revised Code shall be combined into one total comprising the estimate of the undivided local government fund of the county. The commission, after extending to the representatives of each subdivision an opportunity to be heard, under oath administered by any member of the commission, and considering all the facts and information presented to it by the auditor, shall determine the amount of the undivided local government fund needed by and to be apportioned to each subdivision for current operating expenses, as shown in the tax budget of the subdivision. This determination shall be made pursuant to divisions (C) to (I) of this section, unless the commission has provided for a formula pursuant to section 5747.53 of the Revised Code.~~

~~Nothing in this section prevents the budget commission, for the purpose of apportioning the undivided local government fund, from inquiring into the claimed needs of any subdivision as stated in its tax budget, or from adjusting claimed needs to reflect actual needs. For the purposes of this section, "current operating expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.~~

~~(C) The commission shall determine the combined total of the estimated expenditures, including transfers, from the general fund~~

~~and any special funds other than special funds established for 130694
road and bridge; street construction, maintenance, and repair; 130695
state highway improvement; and gas, water, sewer, and electric 130696
public utilities operated by a subdivision, as shown in the 130697
subdivision's tax budget for the ensuing calendar year. 130698~~

~~(D) From the combined total of expenditures calculated 130699
pursuant to division (C) of this section, the commission shall 130700
deduct the following expenditures, if included in these funds in 130701
the tax budget: 130702~~

~~(1) Expenditures for permanent improvements as defined in 130703
division (E) of section 5705.01 of the Revised Code; 130704~~

~~(2) In the case of counties and townships, transfers to the 130705
road and bridge fund, and in the case of municipalities, transfers 130706
to the street construction, maintenance, and repair fund and the 130707
state highway improvement fund; 130708~~

~~(3) Expenditures for the payment of debt charges; 130709~~

~~(4) Expenditures for the payment of judgments. 130710~~

~~(E) In addition to the deductions made pursuant to division 130711
(D) of this section, revenues accruing to the general fund and any 130712
special fund considered under division (C) of this section from 130713
the following sources shall be deducted from the combined total of 130714
expenditures calculated pursuant to division (C) of this section: 130715~~

~~(1) Taxes levied within the ten mill limitation, as defined 130716
in section 5705.02 of the Revised Code; 130717~~

~~(2) The budget commission allocation of estimated county 130718
public library fund revenues to be distributed pursuant to section 130719
5747.48 of the Revised Code; 130720~~

~~(3) Estimated unencumbered balances as shown on the tax 130721
budget as of the thirty first day of December of the current year 130722
in the general fund, but not any estimated balance in any special 130723~~

~~fund considered in division (C) of this section;~~ 130724

~~(4) Revenue, including transfers, shown in the general fund 130725
and any special funds other than special funds established for 130726
road and bridge; street construction, maintenance, and repair; 130727
state highway improvement; and gas, water, sewer, and electric 130728
public utilities, from all other sources except those that a 130729
subdivision receives from an additional tax or service charge 130730
voted by its electorate or receives from special assessment or 130731
revenue bond collection. For the purposes of this division, where 130732
the charter of a municipal corporation prohibits the levy of an 130733
income tax, an income tax levied by the legislative authority of 130734
such municipal corporation pursuant to an amendment of the charter 130735
of that municipal corporation to authorize such a levy represents 130736
an additional tax voted by the electorate of that municipal 130737
corporation. For the purposes of this division, any measure 130738
adopted by a board of county commissioners pursuant to section 130739
322.02, 324.02, 4504.02, or 5739.021 of the Revised Code, 130740
including those measures upheld by the electorate in a referendum 130741
conducted pursuant to section 322.021, 324.021, 4504.021, or 130742
5739.022 of the Revised Code, shall not be considered an 130743
additional tax voted by the electorate. 130744~~

~~Subject to division (C) of section 5705.29 of the Revised 130745
Code, money in a reserve balance account established by a county, 130746
township, or municipal corporation under section 5705.13 of the 130747
Revised Code shall not be considered an unencumbered balance or 130748
revenue under division (E)(3) or (4) of this section. Money in a 130749
reserve balance account established by a township under section 130750
5705.132 of the Revised Code shall not be considered an 130751
unencumbered balance or revenue under division (E)(3) or (4) of 130752
this section. 130753~~

~~If a county, township, or municipal corporation has created 130754
and maintains a nonexpendable trust fund under section 5705.131 of 130755~~

~~the Revised Code, the principal of the fund, and any additions to
the principal arising from sources other than the reinvestment of
investment earnings arising from such a fund, shall not be
considered an unencumbered balance or revenue under division
(E)(3) or (4) of this section. Only investment earnings arising
from investment of the principal or investment of such additions
to principal may be considered an unencumbered balance or revenue
under those divisions.~~

~~(F) The total expenditures calculated pursuant to division
(C) of this section, less the deductions authorized in divisions
(D) and (E) of this section, shall be known as the "relative need"
of the subdivision, for the purposes of this section.~~

~~(G) The budget commission shall total the relative need of
all participating subdivisions in the county, and shall compute a
relative need factor by dividing the total estimate of the
undivided local government fund by the total relative need of all
participating subdivisions.~~

~~(H) The relative need of each subdivision shall be multiplied
by the relative need factor to determine the proportionate share
of the subdivision in the undivided local government fund of the
county; provided, that the maximum proportionate share of a county
shall not exceed the following maximum percentages of the total
estimate of the undivided local government fund governed by the
relationship of the percentage of the population of the county
that resides within municipal corporations within the county to
the total population of the county as reported in the reports on
population in Ohio by the department of development as of the
twentieth day of July of the year in which the tax budget is filed
with the budget commission:~~

Percentage of municipal population within the county:	Percentage share of the county shall not exceed:	130785
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130786

Less than forty one per cent	Sixty per cent	130787
Forty one per cent or more but less than eighty one per cent	Fifty per cent	130788
Eighty one per cent or more	Thirty per cent	130789
Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.		130790 130791 130792 130793 130794 130795 130796 130797
(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section 5735.23 of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount for the calendar year 1970 shall be the amount actually allocated to the county in 1970 from the state collected intangible tax as levied by section 5707.03 of the Revised Code and distributed pursuant to section 5725.24 of the Revised Code, plus the amount received by the county in the calendar year 1970 pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970, the minimum amount		130798 130799 130800 130801 130802 130803 130804 130805 130806 130807 130808 130809 130810 130811 130812 130813 130814 130815 130816 130817 130818

~~guaranteed to each subdivision for that calendar year pursuant to 130819
this division shall be reduced on a basis proportionate to the 130820
amount by which the amount of the undivided local government fund 130821
for that calendar year is less than the amount of the undivided 130822
local government fund apportioned for the calendar year 1970. 130823~~

~~(J) On the basis of such apportionment the budget 130824
commission's determination, the county auditor shall compute the 130825
percentage share of each such subdivision in the undivided local 130826
government fund and shall at the same time certify to the tax 130827
commissioner the percentage share of the county as a subdivision. 130828
No payment shall be made from the undivided local government fund, 130829
except in accordance with such percentage shares. 130830~~

~~Within ten days after the budget commission has made its 130831
apportionment, whether conducted pursuant to section 5747.51 or 130832
5747.53 of the Revised Code determination, the auditor shall 130833
publish a list of the subdivisions and the amount each is to 130834
receive from the undivided local government fund and the 130835
percentage share of each subdivision, in a newspaper or newspapers 130836
of countywide circulation, and send a copy of ~~such allocation~~ the 130837
list to the tax commissioner. 130838~~

~~The county auditor shall also send by certified mail, return 130839
receipt requested, a copy of ~~such allocation~~ the list to the 130840
fiscal officer of each subdivision entitled to participate in the 130841
allocation of the undivided local government fund of the county. 130842
This copy shall constitute the official notice of the commission 130843
action referred to in section 5705.37 of the Revised Code. 130844~~

~~All money received into the treasury of a subdivision from 130845
the undivided local government fund in a county treasury shall be 130846
paid into the general fund and used for the current operating 130847
expenses of the subdivision. 130848~~

~~If a municipal corporation maintains a municipal university, 130849~~

such municipal university, when the board of trustees so requests 130850
the legislative authority of the municipal corporation, shall 130851
participate in the money apportioned to such municipal corporation 130852
from the total local government fund, however created and 130853
constituted, in such amount as requested by the board of trustees, 130854
provided such sum does not exceed nine per cent of the total 130855
amount paid to the municipal corporation. 130856

If any public official fails to maintain the records required 130857
by sections 5747.50 to 5747.55 of the Revised Code or by the rules 130858
issued by the tax commissioner, the auditor of state, or the 130859
treasurer of state pursuant to such sections, or fails to comply 130860
with any law relating to the enforcement of such sections, the 130861
local government fund money allocated to the county may be 130862
withheld until such time as the public official has complied with 130863
such sections or such law or the rules issued pursuant thereto. 130864

Sec. 5747.52. (A) For purposes of this section: 130865

(1) "Total county allocation" means the estimate certified by 130866
the tax commissioner under division (A) of section 5747.51 of the 130867
Revised Code. 130868

(2) "Total base allocation" means the sum of the base 130869
allocations of the county, metropolitan park district, and each 130870
subdivision. 130871

(3) "Base allocation" means, in the case of a county, thirty 130872
per cent of total county allocation. In the case of a metropolitan 130873
park district if one exists in the county, "base allocation" means 130874
five and one-half per cent of total county allocation. For all 130875
other subdivisions, "base allocation" means the average of a 130876
subdivision's current year allocation, first preceding year 130877
distribution, and second preceding year distribution. 130878

(4) "Current year allocation" means the amount allocated to a 130879

<u>subdivision for the current year.</u>	130880
<u>(5) "First preceding year distribution" means the amount</u>	130881
<u>actually distributed to a subdivision pursuant to this section or</u>	130882
<u>section 5747.53 of the Revised Code in the year immediately</u>	130883
<u>preceding the current year.</u>	130884
<u>(6) "Second preceding year distribution" means the amount</u>	130885
<u>actually distributed to a subdivision pursuant to this section or</u>	130886
<u>section 5747.53 of the Revised Code in the second year immediately</u>	130887
<u>preceding the current year.</u>	130888
<u>(7) "Adjusted base allocation" means the product of total</u>	130889
<u>county allocation multiplied by the quotient of the subdivision's</u>	130890
<u>base allocation divided by total base allocation.</u>	130891
<u>(8) "Total excess allocation" means the difference of total</u>	130892
<u>county allocation minus total base allocation, but not less than</u>	130893
<u>zero.</u>	130894
<u>(9) "Excess allocation" of a subdivision means the product of</u>	130895
<u>total excess allocation multiplied by the subdivision's excess</u>	130896
<u>allocation percentage.</u>	130897
<u>(10) "Excess allocation percentage" means the average of a</u>	130898
<u>subdivision's property wealth ratio, income ratio, and population</u>	130899
<u>ratio.</u>	130900
<u>(11) "Property wealth ratio" means the quotient of a</u>	130901
<u>subdivision's property wealth factor divided by the sum of the</u>	130902
<u>property wealth factors of all subdivisions.</u>	130903
<u>(12) "Property wealth factor" means the quotient of a</u>	130904
<u>subdivision's population divided by its taxable value per capita.</u>	130905
<u>(13) "Income ratio" means the quotient of a subdivision's</u>	130906
<u>income factor divided by the sum of the income factors of all</u>	130907
<u>subdivisions.</u>	130908
<u>(14) "Income factor" means the quotient of a subdivision's</u>	130909

population divided by its per capita income. 130910

(15) "Population ratio" means the quotient of a subdivision's population factor divided by the sum of the population factors of all subdivisions. 130911
130912
130913

(16) "Population density" means the quotient of a subdivision's population divided by the subdivision's geographical size, measured in square miles, as determined by the county engineer. 130914
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130917

(17) "Population factor" means the product of a subdivision's population multiplied by its population density. 130918
130919

(18) "Population" means the population of a subdivision as determined by a regional or county planning commission or, if no such commission exists, by the county budget commission. 130920
130921
130922

(19) "Taxable value" means the taxable value of all taxable property in the subdivision as indicated on the tax list of real and public utility property for the preceding tax year. 130923
130924
130925

(20) "Taxable value per capita" means the quotient of a subdivision's population divided by its taxable value. 130926
130927

(21) "Per capita income" of a subdivision means the per capita income as published by or derived from information prepared by the United States bureau of the census. 130928
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130930

(B) If the total county allocation is equal to or greater than the total base allocation, the amount that shall be distributed to a subdivision from the undivided local government fund equals the sum of the subdivision's base allocation plus its excess allocation. If the total county allocation is less than the total base allocation, the amount that shall be distributed to a subdivision from the undivided local government fund equals the subdivision's adjusted base allocation. 130931
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(C) If the actual amount distributed to the undivided local 130939

government fund in a year exceeds the total county allocation for 130940
that year, the excess shall be distributed to subdivisions as 130941
provided in divisions (C)(1) and (2) of this section. 130942

(1) Of the first seven hundred fifty thousand dollars of 130943
excess, a subdivision shall receive the product of the excess 130944
multiplied by the quotient of the subdivision's allocation under 130945
division (B) of this section divided by the total county 130946
allocation. 130947

(2) Any amount in excess of seven hundred fifty thousand 130948
dollars shall be distributed as follows: 130949

(a) To the county, thirty per cent; 130950

(b) To a metropolitan park district if one exists in the 130951
county, five and one-half per cent; 130952

(c) The remainder shall be distributed to all other 130953
subdivisions in amounts to be determined in the same manner as the 130954
subdivisions' excess allocation is determined, except that "total 130955
excess allocation" equals the total amount to be distributed under 130956
division (C)(2)(c) of this section. 130957

Sec. 5747.53. (A) ~~As used in this section:~~ 130958

~~(1) "City, located wholly or partially in the county, with~~ 130959
~~the greatest population" means the city, located wholly or~~ 130960
~~partially in the county, with the greatest population residing in~~ 130961
~~the county; however, if the county budget commission on or before~~ 130962
~~January 1, 1998, adopted an alternative method of apportionment~~ 130963
~~that was approved by the legislative authority of the city,~~ 130964
~~located partially in the county, with the greatest population but~~ 130965
~~not the greatest population residing in the county, "city, located~~ 130966
~~wholly or partially in the county, with the greatest population"~~ 130967
~~means the city, located wholly or partially in the county, with~~ 130968
~~the greatest population whether residing in the county or not, if~~ 130969

~~this alternative meaning is adopted by action of the board of
county commissioners and a majority of the boards of township
trustees and legislative authorities of municipal corporations
located wholly or partially in the county.~~

~~(2) "Participating political subdivision" means a municipal
corporation or township that satisfies all of the following:~~

~~(a) It is located wholly or partially in the county.~~

~~(b) It is not the city, located wholly or partially in the
county, with the greatest population.~~

~~(c) Undivided local government fund moneys are apportioned to
it under the county's alternative method or formula of
apportionment in the current calendar year.~~

~~(B) In lieu of the method of apportionment of the undivided
local government fund of the county provided by section 5747.51 of
the Revised Code, upon the approval of seventy-five per cent or
more of the subdivisions located wholly or partially in the county
acting by motion adopted after July 1, 2011, the county budget
commission may provide for the apportionment of the fund under an
alternative method or on a formula basis as authorized by this
section.~~

~~Except as otherwise provided in division (C) of this section,
the alternative method of apportionment shall have first been
approved by all of the following governmental units: the board of
county commissioners; the legislative authority of the city,
located wholly or partially in the county, with the greatest
population; and a majority of the boards of township trustees and
legislative authorities of municipal corporations, located wholly
or partially in the county, excluding the legislative authority of
the city, located wholly or partially in the county, with the
greatest population. In granting or denying approval for an
alternative method of apportionment, the board of county~~

~~commissioners, boards of township trustees, and legislative
authorities of municipal corporations shall act by motion. A
motion to approve shall be passed upon a majority vote of the
members of a board of county commissioners, board of township
trustees, or legislative authority of a municipal corporation,
shall take effect immediately, and need not be published.~~

Any alternative method of apportionment adopted and approved
under this ~~division~~ section may be revised, amended, or repealed
in the same manner as it may be adopted and approved. If an
alternative method of apportionment adopted and approved under
this ~~division~~ section is repealed, the undivided local government
fund of the county shall be apportioned among the subdivisions
eligible to participate in the fund, commencing in the ensuing
calendar year, under the apportionment provided in section 5747.52
of the Revised Code, ~~unless the repeal occurs by operation of
division (C) of this section or a new method for apportionment of
the fund is provided in the action of repeal.~~

~~(C) This division applies only in counties in which the city,
located wholly or partially in the county, with the greatest
population has a population of twenty thousand or less and a
population that is less than fifteen per cent of the total
population of the county. In such a county, the legislative
authorities or boards of township trustees of two or more
participating political subdivisions, which together have a
population residing in the county that is a majority of the total
population of the county, each may adopt a resolution to exclude
the approval otherwise required of the legislative authority of
the city, located wholly or partially in the county, with the
greatest population. All of the resolutions to exclude that
approval shall be adopted not later than the first Monday of
August of the year preceding the calendar year in which
distributions are to be made under an alternative method of~~

apportionment. 131033

~~A motion granting or denying approval of an alternative 131034
method of apportionment under this division shall be adopted by a 131035
majority vote of the members of the board of county commissioners 131036
and by a majority vote of a majority of the boards of township 131037
trustees and legislative authorities of the municipal corporations 131038
located wholly or partially in the county, other than the city, 131039
located wholly or partially in the county, with the greatest 131040
population, shall take effect immediately, and need not be 131041
published. The alternative method of apportionment under this 131042
division shall be adopted and approved annually, not later than 131043
the first Monday of August of the year preceding the calendar year 131044
in which distributions are to be made under it. A motion granting 131045
approval of an alternative method of apportionment under this 131046
division repeals any existing alternative method of apportionment, 131047
effective with distributions to be made from the fund in the 131048
ensuing calendar year. An alternative method of apportionment 131049
under this division shall not be revised or amended after the 131050
first Monday of August of the year preceding the calendar year in 131051
which distributions are to be made under it. 131052~~

~~(D) In determining an alternative method of apportionment 131053
authorized by this section, the county budget commission may 131054
include in the method any factor considered to be appropriate and 131055
reliable, in the sole discretion of the county budget commission. 131056~~

~~(E) The limitations set forth in section 5747.51 of the 131057
Revised Code, stating the maximum amount that the county may 131058
receive from the undivided local government fund and the minimum 131059
amount the townships in counties having a population of less than 131060
one hundred thousand may receive from the fund, are applicable to 131061
any alternative method of apportionment authorized under this 131062
section. 131063~~

~~(F) On the basis of any alternative method of apportionment 131064~~

adopted and approved as authorized by this section, as certified 131065
by the auditor to the county treasurer, the county treasurer shall 131066
make distribution of the money in the undivided local government 131067
fund to each subdivision eligible to participate in the fund, and 131068
the auditor, when the amount of those shares is in the custody of 131069
the treasurer in the amounts so computed to be due the respective 131070
subdivisions, shall at the same time certify to the tax 131071
commissioner the percentage share of the county as a subdivision. 131072
All money received into the treasury of a subdivision from the 131073
undivided local government fund in a county treasury shall be paid 131074
into the general fund and used for the current operating expenses 131075
of the subdivision. If a municipal corporation maintains a 131076
municipal university, the university, when the board of trustees 131077
so requests the legislative authority of the municipal 131078
corporation, shall participate in the money apportioned to the 131079
municipal corporation from the total local government fund, 131080
however created and constituted, in the amount requested by the 131081
board of trustees, provided that amount does not exceed nine per 131082
cent of the total amount paid to the municipal corporation. 131083

~~(G)~~ The actions of the county budget commission taken 131084
pursuant to this section are final and may not be appealed to the 131085
board of tax appeals, except on the issues of abuse of discretion 131086
and failure to comply with the formula. 131087

Sec. 5748.01. As used in this chapter: 131088

(A) "School district income tax" means an income tax adopted 131089
under one of the following: 131090

(1) Former section 5748.03 of the Revised Code as it existed 131091
prior to its repeal by Amended Substitute House Bill No. 291 of 131092
the 115th general assembly; 131093

(2) Section 5748.03 of the Revised Code as enacted in 131094
Substitute Senate Bill No. 28 of the 118th general assembly; 131095

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly;	131096 131097
(4) Section 5748.021 of the Revised Code;	131098
(5) Section 5748.081 of the Revised Code;	131099
<u>(6) Section 5748.09 of the Revised Code.</u>	131100
(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.	131101 131102
(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.	131103 131104
(D) "Taxable year" means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.	131105 131106
(E) "Taxable income" means:	131107
(1) In the case of an individual, one of the following, as specified in the resolution imposing the tax:	131108 131109
(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code;	131110 131111 131112 131113
(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.	131114 131115 131116 131117 131118 131119
(2) In the case of an estate, taxable income for the taxable year as defined in division (S) of section 5747.01 of the Revised Code.	131120 131121 131122
(F) "Resident" of the school district means:	131123
(1) An individual who is a resident of this state as defined	131124

in division (I) of section 5747.01 of the Revised Code during all 131125
or a portion of the taxable year and who, during all or a portion 131126
of such period of state residency, is domiciled in the school 131127
district or lives in and maintains a permanent place of abode in 131128
the school district; 131129

(2) An estate of a decedent who, at the time of death, was 131130
domiciled in the school district. 131131

(G) "School district income" means: 131132

(1) With respect to an individual, the portion of the taxable 131133
income of an individual that is received by the individual during 131134
the portion of the taxable year that the individual is a resident 131135
of the school district and the school district income tax is in 131136
effect in that school district. An individual may have school 131137
district income with respect to more than one school district. 131138

(2) With respect to an estate, the taxable income of the 131139
estate for the portion of the taxable year that the school 131140
district income tax is in effect in that school district. 131141

(H) "Taxpayer" means an individual or estate having school 131142
district income upon which a school district income tax is 131143
imposed. 131144

(I) "School district purposes" means any of the purposes for 131145
which a tax may be levied pursuant to section 5705.21 of the 131146
Revised Code, including the combined purposes authorized by 131147
section 5705.217 of the Revised Code. 131148

Sec. 5748.02. (A) The board of education of any school 131149
district, except a joint vocational school district, may declare, 131150
by resolution, the necessity of raising annually a specified 131151
amount of money for school district purposes. The resolution shall 131152
specify whether the income that is to be subject to the tax is 131153
taxable income of individuals and estates as defined in divisions 131154

(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 131155
taxable income of individuals as defined in division (E)(1)(b) of 131156
that section. A copy of the resolution shall be certified to the 131157
tax commissioner no later than one hundred days prior to the date 131158
of the election at which the board intends to propose a levy under 131159
this section. Upon receipt of the copy of the resolution, the tax 131160
commissioner shall estimate both of the following: 131161

(1) The property tax rate that would have to be imposed in 131162
the current year by the district to produce an equivalent amount 131163
of money; 131164

(2) The income tax rate that would have had to have been in 131165
effect for the current year to produce an equivalent amount of 131166
money from a school district income tax. 131167

Within ten days of receiving the copy of the board's 131168
resolution, the commissioner shall prepare these estimates and 131169
certify them to the board. Upon receipt of the certification, the 131170
board may adopt a resolution proposing an income tax under 131171
division (B) of this section at the estimated rate contained in 131172
the certification rounded to the nearest one-fourth of one per 131173
cent. The commissioner's certification applies only to the board's 131174
proposal to levy an income tax at the election for which the board 131175
requested the certification. If the board intends to submit a 131176
proposal to levy an income tax at any other election, it shall 131177
request another certification for that election in the manner 131178
prescribed in this division. 131179

(B)(1) Upon the receipt of a certification from the tax 131180
commissioner under division (A) of this section, a majority of the 131181
members of a board of education may adopt a resolution proposing 131182
the levy of an annual tax for school district purposes on school 131183
district income. The proposed levy may be for a continuing period 131184
of time or for a specified number of years. The resolution shall 131185
set forth the purpose for which the tax is to be imposed, the rate 131186

of the tax, which shall be the rate set forth in the 131187
commissioner's certification rounded to the nearest one-fourth of 131188
one per cent, the number of years the tax will be levied or that 131189
it will be levied for a continuing period of time, the date on 131190
which the tax shall take effect, which shall be the first day of 131191
January of any year following the year in which the question is 131192
submitted, and the date of the election at which the proposal 131193
shall be submitted to the electors of the district, which shall be 131194
on the date of a primary, general, or special election the date of 131195
which is consistent with section 3501.01 of the Revised Code. The 131196
resolution shall specify whether the income that is to be subject 131197
to the tax is taxable income of individuals and estates as defined 131198
in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised 131199
Code or taxable income of individuals as defined in division 131200
(E)(1)(b) of that section. The specification shall be the same as 131201
the specification in the resolution adopted and certified under 131202
division (A) of this section. 131203

If the tax is to be levied for current expenses and permanent 131204
improvements, the resolution shall apportion the annual rate of 131205
the tax. The apportionment may be the same or different for each 131206
year the tax is levied, but the respective portions of the rate 131207
actually levied each year for current expenses and for permanent 131208
improvements shall be limited by the apportionment. 131209

If the board of education currently imposes an income tax 131210
pursuant to this chapter that is due to expire and a question is 131211
submitted under this section for a proposed income tax to take 131212
effect upon the expiration of the existing tax, the board may 131213
specify in the resolution that the proposed tax renews the 131214
expiring tax. Two or more expiring income taxes may be renewed 131215
under this paragraph if the taxes are due to expire on the same 131216
date. If the tax rate being proposed is no higher than the total 131217
tax rate imposed by the expiring tax or taxes, the resolution may 131218

state that the proposed tax is not an additional income tax. 131219

(2) A board of education adopting a resolution under division 131220
(B)(1) of this section proposing a school district income tax for 131221
a continuing period of time and limited to the purpose of current 131222
expenses may propose in that resolution to reduce the rate or 131223
rates of one or more of the school district's property taxes 131224
levied for a continuing period of time in excess of the ten-mill 131225
limitation for the purpose of current expenses. The reduction in 131226
the rate of a property tax may be any amount, expressed in mills 131227
per one dollar in valuation, not exceeding the rate at which the 131228
tax is authorized to be levied. The reduction in the rate of a tax 131229
shall first take effect for the tax year that includes the day on 131230
which the school district income tax first takes effect, and shall 131231
continue for each tax year that both the school district income 131232
tax and the property tax levy are in effect. 131233

In addition to the matters required to be set forth in the 131234
resolution under division (B)(1) of this section, a resolution 131235
containing a proposal to reduce the rate of one or more property 131236
taxes shall state for each such tax the maximum rate at which it 131237
currently may be levied and the maximum rate at which the tax 131238
could be levied after the proposed reduction, expressed in mills 131239
per one dollar in valuation, and that the tax is levied for a 131240
continuing period of time. 131241

If a board of education proposes to reduce the rate of one or 131242
more property taxes under division (B)(2) of this section, the 131243
board, when it makes the certification required under division (A) 131244
of this section, shall designate the specific levy or levies to be 131245
reduced, the maximum rate at which each levy currently is 131246
authorized to be levied, and the rate by which each levy is 131247
proposed to be reduced. The tax commissioner, when making the 131248
certification to the board under division (A) of this section, 131249
also shall certify the reduction in the total effective tax rate 131250

for current expenses for each class of property that would have 131251
resulted if the proposed reduction in the rate or rates had been 131252
in effect the previous tax year. As used in this paragraph, 131253
"effective tax rate" has the same meaning as in section 323.08 of 131254
the Revised Code. 131255

(C) A resolution adopted under division (B) of this section 131256
shall go into immediate effect upon its passage, and no 131257
publication of the resolution shall be necessary other than that 131258
provided for in the notice of election. Immediately after its 131259
adoption and at least ninety days prior to the election at which 131260
the question will appear on the ballot, a copy of the resolution 131261
shall be certified to the board of elections of the proper county, 131262
which shall submit the proposal to the electors on the date 131263
specified in the resolution. The form of the ballot shall be as 131264
provided in section 5748.03 of the Revised Code. Publication of 131265
notice of the election shall be made in ~~one or more newspapers~~ a 131266
newspaper of general circulation in the county once a week for two 131267
consecutive weeks, or as provided in section 7.16 of the Revised 131268
Code, prior to the election, ~~and, if~~. If the board of elections 131269
operates and maintains a web site, the board of elections shall 131270
post notice of the election on its web site for thirty days prior 131271
to the election. The notice shall contain the time and place of 131272
the election and the question to be submitted to the electors. The 131273
question covered by the resolution shall be submitted as a 131274
separate proposition, but may be printed on the same ballot with 131275
any other proposition submitted at the same election, other than 131276
the election of officers. 131277

(D) No board of education shall submit the question of a tax 131278
on school district income to the electors of the district more 131279
than twice in any calendar year. If a board submits the question 131280
twice in any calendar year, one of the elections on the question 131281
shall be held on the date of the general election. 131282

(E)(1) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of that section.

(2) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals as defined in division (E)(1)(b) of that section.

Sec. 5748.021. A board of education that levies a tax under section 5748.02 of the Revised Code on the school district income of individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code may declare, at any time, by a resolution adopted by a majority of its members, the necessity of raising annually a specified amount of money for school district purposes by replacing the existing tax with a tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. The specified amount of money to be raised annually may be the same as, or more or less than, the amount of money raised annually by the existing tax.

The board shall certify a copy of the resolution to the tax commissioner not later than the eighty-fifth day before the date of the election at which the board intends to propose the replacement to the electors of the school district. Not later than the tenth day after receiving the resolution, the tax commissioner shall estimate the tax rate that would be required in the school

district annually to raise the amount of money specified in the 131314
resolution. The tax commissioner shall certify the estimate to the 131315
board. 131316

Upon receipt of the tax commissioner's estimate, the board 131317
may propose, by a resolution adopted by a majority of its members, 131318
to replace the existing tax on the school district income of 131319
individuals and estates as defined in divisions (G) and (E)(1)(a) 131320
and (2) of section 5748.01 of the Revised Code with the levy of an 131321
annual tax on the school district income of individuals as defined 131322
in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the 131323
Revised Code. In the resolution, the board shall specify the rate 131324
of the replacement tax, whether the replacement tax is to be 131325
levied for a specified number of years or for a continuing time, 131326
the specific school district purposes for which the replacement 131327
tax is to be levied, the date on which the replacement tax will 131328
begin to be levied, the date of the election at which the question 131329
of the replacement is to be submitted to the electors of the 131330
school district, that the existing tax will cease to be levied and 131331
the replacement tax will begin to be levied if the replacement is 131332
approved by a majority of the electors voting on the replacement, 131333
and that if the replacement is not approved by a majority of the 131334
electors voting on the replacement the existing tax will remain in 131335
effect under its original authority for the remainder of its 131336
previously approved term. The resolution goes into immediate 131337
effect upon its adoption. Publication of the resolution is not 131338
necessary, and the information that will be provided in the notice 131339
of election is sufficient notice. At least seventy-five days 131340
before the date of the election at which the question of the 131341
replacement will be submitted to the electors of the school 131342
district, the board shall certify a copy of the resolution to the 131343
board of elections. 131344

The replacement tax shall have the same specific school 131345

district purposes as the existing tax, and its rate shall be the same as the tax commissioner's estimate rounded to the nearest one-fourth of one per cent. The replacement tax shall begin to be levied on the first day of January of the year following the year in which the question of the replacement is submitted to and approved by the electors of the school district or on the first day of January of a later year, as specified in the resolution. The date of the election shall be the date of an otherwise scheduled primary, general, or special election.

The board of elections shall make arrangements to submit the question of the replacement to the electors of the school district on the date specified in the resolution. The board of elections shall publish notice of the election on the question of the replacement in one ~~or more newspapers~~ newspaper of general circulation in the school district once a week for four consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall set forth the question to be submitted to the electors and the time and place of the election thereon.

The question shall be submitted to the electors of the school district as a separate proposition, but may be printed on the same ballot with other propositions that are submitted at the same election, other than the election of officers. The form of the ballot shall be substantially as follows:

"Shall the existing tax of (state the rate) on the school district income of individuals and estates imposed by (state the name of the school district) be replaced by a tax of (state the rate) on the earned income of individuals residing in the school district for (state the number of years the tax is to be in effect or that it will be in effect for a continuing time), beginning (state the date the new tax will take effect), for the purpose of (state the specific school district purposes of the tax)? If the new tax is not

approved, the existing tax will remain in effect under its 131378
original authority, for the remainder of its previously approved 131379
term. 131380

	For replacing the existing tax with the new tax		131381
	Against replacing the existing tax with the new tax	"	131382

The board of elections shall conduct and canvass the election 131383
in the same manner as regular elections in the school district for 131384
the election of county officers. The board shall certify the 131385
results of the election to the board of education and to the tax 131386
commissioner. If a majority of the electors voting on the question 131387
vote in favor of the replacement, the existing tax shall cease to 131388
be levied, and the replacement tax shall begin to be levied, on 131389
the date specified in the ballot question. If a majority of the 131390
electors voting on the question vote against the replacement, the 131391
existing tax shall continue to be levied under its original 131392
authority, for the remainder of its previously approved term. 131393

A board of education may not submit the question of replacing 131394
a tax more than twice in a calendar year. If a board submits the 131395
question more than once, one of the elections at which the 131396
question is submitted shall be on the date of a general election. 131397

If a board of education later intends to renew a replacement 131398
tax levied under this section, it shall repeat the procedure 131399
outlined in this section to do so, the replacement tax then being 131400
levied being the "existing tax" and the renewed replacement tax 131401
being the "replacement tax." 131402

Sec. 5748.04. (A) The question of the repeal of a school 131403
district income tax levied for more than five years may be 131404
initiated not more than once in any five-year period by filing 131405
with the board of elections of the appropriate counties not later 131406

than ninety days before the general election in any year after the 131407
year in which it is approved by the electors a petition requesting 131408
that an election be held on the question. The petition shall be 131409
signed by qualified electors residing in the school district 131410
levying the income tax equal in number to ten per cent of those 131411
voting for governor at the most recent gubernatorial election. 131412

The board of elections shall determine whether the petition 131413
is valid, and if it so determines, it shall submit the question to 131414
the electors of the district at the next general election. The 131415
election shall be conducted, canvassed, and certified in the same 131416
manner as regular elections for county offices in the county. 131417
Notice of the election shall be published in a newspaper of 131418
general circulation in the district once a week for two 131419
consecutive weeks, or as provided in section 7.16 of the Revised 131420
Code, prior to the election, ~~and, if~~. If the board of elections 131421
operates and maintains a web site, the board of elections shall 131422
post notice of the election on its web site for thirty days prior 131423
to the election. The notice shall state the purpose, time, and 131424
place of the election. The form of the ballot cast at the election 131425
shall be as follows: 131426

"Shall the annual income tax of per cent, currently 131427
levied on the school district income of individuals and estates by 131428
..... (state the name of the school district) for the purpose 131429
of (state purpose of the tax), be repealed? 131430

	For repeal of the income tax
	Against repeal of the income tax

"

(B)(1) If the tax is imposed on taxable income as defined in 131435
division (E)(1)(b) of section 5748.01 of the Revised Code, the 131436
form of the ballot shall be modified by stating that the tax 131437

currently is levied on the "earned income of individuals residing 131438
in the school district" in lieu of the "school district income of 131439
individuals and estates." 131440

(2) If the rate of one or more property tax levies was 131441
reduced for the duration of the income tax levy pursuant to 131442
division (B)(2) of section 5748.02 of the Revised Code, the form 131443
of the ballot shall be modified by adding the following language 131444
immediately after "repealed": ", and shall the rate of an existing 131445
tax on property for the purpose of current expenses, which rate 131446
was reduced for the duration of the income tax, be INCREASED from 131447
..... mills to mills per one dollar of valuation beginning 131448
in (state the first year for which the rate of the property 131449
tax will increase)." In lieu of "for repeal of the income tax" and 131450
"against repeal of the income tax," the phrases "for the issue" 131451
and "against the issue," respectively, shall be substituted. 131452

(3) If the rate of more than one property tax was reduced for 131453
the duration of the income tax, the ballot language shall be 131454
modified accordingly to express the rates at which those taxes 131455
currently are levied and the rates to which the taxes would be 131456
increased. 131457

(C) The question covered by the petition shall be submitted 131458
as a separate proposition, but it may be printed on the same 131459
ballot with any other proposition submitted at the same election 131460
other than the election of officers. If a majority of the 131461
qualified electors voting on the question vote in favor of it, the 131462
result shall be certified immediately after the canvass by the 131463
board of elections to the board of education of the school 131464
district and the tax commissioner, who shall thereupon, after the 131465
current year, cease to levy the tax, except that if notes have 131466
been issued pursuant to section 5748.05 of the Revised Code the 131467
tax commissioner shall continue to levy and collect under 131468
authority of the election authorizing the levy an annual amount, 131469

rounded upward to the nearest one-fourth of one per cent, as will 131470
be sufficient to pay the debt charges on the notes as they fall 131471
due. 131472

(D) If a school district income tax repealed pursuant to this 131473
section was approved in conjunction with a reduction in the rate 131474
of one or more school district property taxes as provided in 131475
division (B)(2) of section 5748.02 of the Revised Code, then each 131476
such property tax may be levied after the current year at the rate 131477
at which it could be levied prior to the reduction, subject to any 131478
adjustments required by the county budget commission pursuant to 131479
Chapter 5705. of the Revised Code. Upon the repeal of a school 131480
district income tax under this section, the board of education may 131481
resume levying a property tax, the rate of which has been reduced 131482
pursuant to a question approved under section 5748.02 of the 131483
Revised Code, at the rate the board originally was authorized to 131484
levy the tax. A reduction in the rate of a property tax under 131485
section 5748.02 of the Revised Code is a reduction in the rate at 131486
which a board of education may levy that tax only for the period 131487
during which a school district income tax is levied prior to any 131488
repeal pursuant to this section. The resumption of the authority 131489
to levy the tax upon such a repeal does not constitute a tax 131490
levied in excess of the one per cent limitation prescribed by 131491
Section 2 of Article XII, Ohio Constitution, or in excess of the 131492
ten-mill limitation. 131493

(E) This section does not apply to school district income tax 131494
levies that are levied for five or fewer years. 131495

Sec. 5748.05. After the approval by the electors of a 131496
resolution under section 5748.03 ~~or~~, 5748.08, or 5748.09 of the 131497
Revised Code to impose a school district income tax to provide an 131498
increase in current operating revenues or in current revenues for 131499
permanent improvements and prior to the time when the first 131500

payment to the district from the tax can be made, a board of 131501
education may anticipate a fraction of the proceeds of the tax and 131502
issue anticipation notes in an amount not exceeding fifty per cent 131503
of the total estimated proceeds of the tax to be collected for its 131504
first year of collection as estimated by the tax commissioner. The 131505
anticipation notes are Chapter 133. securities and shall be issued 131506
as provided in section 133.24 of the Revised Code as if property 131507
tax anticipation notes. The notes shall have principal payments 131508
during each year after their year of issuance over a period not to 131509
exceed five years and, if determined by the board of education, 131510
during the year of their issuance. The legislation authorizing 131511
issuance of the notes may also provide for the annual levy and 131512
collection of voted ad valorem property taxes levied for the 131513
applicable purpose for which the notes are issued and for the 131514
application of the proceeds of the levy to the extent necessary to 131515
pay annual debt charges on the notes. 131516

Sec. 5748.08. (A) The board of education of a city, local, or 131517
exempted village school district, at any time by a vote of 131518
two-thirds of all its members, may declare by resolution that it 131519
may be necessary for the school district to do all of the 131520
following: 131521

(1) Raise a specified amount of money for school district 131522
purposes by levying an annual tax on school district income; 131523

(2) Issue general obligation bonds for permanent 131524
improvements, stating in the resolution the necessity and purpose 131525
of the bond issue and the amount, approximate date, estimated rate 131526
of interest, and maximum number of years over which the principal 131527
of the bonds may be paid; 131528

(3) Levy a tax outside the ten-mill limitation to pay debt 131529
charges on the bonds and any anticipatory securities; 131530

(4) Submit the question of the school district income tax and 131531

bond issue to the electors of the district at a special election. 131532

The resolution shall specify whether the income that is to be 131533
subject to the tax is taxable income of individuals and estates as 131534
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 131535
Revised Code or taxable income of individuals as defined in 131536
division (E)(1)(b) of that section. 131537

On adoption of the resolution, the board shall certify a copy 131538
of it to the tax commissioner and the county auditor no later than 131539
one hundred five days prior to the date of the special election at 131540
which the board intends to propose the income tax and bond issue. 131541
Not later than ten days of receipt of the resolution, the tax 131542
commissioner, in the same manner as required by division (A) of 131543
section 5748.02 of the Revised Code, shall estimate the rates 131544
designated in divisions (A)(1) and (2) of that section and certify 131545
them to the board. Not later than ten days of receipt of the 131546
resolution, the county auditor shall estimate and certify to the 131547
board the average annual property tax rate required throughout the 131548
stated maturity of the bonds to pay debt charges on the bonds, in 131549
the same manner as under division (C) of section 133.18 of the 131550
Revised Code. 131551

(B) On receipt of the tax commissioner's and county auditor's 131552
certifications prepared under division (A) of this section, the 131553
board of education of the city, local, or exempted village school 131554
district, by a vote of two-thirds of all its members, may adopt a 131555
resolution proposing for a specified number of years or for a 131556
continuing period of time the levy of an annual tax for school 131557
district purposes on school district income and declaring that the 131558
amount of taxes that can be raised within the ten-mill limitation 131559
will be insufficient to provide an adequate amount for the present 131560
and future requirements of the school district; that it is 131561
necessary to issue general obligation bonds of the school district 131562
for specified permanent improvements and to levy an additional tax 131563

in excess of the ten-mill limitation to pay the debt charges on 131564
the bonds and any anticipatory securities; and that the question 131565
of the bonds and taxes shall be submitted to the electors of the 131566
school district at a special election, which shall not be earlier 131567
than ninety days after certification of the resolution to the 131568
board of elections, and the date of which shall be consistent with 131569
section 3501.01 of the Revised Code. The resolution shall specify 131570
all of the following: 131571

(1) The purpose for which the school district income tax is 131572
to be imposed and the rate of the tax, which shall be the rate set 131573
forth in the tax commissioner's certification rounded to the 131574
nearest one-fourth of one per cent; 131575

(2) Whether the income that is to be subject to the tax is 131576
taxable income of individuals and estates as defined in divisions 131577
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 131578
taxable income of individuals as defined in division (E)(1)(b) of 131579
that section. The specification shall be the same as the 131580
specification in the resolution adopted and certified under 131581
division (A) of this section. 131582

(3) The number of years the tax will be levied, or that it 131583
will be levied for a continuing period of time; 131584

(4) The date on which the tax shall take effect, which shall 131585
be the first day of January of any year following the year in 131586
which the question is submitted; 131587

(5) The county auditor's estimate of the average annual 131588
property tax rate required throughout the stated maturity of the 131589
bonds to pay debt charges on the bonds. 131590

(C) A resolution adopted under division (B) of this section 131591
shall go into immediate effect upon its passage, and no 131592
publication of the resolution shall be necessary other than that 131593
provided for in the notice of election. Immediately after its 131594

adoption and at least ninety days prior to the election at which 131595
the question will appear on the ballot, the board of education 131596
shall certify a copy of the resolution, along with copies of the 131597
auditor's estimate and its resolution under division (A) of this 131598
section, to the board of elections of the proper county. The board 131599
of education shall make the arrangements for the submission of the 131600
question to the electors of the school district, and the election 131601
shall be conducted, canvassed, and certified in the same manner as 131602
regular elections in the district for the election of county 131603
officers. 131604

The resolution shall be put before the electors as one ballot 131605
question, with a majority vote indicating approval of the school 131606
district income tax, the bond issue, and the levy to pay debt 131607
charges on the bonds and any anticipatory securities. The board of 131608
elections shall publish the notice of the election in ~~one or more~~ 131609
~~newspapers~~ a newspaper of general circulation in the school 131610
district once a week for two consecutive weeks, or as provided in 131611
section 7.16 of the Revised Code, prior to the election ~~and, if,~~ 131612
If the board of elections operates and maintains a web site, it 131613
also shall post notice of the election on its web site for thirty 131614
days prior to the election. The notice of election shall state all 131615
of the following: 131616

(1) The questions to be submitted to the electors; 131617

(2) The rate of the school district income tax; 131618

(3) The principal amount of the proposed bond issue; 131619

(4) The permanent improvements for which the bonds are to be 131620
issued; 131621

(5) The maximum number of years over which the principal of 131622
the bonds may be paid; 131623

(6) The estimated additional average annual property tax rate 131624
to pay the debt charges on the bonds, as certified by the county 131625

auditor; 131626

(7) The time and place of the special election. 131627

(D) The form of the ballot on a question submitted to the 131628
electors under this section shall be as follows: 131629

"Shall the school district be authorized to do both 131630
of the following: 131631

(1) Impose an annual income tax of (state the proposed 131632
rate of tax) on the school district income of individuals and of 131633
estates, for (state the number of years the tax would be 131634
levied, or that it would be levied for a continuing period of 131635
time), beginning (state the date the tax would first take 131636
effect), for the purpose of (state the purpose of the 131637
tax)? 131638

(2) Issue bonds for the purpose of in the principal 131639
amount of \$....., to be repaid annually over a maximum period of 131640
..... years, and levy a property tax outside the ten-mill 131641
limitation estimated by the county auditor to average over the 131642
bond repayment period mills for each one dollar of tax 131643
valuation, which amounts to (rate expressed in cents or 131644
dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 131645
tax valuation, to pay the annual debt charges on the bonds, and to 131646
pay debt charges on any notes issued in anticipation of those 131647
bonds? 131648

131649

	FOR THE INCOME TAX AND BOND ISSUE		131650
	AGAINST THE INCOME TAX AND BOND ISSUE	"	131651

131652

(E) If the question submitted to electors proposes a school 131653
district income tax only on the taxable income of individuals as 131654
defined in division (E)(1)(b) of section 5748.01 of the Revised 131655

Code, the form of the ballot shall be modified by stating that the 131656
tax is to be levied on the "earned income of individuals residing 131657
in the school district" in lieu of the "school district income of 131658
individuals and of estates." 131659

(F) The board of elections promptly shall certify the results 131660
of the election to the tax commissioner and the county auditor of 131661
the county in which the school district is located. If a majority 131662
of the electors voting on the question vote in favor of it, the 131663
income tax and the applicable provisions of Chapter 5747. of the 131664
Revised Code shall take effect on the date specified in the 131665
resolution, and the board of education may proceed with issuance 131666
of the bonds and with the levy and collection of the property 131667
taxes to pay debt charges on the bonds, at the additional rate or 131668
any lesser rate in excess of the ten-mill limitation. Any 131669
securities issued by the board of education under this section are 131670
Chapter 133. securities, as that term is defined in section 133.01 131671
of the Revised Code. 131672

(G) After approval of a question under this section, the 131673
board of education may anticipate a fraction of the proceeds of 131674
the school district income tax in accordance with section 5748.05 131675
of the Revised Code. Any anticipation notes under this division 131676
shall be issued as provided in section 133.24 of the Revised Code, 131677
shall have principal payments during each year after the year of 131678
their issuance over a period not to exceed five years, and may 131679
have a principal payment in the year of their issuance. 131680

(H) The question of repeal of a school district income tax 131681
levied for more than five years may be initiated and submitted in 131682
accordance with section 5748.04 of the Revised Code. 131683

(I) No board of education shall submit a question under this 131684
section to the electors of the school district more than twice in 131685
any calendar year. If a board submits the question twice in any 131686
calendar year, one of the elections on the question shall be held 131687

on the date of the general election. 131688

Sec. 5748.081. A board of education of a school district 131689
that, under divisions (A)(1), (D)(1), and (E) of section 5748.08 131690
or under section 5748.09 of the Revised Code, levies a tax on the 131691
school district income of individuals and estates as defined in 131692
divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the 131693
Revised Code may replace that tax with a tax on the school 131694
district income of individuals as defined in divisions (G)(1) and 131695
(E)(1)(b) of section 5748.01 of the Revised Code by following the 131696
procedure outlined in, and subject to the conditions specified in, 131697
section 5748.021 of the Revised Code, as if the existing tax 131698
levied under section 5748.08 or 5748.09 were levied under section 131699
5748.02 of the Revised Code. The tax commissioner and the board of 131700
elections shall perform duties in response to the actions of the 131701
board of education under this section as directed in section 131702
5748.021 of the Revised Code. 131703

Sec. 5748.09. (A) The board of education of a city, local, or 131704
exempted village school district, at any time by a vote of 131705
two-thirds of all its members, may declare by resolution that it 131706
may be necessary for the school district to do all of the 131707
following: 131708

(1) Raise a specified amount of money for school district 131709
purposes by levying an annual tax on school district income; 131710

(2) Levy an additional property tax in excess of the ten-mill 131711
limitation for the purpose of providing for the necessary 131712
requirements of the district, stating in the resolution the amount 131713
of money to be raised each year for such purpose; 131714

(3) Submit the question of the school district income tax and 131715
property tax to the electors of the district at a special 131716
election. 131717

The resolution shall specify whether the income that is to be 131718
subject to the tax is taxable income of individuals and estates as 131719
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 131720
Revised Code or taxable income of individuals as defined in 131721
division (E)(1)(b) of that section. 131722

On adoption of the resolution, the board shall certify a copy 131723
of it to the tax commissioner and the county auditor not later 131724
than one hundred days prior to the date of the special election at 131725
which the board intends to propose the income tax and property 131726
tax. Not later than ten days after receipt of the resolution, the 131727
tax commissioner, in the same manner as required by division (A) 131728
of section 5748.02 of the Revised Code, shall estimate the rates 131729
designated in divisions (A)(1) and (2) of that section and certify 131730
them to the board. Not later than ten days after receipt of the 131731
resolution, the county auditor, in the same manner as required by 131732
section 5705.195 of the Revised Code, shall make the calculation 131733
specified in that section and certify it to the board. 131734

(B) On receipt of the tax commissioner's and county auditor's 131735
certifications prepared under division (A) of this section, the 131736
board of education of the city, local, or exempted village school 131737
district, by a vote of two-thirds of all its members, may adopt a 131738
resolution declaring that the amount of taxes that can be raised 131739
by all tax levies the district is authorized to impose, when 131740
combined with state and federal revenues, will be insufficient to 131741
provide an adequate amount for the present and future requirements 131742
of the school district, and that it is therefore necessary to 131743
levy, for a specified number of years or for a continuing period 131744
of time, an annual tax for school district purposes on school 131745
district income, and to levy, for a specified number of years not 131746
exceeding ten or for a continuing period of time, an additional 131747
property tax in excess of the ten-mill limitation for the purpose 131748
of providing for the necessary requirements of the district, and 131749

declaring that the question of the school district income tax and property tax shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following: 131750
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(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent; 131757
131758
131759
131760

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section. 131761
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(3) The number of years the school district income tax will be levied, or that it will be levied for a continuing period of time; 131768
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131770

(4) The date on which the school district income tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted; 131771
131772
131773

(5) The amount of money it is necessary to raise for the purpose of providing for the necessary requirements of the district for each year the property tax is to be imposed; 131774
131775
131776

(6) The number of years the property tax will be levied, or that it will be levied for a continuing period of time; 131777
131778

(7) The tax list upon which the property tax shall be first levied, which may be the current year's tax list; 131779
131780

(8) The amount of the average tax levy, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, estimated by the county auditor under division (A) of this section. 131781
131782
131783
131784

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the county auditor's certification and the resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers. 131785
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The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax and the property tax. The board of elections shall publish the notice of the election in a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following: 131799
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131808

(1) The questions to be submitted to the electors as a single ballot question; 131809
131810

(2) The rate of the school district income tax; 131811

(3) The number of years the school district income tax will 131812
be levied or that it will be levied for a continuing period of 131813
time; 131814

(4) The annual proceeds of the proposed property tax levy for 131815
the purpose of providing for the necessary requirements of the 131816
district; 131817

(5) The number of years during which the property tax levy 131818
shall be levied, or that it shall be levied for a continuing 131819
period of time; 131820

(6) The estimated average additional tax rate of the property 131821
tax, expressed in dollars and cents for each one hundred dollars 131822
of valuation as well as in mills for each one dollar of valuation, 131823
outside the limitation imposed by Section 2 of Article XII, Ohio 131824
Constitution, as certified by the county auditor; 131825

(7) The time and place of the special election. 131826

(D) The form of the ballot on a question submitted to the 131827
electors under this section shall be as follows: 131828

"Shall the school district be authorized to do both of 131829
the following: 131830

(1) Impose an annual income tax of (state the proposed 131831
rate of tax) on the school district income of individuals and of 131832
estates, for (state the number of years the tax would be 131833
levied, or that it would be levied for a continuing period of 131834
time), beginning (state the date the tax would first take 131835
effect), for the purpose of (state the purpose of the 131836
tax)? 131837

(2) Impose a property tax levy outside of the ten-mill 131838
limitation for the purpose of providing for the necessary 131839
requirements of the district in the sum of 131840
(here insert annual amount the levy is to produce), estimated by 131841

the county auditor to average (here insert number 131842
of mills) mills for each one dollar of valuation, which amounts to 131843
..... (here insert rate expressed in dollars and cents) 131844
for each one hundred dollars of valuation, for 131845
(state the number of years the tax is to be imposed or that it 131846
will be imposed for a continuing period of time), commencing in 131847
..... (first year the tax is to be levied), first due in 131848
calendar year (first calendar year in which the tax 131849
shall be due)? 131850

	<u>FOR THE INCOME TAX AND</u>	
	<u>PROPERTY TAX</u>	
	<u>AGAINST THE INCOME TAX AND</u>	"
	<u>PROPERTY TAX</u>	"

131851
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If the question submitted to electors proposes a school 131855
district income tax only on the taxable income of individuals as 131856
defined in division (E)(1)(b) of section 5748.01 of the Revised 131857
Code, the form of the ballot shall be modified by stating that the 131858
tax is to be levied on the "earned income of individuals residing 131859
in the school district" in lieu of the "school district income of 131860
individuals and of estates." 131861

(E) The board of elections promptly shall certify the results 131862
of the election to the tax commissioner and the county auditor of 131863
the county in which the school district is located. If a majority 131864
of the electors voting on the question vote in favor of it: 131865

(1) The income tax and the applicable provisions of Chapter 131866
5747. of the Revised Code shall take effect on the date specified 131867
in the resolution. 131868

(2) The board of education of the school district may make 131869
the additional property tax levy necessary to raise the amount 131870

specified on the ballot for the purpose of providing for the 131871
necessary requirements of the district. The property tax levy 131872
shall be included in the next tax budget that is certified to the 131873
county budget commission. 131874

(F)(1) After approval of a question under this section, the 131875
board of education may anticipate a fraction of the proceeds of 131876
the school district income tax in accordance with section 5748.05 131877
of the Revised Code. Any anticipation notes under this division 131878
shall be issued as provided in section 133.24 of the Revised Code, 131879
shall have principal payments during each year after the year of 131880
their issuance over a period not to exceed five years, and may 131881
have a principal payment in the year of their issuance. 131882

(2) After the approval of a question under this section and 131883
prior to the time when the first tax collection from the property 131884
tax levy can be made, the board of education may anticipate a 131885
fraction of the proceeds of the levy and issue anticipation notes 131886
in an amount not exceeding the total estimated proceeds of the 131887
levy to be collected during the first year of the levy. Any 131888
anticipation notes under this division shall be issued as provided 131889
in section 133.24 of the Revised Code, shall have principal 131890
payments during each year after the year of their issuance over a 131891
period not to exceed five years, and may have a principal payment 131892
in the year of their issuance. 131893

(G)(1) The question of repeal of a school district income tax 131894
levied for more than five years may be initiated and submitted in 131895
accordance with section 5748.04 of the Revised Code. 131896

(2) A property tax levy for a continuing period of time may 131897
be reduced in the manner provided under section 5705.261 of the 131898
Revised Code. 131899

(H) No board of education shall submit a question under this 131900
section to the electors of the school district more than twice in 131901

any calendar year. If a board submits the question twice in any 131902
calendar year, one of the elections on the question shall be held 131903
on the date of the general election. 131904

(I) If the electors of the school district approve a question 131905
under this section, and if the last calendar year the school 131906
district income tax is in effect and the last calendar year of 131907
collection of the property tax are the same, the board of 131908
education of the school district may propose to submit under this 131909
section the combined question of a school district income tax to 131910
take effect upon the expiration of the existing income tax and a 131911
property tax to be first collected in the calendar year after the 131912
calendar year of last collection of the existing property tax, and 131913
specify in the resolutions adopted under this section that the 131914
proposed taxes would renew the existing taxes. The form of the 131915
ballot on a question submitted to the electors under division (I) 131916
of this section shall be as follows: 131917

"Shall the school district be authorized to do both 131918
of the following: 131919

(1) Impose an annual income tax of (state the 131920
proposed rate of tax) on the school district income of individuals 131921
and of estates to renew an income tax expiring at the end of 131922
..... (state the last year the existing income tax may be 131923
levied) for (state the number of years the tax would be 131924
levied, or that it would be levied for a continuing period of 131925
time), beginning (state the date the tax would first take 131926
effect), for the purpose of (state the purpose of the 131927
tax)? 131928

(2) Impose a property tax levy renewing an existing levy 131929
outside of the ten-mill limitation for the purpose of providing 131930
for the necessary requirements of the district in the sum of 131931
..... (here insert annual amount the levy is to 131932
produce), estimated by the county auditor to average 131933

..... (here insert number of mills) mills for each one 131934
dollar of valuation, which amounts to (here 131935
insert rate expressed in dollars and cents) for each one hundred 131936
dollars of valuation, for (state the number of years 131937
the tax is to be imposed or that it will be imposed for a 131938
continuing period of time), commencing in (first year 131939
the tax is to be levied), first due in calendar year 131940
(first calendar year in which the tax shall be due)? 131941

	FOR THE INCOME TAX AND PROPERTY TAX	
	AGAINST THE INCOME TAX AND PROPERTY TAX	"

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131943
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131945

If the question submitted to electors proposes a school 131946
district income tax only on the taxable income of individuals as 131947
defined in division (E)(1)(b) of section 5748.01 of the Revised 131948
Code, the form of the ballot shall be modified by stating that the 131949
tax is to be levied on the "earned income of individuals residing 131950
in the school district" in lieu of the "school district income of 131951
individuals and of estates." 131952

The question of a renewal levy under this division shall not 131953
be placed on the ballot unless the question is submitted on a date 131954
on which a special election may be held under section 3501.01 of 131955
the Revised Code, except for the first Tuesday after the first 131956
Monday in February and August, during the last year the property 131957
tax levy to be renewed may be extended on the real and public 131958
utility property tax list and duplicate, or at any election held 131959
in the ensuing year. 131960

(J) If the electors of the school district approve a question 131961
under this section, the board of education of the school district 131962

may propose to renew either or both of the existing taxes as 131963
individual ballot questions in accordance with section 5748.02 of 131964
the Revised Code for the school district income tax, or section 131965
5705.194 of the Revised Code for the property tax. 131966

Sec. 5751.01. As used in this chapter: 131967

(A) "Person" means, but is not limited to, individuals, 131968
combinations of individuals of any form, receivers, assignees, 131969
trustees in bankruptcy, firms, companies, joint-stock companies, 131970
business trusts, estates, partnerships, limited liability 131971
partnerships, limited liability companies, associations, joint 131972
ventures, clubs, societies, for-profit corporations, S 131973
corporations, qualified subchapter S subsidiaries, qualified 131974
subchapter S trusts, trusts, entities that are disregarded for 131975
federal income tax purposes, and any other entities. 131976

(B) "Consolidated elected taxpayer" means a group of two or 131977
more persons treated as a single taxpayer for purposes of this 131978
chapter as the result of an election made under section 5751.011 131979
of the Revised Code. 131980

(C) "Combined taxpayer" means a group of two or more persons 131981
treated as a single taxpayer for purposes of this chapter under 131982
section 5751.012 of the Revised Code. 131983

(D) "Taxpayer" means any person, or any group of persons in 131984
the case of a consolidated elected taxpayer or combined taxpayer 131985
treated as one taxpayer, required to register or pay tax under 131986
this chapter. "Taxpayer" does not include excluded persons. 131987

(E) "Excluded person" means any of the following: 131988

(1) Any person with not more than one hundred fifty thousand 131989
dollars of taxable gross receipts during the calendar year. 131990
Division (E)(1) of this section does not apply to a person that is 131991
a member of a consolidated elected taxpayer; 131992

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A dealer in intangibles, as defined in section 5725.01 of

the Revised Code, that paid the dealer in intangibles tax levied 132024
by division (D) of section 5707.03 of the Revised Code based on 132025
one or more measurement periods that include the entire tax period 132026
under this chapter; 132027

(5) A financial holding company as defined in the "Bank 132028
Holding Company Act," 12 U.S.C. 1841(p); 132029

(6) A bank holding company as defined in the "Bank Holding 132030
Company Act," 12 U.S.C. 1841(a); 132031

(7) A savings and loan holding company as defined in the 132032
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 132033
only in activities or investments permissible for a financial 132034
holding company under 12 U.S.C. 1843(k); 132035

(8) A person directly or indirectly owned by one or more 132036
financial institutions, financial holding companies, bank holding 132037
companies, or savings and loan holding companies described in 132038
division (E)(3), (5), (6), or (7) of this section that is engaged 132039
in activities permissible for a financial holding company under 12 132040
U.S.C. 1843(k), except that any such person held pursuant to 132041
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 132042
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 132043
directly or indirectly owned by one or more insurance companies 132044
described in division (E)(9) of this section that is authorized to 132045
do the business of insurance in this state. 132046

For the purposes of division (E)(8) of this section, a person 132047
owns another person under the following circumstances: 132048

(a) In the case of corporations issuing capital stock, one 132049
corporation owns another corporation if it owns fifty per cent or 132050
more of the other corporation's capital stock with current voting 132051
rights; 132052

(b) In the case of a limited liability company, one person 132053
owns the company if that person's membership interest, as defined 132054

in section 1705.01 of the Revised Code, is fifty per cent or more 132055
of the combined membership interests of all persons owning such 132056
interests in the company; 132057

(c) In the case of a partnership, trust, or other 132058
unincorporated business organization other than a limited 132059
liability company, one person owns the organization if, under the 132060
articles of organization or other instrument governing the affairs 132061
of the organization, that person has a beneficial interest in the 132062
organization's profits, surpluses, losses, or distributions of 132063
fifty per cent or more of the combined beneficial interests of all 132064
persons having such an interest in the organization; 132065

(d) In the case of multiple ownership, the ownership 132066
interests of more than one person may be aggregated to meet the 132067
fifty per cent ownership tests in this division only when each 132068
such owner is described in division (E)(3), (5), (6), or (7) of 132069
this section and is engaged in activities permissible for a 132070
financial holding company under 12 U.S.C. 1843(k) or is a person 132071
directly or indirectly owned by one or more insurance companies 132072
described in division (E)(9) of this section that is authorized to 132073
do the business of insurance in this state. 132074

(9) A domestic insurance company or foreign insurance 132075
company, as defined in section 5725.01 of the Revised Code, that 132076
paid the insurance company premiums tax imposed by section 5725.18 132077
or Chapter 5729. of the Revised Code based on one or more 132078
measurement periods that include the entire tax period under this 132079
chapter; 132080

(10) A person that solely facilitates or services one or more 132081
securitizations or similar transactions for any person described 132082
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 132083
For purposes of this division, "securitization" means transferring 132084
one or more assets to one or more persons and then issuing 132085
securities backed by the right to receive payment from the asset 132086

or assets so transferred. 132087

(11) Except as otherwise provided in this division, a 132088
pre-income tax trust as defined in division (FF)(4) of section 132089
5747.01 of the Revised Code and any pass-through entity of which 132090
such pre-income tax trust owns or controls, directly, indirectly, 132091
or constructively through related interests, more than five per 132092
cent of the ownership or equity interests. If the pre-income tax 132093
trust has made a qualifying pre-income tax trust election under 132094
division (FF)(3) of section 5747.01 of the Revised Code, then the 132095
trust and the pass-through entities of which it owns or controls, 132096
directly, indirectly, or constructively through related interests, 132097
more than five per cent of the ownership or equity interests, 132098
shall not be excluded persons for purposes of the tax imposed 132099
under section 5751.02 of the Revised Code. 132100

(12) Nonprofit organizations or the state and its agencies, 132101
instrumentalities, or political subdivisions. 132102

(F) Except as otherwise provided in divisions (F)(2), (3), 132103
and (4) of this section, "gross receipts" means the total amount 132104
realized by a person, without deduction for the cost of goods sold 132105
or other expenses incurred, that contributes to the production of 132106
gross income of the person, including the fair market value of any 132107
property and any services received, and any debt transferred or 132108
forgiven as consideration. In the case of a person that is a 132109
casino operator of casino facilities, as those terms are defined 132110
in section 3772.01 of the Revised Code, "gross receipts" for the 132111
purposes of this chapter only shall be determined without 132112
deduction for any winnings paid to wagerers. 132113

(1) The following are examples of gross receipts: 132114

(a) Amounts realized from the sale, exchange, or other 132115
disposition of the taxpayer's property to or with another; 132116

(b) Amounts realized from the taxpayer's performance of 132117

services for another;	132118
(c) Amounts realized from another's use or possession of the taxpayer's property or capital;	132119 132120
(d) Any combination of the foregoing amounts.	132121
(2) "Gross receipts" excludes the following amounts:	132122
(a) Interest income except interest on credit sales;	132123
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	132124 132125 132126 132127
(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.	132128 132129 132130 132131 132132 132133 132134 132135 132136 132137 132138 132139 132140 132141 132142 132143 132144 132145
(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;	132146 132147 132148

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;	132149 132150 132151
(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;	132152 132153 132154 132155
(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;	132156 132157 132158 132159 132160 132161 132162 132163 132164
(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	132165 132166 132167
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	132168 132169 132170
(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;	132171 132172 132173 132174 132175 132176 132177
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross	132178 132179

receipts;	132180
(l) Property, money, and other amounts received or acquired	132181
by an agent on behalf of another in excess of the agent's	132182
commission, fee, or other remuneration;	132183
(m) Tax refunds, other tax benefit recoveries, and	132184
reimbursements for the tax imposed under this chapter made by	132185
entities that are part of the same combined taxpayer or	132186
consolidated elected taxpayer group, and reimbursements made by	132187
entities that are not members of a combined taxpayer or	132188
consolidated elected taxpayer group that are required to be made	132189
for economic parity among multiple owners of an entity whose tax	132190
obligation under this chapter is required to be reported and paid	132191
entirely by one owner, pursuant to the requirements of sections	132192
5751.011 and 5751.012 of the Revised Code;	132193
(n) Pension reversions;	132194
(o) Contributions to capital;	132195
(p) Sales or use taxes collected as a vendor or an	132196
out-of-state seller on behalf of the taxing jurisdiction from a	132197
consumer or other taxes the taxpayer is required by law to collect	132198
directly from a purchaser and remit to a local, state, or federal	132199
tax authority;	132200
(q) In the case of receipts from the sale of cigarettes or	132201
tobacco products by a wholesale dealer, retail dealer,	132202
distributor, manufacturer, or seller, all as defined in section	132203
5743.01 of the Revised Code, an amount equal to the federal and	132204
state excise taxes paid by any person on or for such cigarettes or	132205
tobacco products under subtitle E of the Internal Revenue Code or	132206
Chapter 5743. of the Revised Code;	132207
(r) In the case of receipts from the sale of motor fuel by a	132208
licensed motor fuel dealer, licensed retail dealer, or licensed	132209
permissive motor fuel dealer, all as defined in section 5735.01 of	132210

the Revised Code, an amount equal to federal and state excise 132211
taxes paid by any person on such motor fuel under section 4081 of 132212
the Internal Revenue Code or Chapter 5735. of the Revised Code; 132213

(s) In the case of receipts from the sale of beer or 132214
intoxicating liquor, as defined in section 4301.01 of the Revised 132215
Code, by a person holding a permit issued under Chapter 4301. or 132216
4303. of the Revised Code, an amount equal to federal and state 132217
excise taxes paid by any person on or for such beer or 132218
intoxicating liquor under subtitle E of the Internal Revenue Code 132219
or Chapter 4301. or 4305. of the Revised Code; 132220

(t) Receipts realized by a new motor vehicle dealer or used 132221
motor vehicle dealer, as defined in section 4517.01 of the Revised 132222
Code, from the sale or other transfer of a motor vehicle, as 132223
defined in that section, to another motor vehicle dealer for the 132224
purpose of resale by the transferee motor vehicle dealer, but only 132225
if the sale or other transfer was based upon the transferee's need 132226
to meet a specific customer's preference for a motor vehicle; 132227

(u) Receipts from a financial institution described in 132228
division (E)(3) of this section for services provided to the 132229
financial institution in connection with the issuance, processing, 132230
servicing, and management of loans or credit accounts, if such 132231
financial institution and the recipient of such receipts have at 132232
least fifty per cent of their ownership interests owned or 132233
controlled, directly or constructively through related interests, 132234
by common owners; 132235

(v) Receipts realized from administering anti-neoplastic 132236
drugs and other cancer chemotherapy, biologicals, therapeutic 132237
agents, and supportive drugs in a physician's office to patients 132238
with cancer; 132239

(w) Funds received or used by a mortgage broker that is not a 132240
dealer in intangibles, other than fees or other consideration, 132241

pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or

processing. 132273

(III) "Qualified distribution center" means a warehouse or 132274
other similar facility in this state that, for the qualifying 132275
year, is operated by a person that is not part of a combined 132276
taxpayer group and that has a qualifying certificate. However, all 132277
warehouses or other similar facilities that are operated by 132278
persons in the same taxpayer group and that are located within one 132279
mile of each other shall be treated as one qualified distribution 132280
center. 132281

(IV) "Qualifying year" means the calendar year to which the 132282
qualifying certificate applies. 132283

(V) "Qualifying period" means the period of the first day of 132284
July of the second year preceding the qualifying year through the 132285
thirtieth day of June of the year preceding the qualifying year. 132286

(VI) "Qualifying certificate" means the certificate issued by 132287
the tax commissioner after the operator of a distribution center 132288
files an annual application with the commissioner. The application 132289
and annual fee shall be filed and paid for each qualified 132290
distribution center on or before the first day of September before 132291
the qualifying year or within forty-five days after the 132292
distribution center opens, whichever is later. 132293

The applicant must substantiate to the commissioner's 132294
satisfaction that, for the qualifying period, all persons 132295
operating the distribution center have more than fifty per cent of 132296
the cost of the qualified property shipped to a location such that 132297
it would be situated outside this state under the provisions of 132298
division (E) of section 5751.033 of the Revised Code. The 132299
applicant must also substantiate that the distribution center 132300
cumulatively had costs from its suppliers equal to or exceeding 132301
five hundred million dollars during the qualifying period. (For 132302
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 132303

excludes any person that is part of the consolidated elected 132304
taxpayer group, if applicable, of the operator of the qualified 132305
distribution center.) The commissioner may require the applicant 132306
to have an independent certified public accountant certify that 132307
the calculation of the minimum thresholds required for a qualified 132308
distribution center by the operator of a distribution center has 132309
been made in accordance with generally accepted accounting 132310
principles. The commissioner shall issue or deny the issuance of a 132311
certificate within sixty days after the receipt of the 132312
application. A denial is subject to appeal under section 5717.02 132313
of the Revised Code. If the operator files a timely appeal under 132314
section 5717.02 of the Revised Code, the operator shall be granted 132315
a qualifying certificate, provided that the operator is liable for 132316
any tax, interest, or penalty upon amounts claimed as qualifying 132317
distribution center receipts, other than those receipts exempt 132318
under division (C)(1) of section 5751.011 of the Revised Code, 132319
that would have otherwise not been owed by its suppliers if the 132320
qualifying certificate was valid. 132321

(VII) "Ohio delivery percentage" means the proportion of the 132322
total property delivered to a destination inside Ohio from the 132323
qualified distribution center during the qualifying period 132324
compared with total deliveries from such distribution center 132325
everywhere during the qualifying period. 132326

(ii) If the distribution center is new and was not open for 132327
the entire qualifying period, the operator of the distribution 132328
center may request that the commissioner grant a qualifying 132329
certificate. If the certificate is granted and it is later 132330
determined that more than fifty per cent of the qualified property 132331
during that year was not shipped to a location such that it would 132332
be situated outside of this state under the provisions of division 132333
(E) of section 5751.033 of the Revised Code or if it is later 132334
determined that the person that operates the distribution center 132335

had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall be liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have not otherwise been owed by its suppliers during the qualifying year if the qualifying certificate was valid. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

Within thirty days after all appeals have been exhausted, the operator of the qualified distribution center shall notify the affected suppliers of qualified property that such suppliers are required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed. The supplier of tangible personal property

delivered to the qualified distribution center shall include in 132368
its report of taxable gross receipts the receipts from the total 132369
sales of property delivered to the qualified distribution center 132370
for the calendar quarter or calendar year, whichever the case may 132371
be, multiplied by the Ohio delivery percentage for the qualifying 132372
year. Nothing in division (F)(2)(z)(iii) of this section shall be 132373
construed as imposing liability on the operator of a qualified 132374
distribution center for the tax imposed by this chapter arising 132375
from any change to the Ohio delivery percentage. 132376

(iv) In the case where the distribution center is new and not 132377
open for the entire qualifying period, the operator shall make a 132378
good faith estimate of an Ohio delivery percentage for use by 132379
suppliers in their reports of taxable gross receipts for the 132380
remainder of the qualifying period. The operator of the facility 132381
shall disclose to the suppliers that such Ohio delivery percentage 132382
is an estimate and is subject to recalculation. By the due date of 132383
the next application for a qualifying certificate, the operator 132384
shall determine the actual Ohio delivery percentage for the 132385
estimated qualifying period and proceed as provided in division 132386
(F)(2)(z)(iii) of this section with respect to the calculation and 132387
recalculation of the Ohio delivery percentage. The supplier is 132388
required to file, within sixty days after receiving notice from 132389
the operator of the qualified distribution center, amended reports 132390
for the impacted calendar quarter or quarters or calendar year, 132391
whichever the case may be. Any additional tax liability or tax 132392
overpayment shall be subject to interest but shall not be subject 132393
to the imposition of any penalty so long as the amended returns 132394
are timely filed. 132395

(v) Qualifying certificates and Ohio delivery percentages 132396
issued by the commissioner shall be open to public inspection and 132397
shall be timely published by the commissioner. A supplier relying 132398
in good faith on a certificate issued under this division shall 132399

not be subject to tax on the qualifying distribution center 132400
receipts under division (F)(2)(z) of this section. A person 132401
receiving a qualifying certificate is responsible for paying the 132402
tax, interest, and penalty upon amounts claimed as qualifying 132403
distribution center receipts that would not otherwise have been 132404
owed by the supplier if the qualifying certificate were available 132405
when it is later determined that the qualifying certificate should 132406
not have been issued because the statutory requirements were in 132407
fact not met. 132408

(vi) The annual fee for a qualifying certificate shall be one 132409
hundred thousand dollars for each qualified distribution center. 132410
If a qualifying certificate is not issued, the annual fee is 132411
subject to refund after the exhaustion of all appeals provided for 132412
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 132413
under this division may be assessed in the same manner as the tax 132414
imposed under this chapter. The first one hundred thousand dollars 132415
of the annual application fees collected each calendar year shall 132416
be credited to the commercial activity tax administrative fund. 132417
The remainder of the annual application fees collected shall be 132418
distributed in the same manner required under section 5751.20 of 132419
the Revised Code. 132420

(vii) The tax commissioner may require that adequate security 132421
be posted by the operator of the distribution center on appeal 132422
when the commissioner disagrees that the applicant has met the 132423
minimum thresholds for a qualified distribution center as set 132424
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 132425
section. 132426

(aa) Receipts of an employer from payroll deductions relating 132427
to the reimbursement of the employer for advancing moneys to an 132428
unrelated third party on an employee's behalf; 132429

(bb) Cash discounts allowed and taken; 132430

(cc) Returns and allowances; 132431

(dd) Bad debts from receipts on the basis of which the tax 132432
imposed by this chapter was paid in a prior quarterly tax payment 132433
period. For the purpose of this division, "bad debts" means any 132434
debts that have become worthless or uncollectible between the 132435
preceding and current quarterly tax payment periods, have been 132436
uncollected for at least six months, and that may be claimed as a 132437
deduction under section 166 of the Internal Revenue Code and the 132438
regulations adopted under that section, or that could be claimed 132439
as such if the taxpayer kept its accounts on the accrual basis. 132440
"Bad debts" does not include repossessed property, uncollectible 132441
amounts on property that remains in the possession of the taxpayer 132442
until the full purchase price is paid, or expenses in attempting 132443
to collect any account receivable or for any portion of the debt 132444
recovered; 132445

(ee) Any amount realized from the sale of an account 132446
receivable to the extent the receipts from the underlying 132447
transaction giving rise to the account receivable were included in 132448
the gross receipts of the taxpayer; 132449

(ff) Any receipts directly attributed to providing public 132450
services pursuant to sections 126.60 to 126.605 of the Revised 132451
Code, or any receipts directly attributed to a transfer agreement 132452
or to the enterprise transferred under that agreement under 132453
section 4313.02 of the Revised Code. 132454

(gg) Any receipts for which the tax imposed by this chapter 132455
is prohibited by the Constitution or laws of the United States or 132456
the Constitution of Ohio. 132457

~~(gg)~~(hh) Amounts realized by licensed motor fuel dealers or 132458
licensed permissive motor fuel dealers from the exchange of 132459
petroleum products, including motor fuel, between such dealers, 132460
provided that delivery of the petroleum products occurs at a 132461

refinery, terminal, pipeline, or marine vessel and that the 132462
exchanging dealers agree neither dealer shall require monetary 132463
compensation from the other for the value of the exchanged 132464
petroleum products other than such compensation for differences in 132465
product location or grade. Division (F)(2)~~(gg)~~(hh) of this section 132466
does not apply to amounts realized as a result of differences in 132467
location or grade of exchanged petroleum products or from 132468
handling, lubricity, dye, or other additive injections fees, 132469
pipeline security fees, or similar fees. As used in this division, 132470
"motor fuel," "licensed motor fuel dealer," "licensed permissive 132471
motor fuel dealer," and "terminal" have the same meanings as in 132472
section 5735.01 of the Revised Code. 132473

(ii) Qualified uranium receipts qualifying for exclusion 132474
under section 5751.41 of the Revised Code. 132475

(3) In the case of a taxpayer when acting as a real estate 132476
broker, "gross receipts" includes only the portion of any fee for 132477
the service of a real estate broker, or service of a real estate 132478
salesperson associated with that broker, that is retained by the 132479
broker and not paid to an associated real estate salesperson or 132480
another real estate broker. For the purposes of this division, 132481
"real estate broker" and "real estate salesperson" have the same 132482
meanings as in section 4735.01 of the Revised Code. 132483

(4) A taxpayer's method of accounting for gross receipts for 132484
a tax period shall be the same as the taxpayer's method of 132485
accounting for federal income tax purposes for the taxpayer's 132486
federal taxable year that includes the tax period. If a taxpayer's 132487
method of accounting for federal income tax purposes changes, its 132488
method of accounting for gross receipts under this chapter shall 132489
be changed accordingly. 132490

(G) "Taxable gross receipts" means gross receipts sitused to 132491
this state under section 5751.033 of the Revised Code. 132492

(H) A person has "substantial nexus with this state" if any	132493
of the following applies. The person:	132494
(1) Owns or uses a part or all of its capital in this state;	132495
(2) Holds a certificate of compliance with the laws of this	132496
state authorizing the person to do business in this state;	132497
(3) Has bright-line presence in this state;	132498
(4) Otherwise has nexus with this state to an extent that the	132499
person can be required to remit the tax imposed under this chapter	132500
under the Constitution of the United States.	132501
(I) A person has "bright-line presence" in this state for a	132502
reporting period and for the remaining portion of the calendar	132503
year if any of the following applies. The person:	132504
(1) Has at any time during the calendar year property in this	132505
state with an aggregate value of at least fifty thousand dollars.	132506
For the purpose of division (I)(1) of this section, owned property	132507
is valued at original cost and rented property is valued at eight	132508
times the net annual rental charge.	132509
(2) Has during the calendar year payroll in this state of at	132510
least fifty thousand dollars. Payroll in this state includes all	132511
of the following:	132512
(a) Any amount subject to withholding by the person under	132513
section 5747.06 of the Revised Code;	132514
(b) Any other amount the person pays as compensation to an	132515
individual under the supervision or control of the person for work	132516
done in this state; and	132517
(c) Any amount the person pays for services performed in this	132518
state on its behalf by another.	132519
(3) Has during the calendar year taxable gross receipts of at	132520
least five hundred thousand dollars.	132521

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

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(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

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(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

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(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

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(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

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(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

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(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

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(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

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(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

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(1) A person receiving a fee to sell financial instruments;

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(2) A person retaining only a commission from a transaction

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with the other proceeds from the transaction being remitted to 132552
another person; 132553

(3) A person issuing licenses and permits under section 132554
1533.13 of the Revised Code; 132555

(4) A lottery sales agent holding a valid license issued 132556
under section 3770.05 of the Revised Code; 132557

(5) A person acting as an agent of the division of liquor 132558
control under section 4301.17 of the Revised Code. 132559

(Q) "Received" includes amounts accrued under the accrual 132560
method of accounting. 132561

(R) "Reporting person" means a person in a consolidated 132562
elected taxpayer or combined taxpayer group that is designated by 132563
that group to legally bind the group for all filings and tax 132564
liabilities and to receive all legal notices with respect to 132565
matters under this chapter, or, for the purposes of section 132566
5751.04 of the Revised Code, a separate taxpayer that is not a 132567
member of such a group. 132568

Sec. 5751.011. (A) A group of two or more persons may elect 132569
to be a consolidated elected taxpayer for the purposes of this 132570
chapter if the group satisfies all of the following requirements: 132571

(1) The group elects to include all persons, including 132572
persons enumerated in divisions (E)(2) to (10) of section 5751.01 132573
of the Revised Code, having at least eighty per cent, or having at 132574
least fifty per cent, of the value of their ownership interests 132575
owned or controlled, directly or constructively through related 132576
interests, by common owners during all or any portion of the tax 132577
period, together with the common owners. 132578

A group making its initial election on the basis of the 132579
eighty per cent ownership test may change its election so that its 132580
consolidated elected taxpayer group is formed on the basis of the 132581

fifty per cent ownership test if all of the following are 132582
satisfied: 132583

(a) When the initial election was made, the group did not 132584
have any persons satisfying the fifty per cent ownership test; 132585

(b) One or more of the persons in the initial group 132586
subsequently acquires ownership interests in a person such that 132587
the fifty per cent ownership test is satisfied, the eighty per 132588
cent ownership test is not satisfied, and the acquired person 132589
would be required to be included in a combined taxpayer group 132590
under section 5751.012 of the Revised Code; 132591

(c) The group requests the change in a written request to the 132592
tax commissioner on or before the due date for filing the first 132593
return due under section 5751.051 of the Revised Code after the 132594
date of the acquisition; 132595

(d) The group has not previously changed its election. 132596

At the election of the group, all entities that are not 132597
incorporated or formed under the laws of a state or of the United 132598
States and that meet the consolidated elected ownership test shall 132599
either be included in the group or all shall be excluded from the 132600
group. If, at the time of registration, the group does not include 132601
any such entities that meet the consolidated elected ownership 132602
test, the group shall elect to either include or exclude the newly 132603
acquired entities before the due date of the first return due 132604
after the date of the acquisition. 132605

Each group shall notify the tax commissioner of the foregoing 132606
elections before the due date of the return for the period in 132607
which the election becomes binding. If fifty per cent of the value 132608
of a person's ownership interests is owned or controlled by each 132609
of two consolidated elected taxpayer groups formed under the fifty 132610
per cent ownership or control test, that person is a member of 132611
each group for the purposes of this section, and each group shall 132612

include in the group's taxable gross receipts fifty per cent of 132613
that person's taxable gross receipts. Otherwise, all of that 132614
person's taxable gross receipts shall be included in the taxable 132615
gross receipts of the consolidated elected taxpayer group of which 132616
the person is a member. In no event shall the ownership or control 132617
of fifty per cent of the value of a person's ownership interests 132618
by two otherwise unrelated groups form the basis for consolidating 132619
the groups into a single consolidated elected taxpayer group or 132620
permit any exclusion under division (C) of this section of taxable 132621
gross receipts between members of the two groups. Division (A)(3) 132622
of this section applies with respect to the elections described in 132623
this division. 132624

(2) The group makes the election to be treated as a 132625
consolidated elected taxpayer in the manner prescribed under 132626
division (D) of this section. 132627

(3) Subject to review and audit by the tax commissioner, the 132628
group agrees that all of the following apply: 132629

(a) The group shall file reports as a single taxpayer for at 132630
least the next eight calendar quarters following the election so 132631
long as at least two or more of the members of the group meet the 132632
requirements of division (A)(1) of this section. 132633

(b) Before the expiration of the eighth such calendar 132634
quarter, the group shall notify the commissioner if it elects to 132635
cancel its designation as a consolidated elected taxpayer. If the 132636
group does not so notify the tax commissioner, the election 132637
remains in effect for another eight calendar quarters. 132638

(c) If, at any time during any of those eight calendar 132639
quarters following the election, a former member of the group no 132640
longer meets the requirements under division (A)(1) of this 132641
section, that member shall report and pay the tax imposed under 132642
this chapter separately, as a member of a combined taxpayer, or, 132643

if the former member satisfies such requirements with respect to 132644
another consolidated elected group, as a member of that 132645
consolidated elected group. 132646

(d) The group agrees to the application of division (B) of 132647
this section. 132648

(B) A group of persons making the election under this section 132649
shall report and pay tax on all of the group's taxable gross 132650
receipts even if substantial nexus with this state does not exist 132651
for one or more persons in the group. 132652

(C)(1)(a) Members of a consolidated elected taxpayer group 132653
shall exclude gross receipts among persons included in the 132654
consolidated elected taxpayer group. 132655

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 132656
section, nothing in this section shall have the effect of 132657
requiring a consolidated elected taxpayer group to include gross 132658
receipts received by a person enumerated in divisions (E)(2) to 132659
(10) of section 5751.01 of the Revised Code if that person is a 132660
member of the group pursuant to the elections made by the group 132661
under division (A)(1) of this section. 132662

(c)(i) As used in division (C)(1)(c) of this section, "dealer 132663
transfer" means a transfer of property that satisfies both of the 132664
following: (I) the property is directly transferred by any means 132665
from one member of the group to another member of the group that 132666
is a dealer in intangibles but is not a qualifying dealer as 132667
defined in section ~~5725.24~~ 5707.031 of the Revised Code; and (II) 132668
the property is subsequently delivered by the dealer in 132669
intangibles to a person that is not a member of the group. 132670

(ii) In the event of a dealer transfer, a consolidated 132671
elected taxpayer group shall not exclude, under division (C) of 132672
this section, gross receipts from the transfer described in 132673
division (C)(1)(c)(i)(I) of this section. 132674

(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group.

(D) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the tax commissioner of the election in the manner prescribed by the commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The election shall be made and the fee paid before the beginning of the first calendar quarter to which the election applies. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy,"

and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code. 132706
132707

(2) "State education aid" for a school district means the following: 132708
132709

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: 132710
132711
division (A) of section 3317.022 of the Revised Code, including 132713
the amounts calculated under sections 3317.029 and 3317.0217 of 132714
the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of 132715
section 3317.022; divisions (B), (C), and (D) of section 3317.023; 132716
divisions (L) and (N) of section 3317.024; section 3317.0216; and 132717
any unit payments for gifted student services paid under sections 132718
3317.05, 3317.052, and 3317.053 of the Revised Code; except that, 132719
for fiscal years 2008 and 2009, the amount computed for the 132720
district under Section 269.20.80 of H.B. 119 of the 127th general 132721
assembly and as that section subsequently may be amended shall be 132722
substituted for the amount computed under division (D) of section 132723
3317.022 of the Revised Code, and the amount computed under 132724
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 132725
that section subsequently may be amended shall be included. 132726

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year thereafter~~ 2011, the sum of the amounts computed under former 132727
132728
sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 132729
3306.192 of the Revised Code-; 132730

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS." 132731
132732
132733
132734

(3) "State education aid" for a joint vocational school district means the following: 132735
132736

- (a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code, except that, for fiscal years 2008 and 2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.
- (b) For fiscal years 2010 and 2011, the amount paid in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."
- (c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."
- (4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.
- (5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section.
- (6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.
- (7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.
- (8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.
- (9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.
- (10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.
- (11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory

fixed-rate levy loss, the furniture and fixtures fixed-rate levy	132767
loss, and the telephone company fixed-rate levy loss.	132768
(12) "Fixed-sum levy loss" means the amount determined under	132769
division (E) of this section.	132770
(13) "Machinery and equipment" means personal property	132771
subject to the assessment rate specified in division (F) of	132772
section 5711.22 of the Revised Code.	132773
(14) "Inventory" means personal property subject to the	132774
assessment rate specified in division (E) of section 5711.22 of	132775
the Revised Code.	132776
(15) "Furniture and fixtures" means personal property subject	132777
to the assessment rate specified in division (G) of section	132778
5711.22 of the Revised Code.	132779
(16) "Qualifying levies" are levies in effect for tax year	132780
2004 or applicable to tax year 2005 or approved at an election	132781
conducted before September 1, 2005. For the purpose of determining	132782
the rate of a qualifying levy authorized by section 5705.212 or	132783
5705.213 of the Revised Code, the rate shall be the rate that	132784
would be in effect for tax year 2010.	132785
(17) "Telephone property" means tangible personal property of	132786
a telephone, telegraph, or interexchange telecommunications	132787
company subject to an assessment rate specified in section	132788
5727.111 of the Revised Code in tax year 2004.	132789
(18) "Telephone property tax value loss" means the amount	132790
determined under division (C)(4) of this section.	132791
(19) "Telephone property fixed-rate levy loss" means the	132792
amount determined under division (D)(4) of this section.	132793
<u>(20) "Taxes charged and payable" means taxes charged and</u>	132794
<u>payable after the reduction required by section 319.301 of the</u>	132795
<u>Revised Code but before the reductions required by sections</u>	132796

319.302 and 323.152 of the Revised Code. 132797

(21) "Median estate tax collections" means, in the case of a 132798
municipal corporation to which revenue from the taxes levied in 132799
Chapter 5731. of the Revised Code was distributed in each of 132800
calendar years 2006, 2007, 2008, and 2009, the median of those 132801
distributions. In the case of a municipal corporation to which no 132802
distributions were made in one or more of those years, "median 132803
estate tax collections" means zero. 132804

(22) "Total resources," in the case of a school district, 132805
means the sum of the amounts in divisions (A)(22)(a) to (h) of 132806
this section less any reduction required under division (A)(32) of 132807
this section. 132808

(a) The state education aid for fiscal year 2010; 132809

(b) The sum of the payments received by the school district 132810
in fiscal year 2010 for current expense levy losses pursuant to 132811
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 132812
section 5751.21 of the Revised Code, excluding the portion of such 132813
payments attributable to levies for joint vocational school 132814
district purposes; 132815

(c) The sum of fixed-sum levy loss payments received by the 132816
school district in fiscal year 2010 pursuant to division (E)(1) of 132817
section 5727.85 and division (E)(1) of section 5751.21 of the 132818
Revised Code for fixed-sum levies imposed for a purpose other than 132819
paying debt charges; 132820

(d) Fifty per cent of the school district's taxes charged and 132821
payable against all property on the tax list of real and public 132822
utility property for current expense purposes for tax year 2008, 132823
including taxes charged and payable from emergency levies imposed 132824
under section 5709.194 of the Revised Code and excluding taxes 132825
levied for joint vocational school district purposes; 132826

(e) Fifty per cent of the school district's taxes charged and 132827

<u>payable against all property on the tax list of real and public</u>	132828
<u>utility property for current expenses for tax year 2009, including</u>	132829
<u>taxes charged and payable from emergency levies and excluding</u>	132830
<u>taxes levied for joint vocational school district purposes;</u>	132831
<u>(f) The school district's taxes charged and payable against</u>	132832
<u>all property on the general tax list of personal property for</u>	132833
<u>current expenses for tax year 2009, including taxes charged and</u>	132834
<u>payable from emergency levies;</u>	132835
<u>(g) The amount certified for fiscal year 2010 under division</u>	132836
<u>(A)(2) of section 3317.08 of the Revised Code;</u>	132837
<u>(h) Distributions received during calendar year 2009 from</u>	132838
<u>taxes levied under section 718.09 of the Revised Code.</u>	132839
<u>(23) "Total resources," in the case of a joint vocational</u>	132840
<u>school district, means the sum of amounts in divisions (A)(23)(a)</u>	132841
<u>to (g) of this section less any reduction required under division</u>	132842
<u>(A)(32) of this section.</u>	132843
<u>(a) The state education aid for fiscal year 2010;</u>	132844
<u>(b) The sum of the payments received by the joint vocational</u>	132845
<u>school district in fiscal year 2010 for current expense levy</u>	132846
<u>losses pursuant to division (C)(2) of section 5727.85 and</u>	132847
<u>divisions (C)(8) and (9) of section 5751.21 of the Revised Code;</u>	132848
<u>(c) Fifty per cent of the joint vocational school district's</u>	132849
<u>taxes charged and payable against all property on the tax list of</u>	132850
<u>real and public utility property for current expense purposes for</u>	132851
<u>tax year 2008;</u>	132852
<u>(d) Fifty per cent of the joint vocational school district's</u>	132853
<u>taxes charged and payable against all property on the tax list of</u>	132854
<u>real and public utility property for current expenses for tax year</u>	132855
<u>2009;</u>	132856
<u>(e) Fifty per cent of a city, local, or exempted village</u>	132857

<u>school district's taxes charged and payable against all property</u>	132858
<u>on the tax list of real and public utility property for current</u>	132859
<u>expenses of the joint vocational school district for tax year</u>	132860
<u>2008;</u>	132861
<u>(f) Fifty per cent of a city, local, or exempted village</u>	132862
<u>school district's taxes charged and payable against all property</u>	132863
<u>on the tax list of real and public utility property for current</u>	132864
<u>expenses of the joint vocational school district for tax year</u>	132865
<u>2009;</u>	132866
<u>(g) The joint vocational school district's taxes charged and</u>	132867
<u>payable against all property on the general tax list of personal</u>	132868
<u>property for current expenses for tax year 2009.</u>	132869
<u>(24) "Total resources," in the case of county mental health</u>	132870
<u>and disability related functions, means the sum of the amounts in</u>	132871
<u>divisions (A)(24)(a) and (b) of this section less any reduction</u>	132872
<u>required under division (A)(32) of this section.</u>	132873
<u>(a) The sum of the payments received by the county for mental</u>	132874
<u>health and developmental disability related functions in calendar</u>	132875
<u>year 2010 under division (A)(1) of section 5727.86 and division</u>	132876
<u>(A)(1) and (2) of section 5751.22 of the Revised Code as they</u>	132877
<u>existed at that time;</u>	132878
<u>(b) With respect to taxes levied by the county for mental</u>	132879
<u>health and developmental disability related purposes, the taxes</u>	132880
<u>charged and payable for such purposes against all property on the</u>	132881
<u>tax list of real and public utility property for tax year 2009.</u>	132882
<u>(25) "Total resources," in the case of county senior services</u>	132883
<u>related functions, means the sum of the amounts in divisions</u>	132884
<u>(A)(25)(a) and (b) of this section less any reduction required</u>	132885
<u>under division (A)(32) of this section.</u>	132886
<u>(a) The sum of the payments received by the county for senior</u>	132887
<u>services related functions in calendar year 2010 under division</u>	132888

(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 132889
132890

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 132891
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(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section. 132895
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132898

(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 132899
132900
132901
132902

(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 132903
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(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section. 132907
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132909
132910

(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 132911
132912
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(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 132915
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(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) of this section. 132919
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132923

(a) The sum of the payments received by the county for all other purposes in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 132924
132925
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132927

(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund; 132928
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(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009, excluding taxes charged and payable for the purpose of paying debt charges; 132935
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(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code. 132940
132941
132942

(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) of this section. 132943
132944
132945
132946

(a) The sum of the payments received by the municipal corporation in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the 132947
132948
132949

<u>Revised Code as they existed at that time;</u>	132950
<u>(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;</u>	132951 132952 132953 132954 132955 132956 132957
<u>(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code;</u>	132958 132959 132960
<u>(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(33) of this section, for tax year 2009;</u>	132961 132962 132963 132964 132965
<u>(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;</u>	132966 132967 132968 132969 132970
<u>(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;</u>	132971 132972 132973 132974 132975
<u>(g) The municipal corporation's median estate tax collections.</u>	132976 132977
<u>(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction required under division (A)(32) of this</u>	132978 132979 132980

<u>section.</u>	132981
<u>(a) The sum of the payments received by the township in</u>	132982
<u>calendar year 2010 pursuant to division (A)(1) of section 5727.86</u>	132983
<u>of the Revised Code and divisions (A)(1) and (2) of section</u>	132984
<u>5751.22 of the Revised Code as they existed at that time,</u>	132985
<u>excluding payments received for debt purposes;</u>	132986
<u>(b) The township's percentage share of county undivided local</u>	132987
<u>government fund allocations as certified to the tax commissioner</u>	132988
<u>for calendar year 2010 by the county auditor under division (J) of</u>	132989
<u>section 5747.51 of the Revised Code or division (F) of section</u>	132990
<u>5747.53 of the Revised Code multiplied by the total amount</u>	132991
<u>actually distributed in calendar year 2010 from the county</u>	132992
<u>undivided local government fund;</u>	132993
<u>(c) With respect to taxes levied by the township, the taxes</u>	132994
<u>charged and payable against all property on the tax list of real</u>	132995
<u>and public utility property for tax year 2009 excluding taxes</u>	132996
<u>charged and payable for the purpose of paying debt charges.</u>	132997
<u>(31) "Total resources," in the case of a local taxing unit</u>	132998
<u>that is not a county, municipal corporation, or township, means</u>	132999
<u>the sum of the amounts in divisions (A)(31)(a) to (e) of this</u>	133000
<u>section less any reduction required under division (A)(32) of this</u>	133001
<u>section.</u>	133002
<u>(a) The sum of the payments received by the local taxing unit</u>	133003
<u>in calendar year 2010 pursuant to division (A)(1) of section</u>	133004
<u>5727.86 of the Revised Code and divisions (A)(1) and (2) of</u>	133005
<u>section 5751.22 of the Revised Code as they existed at that time;</u>	133006
<u>(b) The local taxing unit's percentage share of county</u>	133007
<u>undivided local government fund allocations as certified to the</u>	133008
<u>tax commissioner for calendar year 2010 by the county auditor</u>	133009
<u>under division (J) of section 5747.51 of the Revised Code or</u>	133010
<u>division (F) of section 5747.53 of the Revised Code multiplied by</u>	133011

the total amount actually distributed in calendar year 2010 from 133012
the county undivided local government fund; 133013

(c) With respect to taxes levied by the local taxing unit, 133014
the taxes charged and payable against all property on the tax list 133015
of real and public utility property for tax year 2009 excluding 133016
taxes charged and payable for the purpose of paying debt charges; 133017

(d) The amount received from the tax commissioner during 133018
calendar year 2010 for sales or use taxes authorized under 133019
sections 5739.023 and 5741.022 of the Revised Code; 133020

(e) For institutions of higher education receiving tax 133021
revenue from a local levy, as identified in section 3358.02 of the 133022
Revised Code, the final state share of instruction allocation for 133023
fiscal year 2010 as calculated by the board of regents and 133024
reported to the state controlling board. 133025

(32) If a fixed-rate levy that is a qualifying levy is not 133026
imposed in any year after tax year 2010, "total resources" used to 133027
compute payments to be made under division (C)(12) of section 133028
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 133029
Revised Code in the tax years following the last year the levy is 133030
imposed shall be reduced by the amount of payments attributable to 133031
the fixed-rate levy loss of that levy as would be computed under 133032
division (C)(2) of section 5727.85, division (A)(1) of section 133033
5727.85, divisions (C)(8) and (9) of section 5751.21, or division 133034
(A)(1) of section 5751.22 of the Revised Code. 133035

(33) "Municipal current expense property tax levies" means 133036
all property tax levies of a municipality, except those with the 133037
following levy names: airport resurfacing; bond or any levy name 133038
including the word "bond"; capital improvement or any levy name 133039
including the word "capital"; debt or any levy name including the 133040
word "debt"; equipment or any levy name including the word 133041
"equipment," unless the levy is for combined operating and 133042

equipment; employee termination fund; fire pension or any levy 133043
containing the word "pension," including police pensions; 133044
fireman's fund or any practically similar name; sinking fund; road 133045
improvements or any levy containing the word "road"; fire truck or 133046
apparatus; flood or any levy containing the word "flood"; 133047
conservancy district; county health; note retirement; sewage, or 133048
any levy containing the words "sewage" or "sewer"; park 133049
improvement; parkland acquisition; storm drain; street or any levy 133050
name containing the word "street"; lighting, or any levy name 133051
containing the word "lighting"; and water. 133052

(34) "Current expense TPP allocation" means, in the case of a 133053
school district or joint vocational school district, the sum of 133054
the payments received by the school district in fiscal year 2011 133055
pursuant to divisions (C)(10) and (11) of section 5751.21 of the 133056
Revised Code to the extent paid for current expense levies. In the 133057
case of a municipal corporation, "current expense TPP allocation" 133058
means the sum of the payments received by the municipal 133059
corporation in calendar year 2010 pursuant to divisions (A)(1) and 133060
(2) of section 5751.22 of the Revised Code to the extent paid for 133061
municipal current expense property tax levies as defined in 133062
division (A)(33) of this section. If a fixed-rate levy that is a 133063
qualifying levy is not imposed in any year after tax year 2010, 133064
"current expense TPP allocation" used to compute payments to be 133065
made under division (C)(12) of section 5751.21 or division 133066
(A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax 133067
years following the last year the levy is imposed shall be reduced 133068
by the amount of payments attributable to the fixed-rate levy loss 133069
of that levy as would be computed under divisions (C)(10) and (11) 133070
of section 5751.21 or division (A)(1) of section 5751.22 of the 133071
Revised Code. 133072

(35) "TPP allocation" means the sum of payments received by a 133073
local taxing unit in calendar year 2010 pursuant to divisions 133074

(A)(1) and (2) of section 5751.22 of the Revised Code. If a 133075
fixed-rate levy that is a qualifying levy is not imposed in any 133076
year after tax year 2010, "TPP allocation" used to compute 133077
payments to be made under division (A)(1)(b) or (c) of section 133078
5751.22 of the Revised Code in the tax years following the last 133079
year the levy is imposed shall be reduced by the amount of payment 133080
attributable to the fixed-rate levy loss of that levy as would be 133081
computed under division (A)(1) of that section. 133082

(36) "Total TPP allocation" means, in the case of a school 133083
district or joint vocational school district, the sum of the 133084
amounts received in fiscal year 2011 pursuant to divisions (C)(10) 133085
and (11) and (D) of section 5751.21 of the Revised Code. In the 133086
case of a local taxing unit, "total TPP allocation" means the sum 133087
of payments received by the unit in calendar year 2010 pursuant to 133088
divisions (A)(1), (2), and (3) of section 5751.22 of the Revised 133089
Code. If a fixed-rate levy that is a qualifying levy is not 133090
imposed in any year after tax year 2010, "total TPP allocation" 133091
used to compute payments to be made under division (C)(12) of 133092
section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of 133093
the Revised Code in the tax years following the last year the levy 133094
is imposed shall be reduced by the amount of payments attributable 133095
to the fixed-rate levy loss of that levy as would be computed 133096
under divisions (C)(10) and (11) of section 5751.21 or division 133097
(A)(1) of section 5751.22 of the Revised Code. 133098

(37) "Non-current expense TPP allocation" means the 133099
difference of total TPP allocation minus the sum of current 133100
expense TPP allocation and the portion of total TPP allocation 133101
constituting reimbursement for debt levies, pursuant to division 133102
(D) of section 5751.21 of the Revised Code in the case of a school 133103
district or joint vocational school district and pursuant to 133104
division (A)(3) of section 5751.22 of the Revised Code in the case 133105
of a municipal corporation. 133106

(38) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for tax year 2011, four per cent for tax year 2012, and six per cent for tax years 2013 and thereafter.

(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Eighty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the tax reform system implementation fund, which is hereby created in the state treasury, and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder in the commercial activities tax receipts fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	133132
2007	0%	70.0%	30.0%	133133
2008	0%	70.0%	30.0%	133134
2009	0%	70.0%	30.0%	133135

2010	0%	70.0%	30.0%	133136
2011	0%	70.0%	30.0%	133137
2012	5.3 <u>25.0%</u>	70.0 <u>52.5%</u>	24.7 <u>22.5%</u>	133138
2013 <u>and</u> <u>thereafter</u>	10.6 <u>50.0%</u>	70.0 <u>35.0%</u>	19.4 <u>15.0%</u>	133139
2014	14.1%	70.0%	15.9%	133140
2015	17.6%	70.0%%	12.4%	133141
2016	21.1%	70.0%%	8.9%	133142
2017	24.6%	70.0%%	5.4%	133143
2018	28.1%	70.0%%	1.9%	133144
2019 and thereafter	30%	70%%	0%	133145

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, thirty-three and eight-tenths per cent;

(b) For tax year 2007, sixty-one and three-tenths per cent;

(c) For tax year 2008, eighty-three per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, a fraction, the numerator of which is

five and three-fourths and the denominator of which is	133165
twenty-three;	133166
(b) For tax year 2007, a fraction, the numerator of which is	133167
nine and one-half and the denominator of which is twenty-three;	133168
(c) For tax year 2008, a fraction, the numerator of which is	133169
thirteen and one-fourth and the denominator of which is	133170
twenty-three;	133171
(d) For tax year 2009 and thereafter a fraction, the	133172
numerator of which is seventeen and the denominator of which is	133173
twenty-three.	133174
(3) Furniture and fixtures property tax value loss is the	133175
taxable value of furniture and fixture property as reported by	133176
taxpayers for tax year 2004 multiplied by:	133177
(a) For tax year 2006, twenty-five per cent;	133178
(b) For tax year 2007, fifty per cent;	133179
(c) For tax year 2008, seventy-five per cent;	133180
(d) For tax year 2009 and thereafter, one hundred per cent.	133181
The taxable value of property reported by taxpayers used in	133182
divisions (C)(1), (2), and (3) of this section shall be such	133183
values as determined to be final by the tax commissioner as of	133184
August 31, 2005. Such determinations shall be final except for any	133185
correction of a clerical error that was made prior to August 31,	133186
2005, by the tax commissioner.	133187
(4) Telephone property tax value loss is the taxable value of	133188
telephone property as taxpayers would have reported that property	133189
for tax year 2004 if the assessment rate for all telephone	133190
property for that year were twenty-five per cent, multiplied by:	133191
(a) For tax year 2006, zero per cent;	133192
(b) For tax year 2007, zero per cent;	133193

(c) For tax year 2008, zero per cent;	133194
(d) For tax year 2009, sixty per cent;	133195
(e) For tax year 2010, eighty per cent;	133196
(f) For tax year 2011 and thereafter, one hundred per cent.	133197
(5) Division (C)(5) of this section applies to any school district, joint vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.	133198 133199 133200 133201 133202 133203 133204 133205 133206 133207
In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.	133208 133209 133210 133211 133212 133213 133214 133215 133216 133217 133218 133219 133220 133221 133222 133223 133224

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the

amount described in division (E)(1) of this section: 133256

(1) The sum of the machinery and equipment property tax value 133257
loss, the inventory property tax value loss, and the furniture and 133258
fixtures property tax value loss, and, for 2008 through ~~2017~~ 2010, 133259
the telephone property tax value loss of the district or unit 133260
multiplied by the sum of the fixed-sum tax rates of qualifying 133261
levies. For 2006 through 2010, this computation shall include all 133262
qualifying levies remaining in effect for the current tax year and 133263
any school district levies imposed under section 5705.194 or 133264
5705.213 of the Revised Code that are qualifying levies not 133265
remaining in effect for the current year. For 2011 through 2017 in 133266
the case of school district levies imposed under section 5705.194 133267
or 5705.213 of the Revised Code and for all years after 2010 in 133268
the case of other fixed-sum levies, this computation shall include 133269
only qualifying levies remaining in effect for the current year. 133270
For purposes of this computation, a qualifying school district 133271
levy imposed under section 5705.194 or 5705.213 of the Revised 133272
Code remains in effect in a year after 2010 only if, for that 133273
year, the board of education levies a school district levy imposed 133274
under section 5705.194, 5705.199, 5705.213, or 5705.219 of the 133275
Revised Code for an annual sum at least equal to the annual sum 133276
levied by the board in tax year 2004 less the amount of the 133277
payment certified under this division for 2006. 133278

(2) The total taxable value in tax year 2004 less the sum of 133279
the machinery and equipment, inventory, furniture and fixtures, 133280
and telephone property tax value losses in each school district, 133281
joint vocational school district, and local taxing unit multiplied 133282
by one-half of one mill per dollar. 133283

(3) For the calculations in divisions (E)(1) and (2) of this 133284
section, the tax value losses are those that would be calculated 133285
for tax year 2009 under divisions (C)(1), (2), and (3) of this 133286
section and for tax year 2011 under division (C)(4) of this 133287

section. 133288

(4) To facilitate the calculation under divisions (D) and (E) 133289
of this section, not later than September 1, 2005, any school 133290
district, joint vocational school district, or local taxing unit 133291
that has a qualifying levy that was approved at an election 133292
conducted during 2005 before September 1, 2005, shall certify to 133293
the tax commissioner a copy of the county auditor's certificate of 133294
estimated property tax millage for such levy as required under 133295
division (B) of section 5705.03 of the Revised Code, which is the 133296
rate that shall be used in the calculations under such divisions. 133297

If the amount determined under division (E) of this section 133298
for any school district, joint vocational school district, or 133299
local taxing unit is greater than zero, that amount shall equal 133300
the reimbursement to be paid pursuant to division (E) of section 133301
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 133302
and the one-half of one mill that is subtracted under division 133303
(E)(2) of this section shall be apportioned among all contributing 133304
fixed-sum levies in the proportion that each levy bears to the sum 133305
of all fixed-sum levies within each school district, joint 133306
vocational school district, or local taxing unit. 133307

(F) If a school district levies a tax under section 5705.219 133308
of the Revised Code, the fixed-rate levy loss for qualifying 133309
levies, to the extent repealed under that section, shall equal the 133310
sum of the following amounts in lieu of the amounts computed for 133311
such levies under division (D) of this section: 133312

(1) The sum of the rates of qualifying levies to the extent 133313
so repealed multiplied by the sum of the machinery and equipment, 133314
inventory, and furniture and fixtures tax value losses for 2009 as 133315
determined under that division; 133316

(2) The sum of the rates of qualifying levies to the extent 133317
so repealed multiplied by the telephone property tax value loss 133318

for 2011 as determined under that division. 133319

The fixed-rate levy losses for qualifying levies to the 133320
extent not repealed under section 5705.219 of the Revised Code 133321
shall be as determined under division (D) of this section. The 133322
revised fixed-rate levy losses determined under this division and 133323
division (D) of this section first apply in the year following the 133324
first year the district levies the tax under section 5705.219 of 133325
the Revised Code. 133326

(G) Not later than October 1, 2005, the tax commissioner 133327
shall certify to the department of education for every school 133328
district and joint vocational school district the machinery and 133329
equipment, inventory, furniture and fixtures, and telephone 133330
property tax value losses determined under division (C) of this 133331
section, the machinery and equipment, inventory, furniture and 133332
fixtures, and telephone fixed-rate levy losses determined under 133333
division (D) of this section, and the fixed-sum levy losses 133334
calculated under division (E) of this section. The calculations 133335
under divisions (D) and (E) of this section shall separately 133336
display the levy loss for each levy eligible for reimbursement. 133337

(H) Not later than October 1, 2005, the tax commissioner 133338
shall certify the amount of the fixed-sum levy losses to the 133339
county auditor of each county in which a school district, joint 133340
vocational school district, or local taxing unit with a fixed-sum 133341
levy loss reimbursement has territory. 133342

(I) Not later than the twenty-eighth day of February each 133343
year beginning in 2011 and ending in 2014, the tax commissioner 133344
shall certify to the department of education for each school 133345
district first levying a tax under section 5705.219 of the Revised 133346
Code in the preceding year the revised fixed-rate levy losses 133347
determined under divisions (D) and (F) of this section. 133348

Sec. 5751.21. (A) Not later than the thirtieth day of July of 133349

2007 through ~~2017~~ 2010, the department of education shall consult 133350
with the director of budget and management and determine the 133351
following for each school district and each joint vocational 133352
school district eligible for payment under division (B) of this 133353
section: 133354

(1) The state education aid offset, which, except as provided 133355
in division (A)(1)(c) of this section, is the difference obtained 133356
by subtracting the amount described in division (A)(1)(b) of this 133357
section from the amount described in division (A)(1)(a) of this 133358
section: 133359

(a) The state education aid computed for the school district 133360
or joint vocational school district for the current fiscal year as 133361
of the thirtieth day of July; 133362

(b) The state education aid that would be computed for the 133363
school district or joint vocational school district for the 133364
current fiscal year as of the thirtieth day of July if the 133365
~~recognized~~ valuation used in the calculation in division (B)(1) of 133366
section 3306.13 of the Revised Code as that division existed for 133367
fiscal years 2010 and 2011 included the machinery and equipment, 133368
inventory, furniture and fixtures, and telephone property tax 133369
value losses for the school district or joint vocational school 133370
district for the second preceding tax year, and if taxes charged 133371
and payable associated with the tax value losses are accounted for 133372
in any state education aid computation dependent on taxes charged 133373
and payable. 133374

(c) The state education aid offset for fiscal year 2010 and 133375
fiscal year 2011 equals the greater of the state education aid 133376
offset calculated for that fiscal year under divisions (A)(1)(a) 133377
and (b) of this section and the state education aid offset 133378
calculated for fiscal year 2009. For fiscal year 2012 and 2013, 133379
the state education aid offset equals the state education aid 133380
offset for fiscal year 2011. 133381

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of 133382
zero or the difference obtained by subtracting the state education 133383
aid offset determined under division (A)(1) of this section from 133384
the sum of the machinery and equipment fixed-rate levy loss, the 133385
inventory fixed-rate levy loss, furniture and fixtures fixed-rate 133386
levy loss, and telephone property fixed-rate levy loss certified 133387
under divisions (G) and (I) of section 5751.20 of the Revised Code 133388
for all taxing districts in each school district and joint 133389
vocational school district for the second preceding tax year. 133390

By the thirtieth day of July of each such year, the 133391
department of education and the director of budget and management 133392
shall agree upon the amount to be determined under division (A)(1) 133393
of this section. 133394

(B) On or before the thirty-first day of August of ~~each year~~ 133395
~~beginning in 2008, 2009, and 2010,~~ the department of education 133396
shall recalculate the offset described under division (A) of this 133397
section for the previous fiscal year and recalculate the payments 133398
made under division (C) of this section in the preceding fiscal 133399
year using the offset calculated under this division. If the 133400
payments calculated under this division differ from the payments 133401
made under division (C) of this section in the preceding fiscal 133402
year, the difference shall either be paid to a school district or 133403
recaptured from a school district through an adjustment at the 133404
same times during the current fiscal year that the payments under 133405
division (C) of this section are made. In August and October of 133406
the current fiscal year, the amount of each adjustment shall be 133407
three-sevenths of the amount calculated under this division. In 133408
May of the current fiscal year, the adjustment shall be 133409
one-seventh of the amount calculated under this division. 133410

(C) The department of education shall pay from the school 133411
district tangible property tax replacement fund to each school 133412
district and joint vocational school district all of the following 133413

for fixed-rate levy losses certified under divisions (G) and (I)	133414
of section 5751.20 of the Revised Code:	133415
(1) On or before May 31, 2006, one-seventh of the total	133416
fixed-rate levy loss for tax year 2006;	133417
(2) On or before August 31, 2006, and October 31, 2006,	133418
one-half of six-sevenths of the total fixed-rate levy loss for tax	133419
year 2006;	133420
(3) On or before May 31, 2007, one-seventh of the total	133421
fixed-rate levy loss for tax year 2007;	133422
(4) On or before August 31, 2007, and October 31, 2007,	133423
forty-three per cent of the amount determined under division	133424
(A)(2) of this section for fiscal year 2008, but not less than	133425
zero, plus one-half of six-sevenths of the difference between the	133426
total fixed-rate levy loss for tax year 2007 and the total	133427
fixed-rate levy loss for tax year 2006.	133428
(5) On or before May 31, 2008, fourteen per cent of the	133429
amount determined under division (A)(2) of this section for fiscal	133430
year 2008, but not less than zero, plus one-seventh of the	133431
difference between the total fixed-rate levy loss for tax year	133432
2008 and the total fixed-rate levy loss for tax year 2006.	133433
(6) On or before August 31, 2008, and October 31, 2008,	133434
forty-three per cent of the amount determined under division	133435
(A)(2) of this section for fiscal year 2009, but not less than	133436
zero, plus one-half of six-sevenths of the difference between the	133437
total fixed-rate levy loss in tax year 2008 and the total	133438
fixed-rate levy loss in tax year 2007.	133439
(7) On or before May 31, 2009, fourteen per cent of the	133440
amount determined under division (A)(2) of this section for fiscal	133441
year 2009, but not less than zero, plus one-seventh of the	133442
difference between the total fixed-rate levy loss for tax year	133443
2009 and the total fixed-rate levy loss for tax year 2007.	133444

(8) On or before August 31, 2009, and October 31, 2009, 133445
forty-three per cent of the amount determined under division 133446
(A)(2) of this section for fiscal year 2010, but not less than 133447
zero, plus one-half of six-sevenths of the difference between the 133448
total fixed-rate levy loss in tax year 2009 and the total 133449
fixed-rate levy loss in tax year 2008. 133450

(9) On or before May 31, 2010, fourteen per cent of the 133451
amount determined under division (A)(2) of this section for fiscal 133452
year 2010, but not less than zero, plus one-seventh of the 133453
difference between the total fixed-rate levy loss in tax year 2010 133454
and the total fixed-rate levy loss in tax year 2008. 133455

(10) On or before August 31, 2010, and October 31, 2010, 133456
forty-three per cent of the amount determined under division 133457
(A)(2) of this section for fiscal year 2011, but not less than 133458
zero, plus one-half of six-sevenths of the difference between the 133459
telephone property fixed-rate levy loss for tax year 2010 and the 133460
telephone property fixed-rate levy loss for tax year 2009. 133461

(11) On or before May 31, 2011, fourteen per cent of the 133462
amount determined under division (A)(2) of this section for fiscal 133463
year 2011, but not less than zero, plus one-seventh of the 133464
difference between the telephone property fixed-rate levy loss for 133465
tax year 2011 and the telephone property fixed-rate levy loss for 133466
tax year 2009. 133467

~~(12) On or before August 31, 2011, and October 31, 2011, 133468
forty-three per cent of the amount determined under division 133469
(A)(2) of this section, but not less than zero, plus one-half of 133470
six-sevenths of the difference between the telephone property 133471
fixed rate levy loss for tax year 2011 and the telephone property 133472
fixed rate levy loss for tax year 2010. 133473~~

~~(13) On or before May 31, 2012, fourteen per cent of the 133474
amount determined under division (A)(2) of this section for fiscal 133475~~

~~year 2012, but not less than zero, plus one seventh of the 133476
difference between the telephone property fixed rate levy loss for 133477
tax year 2011 and the telephone property fixed rate levy loss for 133478
tax year 2010. 133479~~

~~(14) On or before August 31, 2012, October 31, 2012, and May 133480
31, 2013, the amount determined under division (A)(2) of this 133481
section but not less than zero, multiplied by one third. 133482~~

~~(15) On or before August 31, 2013, October 31, 2013, and May 133483
31, 2014, the amount determined under division (A)(2) of this 133484
section multiplied by a fraction, the numerator of which is nine 133485
and the denominator of which is seventeen, but not less than zero, 133486
multiplied by one third. 133487~~

~~(16) On or before August 31, 2014, October 31, 2014, and May 133488
31, 2015, the amount determined under division (A)(2) of this 133489
section multiplied by a fraction, the numerator of which is seven 133490
and the denominator of which is seventeen, but not less than zero, 133491
multiplied by one third. 133492~~

~~(17) On or before August 31, 2015, October 31, 2015, and May 133493
31, 2016, the amount determined under division (A)(2) of this 133494
section multiplied by a fraction, the numerator of which is five 133495
and the denominator of which is seventeen, but not less than zero, 133496
multiplied by one third. 133497~~

~~(18) On or before August 31, 2016, October 31, 2016, and May 133498
31, 2017, the amount determined under division (A)(2) of this 133499
section multiplied by a fraction, the numerator of which is three 133500
and the denominator of which is seventeen, but not less than zero, 133501
multiplied by one third. 133502~~

~~(19) On or before August 31, 2017, October 31, 2017, and May 133503
31, 2018, the amount determined under division (A)(2) of this 133504
section multiplied by a fraction, the numerator of which is one 133505
and the denominator of which is seventeen, but not less than zero, 133506~~

~~multiplied by one third~~ For fiscal years 2012 and thereafter, the
sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this
section shall be paid on or before the twentieth day of November
and the last day of May:

(a) If the ratio of current expense TPP allocation to total
resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of current expense TPP allocation to total
resources is greater than the threshold per cent, fifty per cent
of the difference of current expense TPP allocation minus the
product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of non-current expense TPP
allocation multiplied by seventy-five per cent for fiscal year
2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school
district and joint vocational school district the apportionment of
the payments among the school district's or joint vocational
school district's funds based on the certifications under
divisions (G) and (I) of section 5751.20 of the Revised Code.

~~Any qualifying levy that is a fixed rate levy that is not
applicable to a tax year after 2010 does not qualify for any
reimbursement after the tax year to which it is last applicable.~~

(D) For taxes levied within the ten-mill limitation for debt
purposes in tax year 2005, payments shall be made equal to one
hundred per cent of the loss computed as if the tax were a
fixed-rate levy, but those payments shall extend from fiscal year
2006 through fiscal year 2018, as long as the qualifying levy
continues to be used for debt purposes. If the purpose of such a
qualifying levy is changed, that levy becomes subject to the
payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum
levy of each school district or joint vocational school district

and for each year for which a determination is made under division 133538
(E) of section 5751.20 of the Revised Code that a fixed-sum levy 133539
loss is to be reimbursed, the tax commissioner shall certify to 133540
the department of education the fixed-sum levy loss determined 133541
under that division. The certification shall cover a time period 133542
sufficient to include all fixed-sum levies for which the 133543
commissioner made such a determination. ~~The~~ On or before the last 133544
day of May of the current year, the department shall pay from the 133545
school district property tax replacement fund to the school 133546
district or joint vocational school district one-third of the 133547
fixed-sum levy loss so certified ~~for each year~~, plus one-third of 133548
the amount certified under division (I) of section 5751.20 of the 133549
Revised Code, and on or before the ~~last~~ twentieth day of ~~May,~~ 133550
~~August, and October of the current year~~ November, two-thirds of 133551
the fixed-sum levy loss so certified, plus two-thirds of the 133552
amount certified under division (I) of section 5751.20 of the 133553
Revised Code. Payments under this division of the amounts 133554
certified under division (I) of section 5751.20 of the Revised 133555
Code shall continue until the levy adopted under section 5705.219 133556
of the Revised Code expires. 133557

(2) Beginning in 2006, by the first day of January of each 133558
year, the tax commissioner shall review the certification 133559
originally made under division (E)(1) of this section. If the 133560
commissioner determines that a debt levy that had been scheduled 133561
to be reimbursed in the current year has expired, a revised 133562
certification for that and all subsequent years shall be made to 133563
the department of education. 133564

(F) Beginning in September 2007 and through June ~~2018~~ 2013, 133565
the director of budget and management shall transfer from the 133566
school district tangible property tax replacement fund to the 133567
general revenue fund each of the following: 133568

(1) On the first day of September, one-fourth of the amount 133569

determined for that fiscal year under division (A)(1) of this section; 133570
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(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section; 133572
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(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section; 133575
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(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section. 133578
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If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year. 133581
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~~(G) For each of the fiscal years 2006 through 2018, if~~ If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund. ~~For each fiscal year after 2018, at the time payments under division (E) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the school~~ 133589
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~~district property tax replacement fund the amount necessary to~~ 133601
~~make such payments.~~ 133602

(H)~~(1)~~ On the fifteenth day of June ~~of 2006 through 2011~~ of 133603
each year, the director of budget and management may transfer any 133604
balance in the school district tangible property tax replacement 133605
fund to the general revenue fund. ~~At the end of fiscal years 2012~~ 133606
~~through 2018, any balance in the school district tangible property~~ 133607
~~tax replacement fund shall remain in the fund to be used in future~~ 133608
~~fiscal years for school purposes.~~ 133609

~~(2) In each fiscal year beginning with fiscal year 2019, all~~ 133610
~~amounts credited to the school district tangible personal property~~ 133611
~~tax replacement fund shall be appropriated for school purposes.~~ 133612

(I) If all of the territory of a school district or joint 133613
vocational school district is merged with another district, or if 133614
a part of the territory of a school district or joint vocational 133615
school district is transferred to an existing or newly created 133616
district, the department of education, in consultation with the 133617
tax commissioner, shall adjust the payments made under this 133618
section as follows: 133619

(1) For a merger of two or more districts, ~~the machinery and~~ 133620
~~equipment, inventory, furniture and fixtures, and telephone~~ 133621
~~property fixed rate levy losses and the fixed-sum levy losses,~~ 133622
total resources, current expense TPP allocation, total TPP 133623
allocation, and non-current expense TPP allocation of the 133624
successor district shall be ~~equal to~~ the sum of ~~the machinery and~~ 133625
~~equipment, inventory, furniture and fixtures, and telephone~~ 133626
~~property fixed rate levy losses and debt levy losses as determined~~ 133627
~~in section 5751.20 of the Revised Code, such items for each of the~~ 133628
districts involved in the merger. 133629

(2) If property is transferred from one district to a 133630
previously existing district, the amount of ~~machinery and~~ 133631

~~equipment, inventory, furniture and fixtures, and telephone~~ 133632
~~property tax value losses and fixed rate levy losses total~~ 133633
~~resources, current expense TPP allocation, total TPP allocation,~~ 133634
~~and non-current expense TPP allocation that shall be transferred~~ 133635
~~to the recipient district shall be an amount equal to the total~~ 133636
~~machinery and equipment, inventory, furniture and fixtures, and~~ 133637
~~telephone property fixed rate levy losses total resources, current~~ 133638
~~expense TPP allocation, total TPP allocation, and non-current~~ 133639
~~expense TPP allocation of the transferor district times a~~ 133640
fraction, the numerator of which is the ~~value of business tangible~~ 133641
~~personal property on the land being transferred in the most recent~~ 133642
~~year for which data are available~~ number of pupils being 133643
transferred to the recipient district, measured, in the case of a 133644
school district, by average daily membership as reported under 133645
division (A) of section 3317.03 of the Revised Code or, in the 133646
case of a joint vocational school district, by formula ADM as 133647
reported in division (D) of that section, and the denominator of 133648
which is the ~~total value of business tangible personal property in~~ 133649
~~the district from which the land is being transferred in the most~~ 133650
~~recent year for which data are available. For each of the first~~ 133651
~~five years after the property is transferred, but not after fiscal~~ 133652
~~year 2012, if the tax rate in the recipient district is less than~~ 133653
~~the tax rate of the district from which the land was transferred,~~ 133654
~~one half of the payments arising from the amount of fixed rate~~ 133655
~~levy losses so transferred to the recipient district shall be paid~~ 133656
~~to the recipient district and one half of the payments arising~~ 133657
~~from the fixed rate levy losses so transferred shall be paid to~~ 133658
~~the district from which the land was transferred. Fixed rate levy~~ 133659
~~losses so transferred shall be computed on the basis of the sum of~~ 133660
~~the rates of fixed rate qualifying levies of the district from~~ 133661
~~which the land was transferred, notwithstanding division (E) of~~ 133662
~~this section~~ average daily membership or formula ADM of the 133663
transferor district. 133664

(3) After December 31, ~~2004~~ 2010, if property is transferred 133665
from one or more districts to a district that is newly created out 133666
of the transferred property, the newly created district shall be 133667
deemed not to have any ~~machinery and equipment, inventory,~~ 133668
~~furniture and fixtures, or telephone property fixed rate levy~~ 133669
~~losses and the districts from which the property was transferred~~ 133670
~~shall have no reduction in their machinery and equipment,~~ 133671
~~inventory, furniture and fixtures, and telephone property~~ 133672
~~fixed rate levy losses~~ total resources, current expense TPP 133673
allocation, total TPP allocation, or non-current expense TPP 133674
allocation. 133675

(4) If the recipient district under division (I)(2) of this 133676
section or the newly created district under division (I)(3) of 133677
this section is assuming debt from one or more of the districts 133678
from which the property was transferred and any of the districts 133679
losing the property had fixed-sum levy losses, the department of 133680
education, in consultation with the tax commissioner, shall make 133681
an equitable division of the fixed-sum levy loss reimbursements. 133682

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 133683
commissioner shall compute the payments to be made to each local 133684
taxing unit for each year according to divisions (A)(1), (2), (3), 133685
and (4) of this section as this section existed on that date, and 133686
shall distribute the payments in the manner prescribed by division 133687
(C) of this section. The calculation of the fixed-sum levy loss 133688
shall cover a time period sufficient to include all fixed-sum 133689
levies for which the commissioner determined, pursuant to division 133690
(E) of section 5751.20 of the Revised Code, that a fixed-sum levy 133691
loss is to be reimbursed. 133692

(1) Except as provided in division (A)~~(4)~~(3) of this section, 133693
for ~~machinery and equipment, inventory, and furniture and fixtures~~ 133694
fixed-rate levy losses determined under division (D) of section 133695

5751.20 of the Revised Code, payments shall be made in an amount 133696
equal to each of those losses multiplied by the following: 133697

(a) For tax years 2006 through 2010, one hundred per cent of 133698
such losses; 133699

(b) For the payment in tax year 2011, ~~a fraction, the~~ 133700
~~numerator of which is fourteen and the denominator of which is~~ 133701
~~seventeen~~; 133702

~~(c) For tax year 2012, a fraction, the numerator of which is~~ 133703
~~eleven and the denominator of which is seventeen~~; 133704

~~(d) For tax year 2013, a fraction, the numerator of which is~~ 133705
~~nine and the denominator of which is seventeen~~; 133706

~~(e) For tax year 2014, a fraction, the numerator of which is~~ 133707
~~seven and the denominator of which is seventeen~~; 133708

~~(f) For tax year 2015, a fraction, the numerator of which is~~ 133709
~~five and the denominator of which is seventeen~~; 133710

~~(g) For tax year 2016, a fraction, the numerator of which is~~ 133711
~~three and the denominator of which is seventeen~~; 133712

~~(h) For tax year 2017, a fraction, the numerator of which is~~ 133713
~~one and the denominator of which is seventeen~~; 133714

~~(i) For tax years 2018 and thereafter, no fixed rate payments~~ 133715
~~shall be made.~~ 133716

~~Any qualifying levy that is a fixed rate levy that is not~~ 133717
~~applicable to a tax year after 2010 shall not qualify for any~~ 133718
~~reimbursement after the tax year to which it is last applicable.~~ 133719

~~(2) Except as provided in division (A)(4) of this section,~~ 133720
~~for telephone property fixed rate levy losses determined under~~ 133721
~~division (D)(4) of section 5751.20 of the Revised Code, payments~~ 133722
~~shall be made in an amount equal to each of those losses~~ 133723
~~multiplied by the following:~~ 133724

(a) For tax years 2009 through 2011, one hundred per cent;	133725
(b) For tax year 2012, seven eighths;	133726
(c) For tax year 2013, six eighths;	133727
(d) For tax year 2014, five eighths;	133728
(e) For tax year 2015, four eighths;	133729
(f) For tax year 2016, three eighths;	133730
(g) For tax year 2017, two eighths;	133731
(h) For tax year 2018, one eighth;	133732
(i) For tax years 2019 and thereafter, no fixed rate payments	133733
shall be made <u>to be made on or before the twentieth day of</u>	133734
<u>November, the sum of the amount in division (A)(1)(b)(i) or (ii)</u>	133735
<u>and division (A)(1)(b)(iii) of this section:</u>	133736
(i) <u>If the ratio of six-sevenths of the TPP allocation to</u>	133737
<u>total resources is equal to or less than the threshold per cent,</u>	133738
<u>zero;</u>	133739
(ii) <u>If the ratio of six-sevenths of the TPP allocation to</u>	133740
<u>total resources is greater than the threshold per cent, the</u>	133741
<u>difference of six-sevenths of the TPP allocation minus the product</u>	133742
<u>of total resources multiplied by the threshold per cent;</u>	133743
(iii) <u>In the case of a municipal corporation, six-sevenths of</u>	133744
<u>the product of the non-current expense TPP allocation multiplied</u>	133745
<u>by seventy-five per cent.</u>	133746
(c) <u>For tax years 2012 and thereafter, the sum of the amount</u>	133747
<u>in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of</u>	133748
<u>this section:</u>	133749
(i) <u>If the ratio of TPP allocation to total resources is</u>	133750
<u>equal to or less than the threshold per cent, zero;</u>	133751
(ii) <u>If the ratio of TPP allocation to total resources is</u>	133752
<u>greater than the threshold per cent, the TPP allocation minus the</u>	133753

product of total resources multiplied by the threshold per cent; 133754

(iii) In the case of a municipal corporation, non-current 133755
expense TPP allocation multiplied by fifty per cent for tax year 133756
2012 and twenty-five per cent for tax years 2013 and thereafter. 133757

~~Any qualifying levy that is a fixed rate levy that is not~~ 133758
~~applicable to a tax year after 2011 shall not qualify for any~~ 133759
~~reimbursement after the tax year to which it is last applicable.~~ 133760

~~(3)(2)~~ For fixed-sum levy losses determined under division 133761
(E) of section 5751.20 of the Revised Code, payments shall be made 133762
in the amount of one hundred per cent of the fixed-sum levy loss 133763
for payments required to be made in 2006 and thereafter until the 133764
qualifying levy has expired. 133765

~~(4)(3)~~ For taxes levied within the ten-mill limitation or 133766
pursuant to a municipal charter for debt purposes in tax year 133767
2005, payments shall be made based on the schedule in division 133768
(A)(1) of this section for each of the calendar years 2006 through 133769
2010. For each of the calendar years 2011 through 2017, the 133770
percentages for calendar year 2010 shall be used for taxes levied 133771
within the ten-mill limitation or pursuant to a municipal charter 133772
for debt purposes in tax year 2010, as long as ~~the qualifying levy~~ 133773
~~continues~~ such levies continue to be used for debt purposes. If 133774
the purpose of such a qualifying levy is changed, that levy 133775
becomes subject to the payment schedules in divisions (A)(1)(a) to 133776
(h) of this section. No payments shall be made for such levies 133777
after calendar year 2017. For the purposes of this division, taxes 133778
levied pursuant to a municipal charter refer to taxes levied 133779
pursuant to a provision of a municipal charter that permits the 133780
tax to be levied without prior voter approval. 133781

(B) Beginning in 2007, by the thirty-first day of January of 133782
each year, the tax commissioner shall review the calculation 133783
originally made under division (A) of this section of the 133784

fixed-sum levy losses determined under division (E) of section 133785
5751.20 of the Revised Code. If the commissioner determines that a 133786
fixed-sum levy that had been scheduled to be reimbursed in the 133787
current year has expired, a revised calculation for that and all 133788
subsequent years shall be made. 133789

(C) Payments to local taxing units required to be made under 133790
division (A) of this section shall be paid from the local 133791
government tangible property tax replacement fund to the county 133792
undivided income tax fund in the proper county treasury. ~~Beginning~~ 133793
~~in~~ From May 2006 through November 2010, one-seventh of the amount 133794
~~certified~~ determined under that division shall be paid by the last 133795
day of May each year, and three-sevenths shall be paid by the last 133796
day of August and October each year. From May 2011 through 133797
November 2013, one-seventh of the amount determined under that 133798
division shall be paid on or before the last day of May each year, 133799
and six-sevenths shall be paid on or before the twentieth day of 133800
November each year, except that in November 2011, the payment 133801
shall equal one hundred per cent of the amount calculated for that 133802
payment. Beginning in May 2014, one-half of the amount determined 133803
under that division shall be paid on or before the last day of May 133804
each year, and one-half shall be paid on or before the twentieth 133805
day of November each year. Within ~~forty-five~~ forty days after 133806
receipt of such payments, the county treasurer shall distribute 133807
amounts determined under division (A) of this section to the 133808
proper local taxing unit as if they had been levied and collected 133809
as taxes, and the local taxing unit shall apportion the amounts so 133810
received among its funds in the same proportions as if those 133811
amounts had been levied and collected as taxes. 133812

(D) For each of the fiscal years 2006 through ~~2019~~ 2018, if 133813
the total amount in the local government tangible property tax 133814
replacement fund is insufficient to make all payments under 133815
division (C) of this section at the times the payments are to be 133816

made, the director of budget and management shall transfer from 133817
the general revenue fund to the local government tangible property 133818
tax replacement fund the difference between the total amount to be 133819
paid and the amount in the local government tangible property tax 133820
replacement fund. For each fiscal year after ~~2019~~ 2018, at the 133821
time payments under division (A)(2) of this section are to be 133822
made, the director of budget and management shall transfer from 133823
the general revenue fund to the local government property tax 133824
replacement fund the amount necessary to make such payments. 133825

(E) On the fifteenth day of June of each year from 2006 133826
through 2018, the director of budget and management may transfer 133827
any balance in the local government tangible property tax 133828
replacement fund to the general revenue fund. 133829

(F) If all or a part of the territories of two or more local 133830
taxing units are merged, or unincorporated territory of a township 133831
is annexed by a municipal corporation, the tax commissioner shall 133832
adjust the payments made under this section to each of the local 133833
taxing units in proportion to the ~~tax value loss apportioned to~~ 133834
square mileage of the merged or annexed territory as a percentage 133835
of the total square mileage of the jurisdiction from which the 133836
territory originated, or as otherwise provided by a written 133837
agreement between the legislative authorities of the local taxing 133838
units certified to the commissioner not later than the first day 133839
of June of the calendar year in which the payment is to be made. 133840

Sec. 5751.23. (A) As used in this section: 133841

(1) "Administrative fees" means the dollar percentages 133842
allowed by the county auditor for services or by the county 133843
treasurer as fees, or paid to the credit of the real estate 133844
assessment fund, under divisions (A) and (C) of section 319.54 and 133845
division (A) of section 321.26 of the Revised Code. 133846

(2) "Administrative fee loss" means a county's loss of 133847

administrative fees due to its tax value loss, determined as 133848
follows: 133849

(a) For purposes of the determination made under division (B) 133850
of this section in the years 2006 through 2010, the administrative 133851
fee loss shall be computed by multiplying the amounts determined 133852
for all taxing districts in the county under divisions (D) and (E) 133853
of section 5751.20 of the Revised Code by nine thousand six 133854
hundred fifty-nine ten-thousandths of one per cent if total taxes 133855
collected in the county in 2004 exceeded one hundred fifty million 133856
dollars, or one and one thousand one hundred fifty-nine 133857
ten-thousandths of one per cent if total taxes collected in the 133858
county in 2004 were one hundred fifty million dollars or less; 133859

(b) For purposes of the determination under division (B) of 133860
this section in the years after 2010, the administrative fee 133861
~~losses shall be determined by multiplying loss equals~~ 133862
~~fourteen-seventeenths of the administrative fee losses loss~~ 133863
calculated for 2010 ~~by the fractions in divisions (A)(1)(b) to (i)~~ 133864
~~of section 5751.22 of the Revised Code multiplied by the following~~ 133865
percentages: 100% for 2011, 80% for 2012, 60% for 2013, 40% for 133866
2014, 20% for 2015, and 0% for 2016. 133867

(3) "Total taxes collected" means all money collected on any 133868
tax duplicate of the county, other than the estate tax duplicates. 133869
"Total taxes collected" does not include amounts received pursuant 133870
to divisions (F) and (G) of section 321.24 or section 323.156 of 133871
the Revised Code. 133872

(B) Not later than December 31, 2005, the tax commissioner 133873
shall certify to each county auditor the tax levy losses 133874
calculated under divisions (D) and (E) of section 5751.20 of the 133875
Revised Code for each school district, joint vocational school 133876
district, and local taxing unit in the county. Not later than the 133877
thirty-first day of January of 2006 through ~~2017~~ 2015, the county 133878
auditor shall determine the administrative fee loss for the county 133879

and apportion that loss ratably among the school districts, joint vocational school districts, and local taxing units on the basis of the tax levy losses certified under this division.

(C) On or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through ~~2017~~ 2015, the county treasurer shall deduct one-half of the amount apportioned to each school district, joint vocational school district, and local taxing unit from the portions of revenue payable to them.

(D) On or before each of the days prescribed for settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through ~~2017~~ 2015, the county auditor shall cause to be deposited an amount equal to one-half of the amount of the administrative fee loss in the same funds as if allowed as administrative fees.

Sec. 5751.41. (A) As used in this division:

(1) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (B) of this section, including receipts from transactions that originate or terminate within a uranium enrichment zone.

(2) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(B) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have

the uranium enrichment zone certified for the purpose of excluding 133910
qualified uranium receipts under division (F)(2)(ii) of section 133911
5751.01 of the Revised Code. The application shall include such 133912
information that the tax commissioner prescribes. Within sixty 133913
days after receiving the application, the tax commissioner shall 133914
certify the zone for that purpose if the commissioner determines 133915
that the property qualifies as a uranium enrichment zone as 133916
defined in this section or, if the tax commissioner cannot 133917
determine that the property so qualifies, deny the application or 133918
request additional information from the applicant. If the tax 133919
commissioner denies an application, the commissioner shall state 133920
the reasons for the denial. The applicant may appeal the denial of 133921
an application to the board of tax appeals pursuant to section 133922
5717.02 of the Revised Code. If the applicant files a timely 133923
appeal, the tax commissioner shall conditionally certify the 133924
applicant's property until final resolution of the appeal. If the 133925
board of tax appeals upholds the tax commissioner's determination 133926
to deny the application, the applicant shall be liable for any 133927
tax, interest, or penalties due on amounts erroneously claimed as 133928
qualifying uranium enrichments receipts, except that no amount 133929
shall be due on receipts that would have been excluded under 133930
another provision of law. 133931

Sec. 5751.50. (A) For tax periods beginning on or after 133932
January 1, 2008, a refundable credit granted by the tax credit 133933
authority under section 122.17 or division (B)(2) or (3) of 133934
section 122.171 of the Revised Code may be claimed under this 133935
chapter in the order required under section 5751.98 of the Revised 133936
Code. For purposes of making tax payments under this chapter, 133937
taxes equal to the amount of the refundable credit shall be 133938
considered to be paid to this state on the first day of the tax 133939
period. A credit claimed in calendar year 2008 may not be applied 133940
against the tax otherwise due for a tax period beginning before 133941

July 1, 2008. The refundable credit shall not be claimed against 133942
the tax otherwise due for any tax period beginning after the date 133943
on which a relocation of employment positions occurs in violation 133944
of an agreement entered into under section 122.17 or 122.171 of 133945
the Revised Code. 133946

(B) For tax periods beginning on or after January 1, 2008, a 133947
nonrefundable credit granted by the tax credit authority under 133948
division (B)(1) of section 122.171 of the Revised Code may be 133949
claimed under this chapter in the order required under section 133950
5751.98 of the Revised Code. A credit claimed in calendar year 133951
2008 may not be applied against the tax otherwise due under this 133952
chapter for a tax period beginning before July 1, 2008. The credit 133953
shall not be claimed against the tax otherwise due for any tax 133954
period beginning after the date on which a relocation of 133955
employment positions occurs in violation of an agreement entered 133956
into under section 122.17 or 122.171 of the Revised Code. No 133957
credit shall be allowed under this chapter if the credit was 133958
available against the tax imposed by section 5733.06 or 5747.02 of 133959
the Revised Code, except to the extent the credit was not applied 133960
against such tax. 133961

Sec. 5753.01. As used in Chapter 5753. of the Revised Code 133962
and for no other purpose under Title LVIII of the Revised Code: 133963

(A) "Casino facility" has the same meaning as in section 133964
3772.01 of the Revised Code. 133965

(B) "Casino gaming" has the same meaning as in section 133966
3772.01 of the Revised Code. 133967

(C) "Casino operator" has the same meaning as in section 133968
3772.01 of the Revised Code. 133969

(D) "Gross casino revenue" means the total amount of money 133970
exchanged for the purchase of chips, tokens, tickets, electronic 133971

cards, or similar objects by casino patrons, less winnings paid to 133972
wagerers. "Gross casino revenue" does not mean, and has no 133973
relation to or effect on, a casino operator's "gross receipts" as 133974
defined in division (F) of section 5751.01 of the Revised Code. 133975

(E) "Person" has the same meaning as in section 3772.01 of 133976
the Revised Code. 133977

(F) "Slot machine" has the same meaning as in section 3772.01 133978
of the Revised Code. 133979

(G) "Table game" has the same meaning as in section 3772.01 133980
of the Revised Code. 133981

(H) "Tax period" means one twenty-four-hour period with 133982
regard to which a casino operator is required to pay the tax 133983
levied by this chapter. 133984

Sec. 6101.16. When it is determined to let the work relating 133985
to the improvements for which a conservancy district was 133986
established by contract, contracts in amounts to exceed 133987
twenty-five thousand dollars shall be advertised after notice 133988
calling for bids has been published once a week for two 133989
consecutive weeks or as provided in section 7.16 of the Revised 133990
Code, with the last publication to occur at least eight days prior 133991
to the date on which bids will be accepted, in a newspaper of 133992
general circulation within the conservancy district where the work 133993
is to be done. If the bids are for a contract for the 133994
construction, demolition, alteration, repair, or reconstruction of 133995
an improvement, the board of directors of the conservancy district 133996
may let the contract to the lowest responsive and most responsible 133997
bidder who meets the requirements of section 153.54 of the Revised 133998
Code. If the bids are for a contract for any other work relating 133999
to the improvements for which a conservancy district was 134000
established, the board of directors of the district may let the 134001
contract to the lowest responsive and most responsible bidder who 134002

gives a good and approved bond, with ample security, conditioned 134003
on the carrying out of the contract. The contract shall be in 134004
writing and shall be accompanied by or refer to plans and 134005
specifications for the work to be done prepared by the chief 134006
engineer. The plans and specifications shall at all times be made 134007
and considered a part of the contract. The contract shall be 134008
approved by the board and signed by the president of the board and 134009
by the contractor and shall be executed in duplicate. In case of 134010
sudden emergency when it is necessary in order to protect the 134011
district, the advertising of contracts may be waived upon the 134012
consent of the board, with the approval of the court or a judge of 134013
the court of common pleas of the county in which the office of the 134014
district is located. 134015

Sec. 6103.04. (A) Whenever any portion of a county sewer 134016
district is incorporated as, or annexed to, a municipal 134017
corporation, the area so incorporated or annexed shall remain 134018
under the jurisdiction of the board of county commissioners for 134019
purposes of the acquisition and construction of water supply 134020
improvements until all of the improvements for the area for which 134021
a resolution described in division (A) or (E) of section 6103.05 134022
of the Revised Code has been adopted by the board have been 134023
acquired or completed or until the board has abandoned the 134024
improvements. The board, unless and until a conveyance is made to 134025
a municipal corporation in accordance with division (B) of this 134026
section, shall continue to have jurisdiction in the area so 134027
incorporated or annexed with respect to the management, 134028
maintenance, and operation of all water supply improvements so 134029
acquired or completed, or previously acquired or completed, 134030
including the right to establish rules and rates and charges for 134031
the use of, and connections to, the improvements. The 134032
incorporation or annexation of any part of a district shall not 134033
affect the legality or enforceability of any public obligations 134034

issued or incurred by the county for purposes of this chapter to 134035
provide for the payment of the cost of acquisition, construction, 134036
maintenance, or operation of any water supply improvements within 134037
the area, or the validity of any assessments levied or to be 134038
levied upon properties within the area to provide for the payment 134039
of the cost of acquisition, construction, maintenance, or 134040
operation of the improvements. 134041

(B) ~~Any~~ A board may convey, by mutual agreement, to a 134042
municipal corporation any completed water supply facilities 134043
acquired or constructed by a county under this chapter for the use 134044
of, or service of property located in, any county sewer district, 134045
or any part of those facilities, ~~that~~ to which any of the 134046
following applies: 134047

(1) The facilities are located within a the municipal 134048
corporation or within any area that is incorporated as, or annexed 134049
to, a the municipal corporation, ~~or any part of the.~~ 134050

(2) The facilities ~~that~~ provide water for a the municipal 134051
corporation or ~~such an area, may be conveyed, by mutual agreement~~ 134052
~~between the board and the municipal corporation, to~~ any area that 134053
is located within or that is incorporated as, or annexed to, the 134054
municipal corporation ~~on.~~ 134055

(3) The facilities are connected to water supply facilities 134056
of the municipal corporation. 134057

The conveyance shall be completed with terms and for 134058
consideration as may be negotiated. Upon and after the conveyance, 134059
the municipal corporation shall manage, maintain, and operate the 134060
facilities in accordance with the agreement. The board may retain 134061
the right to joint use of all or part of any facilities so 134062
conveyed for the benefit of the district. Neither the validity of 134063
any assessment levied or to be levied, nor the legality or 134064
enforceability of any public obligations issued or incurred, to 134065

provide for the payment of the cost of the acquisition, 134066
construction, maintenance, or operation of the facilities or any 134067
part of them shall be affected by the conveyance. 134068

Sec. 6103.05. (A) After the establishment of any county sewer 134069
district, the board of county commissioners, if a water supply 134070
improvement is to be undertaken, may have the county sanitary 134071
engineer prepare, or otherwise cause to be prepared, for the 134072
district, or revise as needed, a general plan of water supply that 134073
is as complete as can be developed at the time. After the general 134074
plan, in original or revised form, has been approved by the board, 134075
it may adopt a resolution generally describing the water supply 134076
improvement that is necessary to be acquired or constructed in 134077
accordance with the plan, declaring that the improvement is 134078
necessary for the preservation and promotion of the public health 134079
and welfare, and determining whether or not special assessments 134080
are to be levied and collected to pay any part of the cost of the 134081
improvement. 134082

(B) If special assessments are not to be levied and collected 134083
to pay any part of the cost of the improvement, the board, in the 134084
resolution provided for in division (A) of this section or in a 134085
subsequent resolution, including a resolution authorizing the 134086
issuance or incurrence of public obligations for the improvement, 134087
may authorize the improvement and the expenditure of the funds 134088
required for its acquisition or construction and may proceed with 134089
the improvement without regard to the procedures otherwise 134090
required by divisions (C), (D), and (E) of this section and by 134091
sections 6103.06, 6103.07, and 6117.09 to 6117.24 of the Revised 134092
Code. Those procedures shall be required only for improvements for 134093
which special assessments are to be levied and collected. 134094

(C) If special assessments are to be levied and collected 134095
pursuant to a determination made in the resolution provided for in 134096

division (A) of this section or in a subsequent resolution, the 134097
procedures referred to in division (B) of this section as being 134098
required for that purpose shall apply, and the board may have the 134099
county sanitary engineer prepare, or otherwise cause to be 134100
prepared, detailed plans, specifications, and an estimate of cost 134101
for the improvement, together with a tentative assessment of the 134102
cost based on the estimate. The tentative assessment shall be for 134103
the information of property owners and shall not be levied or 134104
certified to the county auditor for collection. The detailed 134105
plans, specifications, estimate of cost, and tentative assessment, 134106
if approved by the board, shall be carefully preserved in the 134107
office of the board or the county sanitary engineer and shall be 134108
open to the inspection of all persons interested in the 134109
improvement. 134110

(D) After the board's approval of the detailed plans, 134111
specifications, estimate of cost, and tentative assessment, and at 134112
least twenty-four days before adopting a resolution pursuant to 134113
division (E) of this section, the board, except to the extent that 134114
appropriate waivers of notice are obtained from affected owners, 134115
shall cause to be sent a notice of its intent to adopt a 134116
resolution to each owner of property proposed to be assessed that 134117
is listed on the records of the county auditor for current 134118
agricultural use value taxation pursuant to section 5713.31 of the 134119
Revised Code and that is not located in an agricultural district 134120
established under section 929.02 of the Revised Code. The notice 134121
shall satisfy all of the following: 134122

(1) Be sent by first class or certified mail; 134123

(2) Specify the proposed date of the adoption of the 134124
resolution; 134125

(3) Contain a statement that the improvement will be financed 134126
in whole or in part by special assessments and that all properties 134127
not located in an agricultural district established pursuant to 134128

section 929.02 of the Revised Code may be subject to a special 134129
assessment; 134130

(4) Contain a statement that an agricultural district may be 134131
established by filing an application with the county auditor. 134132

If it appears, by the return of the mailed notices or by 134133
other means, that one or more of the affected owners cannot be 134134
found or are not served by the mailed notice, the board shall 134135
cause the notice to be published once in a newspaper of general 134136
circulation in the county not later than ten days before the 134137
adoption of the resolution. 134138

(E) After complying with divisions (A), (C), and (D) of this 134139
section, the board may adopt a resolution declaring that the 134140
improvement, which shall be described as to its nature and its 134141
location, route, and termini, is necessary for the preservation 134142
and promotion of the public health and welfare, referring to the 134143
plans, specifications, estimate of cost, and tentative assessment, 134144
stating the place where they are on file and may be examined, and 134145
providing that the entire cost or a lesser designated part of the 134146
cost will be specially assessed against the benefited properties 134147
within the district and that any balance will be paid by the 134148
county at large from other available funds. The resolution also 134149
shall contain a description of the boundaries of that part of the 134150
district to be assessed and shall designate a time and place for 134151
objections to the improvement, to the tentative assessment, or to 134152
the boundaries of the assessment district to be heard by the 134153
board. The date of that hearing shall be not less than twenty-four 134154
days after the date of the first publication of the notice of the 134155
hearing required by this division. 134156

The board shall cause a notice of the hearing to be published 134157
once a week for two consecutive weeks in a newspaper of general 134158
circulation in the county or as provided in section 7.16 of the 134159
Revised Code, and on or before the date of the second publication, 134160

it shall cause to be sent by first class or certified mail a copy 134161
of the notice to every owner of property to be assessed for the 134162
improvement whose address is known. 134163

The notice shall set forth the time and place of the hearing, 134164
a summary description of the proposed improvement, including its 134165
general route and termini, a summary description of the area 134166
constituting the assessment district, and the place where the 134167
plans, specifications, estimate of cost, and tentative assessment 134168
are on file and may be examined. Each mailed notice also shall 134169
include a statement that the property of the addressee will be 134170
assessed for the improvement. The notice also shall be sent by 134171
first class or certified mail, on or before the date of the second 134172
publication, to the clerk, or the official discharging the duties 134173
of a clerk, of any municipal corporation any part of which lies 134174
within the assessment district and shall state whether or not any 134175
property belonging to the municipal corporation is to be assessed 134176
and, if so, shall identify that property. 134177

At the hearing, or at any adjournment of the hearing, of 134178
which no further published or mailed notice need be given, the 134179
board shall hear all parties whose properties are proposed to be 134180
assessed. Written objections to or endorsements of the proposed 134181
improvement, its character and termini, the boundaries of the 134182
assessment district, or the tentative assessment shall be received 134183
by the board for a period of five days after the completion of the 134184
hearing, and no action shall be taken by the board in the matter 134185
until after that period has elapsed. The minutes of the hearing 134186
shall be entered on the journal of the board showing the persons 134187
who appear in person or by attorney, and all written objections 134188
shall be preserved and filed in the office of the board. 134189

Sec. 6103.06. After the expiration of the period of five days 134190
provided in section 6103.05 of the Revised Code for the filing of 134191

written objections, the board of county commissioners shall 134192
determine whether it will proceed with the construction of the 134193
proposed improvement. If it decides to proceed therewith, the 134194
board shall ratify or amend the plans for the improvement, the 134195
character and termini thereof, the boundaries of the assessment 134196
district, and the tentative assessment, and may cause such 134197
revision of plans, boundaries, or assessments as is necessary to 134198
be made by the county sanitary engineer. If the boundaries of the 134199
assessment district are amended so as to include any property not 134200
included within the boundaries as established by the resolution of 134201
necessity, provided for in section 6103.05 of the Revised Code, 134202
the owners of all such property shall be notified by mail if their 134203
addresses are known, and notice shall be published once a week for 134204
two consecutive weeks in a newspaper of general circulation within 134205
the county or as provided in section 7.16 of the Revised Code, 134206
that such amendments have been adopted and that a hearing will be 134207
given by the board at a time and place stated in such notice at 134208
which all persons interested will be heard by the board. The date 134209
of such hearing shall be not less than twenty-four days after the 134210
first publication of such notice, and the hearing shall be 134211
conducted and records kept in the same manner as the first 134212
hearing. Five days shall be allowed for the filing of written 134213
objections as provided in section 6103.05 of the Revised Code for 134214
the first hearing and after the expiration of such five day period 134215
the board shall ratify the plans for the improvement, the 134216
character and termini thereof, the boundaries of the assessment 134217
district, and the tentative assessment, or shall further amend the 134218
same. If the boundaries of the assessment district are amended so 134219
as to include any property not included in the assessment district 134220
as originally established or previously amended, further notice 134221
and hearing shall be given to the owners of such property in the 134222
same manner as for the first amendment of such boundaries, and the 134223
same procedure shall be repeated until all property owners 134224

affected have been given an opportunity to be heard. If the owners 134225
of all property added to an assessment district by amendment of 134226
the original boundaries thereof waive objection to such amendment 134227
in writing, no further notice or hearing shall be given. After the 134228
board has ratified the plans for the improvement, the character 134229
and termini thereof, the boundaries of the assessment district, 134230
and the tentative assessment, either as originally presented or as 134231
amended, and if it decides to proceed therewith, the board shall 134232
adopt a resolution, to be known as the improvement resolution. 134233
Said improvement resolution shall declare the determination of 134234
such board to proceed with the construction of the improvement 134235
provided for in the resolution of necessity, in accordance with 134236
the plans and specification provided for such improvement, as 134237
ratified or amended, and whether bonds or certificates of 134238
indebtedness shall be issued in anticipation of the collection of 134239
special assessments, or that money in the county treasury 134240
unappropriated for any other purpose shall be appropriated to pay 134241
for said improvement. 134242

Sec. 6103.081. (A) After the establishment of any county 134243
sewer district, the board of county commissioners may determine by 134244
resolution that it is necessary to provide water supply 134245
improvements and to maintain and operate the improvements within 134246
the district or a designated portion of the district, that the 134247
improvements, which shall be generally described in the 134248
resolution, shall be constructed, that funds are required to pay 134249
the preliminary costs of the improvements to be incurred prior to 134250
the commencement of the proceedings for their construction, and 134251
that those funds shall be provided in accordance with this 134252
section. 134253

(B) Prior to the adoption of the resolution, the board shall 134254
give notice of its pendency and of the proposed determination of 134255
the necessity of the improvements generally described in the 134256

resolution. The notice shall set forth a description of the 134257
properties to be benefited by the improvements and the time and 134258
place of a hearing of objections to and endorsements of the 134259
improvements. The notice shall be given either by publication in a 134260
newspaper of general circulation in the county once a week for two 134261
consecutive weeks, by publication as provided in section 7.16 of 134262
the Revised Code, or by mailing a copy of the notice by first 134263
class or certified mail to the owners of the properties proposed 134264
to be assessed at their respective tax mailing addresses, or by 134265
~~both~~ a combination of these manners, the first publication to be 134266
made or the mailing to occur at least two weeks prior to the date 134267
set for the hearing. At the hearing, or at any adjournment of the 134268
hearing, of which no further published or mailed notice need be 134269
given, the board shall hear all persons whose properties are 134270
proposed to be assessed and the evidence it considers to be 134271
necessary. The board then shall determine the necessity of the 134272
proposed improvements and whether the improvements shall be made 134273
by the board and, if they are to be made, shall direct the 134274
preparation of tentative assessments upon the benefited properties 134275
and by whom they shall be prepared. 134276

(C) In order to obtain funds for the preparation of a general 134277
or revised general plan of water supply for the district or part 134278
of the district, for the preparation of the detailed plans, 134279
specifications, estimate of cost, and tentative assessment for the 134280
proposed improvements, and for the cost of financing and legal 134281
services incident to the preparation of all of those plans and a 134282
plan of financing the proposed improvements, the board may levy 134283
upon the properties to be benefited in the district a preliminary 134284
assessment apportioned according to benefits or to tax valuation 134285
or partly by one method and partly by the other method as the 134286
board may determine. The assessments shall be in the amount 134287
determined to be necessary to obtain funds for the general and 134288
detailed plans and the cost of financing and legal services and 134289

shall be payable in the number of years that the board shall 134290
determine, not to exceed twenty years, together with interest on 134291
any public obligations that may be issued or incurred in 134292
anticipation of the collection of the assessments. 134293

(D) The board shall have power at any time to levy additional 134294
assessments according to benefits or to tax valuation or partly by 134295
one method and partly by the other method as the board may 134296
determine for the purposes described in division (C) of this 134297
section upon the benefited properties to complete the payment of 134298
the costs described in division (C) of this section or to pay the 134299
cost of any additional plans, specifications, estimate of cost, or 134300
tentative assessment and the cost of financing and legal services 134301
incident to the preparation of those plans and the plan of 134302
financing, which additional assessments shall be payable in the 134303
number of years that the board shall determine, not to exceed 134304
twenty years, together with interest on any public obligations 134305
that may be issued or incurred in anticipation of the collection 134306
of the additional assessments. 134307

(E) Prior to the adoption of a resolution levying assessments 134308
under this section, the board shall give notice either by one 134309
publication in a newspaper of general circulation in the county, 134310
or by mailing a copy of the notice by first class or certified 134311
mail to the owners of the properties proposed to be assessed at 134312
their respective tax mailing addresses, or by both manners, the 134313
publication to be made or the mailing to occur at least ten days 134314
prior to the date of the meeting at which the resolution shall be 134315
taken up for consideration; that notice shall state the time and 134316
place of the meeting at which the resolution is to be considered. 134317
At the time and place of the meeting, or at any adjournment of the 134318
meeting, of which no further published or mailed notice need be 134319
given, the board shall hear all persons whose properties are 134320
proposed to be assessed, shall correct any errors and make any 134321

revisions that appear to be necessary or just, and then may adopt 134322
a resolution levying upon the properties determined to be 134323
benefited the assessments as so corrected and revised. 134324

The assessments levied by the resolution shall be certified 134325
to the county auditor for collection in the same manner as taxes 134326
in the year or years in which they are payable. 134327

(F) Upon the adoption of the resolution described in division 134328
(E) of this section, no further action shall be taken or work done 134329
until ten days have elapsed. If, at the expiration of that period, 134330
no appeal has been effected by any property owner as provided in 134331
this division, the action of the board shall be final. If, at the 134332
end of that ten days, any owner of property to be assessed for the 134333
improvements has effected an appeal, no further action shall be 134334
taken and no work done in connection with the improvements under 134335
the resolution until the matters appealed from have been disposed 134336
of in court. 134337

Any owner of property to be assessed may appeal as provided 134338
and upon the grounds stated in sections 6117.09 to 6117.24 of the 134339
Revised Code. 134340

If no appeal has been perfected or if on appeal the 134341
resolution of the board is sustained, the board may authorize and 134342
enter into contracts to carry out the purpose for which the 134343
assessments have been levied without the prior issuance of notes, 134344
provided that the payments under those contracts do not fall due 134345
prior to the time by which the assessments are to be collected. 134346
The board may issue and sell bonds with a maximum maturity of 134347
twenty years in anticipation of the collection of the assessments 134348
and may issue notes in anticipation of the issuance of the bonds, 134349
which notes and bonds, as public obligations, shall be issued and 134350
sold as provided in Chapter 133. of the Revised Code. 134351

Sec. 6103.31. (A) If the board of county commissioners 134352

determines by resolution that the best interests of the county and 134353
the users of water supply facilities of the county serving a sewer 134354
district so require, the board may sell or otherwise dispose of 134355
the facilities to another public agency or a person. The 134356
resolution declaring the necessity of that disposition shall 134357
recite the reasons for the sale or other disposition and shall 134358
establish any conditions or terms that the board may impose, 134359
including, but not limited to, a minimum sales price if a sale is 134360
proposed, a requirement for the submission by bidders of the 134361
schedule of water rates and charges initially proposed to be paid 134362
by the users of the facilities, and other pertinent conditions or 134363
terms relating to the sale or other disposition. The resolution 134364
also shall designate a time and place for the hearing of 134365
objections to the sale or other disposition by the board. Notice 134366
of the adoption of the resolution and the time and place of the 134367
hearing shall be published as provided in section 7.16 of the 134368
Revised Code, or once a week for two consecutive weeks, in a 134369
newspaper of general circulation in the sewer district and in the 134370
county. The public hearing on the sale or other disposition shall 134371
be held not less than twenty-four days following the date of first 134372
publication of the notice. A copy of the notice also shall be sent 134373
by first class or certified mail, on or before the date of the 134374
second publication, to any public agency within the area served by 134375
the facilities. At the public hearing, or at any adjournment of 134376
it, of which no further published or mailed notice need be given, 134377
the board shall hear all interested parties. A period of five days 134378
shall be given following the completion of the hearing for the 134379
filing of written objections by any interested persons or public 134380
agencies to the sale or other disposition, after which the board 134381
shall consider any objections and by resolution determine whether 134382
or not to proceed with the sale or other disposition. If the board 134383
determines to proceed with the sale or other disposition, it shall 134384

receive bids after advertising once a week for four consecutive 134385
weeks in a newspaper of general circulation in the county or as 134386
provided in section 7.16 of the Revised Code and, subject to the 134387
right of the board to reject any or all bids, may make an award to 134388
a responsible bidder whose proposal is determined by the board to 134389
be in the best interests of the county and the users of the 134390
facilities. 134391

(B) A conveyance of water supply facilities by a county to a 134392
municipal corporation, in accordance with division (B) of section 134393
6103.04 of the Revised Code, may be made without regard to 134394
division (A) of this section. 134395

Sec. 6105.131. The board of directors of a watershed district 134396
may designate a specific reach in the channel of any watercourse 134397
within the territorial boundaries of the district as a restricted 134398
channel, when the construction or alteration of structures or 134399
obstructions within such channel will restrict its capacity so as 134400
to constitute an unreasonable hazard to the safety of life and 134401
property in times of flood, or designate any area outside the 134402
banks of a restricted channel as a restricted floodway when such 134403
area is reasonably necessary to the efficiency of a restricted 134404
channel as a means of carrying off flood waters. Such designation 134405
of a restricted channel or restricted floodway shall be made in 134406
the following manner: 134407

(A) The board shall adopt a resolution stating its intent to 134408
designate a specific reach in a channel of a watercourse as a 134409
restricted channel or a specific area as a restricted floodway. 134410
Such resolution shall contain a description of the reach of the 134411
channel to be designated as a restricted channel or description of 134412
the area to be designated as a restricted floodway and the reasons 134413
of the board for making such designation. 134414

(B) The board shall cause such resolution to be published as 134415
provided in section 7.16 of the Revised Code or once a week for 134416
two consecutive weeks in a newspaper of general circulation in the 134417
county or counties in which such restricted channel or restricted 134418
floodway is located, together with a notice of the time and place 134419
where a hearing will be held by the board on the question of 134420
designating such channel as a restricted channel or such area as a 134421
restricted floodway ~~and~~. The board also shall give not less than 134422
ten days notice of said hearing by first class mail to all owners 134423
of property within the area proposed to be designated as a 134424
restricted floodway. The date of such hearing shall be not less 134425
than ten days after the completion of the publication provided for 134426
by this division. 134427

(C) The board shall hold a hearing at the time and place 134428
designated in the notice published under division (B) of this 134429
section at which time indorsements of and objections to the 134430
designation of such channel as a restricted channel or such area 134431
as a restricted floodway shall be heard. 134432

(D) The board may, after the completion of the hearing under 134433
division (C) of this section and after finding that the 134434
construction or alteration of structures or obstructions or 134435
relocation, alteration, restriction, deposit, or encroachment 134436
within the designated reach of such channel will restrict its 134437
capacity so as to constitute an unreasonable hazard to the safety 134438
of life and property in times of flood, adopt a resolution 134439
designating the reach of the channel described in the resolution 134440
of intent adopted under division (A) of this section or any 134441
modification thereof as a restricted channel. 134442

(E) In like manner the board may, after completion of a 134443
hearing under division (C) of this section and after finding that 134444
the construction or alteration of structures or obstructions or 134445
change of grade within a designated floodway area will restrict 134446

its capacity or efficiency as a means of carrying off flood water 134447
so as to constitute an unreasonable hazard to the safety of life 134448
and property in times of flood, adopt a resolution designating the 134449
area described in the resolution of intent adopted under division 134450
(A) of this section, or any modification thereof, as a restricted 134451
floodway. 134452

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 134453
of this section, on and after January 1, 1994, no person shall 134454
operate or maintain a public water system in this state without a 134455
license issued by the director of environmental protection. A 134456
person who operates or maintains a public water system on January 134457
1, 1994, shall obtain an initial license under this section in 134458
accordance with the following schedule: 134459

(1) If the public water system is a community water system, 134460
not later than January 31, 1994; 134461

(2) If the public water system is not a community water 134462
system and serves a nontransient population, not later than 134463
January 31, 1994; 134464

(3) If the public water system is not a community water 134465
system and serves a transient population, not later than January 134466
31, 1995. 134467

A person proposing to operate or maintain a new public water 134468
system after January 1, 1994, in addition to complying with 134469
section 6109.07 of the Revised Code and rules adopted under it, 134470
shall submit an application for an initial license under this 134471
section to the director prior to commencing operation of the 134472
system. 134473

A license or license renewal issued under this section shall 134474
be renewed annually. Such a license or license renewal shall 134475
expire on the thirtieth day of January in the year following its 134476

issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2012~~ 2014, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the

public water system was not operated in substantial compliance 134508
with this chapter and rules adopted under it. The director shall 134509
adopt, and may amend and rescind, rules in accordance with Chapter 134510
119. of the Revised Code governing such suspensions and 134511
revocations. 134512

(D)(1) As used in division (D) of this section, "church" 134513
means a fellowship of believers, congregation, society, 134514
corporation, convention, or association that is formed primarily 134515
or exclusively for religious purposes and that is not formed or 134516
operated for the private profit of any person. 134517

(2) This section does not apply to a church that operates or 134518
maintains a public water system solely to provide water for that 134519
church or for a campground that is owned by the church and 134520
operated primarily or exclusively for members of the church and 134521
their families. A church that, on or before March 5, 1996, has 134522
obtained a license under this section for such a public water 134523
system need not obtain a license renewal under this section. 134524

(E) This section does not apply to any public or nonpublic 134525
school that meets minimum standards of the state board of 134526
education that operates or maintains a public water system solely 134527
to provide water for that school. 134528

(F) The environmental protection agency shall collect well 134529
log filing fees on behalf of the division of soil and water 134530
resources in the department of natural resources in accordance 134531
with section 1521.05 of the Revised Code and rules adopted under 134532
it. The fees shall be submitted to the division quarterly as 134533
provided in those rules. 134534

Sec. 6111.038. There is hereby created in the state treasury 134535
the surface water protection fund, consisting of moneys 134536
distributed to it. The director of environmental protection shall 134537
use moneys in the fund solely for administration and 134538

implementation of surface water protection programs, including at 134539
least programs required under the "Federal Water Pollution Control 134540
Act" and programs necessary to carry out the purposes of this 134541
chapter. Those programs shall include at least the development of 134542
water quality standards; the development of wasteload allocations; 134543
the establishment of water quality-based effluent limits; the 134544
monitoring and analysis of chemical, physical, and biological 134545
surface water quality; the issuance, modification, and renewal of 134546
NPDES permits and permits to install; the ensurance of compliance 134547
with permit conditions; the management and oversight of 134548
pretreatment programs; the provision of technical assistance to 134549
publicly owned treatment works; and the administration of the 134550
water pollution control loan fund created in section 6111.036 of 134551
the Revised Code. 134552

~~Moneys in the fund shall not be used to meet any state 134553
matching requirements that are necessary to obtain federal grants. 134554~~

Sec. 6111.044. Upon receipt of an application for an 134555
injection well drilling permit, an injection well operating 134556
permit, a renewal of an injection well operating permit, or a 134557
modification of an injection well drilling permit, operating 134558
permit, or renewal of an operating permit, the director of 134559
environmental protection shall determine whether the application 134560
is complete and demonstrates that the activities for which the 134561
permit, renewal permit, or modification is requested will comply 134562
with the Federal Water Pollution Control Act and regulations 134563
adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 134564
(1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted 134565
under it; and this chapter and the rules adopted under it. If the 134566
application demonstrates that the proposed activities will not 134567
comply or will pose an unreasonable risk of inducing seismic 134568
activity, inducing geologic fracturing, or contamination of an 134569
underground source of drinking water, the director shall deny the 134570

application. If the application does not make the required 134571
demonstrations, the director shall return it to the applicant with 134572
an indication of those matters about which a required 134573
demonstration was not made. If the director determines that the 134574
application makes the required demonstrations, the director shall 134575
transmit copies of the application and all of the accompanying 134576
maps, data, samples, and information to the chief of the division 134577
of ~~mineral~~ oil and gas resources management, the chief of the 134578
division of geological survey, ~~and~~ the chief of the division of 134579
soil and water resources, and, if the well is or is to be located 134580
in a coal bearing township designated under section 1561.06 of the 134581
Revised Code, the chief of the division of mineral resources 134582
management in the department of natural resources. 134583

The chief of the division of geological survey shall comment 134584
upon the application if the chief determines that the proposed 134585
well or injection will present an unreasonable risk of loss or 134586
damage to valuable mineral resources. If the chief submits 134587
comments on the application, those comments shall be accompanied 134588
by an evaluation of the geological factors upon which the comments 134589
are based, including fractures, faults, earthquake potential, and 134590
the porosity and permeability of the injection zone and confining 134591
zone, and by the documentation supporting the evaluation. The 134592
director shall take into consideration the chief's comments, and 134593
the accompanying evaluation of geologic factors and supporting 134594
documentation, when considering the application. The director 134595
shall provide written notice to the chief of the director's 134596
decision on the application and, if the chief's comments are not 134597
included in the permit, renewal permit, or modification, of the 134598
director's rationale for not including them. 134599

The chief of the division of ~~mineral~~ oil and gas resources 134600
management shall comment upon the application if the chief 134601
determines that the proposed well or injection will present an 134602

unreasonable risk that waste or contamination of recoverable oil 134603
or gas in the earth will occur. If the chief submits comments on 134604
the application, those comments shall be accompanied by an 134605
evaluation of the oil or gas reserves that, in the best 134606
professional judgment of the chief, are recoverable and will be 134607
adversely affected by the proposed well or injection, and by the 134608
documentation supporting the evaluation. The director shall take 134609
into consideration the chief's comments, and the accompanying 134610
evaluation and supporting documentation, when considering the 134611
application. The director shall provide written notice to the 134612
chief of the director's decision on the application and, if the 134613
chief's comments are not included in the permit, renewal permit, 134614
or modification, of the director's rationale for not including 134615
them. 134616

The chief of the division of soil and water resources shall 134617
assist the director in determining whether all underground sources 134618
of drinking water in the area of review of the proposed well or 134619
injection have been identified and correctly delineated in the 134620
application. If the application fails to identify or correctly 134621
delineate an underground source of drinking water, the chief shall 134622
provide written notice of that fact to the director. 134623

The chief of the division of mineral resources management 134624
~~also~~ shall review the application as follows: 134625

If the application concerns the drilling or conversion of a 134626
well or the injection into a well that is not or is not to be 134627
located within five thousand feet of the excavation and workings 134628
of a mine, the chief of the division of mineral resources 134629
management shall note upon the application that it has been 134630
examined by the division of mineral resources management, retain a 134631
copy of the application and map, and immediately return a copy of 134632
the application to the director. 134633

If the application concerns the drilling or conversion of a 134634

well or the injection into a well that is or is to be located 134635
within five thousand feet, but more than five hundred feet from 134636
the surface excavations and workings of a mine, the chief of the 134637
division of mineral resources management immediately shall notify 134638
the owner or lessee of the mine that the application has been 134639
filed and send to the owner or lessee a copy of the map 134640
accompanying the application setting forth the location of the 134641
well. The chief of the division of mineral resources management 134642
shall note on the application that the notice has been sent to the 134643
owner or lessee of the mine, retain a copy of the application and 134644
map, and immediately return a copy of the application to the 134645
director with the chief's notation on it. 134646

If the application concerns the drilling or conversion of a 134647
well or the injection into a well that is or is to be located 134648
within five thousand feet of the underground excavations and 134649
workings of a mine or within five hundred feet of the surface 134650
excavations and workings of a mine, the chief of the division of 134651
mineral resources management immediately shall notify the owner or 134652
lessee of the mine that the application has been filed and send to 134653
the owner or lessee a copy of the map accompanying the application 134654
setting forth the location of the well. If the owner or lessee 134655
objects to the application, the owner or lessee shall notify the 134656
chief of the division of mineral resources management of the 134657
objection, giving the reasons, within six days after the receipt 134658
of the notice. If the chief of the division of mineral resources 134659
management receives no objections from the owner or lessee of the 134660
mine within ten days after the receipt of the notice by the owner 134661
or lessee, or if in the opinion of the chief of the division of 134662
mineral resources management the objections offered by the owner 134663
or lessee are not sufficiently well founded, the chief shall 134664
retain a copy of the application and map and return a copy of the 134665
application to the director with any applicable notes concerning 134666
it. 134667

If the chief of the division of mineral resources management 134668
receives an objection from the owner or lessee of the mine as to 134669
the application, within ten days after receipt of the notice by 134670
the owner or lessee, and if in the opinion of the chief the 134671
objection is well founded, the chief shall disapprove the 134672
application and immediately return it to the director together 134673
with the chief's reasons for the disapproval. The director 134674
promptly shall notify the applicant for the permit, renewal 134675
permit, or modification of the disapproval. The applicant may 134676
appeal the disapproval of the application by the chief of the 134677
division of mineral resources management to the reclamation 134678
commission created under section 1513.05 of the Revised Code, and 134679
the commission shall hear the appeal in accordance with section 134680
1513.13 of the Revised Code. The appeal shall be filed within 134681
thirty days from the date the applicant receives notice of the 134682
disapproval. No comments concerning or disapproval of an 134683
application shall be delayed by the chief of the division of 134684
mineral resources management for more than fifteen days from the 134685
date of sending of notice to the mine owner or lessee as required 134686
by this section. 134687

The director shall not approve an application for an 134688
injection well drilling permit, an injection well operating 134689
permit, a renewal of an injection well operating permit, or a 134690
modification of an injection well drilling permit, operating 134691
permit, or renewal of an operating permit for a well that is or is 134692
to be located within three hundred feet of any opening of any mine 134693
used as a means of ingress, egress, or ventilation for persons 134694
employed in the mine, nor within one hundred feet of any building 134695
or flammable structure connected with the mine and actually used 134696
as a part of the operating equipment of the mine, unless the chief 134697
of the division of mineral resources management determines that 134698
life or property will not be endangered by drilling and operating 134699
the well in that location. 134700

Upon review by the chief of the division of ~~mineral oil and~~ 134701
gas resources management, the chief of the division of geological 134702
survey, and the chief of the division of soil and water resources, 134703
and if the chief of the division of mineral resources management 134704
has not disapproved the application, the director shall issue a 134705
permit, renewal permit, or modification with any terms and 134706
conditions that may be necessary to comply with the Federal Water 134707
Pollution Control Act and regulations adopted under it; the "Safe 134708
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as 134709
amended, and regulations adopted under it; and this chapter and 134710
the rules adopted under it. The director shall not issue a permit, 134711
renewal permit, or modification to an applicant if the applicant 134712
or persons associated with the applicant have engaged in or are 134713
engaging in a substantial violation of this chapter that is 134714
endangering or may endanger human health or the environment or if, 134715
in the case of an applicant for an injection well drilling permit, 134716
the applicant, at the time of applying for the permit, did not 134717
hold an injection well operating permit or renewal of an injection 134718
well drilling permit and failed to demonstrate sufficient 134719
expertise and competency to operate the well in compliance with 134720
the applicable provisions of this chapter. 134721

If the director receives a disapproval from the chief of the 134722
division of mineral resources management regarding an application 134723
for an injection well drilling or operating permit, renewal 134724
permit, or modification, if required, the director shall issue an 134725
order denying the application. 134726

The director need not issue a proposed action under section 134727
3745.07 of the Revised Code or hold an adjudication hearing under 134728
that section and Chapter 119. of the Revised Code before issuing 134729
or denying a permit, renewal permit, or modification of a permit 134730
or renewal permit. Before issuing or renewing a permit to drill or 134731
operate a class I injection well or a modification of it, the 134732

director shall propose the permit, renewal permit, or modification 134733
in draft form and shall hold a public hearing to receive public 134734
comment on the draft permit, renewal permit, or modification. At 134735
least fifteen days before the public hearing on a draft permit, 134736
renewal permit, or modification, the director shall publish notice 134737
of the date, time, and location of the public hearing in at least 134738
one newspaper of general circulation serving the area where the 134739
well is or is to be located. The proposing of such a draft permit, 134740
renewal permit, or modification does not constitute the issuance 134741
of a proposed action under section 3745.07 of the Revised Code, 134742
and the holding of the public hearing on such a draft permit, 134743
renewal permit, or modification does not constitute the holding of 134744
an adjudication hearing under that section and Chapter 119. of the 134745
Revised Code. Appeals of orders other than orders of the chief of 134746
the division of mineral resources management shall be taken under 134747
sections 3745.04 to 3745.08 of the Revised Code. 134748

The director may order that an injection well drilling permit 134749
or an injection well operating permit or renewal permit be 134750
suspended and that activities under it cease after determining 134751
that those activities are occurring in violation of law, rule, 134752
order, or term or condition of the permit. Upon service of a copy 134753
of the order upon the permit holder or the permit holder's 134754
authorized agent or assignee, the permit and activities under it 134755
shall be suspended immediately without prior hearing and shall 134756
remain suspended until the violation is corrected and the order of 134757
suspension is lifted. If a violation is the second within a 134758
one-year period, the director, after a hearing, may revoke the 134759
permit. 134760

The director may order that an injection well drilling permit 134761
or an injection well operating permit or renewal permit be 134762
suspended and that activities under it cease if the director has 134763
reasonable cause to believe that the permit would not have been 134764

issued if the information available at the time of suspension had 134765
been available at the time a determination was made by one of the 134766
agencies acting under authority of this section. Upon service of a 134767
copy of the order upon the permit holder or the permit holder's 134768
authorized agent or assignee, the permit and activities under it 134769
shall be suspended immediately without prior hearing, but a permit 134770
may not be suspended for that reason without prior hearing unless 134771
immediate suspension is necessary to prevent waste or 134772
contamination of oil or gas, comply with the Federal Water 134773
Pollution Control Act and regulations adopted under it; the "Safe 134774
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as 134775
amended, and regulations adopted under it; and this chapter and 134776
the rules adopted under it, or prevent damage to valuable mineral 134777
resources, prevent contamination of an underground source of 134778
drinking water, or prevent danger to human life or health. If 134779
after a hearing the director determines that the permit would not 134780
have been issued if the information available at the time of the 134781
hearing had been available at the time a determination was made by 134782
one of the agencies acting under authority of this section, the 134783
director shall revoke the permit. 134784

When a permit has been revoked, the permit holder or other 134785
person responsible for it immediately shall plug the well in the 134786
manner required by the director. 134787

The director may issue orders to prevent or require cessation 134788
of violations of this section, section 6111.043, 6111.045, 134789
6111.046, or 6111.047 of the Revised Code, rules adopted under any 134790
of those sections, and terms or conditions of permits issued under 134791
any of them. The orders may require the elimination of conditions 134792
caused by the violation. 134793

Sec. 6111.46. (A) The environmental protection agency shall 134794
exercise general supervision of the treatment and disposal of 134795

sewage and industrial wastes and the operation and maintenance of 134796
works or means installed for the collection, treatment, and 134797
disposal of sewage and industrial wastes. Such general supervision 134798
shall apply to all features of construction, operation, and 134799
maintenance of the works or means that do or may affect the proper 134800
treatment and disposal of sewage and industrial wastes. 134801

(B)(1) The agency shall investigate the works or means 134802
employed in the collection, treatment, and disposal of sewage and 134803
industrial wastes whenever considered necessary or whenever 134804
requested to do so by local health officials and may issue and 134805
enforce orders and shall adopt rules governing the operation and 134806
maintenance of the works or means of treatment and disposal of 134807
such sewage and industrial wastes. In adopting rules under this 134808
section, the agency shall establish standards governing the 134809
construction, operation, and maintenance of the works or means of 134810
collection, treatment, and disposal of sewage that is generated at 134811
recreational vehicle parks, recreation camps, combined park-camps, 134812
and temporary park-camps that are separate from such standards 134813
relative to manufactured home parks. 134814

(2) As used in division (B)(1) of this section: 134815

(a) "Manufactured home parks" has the same meaning as in 134816
section ~~3733.01~~ 4781.01 of the Revised Code. 134817

(b) "Recreational vehicle parks," "recreation camps," 134818
"combined park-camps," and "temporary park-camps" have the same 134819
meanings as in section 3729.01 of the Revised Code. 134820

(C) The agency may require the submission of records and data 134821
of construction, operation, and maintenance, including plans and 134822
descriptions of existing works or means of treatment and disposal 134823
of such sewage and industrial wastes. When the agency requires the 134824
submission of such records or information, the public officials or 134825
person, firm, or corporation having the works in charge shall 134826

comply promptly with that order. 134827

Sec. 6115.01. As used in sections 6115.01 to 6115.79 of the 134828
Revised Code: 134829

(A) "Publication" means once a week for three consecutive 134830
weeks in ~~each of two newspapers of different political~~ 134831
~~affiliations, if there are such newspapers, and a newspaper~~ 134832
of general circulation in the counties wherein publication is to be 134833
made or as provided in section 7.16 of the Revised Code. 134834
Publication need not be made on the same day of the week in each 134835
of the ~~three~~ weeks; but not less than fourteen days, excluding the 134836
day of first publication, shall intervene between the first 134837
publication and the last publication. Publication shall be 134838
complete on the date of the last publication. 134839

(B) "Person" means person, firm, partnership, association, or 134840
corporation, other than county, township, municipal corporation, 134841
or other political subdivision. 134842

(C) "Public corporation" means counties, townships, municipal 134843
corporations, school districts, road districts, ditch districts, 134844
park districts, levee districts, and all other governmental 134845
agencies clothed with the power of levying general or special 134846
taxes. 134847

(D) "Court" means the court of common pleas in which the 134848
petition for the organization of a sanitary district was filed and 134849
granted. In the case of a district lying in more than one county, 134850
"court" means the court comprised of one judge of the court of 134851
common pleas from each county as provided in section 6115.04 of 134852
the Revised Code. 134853

(E) "Land" or "property," unless otherwise specified, means 134854
real property, as "real property" is used in and defined by the 134855
laws of this state, and embraces all railroads, tramroads, roads, 134856

electric railroads, street and interurban railroads, streets and 134857
street improvements, telephones, telegraph, and transmission 134858
lines, gas, sewerage, and water systems, pipelines and 134859
rights-of-way of public service corporations, and all other real 134860
property whether public or private. 134861

(F) "Board of directors" applies to the duties of one 134862
director appointed in accordance with section 6115.10 of the 134863
Revised Code in a district lying wholly within one county. 134864

(G) "Biting arthropods" include mosquitoes, ticks, biting 134865
flies, or other biting arthropods capable of transmitting disease 134866
to humans. 134867

(H) "Bond" or "bonds" means bonds, notes, certificates of 134868
indebtedness, certificates of participation, commercial paper, and 134869
other instruments in writing, including, unless the context does 134870
not admit, bonds or notes issued in anticipation of the issuance 134871
of other bonds, issued by a sanitary district to evidence its 134872
obligation to repay money borrowed, or to pay interest, by, or to 134873
pay at any future time other money obligations of, the sanitary 134874
district. 134875

(I) "Financing costs" has the same meaning as in division (K) 134876
of section 133.01 of the Revised Code. 134877

Sec. 6115.20. (A) When it is determined to let the work 134878
relating to the improvements for which a sanitary district was 134879
established by contract, contracts in amounts to exceed ten 134880
thousand dollars shall be advertised after notice calling for bids 134881
has been published once a week for five consecutive weeks 134882
completed on the date of last publication or as provided in 134883
section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of 134884
general circulation within the sanitary district where the work is 134885
to be done. The board of directors of the sanitary district shall 134886
let bids as provided in this section or, if applicable, section 134887

9.312 of the Revised Code. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board of directors of the sanitary district shall let the contract to the lowest or best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a sanitary district was established, the board of directors of the sanitary district shall let the contract to the lowest or best bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract and the payment for all labor and material. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications at all times shall be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of emergency the advertising of contracts may be waived upon the consent of the board with the approval of the court or judge in vacation.

(B) In the case of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties, any service to be purchased, including the services of an accountant, architect, attorney at law, physician, or professional engineer, at a cost in excess of ten thousand dollars shall be obtained in the manner provided in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code. For the purposes of the application of those sections to division (B) of this section, all of the following apply:

(1) "Public authority," as used in those sections, shall be deemed to mean a sanitary district organized wholly for the

purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties;

(2) "Professional design firm," as used in those sections, shall be deemed to mean any person legally engaged in rendering professional design services as defined in division (B)(3) of this section;

(3) "Professional design services," as used in those sections, shall be deemed to mean accounting, architectural, legal, medical, or professional engineering services;

(4) The use of other terms in those sections shall be adapted accordingly, including, without limitation, for the purposes of division (D)~~(2)~~ of section 153.67 of the Revised Code;

(5) Divisions (A) to (C) of section 153.71 of the Revised Code do not apply.

(C) The board of directors of a district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use may contract for, purchase, or otherwise procure for the benefit of employees of the district and pay all or any part of the cost of group insurance policies that may provide benefits, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, or prescription drugs. Any group insurance policy purchased under this division shall be purchased from the health care corporation that the board of directors determines offers the most cost-effective group insurance policy.

Sec. 6115.321. (A) The legislative authority of a municipal corporation whose territory is included within the territory of a sanitary district that is established solely for the reduction of populations of biting arthropods pursuant to division (F) of

section 6115.04 of the Revised Code may enact an ordinance by a 134950
majority vote to submit to the electors of the municipal 134951
corporation the question of whether the territory of the municipal 134952
corporation that is currently included in the district should be 134953
excluded from the district. If the legislative authority of a 134954
municipal corporation enacts such an ordinance, the clerk of the 134955
legislative authority shall transmit a certified copy of the 134956
ordinance to all of the applicable boards of elections. On receipt 134957
of such a certified copy of an ordinance from a legislative 134958
authority, each applicable board of elections shall submit the 134959
proposed question to the electors of the municipal corporation for 134960
approval or rejection at the next general election occurring 134961
subsequent to ninety days after the clerk certifies the ordinance 134962
to the boards of elections. A board of elections shall publish the 134963
full text of the proposed question as set forth in division (B) of 134964
this section one time in a newspaper of general circulation in the 134965
municipal corporation at least fifteen days prior to the election 134966
at which the question is to be submitted to the electors. 134967

(B) The form of the ballots cast at the election shall be as 134968
follows: 134969

"Shall the territory (name of municipal 134970
corporation) be excluded from the (name of sanitary 134971
district) established solely for the reduction of populations of 134972
biting arthropods? 134973

	<u>Yes</u>	
	<u>No</u>	"

(C) If a majority of electors voting on the question of 134974
excluding a municipal corporation from the sanitary district vote 134975
in favor of the exclusion, the clerk of the legislative authority 134976
of the municipal corporation shall transmit a copy of the 134977
question to the clerk of the legislative authority. 134978
of the municipal corporation shall transmit a copy of the 134979
question to the clerk of the legislative authority. 134980

certified election results to all of the following: 134981

(1) The court of common pleas that entered the order that 134982
established the sanitary district in accordance with section 134983
6115.08 of the Revised Code; 134984

(2) The county auditor of each county in which territory of 134985
the municipal corporation is located; 134986

(3) The county treasurer of each county in which territory of 134987
the municipal corporation is located. 134988

(D) On receipt of a copy of the certified election results 134989
under division (C)(1) of this section, the applicable court of 134990
common pleas shall enter an order on the docket excluding the 134991
territory of the municipal corporation from the territory of the 134992
sanitary district. The exclusion shall take effect on the first 134993
day of January or the first day of July, whichever is earlier, 134994
following the vote in favor of the exclusion of the territory of 134995
the municipal corporation from the territory of the sanitary 134996
district. 134997

(E) On receipt of a copy of the certified election results 134998
under division (C)(2) of this section, a county auditor shall 134999
remove any assessment levied by or for the benefit of the sanitary 135000
district under this chapter on real property that is located 135001
within the territory of the municipal corporation that is to 135002
become due on or after the first day of January or the first day 135003
of July, whichever is earlier, following the vote in favor of the 135004
exclusion of the territory of the municipal corporation from the 135005
territory of the sanitary district. 135006

(F) On receipt of a copy of the certified election results 135007
under division (C)(3) of this section, a county treasurer shall 135008
not collect on or after the first day of January or the first day 135009
of July, whichever is earlier, following the vote in favor of the 135010
exclusion of the territory of the municipal corporation from the 135011

territory of the sanitary district any assessment levied by or for 135012
the benefit of the sanitary district under this chapter on real 135013
property that is located within the territory of the municipal 135014
corporation. 135015

Sec. 6117.05. (A) Whenever any portion of a sewer district is 135016
incorporated as, or annexed to, a municipal corporation, the area 135017
so incorporated or annexed shall remain under the jurisdiction of 135018
the board of county commissioners for purposes of the acquisition 135019
and construction of sanitary and drainage facility and prevention 135020
or replacement facility improvements until all of those 135021
improvements for the area for which a resolution described in 135022
division (A) or (E) of section 6117.06 of the Revised Code has 135023
been adopted by the board have been acquired or completed or until 135024
the board has abandoned the improvements. The board, unless and 135025
until a conveyance is made to a municipal corporation in 135026
accordance with division (B) of this section, shall continue to 135027
have jurisdiction in the area so incorporated or annexed with 135028
respect to the management, maintenance, and operation of all 135029
sanitary and drainage facilities and prevention or replacement 135030
facilities so acquired or completed, or previously acquired or 135031
completed, including the right to establish rules and rates and 135032
charges for the use of, and connections to, the facilities. The 135033
incorporation or annexation of any part of a district shall not 135034
affect the legality or enforceability of any public obligations 135035
issued or incurred by the county for purposes of this chapter to 135036
provide for the payment of the cost of acquisition, construction, 135037
maintenance, or operation of any sanitary or drainage facilities 135038
or prevention or replacement facilities within the area, or the 135039
validity of any assessments levied or to be levied upon properties 135040
within the area to provide for the payment of the cost of 135041
acquisition, construction, maintenance, or operation of the 135042
facilities. 135043

(B) Any A board may convey, by mutual agreement, to a 135044
municipal corporation any completed sanitary or drainage 135045
facilities or prevention or replacement facilities acquired or 135046
constructed by a county under this chapter for the use of, or 135047
service of property located in, any county sewer district, or any 135048
part of those facilities, ~~that~~ to which any of the following 135049
applies: 135050

(1) The facilities are located within a the municipal 135051
corporation or within any area that is incorporated as, or annexed 135052
to, a the municipal corporation, ~~or any part of the.~~ 135053

(2) The facilities that serve a the municipal corporation or 135054
such an area, ~~may be conveyed, by mutual agreement between the~~ 135055
~~board and the municipal corporation, to~~ any area that is located 135056
within or that is incorporated as, or annexed to, the municipal 135057
corporation ~~on.~~ 135058

(3) The facilities are connected to facilities of the 135059
municipal corporation. 135060

The conveyance shall be completed with terms and for 135061
consideration as may be negotiated. Upon and after the conveyance, 135062
the municipal corporation shall manage, maintain, and operate the 135063
facilities in accordance with the agreement. The board may retain 135064
the right to joint use of all or part of any facilities so 135065
conveyed for the benefit of the district. Neither the validity of 135066
any assessment levied or to be levied, nor the legality or 135067
enforceability of any public obligations issued or incurred, to 135068
provide for the payment of the cost of the acquisition, 135069
construction, maintenance, or operation of the facilities or any 135070
part of them, shall be affected by the conveyance. 135071

Sec. 6117.06. (A) After the establishment of any sewer 135072
district, the board of county commissioners, if a sanitary or 135073
drainage facility or prevention or replacement facility 135074

improvement is to be undertaken, may have the county sanitary 135075
engineer prepare, or otherwise cause to be prepared, for the 135076
district, or revise as needed, a general plan of sewerage or 135077
drainage that is as complete in each case as can be developed at 135078
the time and that is devised with regard to any existing sanitary 135079
or drainage facilities or prevention or replacement facilities in 135080
the district and present as well as prospective needs for 135081
additional sanitary or drainage facilities or prevention or 135082
replacement facilities in the district. After the general plan, in 135083
original or revised form, has been approved by the board, it may 135084
adopt a resolution generally describing the improvement that is 135085
necessary to be acquired or constructed in accordance with the 135086
particular plan, declaring that the improvement is necessary for 135087
the preservation and promotion of the public health and welfare, 135088
and determining whether or not special assessments are to be 135089
levied and collected to pay any part of the cost of the 135090
improvement. 135091

(B) If special assessments are not to be levied and collected 135092
to pay any part of the cost of the improvement, the board, in the 135093
resolution provided for in division (A) of this section or in a 135094
subsequent resolution, including a resolution authorizing the 135095
issuance or incurrence of public obligations for the improvement, 135096
may authorize the improvement and the expenditure of the funds 135097
required for its acquisition or construction and may proceed with 135098
the improvement without regard to the procedures otherwise 135099
required by divisions (C), (D), and (E) of this section and by 135100
sections 6117.07 to 6117.24 of the Revised Code. Those procedures 135101
are required only for improvements for which special assessments 135102
are to be levied and collected. 135103

(C) If special assessments are to be levied and collected 135104
pursuant to a determination made in the resolution provided for in 135105
division (A) of this section or in a subsequent resolution, the 135106

procedures referred to in division (B) of this section as being 135107
required for that purpose shall apply, and the board may have the 135108
county sanitary engineer prepare, or otherwise cause to be 135109
prepared, detailed plans, specifications, and an estimate of cost 135110
for the improvement, together with a tentative assessment of the 135111
cost based on the estimate. The tentative assessment shall be for 135112
the information of property owners and shall not be levied or 135113
certified to the county auditor for collection. The detailed 135114
plans, specifications, estimate of cost, and tentative assessment, 135115
if approved by the board, shall be carefully preserved in the 135116
office of the board or the county sanitary engineer and shall be 135117
open to the inspection of all persons interested in the 135118
improvement. 135119

(D) After the board's approval of the detailed plans, 135120
specifications, estimate of cost, and tentative assessment, and at 135121
least twenty-four days before adopting a resolution pursuant to 135122
division (E) of this section, the board, except to the extent that 135123
appropriate waivers of notice are obtained from affected owners, 135124
shall cause to be sent a notice of its intent to adopt the 135125
resolution to each owner of property proposed to be assessed that 135126
is listed on the records of the county auditor for current 135127
agricultural use value taxation pursuant to section 5713.31 of the 135128
Revised Code and that is not located in an agricultural district 135129
established under section 929.02 of the Revised Code. The notice 135130
shall satisfy all of the following: 135131

(1) Be sent by first class or certified mail; 135132

(2) Specify the proposed date of the adoption of the 135133
resolution; 135134

(3) Contain a statement that the improvement will be financed 135135
in whole or in part by special assessments and that all properties 135136
not located in an agricultural district established pursuant to 135137
section 929.02 of the Revised Code may be subject to a special 135138

assessment; 135139

(4) Contain a statement that an agricultural district may be 135140
established by filing an application with the county auditor. 135141

If it appears, by the return of the mailed notices or by 135142
other means, that one or more of the affected owners cannot be 135143
found or are not served by the mailed notice, the board shall 135144
cause the notice to be published once in a newspaper of general 135145
circulation in the county not later than ten days before the 135146
adoption of the resolution. 135147

(E) After complying with divisions (A), (C), and (D) of this 135148
section, the board may adopt a resolution declaring that the 135149
improvement, which shall be described as to its nature and its 135150
location, route, and termini, is necessary for the preservation 135151
and promotion of the public health and welfare, referring to the 135152
plans, specifications, estimate of cost, and tentative assessment, 135153
stating the place where they are on file and may be examined, and 135154
providing that the entire cost or a lesser designated part of the 135155
cost will be specially assessed against the benefited properties 135156
within the district and that any balance will be paid by the 135157
county at large from other available funds. The resolution also 135158
shall contain a description of the boundaries of that part of the 135159
district to be assessed and shall designate a time and place for 135160
objections to the improvement, to the tentative assessment, or to 135161
the boundaries of the assessment district to be heard by the 135162
board. The date of that hearing shall be not less than twenty-four 135163
days after the date of the first publication of the notice of the 135164
hearing required by this division. 135165

The board shall cause a notice of the hearing to be published 135166
once a week for two consecutive weeks in a newspaper of general 135167
circulation in the county, ~~and on~~ or as provided in section 7.16 135168
of the Revised Code. On or before the date of the second 135169
publication, ~~it~~ the board shall cause to be sent by first class or 135170

certified mail a copy of the notice to every owner of property to 135171
be assessed for the improvement whose address is known. 135172

The notice shall set forth the time and place of the hearing, 135173
a summary description of the proposed improvement, including its 135174
general route and termini, a summary description of the area 135175
constituting the assessment district, and the place where the 135176
plans, specifications, estimate of cost, and tentative assessment 135177
are on file and may be examined. Each mailed notice also shall 135178
include a statement that the property of the addressee will be 135179
assessed for the improvement. The notice also shall be sent by 135180
first class or certified mail, on or before the date of the second 135181
publication, to the clerk, or to the official discharging the 135182
duties of a clerk, of any municipal corporation any part of which 135183
lies within the assessment district and shall state whether or not 135184
any property belonging to the municipal corporation is to be 135185
assessed and, if so, shall identify that property. 135186

At the hearing, or at any adjournment of the hearing, of 135187
which no further published or mailed notice need be given, the 135188
board shall hear all parties whose properties are proposed to be 135189
assessed. Written objections to or endorsements of the proposed 135190
improvement, its character and termini, the boundaries of the 135191
assessment district, or the tentative assessment shall be received 135192
by the board for a period of five days after the completion of the 135193
hearing, and no action shall be taken by the board in the matter 135194
until after that period has elapsed. The minutes of the hearing 135195
shall be entered on the journal of the board, showing the persons 135196
who appear in person or by attorney, and all written objections 135197
shall be preserved and filed in the office of the board. 135198

Sec. 6117.07. After the expiration of the period of five days 135199
provided for in section 6117.06 of the Revised Code for the filing 135200
of written objections, the board of county commissioners shall 135201

determine whether or not it will proceed with the construction of 135202
the improvement mentioned in such section. Notice of the time and 135203
place of each meeting of the board of county commissioners, at 135204
which the resolution to proceed with the construction of such 135205
improvement will be considered, shall be given in writing to all 135206
persons who filed written objections as provided in section 135207
6117.06 of the Revised Code. Such notice shall contain the 135208
following language in addition to the time and place of the 135209
meeting of the board: "any person, firm, or corporation desiring 135210
to appeal from the final order or judgment of the board upon any 135211
of the questions mentioned in section 6117.09 of the Revised Code 135212
shall, on or before the date of the passage of the improvement 135213
resolution, give notice in writing of an intention to appeal, 135214
specifying therein the matters to be appealed from." If it decides 135215
to proceed therewith, the board shall ratify or amend the plans 135216
for the improvement and the character and termini thereof, the 135217
boundaries of the assessment district, and the tentative 135218
assessment, and may cause such revision of plans, boundaries, or 135219
assessments as the board considers necessary to be made by the 135220
county sanitary engineer. If the boundaries of the assessment 135221
district are amended so as to include any property not included 135222
within the boundaries as established by the resolution of 135223
necessity provided for in section 6117.06 of the Revised Code, the 135224
owners of all such property shall be notified by mail if their 135225
addresses are known, and notice shall be published once a week for 135226
two consecutive weeks in a newspaper of general circulation within 135227
the county or as provided in section 7.16 of the Revised Code that 135228
such amendments have been adopted and that a hearing will be given 135229
by the board at a time and place stated in such notice, at which 135230
all persons interested will be heard by the board. The date of 135231
such hearing shall be not less than twenty-four days after the 135232
first publication of such notice, and the hearing shall be 135233
conducted and records kept in the same manner as the first 135234

hearing. Five days shall be allowed for the filing of written 135235
objections as provided in such section for the first hearing. 135236

After the expiration of such five day period, the board shall 135237
ratify the plans for the improvement and the character and termini 135238
thereof, the boundaries of the assessment district, and the 135239
tentative assessment, or shall further amend the same. If the 135240
boundaries of the assessment district are amended so as to include 135241
any property not included in the assessment district as originally 135242
established or previously amended, further notice and hearing 135243
shall be given to the owners of such property in the same manner 135244
as for the first amendment of such boundaries, and the same 135245
procedure shall be repeated until all property owners affected 135246
have been given an opportunity to be heard. If the owners of all 135247
property added to an assessment district by amendment of the 135248
original boundaries thereof waive objection to such amendment in 135249
writing, no further notice or hearing shall be given. 135250

After the board has ratified the plans for the improvement 135251
and the character and termini thereof, the boundaries of the 135252
assessment district, and the tentative assessment, either as 135253
originally presented or as amended, and if it decides to proceed 135254
therewith, the board shall adopt a resolution to be known as the 135255
improvement resolution. Said improvement resolution shall declare 135256
the determination of such board to proceed with the construction 135257
of the improvement provided for in the resolution of necessity, in 135258
accordance with the plans and specifications provided for such 135259
improvement as ratified or amended, and whether bonds or 135260
certificates of indebtedness shall be issued in anticipation of 135261
the collection of special assessments, as provided in section 135262
6117.08 to 6117.45, inclusive, of the Revised Code, or that money 135263
in the county treasury unappropriated for any other purpose shall 135264
be appropriated to pay for said improvement. 135265

Sec. 6117.251. (A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide sanitary or drainage facility improvements or prevention or replacement facility improvements and to maintain and operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given ~~either~~ by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, ~~or~~ by publication as provided in section 7.16 of the Revised Code, by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by ~~both~~ a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made

by the board and, if they are to be made, shall direct the 135298
preparation of tentative assessments upon the benefited properties 135299
and by whom they shall be prepared. 135300

(C) In order to obtain funds for the preparation of a general 135301
or revised general plan of sewerage or drainage for the district 135302
or part of the district, for the preparation of the detailed 135303
plans, specifications, estimate of cost, and tentative assessment 135304
for the proposed improvements, and for the cost of financing and 135305
legal services incident to the preparation of all of those plans 135306
and a plan of financing the proposed improvements, the board may 135307
levy upon the properties to be benefited in the district a 135308
preliminary assessment apportioned according to benefits or to tax 135309
valuation or partly by one method and partly by the other method 135310
as the board may determine. The assessments shall be in the amount 135311
determined to be necessary to obtain funds for the general and 135312
detailed plans and the cost of financing and legal services and 135313
shall be payable in the number of years that the board shall 135314
determine, not to exceed twenty years, together with interest on 135315
any public obligations that may be issued or incurred in 135316
anticipation of the collection of the assessments. 135317

(D) The board shall have power at any time to levy additional 135318
assessments according to benefits or to tax valuation or partly by 135319
one method and partly by the other method as the board may 135320
determine for the purposes described in division (C) of this 135321
section upon the benefited properties to complete the payment of 135322
the costs described in division (C) of this section or to pay the 135323
cost of any additional plans, specifications, estimate of cost, or 135324
tentative assessment and the cost of financing and legal services 135325
incident to the preparation of those plans and the plan of 135326
financing, which additional assessments shall be payable in the 135327
number of years that the board shall determine, not to exceed 135328
twenty years, together with interest on any public obligations 135329

that may be issued or incurred in anticipation of the collection 135330
of the additional assessments. 135331

(E) Prior to the adoption of a resolution levying assessments 135332
under this section, the board shall give notice either by one 135333
publication in a newspaper of general circulation in the county, 135334
or by mailing a copy of the notice by first class or certified 135335
mail to the owners of the properties proposed to be assessed at 135336
their respective tax mailing addresses, or by both manners, the 135337
publication to be made or the mailing to occur at least ten days 135338
prior to the date of the meeting at which the resolution shall be 135339
taken up for consideration; that notice shall state the time and 135340
place of the meeting at which the resolution is to be considered. 135341
At the time and place of the meeting, or at any adjournment of the 135342
meeting, of which no further published or mailed notice need be 135343
given, the board shall hear all persons whose properties are 135344
proposed to be assessed, shall correct any errors and make any 135345
revisions that appear to be necessary or just, and then may adopt 135346
a resolution levying upon the properties determined to be 135347
benefited the assessments as so corrected and revised. 135348

The assessments levied by the resolution shall be certified 135349
to the county auditor for collection in the same manner as taxes 135350
in the year or years in which they are payable. 135351

(F) Upon the adoption of the resolution described in division 135352
(E) of this section, no further action shall be taken or work done 135353
until ten days have elapsed. If, at the expiration of that period, 135354
no appeal has been effected by any property owner as provided in 135355
this division, the action of the board shall be final. If, at the 135356
end of that ten days, any owner of property to be assessed for the 135357
improvements has effected an appeal, no further action shall be 135358
taken and no work done in connection with the improvements under 135359
the resolution until the matters appealed from have been disposed 135360
of in court. 135361

Any owner of property to be assessed may appeal as provided 135362
and upon the grounds stated in sections 6117.09 to 6117.24 of the 135363
Revised Code. 135364

If no appeal has been perfected or if on appeal the 135365
resolution of the board is sustained, the board may authorize and 135366
enter into contracts to carry out the purposes for which the 135367
assessments have been levied without the prior issuance of notes, 135368
provided that the payments under those contracts do not fall due 135369
prior to the time by which the assessments are to be collected. 135370
The board may issue and sell bonds with a maximum maturity of 135371
twenty years in anticipation of the collection of the assessments 135372
and may issue notes in anticipation of the issuance of the bonds, 135373
which notes and bonds, as public obligations, shall be issued and 135374
sold as provided in Chapter 133. of the Revised Code. 135375

Sec. 6117.49. (A) If the board of county commissioners 135376
determines by resolution that the best interests of the county and 135377
those served by the sanitary or drainage facilities or the 135378
prevention or replacement facilities of a county sewer district so 135379
require, the board may sell or otherwise dispose of the facilities 135380
to another public agency or a person. The resolution declaring the 135381
necessity of that disposition shall recite the reasons for the 135382
sale or other disposition and shall establish any conditions or 135383
terms that the board may impose, including, but not limited to, a 135384
minimum sales price if a sale is proposed, a requirement for the 135385
submission by bidders of the schedule of rates and charges 135386
initially proposed to be paid for the services of the facilities, 135387
and other pertinent conditions or terms relating to the sale or 135388
other disposition. The resolution also shall designate a time and 135389
place for the hearing of objections to the sale or other 135390
disposition by the board. Notice of the adoption of the resolution 135391
and the time and place of the hearing shall be published as 135392
provided in section 7.16 of the Revised Code or once a week for 135393

two consecutive weeks, in a newspaper of general circulation in 135394
the sewer district and in the county. The public hearing on the 135395
sale or other disposition shall be held not less than twenty-four 135396
days following the date of first publication of the notice. A copy 135397
of the notice also shall be sent by first class or certified mail, 135398
on or before the date of the second publication, to any public 135399
agency within the area served by the facilities. At the public 135400
hearing, or at any adjournment of it, of which no further 135401
published or mailed notice need be given, the board shall hear all 135402
interested parties. A period of five days shall be given following 135403
the completion of the hearing for the filing of written objections 135404
by any interested persons or public agencies to the sale or other 135405
disposition, after which the board shall consider any objections 135406
and by resolution determine whether or not to proceed with the 135407
sale or other disposition. If the board determines to proceed with 135408
the sale or other disposition, it shall receive bids after 135409
advertising once a week for four consecutive weeks or as provided 135410
in section 7.16 of the Revised Code, in a newspaper of general 135411
circulation in the county and, subject to the right of the board 135412
to reject any or all bids, may make an award to a responsible 135413
bidder whose proposal is determined by the board to be in the best 135414
interests of the county and those served by the facilities. 135415

(B) A conveyance of sanitary or drainage facilities or of 135416
prevention or replacement facilities by a county to a municipal 135417
corporation in accordance with division (B) of section 6117.05 of 135418
the Revised Code may be made without regard to division (A) of 135419
this section. 135420

Sec. 6119.061. (A) Whenever any portion of a regional water 135421
and sewer district is incorporated as, or annexed to, a municipal 135422
corporation, the area so incorporated or annexed shall remain 135423
under the jurisdiction of the district for purposes of the 135424
acquisition, construction, or operation of a water resource 135425

project until the water resource project has been acquired or 135426
completed or until the project is abandoned by the district. The 135427
board of trustees of the district, unless and until a conveyance 135428
is made to a municipal corporation in accordance with division (B) 135429
of this section, shall continue to have jurisdiction in the area 135430
so incorporated or annexed with respect to the management, 135431
maintenance, and operation of all water resource projects so 135432
acquired or completed or previously acquired or completed, 135433
including the right to establish rules and rates and charges for 135434
the use of, and connections to, the projects. The incorporation or 135435
annexation of any part of a district shall not affect the legality 135436
or enforceability of any public obligations issued or incurred by 135437
the district for purposes of this chapter to provide for the 135438
payment of the cost of acquisition, construction, maintenance, or 135439
operation of any water resource project or the validity of any 135440
assessments levied or to be levied on properties within the area 135441
to provide for the payment of the cost of acquisition, 135442
construction, maintenance, or operation of the project. 135443

(B) The board of trustees of a regional water and sewer 135444
district may convey, by mutual agreement, to a municipal 135445
corporation any completed water resource project acquired or 135446
constructed under this chapter for the use of, or service of 135447
property located in, the regional water and sewer district, or any 135448
part of that project to which any of the following applies: 135449

(1) The project is located within the municipal corporation 135450
or within any area that is incorporated as, or annexed to, the 135451
municipal corporation. 135452

(2) The project serves the municipal corporation or any area 135453
that is located within or that is incorporated as, or annexed to, 135454
the municipal corporation. 135455

(3) The project is connected to water supply or sanitary, 135456
drainage, prevention, or replacement facilities of the municipal 135457

corporation. 135458

The conveyance shall be completed with terms and for 135459
consideration as may be negotiated. Upon and after the conveyance, 135460
the municipal corporation shall manage, maintain, and operate the 135461
water resource project in accordance with the agreement. The board 135462
of trustees may retain the right to the joint use of all or part 135463
of any project so conveyed for the benefit of the district. 135464
Neither the validity of any assessment levied or to be levied, nor 135465
the legality or enforceability of any public obligations issued or 135466
incurred, to provide for the payment of the cost of the 135467
acquisition, construction, maintenance, or operation of the 135468
project or any part of the project shall be affected by the 135469
conveyance. 135470

Sec. 6119.10. The board of trustees of a regional water and 135471
sewer district or any officer or employee designated by the board 135472
may make any contract for the purchase of supplies or material or 135473
for labor for any work, under the supervision of the board, the 135474
cost of which shall not exceed twenty-five thousand dollars. When 135475
an expenditure, other than for the acquisition of real estate and 135476
interests in real estate, the discharge of noncontractual claims, 135477
personal services, the joint use of facilities or the exercise of 135478
powers with other political subdivisions, or the product or 135479
services of public utilities, exceeds twenty-five thousand 135480
dollars, the expenditures shall be made only after a notice 135481
calling for bids has been published ~~not less than~~ two consecutive 135482
weeks in ~~at least~~ one newspaper ~~having a~~ of general circulation 135483
within the district or as provided in section 7.16 of the Revised 135484
Code. If the bids are for a contract for the construction, 135485
demolition, alteration, repair, or reconstruction of an 135486
improvement, the board may let the contract to the lowest and best 135487
bidder who meets the requirements of section 153.54 of the Revised 135488
Code. If the bids are for a contract for any other work relating 135489

to the improvements for which a regional water and sewer district 135490
was established, the board of trustees of the regional water and 135491
sewer district may let the contract to the lowest or best bidder 135492
who gives a good and approved bond with ample security conditioned 135493
on the carrying out of the contract. The contract shall be in 135494
writing and shall be accompanied by or shall refer to plans and 135495
specifications for the work to be done, approved by the board. The 135496
plans and specifications shall at all times be made and considered 135497
part of the contract. The contract shall be approved by the board 135498
and signed by its president or other duly authorized officer and 135499
by the contractor. In case of a real and present emergency, the 135500
board of trustees of the district, by two-thirds vote of all 135501
members, may authorize the president or other duly authorized 135502
officer to enter into a contract for work to be done or for the 135503
purchase of supplies or materials without formal bidding or 135504
advertising. All contracts shall have attached the certificate 135505
required by section 5705.41 of the Revised Code duly executed by 135506
the secretary of the board of trustees of the district. The 135507
district may make improvements by force account or direct labor, 135508
provided that, if the estimated cost of supplies or material for 135509
any such improvement exceeds twenty-five thousand dollars, bids 135510
shall be received as provided in this section. For the purposes of 135511
the competitive bidding requirements of this section, the board 135512
shall not sever a contract for supplies or materials and labor 135513
into separate contracts for labor, supplies, or materials if the 135514
contracts are in fact a part of a single contract required to be 135515
bid competitively under this section. 135516

Sec. 6119.18. The board of trustees of a regional water and 135517
sewer district, by a vote of two-thirds of all its members, may 135518
declare by resolution that it is necessary to levy a tax in excess 135519
of the ten-mill limitation for the purpose of providing funds to 135520
pay current expenses of the district or for the purpose of paying 135521

any portion of the cost of one or more water resource projects or 135522
parts thereof or for both of such purposes, and that the question 135523
of such tax levy shall be submitted to the electors of the 135524
district at a general or primary election. Such resolution shall 135525
conform to the requirements of section 5705.19 of the Revised 135526
Code, except as otherwise permitted by this section and except 135527
that such levy may be for a period not longer than ten years. The 135528
resolution shall go into immediate effect upon its passage and no 135529
publication of the resolution is necessary other than that 135530
provided for in the notice of election. A copy of such resolution 135531
shall, immediately after its passage, be certified to the board of 135532
elections of the proper county or counties in the manner provided 135533
by section 5705.25 of the Revised Code, and such section shall 135534
govern the arrangements for the submission of such question and 135535
other matters with respect to such election to which such section 135536
refers. Publication of the notice of that election shall be made 135537
in one ~~or more newspapers having a~~ newspaper of general 135538
circulation in the district once a week for two consecutive weeks 135539
prior to the election, ~~and, if~~ or as provided in section 7.16 of 135540
the Revised Code. If the board of elections operates and maintains 135541
a web site, the board of elections shall post notice of the 135542
election on its web site for thirty days prior to the election. 135543

If a majority of the electors voting on the question vote in 135544
favor thereof, the board may make the necessary levy within the 135545
district at the additional rate or at any lesser rate on the tax 135546
list and duplicate for the purpose or purposes stated in the 135547
resolution. 135548

The taxes realized from such levy shall be collected at the 135549
same time and in the same manner as other taxes on such tax list 135550
and duplicate and such taxes, when collected, shall be paid to the 135551
district and deposited by it in a special fund which shall be 135552
established by the district for all revenues derived from such 135553

levy and for the proceeds of anticipation notes which shall be 135554
deposited in such fund. 135555

After the approval of such levy, the district may anticipate 135556
a fraction of the proceeds of such levy and, from time to time, 135557
during the life of such levy, issue anticipation notes in an 135558
amount not exceeding fifty per cent of the estimated proceeds of 135559
such levy to be collected in each year up to a period of five 135560
years after the date of issuance of such notes, less an amount 135561
equal to the proceeds of such levy previously obligated for each 135562
year by the issuance of anticipation notes, provided that the 135563
total amount maturing in any one year shall not exceed fifty per 135564
cent of the anticipated proceeds of such levy for that year. Each 135565
issue of notes shall be sold as provided in Chapter 133. of the 135566
Revised Code, and shall, except for such limitation that the total 135567
amount of such notes maturing in any one year shall not exceed 135568
fifty per cent of the anticipated proceeds of such levy for that 135569
year, mature serially in substantially equal installments during 135570
each year over a period not to exceed five years after their 135571
issuance. 135572

Sec. 6119.22. When a plan of sewerage devised in accordance 135573
with section 6119.19 of the Revised Code has been prepared, the 135574
board of trustees of the regional water and sewer district shall 135575
give at least ten days' notice in one newspaper of general 135576
circulation in such area or give notice as provided in section 135577
7.16 of the Revised Code, stating that such plans have been 135578
prepared and are filed in the office of the secretary of the board 135579
for examination and inspection by the parties interested. 135580

Any objection to such plan shall then be made to the board 135581
and it may amend or correct such plan, and shall thereupon file it 135582
as amended, or if no amendments are made, it shall file the 135583
original plan in the office of the secretary. 135584

Sec. 6119.25. When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by resolution the necessity thereof. Such resolution shall contain a declaration of the necessity of such improvement, a statement of the districts, areas, or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where they are on file, and the mode of payment therefor, and shall publish the resolution once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the area or as provided in section 7.16 of the Revised Code.

Sec. 6119.58. In order to obtain funds for the preparation of plans, specifications, estimates of cost, tentative assessments, and a plan of financing for any water resource project or part thereof, the board of trustees of a regional water and sewer district may levy upon the property in such district to be benefited by such project assessments apportioned in accordance with one or more of the methods set forth in section 6119.42 of the Revised Code. The aggregate of such assessments shall not exceed the amount determined by the board of trustees to be necessary for such purpose, including costs of financing, legal services, and other incidental costs, and shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

If the board of trustees proposes to obtain funds in accordance with this section, it shall determine by resolution that it is necessary to construct the water resource project and

to maintain and operate the same on behalf of the district. 135616

Prior to the adoption of the resolution making such 135617
determination, the board of trustees shall give notice of the 135618
pendency thereof and of the proposed determination of the 135619
necessity of the construction of such project therein generally 135620
described, and such notice shall set forth a description of the 135621
properties to be benefited by such project and the time and place 135622
of a hearing of objections to, and endorsements of, such project. 135623
Such notice shall be given by publication in ~~at least~~ one 135624
newspaper ~~having a~~ of general circulation in the district once a 135625
week for two consecutive weeks or as provided in section 7.16 of 135626
the Revised Code, the first publication to be at least two weeks 135627
prior to the date set for the hearing, provided that the board of 135628
trustees may give, or cause to be given, such alternative or 135629
further notice of such hearing as it finds to be necessary or 135630
appropriate. At such hearing, or at any adjournment thereof, of 135631
which no further notice need be given, the board of trustees shall 135632
hear all owners whose properties are proposed to be assessed and 135633
such other evidence as is considered to be necessary, and may then 135634
adopt its resolution determining that the proposed project is 135635
necessary and should be undertaken by the district. In such 135636
resolution, the board of trustees shall direct the preparation of 135637
the estimated assessments upon the benefited properties and by 135638
whom they shall be prepared. 135639

After such assessments have been prepared and filed in the 135640
office of the secretary of the board of trustees and prior to the 135641
adoption of the resolution levying such assessments, the board of 135642
trustees shall give notice of the pendency of such resolution and 135643
of the proposed determination to levy such assessments, and such 135644
notice shall set forth the time and place of a hearing of 135645
objections to such assessments. Such notice shall be given by 135646
publication once in ~~at least~~ one newspaper ~~having a~~ of general 135647

circulation in the district, such publication to be made at least 135648
ten days prior to the date set for the hearing, provided that the 135649
board of trustees may give or cause to be given, such alternative 135650
of further notice of such hearing as it finds to be necessary or 135651
appropriate. At such hearing, or at any adjournment thereof, of 135652
which no further notice need be given, the board of trustees shall 135653
hear all persons whose properties are proposed to be assessed, 135654
shall correct any errors and make any revisions in the estimated 135655
assessments that appear to be necessary or just, and may then 135656
adopt a resolution levying upon the properties determined to be 135657
benefited the assessments as originally prepared or as so 135658
corrected and revised. 135659

The board of trustees shall have the power at any time to 135660
levy additional assessments upon such properties to complete the 135661
payment of the costs for which the original assessments were 135662
levied or to provide funds for any additional plans, 135663
specifications, estimates of cost, tentative assessments, and 135664
other incidental costs, provided that the board shall first have 135665
held a hearing on objections to such additional assessments in the 135666
same manner as required by this section with respect to such 135667
original assessments. Such additional assessments shall be payable 135668
in such number of annual installments, not less than one, as the 135669
board of trustees prescribes, together with interest on any water 135670
resource revenue notes and bonds which may be issued in 135671
anticipation of the collection of such assessments. 135672

The board of trustees may authorize contracts to carry out 135673
the purposes for which such assessments have been levied without 135674
the prior issuance of water resource revenue notes and bonds, 135675
provided that the payments to be made by the district do not fall 135676
due prior to the times when such assessments shall be collected. 135677

Section 101.02. That existing sections 7.10, 7.11, 7.12, 135678

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5111.912, 5111.913, 5111.94, 5111.941, 5111.97, 5112.30, 5112.31, 135842
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5751.011, 5751.20, 5751.21, 5751.22, 5751.23, 5751.50, 5753.01, 135871
6101.16, 6103.04, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 135872
6109.21, 6111.038, 6111.044, 6111.46, 6115.01, 6115.20, 6117.05, 135873
6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 135874
6119.25, and 6119.58 of the Revised Code are hereby repealed. 135875

Section 105.01. That sections 7.14, 122.0818, 122.452, 135876
126.04, 126.501, 126.502, 126.507, 165.031, 181.21, 181.22, 135877
181.23, 181.24, 181.25, 181.26, 340.08, 701.04, 1501.031, 1551.13, 135878
3123.52, 3123.61, 3123.612, 3123.613, 3123.614, 3301.82, 3306.01, 135879
3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 135880
3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 135881
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3314.014, 3314.016, 3314.017, 3314.082, 3314.085, 3314.11, 135885
3314.111, 3317.011, 3317.016, 3317.017, 3317.0216, 3317.04, 135886
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3722.99, 3733.01, 3733.031, 3733.07, 3733.22, 3733.23, 3733.24, 135888
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5101.5213, 5101.5214, 5101.5215, 5101.5216, 5111.243, 5111.34, 135893
5111.861, 5111.893, 5111.971, 5122.36, 5123.172, 5123.181, 135894
5123.193, 5123.211, 5126.18, 5126.19, and 5747.52 of the Revised 135895
Code are hereby repealed. 135896

135897

Section 105.10. That sections 126.60, 126.601, 126.602, 135898
126.603, 126.604, and 126.605 of the Revised Code, as enacted by 135899
this act, are hereby repealed, effective June 30, 2013. 135900

Section 120.20. That sections 3721.16, 5111.709, 5119.221, 135901
5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 5122.32, 135902
5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 5123.63, 135903
5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33 be 135904
amended; that section 5123.60 (5123.601) be amended for the 135905
purpose of adopting a new section number as indicated in 135906
parentheses; and that new sections 5123.60 and 5123.602 of the 135907
Revised Code be enacted to read as follows: 135908

Sec. 3721.16. For each resident of a home, notice of a 135909
proposed transfer or discharge shall be in accordance with this 135910
section. 135911

(A)(1) The administrator of a home shall notify a resident in 135912
writing, and the resident's sponsor in writing by certified mail, 135913
return receipt requested, in advance of any proposed transfer or 135914
discharge from the home. The administrator shall send a copy of 135915
the notice to the state department of health. The notice shall be 135916
provided at least thirty days in advance of the proposed transfer 135917
or discharge, unless any of the following applies: 135918

(a) The resident's health has improved sufficiently to allow 135919
a more immediate discharge or transfer to a less skilled level of 135920
care; 135921

(b) The resident has resided in the home less than thirty 135922
days; 135923

(c) An emergency arises in which the safety of individuals in 135924
the home is endangered; 135925

(d) An emergency arises in which the health of individuals in 135926
the home would otherwise be endangered; 135927

(e) An emergency arises in which the resident's urgent 135928
medical needs necessitate a more immediate transfer or discharge. 135929

In any of the circumstances described in divisions (A)(1)(a) 135930
to (e) of this section, the notice shall be provided as many days 135931
in advance of the proposed transfer or discharge as is 135932
practicable. 135933

(2) The notice required under division (A)(1) of this section 135934
shall include all of the following: 135935

(a) The reasons for the proposed transfer or discharge; 135936

(b) The proposed date the resident is to be transferred or 135937
discharged; 135938

(c) The proposed location to which the resident is to be 135939
transferred or discharged; 135940

(d) Notice of the right of the resident and the resident's 135941
sponsor to an impartial hearing at the home on the proposed 135942
transfer or discharge, and of the manner in which and the time 135943
within which the resident or sponsor may request a hearing 135944
pursuant to section 3721.161 of the Revised Code; 135945

(e) A statement that the resident will not be transferred or 135946
discharged before the date specified in the notice unless the home 135947
and the resident or, if the resident is not competent to make a 135948
decision, the home and the resident's sponsor, agree to an earlier 135949
date; 135950

(f) The address of the legal services office of the 135951
department of health; 135952

(g) The name, address, and telephone number of a 135953
representative of the state long-term care ombudsperson program 135954
and, if the resident or patient has a developmental disability or 135955
mental illness, the name, address, and telephone number of the 135956
Ohio ~~legal rights service~~ protection and advocacy system. 135957

(B) No home shall transfer or discharge a resident before the 135958
date specified in the notice required by division (A) of this 135959

section unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

(C) Transfer or discharge actions shall be documented in the resident's medical record by the home if there is a medical basis for the action.

(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:

(1) The home's license has been revoked under this chapter;

(2) The home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code;

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;

(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.

(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.

(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for

therapeutic leave, the home shall provide notice in writing to the 135990
resident and in writing by certified mail, return receipt 135991
requested, to the resident's sponsor, specifying the number of 135992
days, if any, during which the resident will be permitted under 135993
the medicaid program to return and resume residence in the home 135994
and specifying the medicaid program's coverage of the days during 135995
which the resident is absent from the home. An individual who is 135996
absent from a home for more than the number of days specified in 135997
the notice and continues to require the services provided by the 135998
facility shall be given priority for the first available bed in a 135999
semi-private room. 136000

Sec. 5111.709. (A) There is hereby created the medicaid 136001
buy-in advisory council. The council shall consist of all of the 136002
following: 136003

(1) The following voting members: 136004

(a) The executive director of assistive technology of Ohio or 136005
the executive director's designee; 136006

(b) The director of the axis center for public awareness of 136007
people with disabilities or the director's designee; 136008

(c) The executive director of the cerebral palsy association 136009
of Ohio or the executive director's designee; 136010

(d) The chief executive officer of Ohio advocates for mental 136011
health or the chief executive officer's designee; 136012

(e) The state director of the Ohio chapter of AARP or the 136013
state director's designee; 136014

(f) The director of the Ohio developmental disabilities 136015
council created under section 5123.35 of the Revised Code or the 136016
director's designee; 136017

(g) The executive director of the governor's council on 136018
people with disabilities created under section 3303.41 of the 136019

Revised Code or the executive director's designee;	136020
(h) The administrator of the legal rights service created	136021
under section 5123.60 of the Revised Code or the administrator's	136022
designee;	136023
(i) The chairperson of the Ohio Olmstead task force or the	136024
chairperson's designee;	136025
(j) <u>(i)</u> The executive director of the Ohio statewide	136026
independent living council or the executive director's designee;	136027
(k) <u>(j)</u> The president of the Ohio chapter of the national	136028
multiple sclerosis society or the president's designee;	136029
(l) <u>(k)</u> The executive director of the arc of Ohio or the	136030
executive director's designee;	136031
(m) <u>(l)</u> The executive director of the commission on minority	136032
health or the executive director's designee;	136033
(n) <u>(m)</u> The executive director of the brain injury association	136034
of Ohio or the executive director's designee;	136035
(o) <u>(n)</u> The executive officer of any other advocacy	136036
organization who volunteers to serve on the council, or such an	136037
executive officer's designee, if the other voting members, at a	136038
meeting called by the chairperson elected under division (C) of	136039
this section, determine it is appropriate for the advocacy	136040
organization to be represented on the council;	136041
(p) <u>(o)</u> One or more participants who volunteer to serve on the	136042
council and are selected by the other voting members at a meeting	136043
the chairperson calls after the medicaid buy-in for workers with	136044
disabilities program is implemented.	136045
(2) The following non-voting members:	136046
(a) The director of job and family services or the director's	136047
designee;	136048

(b) The administrator of the rehabilitation services 136049
commission or the administrator's designee; 136050

(c) The director of alcohol and drug addiction services or 136051
the director's designee; 136052

(d) The director of developmental disabilities or the 136053
director's designee; 136054

(e) The director of mental health or the director's designee; 136055

(f) The executive officer of any other government entity, or 136056
the executive officer's designee, if the voting members, at a 136057
meeting called by the chairperson, determine it is appropriate for 136058
the government entity to be represented on the council. 136059

(B) All members of the medicaid buy-in advisory council shall 136060
serve without compensation or reimbursement, except as serving on 136061
the council is considered part of their usual job duties. 136062

(C) The voting members of the medicaid buy-in advisory 136063
council shall elect one of the members of the council to serve as 136064
the council's chairperson for a two-year term. The chairperson may 136065
be re-elected to successive terms. 136066

(D) The department of job and family services shall provide 136067
the Ohio medicaid buy-in advisory council with accommodations for 136068
the council to hold its meetings and shall provide the council 136069
with other administrative assistance the council needs to perform 136070
its duties. 136071

Sec. 5119.221. (A) Upon petition by the director of mental 136072
health, the court of common pleas or the probate court may appoint 136073
a receiver to take possession of and operate a residential 136074
facility licensed pursuant to section 5119.22 of the Revised Code, 136075
when conditions existing at the residential facility present a 136076
substantial risk of physical or mental harm to residents and no 136077
other remedies at law are adequate to protect the health, safety, 136078

and welfare of the residents. 136079

Petitions filed pursuant to this section shall include: 136080

(1) A description of the specific conditions existing at the 136081
residential facility which present a substantial risk of physical 136082
or mental harm to residents; 136083

(2) A statement of the absence of other adequate remedies at 136084
law; 136085

(3) The number of individuals residing at the facility; 136086

(4) A statement that the facts have been brought to the 136087
attention of the owner or licensee and that conditions have not 136088
been remedied within a reasonable period of time or that the 136089
conditions, though remedied periodically, habitually exist at the 136090
residential facility as a pattern or practice; and 136091

(5) The name and address of the person holding the license 136092
for the residential facility. 136093

(B) A court in which a petition is filed pursuant to this 136094
section shall notify the person holding the license for the 136095
facility of the filing. The department shall send notice of the 136096
filing to the following, as appropriate: the ~~legal rights service~~ 136097
~~created pursuant to~~ Ohio protection and advocacy system as defined 136098
in section 5123.60 of the Revised Code; facility owner; facility 136099
operator; board of alcohol, drug addiction, and mental health 136100
services; board of health; department of developmental 136101
disabilities; department of job and family services; facility 136102
residents; and residents' families and guardians. The court shall 136103
provide a hearing on the petition within five court days of the 136104
time it was filed, except that the court may appoint a receiver 136105
prior to that time if it determines that the circumstances 136106
necessitate such action. 136107

Following a hearing on the petition, and upon a determination 136108

that the appointment of a receiver is warranted, the court shall 1361109
appoint a receiver and notify the department of mental health and 1361110
appropriate persons of this action. 1361111

In setting forth the powers of the receiver, the court may 1361112
generally authorize the receiver to do all that is prudent and 1361113
necessary to safely and efficiently operate the residential 1361114
facility within the requirements of state and federal law, but 1361115
shall require the receiver to obtain court approval prior to 1361116
making any single expenditure of more than five thousand dollars 1361117
to correct deficiencies in the structure or furnishings of a 1361118
facility. The court shall closely review the conduct of the 1361119
receiver and shall require regular and detailed reports. 1361120

(C) A receivership established pursuant to this section shall 1361121
be terminated, following notification of the appropriate parties 1361122
and a hearing, if the court determines either of the following: 1361123

(1) The residential facility has been closed and the former 1361124
residents have been relocated to an appropriate facility; 1361125

(2) Circumstances no longer exist at the residential facility 1361126
which present a substantial risk of physical or mental harm to 1361127
residents, and there is no deficiency in the residential facility 1361128
that is likely to create a future risk of harm. 1361129

Notwithstanding division (C)(2) of this section, the court 1361130
shall not terminate a receivership for a residential facility that 1361131
has previously operated under another receivership unless the 1361132
responsibility for the operation of the facility is transferred to 1361133
an operator approved by the court and the department of mental 1361134
health. 1361135

(D) Except for the department of mental health or appropriate 1361136
board of alcohol, drug addiction, and mental health services, no 1361137
party or person interested in an action shall be appointed a 1361138
receiver pursuant to this section. 1361139

To assist the court in identifying persons qualified to be named as receivers, the director of the department of mental health shall maintain a list of the names of such persons. The department of mental health, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may do the following:

(a) Bring and defend actions in the appointee's name as receiver;

(b) Take and keep possession of property.

(2) The court shall authorize the receiver to do the following:

(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;

(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:	136171 136172
(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;	136173 136174 136175
(ii) Providing for the transportation of residents' belongings and records;	136176 136177
(iii) Helping to locate alternative placements and develop plans for transfer;	136178 136179
(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.	136180 136181 136182
(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the board of alcohol, drug addiction, and mental health services. Each report shall be made available to residents, their guardians, and families.	136183 136184 136185 136186 136187
(e) Compromise demands or claims; and	136188
(f) Generally do such acts respecting the residential facility as the court authorizes.	136189 136190
Notwithstanding any other provision of law, contracts which are necessary to carry out the powers and duties of the receiver need not be competitively bid.	136191 136192 136193
Sec. 5122.01. As used in this chapter and Chapter 5119. of the Revised Code:	136194 136195
(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.	136196 136197 136198 136199

(B) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference

in this chapter to patient, or the context in which the reference 136231
occurs, is in conflict with any provision of sections 2945.37 to 136232
2945.402 of the Revised Code. 136233

(D) "Licensed physician" means a person licensed under the 136234
laws of this state to practice medicine or a medical officer of 136235
the government of the United States while in this state in the 136236
performance of the person's official duties. 136237

(E) "Psychiatrist" means a licensed physician who has 136238
satisfactorily completed a residency training program in 136239
psychiatry, as approved by the residency review committee of the 136240
American medical association, the committee on post-graduate 136241
education of the American osteopathic association, or the American 136242
osteopathic board of neurology and psychiatry, or who on July 1, 136243
1989, has been recognized as a psychiatrist by the Ohio state 136244
medical association or the Ohio osteopathic association on the 136245
basis of formal training and five or more years of medical 136246
practice limited to psychiatry. 136247

(F) "Hospital" means a hospital or inpatient unit licensed by 136248
the department of mental health under section 5119.20 of the 136249
Revised Code, and any institution, hospital, or other place 136250
established, controlled, or supervised by the department under 136251
Chapter 5119. of the Revised Code. 136252

(G) "Public hospital" means a facility that is tax-supported 136253
and under the jurisdiction of the department of mental health. 136254

(H) "Community mental health agency" means an agency that 136255
provides community mental health services that are certified by 136256
the director of mental health under section 5119.611 of the 136257
Revised Code. 136258

(I) "Licensed clinical psychologist" means a person who holds 136259
a current valid psychologist license issued under section 4732.12 136260
or 4732.15 of the Revised Code, and in addition, meets either of 136261

the following criteria: 136262

(1) Meets the educational requirements set forth in division 136263
(B) of section 4732.10 of the Revised Code and has a minimum of 136264
two years' full-time professional experience, or the equivalent as 136265
determined by rule of the state board of psychology, at least one 136266
year of which shall be a predoctoral internship, in clinical 136267
psychological work in a public or private hospital or clinic or in 136268
private practice, diagnosing and treating problems of mental 136269
illness or mental retardation under the supervision of a 136270
psychologist who is licensed or who holds a diploma issued by the 136271
American board of professional psychology, or whose qualifications 136272
are substantially similar to those required for licensure by the 136273
state board of psychology when the supervision has occurred prior 136274
to enactment of laws governing the practice of psychology; 136275

(2) Meets the educational requirements set forth in division 136276
(B) of section 4732.15 of the Revised Code and has a minimum of 136277
four years' full-time professional experience, or the equivalent 136278
as determined by rule of the state board of psychology, in 136279
clinical psychological work in a public or private hospital or 136280
clinic or in private practice, diagnosing and treating problems of 136281
mental illness or mental retardation under supervision, as set 136282
forth in division (I)(1) of this section. 136283

(J) "Health officer" means any public health physician; 136284
public health nurse; or other person authorized by or designated 136285
by a city health district; a general health district; or a board 136286
of alcohol, drug addiction, and mental health services to perform 136287
the duties of a health officer under this chapter. 136288

(K) "Chief clinical officer" means the medical director of a 136289
hospital, or a community mental health agency, or a board of 136290
alcohol, drug addiction, and mental health services, or, if there 136291
is no medical director, the licensed physician responsible for the 136292
treatment a hospital or community mental health agency provides. 136293

The chief clinical officer may delegate to the attending physician 136294
responsible for a patient's care the duties imposed on the chief 136295
clinical officer by this chapter. Within a community mental health 136296
agency, the chief clinical officer shall be designated by the 136297
governing body of the agency and shall be a licensed physician or 136298
licensed clinical psychologist who supervises diagnostic and 136299
treatment services. A licensed physician or licensed clinical 136300
psychologist designated by the chief clinical officer may perform 136301
the duties and accept the responsibilities of the chief clinical 136302
officer in the chief clinical officer's absence. 136303

(L) "Working day" or "court day" means Monday, Tuesday, 136304
Wednesday, Thursday, and Friday, except when such day is a 136305
holiday. 136306

(M) "Indigent" means unable without deprivation of 136307
satisfaction of basic needs to provide for the payment of an 136308
attorney and other necessary expenses of legal representation, 136309
including expert testimony. 136310

(N) "Respondent" means the person whose detention, 136311
commitment, hospitalization, continued hospitalization or 136312
commitment, or discharge is being sought in any proceeding under 136313
this chapter. 136314

(O) ~~"Legal rights service" means the service established~~ 136315
~~under "Ohio protection and advocacy system" has the same meaning~~ 136316
~~as in~~ section 5123.60 of the Revised Code. 136317

(P) "Independent expert evaluation" means an evaluation 136318
conducted by a licensed clinical psychologist, psychiatrist, or 136319
licensed physician who has been selected by the respondent or the 136320
respondent's counsel and who consents to conducting the 136321
evaluation. 136322

(Q) "Court" means the probate division of the court of common 136323
pleas. 136324

(R) "Expunge" means:	136325
(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;	136326 136327
(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;	136328 136329 136330
(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;	136331 136332 136333
(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.	136334 136335 136336
(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:	136337 136338
(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;	136339 136340 136341 136342 136343
(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.	136344 136345 136346
When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.	136347 136348 136349 136350 136351 136352 136353
(T) "Admission" to a hospital or other place means that a	136354

patient is accepted for and stays at least one night at the 136355
hospital or other place. 136356

(U) "Prosecutor" means the prosecuting attorney, village 136357
solicitor, city director of law, or similar chief legal officer 136358
who prosecuted a criminal case in which a person was found not 136359
guilty by reason of insanity, who would have had the authority to 136360
prosecute a criminal case against a person if the person had not 136361
been found incompetent to stand trial, or who prosecuted a case in 136362
which a person was found guilty. 136363

(V) "Treatment plan" means a written statement of reasonable 136364
objectives and goals for an individual established by the 136365
treatment team, with specific criteria to evaluate progress 136366
towards achieving those objectives. The active participation of 136367
the patient in establishing the objectives and goals shall be 136368
documented. The treatment plan shall be based on patient needs and 136369
include services to be provided to the patient while the patient 136370
is hospitalized and after the patient is discharged. The treatment 136371
plan shall address services to be provided upon discharge, 136372
including but not limited to housing, financial, and vocational 136373
services. 136374

(W) "Community control sanction" has the same meaning as in 136375
section 2929.01 of the Revised Code. 136376

(X) "Post-release control sanction" has the same meaning as 136377
in section 2967.01 of the Revised Code. 136378

Sec. 5122.02. (A) Except as provided in division (D) of this 136379
section, any person who is eighteen years of age or older and who 136380
is, appears to be, or believes self to be mentally ill may make 136381
written application for voluntary admission to the chief medical 136382
officer of a hospital. 136383

(B) Except as provided in division (D) of this section, the 136384

application also may be made on behalf of a minor by a parent, a guardian of the person, or the person with custody of the minor, and on behalf of an adult incompetent person by the guardian or the person with custody of the incompetent person.

Any person whose admission is applied for under division (A) or (B) of this section may be admitted for observation, diagnosis, care, or treatment, in any hospital unless the chief clinical officer finds that hospitalization is inappropriate, and except that, in the case of a public hospital, no person shall be admitted without the authorization of the board of the person's county of residence.

(C) If a minor or person adjudicated incompetent due to mental illness whose voluntary admission is applied for under division (B) of this section is admitted, the court shall determine, upon petition by ~~the legal rights service~~, private or otherwise appointed counsel, a relative, or one acting as next friend, whether the admission or continued hospitalization is in the best interest of the minor or incompetent.

The chief clinical officer shall discharge any voluntary patient who has recovered or whose hospitalization the officer determines to be no longer advisable and may discharge any voluntary patient who refuses to accept treatment consistent with the written treatment plan required by section 5122.27 of the Revised Code.

(D) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily admit ~~himself or herself~~ the person or be voluntarily admitted to a hospital pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

Sec. 5122.27. The chief clinical officer of the hospital or 136416
~~his~~ the chief clinical officer's designee shall assure that all 136417
patients hospitalized or committed pursuant to this chapter shall: 136418

(A) Receive, within twenty days of their admission sufficient 136419
professional care to assure that an evaluation of current status, 136420
differential diagnosis, probable prognosis, and description of the 136421
current treatment plan is stated on the official chart; 136422

(B) Have a written treatment plan consistent with the 136423
evaluation, diagnosis, prognosis, and goals which shall be 136424
provided, upon request of the patient or patient's counsel, to the 136425
patient's counsel and to any private physician or licensed 136426
clinical psychologist designated by the patient or ~~his~~ the 136427
patient's counsel or to the ~~legal rights service~~ Ohio protection 136428
and advocacy system; 136429

(C) Receive treatment consistent with the treatment plan. The 136430
department of mental health shall set standards for treatment 136431
provided to such patients, consistent wherever possible with 136432
standards set by the joint commission on accreditation of 136433
healthcare organizations. 136434

(D) Receive periodic reevaluations of the treatment plan by 136435
the professional staff at intervals not to exceed ninety days; 136436

(E) Be provided with adequate medical treatment for physical 136437
disease or injury; 136438

(F) Receive humane care and treatment, including without 136439
limitation, the following: 136440

(1) The least restrictive environment consistent with the 136441
treatment plan; 136442

(2) The necessary facilities and personnel required by the 136443
treatment plan; 136444

(3) A humane psychological and physical environment; 136445

(4) The right to obtain current information concerning ~~his~~ the patient's treatment program and expectations in terms that ~~he~~ the patient can reasonably understand;

(5) Participation in programs designed to afford ~~him~~ the patient substantial opportunity to acquire skills to facilitate ~~his~~ return to the community or to terminate an involuntary commitment;

(6) The right to be free from unnecessary or excessive medication;

(7) Freedom from restraints or isolation unless it is stated in a written order by the chief clinical officer or ~~his~~ the chief clinical officer's designee, or the patient's individual physician or psychologist in a private or general hospital.

~~(G) Be notified of their rights under the law within twenty four hours of admission, according to rules established by the legal rights service.~~

If the chief clinical officer of the hospital is unable to provide the treatment required by divisions (C), (E), and (F) of this section for any patient hospitalized pursuant to Chapter 5122. of the Revised Code, ~~he~~ the chief clinical officer shall immediately notify the patient, the court, ~~the legal rights service~~ Ohio protection and advocacy system, the director of mental health, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification by the director, ~~he~~ the director is unable to effect a transfer of the patient, pursuant to section 5122.20 of the Revised Code, to a hospital, community mental health agency, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to Chapter 5122. of the Revised Code and defined as a mentally ill person subject to

hospitalization by court order under division (B)(4) of section 136477
5122.01 of the Revised Code shall automatically be terminated. 136478

Sec. 5122.271. (A) Except as provided in divisions (C), (D), 136479
and (E) of this section, the chief clinical officer or, in a 136480
nonpublic hospital, the attending physician responsible for a 136481
patient's care shall provide all information, including expected 136482
physical and medical consequences, necessary to enable any patient 136483
of a hospital for the mentally ill to give a fully informed, 136484
intelligent, and knowing consent, the opportunity to consult with 136485
independent specialists and counsel, and the right to refuse 136486
consent for any of the following: 136487

(1) Surgery; 136488

(2) Convulsive therapy; 136489

(3) Major aversive interventions; 136490

(4) Sterilizations; 136491

(5) Any unusually hazardous treatment procedures; 136492

(6) Psycho-surgery. 136493

(B) No patient shall be subjected to any of the procedures 136494
listed in divisions (A)(4) to (6) of this section until both the 136495
patient's informed, intelligent, and knowing consent and the 136496
approval of the court have been obtained, except that court 136497
approval is not required for a legally competent and voluntary 136498
patient in a nonpublic hospital. 136499

(C) If, after providing the information required under 136500
division (A) of this section to the patient, the chief clinical 136501
officer or attending physician concludes that a patient is 136502
physically or mentally unable to receive the information required 136503
for surgery under division (A)(1) of this section, or has been 136504
adjudicated incompetent, the information may be provided to the 136505
patient's natural or court-appointed guardian, who may give an 136506

informed, intelligent, and knowing written consent. 136507

If a patient is physically or mentally unable to receive the 136508
information required for surgery under division (A)(1) of this 136509
section and has no guardian, the information, the recommendation 136510
of the chief clinical officer, and the concurring judgment of a 136511
licensed physician who is not a full-time employee of the state 136512
may be provided to the court in the county in which the hospital 136513
is located, which may approve the surgery. Before approving the 136514
surgery, the court shall notify the ~~legal rights service~~ Ohio 136515
protection and advocacy system created by section 5123.60 of the 136516
Revised Code, and shall notify the patient of the rights to 136517
consult with counsel, to have counsel appointed by the court if 136518
the patient is indigent, and to contest the recommendation of the 136519
chief clinical officer. 136520

(D) If, in a medical emergency, and after providing the 136521
information required under division (A) of this section to the 136522
patient, it is the judgment of one licensed physician that delay 136523
in obtaining surgery would create a grave danger to the health of 136524
the patient, it may be administered without the consent of the 136525
patient or the patient's guardian if the necessary information is 136526
provided to the patient's spouse or next of kin to enable that 136527
person to give informed, intelligent, and knowing written consent. 136528
If no spouse or next of kin can reasonably be contacted, or if the 136529
spouse or next of kin is contacted, but refuses to consent, the 136530
surgery may be performed upon the written authorization of the 136531
chief clinical officer or, in a nonpublic hospital, upon the 136532
written authorization of the attending physician responsible for 136533
the patient's care, and after the approval of the court has been 136534
obtained. However, if delay in obtaining court approval would 136535
create a grave danger to the life of the patient, the chief 136536
clinical officer or, in a nonpublic hospital, the attending 136537
physician responsible for the patient's care may authorize 136538

surgery, in writing, without court approval. If the surgery is 136539
authorized without court approval, the chief clinical officer or 136540
the attending physician who made the authorization and the 136541
physician who performed the surgery shall each execute an 136542
affidavit describing the circumstances constituting the emergency 136543
and warranting the surgery and the circumstances warranting their 136544
not obtaining prior court approval. The affidavit shall be filed 136545
with the court with which the request for prior approval would 136546
have been filed within five court days after the surgery, and a 136547
copy of the affidavit shall be placed in the patient's file and be 136548
given to the guardian, spouse, or next of kin of the patient, to 136549
the hospital at which the surgery was performed, and to the ~~legal~~ 136550
~~rights service created by~~ Ohio protection and advocacy system as 136551
defined in section 5123.60 of the Revised Code. 136552

(E) Major aversive interventions shall not be used unless a 136553
patient continues to engage in behavior destructive to self or 136554
others after other forms of therapy have been attempted. Major 136555
aversive interventions may be applied if approved by the director 136556
of mental health. ~~The director of the legal rights service created~~ 136557
~~by section 5123.60 of the Revised Code shall be notified of any~~ 136558
~~proposed major aversive intervention prior to review by the~~ 136559
~~director of mental health.~~ Major aversive interventions shall not 136560
be applied to a voluntary patient without the informed, 136561
intelligent, and knowing written consent of the patient or the 136562
patient's guardian. 136563

(F) Unless there is substantial risk of physical harm to self 136564
or others, or other than under division (D) of this section, this 136565
chapter does not authorize any form of compulsory medical, 136566
psychological, or psychiatric treatment of any patient who is 136567
being treated by spiritual means through prayer alone in 136568
accordance with a recognized religious method of healing without 136569
specific court authorization. 136570

(G) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5122.29. All patients hospitalized or committed pursuant to this chapter have the following rights:

(A) The right to a written list of all rights enumerated in this chapter, to that person, ~~his~~ that person's legal guardian, and ~~his~~ that person's counsel. If the person is unable to read, the list shall be read and explained to ~~him~~ the person.

(B) The right at all times to be treated with consideration and respect for ~~his~~ the patient's privacy and dignity, including without limitation, the following:

(1) At the time a person is taken into custody for diagnosis, detention, or treatment under Chapter 5122. of the Revised Code, the person taking ~~him~~ that person into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by that person;

(2) A person who is committed, voluntarily or involuntarily, shall be given reasonable protection from assault or battery by any other person.

(C) The right to communicate freely with and be visited at reasonable times by ~~his~~ the patient's private counsel or personnel of the ~~legal rights service~~ Ohio protection and advocacy system and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by ~~his~~ the patient's personal physician or psychologist.

(D) The right to communicate freely with others, unless specifically restricted in the patient's treatment plan for clear treatment reasons, including without limitation the following:

(1) To receive visitors at reasonable times;

(2) To have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed.

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(E) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed.

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(F) The right to the following personal privileges consistent with health and safety:

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(1) To wear ~~his~~ the patient's own clothes and maintain ~~his~~ the patient's own personal effects;

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(2) To be provided an adequate allowance for or allotment of neat, clean, and seasonable clothing if unable to provide ~~his~~ the patient's own;

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(3) To maintain ~~his~~ the patient's personal appearance according to ~~his~~ the patient's own personal taste, including head and body hair;

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(4) To keep and use personal possessions, including toilet articles;

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(5) To have access to individual storage space for ~~his~~ the patient's private use;

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(6) To keep and spend a reasonable sum of ~~his~~ the patient's own money for expenses and small purchases;

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(7) To receive and possess reading materials without censorship, except when the materials create a clear and present danger to the safety of persons in the facility.

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(G) The right to reasonable privacy, including both periods of privacy and places of privacy.

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(H) The right to free exercise of religious worship within

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the facility, including a right to services and sacred texts that 136631
are within the reasonable capacity of the facility to supply, 136632
provided that no patient shall be coerced into engaging in any 136633
religious activities. 136634

(I) The right to social interaction with members of either 136635
sex, subject to adequate supervision, unless such social 136636
interaction is specifically withheld under a patient's written 136637
treatment plan for clear treatment reasons. 136638

As used in this section, "clear treatment reasons" means that 136639
permitting the patient to communicate freely with others will 136640
present a substantial risk of physical harm to the patient or 136641
others or will substantially preclude effective treatment of the 136642
patient. If a right provided under this section is restricted or 136643
withheld for clear treatment reasons, the patient's written 136644
treatment plan shall specify the treatment designed to eliminate 136645
the restriction or withholding of the right at the earliest 136646
possible time. 136647

Sec. 5122.31. (A) All certificates, applications, records, 136648
and reports made for the purpose of this chapter and sections 136649
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 136650
Code, other than court journal entries or court docket entries, 136651
and directly or indirectly identifying a patient or former patient 136652
or person whose hospitalization has been sought under this 136653
chapter, shall be kept confidential and shall not be disclosed by 136654
any person except: 136655

(1) If the person identified, or the person's legal guardian, 136656
if any, or if the person is a minor, the person's parent or legal 136657
guardian, consents, and if the disclosure is in the best interests 136658
of the person, as may be determined by the court for judicial 136659
records and by the chief clinical officer for medical records; 136660

(2) When disclosure is provided for in this chapter or 136661

section ~~5123.60~~ 5123.601 of the Revised Code; 136662

(3) That hospitals, boards of alcohol, drug addiction, and 136663
mental health services, and community mental health agencies may 136664
release necessary medical information to insurers and other 136665
third-party payers, including government entities responsible for 136666
processing and authorizing payment, to obtain payment for goods 136667
and services furnished to the patient; 136668

(4) Pursuant to a court order signed by a judge; 136669

(5) That a patient shall be granted access to the patient's 136670
own psychiatric and medical records, unless access specifically is 136671
restricted in a patient's treatment plan for clear treatment 136672
reasons; 136673

(6) That hospitals and other institutions and facilities 136674
within the department of mental health may exchange psychiatric 136675
records and other pertinent information with other hospitals, 136676
institutions, and facilities of the department, and with community 136677
mental health agencies and boards of alcohol, drug addiction, and 136678
mental health services with which the department has a current 136679
agreement for patient care or services. Records and information 136680
that may be released pursuant to this division shall be limited to 136681
medication history, physical health status and history, financial 136682
status, summary of course of treatment in the hospital, summary of 136683
treatment needs, and a discharge summary, if any. 136684

(7) That hospitals within the department, other institutions 136685
and facilities within the department, hospitals licensed by the 136686
department under section 5119.20 of the Revised Code, and 136687
community mental health agencies may exchange psychiatric records 136688
and other pertinent information with payers and other providers of 136689
treatment and health services if the purpose of the exchange is to 136690
facilitate continuity of care for a patient; 136691

(8) That a patient's family member who is involved in the 136692

provision, planning, and monitoring of services to the patient may 136693
receive medication information, a summary of the patient's 136694
diagnosis and prognosis, and a list of the services and personnel 136695
available to assist the patient and the patient's family, if the 136696
patient's treating physician determines that the disclosure would 136697
be in the best interests of the patient. No such disclosure shall 136698
be made unless the patient is notified first and receives the 136699
information and does not object to the disclosure. 136700

(9) That community mental health agencies may exchange 136701
psychiatric records and certain other information with the board 136702
of alcohol, drug addiction, and mental health services and other 136703
agencies in order to provide services to a person involuntarily 136704
committed to a board. Release of records under this division shall 136705
be limited to medication history, physical health status and 136706
history, financial status, summary of course of treatment, summary 136707
of treatment needs, and discharge summary, if any. 136708

(10) That information may be disclosed to the executor or the 136709
administrator of an estate of a deceased patient when the 136710
information is necessary to administer the estate; 136711

(11) That records in the possession of the Ohio historical 136712
society may be released to the closest living relative of a 136713
deceased patient upon request of that relative; 136714

(12) That information may be disclosed to staff members of 136715
the appropriate board or to staff members designated by the 136716
director of mental health for the purpose of evaluating the 136717
quality, effectiveness, and efficiency of services and determining 136718
if the services meet minimum standards. Information obtained 136719
during such evaluations shall not be retained with the name of any 136720
patient. 136721

(13) That records pertaining to the patient's diagnosis, 136722
course of treatment, treatment needs, and prognosis shall be 136723

disclosed and released to the appropriate prosecuting attorney if 136724
the patient was committed pursuant to section 2945.38, 2945.39, 136725
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 136726
attorney designated by the board for proceedings pursuant to 136727
involuntary commitment under this chapter. 136728

(14) That the department of mental health may exchange 136729
psychiatric hospitalization records, other mental health treatment 136730
records, and other pertinent information with the department of 136731
rehabilitation and correction to ensure continuity of care for 136732
inmates who are receiving mental health services in an institution 136733
of the department of rehabilitation and correction. The department 136734
shall not disclose those records unless the inmate is notified, 136735
receives the information, and does not object to the disclosure. 136736
The release of records under this division is limited to records 136737
regarding an inmate's medication history, physical health status 136738
and history, summary of course of treatment, summary of treatment 136739
needs, and a discharge summary, if any. 136740

(15) That a community mental health agency that ceases to 136741
operate may transfer to either a community mental health agency 136742
that assumes its caseload or to the board of alcohol, drug 136743
addiction, and mental health services of the service district in 136744
which the patient resided at the time services were most recently 136745
provided any treatment records that have not been transferred 136746
elsewhere at the patient's request. 136747

(B) Before records are disclosed pursuant to divisions 136748
(A)(3), (6), (7), and (9) of this section, the custodian of the 136749
records shall attempt to obtain the patient's consent for the 136750
disclosure. No person shall reveal the contents of a medical 136751
record of a patient except as authorized by law. 136752

(C) The managing officer of a hospital who releases necessary 136753
medical information under division (A)(3) of this section to allow 136754
an insurance carrier or other third party payor to comply with 136755

section 5121.43 of the Revised Code shall neither be subject to 136756
criminal nor civil liability. 136757

Sec. 5122.32. (A) As used in this section: 136758

(1) "Quality assurance committee" means a committee that is 136759
appointed in the central office of the department of mental health 136760
by the director of mental health, a committee of a hospital or 136761
community setting program, a committee established pursuant to 136762
section 5119.47 of the Revised Code of the department of mental 136763
health appointed by the managing officer of the hospital or 136764
program, or a duly authorized subcommittee of a committee of that 136765
nature and that is designated to carry out quality assurance 136766
program activities. 136767

(2) "Quality assurance program" means a comprehensive program 136768
within the department of mental health to systematically review 136769
and improve the quality of medical and mental health services 136770
within the department and its hospitals and community setting 136771
programs, the safety and security of persons receiving medical and 136772
mental health services within the department and its hospitals and 136773
community setting programs, and the efficiency and effectiveness 136774
of the utilization of staff and resources in the delivery of 136775
medical and mental health services within the department and its 136776
hospitals and community setting programs. "Quality assurance 136777
program" includes the central office quality assurance committees, 136778
morbidity and mortality review committees, quality assurance 136779
programs of community setting programs, quality assurance 136780
committees of hospitals operated by the department of mental 136781
health, and the office of licensure and certification of the 136782
department. 136783

(3) "Quality assurance program activities" include collecting 136784
or compiling information and reports required by a quality 136785
assurance committee, receiving, reviewing, or implementing the 136786

recommendations made by a quality assurance committee, and 136787
credentialing, privileging, infection control, tissue review, peer 136788
review, utilization review including access to patient care 136789
records, patient care assessment records, and medical and mental 136790
health records, medical and mental health resource management, 136791
mortality and morbidity review, and identification and prevention 136792
of medical or mental health incidents and risks, whether performed 136793
by a quality assurance committee or by persons who are directed by 136794
a quality assurance committee. 136795

(4) "Quality assurance records" means the proceedings, 136796
discussion, records, findings, recommendations, evaluations, 136797
opinions, minutes, reports, and other documents or actions that 136798
emanate from quality assurance committees, quality assurance 136799
programs, or quality assurance program activities. "Quality 136800
assurance records" does not include aggregate statistical 136801
information that does not disclose the identity of persons 136802
receiving or providing medical or mental health services in 136803
department of mental health institutions. 136804

(B)(1) Except as provided in division (E) of this section, 136805
quality assurance records are confidential and are not public 136806
records under section 149.43 of the Revised Code, and shall be 136807
used only in the course of the proper functions of a quality 136808
assurance program. 136809

(2) Except as provided in division (E) of this section, no 136810
person who possesses or has access to quality assurance records 136811
and who knows that the records are quality assurance records shall 136812
willfully disclose the contents of the records to any person or 136813
entity. 136814

(C)(1) Except as provided in division (E) of this section, no 136815
quality assurance record shall be subject to discovery in, and is 136816
not admissible in evidence, in any judicial or administrative 136817
proceeding. 136818

(2) Except as provided in division (E) of this section, no member of a quality assurance committee or a person who is performing a function that is part of a quality assurance program shall be permitted or required to testify in a judicial or administrative proceeding with respect to quality assurance records or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee, member, or person.

(3) Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or admission in evidence in a judicial or administrative proceeding merely because they were presented to a quality assurance committee. No person testifying before a quality assurance committee or person who is a member of a quality assurance committee shall be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness' testimony before the quality assurance committee or about an opinion formed by the person as a result of the quality assurance committee proceedings.

(D)(1) A person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil action for injury, death, or loss to person or property to any person as a result of providing the information.

(2) A member of a quality assurance committee, a person engaged in quality assurance program activities, and an employee of the department of mental health shall not be liable in damages in a civil action for injury, death, or loss to person or property to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program.

(3) Nothing in this section shall relieve any institution or individual from liability arising from the treatment of a patient. 136851
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(E) Quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities: 136853
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(1) Persons who are employed or retained by the department of mental health and who have authority to evaluate or implement the recommendations of a state-operated hospital, community setting program, or central office quality assurance committee; 136856
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(2) Public or private agencies or organizations if needed to perform a licensing or accreditation function related to department of mental health hospitals or community setting programs, or to perform monitoring of a hospital or program of that nature as required by law. 136860
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(F) A disclosure of quality assurance records pursuant to division (E) of this section does not otherwise waive the confidential and privileged status of the disclosed quality assurance records. 136865
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(G) Nothing in this section shall limit the access of the ~~legal rights service~~ Ohio protection and advocacy system to records or personnel as ~~set forth in sections 5123.60 to 5123.604~~ required under section 5123.601 of the Revised Code. Nothing in this section shall limit the admissibility of documentary or testimonial evidence in an action brought by the ~~legal rights service~~ Ohio protection and advocacy system in its own name or on behalf of a client. 136869
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Sec. 5123.092. (A) There is hereby established at each institution and branch institution under the control of the department of developmental disabilities a citizen's advisory council consisting of thirteen members. At least seven of the 136877
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members shall be persons who are not providers of mental 136881
retardation services. Each council shall include parents or other 136882
relatives of residents of institutions under the control of the 136883
department, community leaders, professional persons in relevant 136884
fields, and persons who have an interest in or knowledge of mental 136885
retardation. The managing officer of the institution shall be a 136886
nonvoting member of the council. 136887

(B) The director of developmental disabilities shall be the 136888
appointing authority for the voting members of each citizen's 136889
advisory council. Each time the term of a voting member expires, 136890
the remaining members of the council shall recommend to the 136891
director one or more persons to serve on the council. The director 136892
may accept a nominee of the council or reject the nominee or 136893
nominees. If the director rejects the nominee or nominees, the 136894
remaining members of the advisory council shall further recommend 136895
to the director one or more other persons to serve on the advisory 136896
council. This procedure shall continue until a member is appointed 136897
to the advisory council. 136898

Each advisory council shall elect from its appointed members 136899
a chairperson, vice-chairperson, and a secretary to serve for 136900
terms of one year. Advisory council officers shall not serve for 136901
more than two consecutive terms in the same office. A majority of 136902
the advisory council members constitutes a quorum. 136903

(C) Terms of office shall be for three years, each term 136904
ending on the same day of the same month of the year as did the 136905
term which it succeeds. No member shall serve more than two 136906
consecutive terms, except that any former member may be appointed 136907
if one year or longer has elapsed since the member served two 136908
consecutive terms. Each member shall hold office from the date of 136909
appointment until the end of the term for which the member was 136910
appointed. Any vacancy shall be filled in the same manner in which 136911
the original appointment was made, and the appointee to a vacancy 136912

in an unexpired term shall serve the balance of the term of the 136913
original appointee. Any member shall continue in office subsequent 136914
to the expiration date of the member's term until the member's 136915
successor takes office, or until a period of sixty days has 136916
elapsed, whichever occurs first. 136917

(D) Members shall be expected to attend all meetings of the 136918
advisory council. Unexcused absence from two successive regularly 136919
scheduled meetings shall be considered prima-facie evidence of 136920
intent not to continue as a member. The chairperson of the board 136921
shall, after a member has been absent for two successive regularly 136922
scheduled meetings, direct a letter to the member asking if the 136923
member wishes to remain in membership. If an affirmative reply is 136924
received, the member shall be retained as a member except that, 136925
if, after having expressed a desire to remain a member, the member 136926
then misses a third successive regularly scheduled meeting without 136927
being excused, the chairperson shall terminate the member's 136928
membership. 136929

(E) A citizen's advisory council shall meet six times 136930
annually, or more frequently if three council members request the 136931
chairperson to call a meeting. The council shall keep minutes of 136932
each meeting and shall submit them to the managing officer of the 136933
institution with which the council is associated, and the 136934
department of developmental disabilities, ~~and the legal rights~~ 136935
~~service.~~ 136936

(F) Members of citizen's advisory councils shall receive no 136937
compensation for their services, except that they shall be 136938
reimbursed for their actual and necessary expenses incurred in the 136939
performance of their official duties by the institution with which 136940
they are associated from funds allocated to it, provided that 136941
reimbursement for those expenses shall not exceed limits imposed 136942
upon the department of developmental disabilities by 136943
administrative rules regulating travel within this state. 136944

(G) The councils shall have reasonable access to all patient treatment and living areas and records of the institution, except those records of a strictly personal or confidential nature. The councils shall have access to a patient's personal records with the consent of the patient or the patient's legal guardian or, if the patient is a minor, with the consent of the parent or legal guardian of the patient.

(H) As used in this section, "branch institution" means a facility that is located apart from an institution and is under the control of the managing officer of the institution.

Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in

which a mentally retarded or developmentally disabled person 136975
resides in an individualized setting chosen by the person or the 136976
person's guardian, which is not dedicated principally to the 136977
provision of residential services for mentally retarded or 136978
developmentally disabled persons, and for which no financial 136979
support is received for rendering such service from any 136980
governmental agency by a provider of residential services. 136981

(4) "Licensee" means the person or government agency that has 136982
applied for a license to operate a residential facility and to 136983
which the license was issued under this section. 136984

(5) "Related party" has the same meaning as in section 136985
5123.16 of the Revised Code except that "provider" as used in the 136986
definition of "related party" means a person or government entity 136987
that held or applied for a license to operate a residential 136988
facility, rather than a person or government entity certified to 136989
provide supported living. 136990

(B) Every person or government agency desiring to operate a 136991
residential facility shall apply for licensure of the facility to 136992
the director of developmental disabilities unless the residential 136993
facility is subject to section 3721.02, 5119.73, 5103.03, or 136994
5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the 136995
Revised Code, a nursing home that is certified as an intermediate 136996
care facility for the mentally retarded under Title XIX of the 136997
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as 136998
amended, shall apply for licensure of the portion of the home that 136999
is certified as an intermediate care facility for the mentally 137000
retarded. 137001

(C) Subject to section 5123.196 of the Revised Code, the 137002
director of developmental disabilities shall license the operation 137003
of residential facilities. An initial license shall be issued for 137004
a period that does not exceed one year, unless the director denies 137005
the license under division (D) of this section. A license shall be 137006

renewed for a period that does not exceed three years, unless the 137007
director refuses to renew the license under division (D) of this 137008
section. The director, when issuing or renewing a license, shall 137009
specify the period for which the license is being issued or 137010
renewed. A license remains valid for the length of the licensing 137011
period specified by the director, unless the license is 137012
terminated, revoked, or voluntarily surrendered. 137013

(D) If it is determined that an applicant or licensee is not 137014
in compliance with a provision of this chapter that applies to 137015
residential facilities or the rules adopted under such a 137016
provision, the director may deny issuance of a license, refuse to 137017
renew a license, terminate a license, revoke a license, issue an 137018
order for the suspension of admissions to a facility, issue an 137019
order for the placement of a monitor at a facility, issue an order 137020
for the immediate removal of residents, or take any other action 137021
the director considers necessary consistent with the director's 137022
authority under this chapter regarding residential facilities. In 137023
the director's selection and administration of the sanction to be 137024
imposed, all of the following apply: 137025

(1) The director may deny, refuse to renew, or revoke a 137026
license, if the director determines that the applicant or licensee 137027
has demonstrated a pattern of serious noncompliance or that a 137028
violation creates a substantial risk to the health and safety of 137029
residents of a residential facility. 137030

(2) The director may terminate a license if more than twelve 137031
consecutive months have elapsed since the residential facility was 137032
last occupied by a resident or a notice required by division (K) 137033
of this section is not given. 137034

(3) The director may issue an order for the suspension of 137035
admissions to a facility for any violation that may result in 137036
sanctions under division (D)(1) of this section and for any other 137037
violation specified in rules adopted under division (H)(2) of this 137038

section. If the suspension of admissions is imposed for a 137039
violation that may result in sanctions under division (D)(1) of 137040
this section, the director may impose the suspension before 137041
providing an opportunity for an adjudication under Chapter 119. of 137042
the Revised Code. The director shall lift an order for the 137043
suspension of admissions when the director determines that the 137044
violation that formed the basis for the order has been corrected. 137045

(4) The director may order the placement of a monitor at a 137046
residential facility for any violation specified in rules adopted 137047
under division (H)(2) of this section. The director shall lift the 137048
order when the director determines that the violation that formed 137049
the basis for the order has been corrected. 137050

(5) If the director determines that two or more residential 137051
facilities owned or operated by the same person or government 137052
entity are not being operated in compliance with a provision of 137053
this chapter that applies to residential facilities or the rules 137054
adopted under such a provision, and the director's findings are 137055
based on the same or a substantially similar action, practice, 137056
circumstance, or incident that creates a substantial risk to the 137057
health and safety of the residents, the director shall conduct a 137058
survey as soon as practicable at each residential facility owned 137059
or operated by that person or government entity. The director may 137060
take any action authorized by this section with respect to any 137061
facility found to be operating in violation of a provision of this 137062
chapter that applies to residential facilities or the rules 137063
adopted under such a provision. 137064

(6) When the director initiates license revocation 137065
proceedings, no opportunity for submitting a plan of correction 137066
shall be given. The director shall notify the licensee by letter 137067
of the initiation of the proceedings. The letter shall list the 137068
deficiencies of the residential facility and inform the licensee 137069
that no plan of correction will be accepted. The director shall 137070

also send a copy of the letter to the county board of 137071
developmental disabilities. The county board shall send a copy of 137072
the letter to each of the following: 137073

(a) Each resident who receives services from the licensee; 137074

(b) The guardian of each resident who receives services from 137075
the licensee if the resident has a guardian; 137076

(c) The parent or guardian of each resident who receives 137077
services from the licensee if the resident is a minor. 137078

(7) Pursuant to rules which shall be adopted in accordance 137079
with Chapter 119. of the Revised Code, the director may order the 137080
immediate removal of residents from a residential facility 137081
whenever conditions at the facility present an immediate danger of 137082
physical or psychological harm to the residents. 137083

(8) In determining whether a residential facility is being 137084
operated in compliance with a provision of this chapter that 137085
applies to residential facilities or the rules adopted under such 137086
a provision, or whether conditions at a residential facility 137087
present an immediate danger of physical or psychological harm to 137088
the residents, the director may rely on information obtained by a 137089
county board of developmental disabilities or other governmental 137090
agencies. 137091

(9) In proceedings initiated to deny, refuse to renew, or 137092
revoke licenses, the director may deny, refuse to renew, or revoke 137093
a license regardless of whether some or all of the deficiencies 137094
that prompted the proceedings have been corrected at the time of 137095
the hearing. 137096

(E) The director shall establish a program under which public 137097
notification may be made when the director has initiated license 137098
revocation proceedings or has issued an order for the suspension 137099
of admissions, placement of a monitor, or removal of residents. 137100
The director shall adopt rules in accordance with Chapter 119. of 137101

the Revised Code to implement this division. The rules shall 137102
establish the procedures by which the public notification will be 137103
made and specify the circumstances for which the notification must 137104
be made. The rules shall require that public notification be made 137105
if the director has taken action against the facility in the 137106
eighteen-month period immediately preceding the director's latest 137107
action against the facility and the latest action is being taken 137108
for the same or a substantially similar violation of a provision 137109
of this chapter that applies to residential facilities or the 137110
rules adopted under such a provision. The rules shall specify a 137111
method for removing or amending the public notification if the 137112
director's action is found to have been unjustified or the 137113
violation at the residential facility has been corrected. 137114

(F)(1) Except as provided in division (F)(2) of this section, 137115
appeals from proceedings initiated to impose a sanction under 137116
division (D) of this section shall be conducted in accordance with 137117
Chapter 119. of the Revised Code. 137118

(2) Appeals from proceedings initiated to order the 137119
suspension of admissions to a facility shall be conducted in 137120
accordance with Chapter 119. of the Revised Code, unless the order 137121
was issued before providing an opportunity for an adjudication, in 137122
which case all of the following apply: 137123

(a) The licensee may request a hearing not later than ten 137124
days after receiving the notice specified in section 119.07 of the 137125
Revised Code. 137126

(b) If a timely request for a hearing that includes the 137127
licensee's current address is made, the hearing shall commence not 137128
later than thirty days after the department receives the request. 137129

(c) After commencing, the hearing shall continue 137130
uninterrupted, except for Saturdays, Sundays, and legal holidays, 137131
unless other interruptions are agreed to by the licensee and the 137132

director. 137133

(d) If the hearing is conducted by a hearing examiner, the 137134
hearing examiner shall file a report and recommendations not later 137135
than ten days after the last of the following: 137136

(i) The close of the hearing; 137137

(ii) If a transcript of the proceedings is ordered, the 137138
hearing examiner receives the transcript; 137139

(iii) If post-hearing briefs are timely filed, the hearing 137140
examiner receives the briefs. 137141

(e) A copy of the written report and recommendation of the 137142
hearing examiner shall be sent, by certified mail, to the licensee 137143
and the licensee's attorney, if applicable, not later than five 137144
days after the report is filed. 137145

(f) Not later than five days after the hearing examiner files 137146
the report and recommendations, the licensee may file objections 137147
to the report and recommendations. 137148

(g) Not later than fifteen days after the hearing examiner 137149
files the report and recommendations, the director shall issue an 137150
order approving, modifying, or disapproving the report and 137151
recommendations. 137152

(h) Notwithstanding the pendency of the hearing, the director 137153
shall lift the order for the suspension of admissions when the 137154
director determines that the violation that formed the basis for 137155
the order has been corrected. 137156

(G) Neither a person or government agency whose application 137157
for a license to operate a residential facility is denied nor a 137158
related party of the person or government agency may apply for a 137159
license to operate a residential facility before the date that is 137160
one year after the date of the denial. Neither a licensee whose 137161
residential facility license is revoked nor a related party of the 137162

licensee may apply for a residential facility license before the 137163
date that is five years after the date of the revocation. 137164

(H) In accordance with Chapter 119. of the Revised Code, the 137165
director shall adopt and may amend and rescind rules for licensing 137166
and regulating the operation of residential facilities, including 137167
intermediate care facilities for the mentally retarded. The rules 137168
for intermediate care facilities for the mentally retarded may 137169
differ from those for other residential facilities. The rules 137170
shall establish and specify the following: 137171

(1) Procedures and criteria for issuing and renewing 137172
licenses, including procedures and criteria for determining the 137173
length of the licensing period that the director must specify for 137174
each license when it is issued or renewed; 137175

(2) Procedures and criteria for denying, refusing to renew, 137176
terminating, and revoking licenses and for ordering the suspension 137177
of admissions to a facility, placement of a monitor at a facility, 137178
and the immediate removal of residents from a facility; 137179

(3) Fees for issuing and renewing licenses, which shall be 137180
deposited into the program fee fund created under section 5123.033 137181
of the Revised Code; 137182

(4) Procedures for surveying residential facilities; 137183

(5) Requirements for the training of residential facility 137184
personnel; 137185

(6) Classifications for the various types of residential 137186
facilities; 137187

(7) Certification procedures for licensees and management 137188
contractors that the director determines are necessary to ensure 137189
that they have the skills and qualifications to properly operate 137190
or manage residential facilities; 137191

(8) The maximum number of persons who may be served in a 137192

particular type of residential facility;	137193
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	137194 137195
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	137196 137197
(11) Procedures for waiving any provision of any rule adopted under this section.	137198 137199
(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	137200 137201 137202 137203 137204 137205 137206 137207 137208
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.	137209 137210 137211 137212 137213 137214 137215 137216 137217
Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable	137218 137219 137220 137221 137222 137223

within which the licensee must correct the deficiencies. After a 137224
plan of correction is submitted, the director or the director's 137225
designee shall approve or disapprove the plan. A copy of the 137226
report and any approved plan of correction shall be provided to 137227
any person who requests it. 137228

The director shall initiate disciplinary action against any 137229
department employee who notifies or causes the notification to any 137230
unauthorized person of an unannounced survey of a residential 137231
facility by an authorized representative of the department. 137232

(J) In addition to any other information which may be 137233
required of applicants for a license pursuant to this section, the 137234
director shall require each applicant to provide a copy of an 137235
approved plan for a proposed residential facility pursuant to 137236
section 5123.042 of the Revised Code. This division does not apply 137237
to renewal of a license or to an applicant for an initial or 137238
modified license who meets the requirements of section 5123.193 or 137239
5123.197 of the Revised Code. 137240

(K) A licensee shall notify the owner of the building in 137241
which the licensee's residential facility is located of any 137242
significant change in the identity of the licensee or management 137243
contractor before the effective date of the change if the licensee 137244
is not the owner of the building. 137245

Pursuant to rules which shall be adopted in accordance with 137246
Chapter 119. of the Revised Code, the director may require 137247
notification to the department of any significant change in the 137248
ownership of a residential facility or in the identity of the 137249
licensee or management contractor. If the director determines that 137250
a significant change of ownership is proposed, the director shall 137251
consider the proposed change to be an application for development 137252
by a new operator pursuant to section 5123.042 of the Revised Code 137253
and shall advise the applicant within sixty days of the 137254
notification that the current license shall continue in effect or 137255

a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities, ~~the legal rights service,~~ and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated

territory, the clerk of the appropriate board of county 137287
commissioners and the fiscal officer of the appropriate board of 137288
township trustees. 137289

The director shall not issue the license for ten days after 137290
mailing the notice, excluding Saturdays, Sundays, and legal 137291
holidays, in order to give the notified local officials time in 137292
which to comment on the proposed issuance. 137293

Any legislative authority of a municipal corporation, board 137294
of county commissioners, or board of township trustees that 137295
receives notice under this division of the proposed issuance of a 137296
license for a residential facility may comment on it in writing to 137297
the director within ten days after the director mailed the notice, 137298
excluding Saturdays, Sundays, and legal holidays. If the director 137299
receives written comments from any notified officials within the 137300
specified time, the director shall make written findings 137301
concerning the comments and the director's decision on the 137302
issuance of the license. If the director does not receive written 137303
comments from any notified local officials within the specified 137304
time, the director shall continue the process for issuance of the 137305
license. 137306

(O) Any person may operate a licensed residential facility 137307
that provides room and board, personal care, habilitation 137308
services, and supervision in a family setting for at least six but 137309
not more than eight persons with mental retardation or a 137310
developmental disability as a permitted use in any residential 137311
district or zone, including any single-family residential district 137312
or zone, of any political subdivision. These residential 137313
facilities may be required to comply with area, height, yard, and 137314
architectural compatibility requirements that are uniformly 137315
imposed upon all single-family residences within the district or 137316
zone. 137317

(P) Any person may operate a licensed residential facility 137318

that provides room and board, personal care, habilitation 137319
services, and supervision in a family setting for at least nine 137320
but not more than sixteen persons with mental retardation or a 137321
developmental disability as a permitted use in any multiple-family 137322
residential district or zone of any political subdivision, except 137323
that a political subdivision that has enacted a zoning ordinance 137324
or resolution establishing planned unit development districts may 137325
exclude these residential facilities from those districts, and a 137326
political subdivision that has enacted a zoning ordinance or 137327
resolution may regulate these residential facilities in 137328
multiple-family residential districts or zones as a conditionally 137329
permitted use or special exception, in either case, under 137330
reasonable and specific standards and conditions set out in the 137331
zoning ordinance or resolution to: 137332

(1) Require the architectural design and site layout of the 137333
residential facility and the location, nature, and height of any 137334
walls, screens, and fences to be compatible with adjoining land 137335
uses and the residential character of the neighborhood; 137336

(2) Require compliance with yard, parking, and sign 137337
regulation; 137338

(3) Limit excessive concentration of these residential 137339
facilities. 137340

(Q) This section does not prohibit a political subdivision 137341
from applying to residential facilities nondiscriminatory 137342
regulations requiring compliance with health, fire, and safety 137343
regulations and building standards and regulations. 137344

(R) Divisions (O) and (P) of this section are not applicable 137345
to municipal corporations that had in effect on June 15, 1977, an 137346
ordinance specifically permitting in residential zones licensed 137347
residential facilities by means of permitted uses, conditional 137348
uses, or special exception, so long as such ordinance remains in 137349

effect without any substantive modification. 137350

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case: 137351
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(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license. 137354
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(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 137360
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(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 137363
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days. 137368
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(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses. 137371
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(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of 137374
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support from the department of developmental disabilities and 137381
which is in the review process prior to April 4, 1986. 137382

(U) The director or the director's designee may enter at any 137383
time, for purposes of investigation, any home, facility, or other 137384
structure that has been reported to the director or that the 137385
director has reasonable cause to believe is being operated as a 137386
residential facility without a license issued under this section. 137387

The director may petition the court of common pleas of the 137388
county in which an unlicensed residential facility is located for 137389
an order enjoining the person or governmental agency operating the 137390
facility from continuing to operate without a license. The court 137391
may grant the injunction on a showing that the person or 137392
governmental agency named in the petition is operating a 137393
residential facility without a license. The court may grant the 137394
injunction, regardless of whether the residential facility meets 137395
the requirements for receiving a license under this section. 137396

Sec. 5123.191. (A) The court of common pleas or a judge 137397
thereof in the judge's county, or the probate court, may appoint a 137398
receiver to take possession of and operate a residential facility 137399
licensed by the department of developmental disabilities, in 137400
causes pending in such courts respectively, when conditions 137401
existing at the facility present a substantial risk of physical or 137402
mental harm to residents and no other remedies at law are adequate 137403
to protect the health, safety, and welfare of the residents. 137404
Conditions at the facility that may present such risk of harm 137405
include, but are not limited to, instances when any of the 137406
following occur: 137407

(1) The residential facility is in violation of state or 137408
federal law or regulations. 137409

(2) The facility has had its license revoked or procedures 137410
for revocation have been initiated, or the facility is closing or 137411

intends to cease operations. 137412

(3) Arrangements for relocating residents need to be made. 137413

(4) Insolvency of the operator, licensee, or landowner 137414
threatens the operation of the facility. 137415

(5) The facility or operator has demonstrated a pattern and 137416
practice of repeated violations of state or federal laws or 137417
regulations. 137418

(B) A court in which a petition is filed pursuant to this 137419
section shall notify the person holding the license for the 137420
facility and the department of developmental disabilities of the 137421
filing. The court shall order the department to notify the ~~legal~~ 137422
~~rights service~~, facility owner, facility operator, county board of 137423
developmental disabilities, facility residents, and residents' 137424
parents and guardians of the filing of the petition. 137425

The court shall provide a hearing on the petition within five 137426
court days of the time it was filed, except that the court may 137427
appoint a receiver prior to that time if it determines that the 137428
circumstances necessitate such action. Following a hearing on the 137429
petition, and upon a determination that the appointment of a 137430
receiver is warranted, the court shall appoint a receiver and 137431
notify the department of developmental disabilities and 137432
appropriate persons of this action. 137433

(C) A residential facility for which a receiver has been 137434
named is deemed to be in compliance with section 5123.19 and 137435
Chapter 3721. of the Revised Code for the duration of the 137436
receivership. 137437

(D) When the operating revenue of a residential facility in 137438
receivership is insufficient to meet its operating expenses, 137439
including the cost of bringing the facility into compliance with 137440
state or federal laws or regulations, the court may order the 137441
state to provide necessary funding, except as provided in division 137442

(K) of this section. The state shall provide such funding, subject 137443
to the approval of the controlling board. The court may also order 137444
the appropriate authorities to expedite all inspections necessary 137445
for the issuance of licenses or the certification of a facility, 137446
and order a facility to be closed if it determines that reasonable 137447
efforts cannot bring the facility into substantial compliance with 137448
the law. 137449

(E) In establishing a receivership, the court shall set forth 137450
the powers and duties of the receiver. The court may generally 137451
authorize the receiver to do all that is prudent and necessary to 137452
safely and efficiently operate the residential facility within the 137453
requirements of state and federal law, but shall require the 137454
receiver to obtain court approval prior to making any single 137455
expenditure of more than five thousand dollars to correct 137456
deficiencies in the structure or furnishings of a facility. The 137457
court shall closely review the conduct of the receiver it has 137458
appointed and shall require regular and detailed reports. The 137459
receivership shall be reviewed at least every sixty days. 137460

(F) A receivership established pursuant to this section shall 137461
be terminated, following notification of the appropriate parties 137462
and a hearing, if the court determines either of the following: 137463

(1) The residential facility has been closed and the former 137464
residents have been relocated to an appropriate facility. 137465

(2) Circumstances no longer exist at the facility that 137466
present a substantial risk of physical or mental harm to 137467
residents, and there is no deficiency in the facility that is 137468
likely to create a future risk of harm. 137469

Notwithstanding division (F)(2) of this section, the court 137470
shall not terminate a receivership for a residential facility that 137471
has previously operated under another receivership unless the 137472
responsibility for the operation of the facility is transferred to 137473

an operator approved by the court and the department of 137474
developmental disabilities. 137475

(G) The department of developmental disabilities may, upon 137476
its own initiative or at the request of an owner, operator, or 137477
resident of a residential facility, or at the request of a 137478
resident's guardian or relative, or a county board of 137479
developmental disabilities, ~~or the legal rights service~~, petition 137480
the court to appoint a receiver to take possession of and operate 137481
a residential facility. When the department has been requested to 137482
file a petition by any of the parties listed above, it shall, 137483
within forty-eight hours of such request, either file such a 137484
petition or notify the requesting party of its decision not to 137485
file. If the department refuses to file, the requesting party may 137486
file a petition with the court requesting the appointment of a 137487
receiver to take possession of and operate a residential facility. 137488

Petitions filed pursuant to this division shall include the 137489
following: 137490

(1) A description of the specific conditions existing at the 137491
facility which present a substantial risk of physical or mental 137492
harm to residents; 137493

(2) A statement of the absence of other adequate remedies at 137494
law; 137495

(3) The number of individuals residing at the facility; 137496

(4) A statement that the facts have been brought to the 137497
attention of the owner or licensee and that conditions have not 137498
been remedied within a reasonable period of time or that the 137499
conditions, though remedied periodically, habitually exist at the 137500
facility as a pattern or practice; 137501

(5) The name and address of the person holding the license 137502
for the facility and the address of the department of 137503
developmental disabilities. 137504

The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator.

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(H) Except for the department of developmental disabilities or a county board of developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section.

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To assist the court in identifying persons qualified to be named as receivers, the director of developmental disabilities or the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

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(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

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(J) Under the control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property.

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The court shall authorize the receiver to do the following:

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(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

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(2) Honor all leases, mortgages, and secured transactions

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governing all buildings, goods, and fixtures of which the receiver 137536
has taken possession and continues to use, subject to the 137537
following conditions: 137538

(a) In the case of a rental agreement, only to the extent of 137539
payments that are for the use of the property during the period of 137540
the receivership; 137541

(b) In the case of a purchase agreement only to the extent of 137542
payments that come due during the period of the receivership. 137543

(3) If transfer of residents is necessary, provide for the 137544
orderly transfer of residents by doing the following: 137545

(a) Cooperating with all appropriate state and local agencies 137546
in carrying out the transfer of residents to alternative community 137547
placements; 137548

(b) Providing for the transportation of residents' belongings 137549
and records; 137550

(c) Helping to locate alternative placements and develop 137551
discharge plans; 137552

(d) Preparing residents for the trauma of discharge; 137553

(e) Permitting residents or guardians to participate in 137554
transfer or discharge planning except when an emergency exists and 137555
immediate transfer is necessary. 137556

(4) Make periodic reports on the status of the residential 137557
program to the appropriate state agency, county board of 137558
developmental disabilities, parents, guardians, and residents; 137559

(5) Compromise demands or claims; 137560

(6) Generally do such acts respecting the residential 137561
facility as the court authorizes. 137562

(K) Neither the receiver nor the department of developmental 137563
disabilities is liable for debts incurred by the owner or operator 137564

of a residential facility for which a receiver has been appointed. 137565

(L) The department of developmental disabilities may contract 137566
for the operation of a residential facility in receivership. The 137567
department shall establish the conditions of a contract. 137568
Notwithstanding any other provision of law, contracts that are 137569
necessary to carry out the powers and duties of the receiver need 137570
not be competitively bid. 137571

(M) The department of developmental disabilities, the 137572
department of job and family services, and the department of 137573
health shall provide technical assistance to any receiver 137574
appointed pursuant to this section. 137575

Sec. 5123.35. (A) There is hereby created the Ohio 137576
developmental disabilities council, which shall serve as an 137577
advocate for all persons with developmental disabilities. The 137578
council shall act in accordance with the "Developmental 137579
Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 137580
(1984), 42 U.S.C. 6001, as amended. The governor shall appoint the 137581
members of the council in accordance with 42 U.S.C. 6024. 137582

(B) The Ohio developmental disabilities council shall develop 137583
the state plan required by federal law as a condition of receiving 137584
federal assistance under 42 U.S.C. 6021 to 6030. The department of 137585
developmental disabilities, as the state agency selected by the 137586
governor for purposes of receiving the federal assistance, shall 137587
receive, account for, and disburse funds based on the state plan 137588
and shall provide assurances and other administrative support 137589
services required as a condition of receiving the federal 137590
assistance. 137591

(C) The federal funds may be disbursed through grants to or 137592
contracts with persons and government agencies for the provision 137593
of necessary or useful goods and services for developmentally 137594
disabled persons. The Ohio developmental disabilities council may 137595

award the grants or enter into the contracts. 137596

(D) The Ohio developmental disabilities council may award 137597
grants to or enter into contracts with a member of the council or 137598
an entity that the member represents if all of the following 137599
apply: 137600

(1) The member serves on the council as a representative of 137601
one of the principal state agencies concerned with services for 137602
persons with developmental disabilities as specified in 42 U.S.C. 137603
6024(b)(3), a representative of a university affiliated program as 137604
defined in 42 U.S.C. 6001(18), or a representative of the ~~legal~~ 137605
~~rights service created under~~ Ohio protection and advocacy system, 137606
as defined in section 5123.60 of the Revised Code. 137607

(2) The council determines that the member or the entity the 137608
member represents is capable of providing the goods or services 137609
specified under the terms of the grant or contract. 137610

(3) The member has not taken part in any discussion or vote 137611
of the council related to awarding the grant or entering into the 137612
contract, including service as a member of a review panel 137613
established by the council to award grants or enter into contracts 137614
or to make recommendations with regard to awarding grants or 137615
entering into contracts. 137616

(E) A member of the Ohio developmental disabilities council 137617
is not in violation of Chapter 102. or section 2921.42 of the 137618
Revised Code with regard to receiving a grant or entering into a 137619
contract under this section if the requirements of division (D) of 137620
this section have been met. 137621

Sec. 5123.60. (A) As used in this section and section 137622
5123.601 of the Revised Code, "Ohio protection and advocacy 137623
system" means the nonprofit entity designated by the governor in 137624
accordance with H.B. 153 of the 129th general assembly to serve as 137625

the state's protection and advocacy system and client assistance 137626
program. 137627

(B) The Ohio protection and advocacy system shall provide 137628
both of the following: 137629

(1) Advocacy services for people with disabilities, as 137630
provided under section 101 of the "Developmental Disabilities 137631
Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 137632
42 U.S.C. 15001; 137633

(2) A client assistance program, as provided under section 137634
112 of the "Workforce Investment Act of 1998," 112 Stat. 1163 137635
(1998), 29 U.S.C. 732, as amended. 137636

(C) The Ohio protection and advocacy system may establish any 137637
guidelines necessary for its operation. 137638

Sec. ~~5123.60~~ 5123.601. (A) ~~A legal rights service is hereby~~ 137639
~~created and established to protect and advocate the rights of~~ 137640
~~mentally ill persons, mentally retarded persons, developmentally~~ 137641
~~disabled persons, and other disabled persons who may be~~ 137642
~~represented by the service pursuant to division (L) of this~~ 137643
~~section; to receive and act upon complaints concerning~~ 137644
~~institutional and hospital practices and conditions of~~ 137645
~~institutions for mentally retarded or developmentally disabled~~ 137646
~~persons and hospitals for the mentally ill; and to assure that all~~ 137647
~~persons detained, hospitalized, discharged, or institutionalized,~~ 137648
~~and all persons whose detention, hospitalization, discharge, or~~ 137649
~~institutionalization is sought or has been sought under this~~ 137650
~~chapter or Chapter 5122. of the Revised Code are fully informed of~~ 137651
~~their rights and adequately represented by counsel in proceedings~~ 137652
~~under this chapter or Chapter 5122. of the Revised Code and in any~~ 137653
~~proceedings to secure the rights of those persons. Notwithstanding~~ 137654
~~the definitions of "mentally retarded person" and "developmentally~~ 137655

~~disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.~~

~~(B)(1) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service.~~

~~(2) If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the person's case, such involvement shall cease.~~

~~(3) Persons described in divisions (A) and (B)(1) of this section who are represented by the legal rights service are clients of the legal rights service.~~

~~(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.~~

~~The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.~~

~~(D)(1) The legal rights service commission is hereby created 137686
for the purposes of appointing an administrator of the legal 137687
rights service, advising the administrator, assisting the 137688
administrator in developing a budget, advising the administrator 137689
in establishing and annually reviewing a strategic plan, creating 137690
a procedure for filing and determination of grievances against the 137691
legal rights service, and establishing general policy guidelines, 137692
including guidelines for the commencement of litigation, for the 137693
legal rights service. The commission may adopt rules to carry 137694
these purposes into effect and may receive and act upon appeals of 137695
personnel decisions by the administrator. 137696~~

~~(2) The commission shall consist of seven members. One 137697
member, who shall serve as chairperson, shall be appointed by the 137698
chief justice of the supreme court, three members shall be 137699
appointed by the speaker of the house of representatives, and 137700
three members shall be appointed by the president of the senate. 137701
At least two members shall have experience in the field of 137702
developmental disabilities, and at least two members shall have 137703
experience in the field of mental health. No member shall be a 137704
provider or related to a provider of services to mentally 137705
retarded, developmentally disabled, or mentally ill persons. 137706~~

~~(3) Terms of office of the members of the commission shall be 137707
for three years, each term ending on the same day of the month of 137708
the year as did the term which it succeeds. Each member shall 137709
serve subsequent to the expiration of the member's term until a 137710
successor is appointed and qualifies, or until sixty days has 137711
elapsed, whichever occurs first. No member shall serve more than 137712
two consecutive terms. 137713~~

~~All vacancies in the membership of the commission shall be 137714
filled in the manner prescribed for regular appointments to the 137715
commission and shall be limited to the unexpired terms. 137716~~

~~(4) The commission shall meet at least four times each year. 137717~~

~~Members shall be reimbursed for their necessary and actual 137718
expenses incurred in the performance of their official duties. 137719~~

~~(5) The administrator of the legal rights service shall serve 137720
at the pleasure of the commission. 137721~~

~~The administrator shall be an attorney admitted to practice 137722
law in this state. The salary of the administrator shall be 137723
established in accordance with section 124.14 of the Revised Code. 137724~~

~~(E) The legal rights service shall be completely independent 137725
of the department of mental health and the department of 137726
developmental disabilities and, notwithstanding section 109.02 of 137727
the Revised Code, shall also be independent of the office of the 137728
attorney general. The administrator of the legal rights service, 137729
Ohio protection and advocacy system staff, and attorneys 137730
designated by the administrator system to represent persons 137731
detained, hospitalized, or institutionalized under this chapter or 137732
Chapter 5122. of the Revised Code shall have ready access to all 137733
of the following: 137734~~

(1) During normal business hours and at other reasonable 137735
times, all records, except records of community residential 137736
facilities and records of contract agencies of county boards of 137737
developmental disabilities and boards of alcohol, drug addiction, 137738
and mental health services, relating to expenditures of state and 137739
federal funds or to the commitment, care, treatment, and 137740
habilitation of all persons represented by the ~~legal rights~~ 137741
~~service~~ Ohio protection and advocacy system, including those who 137742
may be represented pursuant to division ~~(E)~~(D) of this section, or 137743
persons detained, hospitalized, institutionalized, or receiving 137744
services under this chapter or Chapter 340., 5119., 5122., or 137745
5126. of the Revised Code that are records maintained by the 137746
following entities providing services for those persons: 137747
departments; institutions; hospitals; boards of alcohol, drug 137748
addiction, and mental health services; county boards of 137749

developmental disabilities; and any other entity providing 137750
services to persons who may be represented by the ~~service~~ Ohio 137751
protection and advocacy system pursuant to division ~~(L)~~(D) of this 137752
section; 137753

(2) Any records maintained in computerized data banks of the 137754
departments or boards or, in the case of persons who may be 137755
represented by the ~~service~~ Ohio protection and advocacy system 137756
pursuant to division ~~(L)~~(D) of this section, any other entity that 137757
provides services to those persons; 137758

(3) During their normal working hours, personnel of the 137759
departments, facilities, boards, agencies, institutions, 137760
hospitals, and other service-providing entities; 137761

(4) At any time, all persons detained, hospitalized, or 137762
institutionalized; persons receiving services under this chapter 137763
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 137764
persons who may be represented by the ~~service~~ Ohio protection and 137765
advocacy system pursuant to division ~~(L)~~(D) of this section. 137766

(5) Records of a community residential facility, a contract 137767
agency of a board of alcohol, drug addiction, and mental health 137768
services, or a contract agency of a county board of developmental 137769
disabilities with one of the following consents: 137770

(a) The consent of the person, including when the person is a 137771
minor or has been adjudicated incompetent; 137772

(b) The consent of the person's guardian of the person, if 137773
any, or the parent if the person is a minor; 137774

(c) No consent, if the person is unable to consent for any 137775
reason, and the guardian of the person, if any, or the parent of 137776
the minor, has refused to consent or has not responded to a 137777
request for consent and either of the following has occurred: 137778

(i) A complaint regarding the person has been received by the 137779

~~legal rights service Ohio protection and advocacy system;~~ 137780

(ii) ~~The legal rights service Ohio protection and advocacy system has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.~~ 137781
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~~(F) The administrator of the legal rights service shall do the following:~~ 137784
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~~(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;~~ 137786
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~~(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;~~ 137789
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~~(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;~~ 137793
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~~(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;~~ 137797
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~~(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.~~ 137799
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~~(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;~~ 137806
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~~(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme~~ 137808
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~~court, the president of the senate, the speaker of the house of
representatives, the director of mental health, and the director
of developmental disabilities, and make the report available to
the public;~~

~~(8) Upon request of the commission or of the chairperson of
the commission, report to the commission on specific litigation
issues or activities.~~

~~(G)(1) The legal rights service may act directly or contract
with other organizations or individuals for the provision of the
services envisioned under this section.~~

~~(2) Whenever possible, the administrator shall attempt to
facilitate the resolution of complaints through administrative
channels. Subject to division (G)(3) of this section, if attempts
at administrative resolution prove unsatisfactory, the
administrator may pursue any legal, administrative, and other
appropriate remedies or approaches that may be necessary to
accomplish the purposes of this section.~~

~~(3) The administrator may not pursue a class action lawsuit
under division (G)(2) of this section when attempts at
administrative resolution of a complaint prove unsatisfactory
under that division unless both of the following have first
occurred:~~

~~(a) At least four members of the commission, by their
affirmative vote, have consented to the pursuit of the class
action lawsuit;~~

~~(b) At least five members of the commission are present at
the meeting of the commission at which that consent is obtained.~~

~~(4) The class represented in any class action lawsuit brought
by the legal rights service shall include only persons who are
mentally ill, mentally retarded, or developmentally disabled.~~

~~(5) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.~~

~~(6)(B) All records received or maintained by the legal rights service~~ Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the ~~legal rights service~~ Ohio protection and advocacy system or, subject to any privilege, a guardian of the person or parent of the minor. ~~Subject to division (G)(5) of this section, relationships~~ Relationships between personnel and the agents of the ~~legal rights service~~ Ohio protection and advocacy system and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

~~(7) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.~~

~~(H)(C) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission,~~ Ohio protection and advocacy system may compel by subpoena the appearance and sworn testimony of any person the administrator Ohio protection and advocacy system reasonably believes may be able to provide information or

to produce any documents, books, records, papers, or other 137872
information necessary to carry out its duties. On the refusal of 137873
any person to produce or authenticate any requested documents, the 137874
~~legal rights service~~ Ohio protection and advocacy system may apply 137875
to the Franklin county court of common pleas to compel the 137876
production or authentication of requested documents. If the court 137877
finds that failure to produce or authenticate any requested 137878
documents was improper, the court may hold the person in contempt 137879
as in the case of disobedience of the requirements of a subpoena 137880
issued from the court, or a refusal to testify in the court. 137881

~~(I) The legal rights service may conduct public hearings.~~ 137882

~~(J) The legal rights service may request from any 137883
governmental agency any cooperation, assistance, services, or data 137884
that will enable it to perform its duties.~~ 137885

~~(K) In any malpractice action filed against the administrator 137886
of the legal rights service, a member of the staff of the legal 137887
rights service, or an attorney designated by the administrator to 137888
perform legal services under division (E) of this section, the 137889
state shall, when the administrator, member, or attorney has acted 137890
in good faith and in the scope of employment, indemnify the 137891
administrator, member, or attorney for any judgment awarded or 137892
amount negotiated in settlement, and for any court costs or legal 137893
fees incurred in defense of the claim.~~ 137894

~~This division does not limit or waive, and shall not be 137895
construed to limit or waive, any defense that is available to the 137896
legal rights service, its administrator or employees, persons 137897
under a personal services contract with it, or persons designated 137898
under division (E) of this section, including, but not limited to, 137899
any defense available under section 9.86 of the Revised Code.~~ 137900

~~(L)(D) In addition to providing services to mentally ill, 137901
mentally retarded, or developmentally disabled persons, when a 137902~~

grant authorizing the provision of services to other individuals 137903
is accepted ~~pursuant to division (F)(4) of this section by the~~ 137904
Ohio protection and advocacy system, the ~~legal rights service and~~ 137905
~~its ombudsperson section~~ Ohio protection and advocacy system may 137906
provide advocacy ~~or ombudsperson services~~ to those other 137907
individuals and exercise any other authority granted by this 137908
section ~~or sections 5123.601 to 5123.604 of the Revised Code~~ on 137909
behalf of those individuals. Determinations of whether an 137910
individual is eligible for services under this division shall be 137911
made by the ~~legal rights service~~ Ohio protection and advocacy 137912
system. 137913

Sec. 5123.602. (A) The class represented in any class action 137914
lawsuit brought by the Ohio protection and advocacy system shall 137915
include only persons who are mentally ill, mentally retarded, or 137916
developmentally disabled. 137917

(B) If compensation for the work of attorneys employed by the 137918
Ohio protection and advocacy system or an agency or political 137919
subdivision of the state is awarded to the system in a class 137920
action lawsuit pursued by the system, the compensation shall be 137921
limited to the actual hourly rate of pay for that legal work. 137922

Sec. 5123.61. (A) As used in this section: 137923

(1) "Law enforcement agency" means the state highway patrol, 137924
the police department of a municipal corporation, or a county 137925
sheriff. 137926

(2) "Abuse" has the same meaning as in section 5123.50 of the 137927
Revised Code, except that it includes a misappropriation, as 137928
defined in that section. 137929

(3) "Neglect" has the same meaning as in section 5123.50 of 137930
the Revised Code. 137931

(B) The department of developmental disabilities shall 137932

establish a registry office for the purpose of maintaining reports 137933
of abuse, neglect, and other major unusual incidents made to the 137934
department under this section and reports received from county 137935
boards of developmental disabilities under section 5126.31 of the 137936
Revised Code. The department shall establish committees to review 137937
reports of abuse, neglect, and other major unusual incidents. 137938

(C)(1) Any person listed in division (C)(2) of this section, 137939
having reason to believe that a person with mental retardation or 137940
a developmental disability has suffered or faces a substantial 137941
risk of suffering any wound, injury, disability, or condition of 137942
such a nature as to reasonably indicate abuse or neglect of that 137943
person, shall immediately report or cause reports to be made of 137944
such information to the entity specified in this division. Except 137945
as provided in section 5120.173 of the Revised Code or as 137946
otherwise provided in this division, the person making the report 137947
shall make it to a law enforcement agency or to the county board 137948
of developmental disabilities. If the report concerns a resident 137949
of a facility operated by the department of developmental 137950
disabilities the report shall be made either to a law enforcement 137951
agency or to the department. If the report concerns any act or 137952
omission of an employee of a county board of developmental 137953
disabilities, the report immediately shall be made to the 137954
department and to the county board. 137955

(2) All of the following persons are required to make a 137956
report under division (C)(1) of this section: 137957

(a) Any physician, including a hospital intern or resident, 137958
any dentist, podiatrist, chiropractor, practitioner of a limited 137959
branch of medicine as specified in section 4731.15 of the Revised 137960
Code, hospital administrator or employee of a hospital, nurse 137961
licensed under Chapter 4723. of the Revised Code, employee of an 137962
ambulatory health facility as defined in section 5101.61 of the 137963
Revised Code, employee of a home health agency, employee of an 137964

adult care facility licensed under Chapter 3722. of the Revised Code, or employee of a community mental health facility; 137965
137966

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code; 137967
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(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code; 137970
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(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code; 137978
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(e) A clergyman who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion. 137982
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(3)(a) The reporting requirements of this division do not apply to ~~members of the legal rights service commission or to~~ employees of the ~~legal rights service~~ Ohio protection and advocacy system. 137991
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(b) An attorney or physician is not required to make a report 137995

pursuant to division (C)(1) of this section concerning any 137996
communication the attorney or physician receives from a client or 137997
patient in an attorney-client or physician-patient relationship, 137998
if, in accordance with division (A) or (B) of section 2317.02 of 137999
the Revised Code, the attorney or physician could not testify with 138000
respect to that communication in a civil or criminal proceeding, 138001
except that the client or patient is deemed to have waived any 138002
testimonial privilege under division (A) or (B) of section 2317.02 138003
of the Revised Code with respect to that communication and the 138004
attorney or physician shall make a report pursuant to division 138005
(C)(1) of this section, if both of the following apply: 138006

(i) The client or patient, at the time of the communication, 138007
is a person with mental retardation or a developmental disability. 138008

(ii) The attorney or physician knows or suspects, as a result 138009
of the communication or any observations made during that 138010
communication, that the client or patient has suffered or faces a 138011
substantial risk of suffering any wound, injury, disability, or 138012
condition of a nature that reasonably indicates abuse or neglect 138013
of the client or patient. 138014

(4) Any person who fails to make a report required under 138015
division (C) of this section and who is an MR/DD employee, as 138016
defined in section 5123.50 of the Revised Code, shall be eligible 138017
to be included in the registry regarding misappropriation, abuse, 138018
neglect, or other specified misconduct by MR/DD employees 138019
established under section 5123.52 of the Revised Code. 138020

(D) The reports required under division (C) of this section 138021
shall be made forthwith by telephone or in person and shall be 138022
followed by a written report. The reports shall contain the 138023
following: 138024

(1) The names and addresses of the person with mental 138025
retardation or a developmental disability and the person's 138026

custodian, if known; 138027

(2) The age of the person with mental retardation or a 138028
developmental disability; 138029

(3) Any other information that would assist in the 138030
investigation of the report. 138031

(E) When a physician performing services as a member of the 138032
staff of a hospital or similar institution has reason to believe 138033
that a person with mental retardation or a developmental 138034
disability has suffered injury, abuse, or physical neglect, the 138035
physician shall notify the person in charge of the institution or 138036
that person's designated delegate, who shall make the necessary 138037
reports. 138038

(F) Any person having reasonable cause to believe that a 138039
person with mental retardation or a developmental disability has 138040
suffered or faces a substantial risk of suffering abuse or neglect 138041
may report or cause a report to be made of that belief to the 138042
entity specified in this division. Except as provided in section 138043
5120.173 of the Revised Code or as otherwise provided in this 138044
division, the person making the report shall make it to a law 138045
enforcement agency or the county board of developmental 138046
disabilities. If the person is a resident of a facility operated 138047
by the department of developmental disabilities, the report shall 138048
be made to a law enforcement agency or to the department. If the 138049
report concerns any act or omission of an employee of a county 138050
board of developmental disabilities, the report immediately shall 138051
be made to the department and to the county board. 138052

(G)(1) Upon the receipt of a report concerning the possible 138053
abuse or neglect of a person with mental retardation or a 138054
developmental disability, the law enforcement agency shall inform 138055
the county board of developmental disabilities or, if the person 138056
is a resident of a facility operated by the department of 138057

developmental disabilities, the director of the department or the 138058
director's designee. 138059

(2) On receipt of a report under this section that includes 138060
an allegation of action or inaction that may constitute a crime 138061
under federal law or the law of this state, the department of 138062
developmental disabilities shall notify the law enforcement 138063
agency. 138064

(3) When a county board of developmental disabilities 138065
receives a report under this section that includes an allegation 138066
of action or inaction that may constitute a crime under federal 138067
law or the law of this state, the superintendent of the board or 138068
an individual the superintendent designates under division (H) of 138069
this section shall notify the law enforcement agency. The 138070
superintendent or individual shall notify the department of 138071
developmental disabilities when it receives any report under this 138072
section. 138073

(4) When a county board of developmental disabilities 138074
receives a report under this section and believes that the degree 138075
of risk to the person is such that the report is an emergency, the 138076
superintendent of the board or an employee of the board the 138077
superintendent designates shall attempt a face-to-face contact 138078
with the person with mental retardation or a developmental 138079
disability who allegedly is the victim within one hour of the 138080
board's receipt of the report. 138081

(H) The superintendent of the board may designate an 138082
individual to be responsible for notifying the law enforcement 138083
agency and the department when the county board receives a report 138084
under this section. 138085

(I) An adult with mental retardation or a developmental 138086
disability about whom a report is made may be removed from the 138087
adult's place of residence only by law enforcement officers who 138088

consider that the adult's immediate removal is essential to 138089
protect the adult from further injury or abuse or in accordance 138090
with the order of a court made pursuant to section 5126.33 of the 138091
Revised Code. 138092

(J) A law enforcement agency shall investigate each report of 138093
abuse or neglect it receives under this section. In addition, the 138094
department, in cooperation with law enforcement officials, shall 138095
investigate each report regarding a resident of a facility 138096
operated by the department to determine the circumstances 138097
surrounding the injury, the cause of the injury, and the person 138098
responsible. The investigation shall be in accordance with the 138099
memorandum of understanding prepared under section 5126.058 of the 138100
Revised Code. The department shall determine, with the registry 138101
office which shall be maintained by the department, whether prior 138102
reports have been made concerning an adult with mental retardation 138103
or a developmental disability or other principals in the case. If 138104
the department finds that the report involves action or inaction 138105
that may constitute a crime under federal law or the law of this 138106
state, it shall submit a report of its investigation, in writing, 138107
to the law enforcement agency. If the person with mental 138108
retardation or a developmental disability is an adult, with the 138109
consent of the adult, the department shall provide such protective 138110
services as are necessary to protect the adult. The law 138111
enforcement agency shall make a written report of its findings to 138112
the department. 138113

If the person is an adult and is not a resident of a facility 138114
operated by the department, the county board of developmental 138115
disabilities shall review the report of abuse or neglect in 138116
accordance with sections 5126.30 to 5126.33 of the Revised Code 138117
and the law enforcement agency shall make the written report of 138118
its findings to the county board. 138119

(K) Any person or any hospital, institution, school, health 138120

department, or agency participating in the making of reports 138121
pursuant to this section, any person participating as a witness in 138122
an administrative or judicial proceeding resulting from the 138123
reports, or any person or governmental entity that discharges 138124
responsibilities under sections 5126.31 to 5126.33 of the Revised 138125
Code shall be immune from any civil or criminal liability that 138126
might otherwise be incurred or imposed as a result of such actions 138127
except liability for perjury, unless the person or governmental 138128
entity has acted in bad faith or with malicious purpose. 138129

(L) No employer or any person with the authority to do so 138130
shall discharge, demote, transfer, prepare a negative work 138131
performance evaluation, reduce pay or benefits, terminate work 138132
privileges, or take any other action detrimental to an employee or 138133
retaliate against an employee as a result of the employee's having 138134
made a report under this section. This division does not preclude 138135
an employer or person with authority from taking action with 138136
regard to an employee who has made a report under this section if 138137
there is another reasonable basis for the action. 138138

(M) Reports made under this section are not public records as 138139
defined in section 149.43 of the Revised Code. Information 138140
contained in the reports on request shall be made available to the 138141
person who is the subject of the report, to the person's legal 138142
counsel, and to agencies authorized to receive information in the 138143
report by the department or by a county board of developmental 138144
disabilities. 138145

(N) Notwithstanding section 4731.22 of the Revised Code, the 138146
physician-patient privilege shall not be a ground for excluding 138147
evidence regarding the injuries or physical neglect of a person 138148
with mental retardation or a developmental disability or the cause 138149
thereof in any judicial proceeding resulting from a report 138150
submitted pursuant to this section. 138151

Sec. 5123.63. Every state agency, county board of developmental disabilities, or political subdivision that provides services, either directly or through a contract, to persons with mental retardation or a developmental disability shall give each provider a copy of the list of rights contained in section 5123.62 of the Revised Code. Each public and private provider of services shall carry out the requirements of this section in addition to any other posting or notification requirements imposed by local, state, or federal law or rules.

The provider shall make copies of the list of rights and shall be responsible for an initial distribution of the list to each individual receiving services from the provider. If the individual is unable to read the list, the provider shall communicate the contents of the list to the individual to the extent practicable in a manner that the individual understands. The individual receiving services or the parent, guardian, or advocate of the individual shall sign an acknowledgement of receipt of a copy of the list of rights, and a copy of the signed acknowledgement shall be placed in the individual's file. The provider shall also be responsible for answering any questions and giving any explanations necessary to assist the individual to understand the rights enumerated. Instruction in these rights shall be documented.

Each provider shall make available to all persons receiving services and all employees and visitors a copy of the list of rights and the addresses and telephone numbers of the ~~legal rights service~~ Ohio protection and advocacy system, the department of developmental disabilities, and the county board of developmental disabilities of the county in which the provider provides services.

Sec. 5123.64. (A) Every provider of services to persons with

mental retardation or a developmental disability shall establish 138183
policies and programs to ensure that all staff members are 138184
familiar with the rights enumerated in section 5123.62 of the 138185
Revised Code and observe those rights in their contacts with 138186
persons receiving services. Any policy, procedure, or rule of the 138187
provider that conflicts with any of the rights enumerated shall be 138188
null and void. Every provider shall establish written procedures 138189
for resolving complaints of violations of those rights. A copy of 138190
the procedures shall be provided to any person receiving services 138191
or to any parent, guardian, or advocate of a person receiving 138192
services. 138193

(B) Any person with mental retardation or a developmental 138194
disability who believes that the person's rights as enumerated in 138195
section 5123.62 of the Revised Code have been violated may: 138196

(1) Bring the violation to the attention of the provider for 138197
resolution; 138198

(2) Report the violation to the department of developmental 138199
disabilities, the ~~ombudsman section of the legal rights service~~ 138200
Ohio protection and advocacy system, or the appropriate county 138201
board of developmental disabilities; 138202

(3) Take any other appropriate action to ensure compliance 138203
with sections ~~5123.60~~ 5123.61 to 5123.64 of the Revised Code, 138204
including the filing of a legal action to enforce rights or to 138205
recover damages for violation of rights. 138206

Sec. 5123.69. (A) Except as provided in division ~~(E)~~(D) of 138207
this section, any person who is eighteen years of age or older and 138208
who is or believes self to be mentally retarded may make written 138209
application to the managing officer of any institution for 138210
voluntary admission. Except as provided in division ~~(E)~~(D) of this 138211
section, the application may be made on behalf of a minor by a 138212
parent or guardian, and on behalf of an adult adjudicated mentally 138213

incompetent by a guardian. 138214

(B) The managing officer of an institution, with the 138215
concurrence of the chief program director, may admit a person 138216
applying pursuant to this section only after a comprehensive 138217
evaluation has been made of the person and only if the 138218
comprehensive evaluation concludes that the person is mentally 138219
retarded and would benefit significantly from admission. 138220

~~(C) If application for voluntary admission of a minor or of a 138221
person adjudicated mentally incompetent is made by the parent or 138222
guardian of the minor or by the guardian of an incompetent and the 138223
minor or incompetent is admitted, the probate division of the 138224
court of common pleas shall determine, upon petition by the legal 138225
rights service, whether the voluntary admission or continued 138226
institutionalization is in the best interest of the minor or 138227
incompetent. 138228~~

~~(D)~~ The managing officer shall discharge any voluntary 138229
resident if, in the judgment of the chief program director, the 138230
results of a comprehensive examination indicate that 138231
institutionalization no longer is advisable. In light of the 138232
results of the comprehensive evaluation, the managing officer also 138233
may discharge any voluntary resident if, in the judgment of the 138234
chief program director, the discharge would contribute to the most 138235
effective use of the institution in the habilitation and care of 138236
the mentally retarded. 138237

~~(E)~~(D) A person who is found incompetent to stand trial or 138238
not guilty by reason of insanity and who is committed pursuant to 138239
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 138240
Code shall not voluntarily commit self pursuant to this section 138241
until after the final termination of the commitment, as described 138242
in division (J) of section 2945.401 of the Revised Code. 138243

Sec. 5123.701. (A) Except as provided in division ~~(E)~~(D) of 138244

this section, any person in the community who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for temporary admission for short-term care. The application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) For purposes of this section, short-term care shall be defined to mean appropriate services provided to a person with mental retardation for no more than fourteen consecutive days and for no more than forty-two days in a fiscal year. When circumstances warrant, the fourteen-day period may be extended at the discretion of the managing officer. Short-term care is provided in a developmental center to meet the family's or caretaker's needs for separation from the person with mental retardation.

(C) The managing officer of an institution, with the concurrence of the chief program director, may admit a person for short-term care only after a medical examination has been made of the person and only if the managing officer concludes that the person is mentally retarded.

~~(D) If application for admission for short term care of a minor or of a person adjudicated mentally incompetent is made by the minor's parent or guardian or by the incompetent's guardian and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the admission for short term care is in the best interest of the minor or the incompetent.~~

~~(E)~~ A person who is found not guilty by reason of insanity shall not admit self to an institution for short-term care unless a hearing was held regarding the person pursuant to division (A) of section 2945.40 of the Revised Code and either of the following

applies:	138277
(1) The person was found at the hearing not to be a mentally retarded person subject to institutionalization by court order;	138278 138279
(2) The person was found at the hearing to be a mentally retarded person subject to institutionalization by court order, was involuntarily committed, and was finally discharged.	138280 138281 138282
(F) (E) The mentally retarded person, liable relatives, and guardians of mentally retarded persons admitted for respite care shall pay support charges in accordance with sections 5121.01 to 5121.21 of the Revised Code.	138283 138284 138285 138286
(G) (F) At the conclusion of each period of short-term care, the person shall return to the person's family or caretaker. Under no circumstances shall a person admitted for short-term care according to this section remain in the institution after the period of short-term care unless the person is admitted according to section 5123.70, sections 5123.71 to 5123.76, or section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.	138287 138288 138289 138290 138291 138292 138293 138294
Sec. 5123.86. (A) Except as provided in divisions (C), (D), (E), and (F) of this section, the chief medical officer shall provide all information, including expected physical and medical consequences, necessary to enable any resident of an institution for the mentally retarded to give a fully informed, intelligent, and knowing consent if any of the following procedures are proposed:	138295 138296 138297 138298 138299 138300 138301
(1) Surgery;	138302
(2) Convulsive therapy;	138303
(3) Major aversive interventions;	138304
(4) Sterilization;	138305

(5) Experimental procedures; 138306

(6) Any unusual or hazardous treatment procedures. 138307

(B) No resident shall be subjected to any of the procedures 138308
listed in division (A)(4), (5), or (6) of this section without the 138309
resident's informed consent. 138310

(C) If a resident is physically or mentally unable to receive 138311
the information required for surgery under division (A)(1) of this 138312
section, or has been adjudicated incompetent, the information may 138313
be provided to the resident's natural or court-appointed guardian, 138314
including an agency providing guardianship services under contract 138315
with the department of developmental disabilities under sections 138316
5123.55 to 5123.59 of the Revised Code, who may give the informed, 138317
intelligent, and knowing written consent for surgery. Consent for 138318
surgery shall not be provided by a guardian who is an officer or 138319
employee of the department of mental health or the department of 138320
developmental disabilities. 138321

If a resident is physically or mentally unable to receive the 138322
information required for surgery under division (A)(1) of this 138323
section and has no guardian, then the information, the 138324
recommendation of the chief medical officer, and the concurring 138325
judgment of a licensed physician who is not a full-time employee 138326
of the state may be provided to the court in the county in which 138327
the institution is located, which may approve the surgery. Before 138328
approving the surgery, the court shall notify the ~~legal rights~~ 138329
~~service~~ Ohio protection and advocacy system created by section 138330
5123.60 of the Revised Code, and shall notify the resident of the 138331
resident's rights to consult with counsel, to have counsel 138332
appointed by the court if the resident is indigent, and to contest 138333
the recommendation of the chief medical officer. 138334

(D) If, in the judgment of two licensed physicians, delay in 138335
obtaining consent for surgery would create a grave danger to the 138336

health of a resident, emergency surgery may be performed without 138337
the consent of the resident if the necessary information is 138338
provided to the resident's guardian, including an agency providing 138339
guardianship services under contract with the department of 138340
developmental disabilities under sections 5123.55 to 5123.59 of 138341
the Revised Code, or to the resident's spouse or next of kin to 138342
enable that person or agency to give an informed, intelligent, and 138343
knowing written consent. 138344

If the guardian, spouse, or next of kin cannot be contacted 138345
through exercise of reasonable diligence, or if the guardian, 138346
spouse, or next of kin is contacted, but refuses to consent, then 138347
the emergency surgery may be performed upon the written 138348
authorization of the chief medical officer and after court 138349
approval has been obtained. However, if delay in obtaining court 138350
approval would create a grave danger to the life of the resident, 138351
the chief medical officer may authorize surgery, in writing, 138352
without court approval. If the surgery is authorized without court 138353
approval, the chief medical officer who made the authorization and 138354
the physician who performed the surgery shall each execute an 138355
affidavit describing the circumstances constituting the emergency 138356
and warranting the surgery and the circumstances warranting their 138357
not obtaining prior court approval. The affidavit shall be filed 138358
with the court with which the request for prior approval would 138359
have been filed within five court days after the surgery, and a 138360
copy of the affidavit shall be placed in the resident's file and 138361
shall be given to the guardian, spouse, or next of kin of the 138362
resident, to the hospital at which the surgery was performed, and 138363
to the ~~legal rights service~~ Ohio protection and advocacy system 138364
created by section 5123.60 of the Revised Code. 138365

(E)(1) If it is the judgment of two licensed physicians, as 138366
described in division (E)(2) of this section, that a medical 138367
emergency exists and delay in obtaining convulsive therapy creates 138368

a grave danger to the life of a resident who is both mentally 138369
retarded and mentally ill, convulsive therapy may be administered 138370
without the consent of the resident if the resident is physically 138371
or mentally unable to receive the information required for 138372
convulsive therapy and if the necessary information is provided to 138373
the resident's natural or court-appointed guardian, including an 138374
agency providing guardianship services under contract with the 138375
department of developmental disabilities under sections 5123.55 to 138376
5123.59 of the Revised Code, or to the resident's spouse or next 138377
of kin to enable that person or agency to give an informed, 138378
intelligent, and knowing written consent. If neither the 138379
resident's guardian, spouse, nor next of kin can be contacted 138380
through exercise of reasonable diligence, or if the guardian, 138381
spouse, or next of kin is contacted, but refuses to consent, then 138382
convulsive therapy may be performed upon the written authorization 138383
of the chief medical officer and after court approval has been 138384
obtained. 138385

(2) The two licensed physicians referred to in division 138386
(E)(1) of this section shall not be associated with each other in 138387
the practice of medicine or surgery by means of a partnership or 138388
corporate arrangement, other business arrangement, or employment. 138389
At least one of the physicians shall be a psychiatrist as defined 138390
in division (E) of section 5122.01 of the Revised Code. 138391

(F) Major aversive interventions shall not be used unless a 138392
resident continues to engage in behavior destructive to self or 138393
others after other forms of therapy have been attempted. ~~The~~ 138394
~~director of the legal rights service created by section 5123.60 of~~ 138395
~~the Revised Code shall be notified of any proposed major aversive~~ 138396
~~intervention.~~ Major aversive interventions shall not be applied to 138397
a voluntary resident without the informed, intelligent, and 138398
knowing written consent of the resident or the resident's 138399
guardian, including an agency providing guardianship services 138400

under contract with the department of developmental disabilities 138401
under sections 5123.55 to 5123.59 of the Revised Code. 138402

(G)(1) This chapter does not authorize any form of compulsory 138403
medical or psychiatric treatment of any resident who is being 138404
treated by spiritual means through prayer alone in accordance with 138405
a recognized religious method of healing. 138406

(2) For purposes of this section, "convulsive therapy" does 138407
not include defibrillation. 138408

Sec. 5123.99. (A) Whoever violates section 5123.16 or 5123.20 138409
of the Revised Code is guilty of a misdemeanor of the first 138410
degree. 138411

(B) Whoever violates division (C), (E), or (G)(3) of section 138412
5123.61 of the Revised Code is guilty of a misdemeanor of the 138413
fourth degree or, if the abuse or neglect constitutes a felony, a 138414
misdemeanor of the second degree. In addition to any other 138415
sanction or penalty authorized or required by law, if a person who 138416
is convicted of or pleads guilty to a violation of division (C), 138417
(E), or (G)(3) of section 5123.61 of the Revised Code is an MR/DD 138418
employee, as defined in section 5123.50 of the Revised Code, the 138419
offender shall be eligible to be included in the registry 138420
regarding misappropriation, abuse, neglect, or other specified 138421
misconduct by MR/DD employees established under section 5123.52 of 138422
the Revised Code. 138423

~~(C) Whoever violates division (A) of section 5123.604 of the 138424
Revised Code is guilty of a misdemeanor of the second degree. 138425~~

~~(D) Whoever violates division (B) of section 5123.604 of the 138426
Revised Code shall be fined not more than one thousand dollars. 138427
Each violation constitutes a separate offense. 138428~~

Sec. 5126.33. (A) A county board of developmental 138429
disabilities may file a complaint with the probate court of the 138430

county in which an adult with mental retardation or a 138431
developmental disability resides for an order authorizing the 138432
board to arrange services described in division (C) of section 138433
5126.31 of the Revised Code for that adult if the adult is 138434
eligible to receive services or support under section 5126.041 of 138435
the Revised Code and the board has been unable to secure consent. 138436
The complaint shall include: 138437

(1) The name, age, and address of the adult; 138438

(2) Facts describing the nature of the abuse, neglect, or 138439
exploitation and supporting the board's belief that services are 138440
needed; 138441

(3) The types of services proposed by the board, as set forth 138442
in the protective service plan described in division (J) of 138443
section 5126.30 of the Revised Code and filed with the complaint; 138444

(4) Facts showing the board's attempts to obtain the consent 138445
of the adult or the adult's guardian to the services. 138446

(B) The board shall give the adult notice of the filing of 138447
the complaint and in simple and clear language shall inform the 138448
adult of the adult's rights in the hearing under division (C) of 138449
this section and explain the consequences of a court order. This 138450
notice shall be personally served upon all parties, and also shall 138451
be given to the adult's legal counsel, if any, ~~and the legal~~ 138452
~~rights service~~. The notice shall be given at least twenty-four 138453
hours prior to the hearing, although the court may waive this 138454
requirement upon a showing that there is a substantial risk that 138455
the adult will suffer immediate physical harm in the twenty-four 138456
hour period and that the board has made reasonable attempts to 138457
give the notice required by this division. 138458

(C) Upon the filing of a complaint for an order under this 138459
section, the court shall hold a hearing at least twenty-four hours 138460
and no later than seventy-two hours after the notice under 138461

division (B) of this section has been given unless the court has 138462
waived the notice. All parties shall have the right to be present 138463
at the hearing, present evidence, and examine and cross-examine 138464
witnesses. The Ohio Rules of Evidence shall apply to a hearing 138465
conducted pursuant to this division. The adult shall be 138466
represented by counsel unless the court finds that the adult has 138467
made a voluntary, informed, and knowing waiver of the right to 138468
counsel. If the adult is indigent, the court shall appoint counsel 138469
to represent the adult. The board shall be represented by the 138470
county prosecutor or an attorney designated by the board. 138471

(D)(1) The court shall issue an order authorizing the board 138472
to arrange the protective services if it finds, on the basis of 138473
clear and convincing evidence, all of the following: 138474

(a) The adult has been abused, neglected, or exploited; 138475

(b) The adult is incapacitated; 138476

(c) There is a substantial risk to the adult of immediate 138477
physical harm or death; 138478

(d) The adult is in need of the services; 138479

(e) No person authorized by law or court order to give 138480
consent for the adult is available or willing to consent to the 138481
services. 138482

(2) The board shall develop a detailed protective service 138483
plan describing the services that the board will provide, or 138484
arrange for the provision of, to the adult to prevent further 138485
abuse, neglect, or exploitation. The board shall submit the plan 138486
to the court for approval. The protective service plan may be 138487
changed only by court order. 138488

(3) In formulating the order, the court shall consider the 138489
individual protective service plan and shall specifically 138490
designate the services that are necessary to deal with the abuse, 138491

neglect, or exploitation or condition resulting from abuse, 138492
neglect, or exploitation and that are available locally, and 138493
authorize the board to arrange for these services only. The court 138494
shall limit the provision of these services to a period not 138495
exceeding six months, renewable for an additional six-month period 138496
on a showing by the board that continuation of the order is 138497
necessary. 138498

(E) If the court finds that all other options for meeting the 138499
adult's needs have been exhausted, it may order that the adult be 138500
removed from the adult's place of residence and placed in another 138501
residential setting. Before issuing that order, the court shall 138502
consider the adult's choice of residence and shall determine that 138503
the new residential setting is the least restrictive alternative 138504
available for meeting the adult's needs and is a place where the 138505
adult can obtain the necessary requirements for daily living in 138506
safety. The court shall not order an adult to a hospital or public 138507
hospital as defined in section 5122.01 or a state institution as 138508
defined in section 5123.01 of the Revised Code. 138509

(F) The court shall not authorize a change in an adult's 138510
placement ordered under division (E) of this section unless it 138511
finds compelling reasons to justify a change. The parties to whom 138512
notice was given in division (B) of this section shall be given 138513
notice of a proposed change at least five working days prior to 138514
the change. 138515

(G) The adult, the board, or any other person who received 138516
notice of the petition may file a motion for modification of the 138517
court order at any time. 138518

(H) The county board shall pay court costs incurred in 138519
proceedings brought pursuant to this section. The adult shall not 138520
be required to pay for court-ordered services. 138521

(I)(1) After the filing of a complaint for an order under 138522

this section, the court, prior to the final disposition, may enter 138523
any temporary order that the court finds necessary to protect the 138524
adult with mental retardation or a developmental disability from 138525
abuse, neglect, or exploitation including, but not limited to, the 138526
following: 138527

(a) A temporary protection order; 138528

(b) An order requiring the evaluation of the adult; 138529

(c) An order requiring a party to vacate the adult's place of 138530
residence or legal settlement, provided that, subject to division 138531
(K)(1)(d) of this section, no operator of a residential facility 138532
licensed by the department may be removed under this division; 138533

(d) In the circumstances described in, and in accordance with 138534
the procedures set forth in, section 5123.191 of the Revised Code, 138535
an order of the type described in that section that appoints a 138536
receiver to take possession of and operate a residential facility 138537
licensed by the department. 138538

(2) The court may grant an ex parte order pursuant to this 138539
division on its own motion or if a party files a written motion or 138540
makes an oral motion requesting the issuance of the order and 138541
stating the reasons for it if it appears to the court that the 138542
best interest and the welfare of the adult require that the court 138543
issue the order immediately. The court, if acting on its own 138544
motion, or the person requesting the granting of an ex parte 138545
order, to the extent possible, shall give notice of its intent or 138546
of the request to all parties, the adult's legal counsel, if any, 138547
~~and the legal rights service.~~ If the court issues an ex parte 138548
order, the court shall hold a hearing to review the order within 138549
seventy-two hours after it is issued or before the end of the next 138550
day after the day on which it is issued, whichever occurs first. 138551
The court shall give written notice of the hearing to all parties 138552
to the action. 138553

Section 120.21. That existing sections 3721.16, 5111.709, 138554
5119.221, 5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 138555
5122.32, 5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 138556
5123.63, 5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33 138557
of the Revised Code are hereby repealed. 138558

Section 120.22. That sections 5123.601, 5123.602, 5123.603, 138559
5123.604, and 5123.605 of the Revised Code are hereby repealed. 138560

Section 120.23. Sections 120.20, 120.21, and 120.22 of this 138561
act take effect October 1, 2012. 138562

Section 201.10. Except as otherwise provided in this act, all 138563
appropriation items in this act are appropriated out of any moneys 138564
in the state treasury to the credit of the designated fund that 138565
are not otherwise appropriated. For all appropriations made in 138566
this act, the amounts in the first column are for fiscal year 2012 138567
and the amounts in the second column are for fiscal year 2013. 138568
138569

Section 203.10. ACC ACCOUNTANCY BOARD OF OHIO 138570
General Services Fund Group 138571
4J80 889601 CPA Education \$ 200,000 \$ 200,000 138572
Assistance
4K90 889609 Operating Expenses \$ 977,200 \$ 977,500 138573
TOTAL GSF General Services Fund 138574
Group \$ 1,177,200 \$ 1,177,500 138575
TOTAL ALL BUDGET FUND GROUPS \$ 1,177,200 \$ 1,177,500 138576

Section 205.10. ADJ ADJUTANT GENERAL 138578
General Revenue Fund 138579
GRF 745401 Ohio Military Reserve \$ 12,308 \$ 12,308 138580

GRF	745404	Air National Guard	\$	1,810,606	\$	1,810,606	138581
GRF	745407	National Guard	\$	400,000	\$	400,000	138582
		Benefits					
GRF	745409	Central	\$	2,692,098	\$	2,692,098	138583
		Administration					
GRF	745499	Army National Guard	\$	3,687,888	\$	3,689,871	138584
TOTAL GRF		General Revenue Fund	\$	8,602,900	\$	8,604,883	138585
		General Services Fund Group					138586
5340	745612	Property Operations	\$	534,304	\$	534,304	138587
		Management					
5360	745605	Marksmanship	\$	128,600	\$	128,600	138588
		Activities					
5360	745620	Camp Perry and	\$	1,178,311	\$	978,846	138589
		Buckeye Inn					
		Operations					
5370	745604	Ohio National Guard	\$	62,000	\$	62,000	138590
		Facilities					
		Maintenance					
TOTAL GSF		General Services Fund	\$	1,903,215	\$	1,703,750	138591
		Group					
		Federal Special Revenue Fund Group					138592
3410	745615	Air National Guard	\$	2,977,692	\$	2,977,692	138593
		Base Security					
3420	745616	Army National Guard	\$	10,970,050	\$	10,970,050	138594
		Service Agreement					
3E80	745628	Air National Guard	\$	16,958,595	\$	16,958,595	138595
		Operations and					
		Maintenance					
3R80	745603	Counter Drug	\$	25,000	\$	25,000	138596
		Operations					
TOTAL FED		Federal Special Revenue	\$	30,931,337	\$	30,931,337	138597
		Fund Group					

State Special Revenue Fund Group				138598
5U80 745613 Community Match	\$	250,000	\$ 250,000	138599
Armories				
TOTAL SSR State Special Revenue Fund Group	\$	250,000	\$ 250,000	138600
TOTAL ALL BUDGET FUND GROUPS	\$	41,687,452	\$ 41,489,970	138601
NATIONAL GUARD BENEFITS				138602
The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.				138603 138604 138605 138606
For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy.				138607 138608 138609 138610 138611
STATE ACTIVE DUTY COSTS				138612
Of the foregoing appropriation item 745409, Central Administration, \$50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.				138613 138614 138615 138616 138617 138618 138619
Section 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES				138620
General Revenue Fund				138621
GRF 100403 Public Employees	\$	400,000	\$ 400,000	138622
Health Care Program				
GRF 100415 OAKS Rental Payments	\$	23,024,500	\$ 23,006,300	138623
GRF 100416 STARS Lease Rental	\$	4,970,700	\$ 4,971,300	138624

		Payments				
GRF	100418	Web Sites and Business Gateway	\$	2,895,063	\$	2,795,176 138625
GRF	100419	IT Security Infrastructure	\$	742,535	\$	742,648 138626
GRF	100439	Equal Opportunity Certification Programs	\$	625,000	\$	625,000 138627
GRF	100447	OBA - Building Rent Payments	\$	53,260,000	\$	83,504,200 138628
GRF	100448	OBA - Building Operating Payments	\$	21,000,000	\$	21,000,000 138629
GRF	100449	DAS - Building Operating Payments	\$	7,551,245	\$	7,551,571 138630
GRF	100451	Minority Affairs	\$	24,016	\$	24,016 138631
GRF	130321	State Agency Support Services	\$	2,779,457	\$	2,780,032 138632
TOTAL GRF		General Revenue Fund	\$	117,272,516	\$	147,400,243 138633
		General Services Fund Group				138634
1120	100616	DAS Administration	\$	4,900,000	\$	4,900,000 138635
1150	100632	Central Service Agency	\$	911,995	\$	912,305 138636
1170	100644	General Services Division - Operating	\$	13,000,000	\$	13,000,000 138637
1220	100637	Fleet Management	\$	2,000,000	\$	2,000,000 138638
1250	100622	Human Resources Division - Operating	\$	16,922,295	\$	16,717,009 138639
1250	100657	Benefits Communication	\$	925,586	\$	921,531 138640
1280	100620	Collective Bargaining	\$	3,462,529	\$	3,464,148 138641
1300	100606	Risk Management Reserve	\$	6,000,000	\$	7,000,000 138642
1310	100639	State Architect's Office	\$	9,812,132	\$	9,813,342 138643
1320	100631	DAS Building Management	\$	11,000,000	\$	11,000,000 138644

5JQ0 100658	Professions Licensing	\$	2,000,000	\$	1,000,000	138668
	System					
TOTAL SSR State Special Revenue						138669
Fund Group		\$	2,000,000	\$	1,000,000	138670
TOTAL ALL BUDGET FUND GROUPS		\$	351,849,353	\$	381,007,815	138671

Section 207.10.10. PUBLIC EMPLOYEES HEALTH CARE PROGRAM 138673

The foregoing appropriation item 100403, Public Employees 138674
Health Care Program, shall be used by the Department of 138675
Administrative Services to carry out its duties prescribed in 138676
Section 515.60 of this act. 138677

Section 207.10.20. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM 138678

The Ohio Administrative Knowledge System (OAKS) is an 138679
enterprise resource planning system that replaced the state's 138680
central services infrastructure systems, including, but not 138681
limited to, the Central Accounting System, the Human 138682
Resources/Payroll System, the Capital Improvements Projects 138683
Tracking System, the Fixed Assets Management System, and the 138684
Procurement System. The Department of Administrative Services, in 138685
conjunction with the Office of Budget and Management, may update 138686
or add functionality to the OAKS system that will support shared 138687
services, financial or human resources functions, and enterprise 138688
applications that improve the state's operational efficiency. This 138689
includes, but is not limited to, the installation and 138690
implementation of hardware and software. Any lease-purchase 138691
arrangement entered into under Chapter 125. of the Revised Code to 138692
finance the OAKS system and the enhancements described above, 138693
including any fractionalized interest therein, as defined in 138694
division (N) of section 133.01 of the Revised Code, shall provide 138695
that at the end of the lease period, the financed asset becomes 138696
the property of the state. 138697

Section 207.10.30. OAKS LEASE RENTAL PAYMENTS 138698

The foregoing appropriation item 100415, OAKS Rental 138699
Payments, shall be used for payments at the times they are 138700
required to be made for the period from July 1, 2011, through June 138701
30, 2013, pursuant to leases and agreements entered into under 138702
Chapter 125. of the Revised Code, as supplemented by Section 138703
281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and 138704
other prior acts of the General Assembly, with respect to 138705
financing the costs associated with the acquisition, development, 138706
installation, and implementation of the Ohio Administrative 138707
Knowledge System. If it is determined that additional 138708
appropriations are necessary for this purpose, the amounts are 138709
hereby appropriated. 138710

Section 207.10.40. STATE TAXATION ACCOUNTING AND REVENUE 138711
SYSTEM 138712

The Department of Administrative Services, in conjunction 138713
with the Department of Taxation, may acquire the State Taxation 138714
Accounting and Revenue System (STARS) pursuant to Chapter 125. of 138715
the Revised Code, including, but not limited to, the application 138716
hardware and software and installation and implementation thereof, 138717
for the use of the Department of Taxation. STARS is an integrated 138718
tax collection and audit system that will replace all of the 138719
state's existing separate tax software and administration systems 138720
for the various taxes collected by the state. Any lease-purchase 138721
arrangement used under Chapter 125. of the Revised Code to acquire 138722
STARS, including any fractionalized interests therein as defined 138723
in division (N) of section 133.01 of the Revised Code, shall 138724
provide that at the end of the lease period, STARS becomes the 138725
property of the state. 138726

Section 207.10.50. STARS LEASE RENTAL PAYMENTS 138727

The foregoing appropriation item 100416, STARS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and other prior acts of the General Assembly, with respect to financing the cost for the acquisition, development, installation, and implementation of the State Taxation Accounting and Revenue System (STARS). If it is determined that additional appropriations are necessary for this purpose, the amounts are appropriated.

Section 207.10.60. EQUAL OPPORTUNITY CERTIFICATION PROGRAMS 138739

The foregoing appropriation item 100439, Equal Opportunity Certification Programs, shall be used to pay costs associated with the equal employment opportunity project tracking software that were formerly paid from appropriation item 100423, EEO Project Tracking Software.

Section 207.10.70. BUILDING RENT PAYMENTS 138745

The foregoing appropriation item 100447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of

Administrative Services to the Ohio Building Authority pursuant to 138758
leases and agreements under Chapter 152. of the Revised Code, but 138759
limited to the aggregate amount of \$42,800,000. 138760

The payments to the Ohio Building Authority are for paying 138761
the expenses of agencies that occupy space in various state 138762
facilities. The Department of Administrative Services may enter 138763
into leases and agreements with the Ohio Building Authority 138764
providing for the payment of these expenses. The Ohio Building 138765
Authority shall report to the Department of Administrative 138766
Services and the Office of Budget and Management not later than 138767
five months after the start of each fiscal year the actual 138768
expenses incurred by the Ohio Building Authority in operating the 138769
facilities and any balances remaining from payments and rentals 138770
received in the prior fiscal year. The Department of 138771
Administrative Services shall reduce subsequent payments by the 138772
amount of the balance reported to it by the Ohio Building 138773
Authority. 138774

Section 207.10.80. DAS - BUILDING OPERATING PAYMENTS 138775

The foregoing appropriation item 100449, DAS - Building 138776
Operating Payments, shall be used to pay the rent expenses of 138777
veterans organizations pursuant to section 123.024 of the Revised 138778
Code in fiscal years 2012 and 2013. 138779

The foregoing appropriation item, 100449, DAS - Building 138780
Operating Payments, also may be used to provide funding for the 138781
cost of property appraisals or building studies that the 138782
Department of Administrative Services may be required to obtain 138783
for property that is being sold by the state or property under 138784
consideration to be renovated or purchased by the state. 138785

Notwithstanding section 125.28 of the Revised Code, the 138786
remaining portion of the appropriation may be used to pay the 138787
operating expenses of state facilities maintained by the 138788

Department of Administrative Services that are not billed to 138789
building tenants. These expenses may include, but are not limited 138790
to, the costs for vacant space and space undergoing renovation, 138791
and the rent expenses of tenants that are relocated because of 138792
building renovations. These payments shall be processed by the 138793
Department of Administrative Services through intrastate transfer 138794
vouchers and placed in the Building Management Fund (Fund 1320). 138795

Section 207.10.90. CENTRAL SERVICE AGENCY FUND 138796

Appropriation item 100632, Central Service Agency, shall be 138797
used to purchase the equipment, products, and services that are 138798
needed to maintain existing automated applications for the 138799
professional licensing boards and to support board licensing 138800
functions in fiscal years 2012 and 2013 until these functions are 138801
replaced by the Ohio Professionals Licensing System. Appropriation 138802
item 100632, Central Service Agency, may also be used for these 138803
purposes for the Casino Control Commission if the commission 138804
elects to use these automated applications for its licensing 138805
functions. The Department of Administrative Services shall 138806
establish charges for recovering the costs of carrying out these 138807
functions. The charges shall be billed to the professional 138808
licensing boards, and the Casino Control Commission if applicable, 138809
and deposited via intrastate transfer vouchers to the credit of 138810
the Central Service Agency Fund (Fund 1150). 138811

Section 207.20.10. GENERAL SERVICE CHARGES 138812

The Department of Administrative Services, with the approval 138813
of the Director of Budget and Management, shall establish charges 138814
for recovering the costs of administering the programs funded by 138815
the General Services Fund (Fund 1170) and the State Printing Fund 138816
(Fund 2100). Such charges within Fund 1170 may be used to recover 138817
the cost of paying a vendor to establish reduced pricing for 138818

contracted supplies or services. 138819

If the Director of Administrative Services determines that 138820
additional amounts are necessary to pay for consulting and 138821
administrative costs related to securing lower pricing, the 138822
Director of Administrative Services may request that the Director 138823
of Budget and Management approve additional expenditures. Such 138824
approved additional amounts are appropriated to appropriation item 138825
100644, General Services Division-Operating. 138826

Section 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES 138827

With approval of the Director of Budget and Management, the 138828
Department of Administrative Services may seek reimbursement from 138829
state agencies for the actual costs and expenses the Department 138830
incurs in the collective bargaining arbitration process. The 138831
reimbursements shall be processed through intrastate transfer 138832
vouchers and credited to the Collective Bargaining Fund (Fund 138833
1280). 138834

Section 207.20.30. EQUAL OPPORTUNITY PROGRAM 138835

The Department of Administrative Services, with the approval 138836
of the Director of Budget and Management, shall establish charges 138837
for recovering the costs of administering the activities supported 138838
by the State EEO Fund (Fund 1880). These charges shall be 138839
deposited to the credit of the State EEO Fund (Fund 1880) upon 138840
payment made by state agencies, state-supported or state-assisted 138841
institutions of higher education, and tax-supported agencies, 138842
municipal corporations, and other political subdivisions of the 138843
state, for services rendered. 138844

Section 207.20.40. INVESTMENT RECOVERY FUND 138845

Notwithstanding division (B) of section 125.14 of the Revised 138846
Code, cash balances in the Investment Recovery Fund (Fund 4270) 138847

may be used to support the operating expenses of the Federal 138848
Surplus Operating Program created in sections 125.84 to 125.90 of 138849
the Revised Code. 138850

Notwithstanding division (B) of section 125.14 of the Revised 138851
Code, cash balances in the Investment Recovery Fund may be used to 138852
support the operating expenses of the Asset Management Services 138853
Program, including, but not limited to, the cost of establishing 138854
and maintaining procedures for inventory records for state 138855
property as described in section 125.16 of the Revised Code. 138856

Of the foregoing appropriation item 100602, Investment 138857
Recovery, up to \$2,092,697 in fiscal year 2012 and up to 138858
\$2,092,697 in fiscal year 2013 may be used to pay the operating 138859
expenses of the State Surplus Property Program, the Surplus 138860
Federal Property Program, and the Asset Management Services 138861
Program under Chapter 125. of the Revised Code and this section. 138862
If additional appropriations are necessary for the operations of 138863
these programs, the Director of Administrative Services shall seek 138864
increased appropriations from the Controlling Board under section 138865
131.35 of the Revised Code. 138866

Of the foregoing appropriation item 100602, Investment 138867
Recovery, \$3,500,000 in each fiscal year shall be used to transfer 138868
proceeds from the sale of surplus property from the Investment 138869
Recovery Fund to non-General Revenue Funds under division (A)(2) 138870
of section 125.14 of the Revised Code. If it is determined by the 138871
Director of Administrative Services that additional amounts are 138872
necessary for the transfer of such sale proceeds, the Director of 138873
Administrative Services may request the Director of Budget and 138874
Management to authorize additional amounts. Such authorized 138875
additional amounts are hereby appropriated. 138876

Section 207.20.50. DAS INFORMATION SERVICES 138877

There is hereby established in the State Treasury the DAS 138878

Information Services Fund. The foregoing appropriation item 138879
100603, DAS Information Services, shall be used to pay the costs 138880
of providing information systems and services in the Department of 138881
Administrative Services. Any state agency, board, or commission 138882
may use DAS Information Services by paying for the services 138883
rendered. 138884

The Department of Administrative Services shall establish 138885
user charges for all information systems and services that are 138886
allowable in the statewide indirect cost allocation plan submitted 138887
annually to the United States Department of Health and Human 138888
Services. These charges shall comply with federal regulations and 138889
shall be deposited to the credit of the DAS Information Services 138890
Fund (Fund 4P30). 138891

Section 207.20.60. PROFESSIONAL DEVELOPMENT FUND 138892

The foregoing appropriation item 100610, Professional 138893
Development, shall be used to make payments from the Professional 138894
Development Fund (Fund 5L70) under section 124.182 of the Revised 138895
Code. If it is determined by the Director of Administrative 138896
Services that additional amounts are necessary, the Director of 138897
Administrative Services may request that the Director of Budget 138898
and Management approve additional amounts. Such approved 138899
additional amounts are hereby appropriated. 138900

Section 207.20.70. EMPLOYEE EDUCATIONAL DEVELOPMENT 138901

The foregoing appropriation item 100619, Employee Educational 138902
Development, shall be used to make payments from the Employee 138903
Educational Development Fund (Fund 5V60) under section 124.86 of 138904
the Revised Code. The fund shall be used to pay the costs of 138905
administering educational programs under existing collective 138906
bargaining agreements with District 1199, the Health Care and 138907
Social Service Union; State Council of Professional Educators; 138908

Ohio Education Association and National Education Association; the 138909
Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio 138910
State Troopers Association, Units 1 and 15. 138911

If it is determined by the Director of Administrative 138912
Services that additional amounts are necessary, the Director of 138913
Administrative Services may request that the Director of Budget 138914
and Management approve additional amounts. Such approved 138915
additional amounts are hereby appropriated. 138916

Section 207.20.80. CENTRALIZED GATEWAY ENHANCEMENT FUND 138917

(A) As used in this section, "Ohio Business Gateway" refers 138918
to the internet-based system operated by the Department of 138919
Administrative Services with the advice of the Ohio Business 138920
Gateway Steering Committee established under section 5703.57 of 138921
the Revised Code. The Ohio Business Gateway is established to 138922
provide businesses a central web site where various filings and 138923
payments are submitted online to government. The information is 138924
then distributed to the various government entities that interact 138925
with the business community. 138926

(B) As used in this section: 138927

(1) "State Portal" refers to the official web site of the 138928
state, operated by the Department of Administrative Services. 138929

(2) "Shared Hosting Environment" refers to the computerized 138930
system operated by the Department of Administrative Services for 138931
the purpose of providing capability for state agencies to host web 138932
sites. 138933

(C) There is hereby created in the state treasury the 138934
Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing 138935
appropriation item 100634, Centralized Gateway Enhancement, shall 138936
be used by the Department of Administrative Services to pay the 138937
costs of enhancing, expanding, and operating the infrastructure of 138938

the Ohio Business Gateway, State Portal, and Shared Hosting 138939
Environment. The Director of Administrative Services shall submit 138940
spending plans to the Director of Budget and Management to justify 138941
operating transfers to the fund from the General Revenue Fund. 138942
Upon approval, the Director of Budget and Management shall 138943
transfer approved amounts to the fund, not to exceed the amount of 138944
the annual appropriation in each fiscal year. The spending plans 138945
may be based on the recommendations of the Ohio Business Gateway 138946
Steering Committee or its successor. 138947

Section 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES 138948
FUND 138949

Upon request of the Director of Administrative Services, the 138950
Director of Budget and Management may make the following transfers 138951
from the Major IT Purchases Fund (Fund 4N60): 138952

(1) Up to \$2,800,000 in each fiscal year of the biennium to 138953
the State Architect's Fund (Fund 1310) to support the OAKS Capital 138954
Improvements Module and other costs of the State Architect's 138955
Office that are not directly related to capital projects managed 138956
by the State Architect; 138957

(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in 138958
fiscal year 2013 to the Director's Office Fund (Fund 1120) to 138959
support operating expenses of the Accountability and Results 138960
Initiative. 138961

Section 207.20.93. CASH TRANSFERS FROM THE BUILDING 138962
MANAGEMENT FUND TO THE STATE ARCHITECT'S FUND 138963

Upon request of the Director of Administrative Services, the 138964
Director of Budget and Management may transfer up to \$2,000,000 138965
from the Building Management Fund (Fund 1320) to the State 138966
Architect's Fund (Fund 1310) to support the OAKS Capital 138967
Improvements Module and other costs of the State Architect's 138968

Office that are not directly related to capital projects managed 138969
by the State Architect. If the cash balance in the State 138970
Architect's Fund (Fund 1310) is determined to be sufficient, the 138971
Director of Administrative Services may request that the Director 138972
of Budget and Management transfer cash from the State Architect's 138973
Fund (Fund 1310) to the Building Management Fund (Fund 1320) in an 138974
amount equal to the initial cash transfer made under this section 138975
plus applicable interest. 138976

Section 207.30.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 138977
DEBT SERVICE PAYMENTS 138978

The Director of Administrative Services, in consultation with 138979
the Multi-Agency Radio Communication System (MARCS) Steering 138980
Committee and the Director of Budget and Management, shall 138981
determine the share of debt service payments attributable to 138982
spending for MARCS components that are not specific to any one 138983
agency and that shall be charged to agencies supported by the 138984
motor fuel tax. Such share of debt service payments shall be 138985
calculated for MARCS capital disbursements made beginning July 1, 138986
1997. Within thirty days of any payment made from appropriation 138987
item 100447, OBA - Building Rent Payments, the Director of 138988
Administrative Services shall certify to the Director of Budget 138989
and Management the amount of this share. The Director of Budget 138990
and Management shall transfer such amounts to the General Revenue 138991
Fund from the State Highway Safety Fund (Fund 7036) established in 138992
section 4501.06 of the Revised Code. 138993

The Director of Administrative Services shall consider 138994
renting or leasing existing tower sites at reasonable or current 138995
market rates, so long as these existing sites are equipped with 138996
the technical capabilities to support the MARCS project. 138997

Section 207.30.20. OHIO PROFESSIONALS LICENSING SYSTEM 138998

There is hereby created in the state treasury the Ohio Professionals Licensing System Fund (Fund 5JQ0). Appropriation item 100658, Ohio Professionals Licensing System, shall be used to make payments from the fund. The fund shall be used to purchase the equipment, products, and services necessary to develop and maintain a replacement automated licensing system for the professional licensing boards. The Director of Budget and Management may transfer up to a total of \$3,000,000 in cash from the Occupational Licensing and Regulatory Fund (4K90), the State Medical Board Operating Fund (Fund 5C60), and the Casino Control Commission - Operating Fund (Fund 5HS0) if the Casino Control Commission elects to use the replacement automated licensing system, to the Ohio Professionals Licensing System Fund during the FY 2012-FY 2013 biennium. These transfers shall be in proportion to the number of current licensees, or current and anticipated licensees in the case of the Casino Control Commission if applicable. The purpose of these cash transfers is to fund the initial acquisition and development of the system. Any cash balances not expended in fiscal year 2012 are reappropriated in fiscal year 2013.

Effective with the implementation of the replacement licensing system, the Department of Administrative Services shall establish charges for recovering the costs of ongoing maintenance of the system. The charges shall be billed to the professional licensing boards, and the Casino Control Commission if applicable, and deposited via intrastate transfer vouchers to the credit of the Ohio Professionals Licensing System Fund.

Section 207.30.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of

the Controlling Board.					139030
Section 209.10. AGE DEPARTMENT OF AGING					139031
General Revenue Fund					139032
GRF 490321	Operating Expenses	\$ 1,501,616	\$ 1,502,442		139033
GRF 490410	Long-Term Care	\$ 482,271	\$ 482,271		139034
	Ombudsman				
GRF 490411	Senior Community	\$ 7,130,952	\$ 7,131,236		139035
	Services				
GRF 490414	Alzheimer's Respite	\$ 1,917,740	\$ 1,917,757		139036
GRF 490423	Long Term Care Budget	\$ 3,419,250	\$ 3,419,250		139037
	- State				
GRF 490506	National Senior	\$ 241,413	\$ 241,413		139038
	Service Corps				
TOTAL GRF	General Revenue Fund	\$ 14,693,242	\$ 14,694,369		139039
General Services Fund Group					139040
4800 490606	Senior Community	\$ 372,518	\$ 372,523		139041
	Outreach and				
	Education				
TOTAL GSF	General Services Fund				139042
Group		\$ 372,518	\$ 372,523		139043
Federal Special Revenue Fund Group					139044
3220 490618	Federal Aging Grants	\$ 14,000,000	\$ 14,000,000		139045
3C40 490623	Long Term Care Budget	\$ 3,525,000	\$ 3,525,000		139046
3M40 490612	Federal Independence	\$ 63,655,080	\$ 63,655,080		139047
	Services				
TOTAL FED	Federal Special Revenue				139048
Fund Group		\$ 81,180,080	\$ 81,180,080		139049
State Special Revenue Fund Group					139050
4C40 490609	Regional Long-Term	\$ 935,000	\$ 935,000		139051
	Care Ombudsman				

		Program					
5BA0	490620	Ombudsman Support	\$	750,000	\$	750,000	139052
5K90	490613	Long Term Care	\$	820,400	\$	820,400	139053
		Consumers Guide					
5W10	490616	Resident Services	\$	344,692	\$	344,700	139054
		Coordinator Program					
TOTAL	SSR	State Special Revenue					139055
Fund Group			\$	2,850,092	\$	2,850,100	139056
TOTAL ALL BUDGET FUND GROUPS			\$	99,095,932	\$	99,097,072	139057

Section 209.20. LONG-TERM CARE 139059

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

Section 209.30. LONG-TERM CARE OMBUDSMAN 139075

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

SENIOR COMMUNITY SERVICES	139080
The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.	139081 139082 139083 139084 139085 139086 139087 139088 139089 139090 139091
ALZHEIMER'S RESPITE	139092
The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.	139093 139094 139095
SENIOR COMMUNITY OUTREACH AND EDUCATION	139096
The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.	139097 139098 139099 139100
TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS	139101 139102
At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.	139103 139104 139105 139106 139107 139108 139109 139110

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM	139111
The foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the Long-Term Care Ombudsman.	139112 139113 139114 139115
TRANSFER OF RESIDENT PROTECTION FUNDS	139116
In each fiscal year, the Director of Budget and Management may transfer up to \$750,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging. The moneys in the Ombudsman Support Fund may be used by the state office of the Long-Term Care Ombudsman Program and by regional ombudsman programs to promote person-centered care in nursing homes.	139117 139118 139119 139120 139121 139122 139123 139124
On July 1, 2011, or as soon as possible thereafter, the Department of Aging shall certify to the Director of Budget and Management the amount of the cash balance in the Ombudsman Support Fund at the end of fiscal year 2011.	139125 139126 139127 139128
LONG-TERM CARE CONSUMERS GUIDE	139129
The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual customer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide.	139130 139131 139132 139133 139134
During fiscal year 2012 and fiscal year 2013, the Department of Aging shall identify methods and tools for assessing consumer satisfaction with adult care facilities and with the providers of home and community-based services. The Department shall also consider the development of a provider fee structure to support the inclusion of information about adult care facilities and providers of home and community-based services among the types of	139135 139136 139137 139138 139139 139140 139141

providers reviewed in the Ohio Long-Term Care Consumer Guide. 139142

Section 211.10. AGR DEPARTMENT OF AGRICULTURE 139143

General Revenue Fund 139144

GRF 700401 Animal Disease Control \$ 3,936,687 \$ 3,936,687 139145

GRF 700403 Dairy Division \$ 1,088,115 \$ 1,088,115 139146

GRF 700404 Ohio Proud \$ 50,000 \$ 50,000 139147

GRF 700406 Consumer Analytical \$ 1,287,556 \$ 1,287,556 139148

Lab

GRF 700407 Food Safety \$ 848,792 \$ 848,792 139149

GRF 700409 Farmland Preservation \$ 72,750 \$ 72,750 139150

GRF 700412 Weights and Measures \$ 600,000 \$ 600,000 139151

GRF 700415 Poultry Inspection \$ 392,978 \$ 392,978 139152

GRF 700418 Livestock Regulation \$ 1,108,071 \$ 1,108,071 139153

Program

GRF 700424 Livestock Testing and \$ 102,770 \$ 102,770 139154

Inspections

GRF 700499 Meat Inspection \$ 4,175,097 \$ 4,175,097 139155

Program - State Share

GRF 700501 County Agricultural \$ 391,413 \$ 391,413 139156

Societies

TOTAL GRF General Revenue Fund \$ 14,054,229 \$ 14,054,229 139157

General Services Fund Group 139158

5DA0 700644 Laboratory \$ 1,094,867 \$ 1,094,867 139159

Administration

Support

5GH0 700655 Central Support \$ 4,456,842 \$ 4,456,842 139160

Indirect Cost

TOTAL GSF General Services Fund \$ 5,551,709 \$ 5,551,709 139161

Group

Federal Special Revenue Fund Group 139162

3260 700618 Meat Inspection \$ 4,950,000 \$ 4,950,000 139163

		Program - Federal					
		Share					
3360	700617	Ohio Farm Loan	\$	150,000	\$	150,000	139164
		Revolving Fund					
3820	700601	Cooperative Contracts	\$	2,000,000	\$	2,000,000	139165
3AB0	700641	Agricultural Easement	\$	1,000,000	\$	1,000,000	139166
3J40	700607	Indirect Cost	\$	600,000	\$	600,000	139167
3R20	700614	Federal Plant	\$	1,000,000	\$	1,000,000	139168
		Industry					
TOTAL FED		Federal Special Revenue					139169
Fund Group			\$	9,700,000	\$	9,700,000	139170
State Special Revenue Fund Group							139171
4960	700626	Ohio Grape Industries	\$	846,611	\$	846,611	139172
4970	700627	Commodity Handlers	\$	483,402	\$	483,402	139173
		Regulatory Program					
4C90	700605	Commercial Feed and	\$	1,816,897	\$	1,816,897	139174
		Seed					
4D20	700609	Auction Education	\$	41,000	\$	41,000	139175
4E40	700606	Utility Radiological	\$	131,785	\$	131,785	139176
		Safety					
4P70	700610	Food Safety	\$	1,085,836	\$	1,085,836	139177
		Inspection					
4R00	700636	Ohio Proud Marketing	\$	30,500	\$	30,500	139178
4R20	700637	Dairy Industry	\$	1,758,247	\$	1,758,247	139179
		Inspection					
4T60	700611	Poultry and Meat	\$	180,000	\$	180,000	139180
		Inspection					
4T70	700613	Ohio Proud	\$	50,000	\$	50,000	139181
		International and					
		Domestic Market					
		Development					
5780	700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142	139182
5B80	700629	Auctioneers	\$	359,823	\$	359,823	139183

5FC0	700648	Plant Pest Program	\$	1,164,000	\$	1,164,000	139184
5H20	700608	Metrology Lab and Scale Certification	\$	750,000	\$	750,000	139185
5HP0	700656	Livestock Care Standards Board	\$	80,000	\$	80,000	139186
5L80	700604	Livestock Management Program	\$	584,000	\$	584,000	139187
6520	700634	Animal and Consumer Analytical Laboratory	\$	4,366,383	\$	4,366,383	139188
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	\$	3,418,041	\$	3,418,041	139189
TOTAL SSR State Special Revenue							139190
Fund Group			\$	18,321,667	\$	18,321,667	139191
Clean Ohio Conservation Fund Group							139192
7057	700632	Clean Ohio Agricultural Easement	\$	310,000	\$	310,000	139193
TOTAL CLF Clean Ohio Conservation Fund Group			\$	310,000	\$	310,000	139194
TOTAL ALL BUDGET FUND GROUPS			\$	47,937,605	\$	47,937,605	139195
COUNTY AGRICULTURAL SOCIETIES							139196
The foregoing appropriation item 700501, County Agricultural							139197
Societies, shall be used to reimburse county and independent							139198
agricultural societies for expenses related to Junior Fair							139199
activities.							139200
CLEAN OHIO AGRICULTURAL EASEMENT							139201
The foregoing appropriation item 700632, Clean Ohio							139202
Agricultural Easement, shall be used by the Department of							139203
Agriculture in administering Ohio Agricultural Easement Fund (Fund							139204
7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to							139205
5301.70 of the Revised Code.							139206

Section 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY				139207	
General Services Fund Group				139208	
5EG0 898608 Energy Strategy	\$	240,382	\$	240,681	139209
Development					
TOTAL GSF General Services Fund	\$	240,382	\$	240,681	139210
Agency Fund Group					139211
4Z90 898602 Small Business	\$	288,050	\$	288,232	139212
Ombudsman					
5700 898601 Operating Expenses	\$	323,980	\$	323,980	139213
5A00 898603 Small Business	\$	71,087	\$	71,087	139214
Assistance					
TOTAL AGY Agency Fund Group	\$	683,117	\$	683,299	139215
TOTAL ALL BUDGET FUND GROUPS	\$	923,499	\$	923,980	139216

Section 213.20. ENERGY STRATEGY DEVELOPMENT 139218

The Ohio Air Quality Development Authority shall establish 139219
the Energy Strategy Development Program for the purpose of 139220
developing energy initiatives, projects, and policy for the state. 139221
Issues addressed by such initiatives, projects, and policy shall 139222
not be limited to those governed by Chapter 3706. of the Revised 139223
Code. 139224

There is hereby created in the state treasury the Energy 139225
Strategy Development Fund (Fund 5EG0). The fund shall consist of 139226
money credited to it and money obtained for advanced energy 139227
projects from federal or private grants, loans, or other sources. 139228
Money in the fund shall be used to carry out the purposes of the 139229
program. Interest earned on the money in the fund shall be 139230
credited to the General Revenue Fund. 139231

On July 1 of each fiscal year, or as soon as possible 139232
thereafter, the Director of Budget and Management may transfer 139233
cash from the funds specified below, in the amounts specified 139234

below, to the Energy Strategy Development Fund. Fund 5EG0 may 139235
 accept contributions and transfers made to the fund. On July 1, 139236
 2013, or as soon as possible thereafter, the Director shall 139237
 transfer to the General Revenue Fund all cash credited to Fund 139238
 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished. 139239

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2012</u>	<u>FY 2013</u>	
1170	Office Services	Department of Administrative Services	\$27,405	\$27,439	139240 139241
5GH0	Central Support Indirect Cost	Department of Agriculture	\$27,405	\$27,439	139242
1350	Supportive Services	Department of Development	\$27,405	\$27,439	139243
2190	Central Support Indirect Cost	Environmental Protection Agency	\$27,405	\$27,439	139244
1570	Central Support Indirect Chargeback	Department of Natural Resources	\$27,405	\$27,439	139245
7002	Highway Operating	Department of Transportation	\$39,150	\$39,199	139246

Section 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT 139247
AUTHORITY TRUST ACCOUNT 139248

Notwithstanding any other provision of law to the contrary, 139249
 the Air Quality Development Authority may reimburse the Air 139250
 Quality Development Authority trust account established under 139251
 section 3706.10 of the Revised Code from all operating funds of 139252
 the agency for expenses pertaining to the administration and 139253
 shared costs incurred by the Air Quality Development Authority in 139254
 the execution of responsibilities as prescribed in Chapter 3706. 139255
 of the Revised Code. Reimbursement shall be made by voucher and 139256
 completed in accordance with the administrative indirect costs 139257
 allocation plan approved by the Office of Budget and Management. 139258

Section 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION				139259
SERVICES				139260
General Revenue Fund				139261
GRF 038401	Treatment Services	\$ 11,225,590	\$ 7,020,974	139262
GRF 038404	Prevention Services	\$ 868,659	\$ 868,659	139263
GRF 038501	Medicaid Match	\$ 23,959,113	\$ 0	139264
TOTAL GRF General Revenue Fund		\$ 36,053,362	\$ 7,889,633	139265
General Services Fund				139266
5T90 038616	Problem Gambling Services	\$ 335,000	\$ 335,000	139267
TOTAL GSF General Services Fund		\$ 335,000	\$ 335,000	139268
Group				
Federal Special Revenue Fund Group				139269
3G40 038614	Substance Abuse Block Grant	\$ 69,000,000	\$ 69,000,000	139270
3H80 038609	Demonstration Grants	\$ 8,675,580	\$ 8,675,580	139271
3J80 038610	Medicaid	\$ 69,200,000	\$ 0	139272
3N80 038611	Administrative Reimbursement	\$ 300,000	\$ 300,000	139273
TOTAL FED Federal Special Revenue Fund Group		\$ 147,175,580	\$ 77,975,580	139274 139275
State Special Revenue Fund Group				139276
4750 038621	Statewide Treatment and Prevention	\$ 16,000,000	\$ 14,000,000	139277
5JW0 038615	Board Match Reimbursement	\$ 3,000,000	\$ 3,000,000	139278
6890 038604	Education and Conferences	\$ 75,000	\$ 75,000	139279
TOTAL SSR State Special Revenue Fund Group		\$ 19,075,000	\$ 17,075,000	139280 139281
TOTAL ALL BUDGET FUND GROUPS		\$ 202,638,942	\$ 103,275,213	139282

Section 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH 139284

(A) As used in this section, "community alcohol and drug 139285
addiction Medicaid services" means services provided under the 139286
component, or aspect of the component, of the Medicaid program 139287
that the Department of Alcohol and Drug Addiction Services 139288
administers pursuant to a contract entered into with the 139289
Department of Job and Family Services under section 5111.91 of the 139290
Revised Code. 139291

(B) Subject to division (C) of this section, the foregoing 139292
appropriation item 038501, Medicaid Match, shall be used by the 139293
Department of Alcohol and Drug Addiction Services to make payments 139294
for community alcohol and drug addiction Medicaid services. 139295

(C) For state fiscal year 2012, the Department shall allocate 139296
foregoing appropriation item 038501, Medicaid Match, to boards of 139297
alcohol, drug addiction, and mental health services in accordance 139298
with a distribution methodology the Department shall establish. 139299
Notwithstanding sections 5111.911 and 5111.913 of the Revised 139300
Code, the boards shall use the funds allocated to them under this 139301
section to pay claims for community alcohol and drug addiction 139302
Medicaid services provided during fiscal year 2012. The boards 139303
shall use all federal financial participation that the Department 139304
receives for claims paid for community alcohol and drug addiction 139305
Medicaid services provided during fiscal year 2012 as the first 139306
payment source to pay claims for community alcohol and drug 139307
addiction Medicaid services provided during fiscal year 2012. The 139308
boards are not required to use any funds other than the funds 139309
allocated to them under this section and the federal financial 139310
participation received for claims for community alcohol and drug 139311
addiction Medicaid services provided during fiscal year 2012 to 139312
pay for such claims. 139313

(D) The Department shall enter into an agreement with each 139314

board regarding the issue of paying claims that are for community 139315
alcohol and drug addiction Medicaid services provided before July 139316
1, 2011, and submitted for payment on or after that date. Such 139317
claims shall be paid in accordance with the agreements. A board 139318
shall receive the federal financial participation received for 139319
claims for community alcohol and drug addiction Medicaid services 139320
that were provided before July 1, 2011, and paid by the board. 139321

Section 217.10. ARC ARCHITECTS BOARD 139322

General Services Fund Group 139323
4K90 891609 Operating Expenses \$ 494,459 \$ 478,147 139324
TOTAL GSF General Services Fund 139325
Group \$ 494,459 \$ 478,147 139326
TOTAL ALL BUDGET FUND GROUPS \$ 494,459 \$ 478,147 139327

Section 219.10. ART OHIO ARTS COUNCIL 139329

General Revenue Fund 139330
GRF 370321 Operating Expenses \$ 1,305,704 \$ 1,305,704 139331
GRF 370502 State Program \$ 6,000,000 \$ 8,000,000 139332
Subsidies
TOTAL GRF General Revenue Fund \$ 7,305,704 \$ 9,305,704 139333
General Services Fund Group 139334
4600 370602 Management Expenses \$ 247,000 \$ 247,000 139335
and Donations
4B70 370603 Percent for Art \$ 247,000 \$ 247,000 139336
Acquisitions
TOTAL GSF General Services Fund \$ 494,000 \$ 494,000 139337
Group
Federal Special Revenue Fund Group 139338
3140 370601 Federal Support \$ 1,000,000 \$ 1,000,000 139339
TOTAL FED Federal Special Revenue \$ 1,000,000 \$ 1,000,000 139340
Fund Group

TOTAL ALL BUDGET FUND GROUPS		\$	8,799,704	\$	10,799,704	139341
FEDERAL SUPPORT						139342
Notwithstanding any provision of law to the contrary, the						139343
foregoing appropriation item 370601, Federal Support, shall be						139344
used by the Ohio Arts Council for subsidies only, and not for its						139345
administrative costs, unless the Council is required to use a						139346
portion of the funds for administrative costs under conditions of						139347
the federal grant.						139348
Section 221.10. ATH ATHLETIC COMMISSION						139349
General Services Fund Group						139350
4K90 175609 Operating Expenses		\$	281,904	\$	292,509	139351
TOTAL GSF General Services Fund		\$	281,904	\$	292,509	139352
Group						
TOTAL ALL BUDGET FUND GROUPS		\$	281,904	\$	292,509	139353
Section 223.10. AGO ATTORNEY GENERAL						139355
General Revenue Fund						139356
GRF 055321 Operating Expenses		\$	42,514,169	\$	42,514,169	139357
GRF 055405 Law-Related Education		\$	100,000	\$	100,000	139358
GRF 055411 County Sheriffs' Pay		\$	757,921	\$	757,921	139359
Supplement						
GRF 055415 County Prosecutors'		\$	831,499	\$	831,499	139360
Pay Supplement						
TOTAL GRF General Revenue Fund		\$	44,203,589	\$	44,203,589	139361
General Services Fund Group						139362
1060 055612 General Reimbursement		\$	43,197,968	\$	43,011,277	139363
1950 055660 Workers' Compensation		\$	8,415,504	\$	8,415,504	139364
Section						
4180 055615 Charitable		\$	7,286,000	\$	7,286,000	139365
Foundations						
4200 055603 Attorney General		\$	1,871,674	\$	1,839,074	139366

		Antitrust				
4210	055617	Police Officers'	\$	2,124,942	\$	2,088,805 139367
		Training Academy Fee				
4Z20	055609	BCI Asset Forfeiture	\$	1,529,685	\$	1,521,731 139368
		and Cost				
		Reimbursement				
5900	055633	Peace Officer Private	\$	98,370	\$	98,370 139369
		Security Fund				
5A90	055618	Telemarketing Fraud	\$	7,500	\$	7,500 139370
		Enforcement				
5L50	055619	Law Enforcement	\$	300,222	\$	0 139371
		Assistance Program				
6310	055637	Consumer Protection	\$	3,799,115	\$	3,718,973 139372
		Enforcement				
TOTAL GSF		General Services Fund				139373
Group			\$	68,630,980	\$	67,987,234 139374
Federal Special Revenue Fund Group						139375
3060	055620	Medicaid Fraud	\$	4,211,235	\$	4,122,399 139376
		Control				
3810	055611	Civil Rights Legal	\$	402,540	\$	402,540 139377
		Service				
3830	055634	Crime Victims	\$	13,000,000	\$	13,000,000 139378
		Assistance				
3E50	055638	Attorney General	\$	1,223,606	\$	1,222,172 139379
		Pass-Through Funds				
3R60	055613	Attorney General	\$	3,823,251	\$	3,673,251 139380
		Federal Funds				
TOTAL FED		Federal Special Revenue				139381
Fund Group			\$	22,660,632	\$	22,420,362 139382
State Special Revenue Fund Group						139383
4020	055616	Victims of Crime	\$	26,000,000	\$	26,000,000 139384
4170	055621	Domestic Violence	\$	25,000	\$	25,000 139385

		Shelter				
4190	055623	Claims Section	\$	44,197,843	\$	41,953,025 139386
4L60	055606	DARE Programs	\$	4,477,962	\$	4,477,962 139387
4Y70	055608	Title Defect Recision	\$	600,000	\$	600,000 139388
6590	055641	Solid and Hazardous	\$	662,227	\$	651,049 139389
		Waste Background				
		Investigations				
TOTAL SSR State Special Revenue						139390
Fund Group			\$	75,963,032	\$	73,707,036 139391
Holding Account Redistribution Fund Group						139392
R004	055631	General Holding	\$	1,000,000	\$	1,000,000 139393
		Account				
R005	055632	Antitrust Settlements	\$	1,000	\$	1,000 139394
R018	055630	Consumer Frauds	\$	750,000	\$	750,000 139395
R042	055601	Organized Crime	\$	25,025	\$	25,025 139396
		Commission				
		Distributions				
R054	055650	Collection Outside	\$	4,500,000	\$	4,500,000 139397
		Counsel Payments				
TOTAL 090 Holding Account						139398
Redistribution Fund Group			\$	6,276,025	\$	6,276,025 139399
Tobacco Master Settlement Agreement Fund Group						139400
J087	055635	Law Enforcement	\$	2,300,000	\$	0 139401
		Technology, Training,				
		and Facility				
		Enhancements				
U087	055402	Tobacco Settlement	\$	2,527,992	\$	2,514,690 139402
		Oversight,				
		Administration, and				
		Enforcement				
TOTAL TSF Tobacco Master Settlement			\$	4,827,992	\$	2,514,690 139403
Agreement Fund Group						

TOTAL ALL BUDGET FUND GROUPS	\$ 222,562,250	\$ 217,108,936	139404
COUNTY SHERIFFS' PAY SUPPLEMENT			139405
The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.			139406 139407 139408 139409
At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.			139410 139411 139412 139413 139414 139415
COUNTY PROSECUTORS' PAY SUPPLEMENT			139416
The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.			139417 139418 139419 139420
At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code.			139421 139422 139423 139424 139425 139426 139427
WORKERS' COMPENSATION SECTION			139428
The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject			139429 139430 139431 139432 139433 139434

to adjustment. 139435

In addition, the Bureau of Workers' Compensation shall 139436
transfer payments at the beginning of each quarter for the support 139437
of the Workers' Compensation Fraud Unit. 139438

All amounts shall be mutually agreed upon by the Attorney 139439
General, the Bureau of Workers' Compensation, and the Ohio 139440
Industrial Commission. 139441

ATTORNEY GENERAL PASS-THROUGH FUNDS 139442

The foregoing appropriation item 055638, Attorney General 139443
Pass-Through Funds, shall be used to receive federal grant funds 139444
provided to the Attorney General by other state agencies, 139445
including, but not limited to, the Department of Youth Services 139446
and the Department of Public Safety. 139447

GENERAL HOLDING ACCOUNT 139448

The foregoing appropriation item 055631, General Holding 139449
Account, shall be used to distribute moneys under the terms of 139450
relevant court orders or other settlements received in a variety 139451
of cases involving the Office of the Attorney General. If it is 139452
determined that additional amounts are necessary for this purpose, 139453
the amounts are hereby appropriated. 139454

ANTITRUST SETTLEMENTS 139455

The foregoing appropriation item 055632, Antitrust 139456
Settlements, shall be used to distribute moneys under the terms of 139457
relevant court orders or other out of court settlements in 139458
antitrust cases or antitrust matters involving the Office of the 139459
Attorney General. If it is determined that additional amounts are 139460
necessary for this purpose, the amounts are hereby appropriated. 139461

CONSUMER FRAUDS 139462

The foregoing appropriation item 055630, Consumer Frauds, 139463
shall be used for distribution of moneys from court-ordered 139464

judgments against sellers in actions brought by the Office of 139465
Attorney General under sections 1334.08 and 4549.48 and division 139466
(B) of section 1345.07 of the Revised Code. These moneys shall be 139467
used to provide restitution to consumers victimized by the fraud 139468
that generated the court-ordered judgments. If it is determined 139469
that additional amounts are necessary for this purpose, the 139470
amounts are hereby appropriated. 139471

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 139472

The foregoing appropriation item 055601, Organized Crime 139473
Commission Distributions, shall be used by the Organized Crime 139474
Investigations Commission, as provided by section 177.011 of the 139475
Revised Code, to reimburse political subdivisions for the expenses 139476
the political subdivisions incur when their law enforcement 139477
officers participate in an organized crime task force. If it is 139478
determined that additional amounts are necessary for this purpose, 139479
the amounts are hereby appropriated. 139480

COLLECTION OUTSIDE COUNSEL PAYMENTS 139481

The foregoing appropriation item 055650, Collection Outside 139482
Counsel Payments, shall be used for the purpose of paying 139483
contingency counsel fees for cases where debtors mistakenly paid 139484
the client agencies instead of the Attorney General's Revenue 139485
Recovery/Collections Enforcement Section. If it is determined that 139486
additional amounts are necessary for this purpose, the amounts are 139487
hereby appropriated. 139488

Section 225.10. AUD AUDITOR OF STATE 139489

General Revenue Fund 139490

GRF 070321 Operating Expenses \$ 27,434,452 \$ 27,434,452 139491

GRF 070403 Fiscal \$ 800,000 \$ 800,000 139492

Watch/Emergency

Technical Assistance

TOTAL GRF General Revenue Fund	\$	28,234,452	\$	28,234,452	139493
Auditor of State Fund Group					139494
1090 070601 Public Audit Expense	\$	9,000,000	\$	8,700,000	139495
- Intra-State					
4220 070602 Public Audit Expense	\$	31,422,959	\$	31,052,999	139496
- Local Government					
5840 070603 Training Program	\$	181,250	\$	181,250	139497
5JZ0 070606 LEAP Revolving Loans	\$	850,000	\$	650,000	139498
6750 070605 Uniform Accounting	\$	3,500,000	\$	3,500,000	139499
Network					
TOTAL AUD Auditor of State Fund					139500
Group	\$	44,954,209	\$	44,084,249	139501
TOTAL ALL BUDGET FUND GROUPS	\$	73,188,661	\$	72,318,701	139502
FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE					139503
The foregoing appropriation item 070403, Fiscal					139504
Watch/Emergency Technical Assistance, shall be used for expenses					139505
incurred by the Office of the Auditor of State in its role					139506
relating to fiscal watch or fiscal emergency activities under					139507
Chapters 118. and 3316. of the Revised Code. Expenses include, but					139508
are not limited to, the following: duties related to the					139509
determination or termination of fiscal watch or fiscal emergency					139510
of municipal corporations, counties, townships, or school					139511
districts; development of preliminary accounting reports;					139512
performance of annual forecasts; provision of performance audits;					139513
and supervisory, accounting, or auditing services for the					139514
municipal corporations, counties, townships, or school districts.					139515
An amount equal to the unexpended, unencumbered portion of					139516
appropriation item 070403, Fiscal Watch/Emergency Technical					139517
Assistance, at the end of fiscal year 2012 is hereby					139518
reappropriated for the same purpose in fiscal year 2013.					139519
Section 227.10. BRB BOARD OF BARBER EXAMINERS					139520

General Services Fund Group					139521
4K90 877609 Operating Expenses	\$	656,320	\$	649,211	139522
TOTAL GSF General Services Fund					139523
Group	\$	656,320	\$	649,211	139524
TOTAL ALL BUDGET FUND GROUPS	\$	656,320	\$	649,211	139525
 Section 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT					139527
General Revenue Fund					139528
GRF 042321 Budget Development	\$	2,362,025	\$	2,378,166	139529
and Implementation					
GRF 042416 Office of Health	\$	306,285	\$	0	139530
Transformation					
GRF 042423 Liquor Enterprise	\$	500,000	\$	0	139531
Transaction					
TOTAL GRF General Revenue Fund	\$	3,168,310	\$	2,378,166	139532
General Services Fund Group					139533
1050 042603 State Accounting and	\$	21,917,230	\$	22,006,331	139534
Budgeting					
5N40 042602 OAKS Project	\$	1,358,000	\$	1,309,500	139535
Implementation					
5Z80 042608 Office of Health	\$	57,752	\$	0	139536
Transformation					
Administration					
TOTAL GSF General Services Fund	\$	23,332,982	\$	23,315,831	139537
Group					
Federal Special Revenue Fund Group					139538
3CM0 042606 Office of Health	\$	384,037	\$	145,500	139539
Transformation -					
Federal					
TOTAL FED Federal Special Revenue	\$	384,037	\$	145,500	139540
Fund Group					
Agency Fund Group					139541

5EH0 042604	Forgery Recovery	\$	50,000	\$	50,000	139542
TOTAL AGY	Agency Fund Group	\$	50,000	\$	50,000	139543
TOTAL ALL BUDGET FUND GROUPS		\$	26,935,329	\$	25,889,497	139544

LIQUOR ENTERPRISE TRANSACTION 139545

The foregoing appropriation item 042423, Liquor Enterprise Transaction, shall be used by the Director of Budget and Management, without need for any other approval, to retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the Director's judgment to commence negotiation of the transfer agreement referred to in sections 4313.01 and 4313.02 of the Revised Code, as enacted by this act. Any amounts expended from appropriation item 042423 shall be reimbursed from the proceeds of the enterprise acquisition project transaction authorized in those sections. 139546
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The Director of Budget and Management, in consultation with the Director of Commerce, may negotiate an initial agreement with JobsOhio, which shall be executed by the Directors of Budget and Management and Commerce upon its completion. 139557
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AUDIT COSTS AND DUES 139561

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state shall be paid from the foregoing appropriation item 042603, State Accounting and Budgeting. 139562
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139566

Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation. 139567
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SHARED SERVICES CENTER 139570

The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and 139571
139572

Budgeting Fund (Fund 1050) to support a Shared Services Center 139573
within the Office of Budget and Management for the purpose of 139574
consolidating statewide business functions and common 139575
transactional processes. 139576

The Director of Budget and Management shall include the 139577
recovery of costs to operate the Shared Services Center in the 139578
accounting and budgeting services payroll rate and through a 139579
direct charge using intrastate transfer vouchers to agencies for 139580
services rendered. The Director of Budget and Management shall 139581
determine the cost recovery methodology. Such cost recovery 139582
revenues shall be deposited to the credit of Fund 1050. 139583

INTERNAL CONTROL AND AUDIT OVERSIGHT 139584

The Director of Budget and Management shall include the 139585
recovery of costs to operate the Internal Control and Audit 139586
Oversight Program in the accounting and budgeting services payroll 139587
rate and through a direct charge using intrastate transfer 139588
vouchers to agencies reviewed by the program. The Director of 139589
Budget and Management, with advice from the Internal Audit 139590
Advisory Council, shall determine the cost recovery methodology. 139591
Such cost recovery revenues shall be deposited to the credit of 139592
the Accounting and Budgeting Fund (Fund 1050). 139593

FORGERY RECOVERY 139594

The foregoing appropriation item 042604, Forgery Recovery, 139595
shall be used to reissue warrants that have been certified as 139596
forgeries by the rightful recipient as determined by the Bureau of 139597
Criminal Identification and Investigation and the Treasurer of 139598
State. Upon receipt of funds to cover the reissuance of the 139599
warrant, the Director of Budget and Management shall reissue a 139600
state warrant of the same amount. 139601

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 139602

On July 1 of each fiscal year, or as soon as possible 139603

thereafter, the Director of Budget and Management shall transfer 139604
 an amount not to exceed \$1,100,000 in cash from the General 139605
 Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 139606

Section 231.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 139607

General Revenue Fund 139608

GRF 874100 Personal Services \$ 1,272,017 \$ 1,272,017 139609

GRF 874320 Maintenance and \$ 529,391 \$ 529,391 139610
 Equipment

TOTAL GRF General Revenue Fund \$ 1,801,408 \$ 1,801,408 139611

General Services Fund Group 139612

4G50 874603 Capitol Square \$ 15,000 \$ 15,000 139613

Education Center and
 Arts

4S70 874602 Statehouse Gift \$ 686,708 \$ 686,708 139614

Shop/Events

TOTAL GSF General Services 139615

Fund Group \$ 701,708 \$ 701,708 139616

Underground Parking Garage 139617

2080 874601 Underground Parking \$ 3,290,052 \$ 3,186,573 139618

Garage Operations

TOTAL UPG Underground Parking 139619

Garage \$ 3,290,052 \$ 3,186,573 139620

TOTAL ALL BUDGET FUND GROUPS \$ 5,793,168 \$ 5,689,689 139621

WAREHOUSE PAYMENTS 139622

Of the foregoing appropriation item 874601, Underground 139623

Parking Garage Operations, \$48,000 in each fiscal year shall be 139624

used to meet all payments at the times they are required to be 139625

made during the period from July 1, 2011, through June 30, 2013, 139626

to the Ohio Building Authority for bond service charges relating 139627

to the purchase and improvement of a warehouse acquired pursuant 139628

to section 105.41 of the Revised Code, in which to store items of 139629
the Capitol Collection Trust and, whenever necessary, equipment or 139630
other property of the Board. 139631

UNDERGROUND PARKING GARAGE FUND 139632

Notwithstanding division (G) of section 105.41 of the Revised 139633
Code and any other provision to the contrary, moneys in the 139634
Underground Parking Garage Fund (Fund 2080) may be used for 139635
personnel and operating costs related to the operations of the 139636
Statehouse and the Statehouse Underground Parking Garage. 139637

Section 233.10. SCR STATE BOARD OF CAREER COLLEGES AND 139638
SCHOOLS 139639

General Services Fund Group 139640

4K90 233601 Operating Expenses \$ 558,658 \$ 579,328 139641

TOTAL GSF General Services Fund \$ 558,658 \$ 579,328 139642

Group

TOTAL ALL BUDGET FUND GROUPS \$ 558,658 \$ 579,328 139643

Section 235.10. CAC CASINO CONTROL COMMISSION 139645

State Special Revenue Fund Group 139646

5HS0 955321 Casino Control - \$ 8,263,312 \$ 13,121,283 139647

Operating

TOTAL SSR State Special Revenue \$ 8,263,312 \$ 13,121,283 139648

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 8,263,312 \$ 13,121,283 139649

Section 237.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 139651

General Services Fund Group 139652

4K90 930609 Operating Expenses \$ 433,734 \$ 417,827 139653

TOTAL GSF General Services Fund \$ 433,734 \$ 417,827 139654

Group

TOTAL ALL BUDGET FUND GROUPS	\$	433,734	\$	417,827	139655
Section 239.10. CHR STATE CHIROPRACTIC BOARD					139657
General Services Fund Group					139658
4K90 878609 Operating Expenses	\$	592,916	\$	584,925	139659
TOTAL GSF General Services Fund	\$	592,916	\$	584,925	139660
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	592,916	\$	584,925	139661
Section 241.10. CIV OHIO CIVIL RIGHTS COMMISSION					139663
General Revenue Fund					139664
GRF 876321 Operating Expenses	\$	4,725,784	\$	4,725,784	139665
TOTAL GRF General Revenue Fund	\$	4,725,784	\$	4,725,784	139666
General Services Fund Group					139667
2170 876604 Operations Support	\$	8,000	\$	8,000	139668
TOTAL GSF General Services					139669
Fund Group	\$	8,000	\$	8,000	139670
Federal Special Revenue Fund Group					139671
3340 876601 Federal Programs	\$	2,762,000	\$	2,762,000	139672
TOTAL FED Federal Special Revenue					139673
Fund Group	\$	2,762,000	\$	2,762,000	139674
TOTAL ALL BUDGET FUND GROUPS	\$	7,495,784	\$	7,495,784	139675
Section 243.10. COM DEPARTMENT OF COMMERCE					139677
General Revenue Fund					139678
GRF 800401 Construction	\$	920,000	\$	920,000	139679
Compliance					
TOTAL GRF General Revenue Fund	\$	920,000	\$	920,000	139680
General Services Fund Group					139681
1630 800620 Division of	\$	6,200,000	\$	6,200,000	139682
Administration					

1630	800637	Information	\$	5,999,892	\$	6,011,977	139683
		Technology					
5430	800602	Unclaimed	\$	7,836,107	\$	7,841,473	139684
		Funds-Operating					
5430	800625	Unclaimed	\$	69,700,000	\$	69,800,000	139685
		Funds-Claims					
5F10	800635	Small Government Fire	\$	300,000	\$	300,000	139686
		Departments					
TOTAL GSF General Services Fund							139687
Group			\$	90,035,999	\$	90,153,450	139688
Federal Special Revenue Fund Group							139689
3480	800622	Underground Storage	\$	1,129,518	\$	1,129,518	139690
		Tanks					
3480	800624	Leaking Underground	\$	1,556,211	\$	1,556,211	139691
		Storage Tanks					
TOTAL FED Federal Special Revenue							139692
Fund Group			\$	2,685,729	\$	2,685,729	139693
State Special Revenue Fund Group							139694
4B20	800631	Real Estate Appraisal	\$	35,000	\$	35,000	139695
		Recovery					
4H90	800608	Cemeteries	\$	268,067	\$	268,293	139696
4X20	800619	Financial Institutions	\$	2,186,271	\$	1,990,693	139697
5440	800612	Banks	\$	7,242,364	\$	6,942,336	139698
5450	800613	Savings Institutions	\$	2,257,220	\$	2,259,536	139699
5460	800610	Fire Marshal	\$	15,400,000	\$	15,501,562	139700
5460	800639	Fire Department Grants	\$	1,698,802	\$	1,698,802	139701
5470	800603	Real Estate	\$	125,000	\$	125,000	139702
		Education/Research					
5480	800611	Real Estate Recovery	\$	25,000	\$	25,000	139703
5490	800614	Real Estate	\$	3,413,708	\$	3,332,308	139704
5500	800617	Securities	\$	4,312,434	\$	4,314,613	139705
5520	800604	Credit Union	\$	3,450,390	\$	3,450,390	139706

5530 800607	Consumer Finance	\$	3,613,016	\$	3,516,861	139707
5560 800615	Industrial Compliance	\$	27,639,372	\$	27,664,695	139708
5FW0 800616	Financial Literacy	\$	240,000	\$	240,000	139709
	Education					
5GK0 800609	Securities Investor	\$	1,135,000	\$	485,000	139710
	Education/Enforcement					
5HV0 800641	Cigarette Enforcement	\$	120,000	\$	120,000	139711
5X60 800623	Video Service	\$	340,299	\$	340,630	139712
6530 800629	UST	\$	1,854,675	\$	1,509,653	139713
	Registration/Permit					
	Fee					
6A40 800630	Real Estate	\$	699,565	\$	648,890	139714
	Appraiser-Operating					
TOTAL SSR State Special Revenue						139715
Fund Group		\$	76,056,183	\$	74,469,262	139716
Liquor Control Fund Group						139717
7043 800601	Merchandising	\$	472,209,274	\$	0	139718
7043 800627	Liquor Control	\$	13,398,274	\$	10,110,479	139719
	Operating					
7043 800633	Development Assistance	\$	51,973,200	\$	0	139720
	Debt Service					
7043 800636	Revitalization Debt	\$	21,129,800	\$	0	139721
	Service					
TOTAL LCF Liquor Control						139722
Fund Group		\$	558,710,548	\$	10,110,479	139723
TOTAL ALL BUDGET FUND GROUPS		\$	728,408,459		178,338,920	139724
SMALL GOVERNMENT FIRE DEPARTMENTS						139725
Notwithstanding section 3737.17 of the Revised Code, the						139726
foregoing appropriation item 800635, Small Government Fire						139727
Departments, may be used to provide loans to private fire						139728
departments.						139729
UNCLAIMED FUNDS PAYMENTS						139730

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are appropriated.

UNCLAIMED FUNDS TRANSFERS

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after June 1, 2012, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$115,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2012.

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after June 1, 2013, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$100,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2013.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$1,647,140 in each fiscal year shall be used to make annual grants to volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, local units of government

responsible for the provision of fire protection services for 139762
small municipalities or small townships, and private fire 139763
companies as defined in section 9.60 of the Revised Code. 139764

The grants shall be used by recipients to purchase 139765
firefighting or rescue equipment or gear or similar items, to 139766
provide full or partial reimbursement for the documented costs of 139767
firefighter training, or, at the discretion of the State Fire 139768
Marshal, to cover fire department costs for providing fire 139769
protection services in that grant recipient's jurisdiction. 139770

Grant awards for firefighting or rescue equipment or gear or 139771
for fire department costs of providing fire protection services 139772
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 139773
fiscal year if an eligible entity serves a jurisdiction in which 139774
the Governor declared a natural disaster during the preceding or 139775
current fiscal year in which the grant was awarded. In addition to 139776
any grant funds awarded for rescue equipment or gear, or for fire 139777
department costs associated with the provision of fire protection 139778
services, an eligible entity may receive a grant for up to \$15,000 139779
per fiscal year for full or partial reimbursement of the 139780
documented costs of firefighter training. For each fiscal year, 139781
the State Fire Marshal shall determine the total amounts to be 139782
allocated for each eligible purpose. 139783

The grant program shall be administered by the State Fire 139784
Marshal in accordance with rules the State Fire Marshal adopts as 139785
part of the state fire code adopted pursuant to section 3737.82 of 139786
the Revised Code that are necessary for the administration and 139787
operation of the grant program. The rules may further define the 139788
entities eligible to receive grants and establish criteria for the 139789
awarding and expenditure of grant funds, including methods the 139790
State Fire Marshal may use to verify the proper use of grant funds 139791
or to obtain reimbursement for or the return of equipment for 139792
improperly used grant funds. Any amounts in appropriation item 139793

800639, Fire Department Grants, in excess of the amount allocated 139794
for these grants may be used for the administration of the grant 139795
program. 139796

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 139797
EDUCATION AND ENFORCEMENT EXPENSE FUND 139798

The Director of Budget and Management, upon the request of 139799
the Director of Commerce, shall transfer up to \$485,000 in cash in 139800
each fiscal year from the Division of Securities Fund (Fund 5500) 139801
to the Division of Securities Investor Education and Enforcement 139802
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 139803
Code. 139804

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 139805

The Director of Budget and Management, upon the request of 139806
the Director of Commerce, shall transfer up to \$340,000 in cash in 139807
each fiscal year from the Division of Administration Fund (Fund 139808
1630) to the Video Service Authorization Fund (Fund 5X60). 139809

INCREASED APPROPRIATION - MERCHANDISING 139810

The foregoing appropriation item 800601, Merchandising, shall 139811
be used under section 4301.12 of the Revised Code. If it is 139812
determined that additional expenditures are necessary, the amounts 139813
are hereby appropriated. 139814

DEVELOPMENT ASSISTANCE DEBT SERVICE 139815

The foregoing appropriation item 800633, Development 139816
Assistance Debt Service, shall be used to pay debt service and 139817
related financing costs at the times they are required to be made 139818
during the period from July 1, 2011, to June 30, 2012, for bond 139819
service charges on obligations issued under Chapter 166. of the 139820
Revised Code. If it is determined that additional appropriations 139821
are necessary for this purpose, such amounts are appropriated, 139822
subject to the limitations set forth in section 166.11 of the 139823

Revised Code. An appropriation for this purpose is not required, 139824
but is made in this form and in this act for record purposes only. 139825

REVITALIZATION DEBT SERVICE 139826

The foregoing appropriation item 800636, Revitalization Debt 139827
Service, shall be used to pay debt service and related financing 139828
costs at the times they are required to be made pursuant to 139829
sections 151.01 and 151.40 of the Revised Code during the period 139830
from July 1, 2011, to June 30, 2012. If it is determined that 139831
additional appropriations are necessary for this purpose, such 139832
amounts are hereby appropriated. The General Assembly acknowledges 139833
the priority of the pledge of a portion of receipts from that 139834
source to obligations issued and to be issued under Chapter 166. 139835
of the Revised Code. 139836

LIQUOR CONTROL FUND TRANSFER 139837

On January 1, 2012, or as soon as possible thereafter, the 139838
Director of Budget and Management may transfer up to \$10,600,000 139839
in cash from the General Revenue Fund to the Liquor Control Fund 139840
(Fund 7043) for the liquor permitting and compliance functions of 139841
the Division of Liquor Control in the Department of Commerce and 139842
for the operations of the Liquor Control Commission and the 139843
Department of Public Safety pursuant to Chapter 4301. of the 139844
Revised Code. 139845

On July 1, 2012, or as soon as possible thereafter, the 139846
Director of Budget and Management may transfer up to \$21,800,000 139847
in cash from the General Revenue Fund to the Liquor Control Fund 139848
(Fund 7043) for the liquor permitting and compliance functions of 139849
the Division of Liquor Control in the Department of Commerce and 139850
for the operations of the Liquor Control Commission and the 139851
Department of Public Safety pursuant to Chapter 4301. of the 139852
Revised Code. 139853

ADMINISTRATIVE ASSESSMENTS 139854

Notwithstanding any other provision of law to the contrary, 139855
the Division of Administration Fund (Fund 1630) is entitled to 139856
receive assessments from all operating funds of the Department in 139857
accordance with procedures prescribed by the Director of Commerce 139858
and approved by the Director of Budget and Management. 139859

Section 245.10. OCC OFFICE OF CONSUMERS' COUNSEL 139860

General Services Fund Group 139861

5F50 053601 Operating Expenses \$ 5,641,093 \$ 4,142,070 139862

TOTAL GSF General Services Fund \$ 5,641,093 \$ 4,142,070 139863

Group

TOTAL ALL BUDGET FUND GROUPS \$ 5,641,093 \$ 4,142,070 139864

Section 247.10. CEB CONTROLLING BOARD 139866

General Revenue Fund 139867

GRF 911441 Ballot Advertising \$ 475,000 \$ 475,000 139868

Costs

TOTAL GRF General Revenue Fund \$ 475,000 \$ 475,000 139869

General Services Fund Group 139870

5KM0 911614 CB Emergency Purposes \$ 10,000,000 \$ 10,000,000 139871

TOTAL GSF General Services Fund \$ 10,000,000 \$ 10,000,000 139872

Group

TOTAL ALL BUDGET FUND GROUPS \$ 10,475,000 \$ 10,475,000 139873

FEDERAL SHARE 139874

In transferring appropriations to or from appropriation items 139875

that have federal shares identified in this act, the Controlling 139876

Board shall add or subtract corresponding amounts of federal 139877

matching funds at the percentages indicated by the state and 139878

federal division of the appropriations in this act. Such changes 139879

are hereby appropriated. 139880

DISASTER SERVICES 139881

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

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Section 249.10. COS STATE BOARD OF COSMETOLOGY

139923

General Services Fund Group

139924

4K90 879609 Operating Expenses \$ 3,439,545 \$ 3,364,030

139925

TOTAL GSF General Services Fund

139926

Group \$ 3,439,545 \$ 3,364,030

139927

TOTAL ALL BUDGET FUND GROUPS \$ 3,439,545 \$ 3,364,030

139928

Section 251.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE

139930

AND FAMILY THERAPIST BOARD

139931

General Services Fund Group

139932

4K90 899609 Operating Expenses \$ 1,204,235 \$ 1,234,756

139933

TOTAL GSF General Services Fund

139934

Group \$ 1,204,235 \$ 1,234,756

139935

TOTAL ALL BUDGET FUND GROUPS \$ 1,204,235 \$ 1,234,756

139936

Section 253.10. CLA COURT OF CLAIMS

139938

General Revenue Fund

139939

GRF 015321 Operating Expenses \$ 2,573,508 \$ 2,501,052

139940

TOTAL GRF General Revenue Fund \$ 2,573,508 \$ 2,501,052

139941

State Special Revenue Fund Group

139942

5K20 015603 CLA Victims of Crime \$ 1,582,684 \$ 1,582,684

139943

TOTAL SSR State Special Revenue

139944

Fund Group	\$	1,582,684	\$	1,582,684	139945
TOTAL ALL BUDGET FUND GROUPS	\$	4,156,192	\$	4,083,736	139946

Section 255.10. AFC OHIO CULTURAL FACILITIES COMMISSION 139948

General Revenue Fund 139949

GRF 371321 Operating Expenses \$ 98,636 \$ 98,636 139950

GRF 371401 Lease Rental Payments \$ 27,804,900 \$ 28,465,000 139951

TOTAL GRF General Revenue Fund \$ 27,903,536 \$ 28,563,636 139952

State Special Revenue Fund Group 139953

4T80 371601 Riffe Theatre \$ 80,891 \$ 80,891 139954

Equipment Maintenance

4T80 371603 Project \$ 1,200,000 \$ 1,200,000 139955

Administration

Services

TOTAL SSR State Special Revenue \$ 1,280,891 \$ 1,280,891 139956

Group

TOTAL ALL BUDGET FUND GROUPS \$ 29,184,427 \$ 29,844,527 139957

LEASE RENTAL PAYMENTS 139958

The foregoing appropriation item 371401, Lease Rental 139959

Payments, shall be used to meet all payments at the times they are 139960

required to be made during the period from July 1, 2011 through 139961

June 30, 2013, from the Ohio Cultural Facilities Commission under 139962

the primary leases and agreements for those arts and sports 139963

facilities made under Chapters 152. and 154. of the Revised Code. 139964

These appropriations are the source of funds pledged for bond 139965

service charges on related obligations issued under Chapters 152. 139966

and 154. of the Revised Code. 139967

OPERATING EXPENSES 139968

The foregoing appropriation item 371321, Operating Expenses, 139969

shall be used by the Ohio Cultural Facilities Commission to carry 139970

out its responsibilities under this section and Chapter 3383. of 139971

the Revised Code. 139972

The foregoing appropriation item 371603, Project 139973
Administration Services, shall be used by the Ohio Cultural 139974
Facilities Commission in administering Cultural and Sports 139975
Facilities Building Fund (Fund 7030) projects pursuant to Chapter 139976
3383. of the Revised Code. 139977

By the tenth day following each calendar quarter in each 139978
fiscal year, or as soon as possible thereafter, the Director of 139979
Budget and Management shall determine the amount of cash from 139980
interest earnings to be transferred from the Cultural and Sports 139981
Facilities Building Fund (Fund 7030) to the Cultural Facilities 139982
Commission Administration Fund (Fund 4T80). 139983

As soon as possible after each bond issuance made on behalf 139984
of the Cultural Facilities Commission, the Director of Budget and 139985
Management shall determine the amount of cash from any premium 139986
paid on each issuance that is available to be transferred, after 139987
all issuance costs have been paid, from the Cultural and Sports 139988
Facilities Building Fund (Fund 7030) to the Cultural Facilities 139989
Commission Administration Fund (Fund 4T80). 139990

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS 139991

The Executive Director of the Cultural Facilities Commission 139992
shall certify to the Director of Budget and Management the amount 139993
of cash receipts and related investment income, irrevocable 139994
letters of credit from a bank, or certification of the 139995
availability of funds that have been received from a county or a 139996
municipal corporation for deposit into the Capital Donations Fund 139997
(Fund 5A10) and that are related to an anticipated project. These 139998
amounts are hereby appropriated to appropriation item C37146, 139999
Capital Donations. Prior to certifying these amounts to the 140000
Director, the Executive Director shall make a written agreement 140001
with the participating entity on the necessary cash flows required 140002

for the anticipated construction or equipment acquisition project. 140003

Section 257.10. DEN STATE DENTAL BOARD 140004

General Services Fund Group 140005

4K90 880609 Operating Expenses \$ 1,574,715 \$ 1,545,684 140006

TOTAL GSF General Services Fund 140007

Group \$ 1,574,715 \$ 1,545,684 140008

TOTAL ALL BUDGET FUND GROUPS \$ 1,574,715 \$ 1,545,684 140009

Section 259.10. BDP BOARD OF DEPOSIT 140011

General Services Fund Group 140012

4M20 974601 Board of Deposit \$ 1,876,000 \$ 1,876,000 140013

TOTAL GSF General Services Fund 140014

Group \$ 1,876,000 \$ 1,876,000 140015

TOTAL ALL BUDGET FUND GROUPS \$ 1,876,000 \$ 1,876,000 140016

BOARD OF DEPOSIT EXPENSE FUND 140017

Upon receiving certification of expenses from the Treasurer 140018

of State, the Director of Budget and Management shall transfer 140019

cash from the Investment Earnings Redistribution Fund (Fund 6080) 140020

to the Board of Deposit Expense Fund (Fund 4M20). The latter fund 140021

shall be used pursuant to section 135.02 of the Revised Code to 140022

pay for any and all necessary expenses of the Board of Deposit or 140023

for banking charges and fees required for the operation of the 140024

State of Ohio Regular Account. 140025

Section 261.10. DEV DEPARTMENT OF DEVELOPMENT 140026

General Revenue Fund 140027

GRF 195401 Thomas Edison Program \$ 13,820,354 \$ 0 140028

GRF 195402 Coal Development \$ 260,983 \$ 261,205 140029

Office

GRF 195404 Small Business \$ 1,565,770 \$ 0 140030

		Development					
GRF	195405	Minority Business	\$	1,118,528	\$	0	140031
		Enterprise Division					
GRF	195407	Travel and Tourism	\$	5,000,000	\$	0	140032
GRF	195412	Rapid Outreach Grants	\$	9,000,000	\$	0	140033
GRF	195415	Strategic Business	\$	4,500,000	\$	0	140034
		Investment Division and Regional Offices					
GRF	195416	Governor's Office of Appalachia	\$	3,700,000	\$	3,700,000	140035
GRF	195422	Technology Action	\$	547,341	\$	0	140036
GRF	195426	Clean Ohio Implementation	\$	468,365	\$	0	140037
GRF	195432	Global Markets	\$	3,500,000	\$	0	140038
GRF	195434	Industrial Training Grants	\$	10,000,000	\$	0	140039
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	0	140040
GRF	195501	Appalachian Local Development Districts	\$	391,482	\$	391,482	140041
GRF	195502	Appalachian Regional Commission Dues	\$	195,000	\$	195,000	140042
GRF	195528	Economic Development Projects	\$	0	\$	25,943,518	140043
GRF	195901	Coal Research & Development General Obligation Debt Service	\$	7,861,100	\$	5,577,700	140044
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	29,323,300	\$	63,640,300	140045
GRF	195912	Job Ready Site	\$	9,859,200	\$	15,680,500	140046

		Development General				
		Obligation Debt				
		Service				
TOTAL GRF	General Revenue Fund		\$ 102,126,423	\$ 115,389,705		140047
	General Services Fund Group					140048
1350 195684	Supportive Services		\$ 11,700,000	\$ 11,700,000		140049
4W10 195646	Minority Business		\$ 2,500,000	\$ 2,500,000		140050
	Enterprise Loan					
5AD0 195633	Legacy Projects		\$ 15,000,000	\$ 15,000,000		140051
5AD0 195677	Economic Development		\$ 10,000,000	\$ 0		140052
	Contingency					
5W50 195690	Travel and Tourism		\$ 50,000	\$ 50,000		140053
	Cooperative Projects					
6850 195636	Direct Cost Recovery		\$ 750,000	\$ 750,000		140054
	Expenditures					
TOTAL GSF	General Services Fund					140055
Group			\$ 40,000,000	\$ 30,000,000		140056
	Federal Special Revenue Fund Group					140057
3080 195602	Appalachian Regional		\$ 475,000	\$ 475,000		140058
	Commission					
3080 195603	Housing and Urban		\$ 6,000,000	\$ 6,000,000		140059
	Development					
3080 195605	Federal Projects		\$ 85,028,606	\$ 85,470,106		140060
3080 195609	Small Business		\$ 6,438,143	\$ 5,511,381		140061
	Administration					
3080 195618	Energy Federal Grants		\$ 38,000,000	\$ 3,400,000		140062
3350 195610	Energy Conservation		\$ 1,100,000	\$ 1,100,000		140063
	and Emerging					
	Technology					
3AE0 195643	Workforce Development		\$ 16,300,000	\$ 16,300,000		140064
	Initiatives					
3DB0 195642	Federal Stimulus -		\$ 3,000,000	\$ 42,485		140065

		Energy Efficiency & Conservation Block Grants					
3EG0	195608	Federal Energy Training	\$	5,000,000	\$	1,344,056	140066
3K80	195613	Community Development Block Grant	\$	76,795,818	\$	65,210,000	140067
3K90	195611	Home Energy Assistance Block Grant	\$	115,743,608	\$	115,743,608	140068
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	140069
3L00	195612	Community Services Block Grant	\$	27,240,217	\$	27,240,217	140070
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000	140071
TOTAL FED		Federal Special Revenue					140072
Fund Group			\$	443,121,392	\$	389,836,853	140073
State Special Revenue Fund Group							140074
4500	195624	Minority Business Bonding Program Administration	\$	160,110	\$	159,069	140075
4510	195625	Economic Development Financing Operating	\$	3,000,000	\$	3,000,000	140076
4F20	195639	State Special Projects	\$	180,437	\$	180,436	140077
4F20	195676	Marketing Initiatives	\$	5,000,000	\$	0	140078
4F20	195699	Utility Provided Funds	\$	500,000	\$	500,000	140079
4S00	195630	Tax Incentive Programs	\$	650,800	\$	650,800	140080
5CG0	195679	Alterative Fuel Transportation	\$	750,000	\$	750,000	140081
5HJ0	195604	Motion Picture Tax	\$	50,000	\$	50,000	140082

		Credit Program					
5HR0	195526	Ohio Workforce Job	\$	6,000,000	\$	16,000,000	140083
		Training					
5HR0	195622	Defense Development	\$	10,000,000	\$	10,000,000	140084
		Assistance					
5JR0	195656	New Market Tax	\$	50,000	\$	50,000	140085
		Credit Program					
5KD0	195621	Brownfield	\$	50,000	\$	50,000	140086
		Stormwater Loan					
5M40	195659	Low Income Energy	\$	245,000,000	\$	245,000,000	140087
		Assistance					
5M50	195660	Advanced Energy	\$	8,000,000	\$	0	140088
		Programs					
5W60	195691	International Trade	\$	160,000	\$	160,000	140089
		Cooperative Projects					
6170	195654	Volume Cap	\$	94,397	\$	92,768	140090
		Administration					
6460	195638	Low- and Moderate-	\$	53,000,000	\$	53,000,000	140091
		Income Housing Trust					
		Fund					
TOTAL SSR		State Special Revenue					140092
Fund Group			\$	332,645,744	\$	329,643,073	140093
Facilities		Establishment Fund Group					140094
5S90	195628	Capital Access Loan	\$	1,500,000	\$	1,500,000	140095
		Program					
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000	140096
7010	195665	Research and	\$	22,000,000	\$	22,000,000	140097
		Development					
7037	195615	Facilities	\$	55,000,000	\$	55,000,000	140098
		Establishment					
TOTAL 037		Facilities					140099
Establishment		Fund Group	\$	93,500,000	\$	93,500,000	140100
Clean Ohio		Revitalization Fund					140101

7003	195663	Clean Ohio Operating	\$	950,000	\$	950,000	140102	
TOTAL	7003	Clean Ohio	\$	950,000	\$	950,000	140103	
Revitalization Fund								
Third Frontier Research & Development Fund Group							140104	
7011	195686	Third Frontier	\$	1,149,750	\$	1,149,750	140105	
Operating								
7011	195687	Third Frontier	\$	183,850,250	\$	133,850,250	140106	
Research &								
Development Projects								
7014	195620	Third Frontier	\$	1,700,000	\$	1,700,000	140107	
Operating - Tax								
7014	195692	Research &	\$	38,300,000	\$	38,300,000	140108	
Development Taxable								
Bond Projects								
TOTAL	011	Third Frontier Research &	\$	225,000,000	\$	175,000,000	140109	
Development Fund Group								
Job Ready Site Development Fund Group							140110	
7012	195688	Job Ready Site	\$	800,000	\$	800,000	140111	
Operating								
TOTAL	012	Job Ready Site	\$	800,000	\$	800,000	140112	
Development Fund Group								
Tobacco Master Settlement Agreement Fund Group							140113	
M087	195435	Biomedical Research	\$	1,999,224	\$	1,999,224	140114	
and Technology								
Transfer								
TOTAL	TSF	Tobacco Master Settlement	\$	1,999,224	\$	1,999,224	140115	
Agreement Fund Group								
TOTAL	ALL BUDGET FUND GROUPS			\$	1,240,142,783	\$	1,137,118,855	140116
Section 261.10.10. THOMAS EDISON PROGRAM							140118	
The foregoing appropriation item 195401, Thomas Edison							140119	
Program, shall be used for the purposes of sections 122.28 to							140120	

122.38 of the Revised Code. Of the foregoing appropriation item 140121
195401, Thomas Edison Program, not more than ten per cent in each 140122
fiscal year shall be used for operating expenditures in 140123
administering the programs of the Technology and Innovation 140124
Division. 140125

Section 261.10.20. SMALL BUSINESS DEVELOPMENT 140126

The foregoing appropriation item 195404, Small Business 140127
Development, shall be used as matching funds for grants from the 140128
United States Small Business Administration and other federal 140129
agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. 140130
L. No. 98-395 (1984), and regulations and policy guidelines for 140131
the programs pursuant thereto. This appropriation item also may be 140132
used to provide grants to local organizations to support the 140133
operation of small business development centers and other local 140134
economic development activities that promote small business 140135
development and entrepreneurship. 140136

Section 261.10.30. RAPID OUTREACH GRANTS 140137

Appropriation item 195412, Rapid Outreach Grants, shall be 140138
used as an incentive for attracting, expanding, and retaining 140139
business opportunities for the state in accordance with Chapter 140140
166. of the Revised Code. Of the amount appropriated, no more than 140141
five per cent in each fiscal year shall be used for administrative 140142
costs of the Rapid Outreach Program. 140143

The department shall award funds directly to business 140144
entities considering Ohio for their expansion or new site location 140145
opportunities. Rapid Outreach grants shall be used by recipients 140146
to purchase equipment, make infrastructure improvements, make real 140147
property improvements, or fund other fixed assets. To meet the 140148
particular needs of economic development in a region, the 140149
department may elect to award funds directly to a political 140150

subdivision to assist with making on- or off-site infrastructure 140151
improvements to water and sewage treatment facilities, electric or 140152
gas service connections, fiber optic access, rail facilities, site 140153
preparation, and parking facilities. The Director of Development 140154
may recommend that the funds be used for alternative purposes when 140155
considered appropriate to satisfy an economic development 140156
opportunity or need deemed extraordinary in nature by the Director 140157
including, but not limited to, construction, rehabilitation, and 140158
acquisition projects for rail freight assistance as requested by 140159
the Department of Transportation. The Director of Transportation 140160
shall submit the proposed projects to the Director of Development 140161
for an evaluation of potential economic benefit. 140162

Moneys awarded directly to business entities from the 140163
foregoing appropriation item 195412, Rapid Outreach Grants, may be 140164
expended only after the submission of a request to the Controlling 140165
Board by the Department of Development outlining the planned use 140166
of the funds, and the subsequent approval of the request by the 140167
Controlling Board. 140168

Section 261.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND 140169
REGIONAL OFFICES 140170

The foregoing appropriation item 195415, Strategic Business 140171
Investment Division and Regional Offices, shall be used for the 140172
operating expenses of the Strategic Business Investment Division 140173
and the regional economic development offices and for grants for 140174
cooperative economic development ventures. 140175

Section 261.10.50. GOVERNOR'S OFFICE OF APPALACHIA 140176

The foregoing appropriation item 195416, Governor's Office of 140177
Appalachia, may be used for the administrative costs of planning 140178
and liaison activities for the Governor's Office of Appalachia, to 140179
provide financial assistance to projects in Ohio's Appalachian 140180

counties, and to match federal funds from the Appalachian Regional Commission. 140181
140182

Section 261.10.60. TECHNOLOGY ACTION 140183

The foregoing appropriation item 195422, Technology Action, 140184
shall be used for operating expenses the Department of Development 140185
incurs for administering sections 184.10 to 184.20 of the Revised 140186
Code. If the appropriation is insufficient to cover the operating 140187
expenses, the Department may request Controlling Board approval to 140188
appropriate the additional amount needed in appropriation item 140189
195686, Third Frontier Operating. The Department shall not request 140190
an amount in excess of the amount needed. 140191

Section 261.10.70. CLEAN OHIO IMPLEMENTATION 140192

The foregoing appropriation item 195426, Clean Ohio 140193
Implementation, shall be used to fund the costs of administering 140194
the Clean Ohio Revitalization program and other urban 140195
revitalization programs that may be implemented by the Department 140196
of Development. 140197

Section 261.10.80. GLOBAL MARKETS 140198

The foregoing appropriation item 195432, Global Markets, 140199
shall be used to administer Ohio's foreign trade and investment 140200
programs, including operation and maintenance of Ohio's 140201
out-of-state trade and investment offices. This appropriation item 140202
also shall be used to fund the Global Markets Division and to 140203
assist Ohio manufacturers, agricultural producers, and service 140204
providers in exporting to foreign countries and to assist in the 140205
attraction of foreign direct investment. 140206

Section 261.10.90. OHIO WORKFORCE GUARANTEE PROGRAM 140207

The foregoing appropriation item 195434, Industrial Training 140208

Grants, may be used for the Ohio Workforce Guarantee Program to 140209
promote training through grants to businesses and, in the case of 140210
a business consortium, training and education providers for the 140211
reimbursement of eligible training expenses. 140212

Section 261.20.10. ECONOMIC DEVELOPMENT PROJECTS 140213

The foregoing appropriation item 195528, Economic Development 140214
Projects, may be used for the purposes of Chapter 122. of the 140215
Revised Code. This appropriation item is made in anticipation of 140216
the evaluation of all powers, functions, and duties of the 140217
Department of Development by the Director of Development, as 140218
prescribed in Section 187.05 of the Revised Code. It is the intent 140219
of the General Assembly that the appropriations in the 140220
appropriation item be reallocated upon completion of the 140221
evaluation. 140222

Section 261.20.20. OHIO FILM OFFICE 140223

The Ohio Film Office shall promote media productions in the 140224
state and help the industry optimize its production experience in 140225
the state by enhancing local economies through increased 140226
employment and tax revenues and ensuring an accurate portrayal of 140227
Ohio. The Office shall serve as an informational clearinghouse and 140228
provide technical assistance to the media production industry and 140229
business entities engaged in media production in the state. The 140230
Office shall promote Ohio as the ideal site for media production 140231
and help those in the industry benefit from their experience in 140232
the state. 140233

The primary objective of the Office shall be to encourage 140234
development of a strong capital base for electronic media 140235
production in order to achieve an independent, self-supporting 140236
industry in Ohio. Other objectives shall include: 140237

(A) Attracting private investment for the electronic media 140238

production industry;	140239
(B) Developing a tax infrastructure that encourages private investment; and	140240 140241
(C) Encouraging increased employment opportunities within this sector and increased competition with other states.	140242 140243
Section 261.20.30. COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	140244 140245
The foregoing appropriation line item 195901, Coal Research and Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2011, through June 30, 2013 for obligations issued under sections 151.01 and 151.07 of the Revised Code.	140246 140247 140248 140249 140250
THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	140251 140252
The foregoing appropriation item 195905, Third Frontier Research & Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for research and development purposes under sections 151.01 and 151.10 of the Revised Code.	140253 140254 140255 140256 140257 140258
JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE	140259
The foregoing appropriation item 195912, Job Ready Site Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for job ready site development purposes under sections 151.01 and 151.11 of the Revised Code.	140260 140261 140262 140263 140264 140265
Section 261.20.40. SUPPORTIVE SERVICES	140266
The Director of Development may assess divisions of the	140267

department for the cost of central service operations. An 140268
assessment shall contain the characteristics of administrative 140269
ease and uniform application. A division's payments shall be 140270
credited to the Supportive Services Fund (Fund 1350) using an 140271
intrastate transfer voucher. 140272

ECONOMIC DEVELOPMENT CONTINGENCY 140273

The foregoing appropriation item 195677, Economic Development 140274
Contingency, may be used to award funds directly to either (1) 140275
business entities considering Ohio for expansion or new site 140276
location opportunities or (2) political subdivisions to assist 140277
with necessary costs involved in attracting a business entity. In 140278
addition, the Director of Development may award funds for 140279
alternative purposes when appropriate to satisfy an economic 140280
development opportunity or need deemed extraordinary in nature by 140281
the Director. 140282

DIRECT COST RECOVERY EXPENDITURES 140283

The foregoing appropriation item 195636, Direct Cost Recovery 140284
Expenditures, shall be used for reimbursable costs. Revenues to 140285
the General Reimbursement Fund (Fund 6850) shall consist of moneys 140286
charged for administrative costs that are not central service 140287
costs. 140288

Section 261.20.50. HEAP WEATHERIZATION 140289

Up to fifteen per cent of the federal funds deposited to the 140290
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 140291
may be expended from appropriation item 195614, HEAP 140292
Weatherization, to provide home weatherization services in the 140293
state as determined by the Director of Development. Any transfers 140294
or increases in appropriation for the foregoing appropriation 140295
items 195614, HEAP Weatherization, or 195611, Home Energy 140296
Assistance Block Grant, shall be subject to approval by the 140297

Controlling Board.	140298
Section 261.20.60. STATE SPECIAL PROJECTS	140299
The State Special Projects Fund (Fund 4F20), may be used for	140300
the deposit of private-sector funds from utility companies and for	140301
the deposit of other miscellaneous state funds. State moneys so	140302
deposited shall be used to match federal housing grants for the	140303
homeless and to market economic development opportunities in the	140304
state. Private-sector moneys shall be deposited for use in	140305
appropriation item 195699, Utility Provided Funds, and shall be	140306
used to (1) pay the expenses of verifying the income-eligibility	140307
of HEAP applicants, (2) leverage additional federal funds, (3)	140308
fund special projects to assist homeless individuals, (4) fund	140309
special projects to assist with the energy efficiency of	140310
households eligible to participate in the Percentage of Income	140311
Payment Plan, and (5) assist with training programs for agencies	140312
that administer low-income customer assistance programs.	140313
Section 261.20.70. TAX INCENTIVE PROGRAMS OPERATING	140314
The foregoing appropriation item 195630, Tax Incentive	140315
Programs, shall be used for the operating costs of the Office of	140316
Grants and Tax Incentives.	140317
Section 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN	140318
All repayments from the Minority Development Financing	140319
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee	140320
Program shall be deposited in the State Treasury to the credit of	140321
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating	140322
costs of administering the Minority Business Enterprise Loan Fund	140323
may be paid from the Minority Business Enterprise Loan Fund (Fund	140324
4W10).	140325
MINORITY BUSINESS BONDING FUND	140326

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of Development's Minority Business Bonding Fund (Fund 4490) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

Section 261.20.90. OHIO INCUMBENT WORKFORCE TRAINING VOUCHERS

(A) On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$6,000,000 from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$16,000,000 from the Economic Development Programs Fund (Fund 5JC0) used by

the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development. 140358
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(B) Of the foregoing appropriation item 195526, Ohio Workforce Job Training, up to \$6,000,000 in fiscal year 2012 and up to \$16,000,000 in fiscal year 2013 shall be used to support the Ohio Incumbent Workforce Training Voucher Program. The Director of Development and the Chief Investment Officer of JobsOhio may enter into an agreement to operate the program pursuant to the contract between the Department of Development and JobsOhio under section 187.04 of the Revised Code. The agreement may include a provision for granting, loaning, or transferring funds from appropriation item 195526, Ohio Incumbent Workforce Job Training, to JobsOhio to provide training for incumbent workers. 140360
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(C) Regardless of any agreement between the Director and the Chief Investment Officer under division (B) of this section, the Ohio Incumbent Workforce Training Voucher Program shall conform to guidelines for the operation of the program, including, but not limited to, the following: 140371
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(1) A requirement that a training voucher under the program shall not exceed \$6,000 per worker per year; 140376
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(2) A provision for an employer of an eligible employee to apply for a voucher on behalf of the eligible employee; 140378
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(3) A provision for an eligible employee to apply directly for a training voucher with the pre-approval of the employee's employer; and 140380
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(4) A requirement that an employee participating in the program, or the employee's employer, shall pay for not less than thirty-three per cent of the training costs under the program. 140383
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140385

DEFENSE DEVELOPMENT ASSISTANCE 140386

On July 1 of each fiscal year, or as soon as possible 140387

thereafter, the Director of Budget and Management shall transfer 140388
\$10,000,000 in cash from the Economic Development Projects Fund 140389
(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 140390
Workforce Job Training Fund (Fund 5HR0) used by the Department of 140391
Development. The transferred funds are hereby appropriated in 140392
appropriation item 195622, Defense Development Assistance. 140393

The foregoing appropriation item 195622, Defense Development 140394
Assistance, shall be used for economic development programs and 140395
the creation of new jobs to leverage and support mission gains at 140396
Department of Defense facilities in Ohio by working with future 140397
base realignment and closure activities and ongoing Department of 140398
Defense efficiency initiatives, assisting efforts to secure 140399
Department of Defense support contracts for Ohio companies, 140400
assessing and supporting regional job training and workforce 140401
development needs generated by the Department of Defense and the 140402
Ohio aerospace industry, and for expanding job training and 140403
economic development programs in human performance related 140404
initiatives. These funds shall be matched by private industry 140405
partners or the Department of Defense in an aggregate amount of 140406
\$6,000,000 over the FY 2012-FY 2013 biennium. 140407

Section 261.30.10. ADVANCED ENERGY FUND 140408

The foregoing appropriation item 195660, Advanced Energy 140409
Programs, shall be used to provide financial assistance to 140410
customers for eligible advanced energy projects for residential, 140411
commercial, and industrial business, local government, educational 140412
institution, nonprofit, and agriculture customers, and to pay for 140413
the program's administrative costs as provided in sections 4928.61 140414
to 4928.63 of the Revised Code and rules adopted by the Director 140415
of Development. 140416

On July 1 of each fiscal year, or as soon as possible 140417
thereafter, the Director of Budget and Management shall transfer 140418

\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 140419
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 140420

VOLUME CAP ADMINISTRATION 140421

The foregoing appropriation item 195654, Volume Cap 140422
Administration, shall be used for expenses related to the 140423
administration of the Volume Cap Program. Revenues received by the 140424
Volume Cap Administration Fund (Fund 6170) shall consist of 140425
application fees, forfeited deposits, and interest earned from the 140426
custodial account held by the Treasurer of State. 140427

Section 261.30.20. INNOVATION OHIO LOAN FUND 140428

The foregoing appropriation item 195664, Innovation Ohio, 140429
shall be used to provide for innovation Ohio purposes, including 140430
loan guarantees and loans under Chapter 166. and particularly 140431
sections 166.12 to 166.16 of the Revised Code. 140432

RESEARCH AND DEVELOPMENT 140433

The foregoing appropriation item 195665, Research and 140434
Development, shall be used to provide for research and development 140435
purposes, including loans, under Chapter 166. and particularly 140436
sections 166.17 to 166.21 of the Revised Code. 140437

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 140438

Appropriation item 195698, Logistics and Distribution 140439
Infrastructure, shall be used for eligible logistics and 140440
distribution infrastructure projects as defined in section 166.01 140441
of the Revised Code. Any unexpended and unencumbered portion of 140442
the appropriation item at the end of fiscal year 2011 is hereby 140443
reappropriated for the same purpose in fiscal year 2012, and any 140444
unexpended and unencumbered portion of the appropriation item at 140445
the end of fiscal year 2012 is hereby reappropriated for the same 140446
purpose in fiscal year 2013. 140447

After all encumbrances have been paid, the Director of Budget 140448

and Management shall transfer the remaining cash balance in the 140449
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 140450
Facilities Establishment Fund (Fund 7037). 140451

FACILITIES ESTABLISHMENT FUND 140452

The foregoing appropriation item 195615, Facilities 140453
Establishment (Fund 7037), shall be used for the purposes of the 140454
Facilities Establishment Fund under Chapter 166. of the Revised 140455
Code. 140456

Notwithstanding Chapter 166. of the Revised Code, an amount 140457
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 140458
transferred from the Facilities Establishment Fund (Fund 7037) to 140459
the Economic Development Financing Operating Fund (Fund 4510). The 140460
transfer is subject to Controlling Board approval under division 140461
(B) of section 166.03 of the Revised Code. 140462

Notwithstanding Chapter 166. of the Revised Code, the 140463
Director of Budget and Management may transfer an amount not to 140464
exceed \$2,500,000 in cash in each fiscal year from the Facilities 140465
Establishment Fund (Fund 7037) to the Minority Business Enterprise 140466
Loan Fund (Fund 4W10). 140467

On July 1, 2011, or as soon as possible thereafter, the 140468
Director of Budget and Management shall transfer the unexpended 140469
and unencumbered cash balance in the Urban Development Loans Fund 140470
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 140471

On July 1, 2011, or as soon as possible thereafter, the 140472
Director of Budget and Management shall transfer the unexpended 140473
and unencumbered cash balance in the Rural Industrial Park Loan 140474
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 140475

CAPITAL ACCESS LOAN PROGRAM 140476

The foregoing appropriation item 195628, Capital Access Loan 140477
Program, shall be used for operating, program, and administrative 140478

expenses of the program. Funds of the Capital Access Loan Program 140479
shall be used to assist participating financial institutions in 140480
making program loans to eligible businesses that face barriers in 140481
accessing working capital and obtaining fixed-asset financing. 140482

Section 261.30.30. CLEAN OHIO OPERATING EXPENSES 140483

The foregoing appropriation item 195663, Clean Ohio 140484
Operating, shall be used by the Department of Development in 140485
administering Clean Ohio Revitalization Fund (Fund 7003) projects 140486
pursuant to sections 122.65 to 122.658 of the Revised Code. 140487

Section 261.30.40. THIRD FRONTIER OPERATING 140488

The foregoing appropriation items 195686, Third Frontier 140489
Operating, and 195620, Third Frontier Operating - Tax, shall be 140490
used for operating expenses incurred by the Department of 140491
Development in administering projects pursuant to sections 184.10 140492
to 184.20 of the Revised Code. Operating expenses paid from item 140493
195686 shall be limited to the administration of projects funded 140494
from the Third Frontier Research & Development Fund (Fund 7011) 140495
and operating expenses paid from item 195620 shall be limited to 140496
the administration of projects funded from the Third Frontier 140497
Research & Development Taxable Bond Project Fund (Fund 7014). 140498

Section 261.30.50. THIRD FRONTIER RESEARCH AND DEVELOPMENT 140499
PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS 140500

The foregoing appropriation items 195687, Third Frontier 140501
Research & Development Projects, 195692, Research & Development 140502
Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, 140503
shall be used by the Department of Development to fund selected 140504
projects. Eligible costs are those costs of research and 140505
development projects to which the proceeds of the Third Frontier 140506
Research & Development Fund (Fund 7011) and the Research & 140507

Development Taxable Bond Project Fund (Fund 7014) are to be 140508
applied. 140509

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS 140510

The Director of Budget and Management may approve written 140511
requests from the Director of Development for the transfer of 140512
appropriations between appropriation items 195687, Third Frontier 140513
Research & Development Projects, and 195692, Research & 140514
Development Taxable Bond Projects, based upon awards recommended 140515
by the Third Frontier Commission. The transfers are subject to 140516
approval by the Controlling Board. 140517

On or before June 30, 2012, any unexpended and unencumbered 140518
portions of the foregoing appropriation items 195687, Third 140519
Frontier Research & Development Projects, and 195692, Research & 140520
Development Taxable Bond Projects, for fiscal year 2012 are hereby 140521
reappropriated to the Department of Development for the same 140522
purposes for fiscal year 2013. 140523

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS 140524

The Ohio Public Facilities Commission, upon request of the 140525
Department of Development, is hereby authorized to issue and sell, 140526
in accordance with Section 2p of Article VIII, Ohio Constitution, 140527
and particularly sections 151.01 and 151.10 of the Revised Code, 140528
original obligations of the State of Ohio in an aggregate amount 140529
not to exceed \$400,000,000 in addition to the original issuance of 140530
obligations authorized by prior acts of the General Assembly. The 140531
authorized obligations shall be issued and sold from time to time 140532
and in amounts necessary to ensure sufficient moneys to the credit 140533
of the Third Frontier Research and Development Fund (Fund 7011) to 140534
pay costs of research and development projects. 140535

Section 261.30.60. JOB READY SITE OPERATING 140536

The foregoing appropriation item 195688, Job Ready Site 140537

Operating, shall be used for operating expenses incurred by the 140538
Department of Development in administering Job Ready Site 140539
Development Fund (Fund 7012) projects pursuant to sections 122.085 140540
to 122.0820 of the Revised Code. Operating expenses include, but 140541
are not limited to, certain qualified expenses of the District 140542
Public Works Integrating Committees, as applicable, engineering 140543
review of submitted applications by the State Architect or a third 140544
party engineering firm, audit and accountability activities, and 140545
costs associated with formal certifications verifying that site 140546
infrastructure is in place and is functional. 140547

Section 261.30.70. OHIO COAL DEVELOPMENT OFFICE 140548

On July 1, 2011, or as soon as possible thereafter, the 140549
Director of Budget and Management shall transfer any unexpended 140550
and unencumbered portion of appropriation item 898604, Coal 140551
Research and Development Fund, used by the Ohio Air Quality 140552
Development Authority, to a new capital appropriation item in the 140553
Department of Development, to be determined by the Director. The 140554
Director also shall cancel all outstanding encumbrances against 140555
appropriation item 898604, Coal Research and Development Fund, and 140556
reestablish them against the foregoing new capital appropriation 140557
item. The amounts of the transfer and the reestablished 140558
encumbrances, plus \$2,283,264, are hereby appropriated for fiscal 140559
year 2012 in the foregoing new appropriation item and shall be 140560
used to provide funding for coal research and development 140561
purposes. 140562

Section 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 140563
COMMERCIALIZATION SUPPORT 140564

The General Assembly and the Governor recognize the role that 140565
the biomedical industry has in job creation, innovation, and 140566
economic development throughout Ohio. It is the intent of the 140567

General Assembly, the Governor, the Director of Development, and 140568
the Director of Budget and Management to work together in 140569
continuing to provide comprehensive state support for the 140570
biomedical industry. 140571

Section 261.30.90. UNCLAIMED FUNDS TRANSFER 140572

(A) Notwithstanding division (A) of section 169.05 of the 140573
Revised Code, upon the request of the Director of Budget and 140574
Management, the Director of Commerce, before June 30, 2012, shall 140575
transfer to the Job Development Initiatives Fund (Fund 5AD0) an 140576
amount not to exceed \$25,000,000 in cash of the unclaimed funds 140577
that have been reported by the holders of unclaimed funds under 140578
section 169.05 of the Revised Code, regardless of the allocation 140579
of the unclaimed funds described under that section. 140580

Notwithstanding division (A) of section 169.05 of the Revised 140581
Code, upon the request of the Director of Budget and Management, 140582
the Director of Commerce, before June 30, 2013, shall transfer to 140583
the Job Development Initiatives Fund (Fund 5AD0) an amount not to 140584
exceed \$15,000,000 in cash of the unclaimed funds that have been 140585
reported by the holders of unclaimed funds under section 169.05 of 140586
the Revised Code, regardless of the allocation of the unclaimed 140587
funds described under that section. 140588

(B) Notwithstanding division (A) of section 169.05 of the 140589
Revised Code, upon the request of the Director of Budget and 140590
Management, the Director of Commerce, before June 30, 2012, shall 140591
transfer to the State Special Projects Fund (Fund 4F20) an amount 140592
not to exceed \$5,000,000 in cash of the unclaimed funds that have 140593
been reported by the holders of unclaimed funds under section 140594
169.05 of the Revised Code, regardless of the allocation of the 140595
unclaimed funds described under that section. 140596

Section 261.40.10. WORKFORCE DEVELOPMENT 140597

The Director of Development and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the Department of Development and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

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Section 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 140613

General Revenue Fund 140614

GRF	320321	Central	\$	4,422,794	\$	4,422,794	140615
		Administration					
GRF	320412	Protective Services	\$	2,174,826	\$	1,957,343	140616
GRF	320415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900	140617
GRF	322407	Medicaid State Match	\$	218,034,162	\$	214,902,506	140618
GRF	322451	Family Support	\$	5,932,758	\$	5,932,758	140619
		Services					
GRF	322501	County Boards	\$	40,906,365	\$	44,449,280	140620
		Subsidies					
GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000	140621
TOTAL GRF		General Revenue Fund	\$	303,865,155	\$	305,572,581	140622

General Services Fund Group 140623

1520	323609	Developmental Center	\$	3,414,317	\$	3,414,317	140624
		and Residential					

Operating Services					
TOTAL GSF General Services Fund	\$	3,414,317	\$	3,414,317	140625
Group					
Federal Special Revenue Fund Group					140626
3A50 320613 DD Council	\$	3,341,572	\$	3,341,572	140627
3250 322612 Community Social	\$	11,017,754	\$	10,604,896	140628
Service Programs					
3DZ0 322648 Enhanced Medicaid -	\$	10,000,000	\$	0	140629
Federal					
3G60 322639 Medicaid Waiver -	\$	866,566,007	\$	985,566,007	140630
Federal					
3M70 322650 CAFS Medicaid	\$	29,349,502	\$	29,349,502	140631
3A40 323605 Developmental Center	\$	180,266,029	\$	179,384,881	140632
and Residential					
Facility Services and					
Support					
TOTAL FED Federal Special Revenue	\$	1,100,540,864	\$	1,208,246,858	140633
Fund Group					
State Special Revenue Fund Group					140634
5GE0 320606 Operating and	\$	7,406,609	\$	7,407,297	140635
Services					
2210 322620 Supplement Service	\$	150,000	\$	150,000	140636
Trust					
4K80 322604 Medicaid Waiver -	\$	12,000,000	\$	12,000,000	140637
State Match					
5CT0 322632 Intensive Behavioral	\$	1,000,000	\$	1,000,000	140638
Needs					
5DJ0 322625 Targeted Case	\$	21,000,000	\$	24,000,000	140639
Management Match					
5DJ0 322626 Targeted Case	\$	57,307,357	\$	66,000,000	140640
Management Services					
5DK0 322629 Capital Replacement	\$	750,000	\$	750,000	140641

		Facilities				
5EVO	322627	Program Fees	\$	685,000	\$	685,000 140642
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000 140643
5JX0	322651	Interagency Workgroup	\$	45,000		45,000 140644
		- Autism				
5Z10	322624	County Board Waiver	\$	235,000,000	\$	290,000,000 140645
		Match				
4890	323632	Developmental Center	\$	16,497,170	\$	16,497,169 140646
		Direct Care Support				
5S20	590622	Medicaid	\$	20,875,567	\$	21,727,540 140647
		Administration &				
		Oversight				
TOTAL SSR	State Special Revenue		\$	372,876,703	\$	440,422,006 140648
	Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	1,780,697,039	\$	1,957,655,762 140649

Section 263.10.10. LEASE-RENTAL PAYMENTS 140651

The foregoing appropriation item 320415, Lease-Rental 140652
 Payments, shall be used to meet all payments at the times they are 140653
 required to be made during the period from July 1, 2011, through 140654
 June 30, 2013, by the Department of Developmental Disabilities 140655
 under leases and agreements made under section 154.20 of the 140656
 Revised Code. These appropriations are the source of funds pledged 140657
 for bond service charges or obligations issued pursuant to Chapter 140658
 154. of the Revised Code. 140659

Section 263.10.20. MEDICAID - STATE MATCH (GRF) 140660

Except as otherwise provided in section 5123.0416 of the 140661
 Revised Code, the purposes for which the foregoing appropriation 140662
 item 322407, Medicaid State Match, shall be used include the 140663
 following: 140664

(A) Home and community-based waiver services under Title XIX 140665

of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 140666
as amended. 140667

(B) To pay the nonfederal share of the cost of one or more 140668
new intermediate care facilities for the mentally retarded 140669
certified beds, if the Director of Developmental Disabilities is 140670
required by this act to transfer cash from funds used by the 140671
Department to any fund used by the Department of Job and Family 140672
Services to pay such nonfederal share. 140673

(C) To implement the requirements of the agreement settling 140674
the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, 140675
United States District Court for the Southern District of Ohio, 140676
Eastern Division. 140677

(D) To implement the requirements of the agreement settling 140678
the consent decree in the *Martin v. Strickland*, Case No. 140679
89-CV-00362, United States District Court for the Southern 140680
District of Ohio, Eastern Division. 140681

(E) Developmental center and residential facilities services. 140682

(F) Other programs as identified by the Director of 140683
Developmental Disabilities. 140684

Section 263.10.30. FAMILY SUPPORT SERVICES SUBSIDY 140685

(A) The foregoing appropriation item 322451, Family Support 140686
Services, may be used as follows in fiscal year 2012 and fiscal 140687
year 2013: 140688

(1) The appropriation item may be used to provide a subsidy 140689
to county boards of developmental disabilities for family support 140690
services provided under section 5126.11 of the Revised Code. The 140691
subsidy shall be paid in quarterly installments and allocated to 140692
county boards according to a formula the Director of Developmental 140693
Disabilities shall develop in consultation with representatives of 140694
county boards. A county board shall use not more than seven per 140695

cent of its subsidy for administrative costs. 140696

(2) The appropriation item may be used to distribute funds to 140697
county boards for the purpose of addressing economic hardships and 140698
to promote efficiency of operations. In consultation with 140699
representatives of county boards, the Director shall determine the 140700
amount of funds to distribute for these purposes and the criteria 140701
for distributing the funds. 140702

(B) Each county board shall submit reports to the Department 140703
of Developmental Disabilities on the use of funds received under 140704
this section. The reports shall be submitted at the times and in 140705
the manner specified in rules the Director shall adopt in 140706
accordance with Chapter 119. of the Revised Code. 140707

Section 263.10.40. STATE SUBSIDY TO COUNTY DD BOARDS 140708

(A) Except as otherwise provided in the section of this act 140709
titled "NONFEDERAL SHARE OF NEW ICF/MR BEDS," the foregoing 140710
appropriation item 322501, County Boards Subsidies, shall be used 140711
for the following purposes: 140712

(1) To provide a subsidy to county boards of developmental 140713
disabilities in quarterly installments and allocated according to 140714
a formula developed by the Director of Developmental Disabilities 140715
in consultation with representatives of county boards. Except as 140716
otherwise provided in section 5126.0511 of the Revised Code, or in 140717
division (B) of this section, county boards shall use the subsidy 140718
for early childhood services and adult services provided under 140719
section 5126.05 of the Revised Code, service and support 140720
administration provided under section 5126.15 of the Revised Code, 140721
or supported living as defined in section 5126.01 of the Revised 140722
Code. 140723

(2) To provide funding, as determined necessary by the 140724
Director of Developmental Disabilities, for residential services, 140725

including room and board, and support service programs that enable 140726
individuals with developmental disabilities to live in the 140727
community. 140728

(3) To distribute funds to county boards of developmental 140729
disabilities to address economic hardships and promote efficiency 140730
of operations. The Director shall determine, in consultation with 140731
representatives of county boards, the amount of funds to 140732
distribute for these purposes and the criteria for distributing 140733
the funds. 140734

(B) In collaboration with the county's family and children 140735
first council, a county board of developmental disabilities may 140736
transfer portions of funds received under this section, to a 140737
flexible funding pool in accordance with the section of this act 140738
titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." 140739

Section 263.10.50. COUNTY BOARD SHARE OF WAIVER SERVICES 140740

As used in this section, "home and community-based services" 140741
has the same meaning as in section 5123.01 of the Revised Code. 140742

The Director of Developmental Disabilities shall establish a 140743
methodology to be used in fiscal year 2012 and fiscal year 2013 to 140744
estimate the quarterly amount each county board of developmental 140745
disabilities is to pay of the nonfederal share of home and 140746
community-based services that section 5126.0510 of the Revised 140747
Code requires county boards to pay. Each quarter, the Director 140748
shall submit to a county board written notice of the amount the 140749
county board is to pay for that quarter. The notice shall specify 140750
when the payment is due. 140751

Section 263.10.60. TAX EQUITY 140752

Notwithstanding section 5126.18 of the Revised Code, the 140753
foregoing appropriation item 322503, Tax Equity, may be used to 140754
distribute funds to county boards of developmental disabilities to 140755

address economic hardships and promote efficiency of operations. 140756
The Director shall determine, in consultation with representatives 140757
of county boards, the amount of funds to distribute for these 140758
purposes and the criteria for distributing the funds. 140759

Section 263.10.70. MEDICAID WAIVER - STATE MATCH 140760

The foregoing appropriation item 322604, Medicaid Waiver - 140761
State Match (Fund 4K80), shall be used as state matching funds for 140762
home and community-based waivers. 140763

Section 263.10.80. ICF/MR CONVERSION 140764

(A) As used in this section, "home and community-based 140765
services" has the same meaning as in section 5123.01 of the 140766
Revised Code. 140767

(B) For each quarter of the biennium, the Director of 140768
Developmental Disabilities shall certify to the Director of Budget 140769
and Management the estimated amount needed to fund the provision 140770
of home and community-based services made available by the slots 140771
sought under section 5111.877 of the Revised Code. On receipt of 140772
certification, the Director of Budget and Management shall 140773
transfer the estimated amount in cash from the General Revenue 140774
Fund to the Home and Community-Based Services Fund (Fund 4K80), 140775
used by the Department of Developmental Disabilities. Upon 140776
completion of the transfer, appropriation item 600525, Health 140777
Care/Medicaid, is hereby reduced by the amount transferred under 140778
this section plus the corresponding federal share. The amount 140779
transferred to Fund 4K80 is hereby appropriated to appropriation 140780
item 322604, Medicaid Waiver - State Match. 140781

(C) If receipts credited to the Medicaid Waiver Fund (Fund 140782
3G60) exceed the amounts appropriated from the fund, the Director 140783
of Developmental Disabilities may request the Director of Budget 140784
and Management to authorize expenditures from the fund in excess 140785

of the amounts appropriated. Upon the approval of the Director of 140786
Budget and Management, the additional amounts are hereby 140787
appropriated. 140788

(D) If receipts credited to the Interagency Reimbursement 140789
Fund (Fund 3G50) exceed the amounts appropriated from the fund, 140790
the Director of Job and Family Services may request the Director 140791
of Budget and Management to authorize expenditures from the fund 140792
in excess of the amounts appropriated. Upon approval of the 140793
Director of Budget and Management, the additional amounts are 140794
hereby appropriated. 140795

Section 263.10.90. TARGETED CASE MANAGEMENT SERVICES 140796

County boards of developmental disabilities shall pay the 140797
nonfederal portion of targeted case management costs to the 140798
Department of Developmental Disabilities. 140799

The Directors of Developmental Disabilities and Job and 140800
Family Services may enter into an interagency agreement under 140801
which the Department of Developmental Disabilities shall transfer 140802
cash from the Targeted Case Management Fund (Fund 5DJ0) to the 140803
Medicaid Program Support - State Fund (Fund 5C90) used by the 140804
Department of Job and Family Services in an amount equal to the 140805
nonfederal portion of the cost of targeted case management 140806
services paid by county boards, and the Department of Job and 140807
Family Services shall pay the total cost of targeted case 140808
management claims. The transfer shall be made using an intrastate 140809
transfer voucher. 140810

Section 263.20.10. WITHHOLDING OF FUNDS OWED THE DEPARTMENT 140811

If a county board of developmental disabilities does not 140812
fully pay any amount owed to the Department of Developmental 140813
Disabilities by the due date established by the Department, the 140814
Director of Developmental Disabilities may withhold the amount the 140815

county board did not pay from any amounts due to the county board. 140816
The Director may use any appropriation item or fund used by the 140817
Department to transfer cash to any other fund used by the 140818
Department in an amount equal to the amount owed the Department 140819
that the county board did not pay. Transfers under this section 140820
shall be made using an intrastate transfer voucher. 140821

Section 263.20.20. TRANSFER TO MEDICAID REPAYMENT FUND 140822

On July 1, 2011, or as soon as possible thereafter, the 140823
Director of Developmental Disabilities shall request that the 140824
Director of Budget and Management transfer the cash balance in the 140825
Purchase of Service Fund (Fund 4880) to the Medicaid Repayment 140826
Fund (Fund 5H00). Upon completion of the transfer, Fund 4880 is 140827
hereby abolished. The Director of Developmental Disabilities shall 140828
cancel any existing encumbrances against appropriation item 140829
322603, Provider Audit Refunds, and re-establish them against 140830
appropriation item 322619, Medicaid Repayment. The re-established 140831
encumbrances are hereby appropriated. 140832

Section 263.20.30. DEVELOPMENTAL CENTER BILLING FOR SERVICES 140833

Developmental centers of the Department of Developmental 140834
Disabilities may provide services to persons with mental 140835
retardation or developmental disabilities living in the community 140836
or to providers of services to these persons. The Department may 140837
develop a method for recovery of all costs associated with the 140838
provisions of these services. 140839

Section 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 140840
PHARMACY PROGRAMS 140841

The Director of Developmental Disabilities shall quarterly 140842
transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the 140843
Medicaid Program Support - State Fund (Fund 5C90) used by the 140844

Department of Job and Family Services, in an amount equal to the 140845
nonfederal share of Medicaid prescription drug claim costs for all 140846
developmental centers paid by the Department of Job and Family 140847
Services. The quarterly transfer shall be made using an intrastate 140848
transfer voucher. 140849

Section 263.20.50. NONFEDERAL MATCH FOR ACTIVE TREATMENT 140850
SERVICES 140851

Any county funds received by the Department of Developmental 140852
Disabilities from county boards for active treatment shall be 140853
deposited in the Developmental Disabilities Operating Fund (Fund 140854
4890). 140855

Section 263.20.60. NONFEDERAL SHARE OF NEW ICF/MR BEDS 140856

(A) As used in this section, "intermediate care facility for 140857
the mentally retarded" has the same meaning as in section 5111.20 140858
of the Revised Code. 140859

(B) If the Department of Developmental Disabilities is 140860
required by section 5111.211 of the Revised Code to pay the 140861
nonfederal share of claims submitted for services that are covered 140862
by the Medicaid program and provided to an eligible Medicaid 140863
recipient by an intermediate care facility for the mentally 140864
retarded, the Director of Developmental Disabilities shall 140865
transfer cash to the Department of Job and Family Services to pay 140866
the nonfederal share of the claims. The transfer shall be made 140867
using an intrastate transfer voucher. Except as otherwise provided 140868
in section 5123.0416 of the Revised Code, the Director shall use 140869
only the following appropriation items for the transfer: 140870

(1) Appropriation item 322407, Medicaid State Match; 140871

(2) Appropriation item 322501, County Boards Subsidies. 140872

(C) If the intermediate care facility for the mentally 140873

retarded is located in a county served by a county board of 140874
developmental disabilities that initiates or supports the 140875
facility's certification as an intermediate care facility for the 140876
mentally retarded by the Director of Health, the cash that the 140877
Director transfers under division (B) of this section shall be 140878
moneys that the Director has allocated to the county board serving 140879
the county in which the facility is located unless the amount of 140880
the allocation is insufficient to pay the entire nonfederal share 140881
of the claims submitted by the facility. If the allocation is 140882
insufficient, the Director shall use as much of such moneys 140883
allocated to other counties as is needed to make up the 140884
difference. 140885

Section 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING 140886
FORMER RESIDENTS OF DEVELOPMENTAL CENTERS 140887

Subject to approval by the Centers for Medicare and Medicaid 140888
Services, the Department of Job and Family Services shall increase 140889
the rate paid to a provider under the Individual Options Waiver by 140890
fifty-two cents for each fifteen minutes of routine 140891
homemaker/personal care provided to an individual for up to a year 140892
if all of the following apply: 140893

(A) The individual was a resident of a developmental center 140894
immediately prior to enrollment in the waiver; 140895

(B) The provider begins serving the individual on or after 140896
July 1, 2011; 140897

(C) The Director of Developmental Disabilities determines 140898
that the increased rate is warranted by the individual's special 140899
circumstances, including the individual's diagnosis, service 140900
needs, or length of stay at the developmental center, and that 140901
serving the individual through the Individual Options Waiver is 140902
fiscally prudent for the Medicaid program. 140903

Section 263.20.80. ODODD INNOVATIVE PILOT PROJECTS 140904

(A) In fiscal year 2012 and fiscal year 2013, the Director of 140905
Developmental Disabilities may authorize the implementation of one 140906
or more innovative pilot projects that, in the judgment of the 140907
Director, are likely to assist in promoting the objectives of 140908
Chapter 5123. or 5126. of the Revised Code. Subject to division 140909
(B) of this section and notwithstanding any provision of Chapters 140910
5123. and 5126. of the Revised Code and any rule adopted under 140911
either chapter, a pilot project authorized by the Director may be 140912
implemented in a manner inconsistent with one or more provisions 140913
of Chapter 5123. or 5126. of the Revised Code or one or more rules 140914
adopted under either chapter. Before authorizing a pilot program, 140915
the Director shall consult with entities interested in the issue 140916
of developmental disabilities, including the Ohio Provider 140917
Resource Association, the Ohio Association of County Boards of 140918
Developmental Disabilities, and the ARC of Ohio. 140919

(B) The Director may not authorize a pilot project to be 140920
implemented in a manner that would cause the state to be out of 140921
compliance with any requirements for a program funded in whole or 140922
in part with federal funds. 140923

Section 263.20.90. OHIO DEVELOPMENTAL DISABILITIES COUNCIL 140924
REMOTE ATTENDANCE PILOT PROGRAM 140925

(A) The Ohio Developmental Disabilities Council may establish 140926
a pilot program to allow Council members to attend a public 140927
Council meeting by teleconference or video conference in lieu of 140928
physically attending the meeting. If the pilot program is 140929
established, it shall be operated until five years after the 140930
effective date of this section. 140931

A member who attends a Council meeting by teleconference or 140932
video conference shall be counted for purposes of determining 140933

whether a quorum is present for the transaction of business. The 140934
member shall be permitted to vote at the meeting. 140935

At each Council meeting that includes members in attendance 140936
by teleconference or video conference, at least three Council 140937
members shall be physically present. Any Council meeting may be 140938
held with members in attendance by teleconference or video 140939
conference, except that the Council shall hold at least one 140940
meeting during each year of the pilot program at which members are 140941
not permitted to attend by teleconference or video conference. 140942

(B) If the pilot program is established, the Council shall 140943
submit a report to the General Assembly not later than four years 140944
after the effective date of this section to assist the recipients 140945
in determining whether legislation establishing remote attendance 140946
by teleconference or video conference for the meetings of other 140947
public bodies would be beneficial. The report shall be submitted 140948
in accordance with section 101.68 of the Revised Code. The report 140949
shall include all of the following: 140950

(1) A description of the effect of teleconferencing or video 140951
conferencing on the operation of the Council meetings; 140952

(2) An accounting of any costs incurred or savings realized 140953
by the Council through the use of teleconferencing or video 140954
conferencing; 140955

(3) For each Council meeting held during the pilot program, 140956
all of the following: 140957

(a) The notice of each meeting; 140958

(b) Attendance records for all Council members; 140959

(c) A description of public and media attendance; 140960

(d) A summary or copy of any comments made by the public or 140961
media regarding the use of teleconferencing or video conferencing; 140962

(e) A copy of the minutes for each meeting; 140963

(f) An accounting of the costs incurred for each meeting;	140964
(g) A description of any local media coverage of a teleconference or video conference meeting.	140965 140966
(C) The Ohio Developmental Disabilities Council may adopt any rules the Council considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.	140967 140968 140969 140970
At a minimum, the rules shall do the following:	140971
(1) Allow Council members to remotely attend a public Council meeting by teleconference or video conference in lieu of physically attending the meeting;	140972 140973 140974
(2) Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference or video conference;	140975 140976 140977
(3) Establish a policy for distributing and circulating necessary documents to Council members, the public, and the media in advance of a meeting where members attend by teleconference or video conference.	140978 140979 140980 140981
Section 265.10. OBD OHIO BOARD OF DIETETICS	140982
General Services Fund Group	140983
4K90 860609 Operating Expenses \$ 355,789 \$ 330,592	140984
TOTAL GSF General Services Fund	140985
Group \$ 355,789 \$ 330,592	140986
TOTAL ALL BUDGET FUND GROUPS \$ 355,789 \$ 330,592	140987
Section 267.10. EDU DEPARTMENT OF EDUCATION	140989
General Revenue Fund	140990
GRF 200100 Personal Services \$ 8,579,178 \$ 8,579,178	140991
GRF 200320 Maintenance and \$ 2,830,407 \$ 2,830,407	140992

		Equipment				
GRF	200408	Early Childhood	\$	23,268,341	\$	23,268,341 140993
		Education				
GRF	200416	Career-Technical	\$	2,233,195	\$	2,233,195 140994
		Education Match				
GRF	200420	Computer/Application/	\$	4,241,296	\$	4,241,296 140995
		Network Development				
GRF	200421	Alternative Education	\$	7,403,998	\$	7,403,998 140996
		Programs				
GRF	200422	School Management	\$	2,842,812	\$	3,000,000 140997
		Assistance				
GRF	200424	Policy Analysis	\$	328,558	\$	328,558 140998
GRF	200425	Tech Prep Consortia	\$	260,542	\$	260,542 140999
		Support				
GRF	200426	Ohio Educational	\$	17,974,489	\$	17,974,489 141000
		Computer Network				
GRF	200427	Academic Standards	\$	4,346,060	\$	3,700,000 141001
GRF	200437	Student Assessment	\$	55,002,167	\$	55,002,167 141002
GRF	200439	Accountability/Report	\$	3,579,279	\$	3,579,279 141003
		Cards				
GRF	200442	Child Care Licensing	\$	827,140	\$	827,140 141004
GRF	200446	Education Management	\$	6,833,070	\$	6,833,070 141005
		Information System				
GRF	200447	GED Testing	\$	879,551	\$	879,551 141006
GRF	200448	Educator Preparation	\$	786,737	\$	786,737 141007
GRF	200455	Community Schools and	\$	2,200,000	\$	2,200,000 141008
		Choice Programs				
GRF	200502	Pupil Transportation	\$	438,248,936	\$	442,113,527 141009
GRF	200505	School Lunch Match	\$	9,100,000	\$	9,100,000 141010
GRF	200511	Auxiliary Services	\$	124,194,099	\$	126,194,099 141011
GRF	200532	Nonpublic	\$	56,164,384	\$	57,006,850 141012
		Administrative Cost				
		Reimbursement				

GRF 200540	Special Education Enhancements	\$ 135,820,668	\$ 135,820,668	141013
GRF 200545	Career-Technical Education Enhancements	\$ 8,802,699	\$ 8,802,699	141014
GRF 200550	Foundation Funding	\$ 5,536,347,861	\$ 5,610,117,686	141015
GRF 200901	Property Tax Allocation - Education	\$ 1,086,500,000	\$ 1,095,000,000	141016
TOTAL GRF General Revenue Fund		\$ 7,539,595,467	\$ 7,628,083,477	141017
General Services Fund Group				141018
1380 200606	Computer Services-Operational Support	\$ 7,600,090	\$ 7,600,090	141019
4520 200638	Miscellaneous Educational Services	\$ 300,000	\$ 300,000	141020
4L20 200681	Teacher Certification and Licensure	\$ 8,147,756	\$ 8,147,756	141021
5960 200656	Ohio Career Information System	\$ 529,761	\$ 529,761	141022
5H30 200687	School District Solvency Assistance	\$ 25,000,000	\$ 25,000,000	141023
TOTAL GSF General Services Fund Group		\$ 41,577,607	\$ 41,577,607	141024 141025
Federal Special Revenue Fund Group				141026
3090 200601	Neglected and Delinquent Education	\$ 2,168,642	\$ 2,168,642	141027
3670 200607	School Food Services	\$ 6,803,472	\$ 6,959,906	141028
3690 200616	Career-Technical Education Federal Enhancement	\$ 5,000,000	\$ 5,000,000	141029
3700 200624	Education of Exceptional Children	\$ 1,905,000	\$ 0	141030
3780 200660	Learn and Serve	\$ 619,211	\$ 619,211	141031

3AF0	200603	Schools Medicaid Administrative Claims	\$	639,000	\$	639,000	141032
3AN0	200671	School Improvement Grants	\$	20,400,000	\$	20,400,000	141033
3AX0	200698	Improving Health and Educational Outcomes of Young People	\$	630,954	\$	630,954	141034
3BK0	200628	Longitudinal Data Systems	\$	500,000	\$	250,000	141035
3C50	200661	Early Childhood Education	\$	14,554,749	\$	14,554,749	141036
3CG0	200646	Teacher Incentive Fund	\$	1,925,881	\$	0	141037
3D10	200664	Drug Free Schools	\$	1,500,000	\$	0	141038
3D20	200667	Math Science Partnerships	\$	9,500,001	\$	9,500,001	141039
3DG0	200630	Federal Stimulus - McKinney Vento Grants	\$	330,512	\$	0	141040
3DJ0	200699	IDEA Part B - Federal Stimulus	\$	21,886,803	\$	0	141041
3DK0	200642	Title 1A - Federal Stimulus	\$	18,633,673	\$	0	141042
3DL0	200650	IDEA Preschool - Federal Stimulus	\$	670,000	\$	0	141043
3DM0	200651	Title IID Technology - Federal Stimulus	\$	1,195,100	\$	0	141044
3DP0	200652	Title I School Improvement - Federal Stimulus	\$	48,500,000	\$	30,000,000	141045
3EC0	200653	Teacher Incentive - Federal Stimulus	\$	7,500,000	\$	7,500,000	141046
3EH0	200620	Migrant Education	\$	2,645,905	\$	2,645,905	141047
3EJ0	200622	Homeless Children	\$	1,759,782	\$	1,759,782	141048

		Education				
3EN0	200655	State Data Systems - Federal Stimulus	\$	2,500,000	\$	2,500,000 141049
3ES0	200657	General Supervisory Enhancement Grant	\$	500,000	\$	500,000 141050
3ET0	200658	Education Jobs Fund	\$	300,000,000	\$	50,000,000 141051
3FD0	200665	Race to the Top	\$	100,000,000	\$	100,000,000 141052
3FE0	200669	Striving Readers	\$	180,000	\$	100,000 141053
3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000 141054
3L60	200617	Federal School Lunch	\$	327,516,539	\$	337,323,792 141055
3L70	200618	Federal School Breakfast	\$	87,596,850	\$	90,224,756 141056
3L80	200619	Child/Adult Food Programs	\$	100,850,833	\$	103,876,359 141057
3L90	200621	Career-Technical Education Basic Grant	\$	48,466,864	\$	48,466,864 141058
3M00	200623	ESEA Title 1A	\$	530,010,000	\$	530,010,000 141059
3M20	200680	Individuals with Disabilities Education Act	\$	443,170,050	\$	443,170,050 141060
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397 141061
3T40	200613	Public Charter Schools	\$	14,291,353	\$	14,291,353 141062
3Y20	200688	21st Century Community Learning Centers	\$	43,720,462	\$	45,906,485 141063
3Y60	200635	Improving Teacher Quality	\$	101,900,000	\$	101,900,000 141064
3Y70	200689	English Language Acquisition	\$	8,373,995	\$	8,373,995 141065
3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$	1,500,000 141066

3Z20	200690	State Assessments	\$	11,882,258	\$	11,882,258	141067
3Z30	200645	Consolidated Federal Grant Administration	\$	8,949,280	\$	8,949,280	141068
TOTAL FED Federal Special							141069
Revenue Fund Group			\$	2,310,389,566	\$	2,011,315,739	141070
State Special Revenue Fund Group							141071
4540	200610	Guidance and Testing	\$	1,050,000	\$	1,050,000	141072
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	141073
4R70	200695	Indirect Operational Support	\$	6,500,000	\$	6,600,000	141074
4V70	200633	Interagency Operational Support	\$	1,117,725	\$	1,117,725	141075
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	141076
5BB0	200696	State Action for Education Leadership	\$	231,300	\$	0	141077
5BJ0	200626	Half-Mill Maintenance Equalization	\$	17,300,000	\$	18,000,000	141078
5U20	200685	National Education Statistics	\$	300,000	\$	300,000	141079
6200	200615	Educational Improvement Grants	\$	3,000,000	\$	3,000,000	141080
TOTAL SSR State Special Revenue Fund Group							141081
			\$	54,827,935	\$	55,396,635	141082
Lottery Profits Education Fund Group							141083
7017	200612	Foundation Funding	\$	717,500,000	\$	680,500,000	141084
TOTAL LPE Lottery Profits Education Fund Group							141085
			\$	717,500,000	\$	680,500,000	141086
Revenue Distribution Fund Group							141087
7047	200909	School District Property Tax Replacement-Business	\$	722,000,000	\$	475,000,000	141088

7053 200900	School District	\$	34,000,000	\$	30,000,000	141089
	Property Tax					
	Replacement-Utility					
TOTAL RDF Revenue Distribution						141090
Fund Group		\$	756,000,000	\$	505,000,000	141091
TOTAL ALL BUDGET FUND GROUPS		\$11,419,890,575		\$10,921,873,458		141092

Section 267.10.10. EARLY CHILDHOOD EDUCATION 141094

The Department of Education shall distribute the foregoing 141095
appropriation item 200408, Early Childhood Education, to pay the 141096
costs of early childhood education programs. 141097

(A) As used in this section: 141098

(1) "Provider" means a city, local, exempted village, or 141099
joint vocational school district, or an educational service 141100
center. 141101

(2) In the case of a city, local, or exempted village school 141102
district, "new eligible provider" means a district that did not 141103
receive state funding for Early Childhood Education in the 141104
previous fiscal year or demonstrates a need for early childhood 141105
programs as defined in division (D) of this section. 141106

(3) "Eligible child" means a child who is at least three 141107
years of age as of the district entry date for kindergarten, is 141108
not of the age to be eligible for kindergarten, and whose family 141109
earns not more than two hundred per cent of the federal poverty 141110
guidelines as defined in division (A)(3) of section 5101.46 of the 141111
Revised Code. Children with an Individualized Education Program 141112
and where the Early Childhood Education program is the least 141113
restrictive environment may be enrolled on their third birthday. 141114

(B) In each fiscal year, up to two per cent of the total 141115
appropriation may be used by the Department for program support 141116
and technical assistance. The Department shall distribute the 141117

remainder of the appropriation in each fiscal year to serve 141118
eligible children. 141119

(C) The Department shall provide an annual report to the 141120
Governor, the Speaker of the House of Representatives, and the 141121
President of the Senate and post the report to the Department's 141122
web site, regarding early childhood education programs operated 141123
under this section and the early learning program guidelines. 141124

(D) After setting aside the amounts to make payments due from 141125
the previous fiscal year, in fiscal year 2012, the Department 141126
shall distribute funds first to recipients of funds for early 141127
childhood education programs under Section 265.10.20 of Am. Sub. 141128
H.B. 1 of the 128th General Assembly in the previous fiscal year 141129
and the balance to new eligible providers of early childhood 141130
education programs under this section or to existing providers to 141131
serve more eligible children or for purposes of program expansion, 141132
improvement, or special projects to promote quality and 141133
innovation. 141134

After setting aside the amounts to make payments due from the 141135
previous fiscal year, in fiscal year 2013, the Department shall 141136
distribute funds first to providers of early childhood education 141137
programs under this section in the previous fiscal year and the 141138
balance to new eligible providers or to existing providers to 141139
serve more eligible children or for purposes of program expansion, 141140
improvement, or special projects to promote quality and 141141
innovation. 141142

Awards under this section shall be distributed on a per-pupil 141143
basis, and in accordance with division (H) of this section. The 141144
Department may adjust the per-pupil amount so that the per-pupil 141145
amount multiplied by the number of eligible children enrolled and 141146
receiving services on the first day of December or the business 141147
day closest to that date equals the amount allocated under this 141148
section. 141149

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective

action plan, the Department may deny expansion funding to the 141182
program or withdraw all or part of the funding to the program and 141183
establish a new eligible provider through a selection process 141184
established by the Department. 141185

(G) Each early childhood education program shall do all of 141186
the following: 141187

(1) Meet teacher qualification requirements prescribed by 141188
section 3301.311 of the Revised Code; 141189

(2) Align curriculum to the early learning content standards 141190
developed by the Department; 141191

(3) Meet any child or program assessment requirements 141192
prescribed by the Department; 141193

(4) Require teachers, except teachers enrolled and working to 141194
obtain a degree pursuant to section 3301.311 of the Revised Code, 141195
to attend a minimum of twenty hours every two years of 141196
professional development as prescribed by the Department; 141197

(5) Document and report child progress as prescribed by the 141198
Department; 141199

(6) Meet and report compliance with the early learning 141200
program guidelines as prescribed by the Department. 141201

(H) Per-pupil funding for programs subject to this section 141202
shall be sufficient to provide eligible children with services for 141203
a standard early childhood schedule which shall be defined in this 141204
section as a minimum of twelve and one-half hours per school week 141205
as defined in section 3313.62 of the Revised Code for the minimum 141206
school year as defined in sections 3313.48, 3313.481, and 3313.482 141207
of the Revised Code. Nothing in this section shall be construed to 141208
prohibit program providers from utilizing other funds to serve 141209
eligible children in programs that exceed the twelve and one-half 141210
hours per week or that exceed the minimum school year. For any 141211

provider for which a standard early childhood education schedule 141212
creates a hardship or for which the provider shows evidence that 141213
the provider is working in collaboration with a preschool special 141214
education program, the provider may submit a waiver to the 141215
Department requesting an alternate schedule. If the Department 141216
approves a waiver for an alternate schedule that provides services 141217
for less time than the standard early childhood education 141218
schedule, the Department may reduce the provider's annual 141219
allocation proportionately. Under no circumstances shall an annual 141220
allocation be increased because of the approval of an alternate 141221
schedule. 141222

(I) Each provider shall develop a sliding fee scale based on 141223
family incomes and shall charge families who earn more than two 141224
hundred per cent of the federal poverty guidelines, as defined in 141225
division (A)(3) of section 5101.46 of the Revised Code, for the 141226
early childhood education program. 141227

The Department shall conduct an annual survey of each 141228
provider to determine whether the provider charges families 141229
tuition or fees, the amount families are charged relative to 141230
family income levels, and the number of families and students 141231
charged tuition and fees for the early childhood program. 141232

(J) If an early childhood education program voluntarily 141233
waives its right for funding, or has its funding eliminated for 141234
not meeting financial standards or the early learning program 141235
guidelines, the provider shall transfer control of title to 141236
property, equipment, and remaining supplies obtained through the 141237
program to providers designated by the Department and return any 141238
unexpended funds to the Department along with any reports 141239
prescribed by the Department. The funding made available from a 141240
program that waives its right for funding or has its funding 141241
eliminated or reduced may be used by the Department for new grant 141242
awards or expansion grants. The Department may award new grants or 141243

expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the selection process established by the Department.

(K) As used in this section, "early learning program guidelines" means the guidelines established by the Department pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 66 of the 126th General Assembly.

(L) Eligible expenditures for the Early Childhood Education program shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

Section 267.10.20. CAREER-TECHNICAL EDUCATION MATCH

The foregoing appropriation item 200416, Career-Technical Education Match, shall be used by the Department of Education to provide vocational administration matching funds under 20 U.S.C. 2311.

COMPUTER/APPLICATION/NETWORK DEVELOPMENT

The foregoing appropriation item 200420, Computer/Application/Network Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts,

administrators, and legislators. Funds may also be used to support 141274
data-driven decision-making and differentiated instruction, as 141275
well as to communicate academic content standards and curriculum 141276
models to schools through web-based applications. 141277

Section 267.10.30. ALTERNATIVE EDUCATION PROGRAMS 141278

The foregoing appropriation item 200421, Alternative 141279
Education Programs, shall be used for the renewal of successful 141280
implementation grants and for competitive matching grants to 141281
school districts for alternative educational programs for existing 141282
and new at-risk and delinquent youth. Programs shall be focused on 141283
youth in one or more of the following categories: those who have 141284
been expelled or suspended, those who have dropped out of school 141285
or who are at risk of dropping out of school, those who are 141286
habitually truant or disruptive, or those on probation or on 141287
parole from a Department of Youth Services facility. Grants shall 141288
be awarded according to the criteria established by the 141289
Alternative Education Advisory Council in 1999. Grants shall be 141290
awarded only to programs in which the grant will not serve as the 141291
program's primary source of funding. These grants shall be 141292
administered by the Department of Education. 141293

The Department of Education may waive compliance with any 141294
minimum education standard established under section 3301.07 of 141295
the Revised Code for any alternative school that receives a grant 141296
under this section on the grounds that the waiver will enable the 141297
program to more effectively educate students enrolled in the 141298
alternative school. 141299

Of the foregoing appropriation item 200421, Alternative 141300
Education Programs, a portion may be used for program 141301
administration, monitoring, technical assistance, support, 141302
research, and evaluation. 141303

Section 267.10.40. SCHOOL MANAGEMENT ASSISTANCE 141304

Of the foregoing appropriation item 200422, School Management Assistance, \$1,000,000 in fiscal year 2012 and \$1,300,000 in fiscal year 2013 shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education, determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

Section 267.10.50. POLICY ANALYSIS 141325

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education

results. The database shall be kept current at all times. These 141334
research efforts shall be used to supply information and analysis 141335
of data to the General Assembly and other state policymakers, 141336
including the Office of Budget and Management, the Governor's 141337
Office of 21st Century Education, and the Legislative Service 141338
Commission. 141339

The Department of Education may use funding from this 141340
appropriation item to purchase or contract for the development of 141341
software systems or contract for policy studies that will assist 141342
in the provision and analysis of policy-related information. 141343
Funding from this appropriation item also may be used to monitor 141344
and enhance quality assurance for research-based policy analysis 141345
and program evaluation to enhance the effective use of education 141346
information to inform education policymakers. 141347

A portion of the foregoing appropriation item 200424, Policy 141348
Analysis, may be used in conjunction with appropriation item 141349
200439, Accountability/Report Cards, to support a fiscal reporting 141350
dimension that shall contain fiscal data reported for the prior 141351
fiscal year. The fiscal information contained therein shall be 141352
updated and reported annually in a form and in a manner as 141353
determined by the Department. 141354

TECH PREP CONSORTIA SUPPORT 141355

The foregoing appropriation item 200425, Tech Prep Consortia 141356
Support, shall be used by the Department of Education to support 141357
state-level activities designed to support, promote, and expand 141358
tech prep programs. Use of these funds shall include, but not be 141359
limited to, administration of grants, program evaluation, 141360
professional development, curriculum development, assessment 141361
development, program promotion, communications, and statewide 141362
coordination of tech prep consortia. 141363

Section 267.10.60. OHIO EDUCATIONAL COMPUTER NETWORK 141364

The foregoing appropriation item 200426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the P-16 State Education Technology Plan developed under section 3353.09 of the Revised Code.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$10,705,569 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist information technology centers or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to information technology centers or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any STEM school established under Chapter 3326. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, high schools chartered by the Ohio Department of Youth Services, or high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$1,440,000 in each fiscal year shall be used for the Union Catalog and InfOhio Network and to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards in

all public schools. Consideration shall be given by the Department 141397
of Education to coordinating the allocation of these moneys with 141398
the efforts of Libraries Connect Ohio, whose members include 141399
OhioLINK, the Ohio Public Information Network, and the State 141400
Library of Ohio. 141401

Of the foregoing appropriation item 200426, Ohio Educational 141402
Computer Network, up to \$5,220,000 in each fiscal year shall be 141403
used, through a formula and guidelines devised by the Department, 141404
to subsidize the activities of designated information technology 141405
centers, as defined by State Board of Education rules, to provide 141406
school districts and chartered nonpublic schools with 141407
computer-based student and teacher instructional and 141408
administrative information services, including approved 141409
computerized financial accounting, and to ensure the effective 141410
operation of local automated administrative and instructional 141411
systems. 141412

The remainder of appropriation item 200426, Ohio Educational 141413
Computer Network, shall be used to support the work of the College 141414
of Education and Human Ecology at the Ohio State University in 141415
reviewing and assessing the alignment of courses offered through 141416
the distance learning clearinghouse established in sections 141417
3333.81 to 3333.88 of the Revised Code with the academic content 141418
standards adopted under division (A) of section 3301.079 of the 141419
Revised Code. 141420

Section 267.10.70. ACADEMIC STANDARDS 141421

The foregoing appropriation item 200427, Academic Standards, 141422
shall be used by the Department of Education to develop, revise, 141423
and communicate to school districts academic content standards and 141424
curriculum models. 141425

Section 267.10.80. STUDENT ASSESSMENT 141426

Of the foregoing appropriation item 200437, Student 141427
Assessment, up to \$95,000 in each fiscal year may be used to 141428
support the assessments required under section 3301.0715 of the 141429
Revised Code. 141430

The remainder of appropriation item 200437, Student 141431
Assessment, shall be used to develop, field test, print, 141432
distribute, score, report results, and support other associated 141433
costs for the tests required under sections 3301.0710, 3301.0711, 141434
and 3301.0712 of the Revised Code and for similar purposes as 141435
required by section 3301.27 of the Revised Code. If funds remain 141436
in this appropriation after these purposes have been fulfilled, 141437
the Department may use the remainder of the appropriation to 141438
develop end-of-course exams. 141439

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT 141440
ASSESSMENT 141441

In fiscal year 2012 and fiscal year 2013, if the 141442
Superintendent of Public Instruction determines that additional 141443
funds are needed to fully fund the requirements of sections 141444
3301.0710, 3301.0711, and 3301.27 of the Revised Code and this act 141445
for assessments of student performance, the Superintendent of 141446
Public Instruction may recommend the reallocation of unexpended 141447
and unencumbered General Revenue Fund appropriations within the 141448
Department of Education to appropriation item 200437, Student 141449
Assessment, to the Director of Budget and Management. If the 141450
Director of Budget and Management determines that such a 141451
reallocation is required, the Director of Budget and Management 141452
may transfer unexpended and unencumbered appropriations within the 141453
Department of Education as necessary to appropriation item 200437, 141454
Student Assessment. If these transferred appropriations are not 141455
sufficient to fully fund the assessment requirements in fiscal 141456
year 2012 or fiscal year 2013, the Superintendent of Public 141457
Instruction may request that the Controlling Board transfer up to 141458

\$9,000,000 cash from the Lottery Profits Education Reserve Fund 141459
(Fund 7018) to the General Revenue Fund. Upon approval of the 141460
Controlling Board, the Director of Budget and Management shall 141461
transfer the cash. These transferred funds are hereby appropriated 141462
for the same purpose as appropriation item 200437, Student 141463
Assessment. 141464

Section 267.10.90. (A) Notwithstanding anything to the 141465
contrary in section 3301.0710, 3301.0711, 3301.0715 or 3313.608 of 141466
the Revised Code, the administration of the English language arts 141467
assessments for elementary grades as a replacement for the 141468
separate reading and writing assessments prescribed by sections 141469
3301.0710 and 3301.0711 of the Revised Code, as those sections 141470
were amended by Am. Sub. H.B. 1 of the 128th General Assembly, 141471
shall not be required until a date prescribed by rule of the State 141472
Board of Education. Until that date, the Department of Education 141473
and school districts and schools shall continue to administer 141474
separate reading assessments for elementary grades, as prescribed 141475
by the versions of sections 3301.0710 and 3301.0711 of the Revised 141476
Code that were in effect prior to the effective date of Section 141477
265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly. The 141478
intent for delaying implementation of the replacement English 141479
language arts assessment is to provide adequate time for the 141480
complete development of the new assessment. 141481

(B) Notwithstanding anything to the contrary in section 141482
3301.0710 of the Revised Code, the State Board shall not prescribe 141483
the three ranges of scores for the assessments prescribed by 141484
division (A)(2) of section 3301.0710 of the Revised Code, as 141485
amended by Am. Sub. H.B. 1 of the 128th General Assembly, until 141486
the Board adopts the rule required by division (A) of this 141487
section. Until that date, the Board shall continue to prescribe 141488
the five ranges of scores required by the version of section 141489
3301.0710 of the Revised Code in effect prior to the effective 141490

date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General 141491
Assembly, and the following apply: 141492

(1) The range of scores designated by the State Board as a 141493
proficient level of skill remains the passing score on the Ohio 141494
Graduation Tests for purposes of sections 3313.61, 3313.611, 141495
3313.612, and 3325.08 of the Revised Code; 141496

(2) The range of scores designated as a limited level of 141497
skill remains the standard for applying the third-grade reading 141498
guarantee under division (A) of section 3313.608 of the Revised 141499
Code; 141500

(3) The range of scores designated by the State Board as a 141501
proficient level of skill remains the standard for the summer 141502
remediation requirement of division (B)(2) of section 3313.608 of 141503
the Revised Code. 141504

(C) This section is not subject to expiration after June 30, 141505
2013, under Section 809.10 of this act. 141506

Section 267.20.10. Notwithstanding anything to the contrary 141507
in sections 3301.0710 and 3301.0711 of the Revised Code, in the 141508
2011-2012 and 2012-2013 school years, the Department of Education 141509
shall not furnish, and school districts and schools shall not 141510
administer, the elementary writing and social studies achievement 141511
assessments prescribed by section 3301.0710 of the Revised Code, 141512
unless the Superintendent of Public Instruction determines the 141513
Department has sufficient funds to pay the costs of furnishing and 141514
scoring those assessments. 141515

Section 267.20.20. ACCOUNTABILITY/REPORT CARDS 141516

Of the foregoing appropriation item 200439, 141517
Accountability/Report Cards, a portion in each fiscal year may be 141518
used to train district and regional specialists and district 141519
educators in the use of the value-added progress dimension and in 141520

the use of data as it relates to improving student achievement. 141521
This training may include teacher and administrator professional 141522
development in the use of data to improve instruction and student 141523
learning, and teacher and administrator training in understanding 141524
teacher value-added reports and how they can be used as a 141525
component in measuring teacher and administrator effectiveness. A 141526
portion of this funding may be provided to a credible nonprofit 141527
organization with expertise in value-added progress dimensions. 141528

The remainder of appropriation item 200439, 141529
Accountability/Report Cards, shall be used by the Department to 141530
incorporate a statewide value-added progress dimension into 141531
performance ratings for school districts and for the development 141532
of an accountability system that includes the preparation and 141533
distribution of school report cards and funding and expenditure 141534
accountability reports under sections 3302.03 and 3302.031 of the 141535
Revised Code. 141536

CHILD CARE LICENSING 141537

The foregoing appropriation item 200442, Child Care 141538
Licensing, shall be used by the Department of Education to license 141539
and to inspect preschool and school-age child care programs under 141540
sections 3301.52 to 3301.59 of the Revised Code. 141541

Section 267.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM 141542

The foregoing appropriation item 200446, Education Management 141543
Information System, shall be used by the Department of Education 141544
to improve the Education Management Information System (EMIS). 141545

Of the foregoing appropriation item 200446, Education 141546
Management Information System, up to \$729,000 in each fiscal year 141547
shall be distributed to designated information technology centers 141548
for costs relating to processing, storing, and transferring data 141549
for the effective operation of the EMIS. These costs may include, 141550

but are not limited to, personnel, hardware, software development, 141551
communications connectivity, professional development, and support 141552
services, and to provide services to participate in the State 141553
Education Technology Plan developed under section 3353.09 of the 141554
Revised Code. 141555

The remainder of appropriation item 200446, Education 141556
Management Information System, shall be used to develop and 141557
support a common core of data definitions and standards as adopted 141558
by the Education Management Information System Advisory Board, 141559
including the ongoing development and maintenance of the data 141560
dictionary and data warehouse. In addition, such funds shall be 141561
used to support the development and implementation of data 141562
standards and the design, development, and implementation of a new 141563
data exchange system. 141564

Any provider of software meeting the standards approved by 141565
the Education Management Information System Advisory Board shall 141566
be designated as an approved vendor and may enter into contracts 141567
with local school districts, community schools, STEMS schools, 141568
information technology centers, or other educational entities for 141569
the purpose of collecting and managing data required under Ohio's 141570
education management information system (EMIS) laws. On an annual 141571
basis, the Department of Education shall convene an advisory group 141572
of school districts, community schools, and other 141573
education-related entities to review the Education Management 141574
Information System data definitions and data format standards. The 141575
advisory group shall recommend changes and enhancements based upon 141576
surveys of its members, education agencies in other states, and 141577
current industry practices, to reflect best practices, align with 141578
federal initiatives, and meet the needs of school districts. 141579

School districts, STEMS schools, and community schools not 141580
implementing a common and uniform set of data definitions and data 141581
format standards for Education Management Information System 141582

purposes shall have all EMIS funding withheld until they are in 141583
compliance. 141584

Section 267.20.40. GED TESTING 141585

The foregoing appropriation item 200447, GED Testing, shall 141586
be used to provide General Educational Development (GED) testing 141587
under rules adopted by the State Board of Education. 141588

Section 267.20.50. EDUCATOR PREPARATION 141589

Of the foregoing appropriation item 200448, Educator 141590
Preparation, up to \$150,000 in each fiscal year may be used by the 141591
Department of Education to monitor and support Ohio's State System 141592
of Support in accordance with the "No Child Left Behind Act of 141593
2011," 20 U.S.C. 6317. 141594

The remainder of appropriation item 200448, Educator 141595
Preparation, may be used by the Department to support the Educator 141596
Standards Board under section 3319.61 of the Revised Code and 141597
reforms under sections 3302.042, 3302.06 through 3302.068, 141598
3302.12, 3302.20 through 3302.22, and 3319.58 of the Revised Code. 141599

Section 267.20.60. COMMUNITY SCHOOLS AND CHOICE PROGRAMS 141600

The foregoing appropriation item 200455, Community Schools 141601
and Choice Programs, may be used by the Department of Education 141602
for additional services and responsibilities under section 3314.11 141603
of the Revised Code and for operation of the school choice 141604
programs. 141605

Of the foregoing appropriation item 200455, Community Schools 141606
and Choice Programs, a portion in each fiscal year may be used by 141607
the Department of Education for developing and conducting training 141608
sessions for community schools and sponsors and prospective 141609
sponsors of community schools as prescribed in division (A)(1) of 141610
section 3314.015 of the Revised Code, and other schools 141611

participating in school choice programs. In developing the 141612
community school training sessions, the Department shall collect 141613
and disseminate examples of best practices used by sponsors of 141614
independent charter schools in Ohio and other states. 141615

Section 267.20.70. PUPIL TRANSPORTATION 141616

Of the foregoing appropriation item 200502, Pupil 141617
Transportation, up to \$838,930 in each fiscal year may be used by 141618
the Department of Education for training prospective and 141619
experienced school bus drivers in accordance with training 141620
programs prescribed by the Department. Up to \$60,469,220 in each 141621
fiscal year may be used by the Department of Education for special 141622
education transportation reimbursements to school districts and 141623
county DD boards for transportation operating costs as provided in 141624
division (J) of section 3317.024 of the Revised Code. Up to 141625
\$650,000 in each fiscal year may be used to partially reimburse 141626
school districts for costs of providing transportation services to 141627
nontraditional schools when those schools are open on a day the 141628
traditional school district is not scheduled to open. Up to 141629
\$5,000,000 in each fiscal year may be used by the Department of 141630
Education to reimburse school districts that make payments to 141631
parents in lieu of transportation under section 3327.02 of the 141632
Revised Code and whose transportation is not funded under division 141633
(C) of section 3317.024 of the Revised Code. 141634

The remainder of appropriation item 200502, Pupil 141635
Transportation, shall be used to distribute the amounts calculated 141636
for formula aid under Section 267.30.50 of this act. 141637

Section 267.20.80. SCHOOL LUNCH MATCH 141638

The foregoing appropriation item 200505, School Lunch Match, 141639
shall be used to provide matching funds to obtain federal funds 141640
for the school lunch program. 141641

Any remaining appropriation after providing matching funds 141642
for the school lunch program may be used to partially reimburse 141643
school buildings within school districts that are required to have 141644
a school breakfast program under section 3313.813 of the Revised 141645
Code, at a rate decided by the Department. 141646

Section 267.20.90. AUXILIARY SERVICES 141647

The foregoing appropriation item 200511, Auxiliary Services, 141648
shall be used by the Department of Education for the purpose of 141649
implementing section 3317.06 of the Revised Code. Of the 141650
appropriation, up to \$1,789,943 in each fiscal year may be used 141651
for payment of the Post-Secondary Enrollment Options Program for 141652
nonpublic students. Notwithstanding section 3365.10 of the Revised 141653
Code, the Department shall distribute funding according to rules 141654
adopted by the Department in accordance with Chapter 119. of the 141655
Revised Code. 141656

Section 267.30.10. NONPUBLIC ADMINISTRATIVE COST 141657
REIMBURSEMENT 141658

The foregoing appropriation item 200532, Nonpublic 141659
Administrative Cost Reimbursement, shall be used by the Department 141660
of Education for the purpose of implementing section 3317.063 of 141661
the Revised Code. 141662

Section 267.30.20. SPECIAL EDUCATION ENHANCEMENTS 141663

Of the foregoing appropriation item 200540, Special Education 141664
Enhancements, up to \$2,206,875 in each fiscal year shall be used 141665
for home instruction for children with disabilities. 141666

Of the foregoing appropriation item 200540, Special Education 141667
Enhancements, up to \$45,282,959 in each fiscal year shall be used 141668
to fund special education and related services at county boards of 141669
developmental disabilities for eligible students under section 141670

3317.20 of the Revised Code and at institutions for eligible 141671
students under section 3317.201 of the Revised Code. 141672

Notwithstanding the distribution formulas under sections 3317.20 141673
and 3317.201 of the Revised Code, funding for DD boards and 141674
institutions for fiscal year 2012 and fiscal year 2013 shall be 141675
determined by providing the per pupil amount received by each DD 141676
board and institution for the prior fiscal year for each student 141677
served in the current fiscal year. 141678

Of the foregoing appropriation item 200540, Special Education 141679
Enhancements, up to \$1,333,468 in each fiscal year shall be used 141680
for parent mentoring programs. 141681

Of the foregoing appropriation item 200540, Special Education 141682
Enhancements, up to \$2,537,824 in each fiscal year may be used for 141683
school psychology interns. 141684

The remainder of appropriation item 200540, Special Education 141685
Enhancements, shall be distributed by the Department of Education 141686
to county boards of developmental disabilities, educational 141687
service centers, and school districts for preschool special 141688
education units and preschool supervisory units under section 141689
3317.052 of the Revised Code. To the greatest extent possible, the 141690
Department of Education shall allocate these units to school 141691
districts and educational service centers. 141692

The Department may reimburse county DD boards, educational 141693
service centers, and school districts for services provided by 141694
instructional assistants, related services as defined in rule 141695
3301-51-11 of the Administrative Code, physical therapy services 141696
provided by a licensed physical therapist or physical therapist 141697
assistant under the supervision of a licensed physical therapist 141698
as required under Chapter 4755. of the Revised Code and Chapter 141699
4755-27 of the Administrative Code and occupational therapy 141700
services provided by a licensed occupational therapist or 141701
occupational therapy assistant under the supervision of a licensed 141702

occupational therapist as required under Chapter 4755. of the 141703
Revised Code and Chapter 4755-7 of the Administrative Code. 141704
Nothing in this section authorizes occupational therapy assistants 141705
or physical therapist assistants to generate or manage their own 141706
caseloads. 141707

The Department of Education shall require school districts, 141708
educational service centers, and county DD boards serving 141709
preschool children with disabilities to adhere to Ohio's Early 141710
Learning Program Guidelines and document child progress using 141711
research-based indicators prescribed by the Department and report 141712
results annually. The reporting dates and method shall be 141713
determined by the Department. 141714

Section 267.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 141715

Of the foregoing appropriation item 200545, Career-Technical 141716
Education Enhancements, up to \$2,563,568 in each fiscal year shall 141717
be used to fund secondary career-technical education at 141718
institutions using a grant-based methodology, notwithstanding 141719
sections 3317.05, 3317.052, and 3317.053 of the Revised Code. 141720

Of the foregoing appropriation item 200545, Career-Technical 141721
Education Enhancements, up to \$2,838,281 in each fiscal year shall 141722
be used by the Department of Education to fund competitive grants 141723
to tech prep consortia that expand the number of students enrolled 141724
in tech prep programs. These grant funds shall be used to directly 141725
support expanded tech prep programs provided to students enrolled 141726
in school districts, including joint vocational school districts, 141727
and affiliated higher education institutions. This support may 141728
include the purchase of equipment. 141729

Of the foregoing appropriation item 200545, Career-Technical 141730
Education Enhancements, up to \$3,100,850 in each fiscal year shall 141731
be used by the Department of Education to support existing High 141732
Schools That Work (HSTW) sites, develop and support new sites, 141733

fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside.

Section 267.30.40. FOUNDATION FUNDING

Of the foregoing appropriation item 200550, Foundation Funding, up to \$250,000 in each fiscal year may be used by the Department to fund a shared services pilot project involving at least two educational service centers. The pilot project shall focus on the design, implementation, and evaluation of a shared service delivery model. The educational service centers participating in the pilot project shall submit a report not later than September 1, 2013, to the Governor, members of the General Assembly, and members of the State Board of Education, reviewing the opportunities and challenges of implementing shared services initiatives as well as any real or projected cost efficiencies achieved through the pilot project.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$425,000 shall be expended in each fiscal year for

court payments under section 2151.362 of the Revised Code. 141765

Of the foregoing appropriation item 200550, Foundation 141766
Funding, up to \$8,100,000 in each fiscal year shall be used to 141767
fund gifted education at educational service centers. 141768
Notwithstanding division (D)(5) of section 3317.018 of the Revised 141769
Code, the Department shall distribute the funding through the 141770
unit-based funding methodology in place under division (L) of 141771
section 3317.024, division (E) of section 3317.05, and divisions 141772
(A), (B), and (C) of section 3317.053 of the Revised Code as they 141773
existed prior to fiscal year 2010. Any remaining funds shall be 141774
used as an additional supplement to each city, exempted village, 141775
and local school district for identifying gifted students under 141776
Chapter 3324. of the Revised Code. 141777

Of the foregoing appropriation item 200550, Foundation 141778
Funding, up to \$10,000,000 in each fiscal year shall be used to 141779
provide additional state aid to school districts, joint vocational 141780
school districts, and community schools for special education 141781
students under division (C)(3) of section 3317.022 of the Revised 141782
Code, except that the Controlling Board may increase these amounts 141783
if presented with such a request from the Department of Education 141784
at the final meeting of the fiscal year; and up to \$2,000,000 in 141785
each fiscal year shall be reserved for Youth Services tuition 141786
payments under section 3317.024 of the Revised Code. 141787

Of the foregoing appropriation item 200550, Foundation 141788
Funding, up to \$41,760,000 in fiscal year 2012 and up to 141789
\$35,323,000 in fiscal year 2013 shall be reserved to fund the 141790
state reimbursement of educational service centers under section 141791
3317.11 of the Revised Code and the section of this act entitled 141792
"EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,545,752 in 141793
each fiscal year shall be distributed to educational service 141794
centers for School Improvement Initiatives. Educational service 141795
centers shall be required to support districts in the development 141796

and implementation of their continuous improvement plans as 141797
required in section 3302.04 of the Revised Code and to provide 141798
technical assistance and support in accordance with Title I of the 141799
"No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 141800
6317. 141801

Of the foregoing appropriation item 200550, Foundation 141802
Funding, up to \$1,000,000 in each fiscal year shall be used by the 141803
Department of Education for a program to pay for educational 141804
services for youth who have been assigned by a juvenile court or 141805
other authorized agency to any of the facilities described in 141806
division (A) of the section of this act entitled "PRIVATE 141807
TREATMENT FACILITY PROJECT." 141808

Of the foregoing appropriation item 200550, Foundation 141809
Funding, up to \$12,522,860 in each fiscal year shall be used to 141810
support the Cleveland school choice program. 141811

Of the portion of the funds distributed to the Cleveland 141812
Municipal School District under this section, up to \$11,901,887 in 141813
each fiscal year shall be used to operate the school choice 141814
program in the Cleveland Municipal School District under sections 141815
3313.974 to 3313.979 of the Revised Code. Notwithstanding 141816
divisions (B) and (C) of section 3313.978 and division (C) of 141817
section 3313.979 of the Revised Code, up to \$1,000,000 in each 141818
fiscal year of this amount shall be used by the Cleveland 141819
Municipal School District to provide tutorial assistance as 141820
provided in division (H) of section 3313.974 of the Revised Code. 141821
The Cleveland Municipal School District shall report the use of 141822
these funds in the district's three-year continuous improvement 141823
plan as described in section 3302.04 of the Revised Code in a 141824
manner approved by the Department of Education. 141825

Of the foregoing appropriation item 200550, Foundation 141826
Funding, an amount shall be available in each fiscal year to be 141827
paid to joint vocational school districts in accordance with the 141828

section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 141829
DISTRICTS." 141830

Of the foregoing appropriation item 200550, Foundation 141831
Funding, a portion in each fiscal year shall be paid to city, 141832
exempted village, and local school districts in accordance with 141833
the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT 141834
FUNDING." 141835

Of the foregoing appropriation item 200550, Foundation 141836
Funding, a portion in each fiscal year shall be paid to school 141837
districts and community schools in accordance with the section of 141838
this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS." 141839

The remainder of appropriation item 200550, Foundation 141840
Funding, shall be used to distribute the amounts calculated for 141841
formula aid under Section 267.30.50 of this act. 141842

Appropriation items 200502, Pupil Transportation, 200540, 141843
Special Education Enhancements, and 200550, Foundation Funding, 141844
other than specific set-asides, are collectively used in each 141845
fiscal year to pay state formula aid obligations for school 141846
districts, community schools, STEM schools, and joint vocational 141847
school districts under this act. The first priority of these 141848
appropriation items, with the exception of specific set-asides, is 141849
to fund state formula aid obligations. It may be necessary to 141850
reallocate funds among these appropriation items or use excess 141851
funds from other general revenue fund appropriation items in the 141852
Department of Education's budget in each fiscal year, in order to 141853
meet state formula aid obligations. If it is determined that it is 141854
necessary to transfer funds among these appropriation items or to 141855
transfer funds from other General Revenue Fund appropriations in 141856
the Department of Education's budget to meet state formula aid 141857
obligations, the Department of Education shall seek approval from 141858
the Controlling Board to transfer funds as needed. 141859

Section 267.30.50. FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS

(A) For each of fiscal years 2012 and 2013, the Department of Education shall compute and pay operating funding for each city, exempted village, and local school district according to the following formula:

[(The final amount computed for fiscal year 2011 under the line on the district's PASS form entitled "State Resources for the Foundation Funding Program" / the district's recalculated fiscal year 2011 formula ADM) X the district's current year formula ADM] - the district's adjustment amount

Where:

(1) "PASS form" means the form for calculating operating payments to school districts as prescribed by former section 3306.012 of the Revised Code.

(2) "Recalculated fiscal year 2011 formula ADM" means the district's average daily membership reported in October 2010 under division (A) of section 3317.03 of the Revised Code, as verified by the Superintendent of Public Instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the Department, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical educational compact.

(3) "Current year formula ADM" means the district's formula ADM for the current fiscal year as defined in section 3317.02 of

the Revised Code. 141890

(4) "The district's adjustment amount" means the amount 141891
computed under division (B)(5) of this section. 141892

If the computation made under division (A) of this section 141893
results in a negative number, the district's funding under this 141894
section shall be zero. 141895

(B) To make the computation required by division (A) of this 141896
section, the Department shall determine all of the following: 141897

(1) Each district's charge-off valuation per pupil, which 141898
shall be the valuation used to determine the district's state 141899
share of the adequacy amount for fiscal year 2011, under former 141900
section 3306.13 of the Revised Code, divided by the district's 141901
recalculated fiscal year 2011 formula ADM; 141902

(2) The statewide median charge-off valuation per pupil; 141903

(3) Each district's charge-off valuation index, which shall 141904
be the district's charge-off valuation per pupil divided by the 141905
statewide median charge-off valuation per pupil; 141906

(4) The statewide per pupil adjustment amount. The Department 141907
shall determine that amount so that the total statewide formula 141908
aid obligation for school districts does not exceed the aggregate 141909
amount appropriated for formula aid under line items 200502, 141910
200550, and 200612. 141911

(5) Each district's adjustment amount, which shall be the 141912
district's charge-off valuation index multiplied by the statewide 141913
per pupil adjustment amount multiplied by the district's current 141914
year formula ADM. 141915

(C) On the form that the Department uses to compute funding 141916
for a school district in accordance with this section, the 141917
Department also shall indicate the amount of that funding 141918
allocated to special education and related services, the amount 141919

allocated to career-technical education, and the amount allocated 141920
to gifted education. The amounts allocated for special education 141921
and career-technical education shall be the amounts indicated on 141922
the PASS form for fiscal year 2011. Each school district that 141923
receives an allocation for career-technical education shall spend 141924
the funds only for purposes the Department of Education designates 141925
as approved for career-technical education expenses. 141926
Career-technical education expenses approved by the Department 141927
shall include only expenses connected to the delivery of 141928
career-technical programming to students enrolled in 141929
state-approved career-technical programs. If a school district 141930
informs the Department that it is unable to spend the full 141931
allocation on approved career-technical education expenses, the 141932
Department may reallocate the district's unexpended amount of the 141933
career-technical education allocation to other school districts. 141934
The overall funding levels calculated under division (A) of this 141935
section for districts affected by a reallocation under this 141936
division shall be adjusted accordingly. The Department shall first 141937
allocate the funds to school districts within the original school 141938
district's vocational education planning district that have growth 141939
in career-technical enrollment from the previous fiscal year. If 141940
there are no such districts, the Department shall allocate the 141941
funds to other school districts, with priority given to districts 141942
according to each district's growth in career-technical enrollment 141943
from the previous fiscal year. The amounts allocated to gifted 141944
education shall be the amounts districts received for gifted unit 141945
funding and supplemental identification funds in fiscal year 2009, 141946
either directly or through funds allocated to educational service 141947
centers. The Department shall require each school district to 141948
report data annually so that the Department may monitor and 141949
enforce the district's compliance with the requirements regarding 141950
the manner in which allocations for career-technical education and 141951
gifted education may be spent. 141952

(D) For fiscal years 2012 and 2013, wherever a provision of law refers to payments or adjustments for a school district made in accordance with any section of Chapter 3317. of the Revised Code, that reference shall be construed to include payments or adjustments made under this section.

Section 267.30.53. SUPPLEMENTAL SCHOOL DISTRICT FUNDING

(A) For each of fiscal years 2012 and 2013, the Department of Education shall compute and pay supplemental operating funding for each city, exempted village, and local school district according to the following formula:

(The final amount computed for fiscal year 2011 under the line on the district's PASS form entitled "State Resources for the Foundation Funding Program" minus the portion of that amount paid from funds received under the American Recovery and Reinvestment Act State Fiscal Stabilization Fund) minus the amount computed for the district for the current fiscal year under Section 267.30.50 of this act.

(B) If the computation made under division (A) of this section results in a negative number, the district's funding under that division shall be zero.

Section 267.30.56. SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS

In addition to any other payments made under Sections 267.30.50 and 267.30.53 of this act or under Chapter 3317. of the Revised Code, for each of fiscal years 2012 and 2013, the Department of Education shall pay to each qualifying school district or community school, established under Chapter 3314. of the Revised Code, the amount prescribed by this section.

The Department shall pay to each school district or community school rated as "excellent with distinction" or "excellent" on the

report card issued for the district or community school under 141983
sections 3302.03 and 3314.012 of the Revised Code for the prior 141984
school year an amount equal to \$17 times the district's 141985
current-year formula ADM, in the case of a school district, or the 141986
number of students in the community school's enrollment report for 141987
the current year, in the case of a community school. 141988

As used in this section, "the number of students in the 141989
community school's enrollment report" means "the final number of 141990
students reported under divisions (B)(2)(a) and (b) of section 141991
3314.08 of the Revised Code at the end of a fiscal year, as 141992
verified by the Department." 141993

Section 267.30.60. FUNDING FOR JOINT VOCATIONAL SCHOOL 141994
DISTRICTS 141995

The Department of Education shall distribute funds within 141996
appropriation item 200550, Foundation Funding, for joint 141997
vocational funding in each fiscal year to each joint vocational 141998
school district that received joint vocational funding in fiscal 141999
year 2011. The Department shall distribute to each such district 142000
joint vocational funding in an amount equal to the district's 142001
total state foundation aid as reported on the final JVS payment 142002
report produced by the Department for the previous fiscal year. 142003

The joint vocational funding for each fiscal year for each 142004
district is the amount specified in this section less any general 142005
revenue fund spending reductions ordered by the Governor under 142006
section 126.05 of the Revised Code. 142007

Section 267.30.70. PROPERTY TAX ALLOCATION - EDUCATION 142008

The Superintendent of Public Instruction shall not request, 142009
and the Controlling Board shall not approve, the transfer of 142010
appropriation from appropriation item 200901, Property Tax 142011
Allocation - Education, to any other appropriation item. 142012

The appropriation item 200901, Property Tax Allocation - 142013
Education, is appropriated to pay for the state's costs incurred 142014
because of the homestead exemption, the property tax rollback, and 142015
payments required under division (C) of section 5705.2110 of the 142016
Revised Code. In cooperation with the Department of Taxation, the 142017
Department of Education shall distribute these funds directly to 142018
the appropriate school districts of the state, notwithstanding 142019
sections 321.24 and 323.156 of the Revised Code, which provide for 142020
payment of the homestead exemption and property tax rollback by 142021
the Tax Commissioner to the appropriate county treasurer and the 142022
subsequent redistribution of these funds to the appropriate local 142023
taxing districts by the county auditor. 142024

Upon receipt of these amounts, each school district shall 142025
distribute the amount among the proper funds as if it had been 142026
paid as real or tangible personal property taxes. Payments for the 142027
costs of administration shall continue to be paid to the county 142028
treasurer and county auditor as provided for in sections 319.54, 142029
321.26, and 323.156 of the Revised Code. 142030

Any sums, in addition to the amount specifically appropriated 142031
in appropriation items 200901, Property Tax Allocation - 142032
Education, for the homestead exemption and the property tax 142033
rollback payments, and payments required under division (C) of 142034
section 5705.2110 of the Revised Code, which are determined to be 142035
necessary for these purposes, are hereby appropriated. 142036

Section 267.30.80. TEACHER CERTIFICATION AND LICENSURE 142037

The foregoing appropriation item 200681, Teacher 142038
Certification and Licensure, shall be used by the Department of 142039
Education in each year of the biennium to administer and support 142040
teacher certification and licensure activities. 142041

SCHOOL DISTRICT SOLVENCY ASSISTANCE 142042

(A) Of the foregoing appropriation item 200687, School 142043
District Solvency Assistance, \$20,000,000 in each fiscal year 142044
shall be allocated to the School District Shared Resource Account 142045
and \$5,000,000 in each fiscal year shall be allocated to the 142046
Catastrophic Expenditures Account. These funds shall be used to 142047
provide assistance and grants to school districts to enable them 142048
to remain solvent under section 3316.20 of the Revised Code. 142049
Assistance and grants shall be subject to approval by the 142050
Controlling Board. Except as provided under division (C) of this 142051
section, any required reimbursements from school districts for 142052
solvency assistance shall be made to the appropriate account in 142053
the School District Solvency Assistance Fund (Fund 5H30). 142054

(B) Notwithstanding any provision of law to the contrary, 142055
upon the request of the Superintendent of Public Instruction, the 142056
Director of Budget and Management may make transfers to the School 142057
District Solvency Assistance Fund (Fund 5H30) from any fund used 142058
by the Department of Education or the General Revenue Fund to 142059
maintain sufficient cash balances in Fund 5H30 in fiscal years 142060
2012 and 2013. Any cash transferred is hereby appropriated. The 142061
transferred cash may be used by the Department of Education to 142062
provide assistance and grants to school districts to enable them 142063
to remain solvent and to pay unforeseeable expenses of a temporary 142064
or emergency nature that the school district is unable to pay from 142065
existing resources. The Director of Budget and Management shall 142066
notify the members of the Controlling Board of any such transfers. 142067

(C) If the cash balance of the School District Solvency 142068
Assistance Fund (Fund 5H30) is insufficient to pay solvency 142069
assistance in fiscal years 2012 and 2013, at the request of the 142070
Superintendent of Public Instruction, and with the approval of the 142071
Controlling Board, the Director of Budget and Management may 142072
transfer cash from the Lottery Profits Education Reserve Fund 142073
(Fund 7018) to Fund 5H30 to provide assistance and grants to 142074

school districts to enable them to remain solvent and to pay 142075
unforeseeable expenses of a temporary nature that they are unable 142076
to pay from existing resources under section 3316.20 of the 142077
Revised Code. Such transfers are hereby appropriated to 142078
appropriation item 200670, School District Solvency Assistance - 142079
Lottery. Any required reimbursements from school districts for 142080
solvency assistance granted from appropriation item 200670, School 142081
District Solvency Assistance - Lottery, shall be made to Fund 142082
7018. 142083

Section 267.30.90. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS 142084

Upon the request of the Superintendent of Public Instruction, 142085
the Director of Budget and Management may transfer up to \$639,000 142086
cash in each fiscal year from the General Revenue Fund to the 142087
Schools Medicaid Administrative Claims Fund (Fund 3AF0). The 142088
transferred cash is to be used by the Department of Education to 142089
pay the expenses the Department incurs in administering the 142090
Medicaid School Component of the Medicaid program established 142091
under sections 5111.71 to 5111.715 of the Revised Code. On June 1 142092
of each fiscal year, or as soon as possible thereafter, the 142093
Director of Budget and Management shall transfer cash from Fund 142094
3AF0 back to the General Revenue Fund in an amount equal to the 142095
total amount transferred to Fund 3AF0 in that fiscal year. 142096

The money deposited into Fund 3AF0 under division (B) of 142097
section 5111.714 of the Revised Code is hereby appropriated for 142098
fiscal years 2012 and 2013 and shall be used in accordance with 142099
division (D) of section 5111.714 of the Revised Code. 142100

Section 267.40.10. HALF-MILL MAINTENANCE EQUALIZATION 142101

The foregoing appropriation item 200626, Half-Mill 142102
Maintenance Equalization, shall be used to make payments pursuant 142103
to section 3318.18 of the Revised Code. 142104

Section 267.40.20. AUXILIARY SERVICES REIMBURSEMENT 142105

Notwithstanding section 3317.064 of the Revised Code, if the 142106
unexpended, unencumbered cash balance is sufficient, the Treasurer 142107
of State shall transfer \$1,500,000 in fiscal year 2012 within 142108
thirty days after the effective date of this section, and 142109
\$1,500,000 in fiscal year 2013 by August 1, 2012, from the 142110
Auxiliary Services Personnel Unemployment Compensation Fund to the 142111
Auxiliary Services Reimbursement Fund (Fund 5980) used by the 142112
Department of Education. 142113

Section 267.40.30. LOTTERY PROFITS EDUCATION FUND 142114

Appropriation item 200612, Foundation Funding (Fund 7017), 142115
shall be used in conjunction with appropriation item 200550, 142116
Foundation Funding (GRF), to provide state foundation payments to 142117
school districts. 142118

The Department of Education, with the approval of the 142119
Director of Budget and Management, shall determine the monthly 142120
distribution schedules of appropriation item 200550, Foundation 142121
Funding (GRF), and appropriation item 200612, Foundation Funding 142122
(Fund 7017). If adjustments to the monthly distribution schedule 142123
are necessary, the Department of Education shall make such 142124
adjustments with the approval of the Director of Budget and 142125
Management. 142126

Section 267.40.40. LOTTERY PROFITS EDUCATION RESERVE FUND 142127

(A) There is hereby created the Lottery Profits Education 142128
Reserve Fund (Fund 7018) in the State Treasury. Investment 142129
earnings of the Lottery Profits Education Reserve Fund shall be 142130
credited to the fund. 142131

(B) Notwithstanding any other provision of law to the 142132
contrary, the Director of Budget and Management may transfer cash 142133

from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) 142134
in fiscal year 2012 and fiscal year 2013. Amounts transferred 142135
under this section are hereby appropriated. 142136

(C) On July 15, 2011, or as soon as possible thereafter, the 142137
Director of the Ohio Lottery Commission shall certify to the 142138
Director of Budget and Management the amount by which lottery 142139
profit transfers received by Fund 7017 exceeded \$711,000,000 in 142140
fiscal year 2011. The Director of Budget and Management may 142141
transfer the amount so certified, plus the cash balance in Fund 142142
7017, to Fund 7018. 142143

(D) On July 15, 2012, or as soon as possible thereafter, the 142144
Director of the Ohio Lottery Commission shall certify to the 142145
Director of Budget and Management the amount by which lottery 142146
profit transfers received by Fund 7017 exceeded \$717,500,000 in 142147
fiscal year 2012. The Director of Budget and Management may 142148
transfer the amount so certified, plus the cash balance in Fund 142149
7017, to Fund 7018. 142150

Section 267.40.50. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 142151
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047) 142152

Notwithstanding any provision of law to the contrary, in 142153
fiscal year 2012 and fiscal year 2013 the Director of Budget and 142154
Management may make temporary transfers between the General 142155
Revenue Fund and the School District Property Tax Replacement - 142156
Business Fund (Fund 7047) in the Department of Education to ensure 142157
sufficient balances in Fund 7047 and to replenish the General 142158
Revenue Fund for such transfers. 142159

Section 267.40.60. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 142160
BUSINESS 142161

The foregoing appropriation item 200909, School District 142162
Property Tax Replacement - Business, shall be used by the 142163

Department of Education, in consultation with the Department of 142164
Taxation, to make payments to school districts and joint 142165
vocational school districts under section 5751.21 of the Revised 142166
Code. If it is determined by the Director of Budget and Management 142167
that additional appropriations are necessary for this purpose, 142168
such amounts are hereby appropriated. 142169

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 142170

The foregoing appropriation item 200900, School District 142171
Property Tax Replacement-Utility, shall be used by the Department 142172
of Education, in consultation with the Department of Taxation, to 142173
make payments to school districts and joint vocational school 142174
districts under section 5727.85 of the Revised Code. If it is 142175
determined by the Director of Budget and Management that 142176
additional appropriations are necessary for this purpose, such 142177
amounts are hereby appropriated. 142178

DISTRIBUTION FORMULAS 142179

The Department of Education shall report the following to the 142180
Director of Budget and Management and the Legislative Service 142181
Commission: 142182

(A) Changes in formulas for distributing state 142183
appropriations, including administratively defined formula 142184
factors; 142185

(B) Discretionary changes in formulas for distributing 142186
federal appropriations; 142187

(C) Federally mandated changes in formulas for distributing 142188
federal appropriations. 142189

Any such changes shall be reported two weeks prior to the 142190
effective date of the change. 142191

Section 267.40.70. EDUCATIONAL SERVICE CENTERS FUNDING 142192

In fiscal year 2012, each Educational Service Center shall 142193
receive funding equal to ninety per cent of the amount received in 142194
fiscal year 2011 under section 3317.11 of the Revised Code and 142195
Section 265.50.10 of Am. Sub. H.B. 1 of the 128th General 142196
Assembly. 142197

In fiscal year 2013, each Educational Service Center shall 142198
receive funding equal to eighty-five per cent of the amount 142199
received in fiscal year 2012 under this section. 142200

Notwithstanding any provision of law to the contrary, the 142201
Department of Education shall modify the payments under this 142202
section as follows: 142203

(A) If an educational service center ceases operation, the 142204
Department shall redistribute that center's funding, as calculated 142205
under this section, to the remaining centers in proportion to each 142206
center's service center ADM as defined in section 3317.11 of the 142207
Revised Code. 142208

(B) If two or more educational service centers merge 142209
operations to create a single service center, the Department shall 142210
distribute the sum of the original service centers' funding, as 142211
calculated under this section, to the new service center. 142212

Section 267.40.80. PRIVATE TREATMENT FACILITY PROJECT 142213

(A) As used in this section: 142214

(1) The following are "participating residential treatment 142215
centers": 142216

(a) Private residential treatment facilities that have 142217
entered into a contract with the Department of Youth Services to 142218
provide services to children placed at the facility by the 142219
Department and which, in fiscal year 2012 or fiscal year 2013 or 142220
both, the Department pays through appropriation item 470401, 142221
RECLAIM Ohio; 142222

(b) Abraxas, in Shelby;	142223
(c) Paint Creek, in Bainbridge;	142224
(d) F.I.R.S.T., in Mansfield.	142225
(2) "Education program" means an elementary or secondary education program or a special education program and related services.	142226 142227 142228
(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.	142229 142230
(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.	142231 142232 142233 142234 142235
(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.	142236 142237 142238
(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to	142239 142240 142241 142242 142243 142244 142245 142246 142247 142248 142249 142250 142251 142252 142253

children under twenty-two years of age residing in the treatment center. 142254
142255

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2012 and fiscal year 2013 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2012 and fiscal year 2013 under this division unless that school district is providing the educational program to the child under division (B) of this section. 142256
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A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child. 142273
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142275

The amount of tuition paid shall be: 142276

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code; 142277
142278

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student 142279
142280
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pursuant to the student's individualized education program, minus 142285
the tuition paid for the child under division (C)(1) of this 142286
section. 142287

A school district paying tuition under this division shall 142288
not include the child for whom tuition is paid in the district's 142289
average daily membership certified under division (A) of section 142290
3317.03 of the Revised Code. 142291

(D) In each of fiscal years 2012 and 2013, the Department of 142292
Education shall reimburse, from appropriations made for the 142293
purpose, a school district, educational service center, or 142294
residential treatment facility, whichever is providing the 142295
service, that has demonstrated that it is in compliance with the 142296
funding criteria for each served child for whom a school district 142297
must pay tuition under division (C) of this section. The amount of 142298
the reimbursement shall be the amount appropriated for this 142299
purpose divided by the full-time equivalent number of children for 142300
whom reimbursement is to be made. 142301

(E) Funds provided to a school district, educational service 142302
center, or residential treatment facility under this section shall 142303
be used to supplement, not supplant, funds from other public 142304
sources for which the school district, service center, or 142305
residential treatment facility is entitled or eligible. 142306

(F) The Department of Education shall track the utilization 142307
of funds provided to school districts, educational service 142308
centers, and residential treatment facilities under this section 142309
and monitor the effect of the funding on the educational programs 142310
they provide in participating residential treatment facilities. 142311
The Department shall monitor the programs for educational 142312
accountability. 142313

Section 267.40.90. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 142314
ASSESSMENT OF EDUCATION PROGRESS 142315

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

Section 267.50.10. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH STUDENTS

(A) As used in this section:

(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior disabilities pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2012 and 2013 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any state foundation payments made, in each of fiscal years 2012 and 2013, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall

be zero. 142346

(D) The amount of any subsidy paid to a community school 142347
under this section shall not be deducted from the school district 142348
in which any of the students enrolled in the community school are 142349
entitled to attend school under section 3313.64 or 3313.65 of the 142350
Revised Code. The amount of any subsidy paid to a community school 142351
under this section shall be paid from funds appropriated to the 142352
Department of Education in appropriation item 200550, Foundation 142353
Funding. 142354

Section 267.50.20. EARMARK ACCOUNTABILITY 142355

At the request of the Superintendent of Public Instruction, 142356
any entity that receives a budget earmark under the Department of 142357
Education shall submit annually to the chairpersons of the 142358
committees of the House of Representatives and the Senate 142359
primarily concerned with education and to the Department of 142360
Education a report that includes a description of the services 142361
supported by the funds, a description of the results achieved by 142362
those services, an analysis of the effectiveness of the program, 142363
and an opinion as to the program's applicability to other school 142364
districts. For an earmarked entity that received state funds from 142365
an earmark in the prior fiscal year, no funds shall be provided by 142366
the Department of Education to an earmarked entity for a fiscal 142367
year until its report for the prior fiscal year has been 142368
submitted. 142369

Section 267.50.30. PROHIBITION FROM OPERATING FROM HOME 142370

No community school established under Chapter 3314. of the 142371
Revised Code that was not open for operation as of May 1, 2005, 142372
shall operate from a home, as defined in section 3313.64 of the 142373
Revised Code. 142374

Section 267.50.40. EARLY COLLEGE START UP COMMUNITY SCHOOL	142375
(A) As used in this section:	142376
(1) "Big eight school district" has the same meaning as in section 3314.02 of the Revised Code.	142377 142378
(2) "Early college high school" means a high school that provides students with a personalized learning plan based on an accelerated curriculum combining high school and college-level coursework.	142379 142380 142381 142382
(B) Any early college high school that is operated by a big eight school district in partnership with a private university may operate as a new start-up community school under Chapter 3314. of the Revised Code beginning in the 2007-2008 school year, if all of the following conditions are met:	142383 142384 142385 142386 142387
(1) The governing authority and sponsor of the school enter into a contract in accordance with section 3314.03 of the Revised Code and, notwithstanding division (D) of section 3314.02 of the Revised Code, both parties adopt and sign the contract by July 9, 2007.	142388 142389 142390 142391 142392
(2) Notwithstanding division (A) of former section 3314.016 of the Revised Code, the school's governing authority enters into a contract with the private university under which the university will be the school's operator.	142393 142394 142395 142396
(3) The school provides the same educational program the school provided while part of the big eight school district.	142397 142398
Section 267.50.50. USE OF VOLUNTEERS	142399
The Department of Education may utilize the services of volunteers to accomplish any of the purposes of the Department. The Superintendent of Public Instruction shall approve for what purposes volunteers may be used and for these purposes may	142400 142401 142402 142403

recruit, train, and oversee the services of volunteers. The 142404
Superintendent may reimburse volunteers for necessary and 142405
appropriate expenses in accordance with state guidelines and may 142406
designate volunteers as state employees for the purpose of motor 142407
vehicle accident liability insurance under section 9.83 of the 142408
Revised Code, for immunity under section 9.86 of the Revised Code, 142409
and for indemnification from liability incurred in the performance 142410
of their duties under section 9.87 of the Revised Code. 142411

Section 267.50.60. RESTRICTION OF LIABILITY FOR CERTAIN 142412
REIMBURSEMENTS 142413

(A) Except as expressly required under a court judgment not 142414
subject to further appeals, or a settlement agreement with a 142415
school district executed on or before June 1, 2009, in the case of 142416
a school district for which the formula ADM for fiscal year 2005, 142417
as reported for that fiscal year under division (A) of section 142418
3317.03 of the Revised Code, was reduced based on enrollment 142419
reports for community schools, made under section 3314.08 of the 142420
Revised Code, regarding students entitled to attend school in the 142421
district, which reduction of formula ADM resulted in a reduction 142422
of foundation funding or transitional aid funding for fiscal year 142423
2005, 2006, or 2007, no school district, except a district named 142424
in the court's judgment or the settlement agreement, shall have a 142425
legal claim for reimbursement of the amount of such reduction in 142426
foundation funding or transitional aid funding, and the state 142427
shall not have liability for reimbursement of the amount of such 142428
reduction in foundation funding or transitional aid funding. 142429

(B) As used in this section: 142430

(1) "Community school" means a community school established 142431
under Chapter 3314. of the Revised Code. 142432

(2) "Entitled to attend school" means entitled to attend 142433
school in a school district under section 3313.64 or 3313.65 of 142434

the Revised Code. 142435

(3) "Foundation funding" means payments calculated for the 142436
respective fiscal year under Chapter 3317. of the Revised Code. 142437

(4) "Transitional aid funding" means payments calculated for 142438
the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 142439
of the 125th General Assembly, as subsequently amended; Section 142440
206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as 142441
subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119 142442
of the 127th General Assembly. 142443

Section 267.50.70. UNAUDITABLE COMMUNITY SCHOOL 142444

(A) If the Auditor of State or a public accountant, pursuant 142445
to section 117.41 of the Revised Code, declares a community school 142446
established under Chapter 3314. of the Revised Code to be 142447
unauditable, the Auditor of State shall provide written 142448
notification of that declaration to the school, the school's 142449
sponsor, and the Department of Education. The Auditor of State 142450
also shall post the notification on the Auditor of State's web 142451
site. 142452

(B) Notwithstanding any provision to the contrary in Chapter 142453
3314. of the Revised Code or any other provision of law, a sponsor 142454
of a community school that is notified by the Auditor of State 142455
under division (A) of this section that a community school it 142456
sponsors is unauditabile shall not enter into contracts with any 142457
additional community schools under section 3314.03 of the Revised 142458
Code until the Auditor of State or a public accountant has 142459
completed a financial audit of that school. 142460

(C) Not later than forty-five days after receiving 142461
notification by the Auditor of State under division (A) of this 142462
section that a community school is unauditabile, the sponsor of the 142463
school shall provide a written response to the Auditor of State. 142464

The response shall include the following: 142465

(1) An overview of the process the sponsor will use to review 142466
and understand the circumstances that led to the community school 142467
becoming unauditabile; 142468

(2) A plan for providing the Auditor of State with the 142469
documentation necessary to complete an audit of the community 142470
school and for ensuring that all financial documents are available 142471
in the future; 142472

(3) The actions the sponsor will take to ensure that the plan 142473
described in division (C)(2) of this section is implemented. 142474

(D) If a community school fails to make reasonable efforts 142475
and continuing progress to bring its accounts, records, files, or 142476
reports into an auditable condition within ninety days after being 142477
declared unauditabile, the Auditor of State, in addition to 142478
requesting legal action under sections 117.41 and 117.42 of the 142479
Revised Code, shall notify the Department of the school's failure. 142480
If the Auditor of State or a public accountant subsequently is 142481
able to complete a financial audit of the school, the Auditor of 142482
State shall notify the Department that the audit has been 142483
completed. 142484

(E) Notwithstanding any provision to the contrary in Chapter 142485
3314. of the Revised Code or any other provision of law, upon 142486
notification by the Auditor of State under division (D) of this 142487
section that a community school has failed to make reasonable 142488
efforts and continuing progress to bring its accounts, records, 142489
files, or reports into an auditable condition following a 142490
declaration that the school is unauditabile, the Department shall 142491
immediately cease all payments to the school under Chapter 3314. 142492
of the Revised Code and any other provision of law. Upon 142493
subsequent notification from the Auditor of State under that 142494
division that the Auditor of State or a public accountant was able 142495

to complete a financial audit of the community school, the 142496
Department shall release all funds withheld from the school under 142497
this section. 142498

Section 267.50.80. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 142499
142500

In collaboration with the County Family and Children First 142501
Council, a city, local, or exempted village school district, 142502
community school, STEM school, joint vocational school district, 142503
educational service center, or county board of developmental 142504
disabilities that receives allocations from the Department of 142505
Education from appropriation item 200550, Foundation Funding, or 142506
appropriation item 200540, Special Education Enhancements, may 142507
transfer portions of those allocations to a flexible funding pool 142508
authorized by the Section of this act entitled "FAMILY AND 142509
CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for 142510
maintenance of effort or for federal or state funding matching 142511
requirements shall not be transferred unless the allocation may 142512
still be used to meet such requirements. 142513

Section 267.50.90. EDUCATIONAL SHARED SERVICES MODEL/P-16 142514
COUNCILS 142515

The Governor's Director of 21st Century Education shall 142516
develop a plan for the integration and consolidation of the 142517
publicly supported regional shared services organizations serving 142518
Ohio's public and chartered nonpublic schools and develop a plan 142519
to encourage communities and school districts to create regional 142520
P-16 councils to better organize and share existing community 142521
resources to improve student achievement. The Director shall 142522
include recommendations for implementation of the plans beginning 142523
July 1, 2012. 142524

In preparing the shared services plan, the Director shall 142525

recommend educational support organizations to be integrated into 142526
the regional shared service center system. The organizations to be 142527
integrated shall include, but shall not be limited to, educational 142528
service centers, education technology centers, information 142529
technology centers, area media centers, Ohio's statewide system of 142530
support, the education regional service system, regional advisory 142531
boards, and regional staff from the Department of Education 142532
providing direct support to school districts. 142533

In preparing the recommendations of the shared services plan, 142534
the Director shall include an examination of services offered to 142535
public and chartered nonpublic schools and recommendations for 142536
integration of services into a shared services model. Services to 142537
be considered shall include, but shall not be limited to, general 142538
instruction, special education, gifted education, academic 142539
leadership, technology, fiscal management, transportation, food 142540
services, human resources, employee benefits, pooled purchasing, 142541
professional development, and noninstructional support. 142542

Not later than October 15, 2011, the Director shall conduct a 142543
shared services survey of Ohio's school districts, community 142544
schools, STEM schools, chartered nonpublic schools, joint 142545
vocational school districts, and other educational service 142546
providers and local political subdivisions to gather baseline data 142547
on the current status of shared services and to determine where 142548
opportunities for additional shared services exist. 142549

In preparing the P-16 plan, the Director shall develop a set 142550
of model criteria that encourages and permits communities and 142551
school districts to create local P-16 councils. Members of the 142552
councils shall include, but not be limited to, local community 142553
leaders in primary and secondary education, higher education, 142554
early childhood education, and representatives of business, 142555
nonprofit, and social service agencies. 142556

In preparing the recommendations for the P-16 plan, the 142557

Director shall include an examination of existing P-16 councils in Ohio and identify for inclusion in the model criteria their success in setting short and long-term student achievement and growth targets in their communities, leading cross-sector strategies to improve student-level outcomes, effectively using data to inform decisions around funding, providing intervention strategies for students, and achieving greater systems alignment.

Not later than January 1, 2012, the Director shall submit to the Governor and the General Assembly, in accordance with section 101.68 of the Revised Code, legislative recommendations for implementation of the plans.

Section 267.60.10. If there are unencumbered moneys remaining on July 1, 2011, in a school district's textbook and instructional materials fund, as required by former section 3315.17 of the Revised Code, the district board of education may transfer those moneys to the district's general fund and may use such moneys for any purpose authorized for general fund moneys.

Section 267.60.20. A new conversion community school established under division (B) of section 3314.02 of the Revised Code may open for operation in the 2011-2012 school year, notwithstanding the deadlines prescribed by division (D) of section 3314.02 of the Revised Code for adoption and signing of the contract under section 3314.03 of the Revised Code, but those parties shall adopt and sign the contract, and file a copy of it with the Superintendent of Public Instruction, prior to the school's opening.

Section 267.60.30. The State Board of Education shall initiate rulemaking procedures for the rules for the Jon Peterson Special Needs Scholarship Program, required under section 3310.64 of the Revised Code, as enacted by this act, so that those rules

are in effect not later than one hundred twenty days after the 142588
effective date of this section. 142589

Section 267.60.31. The Department of Education shall conduct 142590
a formative evaluation of the Jon Peterson Special Needs 142591
Scholarship Program established under sections 3310.51 to 3310.64 142592
of the Revised Code, using both quantitative and qualitative 142593
analyses, and shall report its findings to the General Assembly, 142594
in accordance with section 101.68 of the Revised Code, not later 142595
than December 31, 2014. 142596

The study shall include an assessment of: 142597

(A) The level of the participating student's satisfaction 142598
with the program; 142599

(B) The level of the participating parent's satisfaction with 142600
the program; 142601

(C) The fiscal impact to the state and resident school 142602
districts affected by the program. 142603

In conducting the evaluation, the Department shall to the 142604
extent possible gather comments from parents who have been awarded 142605
scholarships under the program, school district officials, 142606
representatives of registered private providers, educators, and 142607
representatives of educational organizations for inclusion in the 142608
report required under this section. 142609

The Department may contract with one or more qualified 142610
researchers who have previous experience evaluating school choice 142611
programs to conduct this study. The Department may accept grants 142612
to assist in funding this study. 142613

Section 269.10. ELC OHIO ELECTIONS COMMISSION 142614
General Revenue Fund 142615
GRF 051321 Operating Expenses \$ 333,117 \$ 333,117 142616

TOTAL GRF General Revenue Fund	\$	333,117	\$	333,117	142617
General Services Fund Group					142618
4P20 051601 Ohio Elections	\$	225,000	\$	225,000	142619
Commission Fund					
TOTAL GSF General Services Fund	\$	225,000	\$	225,000	142620
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	558,117	\$	558,117	142621

Section 271.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL					142623
DIRECTORS					142624
General Services Fund Group					142625
4K90 881609 Operating Expenses	\$	561,494	\$	551,958	142626
TOTAL GSF General Services					142627
Fund Group	\$	561,494	\$	551,958	142628
TOTAL ALL BUDGET FUND GROUPS	\$	561,494	\$	551,958	142629

Section 273.10. PAY EMPLOYEE BENEFITS FUNDS					142631
Accrued Leave Liability Fund Group					142632
8060 995666 Accrued Leave Fund	\$	72,053,178	\$	71,828,986	142633
8070 995667 Disability Fund	\$	27,616,583	\$	26,593,747	142634
TOTAL ALF Accrued Leave Liability					142635
Fund Group	\$	99,669,761	\$	98,422,733	142636
Agency Fund Group					142637
1240 995673 Payroll Deductions	\$	855,456,678	\$	840,248,559	142638
8080 995668 State Employee Health	\$	590,265,468	\$	649,292,014	142639
Benefit Fund					
8090 995669 Dependent Care	\$	2,881,273	\$	2,967,711	142640
Spending Account					
8100 995670 Life Insurance	\$	2,080,634	\$	2,143,053	142641
Investment Fund					
8110 995671 Parental Leave	\$	3,484,737	\$	3,355,673	142642
Benefit Fund					

8130	995672	Health Care Spending	\$	8,588,262	\$	9,447,088	142643
		Account					
8140	995674	Cost Savings Days	\$	50,000,000	\$	0	142644
TOTAL AGY Agency Fund Group			\$	1,512,757,052	\$	1,507,454,098	142645
							142646
TOTAL ALL BUDGET FUND GROUPS			\$	1,612,426,813	\$	1,605,876,831	142647
		ACCRUED LEAVE LIABILITY FUND					142648
		The foregoing appropriation item 995666, Accrued Leave Fund,					142649
		shall be used to make payments from the Accrued Leave Liability					142650
		Fund (Fund 8060) pursuant to section 125.211 of the Revised Code.					142651
		If it is determined by the Director of Budget and Management that					142652
		additional amounts are necessary, the amounts are hereby					142653
		appropriated.					142654
		STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND					142655
		The foregoing appropriation item 995667, Disability Fund,					142656
		shall be used to make payments from the State Employee Disability					142657
		Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the					142658
		Revised Code. If it is determined by the Director of Budget and					142659
		Management that additional amounts are necessary, the amounts are					142660
		hereby appropriated.					142661
		PAYROLL WITHHOLDING FUND					142662
		The foregoing appropriation item 995673, Payroll Deductions,					142663
		shall be used to make payments from the Payroll Withholding Fund					142664
		(Fund 1240). If it is determined by the Director of Budget and					142665
		Management that additional appropriation amounts are necessary,					142666
		the amounts are hereby appropriated.					142667
		STATE EMPLOYEE HEALTH BENEFIT FUND					142668
		The foregoing appropriation item 995668, State Employee					142669
		Health Benefit Fund, shall be used to make payments from the State					142670
		Employee Health Benefit Fund (Fund 8080) pursuant to section					142671
		124.87 of the Revised Code. If it is determined by the Director of					142672

Budget and Management that additional amounts are necessary, the 142673
amounts are hereby appropriated. 142674

DEPENDENT CARE SPENDING FUND 142675

The foregoing appropriation item 995669, Dependent Care 142676
Spending Account, shall be used to make payments from the 142677
Dependent Care Spending Fund (Fund 8090) to employees eligible for 142678
dependent care expenses. If it is determined by the Director of 142679
Budget and Management that additional amounts are necessary, the 142680
amounts are hereby appropriated. 142681

LIFE INSURANCE INVESTMENT FUND 142682

The foregoing appropriation item 995670, Life Insurance 142683
Investment Fund, shall be used to make payments from the Life 142684
Insurance Investment Fund (Fund 8100) for the costs and expenses 142685
of the state's life insurance benefit program pursuant to section 142686
125.212 of the Revised Code. If it is determined by the Director 142687
of Budget and Management that additional amounts are necessary, 142688
the amounts are hereby appropriated. 142689

PARENTAL LEAVE BENEFIT FUND 142690

The foregoing appropriation item 995671, Parental Leave 142691
Benefit Fund, shall be used to make payments from the Parental 142692
Leave Benefit Fund (Fund 8110) to employees eligible for parental 142693
leave benefits pursuant to section 124.137 of the Revised Code. If 142694
it is determined by the Director of Budget and Management that 142695
additional amounts are necessary, the amounts are hereby 142696
appropriated. 142697

HEALTH CARE SPENDING ACCOUNT FUND 142698

The foregoing appropriation item 995672, Health Care Spending 142699
Account, shall be used to make payments from the Health Care 142700
Spending Account Fund (Fund 8130) for payments pursuant to state 142701
employees' participation in a flexible spending account for 142702

non-reimbursed health care expenses and section 124.821 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services, the Director of Budget and Management may transfer up to \$600,000 annually from the General Revenue Fund to the Health Care Spending Account Fund during fiscal years 2012 and 2013. This cash shall be transferred as needed to provide adequate cash flow for the Health Care Spending Account Fund during fiscal year 2012 and fiscal year 2013. If funds are available at the end of fiscal years 2012 and 2013, the Director of Budget and Management shall transfer cash up to the amount previously transferred in the respective year, plus interest income, from the Health Care Spending Account (Fund 8130) to the General Revenue Fund.

COST SAVINGS DAYS

The foregoing appropriation item, 995674, Cost Savings Days, shall be used by the Director of Budget and Management in accordance with division (E) of section 124.392 of the Revised Code to pay employees who participated in a mandatory cost savings program, or to reimburse employees who did not fully participate in a mandatory cost savings program. Notwithstanding any provision of law to the contrary, in fiscal year 2012 and fiscal year 2013, the Director may transfer agency savings achieved from the use of a mandatory cost savings program to the General Revenue Fund or any other fund as deemed necessary by the Director. The Director may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Cost Savings Fund and may reimburse the General Revenue Fund for such transfers. If the Director determines that additional amounts are necessary for

these purposes, the amounts are hereby appropriated. 142735

Section 273.20. CASH TRANSFER TO PAYROLL WITHHOLDING FUND 142736

The Director of Budget and Management may transfer \$561,897 142737
in cash from the Health Care Spending Account Fund (Fund 8130) to 142738
the Payroll Withholding Fund (Fund 1240) to correct payments made 142739
from the Payroll Withholding Fund that should have been made from 142740
the Health Care Spending Account Fund. 142741

Section 275.10. ERB STATE EMPLOYMENT RELATIONS BOARD 142742

General Revenue Fund 142743

GRF 125321	Operating Expenses	\$	3,758,869	\$	3,761,457	142744
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TOTAL GRF General Revenue Fund		\$	3,758,869	\$	3,761,457	142745
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General Services Fund Group 142746

5720 125603	Training and	\$	87,075	\$	87,075	142747
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Publications

TOTAL GSF General Services						142748
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Fund Group		\$	87,075	\$	87,075	142749
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TOTAL ALL BUDGET FUND GROUPS		\$	3,845,944	\$	3,848,532	142750
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Section 277.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS 142752

General Services Fund Group 142753

4K90 892609	Operating Expenses	\$	934,264	\$	921,778	142754
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TOTAL GSF General Services						142755
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Fund Group		\$	934,264	\$	921,778	142756
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TOTAL ALL BUDGET FUND GROUPS		\$	934,264	\$	921,778	142757
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Section 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY 142759

General Services Fund Group 142760

1990 715602	Laboratory Services	\$	402,295	\$	408,560	142761
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2190 715604	Central Support	\$	8,594,348	\$	8,555,680	142762
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		Indirect					
4A10	715640	Operating Expenses	\$	2,304,267	\$	2,093,039	142763
TOTAL GSF General Services							142764
Fund Group			\$	11,300,910	\$	11,057,279	142765
Federal Special Revenue Fund Group							142766
3530	715612	Public Water Supply	\$	2,941,282	\$	2,941,282	142767
3540	715614	Hazardous Waste	\$	4,193,000	\$	4,193,000	142768
		Management - Federal					
3570	715619	Air Pollution Control	\$	6,310,203	\$	6,310,203	142769
		- Federal					
3620	715605	Underground Injection	\$	111,874	\$	111,874	142770
		Control - Federal					
3BU0	715684	Water Quality	\$	8,100,000	\$	6,785,000	142771
		Protection					
3CS0	715688	Federal NRD	\$	100,000	\$	100,000	142772
		Settlements					
3F20	715630	Revolving Loan Fund -	\$	907,543	\$	907,543	142773
		Operating					
3F30	715632	Federally Supported	\$	3,344,746	\$	3,290,405	142774
		Cleanup and Response					
3F50	715641	Nonpoint Source	\$	6,265,000	\$	6,260,000	142775
		Pollution Management					
3T30	715669	Drinking Water State	\$	2,273,323	\$	2,273,323	142776
		Revolving Fund					
3V70	715606	Agencywide Grants	\$	600,000	\$	600,000	142777
TOTAL FED Federal Special Revenue							142778
Fund Group			\$	35,146,971	\$	33,772,630	142779
State Special Revenue Fund Group							142780
4J00	715638	Underground Injection	\$	445,234	\$	445,571	142781
		Control					
4K20	715648	Clean Air - Non Title	\$	3,152,306	\$	2,906,267	142782

4K30	715649	Solid Waste	\$	16,742,551	\$	16,414,654	142783
4K40	715650	Surface Water Protection	\$	7,642,625	\$	6,672,246	142784
4K40	715686	Environmental Lab Service	\$	2,096,007	\$	2,096,007	142785
4K50	715651	Drinking Water Protection	\$	7,410,118	\$	7,405,428	142786
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000	142787
4R50	715656	Scrap Tire Management	\$	1,368,610	\$	1,376,742	142788
4R90	715658	Voluntary Action Program	\$	999,503	\$	997,425	142789
4T30	715659	Clean Air - Title V Permit Program	\$	16,349,471	\$	16,241,822	142790
4U70	715660	Construction and Demolition Debris	\$	425,913	\$	433,591	142791
5000	715608	Immediate Removal Special Account	\$	633,832	\$	634,033	142792
5030	715621	Hazardous Waste Facility Management	\$	10,241,107	\$	9,789,620	142793
5050	715623	Hazardous Waste Cleanup	\$	12,511,234	\$	12,331,272	142794
5050	715674	Clean Ohio Environmental Review	\$	108,104	\$	108,104	142795
5410	715670	Site Specific Cleanup	\$	2,048,101	\$	2,048,101	142796
5420	715671	Risk Management Reporting	\$	132,636	\$	132,636	142797
5920	715627	Anti Tampering Settlement	\$	2,285	\$	2,285	142798
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455	142799
5BC0	715622	Local Air Pollution Control	\$	2,297,980	\$	2,297,980	142800
5BC0	715624	Surface Water	\$	8,970,181	\$	9,114,974	142801
5BC0	715672	Air Pollution Control	\$	4,438,629	\$	4,534,758	142802

5BC0	715673	Drinking and Ground Water	\$	4,317,527	\$	4,323,521	142803
5BC0	715675	Hazardous Waste	\$	95,266	\$	95,266	142804
5BC0	715676	Assistance and Prevention	\$	640,179	\$	645,069	142805
5BC0	715677	Laboratory	\$	939,717	\$	958,586	142806
5BC0	715678	Corrective Actions	\$	31,765	\$	105,423	142807
5BC0	715687	Areawide Planning Agencies	\$	450,000	\$	450,000	142808
5BC0	715692	Administration	\$	8,562,476	\$	8,212,627	142809
5BT0	715679	C&DD Groundwater Monitoring	\$	203,800	\$	203,800	142810
5BY0	715681	Auto Emissions Test	\$	13,029,952	\$	13,242,762	142811
5CD0	715682	Clean Diesel School Buses	\$	600,000	\$	600,000	142812
5H40	715664	Groundwater Support	\$	77,508	\$	78,212	142813
5N20	715613	Dredge and Fill	\$	29,250	\$	29,250	142814
5Y30	715685	Surface Water Improvement	\$	2,800,000	\$	2,800,000	142815
6440	715631	ER Radiological Safety	\$	279,838	\$	279,966	142816
6600	715629	Infectious Waste Management	\$	91,573	\$	88,764	142817
6760	715642	Water Pollution Control Loan Administration	\$	4,317,376	\$	4,321,605	142818
6780	715635	Air Toxic Release	\$	138,669	\$	138,669	142819
6790	715636	Emergency Planning	\$	2,623,192	\$	2,623,252	142820
6960	715643	Air Pollution Control Administration	\$	1,100,000	\$	1,100,000	142821
6990	715644	Water Pollution Control Administration	\$	220,000	\$	220,000	142822
6A10	715645	Environmental Education	\$	1,488,260	\$	1,488,718	142823

TOTAL SSR State Special Revenue	\$ 140,764,230	\$ 138,700,461	142824
Fund Group			
Clean Ohio Conservation Fund Group			142825
5S10 715607 Clean Ohio -	\$ 284,083	\$ 284,124	142826
Operating			
TOTAL CLF Clean Ohio Conservation	\$ 284,083	\$ 284,124	142827
Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$ 187,496,194	\$ 183,814,494	142828
AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT			142829
On July 1 of each fiscal year, or as soon as possible			142830
thereafter, the Director of Budget and Management may transfer up			142831
to \$13,029,952 in cash in fiscal year 2012, and up to \$13,242,762			142832
in cash in fiscal year 2013 from the General Revenue Fund to the			142833
Auto Emissions Test Fund (Fund 5BY0) for the operation and			142834
oversight of the auto emissions testing program.			142835
AREAWIDE PLANNING AGENCIES			142836
The Director of Environmental Protection Agency may award			142837
grants from appropriation item 715687, Areawide Planning Agencies,			142838
to areawide planning agencies engaged in areawide water quality			142839
management and planning activities in accordance with Section 208			142840
of the "Federal Clean Water Act," 33 U.S.C. 1288.			142841
CORRECTIVE CASH TRANSFERS			142842
On July 1, 2011, or as soon as possible thereafter, the			142843
Director of Budget and Management shall transfer \$376,891.85 in			142844
cash that was mistakenly deposited in the Clean Air Non Title V			142845
Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30).			142846
On July 1, 2011, or as soon as possible thereafter, the			142847
Director of Budget and Management shall transfer \$133,026.63 in			142848
cash that was mistakenly deposited in the Scrap Tire Management			142849
Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410).			142850

Section 281.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION				142851
General Revenue Fund				142852
GRF 172321	Operating Expenses	\$ 580,145	\$ 545,530	142853
TOTAL GRF General Revenue Fund				142854
TOTAL ALL BUDGET FUND GROUPS				142855
Section 283.10. ETC ETECH OHIO				142857
General Revenue Fund				142858
GRF 935401	Statehouse News Bureau	\$ 215,561	\$ 215,561	142859
GRF 935402	Ohio Government Telecommunications Services	\$ 702,089	\$ 702,089	142860
GRF 935408	General Operations	\$ 1,251,789	\$ 1,254,193	142861
GRF 935409	Technology Operations	\$ 2,092,432	\$ 2,091,823	142862
GRF 935410	Content Development, Acquisition, and Distribution	\$ 2,607,094	\$ 2,607,094	142863
GRF 935411	Technology Integration and Professional Development	\$ 4,251,185	\$ 4,252,671	142864
GRF 935412	Information Technology	\$ 829,340	\$ 829,963	142865
TOTAL GRF General Revenue Fund				142866
General Services Fund Group				142867
4F30 935603	Affiliate Services	\$ 50,000	\$ 50,000	142868
4T20 935605	Government Television/Telecommunications Operating	\$ 25,000	\$ 25,000	142869
TOTAL GSF General Services Fund				142870

Group

State Special Revenue Fund Group					142871
4W90 935630 Telecommunity	\$	25,000	\$	25,000	142872
4X10 935634 Distance Learning	\$	24,150	\$	24,150	142873
5D40 935640 Conference/Special Purposes	\$	2,100,000	\$	2,100,000	142874
5FK0 935608 Media Services	\$	637,601	\$	637,956	142875
5JU0 935611 Information Technology Services	\$	1,455,000	\$	1,455,000	142876
5T30 935607 Gates Foundation Grants	\$	200,000	\$	171,112	142877
TOTAL SSR State Special Revenue Fund Group	\$	4,441,751	\$	4,413,218	142878
TOTAL ALL BUDGET FUND GROUPS	\$	16,466,241	\$	16,441,612	142879

Section 283.20. STATEHOUSE NEWS BUREAU 142881

The foregoing appropriation item 935401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau. 142882
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OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES 142885

The foregoing appropriation item 935402, Ohio Government Telecommunications Services, shall be used solely to support the operations of Ohio Government Telecommunications Services which include providing multimedia support to the state government and its affiliated organizations and broadcasting the activities of the legislative, judicial, and executive branches of state government, among its other functions. 142886
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TECHNOLOGY OPERATIONS 142893

The foregoing appropriation item 935409, Technology Operations, shall be used by eTech Ohio to pay expenses of eTech Ohio's network infrastructure, which includes the television and 142894
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142896

radio transmission infrastructure and infrastructure that shall 142897
link all public K-12 classrooms to each other and to the Internet, 142898
and provide access to voice, video, other communication services, 142899
and data educational resources for students and teachers. The 142900
foregoing appropriation item 935409, Technology Operations, may 142901
also be used to cover student costs for taking advanced placement 142902
courses and courses that the Chancellor of the Board of Regents 142903
has determined to be eligible for postsecondary credit through the 142904
Ohio Learns Gateway. To the extent that funds remain available for 142905
this purpose, public school students taking advanced placement or 142906
postsecondary courses through the OhioLearns Gateway shall be 142907
eligible to receive a fee waiver to cover the cost of 142908
participating in one course. The fee waivers shall be distributed 142909
until the funds appropriated to support the waivers have been 142910
exhausted. 142911

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION 142912

The foregoing appropriation item 935410, Content Development, 142913
Acquisition, and Distribution, shall be used for the development, 142914
acquisition, and distribution of information resources by public 142915
media and radio reading services and for educational use in the 142916
classroom and online. 142917

Of the foregoing appropriation item 935410, Content 142918
Development, Acquisition, and Distribution, up to \$658,099 in each 142919
fiscal year shall be allocated equally among the 12 Ohio 142920
educational television stations and used with the advice and 142921
approval of eTech Ohio. Funds shall be used for the production of 142922
interactive instructional programming series with priority given 142923
to resources aligned with state academic content standards in 142924
consultation with the Ohio Department of Education and for 142925
teleconferences to support eTech Ohio. The programming shall be 142926
targeted to the needs of the poorest two hundred school districts 142927
as determined by the district's adjusted valuation per pupil as 142928

defined in former section 3317.0213 of the Revised Code as that 142929
section existed prior to June 30, 2005. 142930

Of the foregoing appropriation item 935410, Content 142931
Development, Acquisition, and Distribution, up to \$1,749,283 in 142932
each fiscal year shall be distributed by eTech Ohio to Ohio's 142933
qualified public educational television stations and educational 142934
radio stations to support their operations. The funds shall be 142935
distributed pursuant to an allocation formula used by the Ohio 142936
Educational Telecommunications Network Commission unless a 142937
substitute formula is developed by eTech Ohio in consultation with 142938
Ohio's qualified public educational television stations and 142939
educational radio stations. 142940

Of the foregoing appropriation item 935410, Content 142941
Development, Acquisition, and Distribution, up to \$199,712 in each 142942
fiscal year shall be distributed by eTech Ohio to Ohio's qualified 142943
radio reading services to support their operations. The funds 142944
shall be distributed pursuant to an allocation formula used by the 142945
Ohio Educational Telecommunications Network Commission unless a 142946
substitute formula is developed by eTech Ohio in consultation with 142947
Ohio's qualified radio reading services. 142948

**Section 283.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL 142949
DEVELOPMENT 142950**

The foregoing appropriation item 935411, Technology 142951
Integration and Professional Development, shall be used by eTech 142952
Ohio for the provision of staff development, hardware, software, 142953
telecommunications services, and information resources to support 142954
educational uses of technology in the classroom and at a distance 142955
and for professional development for teachers, administrators, and 142956
technology staff on the use of educational technology in 142957
qualifying public schools, including the State School for the 142958
Blind, the State School for the Deaf, and the Department of Youth 142959

Services. 142960

Of the foregoing appropriation item 935411, Technology 142961
Integration and Professional Development, up to \$1,691,701 in each 142962
fiscal year shall be used by eTech Ohio to contract with 142963
educational television to provide Ohio public schools with 142964
instructional resources and services with priority given to 142965
resources and services aligned with state academic content 142966
standards and such resources and services shall be based upon the 142967
advice and approval of eTech Ohio, based on a formula used by the 142968
Ohio SchoolNet Commission unless and until a substitute formula is 142969
developed by eTech Ohio in consultation with Ohio's educational 142970
technology agencies and noncommercial educational television 142971
stations. 142972

Section 283.40. TELECOMMUNITY 142973

The foregoing appropriation item 935630, Telecommunity, shall 142974
be distributed by eTech Ohio on a grant basis to eligible school 142975
districts to establish "distance learning" through interactive 142976
video technologies in the school district. Per agreements with 142977
eight Ohio local telephone companies, ALLTEL Ohio, CENTURY 142978
Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell 142979
Telephone Company, Orwell Telephone Company, Sprint North Central 142980
Telephone, VERIZON, and Western Reserve Telephone Company, school 142981
districts are eligible for funds if they are within one of the 142982
listed telephone company service areas. Funds to administer the 142983
program shall be expended by eTech Ohio up to the amount specified 142984
in the agreements with the listed telephone companies. 142985

Within thirty days after the effective date of this section, 142986
the Director of Budget and Management shall transfer to Fund 4W90 142987
in the State Special Revenue Fund Group any investment earnings 142988
from moneys paid by any telephone company as part of any 142989
settlement agreement between the listed companies and the Public 142990

Utilities Commission in fiscal years 1996 and beyond.	142991
DISTANCE LEARNING	142992
The foregoing appropriation item 935634, Distance Learning,	142993
shall be distributed by eTech Ohio on a grant basis to eligible	142994
school districts to establish "distance learning" in the school	142995
district. Per an agreement with Ameritech, school districts are	142996
eligible for funds if they are within an Ameritech service area.	142997
Funds to administer the program shall be expended by eTech Ohio up	142998
to the amount specified in the agreement with Ameritech.	142999
Within thirty days after the effective date of this section,	143000
the Director of Budget and Management shall transfer to Fund 4X10	143001
in the State Special Revenue Fund Group any investment earnings	143002
from moneys paid by any telephone company as part of a settlement	143003
agreement between the company and the Public Utilities Commission	143004
in fiscal year 1995.	143005
GATES FOUNDATION GRANTS	143006
The foregoing appropriation item 935607, Gates Foundation	143007
Grants, shall be used by eTech Ohio to provide professional	143008
development to school district principals, superintendents, and	143009
other administrative staff on the use of education technology.	143010
Section 285.10. ETH OHIO ETHICS COMMISSION	143011
General Revenue Fund	143012
GRF 146321 Operating Expenses \$ 1,409,751 \$ 1,409,751	143013
TOTAL GRF General Revenue Fund \$ 1,409,751 \$ 1,409,751	143014
General Services Fund Group	143015
4M60 146601 Operating Expenses \$ 827,393 \$ 827,393	143016
TOTAL GSF General Services	143017
Fund Group \$ 827,393 \$ 827,393	143018
TOTAL ALL BUDGET FUND GROUPS \$ 2,237,144 \$ 2,237,144	143019
ETHICS COMMISSION CASINO-RELATED ACTIVITIES	143020

On July 1, 2011, or as soon as possible thereafter, an amount 143021
equal to the unexpended and unencumbered balance of appropriation 143022
item 146602, Casino Investigations, at the end of fiscal year 2011 143023
is hereby reappropriated to the same appropriation item for fiscal 143024
year 2012, to be used for the performance of the Ohio Ethics 143025
Commission's casino-related duties. 143026

Section 287.10. EXP OHIO EXPOSITIONS COMMISSION 143027

General Revenue Fund 143028

GRF 723403 Junior Fair Subsidy \$ 250,000 \$ 250,000 143029

TOTAL GRF General Revenue Fund \$ 250,000 \$ 250,000 143030

State Special Revenue Fund Group 143031

4N20 723602 Ohio State Fair \$ 400,000 \$ 400,000 143032

Harness Racing

5060 723601 Operating Expenses \$ 12,991,000 \$ 12,894,000 143033

TOTAL SSR State Special Revenue 143034

Fund Group \$ 13,391,000 \$ 13,294,000 143035

TOTAL ALL BUDGET FUND GROUPS \$ 13,641,000 \$ 13,544,000 143036

STATE FAIR RESERVE 143037

The General Manager of the Expositions Commission may submit 143038

a request to the Controlling Board to use available amounts in the 143039

State Fair Reserve Fund (Fund 6400) if the following conditions 143040

apply: 143041

(A) Admissions receipts for the 2011 or 2012 Ohio State Fair 143042

are less than \$1,982,000 because of inclement weather or 143043

extraordinary circumstances; 143044

(B) The Ohio Expositions Commission declares a state of 143045

fiscal exigency; and 143046

(C) The request contains a plan describing how the 143047

Expositions Commission will eliminate the cash shortage causing 143048

the request. 143049

The amount approved by the Controlling Board is hereby 143050
appropriated. 143051

Section 289.10. GOV OFFICE OF THE GOVERNOR 143052

General Revenue Fund 143053

GRF 040321 Operating Expenses \$ 3,001,806 \$ 2,851,552 143054

TOTAL GRF General Revenue Fund \$ 3,001,806 \$ 2,851,552 143055

General Services Fund Group 143056

5AK0 040607 Government Relations \$ 365,149 \$ 365,149 143057

TOTAL GSF General Services Fund \$ 365,149 \$ 365,149 143058

Group

TOTAL ALL BUDGET FUND GROUPS \$ 3,366,955 \$ 3,216,701 143059

GOVERNMENT RELATIONS 143060

A portion of the foregoing appropriation item 040607, 143061

Government Relations, may be used to support Ohio's membership in 143062

national or regional associations. 143063

The Office of the Governor may charge any state agency of the 143064

executive branch using an intrastate transfer voucher such amounts 143065

necessary to defray the costs incurred for the conduct of 143066

governmental relations associated with issues that can be 143067

attributed to the agency. Amounts collected shall be deposited in 143068

the Government Relations Fund (Fund 5AK0). 143069

Section 291.10. DOH DEPARTMENT OF HEALTH 143070

General Revenue Fund 143071

GRF 440412 Cancer Incidence \$ 600,000 \$ 600,000 143072

Surveillance System

GRF 440413 Local Health \$ 2,302,788 \$ 2,303,061 143073

Department Support

GRF 440416 Mothers and Children \$ 4,227,842 \$ 4,228,015 143074

Safety Net Services

GRF 440418	Immunizations	\$	6,430,538	\$	8,930,829	143075
GRF 440431	Free Clinics Safety Net Services	\$	437,326	\$	437,326	143076
GRF 440438	Breast and Cervical Cancer Screening	\$	823,217	\$	823,217	143077
GRF 440444	AIDS Prevention and Treatment	\$	5,842,315	\$	5,842,315	143078
GRF 440451	Public Health Laboratory	\$	3,654,348	\$	3,655,449	143079
GRF 440452	Child and Family Health Services Match	\$	630,390	\$	630,444	143080
GRF 440453	Health Care Quality Assurance	\$	8,170,694	\$	8,174,361	143081
GRF 440454	Local Environmental Health	\$	1,135,141	\$	1,135,362	143082
GRF 440459	Help Me Grow	\$	33,673,545	\$	33,673,987	143083
GRF 440465	Federally Qualified Health Centers	\$	458,688	\$	2,686,688	143084
GRF 440467	Access to Dental Care	\$	540,484	\$	540,484	143085
GRF 440468	Chronic Disease and Injury Prevention	\$	2,577,251	\$	2,577,251	143086
GRF 440472	Alcohol Testing	\$	550,000	\$	1,100,000	143087
GRF 440505	Medically Handicapped Children	\$	7,512,451	\$	7,512,451	143088
GRF 440507	Targeted Health Care Services Over 21	\$	1,045,414	\$	1,045,414	143089
TOTAL GRF	General Revenue Fund	\$	80,612,432	\$	85,896,654	143090
	State Highway Safety Fund Group					143091
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894	143092
TOTAL HSF	State Highway Safety Fund Group					143093
		\$	233,894	\$	233,894	143094
	General Services Fund Group					143095

1420	440646	Agency Health Services	\$	8,825,788	\$	8,826,146	143096
2110	440613	Central Support Indirect Costs	\$	28,900,000	\$	29,000,000	143097
4730	440622	Lab Operating Expenses	\$	5,000,000	\$	5,000,000	143098
5HB0	440470	Breast and Cervical Cancer Screening	\$	1,000,000	\$	0	143099
6830	440633	Employee Assistance Program	\$	1,100,000	\$	1,100,000	143100
6980	440634	Nurse Aide Training	\$	99,239	\$	99,265	143101
TOTAL GSF General Services							143102
Fund Group			\$	44,925,027	\$	44,025,411	143103
Federal Special Revenue Fund Group							143104
3200	440601	Maternal Child Health Block Grant	\$	27,068,886	\$	27,068,886	143105
3870	440602	Preventive Health Block Grant	\$	7,826,659	\$	7,826,659	143106
3890	440604	Women, Infants, and Children	\$	308,672,689	\$	308,672,689	143107
3910	440606	Medicaid/Medicare	\$	29,625,467	\$	29,257,457	143108
3920	440618	Federal Public Health Programs	\$	137,976,988	\$	137,976,988	143109
TOTAL FED Federal Special Revenue							143110
Fund Group			\$	511,170,689	\$	510,802,679	143111
State Special Revenue Fund Group							143112
4700	440647	Fee Supported Programs	\$	24,503,065	\$	24,513,973	143113
4710	440619	Certificate of Need	\$	878,145	\$	878,433	143114
4770	440627	Medically Handicapped Children Audit	\$	3,692,704	\$	3,692,703	143115
4D60	440608	Genetics Services	\$	3,310,953	\$	3,311,039	143116

4F90	440610	Sickle Cell Disease Control	\$	1,032,754	\$	1,032,824	143117
4G00	440636	Heirloom Birth Certificate	\$	5,000	\$	5,000	143118
4G00	440637	Birth Certificate Surcharge	\$	5,000	\$	5,000	143119
4L30	440609	Miscellaneous Expenses	\$	3,333,164	\$	3,333,164	143120
4P40	440628	Ohio Physician Loan Repayment	\$	476,870	\$	476,870	143121
4V60	440641	Save Our Sight	\$	2,255,760	\$	2,255,789	143122
5B50	440616	Quality, Monitoring, and Inspection	\$	878,638	\$	878,997	143123
5C00	440615	Alcohol Testing and Permit	\$	551,018	\$	0	143124
5CN0	440645	Choose Life	\$	75,000	\$	75,000	143125
5D60	440620	Second Chance Trust	\$	1,151,815	\$	1,151,902	143126
5ED0	440651	Smoke Free Indoor Air	\$	190,452	\$	190,452	143127
5G40	440639	Adoption Services	\$	20,000	\$	20,000	143128
5L10	440623	Nursing Facility Technical Assistance Program	\$	687,500	\$	687,528	143129
5Z70	440624	Ohio Dentist Loan Repayment	\$	140,000	\$	140,000	143130
6100	440626	Radiation Emergency Response	\$	930,525	\$	930,576	143131
6660	440607	Medically Handicapped Children - County Assessments	\$	19,738,286	\$	19,739,617	143132
TOTAL SSR State Special Revenue							143133
Fund Group			\$	63,856,649	\$	63,318,867	143134
Holding Account Redistribution Fund Group							143135
R014	440631	Vital Statistics	\$	44,986	\$	44,986	143136

R048 440625	Refunds, Grants	\$	20,000	\$	20,000	143137
	Reconciliation, and					
	Audit Settlements					
TOTAL 090 Holding Account						143138
Redistribution Fund Group		\$	64,986	\$	64,986	143139
Tobacco Master Settlement Agreement Fund Group						143140
5BX0 440656	Tobacco Use	\$	1,000,000	\$	0	143141
	Prevention					
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$	1,000,000	\$	0	143142
TOTAL ALL BUDGET FUND GROUPS		\$	701,863,677	\$	704,342,491	143143

Section 291.20. IMMUNIZATIONS 143145

Of the foregoing appropriation item 440418, Immunizations, 143146
 \$2,500,000 in fiscal year 2013 shall be used to purchase 143147
 pneumococcal conjugate vaccines. 143148

HIV/AIDS PREVENTION/TREATMENT 143149

The foregoing appropriation item 440444, AIDS Prevention and 143150
 Treatment, shall be used to assist persons with HIV/AIDS in 143151
 acquiring HIV-related medications and to administer educational 143152
 prevention initiatives. 143153

PUBLIC HEALTH LABORATORY 143154

A portion of the foregoing appropriation item 440451, Public 143155
 Health Laboratory, shall be used for coordination and management 143156
 of prevention program operations and the purchase of drugs for 143157
 sexually transmitted diseases. 143158

HELP ME GROW 143159

The foregoing appropriation item 440459, Help Me Grow, shall 143160
 be used by the Department of Health to implement the Help Me Grow 143161
 Program. Funds shall be distributed to counties through contracts, 143162
 grants, or subsidies in accordance with section 3701.61 of the 143163

Revised Code. Appropriation item 440459, Help Me Grow, may be used 143164
in conjunction with Early Intervention funding from the Department 143165
of Developmental Disabilities, and in conjunction with other early 143166
childhood funds and services to promote the optimal development of 143167
young children and family-centered programs and services that 143168
acknowledge and support the social, emotional, cognitive, 143169
intellectual, and physical development of children and the vital 143170
role of families in ensuring the well-being and success of 143171
children. The Department of Health shall enter into an interagency 143172
agreement with the Department of Education, Department of 143173
Developmental Disabilities, Department of Job and Family Services, 143174
and Department of Mental Health to ensure that all early childhood 143175
programs and initiatives are coordinated and school linked. 143176

Of the foregoing appropriation item 440459, Help Me Grow, if 143177
a county Family and Children First Council selects home-visiting 143178
programs, the home-visiting program shall only be eligible for 143179
funding if it serves pregnant women, or parents or other primary 143180
caregivers and the parent or other primary caregiver's child or 143181
children under three years of age, through quality programs of 143182
early childhood home visitation and if the home visitations are 143183
performed by nurses, social workers, child development specialists 143184
or other well-trained and competent staff, as demonstrated by 143185
education or training and the provision of ongoing specific 143186
training and supervision in the model of service being delivered. 143187
The home-visiting program also shall be required to have outcome 143188
and research standards that demonstrate ongoing positive outcomes 143189
for children, parents, and other primary caregivers that enhance 143190
child health and development, and conform to a clear consistent 143191
home visitation model that has been in existence for at least 143192
three years. The home visitation model shall be research-based; 143193
grounded in relevant, empirically based knowledge; linked to 143194
program-determined outcomes; associated with a national 143195
organization or institution of higher education that has 143196

comprehensive home visitation program standards that ensure high 143197
quality service delivery and continuous program improvement; and 143198
have demonstrated significant positive outcomes when evaluated 143199
using well-designed and rigorous randomized, controlled, or 143200
quasi-experimental research designs, and the evaluation results 143201
have been published in a peer-reviewed journal. 143202

For fiscal year 2012, the Department of Health shall support 143203
a county's need for a transition period to meet expected service 143204
levels for the Help Me Grow Home Visiting Program and the Part C 143205
Program by distributing funds for home visiting through a subsidy 143206
agreement that allows the county Family and Children First Council 143207
discretion to use a percentage of those funds for Part C services, 143208
so long as the services are provided in accordance with the 143209
"Individuals with Disability Education Act," 118 Stat. 2744 143210
(2004), 20 U.S.C. 1431 et seq. and section 3701.61 of the Revised 143211
Code. The county Family and Children First council may use up to 143212
one hundred per cent of the funds allocated for the first quarter, 143213
with decreasing percentages determined by the Department of Health 143214
for the remaining quarters of fiscal year 2012, for Part C 143215
services. 143216

The foregoing appropriation item 440459, Help Me Grow, may 143217
also be used for the Developmental Autism and Screening Program. 143218

FEDERALLY QUALIFIED HEALTH CENTERS 143219

For fiscal year 2012, any undisbursed funds previously 143220
provided under subsidy agreements between the Department of Health 143221
and the Ohio Association of Community Health Centers, or its 143222
predecessor organization, pursuant to section 183.18 of the 143223
Revised Code, shall be available to federally qualified health 143224
centers in the same manner as those funds in appropriation item 143225
440465, Federally Qualified Health Centers. 143226

TARGETED HEALTH CARE SERVICES OVER 21 143227

The foregoing appropriation item 440507, Targeted Health Care 143228
Services Over 21, shall be used to administer the Cystic Fibrosis 143229
Program and to implement the Hemophilia Insurance Premium Payment 143230
Program. 143231

The foregoing appropriation item 440507, Targeted Health Care 143232
Services Over 21, shall also be used to provide essential 143233
medications and to pay the copayments for drugs approved by the 143234
Department of Health and covered by Medicare Part D that are 143235
dispensed to Bureau for Children with Medical Handicaps (BCMH) 143236
participants for the Cystic Fibrosis Program. 143237

The Department shall expend all of these funds. 143238

GENETICS SERVICES 143239

The foregoing appropriation item 440608, Genetics Services 143240
(Fund 4D60), shall be used by the Department of Health to 143241
administer programs authorized by sections 3701.501 and 3701.502 143242
of the Revised Code. None of these funds shall be used to counsel 143243
or refer for abortion, except in the case of a medical emergency. 143244

MEDICALLY HANDICAPPED CHILDREN AUDIT 143245

The Medically Handicapped Children Audit Fund (Fund 4770) 143246
shall receive revenue from audits of hospitals and recoveries from 143247
third-party payers. Moneys may be expended for payment of audit 143248
settlements and for costs directly related to obtaining recoveries 143249
from third-party payers and for encouraging Medically Handicapped 143250
Children's Program recipients to apply for third-party benefits. 143251
Moneys also may be expended for payments for diagnostic and 143252
treatment services on behalf of medically handicapped children, as 143253
defined in division (A) of section 3701.022 of the Revised Code, 143254
and Ohio residents who are twenty-one or more years of age and who 143255
are suffering from cystic fibrosis or hemophilia. Moneys may also 143256
be expended for administrative expenses incurred in operating the 143257
Medically Handicapped Children's Program. 143258

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND 143259
143260

The Director of Budget and Management may transfer up to 143261
\$551,018 in cash from the Liquor Control Fund (Fund 7043) to the 143262
Alcohol Testing and Permit Fund (Fund 5C00) in fiscal year 2012 to 143263
meet the operating needs of the Alcohol Testing and Permit 143264
Program. 143265

The Director of Budget and Management may transfer up to 143266
\$551,018 in cash in fiscal year 2012 to the Alcohol Testing and 143267
Permit Fund (Fund 5C00) from the Liquor Control Fund (Fund 7043) 143268
created in section 4301.12 of the Revised Code determined by a 143269
transfer schedule set by the Department of Health. 143270

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 143271

The foregoing appropriation item 440607, Medically 143272
Handicapped Children - County Assessments (Fund 6660), shall be 143273
used to make payments under division (E) of section 3701.023 of 143274
the Revised Code. 143275

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM 143276

On July 1, 2011, or as soon as possible thereafter, the 143277
Director of Budget and Management may transfer, cash from the 143278
Resident Protection Fund (Fund 4E30), which is used by the Ohio 143279
Department of Job and Family Services, to the Nursing Facility 143280
Technical Assistance Program Fund (Fund 5L10), which is used by 143281
the Ohio Department of Health, to be used under section 3721.026 143282
of the Revised Code. The transfers shall be up to \$698,595 in each 143283
fiscal year of the biennium. 143284

Section 291.30. EARLY INTERVENTION WORKGROUP 143285

(A) The Department of Health shall convene a workgroup to 143286
develop recommendations for eligibility criteria for early 143287
intervention services to be provided pursuant to Part C of the 143288

"Individuals with Disability Education Act," 118 Stat. 2744 143289
(2004), 20 U.S.C. 1431 et seq. The recommendations shall be based 143290
on available funds and national data related to the identification 143291
of infants and toddlers who have developmental delays or are most 143292
at risk for developmental delays and, in either case, would 143293
benefit from early intervention services. 143294

(B) The workgroup shall be facilitated by the Department and 143295
shall be composed of all of the following members: 143296

(1) A representative from the Department of Developmental 143297
Disabilities; 143298

(2) A representative from the Department of Education; 143299

(3) A representative from the Department of Mental Health; 143300

(4) A representative from the Help Me Grow Advisory Council; 143301

(5) A parent member of the Help Me Grow Advisory Council; 143302

(6) A representative from the Ohio Family and Children First 143303
Cabinet Council; 143304

(7) A representative from the Ohio Family and Children First 143305
Association; 143306

(8) A county Help Me Grow project director; 143307

(9) A representative from the Ohio Council of Behavioral 143308
Health and Family Services Providers; 143309

(10) A representative from the Ohio Association for Infant 143310
Mental Health; 143311

(11) A representative from the Ohio Association of County 143312
Boards of Developmental Disabilities; 143313

(12) A representative from the Ohio Superintendents of County 143314
Boards of Developmental Disabilities; 143315

(13) A representative from the Ohio chapter of the American 143316
Academy of Pediatrics; 143317

(14) A public health nurse from a board of health of a city or general health district, or an authority having the duties of a board of health;	143318 143319 143320
(15) A representative from the Department of Job and Family Services;	143321 143322
(16) The executive director of the Ohio Developmental Disabilities Council or the director's designee;	143323 143324
(17) A representative of the County Commissioners Association of Ohio.	143325 143326
(C) The Department shall convene the workgroup not later than July 15, 2011. The workgroup shall present to the Director of Health its recommendations for eligibility criteria for Part C early intervention services not later than October 1, 2011. After the recommendations are submitted, the Director may accept the recommendations in whole or in part and implement eligibility criteria accordingly.	143327 143328 143329 143330 143331 143332 143333
Section 291.40. CERTIFICATE OF NEED FOR NEW NURSING HOME	143334
(A) As used in this section:	143335
"Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.	143336 143337
"Population" means that shown by the 2000 regular federal census.	143338 143339
(B) The Director of Health shall accept, for review under section 3702.52 of the Revised Code, a certificate of need application for the establishment, development, and construction of a new nursing home if all of the following conditions are met:	143340 143341 143342 143343
(1) The application is submitted to the Director not later than one hundred eighty days after the effective date of this section.	143344 143345 143346

(2) The new nursing home is to be located in a county that 143347
has a population of at least thirty thousand persons and not more 143348
than forty-one thousand persons. 143349

(3) The new nursing home is to be located on a campus that 143350
has been in operation for at least twelve years and both of the 143351
following are also located on the campus on the effective date of 143352
this section: 143353

(a) At least one existing residential care facility with at 143354
least twenty-five residents; 143355

(b) At least one existing independent living dwelling for 143356
seniors with at least seventy-five residents. 143357

(4) The new nursing home is to have not more than thirty beds 143358
to which both of the following apply: 143359

(a) All of the beds are to be transferred from an existing 143360
nursing home in the state. 143361

(b) All of the beds are proposed to be licensed as nursing 143362
home beds under Chapter 3721. of the Revised Code. 143363

(C) In reviewing certificate of need applications accepted 143364
under this section, the Director shall neither deny an application 143365
on the grounds that the new nursing home is to have less than 143366
fifty beds nor require an applicant to obtain a waiver of the 143367
minimum fifty-bed requirement established by division (I) of rule 143368
3701-12-23 of the Administrative Code. 143369

Section 291.50. EXEMPTION FROM CERTIFICATE OF NEED 143370
REQUIREMENT 143371

(A) As used in this section: 143372

"2010 bed need determination" means the determination of each 143373
county's bed need that the Director of Health made in calendar 143374
year 2010. 143375

"Bed need" means the number of long-term care beds that a county needs as determined by the Director of Health pursuant to division (B)(3) of section 3702.593 of the Revised Code.

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"Bed need excess" means that a county's bed need is such that one or more long-term care beds could be relocated from the county according to the 2010 bed need determination and regardless of any subsequent bed need determination.

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"Bed need shortage" means that a county's bed need is such that one or more long-term care beds could be relocated into the county according to the 2010 bed need determination and regardless of any subsequent bed need determination.

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"Bed need shortage quantity" means the number of long-term care beds that could be relocated into a county with a bed need shortage according to the 2010 bed need determination and regardless of any subsequent bed need determination.

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"Existing bed" means a county home bed that is used, or available for use, for skilled nursing care by a resident of the county home on the effective date of this section.

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"Skilled nursing care" has the same meaning as in section 3721.01 of the Revised Code.

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(B) Notwithstanding sections 3702.51 to 3702.62 of the Revised Code and until January 1, 2014, a county home is not required to obtain a certificate of need to obtain Medicare or Medicaid certification for one or more of the county home's existing beds if all of the following apply:

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(1) The county home is located in a county that has a bed need shortage.

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(2) No county that borders the county in which the county home is located has a bed need excess or bed need shortage.

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(3) The number of the county home's existing beds for which

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Medicare or Medicaid certification is sought does not exceed the 143406
bed need shortage quantity of the county in which the county home 143407
is located and the county home obtains Medicare or Medicaid 143408
certification for those existing beds not later than December 31, 143409
2013. 143410

Section 293.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 143411

Agency Fund Group 143412

4610 372601 Operating Expenses \$ 12,500 \$ 12,500 143413

TOTAL AGY Agency Fund Group \$ 12,500 \$ 12,500 143414

TOTAL ALL BUDGET FUND GROUPS \$ 12,500 \$ 12,500 143415

Section 295.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 143417

General Revenue Fund 143418

GRF 148100 Personal Services \$ 230,000 \$ 230,000 143419

GRF 148200 Maintenance \$ 50,000 \$ 50,000 143420

GRF 148402 Community Projects \$ 37,005 \$ 44,922 143421

TOTAL GRF General Revenue Fund \$ 317,005 \$ 324,922 143422

General Services Fund Group 143423

6010 148602 Gifts and \$ 4,558 \$ 4,558 143424

Miscellaneous

TOTAL GSF General Services 143425

Fund Group \$ 4,558 \$ 4,558 143426

TOTAL ALL BUDGET FUND GROUPS \$ 321,563 \$ 329,480 143427

Section 297.10. OHS OHIO HISTORICAL SOCIETY 143429

General Revenue Fund 143430

GRF 360501 Education and \$ 2,368,997 \$ 2,368,997 143431

Collections

GRF 360502 Site and Museum \$ 3,926,288 \$ 3,926,288 143432

Operations

GRF 360504 Ohio Preservation \$ 290,000 \$ 290,000 143433

		Office				
GRF	360505	National	\$	414,798	\$	414,798 143434
		Afro-American Museum				
GRF	360506	Hayes Presidential	\$	281,043	\$	281,043 143435
		Center				
GRF	360508	State Historical	\$	390,570	\$	390,570 143436
		Grants				
GRF	360509	Outreach and	\$	90,395	\$	90,395 143437
		Partnership				
TOTAL GRF		General Revenue Fund	\$	7,762,091	\$	7,762,091 143438
TOTAL ALL BUDGET FUND GROUPS			\$	7,762,091	\$	7,762,091 143439

SUBSIDY APPROPRIATION 143440

Upon approval by the Director of Budget and Management, the 143441
foregoing appropriation items shall be released to the Ohio 143442
Historical Society in quarterly amounts that in total do not 143443
exceed the annual appropriations. The funds and fiscal records of 143444
the society for fiscal year 2012 and fiscal year 2013 shall be 143445
examined by independent certified public accountants approved by 143446
the Auditor of State, and a copy of the audited financial 143447
statements shall be filed with the Office of Budget and 143448
Management. The society shall prepare and submit to the Office of 143449
Budget and Management the following: 143450

(A) An estimated operating budget for each fiscal year of the 143451
biennium. The operating budget shall be submitted at or near the 143452
beginning of each calendar year. 143453

(B) Financial reports, indicating actual receipts and 143454
expenditures for the fiscal year to date. These reports shall be 143455
filed at least semiannually during the fiscal biennium. 143456

The foregoing appropriations shall be considered to be the 143457
contractual consideration provided by the state to support the 143458
state's offer to contract with the Ohio Historical Society under 143459
section 149.30 of the Revised Code. 143460

HAYES PRESIDENTIAL CENTER				143461	
If a United States government agency, including, but not				143462	
limited to, the National Park Service, chooses to take over the				143463	
operations or maintenance of the Hayes Presidential Center, in				143464	
whole or in part, the Ohio Historical Society shall make				143465	
arrangements with the National Park Service or other United States				143466	
government agency for the efficient transfer of operations or				143467	
maintenance.				143468	
STATE HISTORICAL GRANTS				143469	
Of the foregoing appropriation item 360508, State Historical				143470	
Grants, \$195,285 in each fiscal year shall be granted to the				143471	
Cincinnati Museum Center, and \$195,285 in each fiscal year shall				143472	
be granted to the Western Reserve Historical Society.				143473	
Section 299.10. REP OHIO HOUSE OF REPRESENTATIVES				143474	
General Revenue Fund				143475	
GRF 025321 Operating Expenses	\$	18,517,093	\$	18,517,093	143476
TOTAL GRF General Revenue Fund	\$	18,517,093	\$	18,517,093	143477
General Services Fund Group				143478	
1030 025601 House Reimbursement	\$	1,433,664	\$	1,433,664	143479
4A40 025602 Miscellaneous Sales	\$	37,849	\$	37,849	143480
TOTAL GSF General Services				143481	
Fund Group	\$	1,471,513	\$	1,471,513	143482
TOTAL ALL BUDGET FUND GROUPS	\$	19,988,606	\$	19,988,606	143483
OPERATING EXPENSES				143484	
On July 1, 2011, or as soon as possible thereafter, the Clerk				143485	
of the House of Representatives may certify to the Director of				143486	
Budget and Management the amount of the unexpended, unencumbered				143487	
balance of the foregoing appropriation item 025321, Operating				143488	
Expenses, at the end of fiscal year 2011 to be reappropriated to				143489	
fiscal year 2012. The amount certified is hereby reappropriated to				143490	

the same appropriation item for fiscal year 2012. 143491

On July 1, 2012, or as soon as possible thereafter, the Clerk 143492
of the House of Representatives may certify to the Director of 143493
Budget and Management the amount of the unexpended, unencumbered 143494
balance of the foregoing appropriation item 025321, Operating 143495
Expenses, at the end of fiscal year 2012 to be reappropriated to 143496
fiscal year 2013. The amount certified is hereby reappropriated to 143497
the same appropriation item for fiscal year 2013. 143498

Section 303.10. HFA OHIO HOUSING FINANCE AGENCY 143499

Agency Fund Group 143500

5AZ0 997601 Housing Finance Agency \$ 9,800,000 \$ 9,800,000 143501

Personal Services

TOTAL AGY Agency Fund Group \$ 9,800,000 \$ 9,800,000 143502

TOTAL ALL BUDGET FUND GROUPS \$ 9,800,000 \$ 9,800,000 143503

Section 305.10. IGO OFFICE OF THE INSPECTOR GENERAL 143505

General Revenue Fund 143506

GRF 965321 Operating Expenses \$ 1,124,663 \$ 1,125,598 143507

TOTAL GRF General Revenue Fund \$ 1,124,663 \$ 1,125,598 143508

General Services Fund Group 143509

5FA0 965603 Deputy Inspector \$ 400,000 \$ 400,000 143510

General for ODOT

5FT0 965604 Deputy Inspector \$ 425,000 \$ 425,000 143511

General for BWC/OIC

5GI0 965605 Deputy Inspector \$ 520,837 \$ 521,535 143512

General for ARRA

TOTAL GSF General Services Fund \$ 1,345,837 \$ 1,346,535 143513

Group

TOTAL ALL BUDGET FUND GROUPS \$ 2,470,500 \$ 2,472,133 143514

IGO CASINO-RELATED ACTIVITIES 143515

On July 1, 2011, or as soon as possible thereafter, an amount 143516
equal to the unexpended, unencumbered balance of appropriation 143517
item 965609, Casino Investigations, at the end of fiscal year 2011 143518
is hereby reappropriated to the same appropriation item for fiscal 143519
year 2012, to be used for the performance of the Inspector 143520
General's casino-related duties. 143521

DEPUTY INSPECTOR GENERAL FOR FUNDS RECEIVED THROUGH THE 143522
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 143523

On July 1, 2011, and on January 1, 2012, or as soon as 143524
possible thereafter, the Director of Budget and Management shall 143525
transfer \$225,000 in cash, for each period, from the General 143526
Revenue Fund to the Deputy Inspector General for Funds Received 143527
through the American Recovery and Reinvestment Act of 2009 Fund 143528
(Fund 5GI0), which is created in section 121.53 of the Revised 143529
Code. 143530

On July 1, 2012, and on January 1, 2013, or as soon as 143531
possible thereafter, the Director of Budget and Management shall 143532
transfer \$225,000 in cash, for each period, from the General 143533
Revenue Fund to the Deputy Inspector General for Funds Received 143534
through the American Recovery and Reinvestment Act of 2009 Fund 143535
(Fund 5GI0). 143536

Section 307.10. INS DEPARTMENT OF INSURANCE 143537
Federal Special Revenue Fund Group 143538
3EV0 820610 Health Insurance \$ 1,000,000 \$ 1,000,000 143539
Premium Review
3EW0 820611 Health Exchange \$ 1,000,000 \$ 1,000,000 143540
Planning
3U50 820602 OSHIIP Operating \$ 2,270,726 \$ 2,270,725 143541
Grant
TOTAL FED Federal Special 143542

Revenue Fund Group	\$	4,270,726	\$	4,270,725	143543
State Special Revenue Fund Group					143544
5540 820601 Operating Expenses -	\$	190,000	\$	180,000	143545
OSHIIP					
5540 820606 Operating Expenses	\$	22,745,538	\$	22,288,550	143546
5550 820605 Examination	\$	9,065,684	\$	8,934,065	143547
TOTAL SSR State Special Revenue					143548
Fund Group	\$	32,001,222	\$	31,402,615	143549
TOTAL ALL BUDGET FUND GROUPS	\$	36,271,948	\$	35,673,340	143550

MARKET CONDUCT EXAMINATION 143551

When conducting a market conduct examination of any insurer 143552
doing business in this state, the Superintendent of Insurance may 143553
assess the costs of the examination against the insurer. The 143554
superintendent may enter into consent agreements to impose 143555
administrative assessments or fines for conduct discovered that 143556
may be violations of statutes or rules administered by the 143557
superintendent. All costs, assessments, or fines collected shall 143558
be deposited to the credit of the Department of Insurance 143559
Operating Fund (Fund 5540). 143560

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 143561

The Director of Budget and Management, at the request of the 143562
Superintendent of Insurance, may transfer funds from the 143563
Department of Insurance Operating Fund (Fund 5540), established by 143564
section 3901.021 of the Revised Code, to the Superintendent's 143565
Examination Fund (Fund 5550), established by section 3901.071 of 143566
the Revised Code, only for expenses incurred in examining domestic 143567
fraternal benefit societies as required by section 3921.28 of the 143568
Revised Code. 143569

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND 143570

Not later than the thirty-first day of July each fiscal year, 143571
the Director of Budget and Management shall transfer \$5,000,000 143572

from the Department of Insurance Operating Fund (Fund 5540) to the 143573
 General Revenue Fund. 143574

Section 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 143575

General Revenue Fund 143576

GRF 600321 Support Services 143577

State \$ 34,801,760 \$ 31,932,117 143578

Federal \$ 9,322,222 \$ 9,207,441 143579

Support Services Total \$ 44,123,982 \$ 41,139,558 143580

GRF 600410 TANF State \$ 151,386,934 \$ 151,386,934 143581

GRF 600413 Child Care \$ 84,732,730 \$ 84,732,730 143582

Match/Maintenance of
 Effort

GRF 600416 Computer Projects 143583

State \$ 67,955,340 \$ 69,263,506 143584

Federal \$ 13,105,167 \$ 12,937,222 143585

Computer Projects Total \$ 81,060,507 \$ 82,200,728 143586

GRF 600417 Medicaid Provider \$ 1,312,992 \$ 1,312,992 143587

Audits

GRF 600420 Child Support \$ 6,163,534 \$ 6,065,588 143588

Administration

GRF 600421 Office of Family \$ 3,768,929 \$ 3,757,493 143589

Stability

GRF 600423 Office of Children and \$ 5,123,406 \$ 4,978,756 143590

Families

GRF 600425 Office of Ohio Health 143591

Plans

State \$ 13,149,582 \$ 15,740,987 143592

Federal \$ 12,556,921 \$ 12,286,234 143593

Office of Ohio Health \$ 25,706,503 \$ 28,027,221 143594

Plans Total

GRF 600502 Administration - Local \$ 23,814,103 \$ 23,814,103 143595

GRF 600511	Disability Financial Assistance	\$ 26,599,666	\$ 27,108,734	143596
GRF 600521	Entitlement Administration - Local	\$ 72,200,721	\$ 72,200,721	143597
GRF 600523	Children and Families Services	\$ 53,105,323	\$ 53,105,323	143598
GRF 600525	Health Care/Medicaid			143599
	State	\$ 4,297,729,447	\$ 4,671,583,382	143600
	Federal	\$ 7,507,443,548	\$ 8,404,313,207	143601
	Health Care Total	\$11,805,172,995	\$13,075,896,589	143602
GRF 600526	Medicare Part D	\$ 275,154,963	\$ 300,140,824	143603
GRF 600528	Adoption Services			143604
	State	\$ 29,257,932	\$ 29,257,932	143605
	Federal	\$ 41,085,169	\$ 41,085,169	143606
	Adoption Services Total	\$ 70,343,101	\$ 70,343,101	143607
GRF 600533	Child, Family, and Adult Community & Protective Services	\$ 13,500,000	\$ 13,500,000	143608
GRF 600534	Adult Protective Services	\$ 366,003	\$ 366,003	143609
GRF 600535	Early Care and Education	\$ 123,596,474	\$ 123,596,474	143610
GRF 600537	Children's Hospital	\$ 6,000,000	\$ 6,000,000	143611
GRF 600540	Second Harvest Food Banks	\$ 4,000,000	\$ 4,000,000	143612
GRF 600541	Kinship Permanency Incentive Program	\$ 2,500,000	\$ 3,500,000	143613
TOTAL GRF General Revenue Fund				143614
	State	\$ 5,296,219,839	\$ 5,697,344,599	143615
	Federal	\$ 7,583,513,027	\$ 8,479,829,273	143616
	GRF Total	\$12,879,732,866	\$14,177,173,872	143617
General Services Fund Group				143618
4A80 600658	Public Assistance	\$ 34,000,000	\$ 34,000,000	143619

		Activities				
5C90	600671	Medicaid Program	\$	85,800,878	\$	82,839,266 143620
		Support				
5DL0	600639	Medicaid Revenue and	\$	89,256,974	\$	84,156,974 143621
		Collections				
5DM0	600633	Administration &	\$	20,392,173	\$	19,858,928 143622
		Operating				
5FX0	600638	Medicaid Payment	\$	5,000,000	\$	6,000,000 143623
		Withholding				
5HL0	600602	State and County	\$	3,020,000	\$	3,020,000 143624
		Shared services				
5P50	600692	Prescription Drug	\$	220,600,000	\$	242,600,000 143625
		Rebate - State				
6130	600645	Training Activities	\$	500,000	\$	500,000 143626
TOTAL GSF General Services						143627
Fund Group			\$	458,570,025	\$	472,975,168 143628
Federal Special Revenue Fund Group						143629
3270	600606	Child Welfare	\$	29,769,865	\$	29,769,866 143630
3310	600686	Federal Operating	\$	49,128,140	\$	48,203,023 143631
3840	600610	Food Assistance and	\$	180,381,394	\$	180,381,394 143632
		State Administration				
3850	600614	Refugee Services	\$	11,582,440	\$	12,564,952 143633
3950	600616	Special	\$	2,259,264	\$	2,259,264 143634
		Activities/Child and				
		Family Services				
3960	600620	Social Services Block	\$	64,999,999	\$	64,999,998 143635
		Grant				
3970	600626	Child Support	\$	255,812,837	\$	255,813,528 143636
3980	600627	Adoption Maintenance/	\$	352,183,862	\$	352,184,253 143637
		Administration				
3A20	600641	Emergency Food	\$	5,000,000	\$	5,000,000 143638
		Distribution				
3AW0	600675	Faith Based	\$	544,140	\$	544,140 143639

		Initiatives			
3D30	600648	Children's Trust Fund	\$ 2,040,524	\$ 2,040,524	143640
Federal					
3ER0	600603	Health Information Technology	\$ 411,661,286	\$ 416,395,286	143641
3F00	600623	Health Care Federal	\$ 2,637,061,505	\$ 2,720,724,869	143642
3F00	600650	Hospital Care Assurance Match	\$ 372,784,046	\$ 380,645,627	143643
3FA0	600680	Ohio Health Care Grants	\$ 9,405,000	\$ 20,000,000	143644
3G50	600655	Interagency Reimbursement	\$ 1,621,305,787	\$ 1,380,391,478	143645
3H70	600617	Child Care Federal	\$ 208,290,036	\$ 204,813,731	143646
3N00	600628	IV-E Foster Care Maintenance	\$ 133,963,142	\$ 133,963,142	143647
3S50	600622	Child Support Projects	\$ 534,050	\$ 534,050	143648
3V00	600688	Workforce Investment Act	\$ 176,496,250	\$ 172,805,562	143649
3V40	600678	Federal Unemployment Programs	\$ 188,680,096	\$ 186,723,415	143650
3V40	600679	Unemployment Compensation Review Commission - Federal	\$ 4,166,988	\$ 4,068,758	143651
3V60	600689	TANF Block Grant	\$ 727,968,260	\$ 727,968,260	143652
TOTAL FED Federal Special Revenue					143653
Fund Group			\$ 7,446,018,911	\$ 7,302,795,120	143654
State Special Revenue Fund Group					143655
1980	600647	Children's Trust Fund	\$ 5,873,637	\$ 5,873,848	143656
4A90	600607	Unemployment Compensation Administration Fund	\$ 21,924,998	\$ 21,424,998	143657
4A90	600694	Unemployment Compensation Review	\$ 2,173,167	\$ 2,117,031	143658

		Commission				
4E30	600605	Nursing Home	\$	2,878,320	\$	2,878,319 143659
		Assessments				
4E70	600604	Child and Family	\$	400,000	\$	400,000 143660
		Services Collections				
4F10	600609	Children and Family	\$	683,359	\$	683,549 143661
		Services Activities				
4K10	600621	ICF/MR Bed Assessments	\$	41,405,596	\$	44,372,874 143662
4Z10	600625	HealthCare Compliance	\$	11,551,076	\$	14,582,000 143663
5AJ0	600631	Money Follows the	\$	5,483,080	\$	4,733,080 143664
		Person				
5DB0	600637	Military Injury Grants	\$	2,000,000	\$	2,000,000 143665
5DP0	600634	Adoption Assistance	\$	500,000	\$	500,000 143666
		Loan				
5ES0	600630	Food Assistance	\$	500,000	\$	500,000 143667
5GF0	600656	Medicaid - Hospital	\$	436,000,000	\$	436,000,000 143668
5KC0	600682	Health Care Special	\$	10,000,000	\$	10,000,000 143669
		Activities				
5R20	600608	Medicaid-Nursing	\$	402,489,308	\$	407,100,746 143670
		Facilities				
5S30	600629	MR/DD Medicaid	\$	9,252,738	\$	9,147,791 143671
		Administration and				
		Oversight				
5U30	600654	Health Care Services	\$	24,400,000	\$	24,400,000 143672
		Administration				
5U60	600663	Children and Family	\$	4,000,000	\$	4,000,000 143673
		Support				
6510	600649	Hospital Care	\$	212,526,123	\$	217,008,050 143674
		Assurance Program Fund				
TOTAL	SSR	State Special Revenue				143675
Fund	Group		\$	1,194,041,402	\$	1,207,722,286 143676
Agency	Fund	Group				143677
1920	600646	Support Intercept -	\$	130,000,000	\$	130,000,000 143678

		Federal				
5830	600642	Support Intercept -	\$	16,000,000	\$	16,000,000 143679
		State				
5B60	600601	Food Assistance	\$	2,000,000	\$	2,000,000 143680
		Intercept				
TOTAL	AGY	Agency Fund Group	\$	148,000,000	\$	148,000,000 143681
		Holding Account Redistribution Fund Group				143682
R012	600643	Refunds and Audit	\$	2,200,000	\$	2,200,000 143683
		Settlements				
R013	600644	Forgery Collections	\$	10,000	\$	10,000 143684
TOTAL	090	Holding Account	\$	2,210,000	\$	2,210,000 143685
		Redistribution Fund Group				
TOTAL	ALL	BUDGET FUND GROUPS	\$	22,128,573,204	\$	23,310,876,446 143686

Section 309.20. SUPPORT SERVICES 143688

Section 309.20.10. ADMINISTRATION AND OPERATING 143689

On July 1, 2011, or as soon as possible thereafter, the 143690
 Director of Budget and Management may transfer up to \$535,300 cash 143691
 from the TANF Quality Control Reinvestments Fund (Fund 5Z90) to 143692
 the Administration and Operating Fund (Fund 5DM0). Upon completion 143693
 of the transfer, Fund 5Z90 is abolished. 143694

Of the foregoing appropriation item 600633, Administration 143695
 and Operating, the Department of Job and Family Services shall use 143696
 up to \$535,300 to pay for one-time contract expenses. 143697

Section 309.20.20. TRANSFER TO STATE AND COUNTY SHARED 143698
SERVICES FUND 143699

Within thirty days of the effective date of this act, or as 143700
 soon as possible thereafter, the Director of Budget and Management 143701
 shall transfer the unencumbered cash balance in the County 143702
 Technologies Fund (Fund 5N10) to the State and County Shared 143703

Services Fund (Fund 5HL0). The transferred cash is hereby 143704
appropriated. 143705

Section 309.20.30. AGENCY FUND GROUP 143706

The Agency Fund Group and Holding Account Redistribution Fund 143707
Group shall be used to hold revenues until the appropriate fund is 143708
determined or until the revenues are directed to the appropriate 143709
governmental agency other than the Department of Job and Family 143710
Services. If receipts credited to the Support Intercept - Federal 143711
Fund (Fund 1920), the Support Intercept - State Fund (Fund 5830), 143712
the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit 143713
Settlements Fund (Fund R012), or the Forgery Collections Fund 143714
(Fund R013) exceed the amounts appropriated from the fund, the 143715
Director of Job and Family Services may request the Director of 143716
Budget and Management to authorize expenditures from the fund in 143717
excess of the amounts appropriated. Upon the approval of the 143718
Director of Budget and Management, the additional amounts are 143719
hereby appropriated. 143720

Section 309.30. MEDICAID 143721

Section 309.30.10. HEALTH CARE/MEDICAID 143722

The foregoing appropriation item 600525, Health 143723
Care/Medicaid, shall not be limited by section 131.33 of the 143724
Revised Code. 143725

Section 309.30.15. ODJFS ADMINISTRATION AND OVERSIGHT FUND 143726

Notwithstanding the amendment by this act to section 143727
5123.0412 of the Revised Code, the ODJFS Administration and 143728
Oversight Fund shall continue to exist in the state treasury until 143729
the Department of Job and Family Services expends all of the 143730
foregoing appropriation item 600629, MR/DD Medicaid Administration 143731

and Oversight. 143732

Section 309.30.20. UNIFIED LONG TERM CARE 143733

The foregoing appropriation item 600525, Health 143734
Care/Medicaid, may be used to provide the preadmission screening 143735
and resident review (PASRR), which includes screening, 143736
assessments, and determinations made under sections 5111.204, 143737
5119.061, and 5123.021 of the Revised Code. 143738

The foregoing appropriation item 600525, Health 143739
Care/Medicaid, may be used to assess and provide long-term care 143740
consultations under section 173.42 of the Revised Code to clients 143741
regardless of Medicaid eligibility. 143742

The foregoing appropriation item 600525, Health 143743
Care/Medicaid, may be used to provide nonwaiver funded PASSPORT 143744
and assisted living services to persons who the state department 143745
has determined to be eligible to participate in the nonwaiver 143746
funded PASSPORT and assisted living programs, who applied for but 143747
have not yet been determined to be financially eligible to 143748
participate in the Medicaid waiver component of the PASSPORT Home 143749
Care Program or the Assisted Living Program by a county department 143750
of job and family services, and to persons who are not eligible 143751
for Medicaid but were enrolled in the PASSPORT Program prior to 143752
July 1, 1990. 143753

The foregoing appropriation item 600525, Health 143754
Care/Medicaid, shall be used to provide the required state match 143755
for federal Medicaid funds supporting the Medicaid waiver-funded 143756
PASSPORT Home Care Program, the Choices Program, the Assisted 143757
Living Program, and the PACE Program. 143758

The foregoing appropriation item 600525, Health 143759
Care/Medicaid, shall be used to provide the federal matching share 143760
of program costs determined by the Department of Job and Family 143761

Services to be eligible for Medicaid reimbursement for the 143762
Medicaid waiver-funded PASSPORT Home Care Program, the Choices 143763
Program, the Assisted Living Program, and the PACE Program. 143764

Of the foregoing appropriation item 600525, Health 143765
Care/Medicaid, \$27,808,676 in fiscal year 2012 and \$55,788,006 in 143766
fiscal year 2013 shall be used to provide supplemental funding to 143767
the Medicaid waiver-funded PASSPORT Home Care Program. 143768

Section 309.30.23. HATTIE LARLHAM COMMUNITY LIVING 143769

Of the foregoing appropriation item 600525, Health 143770
Care/Medicaid, \$62,500 in each fiscal year shall be awarded to 143771
Hattie Larlham Community Living. 143772

Section 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES 143773

(A) As used in this section, "charge high trim point" means a 143774
measure used to determine whether a claim for a hospital inpatient 143775
or outpatient service qualifies for a cost outlier payment under 143776
the Medicaid program. 143777

(B) For fiscal year 2012 and fiscal year 2013, the Director 143778
of Job and Family Services shall implement purchasing strategies 143779
and rate reductions for hospital and other Medicaid-covered 143780
services, as determined by the Director, that result in payment 143781
rates for those services being at least two per cent less than the 143782
respective payment rates for fiscal year 2011. In implementing the 143783
purchasing strategies and rate reductions, the Director shall do 143784
the following: 143785

(1) Notwithstanding the section of this act titled 143786
"CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND 143787
OUTPATIENT SERVICES," modernize hospital inpatient and outpatient 143788
reimbursement methodologies by doing the following: 143789

(a) Modifying the inpatient hospital capital reimbursement 143790

methodology;	143791
(b) Establishing new diagnosis-related groups in a cost-neutral manner;	143792 143793
(c) For hospital discharges that occur during the period beginning October 1, 2011, and ending January 1, 2012, modifying charge high trim points, as in effect on January 1, 2011, by a factor of 13.6%;	143794 143795 143796 143797
(d) For hospital discharges that occur during the period beginning January 1, 2012, and ending on the effective date of the first of the new diagnosis-related groups established under division (B)(1)(b) of this section, modifying charge high trim points, as in effect on October 1, 2011, by a factor of 9.72%;	143798 143799 143800 143801 143802
(e) Implementing other changes the Director considers appropriate.	143803 143804
(2) Establish selective contracting and prior authorization requirements for types of medical assistance the Director identifies.	143805 143806 143807
(C) The Director shall adopt rules under section 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.	143808 143809 143810
(D) This section does not apply to nursing facility and intermediate care facility for the mentally retarded services provided under the Medicaid program.	143811 143812 143813
Section 309.30.31. FISCAL YEAR 2012 MEDICARE COPAYMENT FOR DIALYSIS SERVICES PROVIDED TO MEDICAID RECIPIENTS	143814 143815
(A) As used in this section, "dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).	143816 143817 143818
(B) In fiscal year 2012, for dialysis services provided to a	143819

dual eligible individual, the Department of Job and Family Services shall pay under the Medicaid program an amount equal to the Medicare copayment amount that applies to the service, as that amount was paid by the Department immediately prior to the effective date of this section.

Section 309.30.32. FISCAL YEAR 2013 MEDICAID RATE FOR DIALYSIS SERVICES

Notwithstanding any conflicting provision of section 5111.021 of the Revised Code or any other conflicting provision of the Revised Code or this act, in fiscal year 2013, the Department of Job and Family Services may adjust the Medicaid rates that are paid for dialysis services by an amount sufficient to achieve aggregate savings of not more than \$9 million in state share expenditures under the Medicaid program.

Section 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE HOSPITAL INCENTIVE PAYMENT PROGRAM

(A) As used in this section:

(1) "Hospital" has the same meaning as in section 5112.40 of the Revised Code.

(2) "Hospital Assessment Fund" means the fund created under section 5112.45 of the Revised Code.

(3) "Medicaid managed care organization" means an entity under contract pursuant to section 5111.17 of the Revised Code to provide or arrange services for Medicaid recipients who are required or permitted to participate in the Medicaid care management system.

(B) The Department of Job and Family Services shall submit to the United States Secretary of Health and Human Services a

Medicaid state plan amendment to do both of the following:	143849
(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;	143850 143851 143852 143853 143854
(2) Create the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.	143855 143856
(C) Of the amounts deposited into the Hospital Assessment Fund in fiscal year 2012 and fiscal year 2013:	143857 143858
(1) Up to \$432,432,725 (state and federal) in fiscal year 2012 and up to \$415,162,388 (state and federal) in fiscal year 2013 shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;	143859 143860 143861 143862
(2) Up to \$162,000,000 (state and federal) in each fiscal year shall be used for the Medicaid Managed Care Hospital Incentive Payment Program;	143863 143864 143865
(3) Up to \$176,021,111 (state and federal) in fiscal year 2012 and up to \$195,158,394 (state and federal) in fiscal year 2013 shall be used for the program authorized by the section of this act titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES."	143866 143867 143868 143869 143870
(D)(1) If the Medicaid state plan amendment submitted under division (B)(1) of this section is approved, the Department shall implement the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program during fiscal year 2012 and fiscal year 2013. Under the Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The Department shall make the payments through amounts that are made available for the Program under division (C) of this section and	143871 143872 143873 143874 143875 143876 143877 143878 143879

any federal financial participation available for the Program. 143880

(2) The Department shall take all actions necessary to cease 143881
implementation of the Program if the United States Secretary 143882
determines that the assessment imposed under section 5112.41 of 143883
the Revised Code is an impermissible healthcare-related tax under 143884
section 1903(w) of the "Social Security Act," 105 Stat. 1793 143885
(1991), 42 U.S.C. 1396b(w), as amended. 143886

(E)(1) If the Medicaid state plan amendment submitted under 143887
division (B)(2) of this section is approved, the Department shall 143888
implement the Medicaid Managed Care Hospital Incentive Payment 143889
Program. The purpose of the Program is to increase access to 143890
hospital services for Medicaid recipients who are enrolled in 143891
Medicaid managed care organizations. 143892

Under the Program, subject to division (E)(3) of this 143893
section, funds shall be provided to Medicaid managed care 143894
organizations, which shall use the funds to increase payments to 143895
hospitals for providing services to Medicaid recipients who are 143896
enrolled in the organizations. The Department shall provide the 143897
funds through amounts that are made available for the Program 143898
under division (C) of this section and any federal financial 143899
participation available for the Program. 143900

(2) Not later than July 1, 2012, the Department shall select 143901
an actuary to conduct a study of the contracted reimbursement 143902
rates between Medicaid managed care organizations and hospitals. 143903
The actuary shall determine if a reduction in the capitation rates 143904
paid to Medicaid managed care organizations in fiscal year 2013 is 143905
appropriate as a result of the contracted reimbursement rates 143906
between the organizations and hospitals. The actuary shall notify 143907
the Department of its determination. 143908

If the actuary determines that a reduction in the capitation 143909
rates paid to Medicaid managed care organizations in fiscal year 143910

2013 will not achieve \$22 million in state savings in fiscal year 143911
2013, the state shall receive the difference between what the 143912
actuary determines the state will save and \$22 million. The 143913
Department, in consultation with the Ohio Association of Health 143914
Plans and the Ohio Hospital Association, shall establish a 143915
methodology under which the difference is paid equally by Medicaid 143916
managed care organizations and hospitals in this state. 143917

Notwithstanding anything to the contrary specified in 143918
division (E)(3)(b) or (c) of this section, the Medicaid managed 143919
care organizations and hospitals shall pay the amounts determined 143920
under the methodology, unless the Department waives the 143921
requirement to make the payments. The requirement may be waived if 143922
spending for the Medicaid program in fiscal year 2013 is less than 143923
the amount that is budgeted for that fiscal year. If payments are 143924
made, the amount received by the Department shall be deposited 143925
into the state treasury to the credit of the Health Care 143926
Compliance Fund created under section 5111.171 of the Revised 143927
Code. 143928

(3)(a) The Department shall not provide funds to Medicaid 143929
managed care organizations under the Program unless an actuary 143930
selected by the Department certifies that the Program would not 143931
violate the actuarial soundness of the capitation rates paid to 143932
Medicaid managed care organizations. 143933

(b) The Department shall not implement the Program in a 143934
manner that causes a hospital to receive less money from the 143935
Hospital Assessment Fund than the hospital would have received if 143936
the Program were not implemented. 143937

(c) The Department shall not implement the Program in a 143938
manner that causes a Medicaid managed care organization to receive 143939
a lower capitation payment rate solely because funds are made 143940
available to the organization under the Program. 143941

(d) The Department shall take all necessary actions to cease 143942
implementation of the Program if the United States Secretary 143943
determines that the assessment imposed under section 5112.41 of 143944
the Revised Code is an impermissible healthcare-related tax under 143945
section 1903(w) of the "Social Security Act," 105 Stat. 1793 143946
(1991), 42 U.S.C. 1396b(w), as amended. 143947

(F) The Director of Budget and Management may authorize 143948
additional expenditures from appropriation item 600623, Health 143949
Care Federal, appropriation item 600525, Health Care/Medicaid, and 143950
appropriation item 600656, Medicaid-Hospital, in order to 143951
implement the programs authorized by this section and to implement 143952
the section of this act titled "CONTINUATION OF MEDICAID RATES FOR 143953
HOSPITAL INPATIENT AND OUTPATIENT SERVICES." Any amounts 143954
authorized are hereby appropriated. 143955

(G) Nothing in this section reduces payments to children's 143956
hospitals authorized under the section of this act titled 143957
"CHILDREN'S HOSPITALS SUPPLEMENTAL FUNDING." 143958

Section 309.30.35. CONTINUATION OF MEDICAID RATES FOR 143959
HOSPITAL INPATIENT AND OUTPATIENT SERVICES 143960

The Director of Job and Family Services shall amend rules 143961
adopted under section 5111.02 of the Revised Code as necessary to 143962
continue, for fiscal year 2012 and fiscal year 2013, the Medicaid 143963
reimbursement rates in effect on June 30, 2011, for 143964
Medicaid-covered hospital inpatient services and hospital 143965
outpatient services that are paid under the prospective payment 143966
system established in those rules. 143967

Section 309.30.38. CHILDREN'S HOSPITALS SUPPLEMENTAL FUNDING 143968

(A) As used in this section, "children's hospital" means a 143969
children's hospital, as defined in section 3702.51 of the Revised 143970
Code, that is located in this state, primarily serves patients 143971

eighteen years of age and younger, is subject to the Medicaid 143972
prospective payment system for hospitals established in rules 143973
adopted under section 5111.02 of the Revised Code, and is excluded 143974
from Medicare prospective payment in accordance with 42 C.F.R. 143975
412.23(d). 143976

(B) For fiscal year 2012 and fiscal year 2013, the Director 143977
of Job and Family Services shall make additional Medicaid payments 143978
to children's hospitals for inpatient services to compensate 143979
children's hospitals for the high percentage of Medicaid 143980
recipients they serve. The additional payments shall be made under 143981
a program modeled after the program the Department of Job and 143982
Family Services was required to create for fiscal year 2006 and 143983
fiscal year 2007 in Section 206.66.79 of Am. Sub. H.B. 66 of the 143984
126th General Assembly. The program may be the same as the program 143985
the Director used for making the payments to children's hospitals 143986
for fiscal year 2010 and fiscal year 2011 under Section 309.30.15 143987
of Am. Sub. H.B. 1 of the 128th General Assembly. 143988

(C) All of the following shall be used to make additional 143989
Medicaid payments to children's hospitals under division (B) of 143990
this section: 143991

(1) Of the foregoing appropriation item 600537, Children's 143992
Hospital, up to \$6 million in each fiscal year plus the 143993
corresponding federal match; 143994

(2) Of the amounts deposited into the Hospital Assessment 143995
Fund created under section 5112.45 of the Revised Code, \$4.4 143996
million in fiscal year 2012, plus the corresponding federal match, 143997
and \$4 million in fiscal year 2013, plus the corresponding federal 143998
match. 143999

Section 309.30.40. MANAGED CARE PERFORMANCE PAYMENT PROGRAM 144000

At the beginning of each quarter, or as soon as possible 144001

thereafter, the Director of Job and Family Services shall certify 144002
to the Director of Budget and Management the amount withheld in 144003
accordance with section 5111.1711 of the Revised Code for purposes 144004
of the Managed Care Performance Payment Program. Upon receiving 144005
certification, the Director of Budget and Management shall 144006
transfer cash in the amount certified from the General Revenue 144007
Fund to the Managed Care Performance Payment Fund. The transferred 144008
cash is hereby appropriated. Appropriation item 600525, Health 144009
Care/Medicaid, is hereby reduced by the amount of the transfer. 144010

Section 309.30.50. COORDINATION OF CARE FOR COVERED FAMILIES 144011
AND CHILDREN PENDING MEDICAID MANAGED CARE ENROLLMENT 144012

(A) As used in this section, "Medicaid managed care" means 144013
the care management system established under section 5111.16 of 144014
the Revised Code. 144015

(B) The departments of Job and Family Services and Health 144016
shall work together on the issue of achieving efficiencies in the 144017
delivery of medical assistance provided under Medicaid to families 144018
and children. 144019

(C) As part of their work under division (B) of this section, 144020
the departments shall develop a proposal for coordinating medical 144021
assistance provided to families and children under Medicaid while 144022
they wait to be enrolled in Medicaid managed care. In developing 144023
the proposal, the departments may do the following: 144024

(1) Conduct research on the status of families and children 144025
waiting to be enrolled in Medicaid managed care, including 144026
research on the reasons for the wait and the utilization of 144027
medical assistance during the waiting period; 144028

(2) Conduct a review of ways to help families and children 144029
receive medical assistance in the most appropriate setting while 144030
they wait to be enrolled in Medicaid managed care; 144031

(3) Develop recommendations for a coordinated, cost-effective system of helping families and children waiting to be enrolled in Medicaid managed care find the medical assistance they need during the waiting period;

(4) For the purpose of reducing the waiting period for enrollment in Medicaid managed care, develop recommendations for improving the enrollment processes.

(D) As part of the work that is done under division (B) of this section, the Department of Job and Family Services may submit to the United States Secretary of Health and Human Services a request for a Medicaid state plan amendment to authorize payment for Medicaid-reimbursable targeted case management services that are provided in connection with the Help Me Grow Program and for services provided under the Program. Each quarter during fiscal year 2012 and fiscal year 2013 following approval of the Medicaid state plan amendment, the Department of Job and Family Services shall certify to the Director of Budget and Management the state and federal share of the amount the Department of Job and Family Services has expended that quarter for services under this section. On receipt of each quarterly certification to the Director of Budget and Management shall decrease appropriation from appropriation item 440459, Help Me Grow, an amount equal to the state share of the certified expenditures and increase appropriation item 600525, Health Care/Medicaid by an equal amount and adjust the Federal share accordingly. This transfer is not intended to reduce General Revenue Funds appropriated for the Help Me Grow Program, but is done solely for the purpose of drawing down the federal share of Medicaid reimbursement.

Section 309.30.53. MEDICAID MANAGED CARE EXEMPTIONS

(A) Notwithstanding section 5111.16 of the Revised Code, as amended by this act, the Department of Job and Family Services

shall not include in the care management system established under 144063
that section in fiscal year 2012 or fiscal year 2013 any 144064
individual receiving services through the program for medically 144065
handicapped children established under section 3701.023 of the 144066
Revised Code who has one or more of the following conditions: 144067

(1) Cystic fibrosis; 144068

(2) Hemophilia; 144069

(3) Cancer; 144070

(4) Diabetes; 144071

(5) Cranio-facial anomalies; 144072

(6) Any other condition defined under division (B) of this 144073
section by the Director of Health as life-threatening. 144074

(B) For purposes of this section, the Director of Health 144075
shall adopt rules under Chapter 119. of the Revised Code defining 144076
a life-threatening condition. The Director shall include in the 144077
definition any medical condition that requires maintenance drugs 144078
or interventions that, if the drugs or interventions are absent, 144079
would result in devastating, life-threatening health outcomes. 144080

Section 309.30.60. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT 144081
SYSTEM FOR NURSING FACILITIES 144082

(A) As used in this section: 144083

"Franchise permit fee," "Medicaid days," "nursing facility," 144084
and "provider" have the same meanings as in section 5111.20 of the 144085
Revised Code. 144086

"Nursing facility services" means nursing facility services 144087
covered by the Medicaid program that a nursing facility provides 144088
to a resident of the nursing facility who is a Medicaid recipient 144089
eligible for Medicaid-covered nursing facility services. 144090

(B) Except as otherwise provided by this section, the 144091

provider of a nursing facility that has a valid Medicaid provider 144092
agreement on June 30, 2011, and a valid Medicaid provider 144093
agreement during fiscal year 2012 shall be paid, for nursing 144094
facility services the nursing facility provides during fiscal year 144095
2012, the rate calculated for the nursing facility under sections 144096
5111.20 to 5111.331 of the Revised Code with the following 144097
adjustments: 144098

(1) The cost per case mix-unit calculated under section 144099
5111.231 of the Revised Code, the rate for ancillary and support 144100
costs calculated under section 5111.24 of the Revised Code, the 144101
rate for tax costs calculated under section 5111.242 of the 144102
Revised Code, and the rate for capital costs calculated under 144103
section 5111.25 of the Revised Code shall each be increased by 144104
five and eight hundredths per cent; 144105

(2) The mean payment used in the calculation of the quality 144106
incentive payment made under section 5111.244 of the Revised Code 144107
shall be, weighted by Medicaid days, fourteen dollars and 144108
forty-one cents per Medicaid day. 144109

(C) If the franchise permit fee must be reduced or eliminated 144110
to comply with federal law, the Department of Job and Family 144111
Services shall reduce the amount it pays providers of nursing 144112
facility services under this section as necessary to reflect the 144113
loss to the state of the revenue and federal financial 144114
participation generated from the franchise permit fee. 144115

(D) The Department of Job and Family Services shall follow 144116
this section in determining the rate to be paid to the provider of 144117
a nursing facility that has a valid Medicaid provider agreement on 144118
June 30, 2011, and a valid Medicaid provider agreement during 144119
fiscal year 2012 notwithstanding anything to the contrary in 144120
sections 5111.20 to 5111.331 of the Revised Code. 144121

Section 309.30.70. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT 144122

SYSTEM FOR NURSING FACILITIES	144123
(A) As used in this section:	144124
"Franchise permit fee," "Medicaid days," "nursing facility,"	144125
and "provider" have the same meanings as in section 5111.20 of the	144126
Revised Code.	144127
"Nursing facility services" means nursing facility services	144128
covered by the Medicaid program that a nursing facility provides	144129
to a resident of the nursing facility who is a Medicaid recipient	144130
eligible for Medicaid-covered nursing facility services.	144131
(B) Except as otherwise provided by this section, the	144132
provider of a nursing facility that has a valid Medicaid provider	144133
agreement on June 30, 2012, and a valid Medicaid provider	144134
agreement during fiscal year 2013 shall be paid, for nursing	144135
facility services the nursing facility provides during fiscal year	144136
2013, the rate calculated for the nursing facility under sections	144137
5111.20 to 5111.331 of the Revised Code with the following	144138
adjustments:	144139
(1) The cost per case mix-unit calculated under section	144140
5111.231 of the Revised Code, the rate for ancillary and support	144141
costs calculated under section 5111.24 of the Revised Code, the	144142
rate for tax costs calculated under section 5111.242 of the	144143
Revised Code, and the rate for capital costs calculated under	144144
section 5111.25 of the Revised Code shall each be increased by	144145
five and eight hundredths per cent;	144146
(2) Unless, pursuant to division (D) of section 5111.244 of	144147
the Revised Code, no quality incentive payment is to be made for	144148
fiscal year 2013, the mean payment used in the calculation of the	144149
quality incentive payment made under section 5111.244 of the	144150
Revised Code shall be, weighted by Medicaid days, fourteen dollars	144151
and sixty-three cents per Medicaid day.	144152

(C) If the franchise permit fee must be reduced or eliminated 144153
to comply with federal law, the Department of Job and Family 144154
Services shall reduce the amount it pays providers of nursing 144155
facility services under this section as necessary to reflect the 144156
loss to the state of the revenue and federal financial 144157
participation generated from the franchise permit fee. 144158

(D) The Department of Job and Family Services shall follow 144159
this section in determining the rate to be paid to the provider of 144160
a nursing facility that has a valid Medicaid provider agreement on 144161
June 30, 2012, and a valid Medicaid provider agreement during 144162
fiscal year 2013 notwithstanding anything to the contrary in 144163
sections 5111.20 to 5111.331 of the Revised Code. 144164

Section 309.30.73. NURSING FACILITY CAPACITY COUNCIL 144165

(A) As used in this section, "nursing facility" has the same 144166
meaning as in section 5111.20 of the Revised Code. 144167

(B) There is hereby created the Nursing Facility Capacity 144168
Council. The Council shall consist of the following members, each 144169
of whom shall be appointed not later than sixty days after the 144170
effective date of this section: 144171

(1) One or more members of the Ohio Health Care Association, 144172
appointed by the executive director or chief administrative 144173
officer of the Association; 144174

(2) One or more members of the Ohio Academy of Nursing Homes, 144175
appointed by the executive director or chief administrative 144176
officer of the Academy; 144177

(3) One or more members of LeadingAge Ohio, appointed by the 144178
executive director or chief administrative officer of that 144179
organization; 144180

(4) One or more employees of the Department of Job and Family 144181
Services, appointed by the Director of Job and Family Services; 144182

(5) One or more employees of the Department of Aging, 144183
appointed by the Director of Aging; 144184

(6) One or more employees of the Department of Health, 144185
appointed by the Director of Health; 144186

(7) One or more employees of the Governor's Office of Health 144187
Transformation, appointed by the director of the Office. 144188

Each member of the Council shall serve at the pleasure of the 144189
member's appointing authority. A member shall serve without 144190
compensation, except to the extent that serving on the Council is 144191
considered part of the member's regular duties of employment. 144192

(C)(1) The Council shall examine the current and future 144193
capacity of nursing facilities in Ohio and the configuration of 144194
that capacity. 144195

(2) If excess capacity in nursing facilities is identified 144196
pursuant to the examination conducted under division (C)(1) of 144197
this section, the Council shall determine the potential effects of 144198
the excess capacity and recommend actions the state or private 144199
industry may take to address the excess capacity. For each action 144200
recommended, the Council shall consider and explain the impact of 144201
the action on all of the following: 144202

(a) The excess capacity; 144203

(b) The nursing facilities that would be affected by the 144204
action; 144205

(c) State revenues and expenditures. 144206

(D) Not later than June 30, 2012, the Council shall submit a 144207
written report of its findings and recommendations to the Governor 144208
and, in accordance with section 101.68 of the Revised Code, the 144209
General Assembly. On submission of the report, the Council shall 144210
cease to exist. 144211

Section 309.30.80. STUDY OF ICF/MR ISSUES	144212
(A) As used in this section:	144213
"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.	144214 144215
"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.	144216 144217
"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.	144218 144219 144220
(B) The Departments of Job and Family Services and Developmental Disabilities shall study issues regarding Medicaid reimbursement for ICF/MR services. In conducting the study, the Departments shall examine the following:	144221 144222 144223 144224
(1) Revising the Individual Assessment Form Answer Sheet in a manner that provides a more accurate assessment of the acuity and care needs of individuals who need ICF/MR services, especially the acuity and care needs of such individuals who have intensive behavioral or medical needs;	144225 144226 144227 144228 144229
(2) Revising the Medicaid reimbursement formula for ICF/MR services to accomplish the following:	144230 144231
(a) Ensure that reimbursement for capital costs is adequate for maintaining the capital assets of ICFs/MR in a manner that promotes the well-being of the residents;	144232 144233 144234
(b) Provide capital incentives for reducing the capacity of ICFs/MR as necessary to achieve goals regarding the optimal capacity of ICFs/MR;	144235 144236 144237
(c) Ensure that wages paid individuals who provide direct care services to ICF/MR residents are sufficient for ICFs/MR to meet staffing and quality requirements;	144238 144239 144240

(d) Provide incentives for high quality services;	144241
(e) Achieve other goals developed for the purpose of improving the appropriateness and sufficiency of Medicaid reimbursements for ICF/MR services.	144242 144243 144244
(C) The Departments shall examine the issue of revising the Individual Assessment Form Answer Sheet before examining the issue of revising the Medicaid reimbursement formula for ICF/MR services. Not later than October 1, 2011, the Departments shall prepare a report of the study conducted under this section and submit the report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly.	144245 144246 144247 144248 144249 144250 144251
(D) At the same time that the Departments conduct the study under this section, they shall work with the Governor's Office of Health Transformation and persons interested in the issue of ICF/MR services to develop recommendations regarding the following:	144252 144253 144254 144255 144256
(1) Goals regarding the ratio of home and community-based services and ICF/MR services provided under the Medicaid program that take into account goals regarding the optimal capacity of ICFs/MR;	144257 144258 144259 144260
(2) The roles and responsibilities of both of the following:	144261
(a) ICFs/MR owned and operated by the Department of Developmental Disabilities;	144262 144263
(b) Providers of home and community-based services.	144264
(3) Simplifying and eliminating duplicate regulations regarding ICFs/MR in a manner that lowers the cost of ICF/MR services.	144265 144266 144267
Section 309.30.90. FISCAL YEAR 2012 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR	144268 144269

(A) As used in this section:	144270
(1) "Capped per diem rate" means the per diem rate calculated for an ICF/MR under division (D) of this section.	144271 144272
(2) "Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.	144273 144274 144275
(3) "Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.	144276 144277
(4) "ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.	144278 144279 144280
(5) "ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.	144281 144282 144283
(6) "Imputed indirect care ceiling percentage" means the percentage above the median desk-reviewed, actual, allowable, per diem indirect care cost that is imputed for ICFs/MR with eight or fewer beds in a manner that causes the following percentages to be the same:	144284 144285 144286 144287 144288
(a) The percentage of ICFs/MR with eight or fewer beds that have desk-reviewed, actual, allowable, per diem indirect care costs from calendar year 2010, adjusted for inflation in accordance with division (C)(5) of this section, that are at or below the applicable per diem indirect care costs ceiling;	144289 144290 144291 144292 144293
(b) The percentage of ICFs/MR with more than eight beds that have desk-reviewed, actual, allowable, per diem indirect care costs from calendar year 2010, adjusted for inflation in accordance with division (C)(5) of this section, that are at or below the applicable per diem indirect care costs ceiling.	144294 144295 144296 144297 144298
(7) "Medicaid days" means all days during which a resident	144299

who is a Medicaid recipient occupies a bed in an ICF/MR that is 144300
included in the ICF/MR's Medicaid-certified capacity. Therapeutic 144301
or hospital leave days for which payment is made under section 144302
5111.33 of the Revised Code are considered Medicaid days 144303
proportionate to the percentage of the ICF/MR's per resident per 144304
day rate paid for those days. 144305

(8) "Modified per diem rate" means the per diem rate 144306
calculated for an ICF/MR under division (C) of this section. 144307

(9) "Unmodified per diem rate" means the per diem rate 144308
calculated for an ICF/MR under sections 5111.20 to 5111.331 of the 144309
Revised Code. 144310

(B) This section applies to each provider of an ICF/MR to 144311
which either of the following applies: 144312

(1) The provider has a valid Medicaid provider agreement for 144313
the ICF/MR on June 30, 2011, and a valid Medicaid provider 144314
agreement for the ICF/MR during fiscal year 2012. 144315

(2) The ICF/MR undergoes a change of operator effective July 144316
1, 2011, the exiting operator has a valid Medicaid provider 144317
agreement for the ICF/MR on June 30, 2011, and the entering 144318
operator has a valid Medicaid provider agreement for the ICF/MR 144319
during fiscal year 2012. 144320

(C) An ICF/MR's total modified per diem rate for fiscal year 144321
2012 shall be the ICF/MR's total unmodified per diem rate for that 144322
fiscal year with the following modifications: 144323

(1) In place of the inflation adjustment otherwise made under 144324
section 5111.235 of the Revised Code, the ICF/MR's desk-reviewed, 144325
actual, allowable, per diem other protected costs, excluding the 144326
franchise permit fee, from calendar year 2010 shall be multiplied 144327
by 1.0164. 144328

(2) The ICF/MR's maximum costs per case-mix unit shall be the 144329

following: 144330

(a) In the case of an ICF/MR with more than eight beds, the 144331
maximum established under division (B)(2)(a) of section 5111.23 of 144332
the Revised Code for the ICF/MR's peer group divided by 1.1123; 144333

(b) In the case of an ICF/MR with eight or fewer beds, the 144334
maximum established under division (B)(2)(b) of section 5111.23 of 144335
the Revised Code for the ICF/MR's peer group divided by 1.094. 144336

(3) In place of the inflation adjustment otherwise calculated 144337
under division (B)(3) of section 5111.23 of the Revised Code for 144338
the purpose of division (C)(2) of that section, an inflation 144339
adjustment of 1.0164 shall be used. 144340

(4) The maximum rate for indirect care costs for the ICF/MR's 144341
peer group shall be the following: 144342

(a) In the case of an ICF/MR with more than eight beds and 144343
subject to division (C)(5) of this section, the maximum 144344
established for the peer group under division (B)(1)(a) of section 144345
5111.241 of the Revised Code divided by 1.0843; 144346

(b) In the case of an ICF/MR with eight or fewer beds and 144347
subject to division (C)(5) of this section, the maximum 144348
established for the peer group under division (B)(2)(a) of section 144349
5111.241 of the Revised Code with the following adjustments: 144350

(i) In place of the 10.3 per cent that is otherwise used in 144351
making the calculation under division (B)(2)(a) of section 144352
5111.241 of the Revised Code for the ICF/MR's peer group, the 144353
imputed indirect care ceiling percentage shall be used. 144354

(ii) The amount calculated under division (B)(2)(a) of 144355
section 5111.241 of the Revised Code for the peer group, as 144356
adjusted under division (C)(4)(b)(i) of this section, shall be 144357
divided by 1.07. 144358

(5) In place of the inflation adjustment otherwise calculated 144359

under division (C)(1) of section 5111.241 of the Revised Code for 144360
the purposes of divisions (A)(1), (B)(1)(a), and (B)(2)(a) of that 144361
section, an inflation adjustment of 1.0164 shall be used. 144362

(6) In place of the efficiency incentive otherwise calculated 144363
under division (A)(2) of section 5111.241 of the Revised Code, the 144364
ICF/MR's efficiency incentive for indirect care costs shall be the 144365
following as reduced by 25 per cent: 144366

(a) In the case of an ICF/MR with more than eight beds, 7.1 144367
per cent of the maximum rate established for the ICF/MR's peer 144368
group under division (B)(1)(a) of section 5111.241 of the Revised 144369
Code, as adjusted under divisions (C)(4)(a) and (5) of this 144370
section; 144371

(b) In the case of an ICF/MR with eight or fewer beds, 7 per 144372
cent of the maximum rate established for the ICF/MR's peer group 144373
under division (B)(2)(a) of section 5111.241 of the Revised Code, 144374
as adjusted under divisions (C)(4)(b) and (5) of this section. 144375

(7) The ICF/MR's efficiency incentive for capital costs, as 144376
determined under division (B) of section 5111.251 of the Revised 144377
Code, shall be reduced by 50 per cent. 144378

(D) An ICF/MR's total capped per diem rate for fiscal year 144379
2012 shall be the ICF/MR's total unmodified per diem rate for that 144380
fiscal year reduced by the percentage by which the mean total 144381
unmodified per diem rates for all ICFs/MR in this state for fiscal 144382
year 2012, weighted by May 2011 Medicaid days and calculated as of 144383
July 1, 2011, exceeds \$279.81. 144384

(E) Except as otherwise provided by this section, the 144385
provider of an ICF/MR to which this section applies shall be paid, 144386
for ICF/MR services the ICF/MR provides during fiscal year 2012, a 144387
total per diem rate determined as follows: 144388

(1) Add the ICF/MR's total modified per diem rate to the 144389
ICF/MR's total capped per diem rate; 144390

(2) Divide the amount determined under division (E)(1) of this section by two. 144391
144392

(F) If the mean total per diem rate for all ICFs/MR to which this section applies, weighted by May 2011 Medicaid days and determined under division (E) of this section as of July 1, 2011, is other than \$279.81, the Department of Job and Family Services shall adjust, for fiscal year 2012, the total per diem rate for each ICF/MR to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than \$279.81. 144393
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(G) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee. 144401
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(H) The Department of Job and Family Services shall follow this section in determining the rate to be paid providers of ICF/MR services subject to this section notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code. 144408
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Section 309.33.10. FISCAL YEAR 2013 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 144413
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(A) As used in this section: 144415

(1) "Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code. 144416
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(2) "Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code. 144419
144420

(3) "ICF/MR" means an intermediate care facility for the	144421
mentally retarded as defined in section 5111.20 of the Revised	144422
Code.	144423
(4) "ICF/MR services" means services covered by the Medicaid	144424
program that an ICF/MR provides to a Medicaid recipient eligible	144425
for the services.	144426
(5) "Medicaid days" means all days during which a resident	144427
who is a Medicaid recipient occupies a bed in an ICF/MR that is	144428
included in the ICF/MR's Medicaid-certified capacity. Therapeutic	144429
or hospital leave days for which payment is made under section	144430
5111.33 of the Revised Code are considered Medicaid days	144431
proportionate to the percentage of the ICF/MR's per resident per	144432
day rate paid for those days.	144433
(6) "Modified per diem rate" means the per diem rate	144434
calculated for an ICF/MR under division (C) of this section.	144435
(7) "Overall CPI inflation adjustment" means the amount	144436
determined as follows:	144437
(a) Using the United States Bureau of Labor Statistics'	144438
Consumer Price Index inflation calculator available at	144439
http://www.bls.gov/data/inflation_calculator.htm , determine the	144440
buying power that \$100 in calendar year 2010 has in calendar year	144441
2011;	144442
(b) Divide the amount determined under division (A)(7)(a) of	144443
this section by one hundred.	144444
(8) "Unmodified per diem rate" means the per diem rate	144445
calculated for an ICF/MR under sections 5111.20 to 5111.331 of the	144446
Revised Code.	144447
(B) This section applies to each provider of an ICF/MR to	144448
which either of the following applies:	144449
(1) The provider has a valid Medicaid provider agreement for	144450

the ICF/MR on June 30, 2012, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2013. 144451
144452

(2) The ICF/MR undergoes a change of operator effective July 1, 2012, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2012, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2013. 144453
144454
144455
144456
144457

(C) An ICF/MR's total modified per diem rate for fiscal year 2013 shall be the ICF/MR's total unmodified per diem rate for that fiscal year with the following modifications: 144458
144459
144460

(1) In place of the inflation adjustment otherwise made under section 5111.235 of the Revised Code, the ICF/MR's desk-reviewed, actual, allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2011 shall be multiplied by the overall CPI inflation adjustment. 144461
144462
144463
144464
144465

(2) The ICF/MR's maximum costs per case-mix unit shall be the following: 144466
144467

(a) In the case of an ICF/MR with more than eight beds, the maximum established under division (B)(2)(a) of section 5111.23 of the Revised Code for the ICF/MR's peer group divided by 1.1123; 144468
144469
144470

(b) In the case of an ICF/MR with eight or fewer beds, the maximum established under division (B)(2)(b) of section 5111.23 of the Revised Code for the ICF/MR's peer group divided by 1.094. 144471
144472
144473

(3) In place of the inflation adjustment otherwise calculated under division (B)(3) of section 5111.23 of the Revised Code for the purpose of division (C)(2) of that section, the overall CPI inflation adjustment shall be used. 144474
144475
144476
144477

(4) The maximum rate for indirect care costs for the ICF/MR's peer group shall be the following: 144478
144479

(a) In the case of an ICF/MR with more than eight beds and 144480

subject to division (C)(5) of this section, the maximum 144481
established for the peer group under division (B)(1)(b) of section 144482
5111.241 of the Revised Code divided by 1.0843; 144483

(b) In the case of an ICF/MR with eight or fewer beds and 144484
subject to division (C)(5) of this section, the maximum 144485
established for the peer group under division (B)(2)(b) of section 144486
5111.241 of the Revised Code divided by 1.07. 144487

(5) In place of the inflation adjustment otherwise calculated 144488
under divisions (C)(1) and (2) of section 5111.241 of the Revised 144489
Code for the purposes of divisions (A)(1), (B)(1)(b), and 144490
(B)(2)(b) of that section, the overall CPI inflation adjustment 144491
shall be used. 144492

(6) In place of the efficiency incentive otherwise calculated 144493
under division (A)(2) of section 5111.241 of the Revised Code, the 144494
ICF/MR's efficiency incentive for indirect care costs shall be the 144495
same as its efficiency incentive for indirect care costs for 144496
fiscal year 2012 as determined under division (C)(6) of the 144497
section of this act titled "Fiscal Year 2012 Medicaid 144498
Reimbursement System for ICFs/MR." 144499

(7) The ICF/MR's efficiency incentive for capital costs, as 144500
determined under division (B) of section 5111.251 of the Revised 144501
Code, shall be reduced by 50 per cent. 144502

(D) Except as otherwise provided by this section, the 144503
provider of an ICF/MR to which this section applies shall be paid, 144504
for ICF/MR services the ICF/MR provides during fiscal year 2013, 144505
the ICF/MR's total modified per diem rate. 144506

(E) If the mean total modified per diem rate for all ICFs/MR 144507
to which this section applies, weighted by May 2012 Medicaid days 144508
and determined under division (C) of this section as of July 1, 144509
2012, is other than \$280.14, the Department of Job and Family 144510
Services shall adjust, for fiscal year 2013, the modified per diem 144511

rate for each ICF/MR to which this section applies by a percentage 144512
that is equal to the percentage by which the mean total modified 144513
per diem rate is greater or less than \$280.14. 144514

(F) If the United States Centers for Medicare and Medicaid 144515
Services requires that the franchise permit fee be reduced or 144516
eliminated, the Department of Job and Family Services shall reduce 144517
the amount it pays providers of ICF/MR services under this section 144518
as necessary to reflect the loss to the state of the revenue and 144519
federal financial participation generated from the franchise 144520
permit fee. 144521

(G) The Department of Job and Family Services shall follow 144522
this section in determining the rate to be paid providers of 144523
ICF/MR services subject to this section notwithstanding anything 144524
to the contrary in sections 5111.20 to 5111.331 of the Revised 144525
Code. 144526

Section 309.33.20. ICF/MR AND WAIVER SERVICES TRANSFERRED TO 144527
DEPARTMENT OF DEVELOPMENTAL DISABILITIES 144528

The Director of Budget and Management shall establish line 144529
items for use by the Department of Developmental Disabilities for 144530
purposes regarding the Department's assumption of powers and 144531
duties under section 5111.226 of the Revised Code regarding the 144532
Medicaid program's coverage of ICF/MR services and, under section 144533
5111.871 of the Revised Code, the Medicaid waiver component known 144534
as the Transitions Developmental Disabilities Waiver. The 144535
Department of Developmental Disabilities shall certify to the 144536
Director of Budget and Management and the Director of Job and 144537
Family Services the appropriation amounts, in fiscal year 2012 and 144538
fiscal year 2013, necessary for the Department of Developmental 144539
Disabilities to fulfill its obligations regarding the new powers 144540
and duties without duplicating administration or services that 144541
remain with the Department of Job and Family Services. The 144542

Department of Job and Family Services shall certify to the 144543
Director of Budget and Management that there is an equal reduction 144544
in the Department of Job and Family Services' administration and 144545
services as is being certified by the Department of Developmental 144546
Disabilities. 144547

Once all certifications required under this section have been 144548
submitted and approved by the Director of Budget and Management, 144549
the appropriation items established under this section are hereby 144550
appropriated in the amounts approved by the Director of Budget and 144551
Management. The appropriations to the Department of Developmental 144552
Disabilities in each fiscal year shall not exceed the aggregate 144553
amount of expenditures that the Department of Job and Family 144554
Services made in fiscal year 2011 for ICF/MR services, services 144555
provided under the Transitions Developmental Disabilities Waiver, 144556
and related administrative costs. Appropriation item 600525, 144557
Health Care/Medicaid, is hereby reduced by the corresponding state 144558
and federal share of the amounts appropriated under this section 144559
to the Department of Developmental Disabilities in each fiscal 144560
year. 144561

Section 309.33.30. ADMINISTRATIVE ISSUES RELATED TO 144562
TERMINATION OF MEDICAID WAIVER PROGRAMS 144563

(A) As used in this section, "ODJFS or ODA Medicaid waiver 144564
component" means the following: 144565

(1) The Medicaid waiver component of the PASSPORT program 144566
created under section 173.40 of the Revised Code; 144567

(2) The Choices program created under section 173.403 of the 144568
Revised Code; 144569

(3) The Ohio Home Care program created under section 5111.861 144570
of the Revised Code; 144571

(4) The Ohio Transitions II Aging Carve-Out program created 144572

under section 5111.863 of the Revised Code; 144573

(5) The Medicaid waiver component of the Assisted Living 144574
program created under section 5111.89 of the Revised Code. 144575

(B) If an ODJFS or ODA Medicaid waiver component is 144576
terminated under section 173.40, 173.403, 5111.861, 5111.863, or 144577
5111.89 of the Revised Code, all of the following apply: 144578

(1) All applicable statutes, and all applicable rules, 144579
standards, guidelines, or orders issued by the Director or 144580
Department of Job and Family Services or Director or Department of 144581
Aging before the component is terminated, shall remain in full 144582
force and effect on and after that date, but solely for purposes 144583
of concluding the component's operations, including fulfilling the 144584
Departments' legal obligations for claims arising from the 144585
component relating to eligibility determinations, covered medical 144586
assistance provided to eligible persons, and recovering erroneous 144587
overpayments. 144588

(2) Notwithstanding the termination of the component, the 144589
right of subrogation for the cost of medical assistance given 144590
under section 5101.58 of the Revised Code to the Department of Job 144591
and Family Services and an assignment of the right to medical 144592
assistance given under section 5101.59 of the Revised Code to the 144593
Department continue to apply with respect to the component and 144594
remain in force to the full extent provided under those sections. 144595

(3) The Departments of Job and Family Services and Aging may 144596
use appropriated funds to satisfy any claims or contingent claims 144597
for medical assistance provided under the component before the 144598
component's termination. 144599

(4) Neither department has liability under the component to 144600
reimburse any provider or other person for claims for medical 144601
assistance rendered under the component after it is terminated. 144602

(C) The Directors of Job and Family Services and Aging may 144603

adopt rules in accordance with Chapter 119. of the Revised Code to 144604
implement this section. 144605

Section 309.33.40. BEACON QUALITY IMPROVEMENT INITIATIVES 144606

Building on the quality improvement work of the Best Evidence 144607
for Advancing Child Health in Ohio Now (BEACON) Council, the 144608
Departments of Health, Mental Health, and Job and Family Services, 144609
in conjunction with the Governor's Office of Health 144610
Transformation, may seek assistance from, and work with, the 144611
BEACON Council and hospitals and other provider groups to identify 144612
specific targets and initiatives to reduce the cost, and improve 144613
the quality, of medical assistance provided under the Medicaid 144614
program to children. At a minimum, the targets and initiatives 144615
shall focus on reducing all of the following: 144616

- (A) Avoidable hospitalizations; 144617
- (B) Inappropriate emergency room utilization; 144618
- (C) Use of multiple medications when not medically indicated; 144619
- (D) The state's rate of premature births; 144620
- (E) The state's rate of elective, preterm births. 144621

If the Departments of Health, Mental Health, and Job and 144622
Family Services identify initiatives under this section, they 144623
shall make the initiatives available on their internet web sites. 144624
The Departments shall also make a list of hospitals and other 144625
provider groups involved in the initiatives available on their 144626
internet web sites. 144627

Section 309.33.50. EXPANSION AND EVALUATION OF PACE PROGRAM 144628

(A) In order to effectively administer and manage growth 144629
within the PACE Program, the Director of Aging, in consultation 144630
with the Director of Job and Family Services, may expand the PACE 144631
Program to regions of the state beyond those currently served by 144632

the PACE Program if all of the following apply: 144633

(1) Funding is available for the expansion. 144634

(2) The Directors of Aging and Job and Family Services 144635
mutually determine, taking into consideration the results of the 144636
evaluation conducted under division (B) of this section, that the 144637
PACE Program is a cost effective alternative to nursing home care. 144638

(3) The United States Centers for Medicare and Medicaid 144639
Services agrees to share with the state any savings to the 144640
Medicare program resulting from an expansion of the PACE Program. 144641

(B) The Director of Aging shall contract with Miami 144642
University's Scripps Gerontology Center for an evaluation of the 144643
PACE program. 144644

(C) If the PACE Program is expanded, the Director of Aging 144645
may not decrease the number of individuals in Cuyahoga and 144646
Hamilton counties and parts of Butler, Clermont, and Warren 144647
counties who are participants in the PACE Program below the number 144648
of individuals in those counties and parts of counties who were 144649
participants in the PACE Program on July 1, 2011. 144650

Section 309.33.60. REPEAL OF THE CHILDREN'S BUY-IN PROGRAM 144651

(A) Notwithstanding sections 5101.5211 to 5101.5216 of the 144652
Revised Code and all references in the Revised Code to those 144653
sections or the Children's Buy-In Program, no person may enroll in 144654
the Program on or after the effective date of this section. 144655

Notwithstanding this act's repeal on October 1, 2011, of the 144656
statutes under which the Program is operated, persons enrolled in 144657
the Program immediately prior to that date may continue to receive 144658
services under the Program, as if those statutes were not 144659
repealed. Such persons may receive the services through December 144660
31, 2011, as long as they remain eligible for the Program. 144661

(B) Commencing on the effective date of this section, the 144662

Director of Job and Family Services shall take steps as necessary 144663
to transition persons enrolled in the Program to other health 144664
coverage options and otherwise conclude Program operations. 144665

All Program-related rules, standards, guidelines, or orders 144666
issued by the Director or Department of Job and Family Services 144667
prior to October 1, 2011, shall remain in full force and effect on 144668
and after that date, but solely for purposes of concluding the 144669
Program's operations. Such purposes include permitting eligible 144670
persons to receive services under the Program through December 31, 144671
2011, as authorized by this section, and fulfilling the 144672
Department's legal obligations for claims arising from the Program 144673
relating to eligibility determinations, covered medical services 144674
rendered to eligible persons, and recovering erroneous 144675
overpayments. 144676

(C) Notwithstanding this act's repeal of the statutes 144677
authorizing the Program, the right of subrogation for the cost of 144678
medical services and care given under section 5101.58 of the 144679
Revised Code to the Department and an assignment of the right to 144680
medical support given under section 5101.59 of the Revised Code to 144681
the Department continue to apply with respect to the Program and 144682
remain in force to the full extent provided under those sections. 144683

(D) The Department may use appropriated funds to satisfy any 144684
claims or contingent claims for services rendered to Program 144685
participants prior to October 1, 2011, and to eligible persons who 144686
receive services under the Program through December 31, 2011, as 144687
authorized by this section. The Department has no liability under 144688
the Program to reimburse any provider or other person for claims 144689
for services rendered on or after January 1, 2012. 144690

(E) The Department may adopt rules in accordance with section 144691
111.15 of the Revised Code to implement this section. 144692

Section 309.33.70. CONTINUATION OF DISPENSING FEE FOR 144693

NONCOMPOUNDED DRUGS 144694

The Medicaid dispensing fee for each noncompounded drug 144695
covered by the Medicaid program shall be \$1.80 for the period 144696
beginning July 1, 2011, and ending on the effective date of a 144697
rule, or an amendment to a rule, changing the amount of the fee 144698
that the Director of Job and Family Services adopts or amends 144699
under section 5111.02 of the Revised Code. 144700

Section 309.33.80. MONEY FOLLOWS THE PERSON ENHANCED 144701
REIMBURSEMENT FUND 144702

The Money Follows the Person Enhanced Reimbursement Fund, 144703
created by Section 751.20 of Am. Sub. H.B. 562 of the 127th 144704
General Assembly, shall continue to exist in the state treasury 144705
for fiscal year 2012 and fiscal year 2013. The federal payments 144706
made to the state under subsection (e) of section 6071 of the 144707
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 144708
shall be deposited into the fund. The Department of Job and Family 144709
Services shall continue to use money deposited into the fund for 144710
system reform activities related to the Money Follows the Person 144711
demonstration project. 144712

Section 309.33.90. MEDICARE PART D 144713

The foregoing appropriation item 600526, Medicare Part D, may 144714
be used by the Department of Job and Family Services for the 144715
implementation and operation of the Medicare Part D requirements 144716
contained in the "Medicare Prescription Drug, Improvement, and 144717
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 144718
the request of the Department of Job and Family Services, the 144719
Director of Budget and Management may transfer the state share of 144720
appropriations between appropriation item 600525, Health 144721
Care/Medicaid, or appropriation item 600526, Medicare Part D. If 144722
the state share of appropriation item 600525, Health 144723

Care/Medicaid, is adjusted, the Director of Budget and Management 144724
shall adjust the federal share accordingly. The Department of Job 144725
and Family Services shall provide notification to the Controlling 144726
Board of any transfers at the next scheduled Controlling Board 144727
meeting. 144728

Section 309.35.10. REBALANCING LONG-TERM CARE 144729

(A) As used in this section: 144730

"Balancing Incentive Payments Program" means the program 144731
established under section 10202 of the Patient Protection and 144732
Affordable Care Act. 144733

"Long-term services and supports" has the same meaning as in 144734
section 10202(f)(1) of the Patient Protection and Affordable Care 144735
Act. 144736

"Non-institutionally-based long-term services and supports" 144737
has the same meaning as in section 10202(f)(1)(B) of the Patient 144738
Protection and Affordable Care Act. 144739

"Patient Protection and Affordable Care Act" means Public Law 144740
111-148. 144741

(B) The Departments of Job and Family Services, Aging, and 144742
Developmental Disabilities shall continue efforts to achieve a 144743
sustainable and balanced delivery system for long-term services 144744
and supports. In so doing, the Departments shall strive to realize 144745
the following goals by June 30, 2013: 144746

(1) Having at least fifty per cent of Medicaid recipients who 144747
are sixty years of age or older and need long-term services and 144748
supports utilize non-institutionally-based long-term services and 144749
supports; 144750

(2) Having at least sixty per cent of Medicaid recipients who 144751
are less than sixty years of age and have cognitive or physical 144752
disabilities for which long-term services and supports are needed 144753

utilize non-institutionally-based long-term services and supports. 144754

(C) If the Department of Job and Family Services determines 144755
that participating in the Balancing Incentive Payments Program 144756
will assist in achieving the goals specified in division (B) of 144757
this section, the Department may apply to the United States 144758
Secretary of Health and Human Services to participate in the 144759
program. Any funds the state receives as the result of the 144760
enhanced federal financial participation provided to states 144761
participating in the Balancing Incentive Payments Program shall be 144762
deposited into the Balancing Incentive Payments Program Fund, 144763
which is hereby created in the state treasury. The Department of 144764
Job and Family Services shall use the money in the fund in 144765
accordance with section 10202(c)(4) of the Patient Protection and 144766
Affordable Care Act. 144767

Section 309.35.20. BALANCING INCENTIVE PAYMENTS PROGRAM FUND 144768

The Director of Job and Family Services may seek Controlling 144769
Board approval to make expenditures from the Balancing Incentive 144770
Payments Program Fund. 144771

Section 309.35.30. DUAL ELIGIBLE INTEGRATED CARE 144772
DEMONSTRATION PROJECT 144773

The Director of Job and Family Services may seek Controlling 144774
Board approval to make expenditures from the Integrated Care 144775
Delivery Systems Fund. 144776

Section 390.35.33. RESIDENTIAL STATE SUPPLEMENT PROGRAM 144777

On July 1 of each fiscal year, or as soon as possible 144778
thereafter, the Director of Budget and Management shall transfer 144779
\$2.8 million cash from the General Revenue Fund to the Nursing 144780
Home Franchise Permit Fee Fund (Fund 5R20) to be used for the 144781
Residential State Supplement program. The transferred cash is 144782

hereby appropriated. 144783

Section 309.35.40. OHIO ACCESS SUCCESS PROJECT AND 144784
IDENTIFICATION OF OVERPAYMENTS 144785

(A) Notwithstanding any limitations in sections 3721.51 and 144786
3721.56 of the Revised Code, in each fiscal year, cash from the 144787
Nursing Home Franchise Permit Fee Fund (Fund 5R20) may be used by 144788
the Department of Job and Family Services for the following 144789
purposes: 144790

(1) Up to \$3,000,000 in each fiscal year to fund the state 144791
share of audits or limited reviews of Medicaid providers; 144792

(2) Up to \$450,000 in each fiscal year to provide one-time 144793
transitional benefits under the Ohio Access Success Project that 144794
the Director of Job and Family Services may establish under 144795
section 5111.97 of the Revised Code. 144796

(B) On July 1, 2011, or as soon as possible thereafter, the 144797
Director of Budget and Management shall transfer the cash balance 144798
in the Home and Community-Based Services for the Aged Fund (Fund 144799
4J50) to the Nursing Home Franchise Permit Fee Fund (Fund 5R20). 144800
The transferred cash is hereby appropriated. Upon completion of 144801
the transfer, Fund 4J50 is abolished. The Director shall cancel 144802
any existing encumbrances against appropriation item 600613, 144803
Nursing Facility Bed Assessments, and appropriation item 600618, 144804
Residential State Supplement Payments, and reestablish them 144805
against appropriation item 600608, Medicaid - Nursing Facilities. 144806

Section 309.35.50. PROVIDER FRANCHISE FEE OFFSETS 144807

(A) At least quarterly, the Director of Job and Family 144808
Services shall certify to the Director of Budget and Management 144809
both of the following: 144810

(1) The amount of offsets withheld under section 3721.541 of 144811

the Revised Code from payments made from the General Revenue Fund.	144812
(2) The amount of offsets withheld under section 5112.341 of the Revised Code from payments made from the General Revenue Fund.	144813 144814
(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to all of the following:	144815 144816
(1) The Nursing Home Franchise Permit Fee Fund (Fund 5R20), in accordance with section 3721.56 of the Revised Code;	144817 144818
(2) The ICF/MR Bed Assessments Fund (Fund 4K10).	144819
(C) Amounts transferred pursuant to this section are hereby appropriated.	144820 144821
Section 309.35.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF DEVELOPMENTAL DISABILITIES	144822 144823
The Department of Job and Family Services may transfer cash in each fiscal year from the ICF/MR Bed Assessments Fund (Fund 4K10) to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. The amount to be transferred shall be agreed to by both departments. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments. The transfer may be made using an intrastate transfer voucher.	144824 144825 144826 144827 144828 144829 144830 144831
Section 309.35.70. HOSPITAL CARE ASSURANCE MATCH	144832
The foregoing appropriation item 600650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services solely for distributing funds to hospitals under section 5112.08 of the Revised Code.	144833 144834 144835 144836
Section 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION	144837
Notwithstanding the provisions of section 5111.171 of the Revised Code specifying the uses of the HealthCare Compliance	144838 144839

Fund, appropriations in appropriation item 600625, HealthCare 144840
Compliance, may be used for expenses incurred in implementation or 144841
operation of Health Home programs and for the creation, 144842
modification, or replacement of any federally funded Medicaid 144843
healthcare systems in fiscal year 2012 and fiscal year 2013. 144844

Section 309.35.80. HEALTH CARE SERVICES ADMINISTRATION FUND 144845

Of the amount received by the Department of Job and Family 144846
Services during fiscal year 2012 and fiscal year 2013 from the 144847
first installment of assessments paid under section 5112.06 of the 144848
Revised Code and intergovernmental transfers made under section 144849
5112.07 of the Revised Code, the Director of Job and Family 144850
Services shall deposit \$350,000 in each fiscal year into the state 144851
treasury to the credit of the Health Care Services Administration 144852
Fund (Fund 5U30). 144853

Section 309.35.90. TRANSFERS OF OFFSETS TO THE HEALTH CARE 144854
SERVICES ADMINISTRATION FUND 144855

(A) As used in this section: 144856

"Hospital offset" means an offset from a hospital's Medicaid 144857
payment authorized by section 5112.991 of the Revised Code. 144858

"Vendor offset" means a reduction of a Medicaid payment to a 144859
Medicaid provider to correct a previous, incorrect Medicaid 144860
payment. 144861

(B) At least quarterly during fiscal year 2012 and fiscal 144862
year 2013, the Director of Job and Family Services shall certify 144863
to the Director of Budget and Management the amount of hospital 144864
offsets and vendor offsets for the period covered by the 144865
certification and the particular funds that would have been used 144866
to make the extra payments to providers if not for the offsets. 144867
The certification shall specify how much extra would have been 144868
taken from each of the funds if not for the hospital offsets and 144869

vendor offsets. 144870

(C) On receipt of a certification under division (B) of this 144871
section, the Director of Budget and Management shall transfer cash 144872
from the funds identified in the certification to the Health Care 144873
Services Administration Fund (Fund 5U30). The amount transferred 144874
from a fund shall equal the amount that would have been taken from 144875
the fund if not for the hospital offsets and vendor offsets as 144876
specified in the certification. The transferred cash is hereby 144877
appropriated. 144878

Section 309.37.10. PROVIDER APPLICATION FEES 144879

If receipts credited to the Health Care Services 144880
Administration Fund (Fund 5U30) exceed the amounts appropriated 144881
from the fund, the Director of Job and Family Services may seek 144882
Controlling Board approval to increase the appropriations in 144883
appropriation item 600654, Health Care Services Administration. 144884

Section 309.37.20. INTERAGENCY REIMBURSEMENT 144885

The Director of Job and Family Services may request the 144886
Director of Budget and Management to increase appropriation item 144887
600655, Interagency Reimbursement. Upon the approval of the 144888
Director of Budget and Management, the additional amounts are 144889
hereby appropriated. 144890

Section 309.37.30. MEDICAID PROGRAM SUPPORT FUND - STATE 144891

The foregoing appropriation item 600671, Medicaid Program 144892
Support, shall be used by the Department of Job and Family 144893
Services to pay for Medicaid services and contracts. The 144894
Department may also deposit to the Medicaid Program Support Fund 144895
(Fund 5C90) revenues received from other state agencies for 144896
Medicaid services under the terms of interagency agreements 144897
between the Department and other state agencies. 144898

Section 309.37.40. TRANSFERS OF IMD/DSH CASH TO THE 144899
DEPARTMENT OF MENTAL HEALTH 144900

The Department of Job and Family Services shall transfer cash 144901
from the Medicaid Program Support Fund (Fund 5C90), to the 144902
Behavioral Health Medicaid Services Fund (Fund 4X50), used by the 144903
Department of Mental Health, in accordance with an interagency 144904
agreement that delegates authority from the Department of Job and 144905
Family Services to the Department of Mental Health to administer 144906
specified Medicaid services. The transfer shall be made using an 144907
intrastate transfer voucher. 144908

Section 309.37.50. PRESCRIPTION DRUG COVERAGE UNDER MEDICAID 144909
MANAGED CARE 144910

(A) Not later than October 1, 2011, the Department of Job and 144911
Family Services shall enter into new contracts or amend existing 144912
contracts with health insuring corporations, pursuant to section 144913
5111.17 of the Revised Code, as the Department considers necessary 144914
to require, in accordance with section 5111.172 of the Revised 144915
Code, as amended by this act, that each health insuring 144916
corporation participating in the Medicaid care management system 144917
include coverage of prescription drugs for the Medicaid recipients 144918
who are enrolled in the health insuring corporation. 144919

(B) For a period of ninety days immediately following the 144920
effective date of the inclusion of prescription drug coverage 144921
under a new or amended contract with a health insuring corporation 144922
pursuant to division (A) of this section, if, immediately prior to 144923
the effective date of the coverage, a Medicaid recipient enrolled 144924
in the health insuring corporation was being treated with a drug 144925
prescribed by a licensed health professional authorized to 144926
prescribe drugs, as defined in section 4729.01 of the Revised 144927
Code, and the drug is not an antidepressant or antipsychotic 144928

described in division (B)(2) of section 5111.172 of the Revised Code, as amended by this act, the health insuring corporation shall provide coverage of the drug without using drug utilization or management techniques, including any prior authorization requirements, that are more stringent than the utilization or management techniques, if any, that the Medicaid recipient was subject to immediately prior to the effective date of the coverage.

(C) For a period of one hundred twenty days immediately following the effective date of the inclusion of prescription drug coverage under a new or amended contract with a health insuring corporation pursuant to division (A) of this section, both of the following apply:

(1) If, immediately prior to the effective date of the coverage, a Medicaid recipient enrolled in the health insuring corporation was being treated with an antidepressant or antipsychotic described in division (B)(2) of section 5111.172 of the Revised Code, as amended by this act, the health insuring corporation shall provide coverage of the drug without imposing a prior authorization requirement.

(2) Notwithstanding division (B)(3) of section 5111.172 of the Revised Code, as amended by this act, the health insuring corporation shall permit the health professional who was prescribing the drug to continue prescribing the drug for the Medicaid recipient, regardless of whether the prescriber is a psychiatrist as described in division (B)(3)(a) or (b) of that section.

Section 309.40. FAMILY STABILITY 144956

Section 309.40.10. FOOD STAMPS TRANSFER 144957

On July 1, 2011, or as soon as possible thereafter, the 144958

Director of Budget and Management may transfer up to \$1,000,000 144959
cash from the Food Stamp Program Fund (Fund 3840), to the Food 144960
Assistance Fund (Fund 5ES0). 144961

Section 309.40.20. NAME OF FOOD STAMP PROGRAM 144962

The Director of Job and Family Services is not required to 144963
amend rules regarding the Food Stamp Program to change the name of 144964
the program to the Supplemental Nutrition Assistance Program. The 144965
Director may refer to the program as the Food Stamp Program or the 144966
Food Assistance Program in rules and documents of the Department 144967
of Job and Family Services. 144968

Section 309.40.30. OHIO ASSOCIATION OF SECOND HARVEST FOOD 144969
BANKS 144970

The foregoing appropriation item 600540, Second Harvest Food 144971
Banks, shall be used to provide funds to the Ohio Association of 144972
Second Harvest Food Banks to purchase and distribute food 144973
products. 144974

Notwithstanding section 5101.46 of the Revised Code and any 144975
other provision in this bill, in addition to funds designated for 144976
the Ohio Association of Second Harvest Food Banks in this section, 144977
in fiscal year 2012 and fiscal year 2013, the Director of Job and 144978
Family Services shall provide assistance from eligible funds to 144979
the Ohio Association of Second Harvest Food Banks in an amount up 144980
to or equal to the assistance provided in state fiscal year 2011 144981
from all funds used by the Department, except the General Revenue 144982
Fund. 144983

Eligible nonfederal expenditures made by member food banks of 144984
the Association shall be counted by the Department of Job and 144985
Family Services toward the TANF maintenance of effort requirements 144986
of 42 U.S.C. 609(a)(7). The Director of Job and Family Services 144987
shall enter into an agreement with the Ohio Association of Second 144988

Harvest Food Banks, in accordance with sections 5101.80 and 144989
5101.801 of the Revised Code, to carry out the requirements under 144990
this section. 144991

Section 309.40.40. PUBLIC ASSISTANCE ACTIVITIES/TANF MOE 144992

The foregoing appropriation item 600658, Public Assistance 144993
Activities, shall be used by the Department of Job and Family 144994
Services to meet the TANF maintenance of effort requirements of 42 144995
U.S.C. 609(a)(7). When the state is assured that it will meet the 144996
maintenance of effort requirement, the Department of Job and 144997
Family Services may use funds from appropriation item 600658, 144998
Public Assistance Activities, to support public assistance 144999
activities. 145000

Section 309.40.50. INDEPENDENT LIVING INITIATIVE 145001

Of the foregoing appropriation item 600689, TANF Block Grant, 145002
up to \$2,000,000 in each fiscal year shall be used, in accordance 145003
with sections 5101.80 and 5101.801 of the Revised Code, to support 145004
the Independent Living Initiative, including life skills training 145005
and work supports for older children in foster care and those who 145006
have recently aged out of foster care. 145007

Section 309.40.60. KINSHIP PERMANENCY INCENTIVE PROGRAM 145008

Of the foregoing appropriation item 600689, TANF Block Grant, 145009
\$1,200,000 in each fiscal year shall be used to support the 145010
activities of the Kinship Permanency Incentive Program established 145011
in section 5101.802 of the Revised Code. 145012

Section 309.40.63. OHIO COMMISSION ON FATHERHOOD 145013

Of the foregoing appropriation item 600689, TANF Block Grant, 145014
\$1,000,000 in each fiscal year shall be provided to the Ohio 145015
Commission on Fatherhood. 145016

Section 309.40.70. SWIPE CARD PILOT PROGRAM 145017

During fiscal year 2012 and fiscal year 2013, if the 145018
Department of Job and Family Services implements a program that 145019
utilizes a swipe card system and point of service device to verify 145020
enrollment and attendance and for payment for publicly funded 145021
child care, both of the following apply: 145022

(A) If a child care provider participating in the program 145023
engages in fraud with respect to reporting a child's enrollment or 145024
attendance, the fraud constitutes a reason for which the 145025
provider's license or certification must be revoked. 145026

(B) If a caretaker parent participating in the program 145027
engages in fraud with respect to reporting a child's enrollment or 145028
attendance, the caretaker parent shall lose eligibility for 145029
publicly funded child care. 145030

Section 309.50. CHILD WELFARE 145031

Section 309.50.10. DIFFERENTIAL RESPONSE 145032

In accordance with an independent evaluation of the Ohio 145033
Alternative Response Pilot Program that recommended statewide 145034
implementation, the Department of Job and Family Services shall 145035
plan the statewide expansion of the Ohio Alternative Response 145036
Pilot Program on a county by county basis, through a schedule 145037
determined by the Department. The program shall be known as the 145038
"differential response" approach as defined in section 2151.011 of 145039
the Revised Code. Notwithstanding provisions of Chapter 2151. of 145040
the Revised Code that refer to "differential response," 145041
"traditional response," and "alternative response," those 145042
provisions shall become effective on the scheduled date of 145043
expansion of the differential response approach to that county. 145044
Prior to statewide implementation, the Department may adopt rules 145045

in accordance with Chapter 119. of the Revised Code as necessary 145046
to carry out the purposes of this section. 145047

Section 309.50.20. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 145048

In collaboration with the county family and children first 145049
council, a county department of job and family services or public 145050
children services agency that receives an allocation from the 145051
Department of Job and Family Services from the foregoing 145052
appropriation item 600523, Children and Families Services, or 145053
600533, Child, Family, and Adult Community & Protective Services, 145054
may transfer a portion of either or both allocations to a flexible 145055
funding pool as authorized by the section of this act titled 145056
"FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." 145057

Section 309.50.30. CHILD, FAMILY, AND ADULT COMMUNITY AND 145058
PROTECTIVE SERVICES 145059

(A) The foregoing appropriation item 600533, Child, Family, 145060
and Adult Community & Protective Services, shall be distributed to 145061
each county department of job and family services using the 145062
formula the Department of Job and Family Services uses when 145063
distributing Title XX funds to county departments of job and 145064
family services under section 5101.46 of the Revised Code. County 145065
departments shall use the funds distributed to them under this 145066
section as follows, in accordance with the written plan of 145067
cooperation entered into under section 307.983 of the Revised 145068
Code: 145069

(1) To assist individuals achieve or maintain 145070
self-sufficiency, including by reducing or preventing dependency 145071
among individuals with family income not exceeding two hundred per 145072
cent of the federal poverty guidelines; 145073

(2) Subject to division (B) of this section, to respond to 145074
reports of abuse, neglect, or exploitation of children and adults, 145075

including through the differential response approach program 145076
developed under Section 309.50.10 of this act; 145077

(3) To provide outreach and referral services regarding home 145078
and community-based services to individuals at risk of placement 145079
in a group home or institution, regardless of the individuals' 145080
family income and without need for a written application; 145081

(4) To provide outreach, referral, application assistance, 145082
and other services to assist individuals receive assistance, 145083
benefits, or services under Medicaid; Title IV-A programs, as 145084
defined in section 5101.80 of the Revised Code; the Supplemental 145085
Nutrition Assistance Program; and other public assistance 145086
programs. 145087

(B) Protective services may be provided to a child or adult 145088
as part of a response, under division (A)(2) of this section, to a 145089
report of abuse, neglect, or exploitation without regard to a 145090
child or adult's family income and without need for a written 145091
application. The protective services may be provided if the case 145092
record documents circumstances of actual or potential abuse, 145093
neglect, or exploitation. 145094

Section 309.50.33. CHILDREN AND FAMILY SERVICES ACTIVITIES 145095

The foregoing appropriation item 600609, Children and Family 145096
Services Activities, shall be used to expend miscellaneous 145097
foundation funds and grants to support children and family 145098
services activities. 145099

Section 309.50.40. ADOPTION ASSISTANCE LOAN 145100

Of the foregoing appropriation item 600634, Adoption 145101
Assistance Loan, the Department of Job and Family Services may use 145102
up to ten per cent for administration of adoption assistance loans 145103
pursuant to section 3107.018 of the Revised Code. 145104

Section 309.60. UNEMPLOYMENT COMPENSATION	145105
Section 309.60.10. FEDERAL UNEMPLOYMENT PROGRAMS	145106
All unexpended funds remaining at the end of fiscal year 2011	145107
that were appropriated and made available to the state under	145108
section 903(d) of the Social Security Act, as amended, in the	145109
foregoing appropriation item 600678, Federal Unemployment Programs	145110
(Fund 3V40), are hereby appropriated to the Department of Job and	145111
Family Services. Upon the request of the Director of Job and	145112
Family Services, the Director of Budget and Management may	145113
increase the appropriation for fiscal year 2012 by the amount	145114
remaining unspent from the fiscal year 2011 appropriation and may	145115
increase the appropriation for fiscal year 2013 by the amount	145116
remaining unspent from the fiscal year 2012 appropriation. The	145117
appropriation shall be used under the direction of the Department	145118
of Job and Family Services to pay for administrative activities	145119
for the Unemployment Insurance Program, employment services, and	145120
other allowable expenditures under section 903(d) of the Social	145121
Security Act, as amended.	145122
The amounts obligated pursuant to this section shall not	145123
exceed at any time the amount by which the aggregate of the	145124
amounts transferred to the account of the state under section	145125
903(d) of the Social Security Act, as amended, exceeds the	145126
aggregate of the amounts obligated for administration and paid out	145127
for benefits and required by law to be charged against the amounts	145128
transferred to the account of the state.	145129
Section 311.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW	145130
General Revenue Fund	145131
GRF 029321 Operating Expenses \$ 435,168 \$ 435,168	145132
TOTAL GRF General Revenue Fund \$ 435,168 \$ 435,168	145133

TOTAL ALL BUDGET FUND GROUPS	\$	435,168	\$	435,168	145134
OPERATING GUIDANCE					145135
The Chief Administrative Officer of the House of					145136
Representatives and the Clerk of the Senate shall determine, by					145137
mutual agreement, which of them shall act as fiscal agent for the					145138
Joint Committee on Agency Rule Review. Members of the Committee					145139
shall be paid in accordance with section 101.35 of the Revised					145140
Code.					145141
OPERATING EXPENSES					145142
On July 1, 2011, or as soon as possible thereafter, the					145143
Executive Director of the Joint Committee on Agency Rule Review					145144
may certify to the Director of Budget and Management the amount of					145145
the unexpended, unencumbered balance of the foregoing					145146
appropriation item 029321, Operating Expenses, at the end of					145147
fiscal year 2011 to be reappropriated to fiscal year 2012. The					145148
amount certified is hereby reappropriated to the same					145149
appropriation item for fiscal year 2012.					145150
On July 1, 2012, or as soon as possible thereafter, the					145151
Executive Director of the Joint Committee on Agency Rule Review					145152
may certify to the Director of Budget and Management the amount of					145153
the unexpended, unencumbered balance of the foregoing					145154
appropriation item 029321, Operating Expenses, at the end of					145155
fiscal year 2012 to be reappropriated to fiscal year 2013. The					145156
amount certified is hereby reappropriated to the same					145157
appropriation item for fiscal year 2013.					145158
Section 313.10. JCO JUDICIAL CONFERENCE OF OHIO					145159
General Revenue Fund					145160
GRF 018321 Operating Expenses	\$	720,000	\$	720,000	145161
TOTAL GRF General Revenue Fund	\$	720,000	\$	720,000	145162
General Services Fund Group					145163

4030 018601	Ohio Jury	\$	350,000	\$	350,000	145164
	Instructions					
TOTAL GSF	General Services Fund	\$	350,000	\$	350,000	145165
	Group					
TOTAL ALL BUDGET FUND GROUPS		\$	1,070,000	\$	1,070,000	145166
	OHIO JURY INSTRUCTIONS FUND					145167
	The Ohio Jury Instructions Fund (Fund 4030) shall consist of					145168
	grants, royalties, dues, conference fees, bequests, devises, and					145169
	other gifts received for the purpose of supporting costs incurred					145170
	by the Judicial Conference of Ohio in its activities as a part of					145171
	the judicial system of the state as determined by the Judicial					145172
	Conference Executive Committee. Fund 4030 shall be used by the					145173
	Judicial Conference of Ohio to pay expenses incurred in its					145174
	activities as a part of the judicial system of the state as					145175
	determined by the Judicial Conference Executive Committee. All					145176
	moneys accruing to Fund 4030 in excess of \$350,000 in fiscal year					145177
	2012 and in excess of \$350,000 in fiscal year 2013 are hereby					145178
	appropriated for the purposes authorized.					145179
	No money in Fund 4030 shall be transferred to any other fund					145180
	by the Director of Budget and Management or the Controlling Board.					145181
	Section 315.10. JSC THE JUDICIARY/SUPREME COURT					145182
	General Revenue Fund					145183
GRF 005321	Operating Expenses -	\$	133,704,620	\$	132,565,410	145184
	Judiciary/Supreme					
	Court					
GRF 005406	Law Related Education	\$	236,172	\$	236,172	145185
GRF 005409	Ohio Courts	\$	2,150,000	\$	2,150,000	145186
	Technology Initiative					
TOTAL GRF	General Revenue Fund	\$	136,090,792	\$	134,951,582	145187
	General Services Fund Group					145188

6720 005601	Continuing Judicial Education	\$	172,142	\$	169,420	145189
TOTAL GSF	General Services Fund Group	\$	172,142	\$	169,420	145190
Federal Special Revenue Fund Group						145191
3J00 005603	Federal Grants	\$	1,653,317	\$	1,605,717	145192
TOTAL FED	Federal Special Revenue Fund Group	\$	1,653,317	\$	1,605,717	145193
State Special Revenue Fund Group						145194
4C80 005605	Attorney Services	\$	3,718,328	\$	3,695,192	145195
5HT0 005617	Court Interpreter Certification	\$	39,000	\$	39,000	145196
5T80 005609	Grants and Awards	\$	50,000	\$	50,000	145197
6A80 005606	Supreme Court Admissions	\$	1,223,340	\$	1,205,056	145198
TOTAL SSR	State Special Revenue Fund Group	\$	5,030,668	\$	4,989,248	145199
TOTAL ALL BUDGET FUND GROUPS		\$	142,946,919	\$	141,715,967	145200
LAW-RELATED EDUCATION						145201
The foregoing appropriation item 005406, Law-Related						145202
Education, shall be distributed directly to the Ohio Center for						145203
Law-Related Education for the purposes of providing continuing						145204
citizenship education activities to primary and secondary						145205
students, expanding delinquency prevention programs, increasing						145206
activities for at-risk youth, and accessing additional public and						145207
private money for new programs.						145208
OHIO COURTS TECHNOLOGY INITIATIVE						145209
The foregoing appropriation item 005409, Ohio Courts						145210
Technology Initiative, shall be used to fund an initiative by the						145211
Supreme Court to facilitate the exchange of information and						145212
warehousing of data by and between Ohio courts and other justice						145213

system partners through the creation of an Ohio Courts Network, 145214
the delivery of technology services to courts throughout the 145215
state, including the provision of hardware, software, and the 145216
development and implementation of educational and training 145217
programs for judges and court personnel, and operation of the 145218
Commission on Technology and the Courts by the Supreme Court for 145219
the promulgation of statewide rules, policies, and uniform 145220
standards, and to aid in the orderly adoption and comprehensive 145221
use of technology in Ohio courts. 145222

CONTINUING JUDICIAL EDUCATION 145223

The Continuing Judicial Education Fund (Fund 6720) shall 145224
consist of fees paid by judges and court personnel for attending 145225
continuing education courses and other gifts and grants received 145226
for the purpose of continuing judicial education. The foregoing 145227
appropriation item 005601, Continuing Judicial Education, shall be 145228
used to pay expenses for continuing education courses for judges 145229
and court personnel. If it is determined by the Administrative 145230
Director of the Supreme Court that additional appropriations are 145231
necessary, the amounts are hereby appropriated. 145232

No money in Fund 6720 shall be transferred to any other fund 145233
by the Director of Budget and Management or the Controlling Board. 145234
Interest earned on money in Fund 6720 shall be credited to the 145235
fund. 145236

FEDERAL GRANTS 145237

The Federal Grants Fund (Fund 3J00) shall consist of grants 145238
and other moneys awarded to the Supreme Court (The Judiciary) by 145239
the United States Government or other entities that receive the 145240
moneys directly from the United States Government and distribute 145241
those moneys to the Supreme Court (The Judiciary). The foregoing 145242
appropriation item 005603, Federal Grants, shall be used in a 145243
manner consistent with the purpose of the grant or award. If it is 145244

determined by the Administrative Director of the Supreme Court 145245
that additional appropriations are necessary, the amounts are 145246
hereby appropriated. 145247

No money in Fund 3J00 shall be transferred to any other fund 145248
by the Director of Budget and Management or the Controlling Board. 145249
However, interest earned on money in Fund 3J00 shall be credited 145250
or transferred to the General Revenue Fund. 145251

ATTORNEY SERVICES 145252

The Attorney Services Fund (Fund 4C80), formerly known as the 145253
Attorney Registration Fund, shall consist of money received by the 145254
Supreme Court (The Judiciary) pursuant to the Rules for the 145255
Government of the Bar of Ohio. In addition to funding other 145256
activities considered appropriate by the Supreme Court, the 145257
foregoing appropriation item 005605, Attorney Services, may be 145258
used to compensate employees and to fund appropriate activities of 145259
the following offices established by the Supreme Court: the Office 145260
of Disciplinary Counsel, the Board of Commissioners on Grievances 145261
and Discipline, the Clients' Security Fund, and the Attorney 145262
Services Division. If it is determined by the Administrative 145263
Director of the Supreme Court that additional appropriations are 145264
necessary, the amounts are hereby appropriated. 145265

No money in Fund 4C80 shall be transferred to any other fund 145266
by the Director of Budget and Management or the Controlling Board. 145267
Interest earned on money in Fund 4C80 shall be credited to the 145268
fund. 145269

COURT INTERPRETER CERTIFICATION 145270

The Court Interpreter Certification Fund (Fund 5HT0) shall 145271
consist of money received by the Supreme Court (The Judiciary) 145272
pursuant to Rules 80 through 87 of the Rules of Superintendence 145273
for the Courts of Ohio. The foregoing appropriation item 005617, 145274
Court Interpreter Certification, shall be used to provide 145275

training, to provide the written examination, and to pay language 145276
experts to rate, or grade, the oral examinations of those applying 145277
to become certified court interpreters. If it is determined by the 145278
Administrative Director that additional appropriations are 145279
necessary, the amounts are hereby appropriated. 145280

No money in Fund 5HT0 shall be transferred to any other fund 145281
by the Director of Budget and Management or the Controlling Board. 145282
Interest earned on money in Fund 5HT0 shall be credited to the 145283
fund. 145284

GRANTS AND AWARDS 145285

The Grants and Awards Fund (Fund 5T80) shall consist of 145286
grants and other money awarded to the Supreme Court (The 145287
Judiciary) by the State Justice Institute, the Division of 145288
Criminal Justice Services, or other entities. The foregoing 145289
appropriation item 005609, Grants and Awards, shall be used in a 145290
manner consistent with the purpose of the grant or award. If it is 145291
determined by the Administrative Director of the Supreme Court 145292
that additional appropriations are necessary, the amounts are 145293
hereby appropriated. 145294

No money in Fund 5T80 shall be transferred to any other fund 145295
by the Director of Budget and Management or the Controlling Board. 145296
However, interest earned on money in Fund 5T80 shall be credited 145297
or transferred to the General Revenue Fund. 145298

SUPREME COURT ADMISSIONS 145299

The foregoing appropriation item 005606, Supreme Court 145300
Admissions, shall be used to compensate Supreme Court employees 145301
who are primarily responsible for administering the attorney 145302
admissions program under the Rules for the Government of the Bar 145303
of Ohio, and to fund any other activities considered appropriate 145304
by the court. Moneys shall be deposited into the Supreme Court 145305
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 145306

Government of the Bar of Ohio. If it is determined by the 145307
 Administrative Director of the Supreme Court that additional 145308
 appropriations are necessary, the amounts are hereby appropriated. 145309

No money in Fund 6A80 shall be transferred to any other fund 145310
 by the Director of Budget and Management or the Controlling Board. 145311
 Interest earned on money in Fund 6A80 shall be credited to the 145312
 fund. 145313

Section 317.10. LEC LAKE ERIE COMMISSION 145314

Federal Special Revenue Fund Group 145315

3EP0 780603 Lake Erie Federal \$ 95,750 \$ 95,750 145316
 Grants

TOTAL FED Federal Special Revenue \$ 95,750 \$ 95,750 145317
 Fund Group

State Special Revenue Fund Group 145318

4C00 780601 Lake Erie Protection \$ 400,000 \$ 400,000 145319
 Fund

5D80 780602 Lake Erie Resources \$ 261,783 \$ 250,143 145320
 Fund

TOTAL SSR State Special Revenue 145321

Fund Group \$ 661,783 \$ 650,143 145322

TOTAL ALL BUDGET FUND GROUPS \$ 757,533 \$ 745,893 145323

Section 319.10. LRS LEGAL RIGHTS SERVICE 145325

General Revenue Fund 145326

GRF 054321 Support Services \$ 97,255 \$ 24,314 145327

GRF 054401 Ombudsman \$ 142,003 \$ 35,750 145328

TOTAL GRF General Revenue Fund \$ 239,258 \$ 60,064 145329

General Services Fund Group 145330

5M00 054610 Settlements \$ 181,352 \$ 32,839 145331

TOTAL GSF General Services 145332

Fund Group		\$	181,352	\$	32,839	145333
Federal Special Revenue Fund Group						145334
3050 054602	Protection and Advocacy - Developmentally Disabled	\$	1,662,991	\$	415,748	145335
3AG0 054613	Protection and Advocacy - Voter Accessibility	\$	135,000	\$	33,752	145336
3B80 054603	Protection and Advocacy - Mentally Ill	\$	1,152,677	\$	288,170	145337
3CA0 054615	Work Incentives Planning and Assistance	\$	355,000	\$	88,752	145338
3N30 054606	Protection and Advocacy - Individual Rights	\$	591,112	\$	147,779	145339
3N90 054607	Assistive Technology	\$	135,000	\$	33,751	145340
3R90 054616	Developmental Disability Publications	\$	130,000	\$	32,500	145341
3T20 054609	Client Assistance Program	\$	435,000	\$	108,752	145342
3X10 054611	Protection and Advocacy - Beneficiaries of Social Security	\$	235,000	\$	58,752	145343
3Z60 054612	Protection and Advocacy - Traumatic Brain Injury	\$	151,624	\$	37,907	145344
TOTAL FED	Federal Special Revenue					145345
Fund Group		\$	4,983,404	\$	1,245,863	145346

State Special Revenue Fund Group				145347
5AE0 054614 Grants and Contracts	\$	74,600	\$ 18,652	145348
TOTAL SSR State Special Revenue	\$	74,600	\$ 18,652	145349
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	5,478,614	\$ 1,357,418	145350

Section 319.20. CONVERSION OF LEGAL RIGHTS SERVICE TO A 145352
NONPROFIT ENTITY 145353

(A) Not later than December 31, 2011, the administrator of 145354
the Legal Rights Service, in consultation with the Legal Rights 145355
Service Commission, shall establish a nonprofit entity to provide 145356
advocacy services and a client assistance program for people with 145357
disabilities. The Legal Rights Service may subcontract with the 145358
nonprofit entity to perform any functions that the Legal Rights 145359
Service is permitted or required to perform. 145360

(B)(1) Not later than September 30, 2012, and subject to 145361
division (B)(2) of this section, the Governor shall designate the 145362
nonprofit entity established under division (A) of this section to 145363
serve as the state's protection and advocacy system, as provided 145364
under 42 U.S.C. 15001, and as the state's client assistance 145365
program, as provided under 29 U.S.C. 732. On October 1, 2012, 145366
pursuant to section 5123.60 of the Revised Code, as enacted by 145367
this act, the nonprofit entity is the Ohio Protection and Advocacy 145368
System. 145369

(2) The Governor shall make the designation only if the 145370
nonprofit entity complies with all federal law regarding a 145371
protection and advocacy system and client assistance program. 145372

(C) Effective October 1, 2012, the Legal Rights Service, the 145373
Legal Rights Service Commission, and the Ombudsperson Section of 145374
the Legal Rights Service are abolished. 145375

Any aspect of the function of the Legal Rights Service, Legal 145376

Rights Service Commission, and the Ombudsperson Section of the 145377
Legal Rights Service commenced, but not completed on October 1, 145378
2012 shall be completed by the nonprofit entity in the same 145379
manner, and with the same effect, as if completed by the Legal 145380
Rights Service, Legal Rights Service Commission, and the 145381
Ombudsperson Section of the Legal Rights Service as they existed 145382
immediately prior to October 1, 2012. No validation, cure, right, 145383
privilege, remedy, obligation, or liability pertaining to the 145384
Legal Rights Service, Legal Rights Service Commission, and the 145385
Ombudsperson Section of the Legal Rights Service is lost or 145386
impaired by reason of the abolishment of the Legal Rights Service, 145387
Legal Rights Service Commission, and the Ombudsperson Section of 145388
the Legal Rights Service. Each such validation, cure, right, 145389
privilege, remedy, obligation, or liability shall be administered 145390
by the nonprofit entity established under division (A) of this 145391
section. 145392

Any action or proceeding that is related to the functions or 145393
duties of the Legal Rights Service, Legal Rights Service 145394
Commission, and the Ombudsperson Section of the Legal Rights 145395
Service pending on September 30, 2012, is not affected by the 145396
abolishment of the Legal Rights Service, the Legal Rights Service 145397
Commission, and the Ombudsperson Section of the Legal Rights 145398
Service and shall be prosecuted or defended in the name of the 145399
nonprofit entity. In all such actions and proceedings the 145400
nonprofit entity, on application to the court, shall be 145401
substituted as a party. 145402

(D) The foregoing appropriation items 054321, Support 145403
Services, and 054401, Ombudsman, may be used to support the costs 145404
of transitioning the Ohio Legal Rights Service into a nonprofit 145405
entity. 145406

Section 321.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE 145407

General Revenue Fund					145408
GRF 028321	Legislative Ethics	\$	550,000	\$	550,000
	Committee				145409
TOTAL GRF	General Revenue Fund	\$	550,000	\$	550,000
					145410
General Services Fund Group					145411
4G70 028601	Joint Legislative	\$	100,000	\$	100,000
	Ethics Committee				145412
TOTAL GSF	General Services Fund	\$	100,000	\$	100,000
Group					145413
TOTAL ALL BUDGET FUND GROUPS		\$	650,000	\$	650,000
					145414
Section 323.10.	LSC LEGISLATIVE SERVICE COMMISSION				145415
General Revenue Fund					145416
GRF 035321	Operating Expenses	\$	15,117,700	\$	15,117,700
GRF 035402	Legislative Fellows	\$	1,022,120	\$	1,022,120
GRF 035405	Correctional	\$	438,900	\$	438,900
	Institution				145419
	Inspection Committee				
GRF 035407	Legislative Task	\$	750,000	\$	750,000
	Force on				145420
	Redistricting				
GRF 035409	National Associations	\$	460,560	\$	460,560
GRF 035410	Legislative	\$	3,661,250	\$	3,661,250
	Information Systems				145421
TOTAL GRF	General Revenue Fund	\$	21,450,530	\$	21,450,530
					145423
General Services Fund Group					145424
4100 035601	Sale of Publications	\$	10,000	\$	10,000
4F60 035603	Legislative Budget	\$	200,000	\$	200,000
	Services				145425
5EF0 035607	Legislative Agency	\$	30,000	\$	30,000
	Telephone Usage				145426
TOTAL GSF	General Services				145427
					145428

Fund Group		\$	240,000	\$	240,000	145429
TOTAL ALL BUDGET FUND GROUPS		\$	21,690,530	\$	21,690,530	145430
LEGISLATIVE TASK FORCE ON REDISTRICTING						145431
An amount equal to the unexpended, unencumbered portion of						145432
the foregoing appropriation item 035407, Legislative Task Force on						145433
Redistricting, at the end of fiscal year 2011 is hereby						145434
reappropriated to the Legislative Service Commission for the same						145435
purpose for fiscal year 2012.						145436
Section 325.10. LIB STATE LIBRARY BOARD						145437
General Revenue Fund						145438
GRF 350321	Operating Expenses	\$	5,057,312	\$	5,057,364	145439
GRF 350401	Ohioana Rental	\$	124,437	\$	124,437	145440
Payments						
GRF 350502	Regional Library	\$	582,469	\$	582,469	145441
Systems						
TOTAL GRF General Revenue Fund						145442
General Services Fund Group						145443
1390 350602	Intra-Agency Service	\$	9,000	\$	9,000	145444
Charges						
4590 350603	Library Service	\$	2,986,424	\$	2,986,180	145445
Charges						
4S40 350604	Ohio Public Library	\$	5,689,401	\$	5,689,788	145446
Information Network						
5GB0 350605	Library for the Blind	\$	1,274,194	\$	1,274,194	145447
5GG0 350606	Gates Foundation	\$	6,000	\$	0	145448
Grants						
TOTAL GSF General Services						145449
Fund Group		\$	9,965,019	\$	9,959,162	145450
Federal Special Revenue Fund Group						145451
3130 350601	LSTA Federal	\$	5,879,314	\$	5,879,314	145452

TOTAL FED Federal Special Revenue				145453	
Fund Group	\$	5,879,314	\$	5,879,314	145454
TOTAL ALL BUDGET FUND GROUPS	\$	21,608,551	\$	21,602,746	145455
OHIOANA RENTAL PAYMENTS				145456	
The foregoing appropriation item 350401, Ohioana Rental				145457	
Payments, shall be used to pay the rental expenses of the Martha				145458	
Kinney Cooper Ohioana Library Association under section 3375.61 of				145459	
the Revised Code.				145460	
REGIONAL LIBRARY SYSTEMS				145461	
The foregoing appropriation item 350502, Regional Library				145462	
Systems, shall be used to support regional library systems				145463	
eligible for funding under sections 3375.83 and 3375.90 of the				145464	
Revised Code.				145465	
OHIO PUBLIC LIBRARY INFORMATION NETWORK				145466	
(A) The foregoing appropriation item 350604, Ohio Public				145467	
Library Information Network, shall be used for an information				145468	
telecommunications network linking public libraries in the state				145469	
and such others as may participate in the Ohio Public Library				145470	
Information Network (OPLIN).				145471	
The Ohio Public Library Information Network Board of Trustees				145472	
created under section 3375.65 of the Revised Code may make				145473	
decisions regarding use of the foregoing appropriation item				145474	
350604, Ohio Public Library Information Network.				145475	
(B) Of the foregoing appropriation item 350604, Ohio Public				145476	
Library Information Network, up to \$81,000 in each fiscal year				145477	
shall be used to help local libraries use filters to screen out				145478	
obscene and illegal internet materials.				145479	
The OPLIN Board shall research and assist or advise local				145480	
libraries with regard to emerging technologies and methods that				145481	
may be effective means to control access to obscene and illegal				145482	

materials. The OPLIN Director shall provide written reports upon 145483
request within ten days to the Governor, the Speaker and Minority 145484
Leader of the House of Representatives, and the President and 145485
Minority Leader of the Senate on any steps being taken by OPLIN 145486
and public libraries in the state to limit and control such 145487
improper usage as well as information on technological, legal, and 145488
law enforcement trends nationally and internationally affecting 145489
this area of public access and service. 145490

(C) The Ohio Public Library Information Network, INFOhio, and 145491
OhioLINK shall, to the extent feasible, coordinate and cooperate 145492
in their purchase or other acquisition of the use of electronic 145493
databases for their respective users and shall contribute funds in 145494
an equitable manner to such effort. 145495

LIBRARY FOR THE BLIND 145496

The foregoing appropriation item 350605, Library for the 145497
Blind, shall be used for the statewide Talking Book Program to 145498
assist the blind and disabled. 145499

TRANSFER TO OPLIN TECHNOLOGY FUND 145500

Notwithstanding sections 5747.03 and 5747.47 of the Revised 145501
Code and any other provision of law to the contrary, in accordance 145502
with a schedule established by the Director of Budget and 145503
Management, the Director of Budget and Management shall transfer 145504
\$3,689,401 in cash in fiscal year 2012 and \$3,689,788 in cash in 145505
fiscal year 2013 from the Public Library Fund (Fund 7065) to the 145506
OPLIN Technology Fund (Fund 4S40). 145507

TRANSFER TO LIBRARY FOR THE BLIND FUND 145508

Notwithstanding sections 5747.03 and 5747.47 of the Revised 145509
Code and any other provision of law to the contrary, in accordance 145510
with a schedule established by the Director of Budget and 145511
Management, the Director of Budget and Management shall transfer 145512
\$1,274,194 cash in each fiscal year from the Public Library Fund 145513

(Fund 7065) to the Library for the Blind Fund (Fund 5GB0). 145514

Section 327.10. LCO LIQUOR CONTROL COMMISSION 145515

Liquor Control Fund Group 145516

7043 970321 Operating Expenses \$ 753,933 \$ 754,146 145517

TOTAL LCF Liquor Control Fund Group \$ 753,933 \$ 754,146 145518

TOTAL ALL BUDGET FUND GROUPS \$ 753,933 \$ 754,146 145519

Section 329.10. LOT STATE LOTTERY COMMISSION 145521

State Lottery Fund Group 145522

2310 950604 Charitable Gaming \$ 1,946,000 \$ 1,946,000 145523
 Oversight

7044 950100 Personal Services \$ 26,000,000 \$ 26,000,000 145524

7044 950200 Maintenance \$ 13,558,000 \$ 13,266,150 145525

7044 950300 Equipment \$ 4,810,440 \$ 4,465,690 145526

7044 950402 Advertising Contracts \$ 21,756,000 \$ 21,756,000 145527

7044 950403 Gaming Contracts \$ 46,476,608 \$ 47,359,732 145528

7044 950500 Problem Gambling \$ 350,000 \$ 350,000 145529
 Subsidy

7044 950601 Direct Prize Payments \$ 131,995,700 \$ 133,263,456 145530

8710 950602 Annuity Prizes \$ 77,206,258 \$ 77,641,283 145531

TOTAL SLF State Lottery Fund 145532

Group \$ 324,099,006 \$ 326,048,311 145533

TOTAL ALL BUDGET FUND GROUPS \$ 324,099,006 \$ 326,048,311 145534

OPERATING EXPENSES 145535

Notwithstanding sections 127.14 and 131.35 of the Revised 145536
 Code, the Controlling Board may, at the request of the State 145537
 Lottery Commission, authorize expenditures from the State Lottery 145538
 Fund in excess of the amounts appropriated, up to a maximum of 15 145539
 per cent of anticipated total revenue accruing from the sale of 145540
 lottery tickets. Upon the approval of the Controlling Board, the 145541
 additional amounts are hereby appropriated. 145542

DIRECT PRIZE PAYMENTS	145543
Any amounts, in addition to the amounts appropriated in appropriation item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes are hereby appropriated.	145544 145545 145546 145547
ANNUITY PRIZES	145548
Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.	145549 145550 145551 145552 145553 145554 145555
Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.	145556 145557 145558 145559
TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND	145560
The Director of Budget and Management shall transfer an amount greater than or equal to \$717,500,000 in fiscal year 2012 and \$680,500,000 in fiscal year 2013 from the State Lottery Fund to the Lottery Profits Education Fund (Fund 7017). Transfers from the State Lottery Fund to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2012 and fiscal year 2013. Transfers by the Director of Budget and Management to the Lottery Profits Education Fund shall be administered as the statutes direct.	145561 145562 145563 145564 145565 145566 145567 145568 145569
Section 331.10. MHC MANUFACTURED HOMES COMMISSION	145570
General Services Fund Group	145571
4K90 996609 Operating Expenses \$ 652,922 \$ 642,267	145572

TOTAL GSF General Services				145573
Fund Group	\$	652,922	\$ 642,267	145574
TOTAL ALL BUDGET FUND GROUPS	\$	652,922	\$ 642,267	145575

Section 333.10. MED STATE MEDICAL BOARD 145577

General Services Fund Group				145578
5C60 883609 Operating Expenses	\$	9,292,393	\$ 9,172,062	145579
TOTAL GSF General Services				145580
Fund Group	\$	9,292,393	\$ 9,172,062	145581
TOTAL ALL BUDGET FUND GROUPS	\$	9,292,393	\$ 9,172,062	145582

Section 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD 145584

General Services Fund Group				145585
4K90 915604 Operating Expenses	\$	493,641	\$ 493,856	145586
TOTAL GSF General Services				145587
Fund Group	\$	493,641	\$ 493,856	145588
TOTAL ALL BUDGET FUND GROUPS	\$	493,641	\$ 493,856	145589

Section 337.10. DMH DEPARTMENT OF MENTAL HEALTH 145591

General Revenue Fund				145592
GRF 332401 Forensic Services	\$	3,244,251	\$ 3,244,251	145593
GRF 333321 Central Administration	\$	16,000,000	\$ 16,000,000	145594
GRF 333402 Resident Trainees	\$	450,000	\$ 450,000	145595
GRF 333403 Pre-Admission Screening Expenses	\$	486,119	\$ 486,119	145596
GRF 333415 Lease-Rental Payments	\$	18,394,250	\$ 19,907,900	145597
GRF 333416 Research Program Evaluation	\$	421,724	\$ 421,998	145598
GRF 334412 Hospital Services	\$	194,918,888	\$ 192,051,209	145599
GRF 334506 Court Costs	\$	584,210	\$ 584,210	145600
GRF 335405 Family & Children	\$	1,386,000	\$ 1,386,000	145601

		First				
GRF	335419	Community Medication Subsidy	\$	8,963,818	\$	8,963,818 145602
GRF	335501	Mental Health Medicaid Match	\$	186,400,000	\$	0 145603
GRF	335505	Local Mental Health Systems of Care	\$	44,963,776	\$	54,087,955 145604
GRF	335506	Residential State Supplement	\$	4,702,875	\$	4,702,875 145605
TOTAL GRF		General Revenue Fund	\$	480,915,911	\$	302,286,335 145606
		General Services Fund Group				145607
1490	333609	Central Office Operating	\$	1,343,190	\$	1,343,190 145608
1490	334609	Hospital - Operating Expenses	\$	28,190,000	\$	28,190,000 145609
1500	334620	Special Education	\$	150,000	\$	150,000 145610
4P90	335604	Community Mental Health Projects	\$	4,061,100	\$	250,000 145611
1510	336601	Office of Support Services	\$	129,770,770	\$	129,779,822 145612
TOTAL GSF		General Services Fund Group	\$	163,515,060	\$	159,713,012 145613
		Federal Special Revenue Fund Group				145614
3240	333605	Medicaid/Medicare	\$	154,500	\$	154,500 145615
3A60	333608	Community and Hospital Services	\$	140,000	\$	140,000 145616
3A70	333612	Social Services Block Grant	\$	50,000	\$	50,000 145617
3A80	333613	Federal Grant - Administration	\$	4,717,000	\$	4,717,000 145618
3A90	333614	Mental Health Block Grant -	\$	748,470	\$	748,470 145619

		Administration					
3B10	333635	Community Medicaid	\$	13,691,682	\$	13,691,682	145620
		Expansion					
3240	334605	Medicaid/Medicare	\$	28,200,000	\$	28,200,000	145621
3A60	334608	Federal Miscellaneous	\$	200,000	\$	200,000	145622
3A80	334613	Federal Letter of	\$	200,000	\$	200,000	145623
		Credit					
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000	145624
3A70	335612	Social Services Block	\$	8,400,000	\$	8,400,000	145625
		Grant					
3A80	335613	Federal Grant -	\$	2,500,000	\$	2,500,000	145626
		Community Mental					
		Health Board Subsidy					
3A90	335614	Mental Health Block	\$	14,200,000	\$	14,200,000	145627
		Grant					
3B10	335635	Community Medicaid	\$	346,200,000	\$	0	145628
		Expansion					
TOTAL FED		Federal Special Revenue	\$	421,571,652	\$	75,371,652	145629
		Fund Group					
		State Special Revenue Fund Group					145630
2320	333621	Family and Children	\$	448,286	\$	432,197	145631
		First Administration					
4850	333632	Mental Health	\$	134,233	\$	134,233	145632
		Operating					
4X50	333607	Behavioral Health	\$	3,000,624	\$	3,000,624	145633
		Medicaid Services					
5V20	333611	Non-Federal	\$	100,000	\$	100,000	145634
		Miscellaneous					
4850	334632	Mental Health	\$	2,477,500	\$	2,477,500	145635
		Operating					
5AU0	335615	Behavioral Healthcare	\$	6,690,000	\$	6,690,000	145636
6320	335616	Community Capital	\$	350,000	\$	350,000	145637
		Replacement					

TOTAL SSR State Special Revenue	\$	13,200,643	\$	13,184,554	145638
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	1,079,203,266	\$	550,555,553	145639

Section 337.10.10. FORENSIC SERVICES 145641

The foregoing appropriation item 332401, Forensic Services, 145642
shall be used to provide forensic psychiatric evaluations to 145643
courts of common pleas and to conduct evaluations of patients of 145644
forensic status in facilities operated or designated by the 145645
Department of Mental Health prior to conditional release to the 145646
community. A portion of this appropriation may be allocated 145647
through community mental health boards to certified community 145648
agencies in accordance with a distribution methodology as 145649
determined by the Director of Mental Health. 145650

In addition, appropriation item 332401, Forensic Services, 145651
may be used to provide forensic monitoring and tracking of 145652
individuals on conditional release and forensic training, and to 145653
support projects that assist courts and law enforcement to 145654
identify and develop appropriate alternative services to 145655
incarceration for nonviolent mentally ill offenders, and to 145656
provide specialized re-entry services to offenders leaving prisons 145657
and jails. 145658

Section 337.20.10. RESIDENCY TRAINEESHIP PROGRAMS 145659

The foregoing appropriation item 333402, Resident Trainees, 145660
shall be used to fund training agreements entered into by the 145661
Director of Mental Health for the development of curricula and the 145662
provision of training programs to support public mental health 145663
services. 145664

Section 337.20.20. PRE-ADMISSION SCREENING EXPENSES 145665

The foregoing appropriation item 333403, Pre-Admission 145666

Screening Expenses, shall be used to ensure that uniform statewide 145667
methods for pre-admission screening are in place for persons who 145668
have severe mental illness and are referred for long-term Medicaid 145669
certified nursing facility placement. Pre-admission screening 145670
includes the following activities: pre-admission assessment, 145671
consideration of continued stay requests, discharge planning and 145672
referral, and adjudication of appeals and grievance procedures. 145673

Section 337.20.30. LEASE-RENTAL PAYMENTS 145674

The foregoing appropriation item 333415, Lease-Rental 145675
Payments, shall be used to meet all payments at the times they are 145676
required to be made during the period from July 1, 2011, through 145677
June 30, 2013, by the Department of Mental Health under leases and 145678
agreements made under section 154.20 of the Revised Code. These 145679
appropriations are the source of funds pledged for bond service 145680
charges on obligations issued pursuant to Chapter 154. of the 145681
Revised Code. 145682

Section 337.20.50. HOSPITAL SERVICES 145683

The foregoing appropriation item 334412, Hospital Services, 145684
shall be used for the operation of the Department of Mental Health 145685
State Regional Psychiatric Hospitals, including, but not limited 145686
to, all aspects involving civil and forensic commitment, 145687
treatment, and discharge as determined by the Director of Mental 145688
Health. A portion of this appropriation may be used by the 145689
Department of Mental Health to create, purchase, or contract for 145690
the custody, supervision, control, and treatment of persons 145691
committed to the Department of Mental Health in other clinically 145692
appropriate environments, consistent with public safety. 145693

Section 337.20.60. FISCAL YEARS 2012 AND 2013 ALLOCATIONS OF 145694
STATE HOSPITAL FUNDS TO ADAMHS BOARDS 145695

(A) As used in this section: 145696

"Bed day" means a day for which a person receives inpatient 145697
hospitalization services in a state regional psychiatric hospital. 145698

"State regional psychiatric hospital" means a hospital that 145699
the Department of Mental Health maintains, operates, manages, and 145700
governs under section 5119.02 of the Revised Code for the care and 145701
treatment of mentally ill persons. 145702

(B) For fiscal years 2012 and 2013 and notwithstanding 145703
section 5119.62 of the Revised Code, the Director of Mental Health 145704
shall allocate a portion of the foregoing appropriation item 145705
334412, Hospital Services, to boards of alcohol, drug addiction, 145706
and mental health services. In consultation with the boards, the 145707
Director shall establish a methodology to be used in allocating 145708
the funds to boards. The allocation methodology shall include as 145709
factors at least the per diem cost of inpatient hospitalization 145710
services at state regional psychiatric hospitals and the estimated 145711
number of bed days that each board will incur in fiscal years 2012 145712
and 2013 in carrying out their duties under division (A)(11) of 145713
section 340.03 of the Revised Code. The Director may require each 145714
board to provide the Director with an estimate of the number of 145715
bed days the board will incur in fiscal years 2012 and 2013 for 145716
such purpose. 145717

(C) All of the following apply to the funds allocated to a 145718
board under this section: 145719

(1) Subject to divisions (C)(2) and (3) of this section, the 145720
board shall use the funds to pay for expenditures the board incurs 145721
in fiscal years 2012 and 2013 under division (A)(11) of section 145722
340.03 of the Revised Code in paying for inpatient hospitalization 145723
services provided by state regional psychiatric hospitals to 145724
persons involuntarily committed to the board pursuant to Chapter 145725
5122. of the Revised Code. 145726

(2) If the amount of the funds allocated to the board and used for the purpose specified in division (C)(1) of this section exceeds the amount that the board needs to pay for its expenditures identified in division (C)(1) of this section, the Director may permit the board to use the excess funds for the board's community mental health plan developed under division (A)(1)(c) of section 340.03 of the Revised Code.

(3) If the Director approves, the board may have a portion of the funds deposited into the Department of Mental Health Risk Fund.

(D) Notwithstanding the amendment by this act to section 5119.62 of the Revised Code, the Department of Mental Health Risk Fund shall continue to exist in the state treasury for the purpose of this section until it is no longer needed. In addition to the money that is in the fund on the effective date of this section, the fund shall consist of money deposited into it pursuant to division (C)(3) of this section and all the fund's investment earnings. Money in the fund shall be used in accordance with guidelines that the Director shall develop in consultation with representatives of the boards.

Section 337.30.20. COMMUNITY MEDICATION SUBSIDY

The foregoing appropriation item 335419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs. This appropriation may be allocated to community mental health boards in accordance with a distribution methodology determined by the Director of Mental Health.

Section 337.30.30. MENTAL HEALTH MEDICAID MATCH

(A) As used in this section, "community mental health Medicaid services" means services provided under the component, or aspect of the component, of the Medicaid program that the Department of Mental Health administers pursuant to a contract entered into with the Department of Job and Family Services under section 5111.91 of the Revised Code.

(B) Subject to division (C) of this section, the foregoing appropriation item 335501, Mental Health Medicaid Match, shall be used by the Department of Mental Health to make payments for community mental health Medicaid services.

(C) For state fiscal year 2012, the Department shall allocate foregoing appropriation item 335501, Mental Health Medicaid Match, to boards of alcohol, drug addiction, and mental health services in accordance with a distribution methodology the Department shall establish. Notwithstanding sections 5111.911 and 5111.912 of the Revised Code, the boards shall use the funds allocated to them under this section to pay claims for community mental health Medicaid services provided during fiscal year 2012. The boards shall use all federal financial participation that the Department of Mental Health receives for claims paid for community mental health Medicaid services provided during fiscal year 2012 as the first payment source to pay claims for community mental health Medicaid services provided during fiscal year 2012. The boards are not required to use any funds other than the funds allocated to them under this section and the federal financial participation received for claims for community mental health Medicaid services provided during fiscal year 2012 to pay for such claims.

(D) The Department shall enter into an agreement with each board regarding the issue of paying claims that are for community mental health Medicaid services provided before July 1, 2011, and submitted for payment on or after that date. Such claims shall be paid in accordance with the agreements. A board shall receive the

federal financial participation received for claims for community 145789
mental health Medicaid services that were provided before July 1, 145790
2011, and paid by the board. 145791

Section 337.30.40. LOCAL MENTAL HEALTH SYSTEMS OF CARE 145792

The foregoing appropriation item 335505, Local Mental Health 145793
Systems of Care, shall be used by community mental health boards 145794
to purchase mental health services permitted under Chapter 340. of 145795
the Revised Code. 145796

Section 337.30.50. RESIDENTIAL STATE SUPPLEMENT 145797

(A)(1) On July 1, 2011, the Residential State Supplement 145798
Program is transferred from the Department of Aging to the 145799
Department of Mental Health. The transferred program is thereupon 145800
and thereafter successor to, assumes the obligations of, and 145801
otherwise constitutes the continuation of the program as it was 145802
operated immediately prior to July 1, 2011. The transfer shall not 145803
affect persons receiving payments under the program on July 1, 145804
2011. 145805

(2) Any business of the program commenced but not completed 145806
before July 1, 2011 shall be completed by the Department of Mental 145807
Health. The business shall be completed in the same manner, and 145808
with the same effect, as if completed by the Department of Aging 145809
immediately prior to July 1, 2011. No validation, cure, right, 145810
privilege, remedy, obligation, or liability pertaining to the 145811
program is lost or impaired by reason of the program's transfer to 145812
the Department of Mental Health. Each such validation, cure, 145813
right, privilege, remedy, obligation, or liability shall be 145814
administered by the Department of Mental Health pursuant to 145815
sections 5119.69, 5119.691, and 5119.692 of the Revised Code. 145816

(3) All rules, orders, and determinations pertaining to the 145817
program as it was operated immediately prior to July 1, 2011 145818

continue in effect as rules, orders, and determinations of the 145819
Department of Mental Health until modified or rescinded by the 145820
Department of Mental Health. If necessary to ensure the integrity 145821
of the numbering system of the Administrative Code, the Director 145822
of the Legislative Service Commission shall renumber the rules to 145823
reflect the transfer of the Residential State Supplement Program 145824
from the Department of Aging to the Department of Mental Health. 145825

(4) Any action or proceeding that is related to the functions 145826
or duties of the Residential State Supplement Program pending on 145827
July 1, 2011 is not affected by the transfer of the program and 145828
shall be prosecuted or defended in the name of the Department of 145829
Mental Health. In all such actions and proceedings, the Department 145830
of Mental Health, on application to the court, shall be 145831
substituted as a party. 145832

(B) The foregoing appropriation item 335506, Residential 145833
State Supplement, may be used by the Department of Mental Health 145834
to provide training for adult care facilities serving residents 145835
with mental illness, to transfer cash to the Nursing Home 145836
Franchise Permit Fee Fund (Fund 5R20) used by the Department of 145837
Job and Family Services, and to make benefit payments to 145838
residential state supplement recipients. Under the Residential 145839
State Supplement Program, the amount used to determine whether a 145840
resident is eligible for payment, and for determining the amount 145841
per month the eligible resident will receive, shall be as follows: 145842

(1) \$927 for a residential care facility, as defined in 145843
section 3721.01 of the Revised Code; 145844

(2) \$927 for an adult group home, as defined in section 145845
5119.70 of the Revised Code; 145846

(3) \$824 for an adult foster home, as defined in section 145847
5119.692 of the Revised Code; 145848

(4) \$824 for an adult family home, as defined in section 145849

5119.70 of the Revised Code;	145850
(5) \$824 for a residential facility, as identified in	145851
division (C)(1)(c) of section 5119.69 of the Revised Code; and	145852
(6) \$618 for community mental health housing services, as	145853
identified in division (C)(1)(d) of section 5119.69 of the Revised	145854
Code.	145855
The Department of Mental Health shall reflect these amounts	145856
in any applicable rules the Department adopts under section	145857
5119.69 of the Revised Code.	145858
Section 337.30.60. BEHAVIORAL HEALTH MEDICAID SERVICES	145859
The Department of Mental Health shall administer specified	145860
Medicaid services as delegated by the Department of Job and Family	145861
Services in an interagency agreement. The foregoing appropriation	145862
item 333607, Behavioral Health Medicaid Services, may be used to	145863
make payments for free-standing psychiatric hospital inpatient	145864
services as defined in an interagency agreement with the	145865
Department of Job and Family Services.	145866
Section 337.30.70. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING	145867
POOL	145868
A county family and children first council may establish and	145869
operate a flexible funding pool in order to assure access to	145870
needed services by families, children, and older adults in need of	145871
protective services. The operation of the flexible funding pools	145872
shall be subject to the following restrictions:	145873
(A) The county council shall establish and operate the	145874
flexible funding pool in accordance with formal guidance issued by	145875
the Family and Children First Cabinet Council;	145876
(B) The county council shall produce an annual report on its	145877
use of the pooled funds. The annual report shall conform to a	145878

format prescribed in the formal guidance issued by the Family and Children First Cabinet Council;

(C) Unless otherwise restricted, funds transferred to the flexible funding pool may include state general revenues allocated to local entities to support the provision of services to families and children;

(D) The amounts transferred to the flexible funding pool shall be limited to amounts that can be redirected without impairing the achievement of the objectives for which the initial allocation is designated; and

(E) Each amount transferred to the flexible funding pool from a specific allocation shall be approved for transfer by the director of the local agency that was the original recipient of the allocation.

Section 337.30.75. TRANSITION FOR CURRENTLY CERTIFIED ADULT FOSTER HOMES

On July 1, 2011, the certification of adult foster homes is transferred from the Department of Aging to the Department of Mental Health. A certification that was issued by the Director of Aging to an adult foster home under former section 175.36 of the Revised Code and that is current and valid on the effective date of section 5119.692 of the Revised Code, as enacted by this act, is deemed to be a certificate issued by the Director of Mental Health under those sections.

Any business regarding the certification of adult foster homes commenced but not completed before July 1, 2011 shall be completed by the Department of Mental Health. The business shall be completed in the same manner, and with the same effect, as if completed by the Department of Aging immediately prior to July 1, 2011.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's transfer of responsibility to the Department of Mental Health, from the Department of Aging, for the certification of adult foster homes.

Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Department of Mental Health pursuant to section 5119.692 of the Revised Code.

All rules, orders, and determinations pertaining to the certification of adult foster homes as it was operated immediately prior to July 1, 2011 shall continue in effect as rules, orders, and determinations of the Department of Mental Health until modified or rescinded by the Department of Mental Health. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules to reflect the transfer of the certification of adult foster homes from the Department of Aging to the Department of Mental Health.

Any action or proceeding that is related to the functions or duties of the certification of adult foster homes pending on July 1, 2011 is not affected by the transfer of the certification and shall be prosecuted or defended in the name of the Department of Mental Health. In all such actions and proceedings, the Department of Mental Health, on application to the court, shall be substituted as a party.

Section 337.30.80. TRANSITION FOR CURRENTLY LICENSED ADULT CARE FACILITIES

On July 1, 2011, the licensing of adult care facilities is transferred from the Department of Health to the Department of Mental Health. A license that was issued by the Director of Health to an adult care facility under former Chapter 3722. of the Revised Code and that is current and valid on the effective date

of sections 5119.70 to 5119.88 of the Revised Code, as enacted by 145940
this act, is deemed to be a license issued by the Director of 145941
Mental Health under those sections. 145942

Any business regarding the licensing of adult care facilities 145943
commenced but not completed before July 1, 2011 shall be completed 145944
by the Department of Mental Health. The business shall be 145945
completed in the same manner, and with the same effect, as if 145946
completed by the Department of Health immediately prior to July 1, 145947
2011. 145948

No validation, cure, right, privilege, remedy, obligation, or 145949
liability is lost or impaired by reason of this act's transfer of 145950
responsibility to the Department of Mental Health, from the 145951
Department of Health, for the licensing of adult care facilities. 145952
Each such validation, cure, right, privilege, remedy, obligation, 145953
or liability shall be administered by the Department of Mental 145954
Health pursuant to sections 5119.70 to 5119.88 of the Revised 145955
Code. 145956

All rules, orders, and determinations pertaining to the 145957
licensing of adult care facilities as it was operated immediately 145958
prior to July 1, 2011 shall continue in effect as rules, orders, 145959
and determinations of the Department of Mental Health until 145960
modified or rescinded by the Department of Mental Health. If 145961
necessary to ensure the integrity of the numbering system of the 145962
Administrative Code, the Director of the Legislative Service 145963
Commission shall renumber the rules to reflect the transfer of the 145964
licensing of adult care facilities from the Department of Health 145965
to the Department of Mental Health. 145966

Any action or proceeding that is related to the functions or 145967
duties of the licensing of adult care facilities pending on July 145968
1, 2011 is not affected by the transfer of the licensing and shall 145969
be prosecuted or defended in the name of the Department of Mental 145970
Health. In all such actions and proceedings, the Department of 145971

Mental Health, on application to the court, shall be substituted 145972
as a party. 145973

Section 337.30.90. BEHAVIORAL HEALTH DOCUMENTATION REDUCTION 145974

(A) As used in this section: 145975

(1) "Community behavioral health services and programs" means 145976
both of the following: 145977

(a) Community mental health services certified by the 145978
Director of Mental Health under section 5119.611 of the Revised 145979
Code; 145980

(b) Alcohol and drug addiction programs certified by the 145981
Department of Alcohol and Drug Addiction Services under section 145982
3793.06 of the Revised Code. 145983

(2) "Residential facility" has the same meaning as in section 145984
5119.22 of the Revised Code. 145985

(B) Not later than December 31, 2011, the Directors of Mental 145986
Health and Alcohol and Drug Addiction Services, or their 145987
designees, shall, in consultation with persons interested in the 145988
issues of residential facilities and community behavioral health 145989
services and programs, do all of the following: 145990

(1) Identify areas of duplicative and unnecessary 145991
documentation requirements associated with licensing residential 145992
facilities and certifying community behavioral health services and 145993
programs; 145994

(2) Align the documentation standards of the Departments of 145995
Mental Health and Alcohol and Drug Addiction Services; 145996

(3) Streamline the Departments' standards regarding 145997
residential facilities and community behavioral health services 145998
and programs with federal standards; 145999

(4) Promote the integration of behavioral and physical health 146000

in residential facilities and community behavioral health services 146001
and programs. 146002

Section 339.10. MIH COMMISSION ON MINORITY HEALTH 146003

General Revenue Fund 146004

GRF 149321 Operating Expenses \$ 423,588 \$ 408,990 146005

GRF 149501 Minority Health \$ 1,061,600 \$ 1,061,600 146006

Grants

GRF 149502 Lupus Program \$ 110,047 \$ 110,047 146007

TOTAL GRF General Revenue Fund \$ 1,595,235 \$ 1,580,637 146008

Federal Special Revenue Fund Group 146009

3J90 149602 Federal Grants \$ 140,000 \$ 140,000 146010

TOTAL FED Federal Special Revenue 146011

Fund Group \$ 140,000 \$ 140,000 146012

State Special Revenue Fund Group 146013

4C20 149601 Minority Health \$ 25,000 \$ 25,000 146014

Conference

TOTAL SSR State Special Revenue 146015

Fund Group \$ 25,000 \$ 25,000 146016

TOTAL ALL BUDGET FUND GROUPS \$ 1,760,235 \$ 1,745,637 146017

Section 341.10. CRB MOTOR VEHICLE COLLISION REPAIR 146019

REGISTRATION BOARD 146020

General Services Fund Group 146021

4K90 865601 Operating Expenses \$ 331,841 \$ 324,292 146022

TOTAL GSF General Services 146023

Fund Group \$ 331,841 \$ 324,292 146024

TOTAL ALL BUDGET FUND GROUPS \$ 331,841 \$ 324,292 146025

Section 343.10. DNR DEPARTMENT OF NATURAL RESOURCES 146027

General Revenue Fund 146028

GRF	725401	Wildlife-GRF Central Support	\$	1,800,000	\$	1,800,000	146029
GRF	725413	Lease Rental Payments	\$	20,568,600	\$	19,734,700	146030
GRF	725456	Canal Lands	\$	135,000	\$	135,000	146031
GRF	725502	Soil and Water Districts	\$	2,900,000	\$	2,900,000	146032
GRF	725903	Natural Resources General Obligation Debt Service	\$	5,375,300	\$	25,209,100	146033
GRF	727321	Division of Forestry	\$	4,878,338	\$	4,880,000	146034
GRF	729321	Office of Information Technology	\$	194,118	\$	197,117	146035
GRF	730321	Division of Parks and Recreation	\$	30,000,000	\$	30,000,000	146036
GRF	736321	Division of Engineering	\$	3,024,459	\$	3,025,078	146037
GRF	737321	Division of Soil and Water Resources	\$	4,982,961	\$	4,983,356	146038
TOTAL GRF		General Revenue Fund	\$	73,858,776	\$	92,864,351	146039
		General Services Fund Group					146040
1550	725601	Departmental Projects	\$	3,365,651	\$	2,725,484	146041
1570	725651	Central Support Indirect	\$	5,854,167	\$	5,857,800	146042
2040	725687	Information Services	\$	4,659,276	\$	4,643,835	146043
2070	725690	Real Estate Services	\$	50,000	\$	50,000	146044
2230	725665	Law Enforcement Administration	\$	2,106,776	\$	2,126,432	146045
2270	725406	Parks Projects Personnel	\$	436,500	\$	436,500	146046
4300	725671	Canal Lands	\$	907,618	\$	907,879	146047
4D50	725618	Recycled Materials	\$	50,000	\$	50,000	146048
4S90	725622	NatureWorks Personnel	\$	400,358	\$	400,358	146049
4X80	725662	Water Resources	\$	138,011	\$	138,005	146050

		Council					
5100	725631	Maintenance -	\$	303,611	\$	303,611	146051
		State-owned					
		Residences					
5160	725620	Water Management	\$	2,541,565	\$	2,559,292	146052
6350	725664	Fountain Square	\$	3,544,623	\$	3,548,445	146053
		Facilities Management					
6970	725670	Submerged Lands	\$	836,162	\$	848,546	146054
TOTAL GSF General Services							146055
Fund Group			\$	25,194,318	\$	24,596,187	146056
Federal Special Revenue Fund Group							146057
3320	725669	Federal Mine Safety	\$	258,102	\$	258,102	146058
		Grant					
3B30	725640	Federal Forest	\$	600,000	\$	600,000	146059
		Pass-Thru					
3B40	725641	Federal Flood	\$	600,000	\$	600,000	146060
		Pass-Thru					
3B50	725645	Federal Abandoned	\$	21,007,667	\$	21,207,667	146061
		Mine Lands					
3B60	725653	Federal Land and	\$	1,150,000	\$	1,150,000	146062
		Water Conservation					
		Grants					
3B70	725654	Reclamation -	\$	3,200,000	\$	3,200,000	146063
		Regulatory					
3P10	725632	Geological Survey -	\$	692,401	\$	692,401	146064
		Federal					
3P20	725642	Oil and Gas-Federal	\$	234,509	\$	234,509	146065
3P30	725650	Coastal Management -	\$	3,290,633	\$	3,290,633	146066
		Federal					
3P40	725660	Federal - Soil and	\$	1,213,048	\$	1,209,957	146067
		Water Resources					
3R50	725673	Acid Mine Drainage	\$	2,025,001	\$	2,025,001	146068
		Abatement/Treatment					

3Z50	725657	Federal Recreation and Trails	\$	1,850,000	\$	1,850,000	146069
TOTAL FED Federal Special Revenue							146070
Fund Group			\$	36,121,361	\$	36,318,270	146071
State Special Revenue Fund Group							146072
4J20	725628	Injection Well Review	\$	130,899	\$	128,466	146073
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000	146074
4U60	725668	Scenic Rivers Protection	\$	100,000	\$	100,000	146075
5090	725602	State Forest	\$	7,891,747	\$	7,058,793	146076
5110	725646	Ohio Geological Mapping	\$	704,777	\$	705,130	146077
5120	725605	State Parks Operations	\$	32,284,117	\$	31,550,444	146078
5140	725606	Lake Erie Shoreline	\$	1,502,654	\$	1,505,983	146079
5180	725643	Oil and Gas Permit Fees	\$	5,821,970	\$	5,623,645	146080
5180	725677	Oil and Gas Well Plugging	\$	800,000	\$	800,000	146081
5210	725627	Off-Road Vehicle Trails	\$	143,490	\$	143,490	146082
5220	725656	Natural Areas and Preserves	\$	546,580	\$	546,639	146083
5260	725610	Strip Mining Administration Fee	\$	2,000,000	\$	2,000,000	146084
5270	725637	Surface Mining Administration	\$	1,940,977	\$	1,941,532	146085
5290	725639	Unreclaimed Land Fund	\$	2,004,180	\$	2,004,180	146086
5310	725648	Reclamation Forfeiture	\$	1,423,000	\$	1,423,000	146087
5320	725644	Litter Control and Recycling	\$	4,926,730	\$	4,911,575	146088
5860	725633	Scrap Tire Program	\$	1,497,645	\$	1,497,645	146089
5B30	725674	Mining Regulation	\$	28,135	\$	28,135	146090
5BV0	725658	Heidelberg Water	\$	250,000	\$	250,000	146091

		Quality Lab					
5BV0	725683	Soil and Water	\$	8,000,000	\$	8,000,000	146092
		Districts					
5CU0	725647	Mine Safety	\$	3,000,000	\$	3,000,000	146093
5EJ0	725608	Forestry Law	\$	1,000	\$	1,000	146094
		Enforcement					
5EK0	725611	Natural Areas &	\$	1,000	\$	1,000	146095
		Preserves Law					
		Enforcement					
5EL0	725612	Wildlife Law	\$	12,000	\$	12,000	146096
		Enforcement					
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000	146097
5EN0	725614	Watercraft Law	\$	2,500	\$	2,500	146098
		Enforcement					
5HK0	725625	Ohio Nature Preserves	\$	1,000	\$	1,000	146099
6150	725661	Dam Safety	\$	925,344	\$	926,028	146100
TOTAL SSR		State Special Revenue					146101
Fund Group			\$	76,073,745	\$	74,296,185	146102
Clean Ohio Conservation Fund Group							146103
7061	725405	Clean Ohio Operating	\$	300,775	\$	300,775	146104
TOTAL CLF		Clean Ohio Conservation	\$	300,775	\$	300,775	146105
Fund Group							
Wildlife Fund Group							146106
5P20	725634	Wildlife Boater	\$	4,000,000	\$	4,000,000	146107
		Angler Administration					
7015	740401	Division of Wildlife	\$	52,721,044	\$	51,669,158	146108
		Conservation					
8150	725636	Cooperative	\$	120,449	\$	120,449	146109
		Management Projects					
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885	146110
8170	725655	Wildlife Conservation	\$	3,240,000	\$	3,240,000	146111
		Checkoff Fund					

8180	725629	Cooperative Fisheries Research	\$	1,500,000	\$	1,500,000	146112
8190	725685	Ohio River Management	\$	128,584	\$	128,584	146113
TOTAL WLF Wildlife Fund Group			\$	62,676,962	\$	61,625,076	146114
Waterways Safety Fund Group							146115
7086	725414	Waterways Improvement	\$	5,692,601	\$	5,693,671	146116
7086	725418	Buoy Placement	\$	52,182	\$	52,182	146117
7086	725501	Waterway Safety Grants	\$	120,000	\$	120,000	146118
7086	725506	Watercraft Marine Patrol	\$	576,153	\$	576,153	146119
7086	725513	Watercraft Educational Grants	\$	366,643	\$	366,643	146120
7086	725693	Grand Lake St. Marys Mitigation	\$	4,000,000	\$	0	146121
7086	739401	Division of Watercraft	\$	18,040,593	\$	17,552,370	146122
TOTAL WSF Waterways Safety Fund Group			\$	28,848,172	\$	24,361,019	146123 146124
Accrued Leave Liability Fund Group							146125
4M80	725675	FOP Contract	\$	20,219	\$	20,219	146126
TOTAL ALF Accrued Leave Liability Fund Group			\$	20,219	\$	20,219	146127 146128
Holding Account Redistribution Fund Group							146129
R017	725659	Performance Cash Bond Refunds	\$	296,263	\$	296,263	146130
R043	725624	Forestry	\$	2,000,000	\$	2,154,750	146131
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,296,263	\$	2,451,013	146132 146133
TOTAL ALL BUDGET FUND GROUPS			\$	305,390,591	\$	316,833,095	146134
Section 343.20. CENTRAL SUPPORT INDIRECT							146136

With the exception of the Division of Wildlife, whose direct 146137
and indirect central support charges shall be paid out of the 146138
General Revenue Fund from the foregoing appropriation item 725401, 146139
Wildlife-GRF Central Support, the Department of Natural Resources, 146140
with approval of the Director of Budget and Management, shall 146141
utilize a methodology for determining each division's payments 146142
into the Central Support Indirect Fund (Fund 1570). The 146143
methodology used shall contain the characteristics of 146144
administrative ease and uniform application in compliance with 146145
federal grant requirements. It may include direct cost charges for 146146
specific services provided. Payments to Fund 1570 shall be made 146147
using an intrastate transfer voucher. 146148

Section 343.30. WELL LOG FILING FEES 146149

The Chief of the Division of Soil and Water Resources shall 146150
deposit fees forwarded to the Division pursuant to section 1521.05 146151
of the Revised Code into the Departmental Services - Intrastate 146152
Fund (Fund 1550) for the purposes described in that section. 146153

Section 343.40. LEASE RENTAL PAYMENTS 146154

The foregoing appropriation item 725413, Lease Rental 146155
Payments, shall be used to meet all payments at the times they are 146156
required to be made during the period from July 1, 2011, through 146157
June 30, 2013, by the Department of Natural Resources pursuant to 146158
leases and agreements made under section 154.22 of the Revised 146159
Code. These appropriations are the source of funds pledged for 146160
bond service charges or obligations issued pursuant to Chapter 146161
154. of the Revised Code. 146162

CANAL LANDS 146163

The foregoing appropriation item 725456, Canal Lands, shall 146164
be used to transfer funds to the Canal Lands Fund (Fund 4300) to 146165
provide operating expenses for the State Canal Lands Program. The 146166

transfer shall be made using an intrastate transfer voucher and 146167
shall be subject to the approval of the Director of Budget and 146168
Management. 146169

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 146170

The foregoing appropriation item 725903, Natural Resources 146171
General Obligation Debt Service, shall be used to pay all debt 146172
service and related financing costs during the period July 1, 146173
2011, through June 30, 2013, on obligations issued under sections 146174
151.01 and 151.05 of the Revised Code. 146175

Section 343.40.10. LAW ENFORCEMENT ADMINISTRATION 146176

The foregoing appropriation item 725665, Law Enforcement 146177
Administration, shall be used to cover the cost of support, 146178
coordination, and oversight of the Department of Natural 146179
Resources' law enforcement functions. The Law Enforcement 146180
Administration Fund (Fund 2230) shall consist of cash transferred 146181
to it via intrastate transfer voucher from other funds as 146182
determined by the Director of Natural Resources and the Director 146183
of Budget and Management. 146184

Section 343.40.20. FOUNTAIN SQUARE 146185

The foregoing appropriation item 725664, Fountain Square 146186
Facilities Management, shall be used for payment of repairs, 146187
renovation, utilities, property management, and building 146188
maintenance expenses for the Fountain Square complex. Cash 146189
transferred by intrastate transfer vouchers from various 146190
department funds and rental income received by the Department of 146191
Natural Resources shall be deposited into the Fountain Square 146192
Facilities Management Fund (Fund 6350). 146193

Section 343.40.30. SOIL AND WATER DISTRICTS 146194

In addition to state payments to soil and water conservation 146195

districts authorized by section 1515.10 of the Revised Code, the 146196
Department of Natural Resources may use appropriation item 725683, 146197
Soil and Water Districts, to pay any soil and water conservation 146198
district an annual amount not to exceed \$40,000, upon receipt of a 146199
request and justification from the district and approval by the 146200
Ohio Soil and Water Conservation Commission. The county auditor 146201
shall credit the payments to the special fund established under 146202
section 1515.10 of the Revised Code for the local soil and water 146203
conservation district. Moneys received by each district shall be 146204
expended for the purposes of the district. 146205

TRANSFER OF FUNDS FOR OIL AND GAS DIVISION OPERATIONS 146206

During fiscal years 2012 and 2013, the Director of Budget and 146207
Management may, in consultation with the Director of Natural 146208
Resources, transfer such cash as necessary from the General 146209
Revenue Fund to the Oil and Gas Well Fund (Fund 5180) for handling 146210
the increased regulatory work related to the expansion of oil and 146211
gas drilling that will occur before receipts from this activity 146212
are deposited into Fund 5180. Once funds from severance taxes, 146213
application and permitting fees, and other sources have accrued to 146214
Fund 5180 in such amounts as are deemed sufficient to sustain 146215
expanded operations, the Director of Budget and Management, in 146216
consultation with the Director of Natural Resources, shall 146217
establish a schedule for repaying the transferred funds from Fund 146218
5180 to the General Revenue Fund. 146219

OIL AND GAS WELL PLUGGING 146220

The foregoing appropriation item 725677, Oil and Gas Well 146221
Plugging, shall be used exclusively for the purposes of plugging 146222
wells and to properly restore the land surface of idle and orphan 146223
oil and gas wells pursuant to section 1509.071 of the Revised 146224
Code. No funds from the appropriation item shall be used for 146225
salaries, maintenance, equipment, or other administrative 146226
purposes, except for those costs directly attributed to the 146227

plugging of an idle or orphan well. This appropriation item shall 146228
not be used to transfer cash to any other fund or appropriation 146229
item. 146230

LITTER CONTROL AND RECYCLING 146231

Of the foregoing appropriation item 725644, Litter Control 146232
and Recycling, up to \$1,500,000 may be used in each fiscal year 146233
for the administration of the Recycling and Litter Prevention 146234
Program. 146235

Section 343.40.40. CLEAN OHIO OPERATING EXPENSES 146236

The foregoing appropriation item 725405, Clean Ohio 146237
Operating, shall be used by the Department of Natural Resources in 146238
administering Clean Ohio Trail Fund (Fund 7061) projects pursuant 146239
to section 1519.05 of the Revised Code. 146240

Section 343.40.50. WATERCRAFT MARINE PATROL 146241

Of the foregoing appropriation item 739401, Division of 146242
Watercraft, up to \$200,000 in each fiscal year shall be expended 146243
for the purchase of equipment for marine patrols qualifying for 146244
funding from the Department of Natural Resources pursuant to 146245
section 1547.67 of the Revised Code. Proposals for equipment shall 146246
accompany the submission of documentation for receipt of a marine 146247
patrol subsidy pursuant to section 1547.67 of the Revised Code and 146248
shall be loaned to eligible marine patrols pursuant to a 146249
cooperative agreement between the Department of Natural Resources 146250
and the eligible marine patrol. 146251

Section 343.40.60. TRANSFER FOR GRAND LAKE ST. MARYS 146252
MITIGATION 146253

On July 1, 2011, or as soon as possible thereafter, the 146254
Director of Natural Resources may request the Director of Budget 146255
and Management to transfer up to \$4,000,000 in cash from the 146256

Watercraft Revolving Loan Fund (Fund 5AW0) to the Waterways Safety 146257
Fund (Fund 7086) to support toxic algae mitigation activities at 146258
Grand Lake St. Marys State Park. The amount transferred is hereby 146259
appropriated to appropriation item 725693, Grand Lake St. Marys 146260
Mitigation. 146261

Section 343.50. PARKS CAPITAL EXPENSES FUND 146262

The Director of Natural Resources shall submit to the 146263
Director of Budget and Management the estimated design, 146264
engineering, and planning costs of capital-related work to be done 146265
by Department of Natural Resources staff for parks projects within 146266
the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the 146267
Director of Budget and Management approves the estimated costs, 146268
the Director may release appropriations from appropriation item 146269
C725E6, Project Planning, Fund 7035, for those purposes. Upon 146270
release of the appropriations, the Department of Natural Resources 146271
shall pay for these expenses from the Parks Capital Expenses Fund 146272
(Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by 146273
Fund 7035 using an intrastate transfer voucher. 146274

NATUREWORKS CAPITAL EXPENSES FUND 146275

The Department of Natural Resources shall periodically 146276
prepare and submit to the Director of Budget and Management the 146277
estimated design, planning, and engineering costs of 146278
capital-related work to be done by Department of Natural Resources 146279
staff for each capital improvement project within the Ohio Parks 146280
and Natural Resources Fund (Fund 7031). If the Director of Budget 146281
and Management approves the estimated costs, the Director may 146282
release appropriations from appropriation item C725E5, Project 146283
Planning, in Fund 7031, for those purposes. Upon release of the 146284
appropriations, the Department of Natural Resources shall pay for 146285
these expenses from the Capital Expenses Fund (Fund 4S90). 146286
Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by 146287

using an intrastate transfer voucher. 146288

Section 345.10. NUR STATE BOARD OF NURSING 146289

General Services Fund Group 146290

4K90 884609 Operating Expenses \$ 6,943,322 \$ 6,680,896 146291

5AC0 884602 Nurse Education Grant \$ 1,373,506 \$ 1,373,506 146292
Program

5P80 884601 Nursing Special \$ 5,000 \$ 5,000 146293
Issues

TOTAL GSF General Services 146294

Fund Group \$ 8,321,828 \$ 8,059,402 146295

TOTAL ALL BUDGET FUND GROUPS \$ 8,321,828 \$ 8,059,402 146296

Section 347.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 146298

AND ATHLETIC TRAINERS BOARD 146299

General Services Fund Group 146300

4K90 890609 Operating Expenses \$ 874,087 \$ 866,169 146301

TOTAL GSF General Services Fund \$ 874,087 \$ 866,169 146302

Group

TOTAL ALL BUDGET FUND GROUPS \$ 874,087 \$ 866,169 146303

Section 349.10. OLA OHIOANA LIBRARY ASSOCIATION 146305

General Revenue Fund 146306

GRF 355501 Library Subsidy \$ 120,000 \$ 120,000 146307

TOTAL GRF General Revenue Fund \$ 120,000 \$ 120,000 146308

TOTAL ALL BUDGET FUND GROUPS \$ 120,000 \$ 120,000 146309

Section 351.10. ODB OHIO OPTICAL DISPENSERS BOARD 146311

General Services Fund Group 146312

4K90 894609 Operating Expenses \$ 357,039 \$ 347,300 146313

TOTAL GSF General Services 146314

Fund Group \$ 357,039 \$ 347,300 146315

TOTAL ALL BUDGET FUND GROUPS	\$	357,039	\$	347,300	146316
Section 353.10. OPT STATE BOARD OF OPTOMETRY					146318
General Services Fund Group					146319
4K90 885609 Operating Expenses	\$	356,914	\$	347,278	146320
TOTAL GSF General Services					146321
Fund Group	\$	356,914	\$	347,278	146322
TOTAL ALL BUDGET FUND GROUPS	\$	356,914	\$	347,278	146323
Section 355.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS					146325 146326
General Services Fund Group					146327
4K90 973609 Operating Expenses	\$	126,340	\$	114,218	146328
TOTAL GSF General Services					146329
Fund Group	\$	126,340	\$	114,218	146330
TOTAL ALL BUDGET FUND GROUPS	\$	126,340	\$	114,218	146331
Section 357.10. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD					146332 146333
Agency Fund Group					146334
6910 810632 PUSTRCB Staff	\$	1,162,179	\$	1,123,014	146335
TOTAL AGY Agency Fund Group	\$	1,162,179	\$	1,123,014	146336
TOTAL ALL BUDGET FUND GROUPS	\$	1,162,179	\$	1,123,014	146337
Section 359.10. PRX STATE BOARD OF PHARMACY					146339
General Services Fund Group					146340
4A50 887605 Drug Law Enforcement	\$	150,000	\$	150,000	146341
4K90 887609 Operating Expenses	\$	6,608,498	\$	6,701,285	146342
TOTAL GSF General Services Fund	\$	6,758,498	\$	6,851,285	146343
Group					
Federal Special Revenue Fund Group					146344
3CT0 887606 2008	\$	70,775	\$	0	146345

		Developing/Enhancing					
		PMP					
3DV0	887607	Enhancing Ohio's PMP	\$	169,888	\$	2,379	146346
3EY0	887603	Administration of	\$	320,637	\$	66,335	146347
		PMIX Hub					
3EZ0	887610	NASPER 10	\$	164,459		27,710	146348
TOTAL FED		Federal Special Revenue	\$	725,759	\$	96,424	146349
		Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	7,484,257	\$	6,947,709	146350
		Section 361.10.					
		PSY STATE BOARD OF PSYCHOLOGY					146352
		General Services Fund Group					146353
4K90	882609	Operating Expenses	\$	525,394	\$	535,406	146354
TOTAL GSF		General Services					146355
		Fund Group	\$	525,394	\$	535,406	146356
TOTAL ALL BUDGET FUND GROUPS			\$	525,394	\$	535,406	146357
		Section 363.10.					
		PUB OHIO PUBLIC DEFENDER COMMISSION					146359
		General Revenue Fund					146360
GRF	019401	State Legal Defense	\$	2,610,272	\$	3,020,855	146361
		Services					
GRF	019403	Multi-County: State	\$	338,931	\$	406,626	146362
		Share					
GRF	019404	Trumbull County -	\$	99,321	\$	119,158	146363
		State Share					
GRF	019405	Training Account	\$	50,000	\$	50,000	146364
GRF	019501	County Reimbursement	\$	2,565,398	\$	3,077,786	146365
TOTAL GRF		General Revenue Fund	\$	5,663,922	\$	6,674,425	146366
		General Services Fund Group					146367
4070	019604	County Representation	\$	231,076	\$	231,754	146368
4080	019605	Client Payments	\$	1,052,919	\$	953,492	146369
5CX0	019617	Civil Case Filing Fee	\$	708,654	\$	705,713	146370

TOTAL GSF General Services				146371
Fund Group	\$	1,992,649	\$ 1,890,959	146372
Federal Special Revenue Fund Group				146373
3S80 019608 Federal	\$	341,733	\$ 263,431	146374
Representation				
TOTAL FED Federal Special Revenue				146375
Fund Group	\$	341,733	\$ 263,431	146376
State Special Revenue Fund Group				146377
4C70 019601 Multi-County: County	\$	3,324,009	\$ 3,333,014	146378
Share				
4N90 019613 Gifts and Grants	\$	35,000	\$ 35,000	146379
4X70 019610 Trumbull County -	\$	974,069	\$ 976,612	146380
County Share				
5740 019606 Civil Legal Aid	\$	24,000,000	\$ 27,000,000	146381
5DY0 019618 Indigent Defense	\$	42,195,000	\$ 43,125,000	146382
Support - County				
Share				
5DY0 019619 Indigent Defense	\$	6,521,723	\$ 6,096,759	146383
Support Fund - State				
Office				
TOTAL SSR State Special Revenue				146384
Fund Group	\$	77,049,801	\$ 80,566,385	146385
TOTAL ALL BUDGET FUND GROUPS	\$	85,048,105	\$ 89,395,200	146386
INDIGENT DEFENSE OFFICE				146387
The foregoing appropriation items 019404, Trumbull County -				146388
State Share, and 019610, Trumbull County - County Share, shall be				146389
used to support an indigent defense office for Trumbull County.				146390
MULTI-COUNTY OFFICE				146391
The foregoing appropriation items 019403, Multi-County: State				146392
Share, and 019601, Multi-County: County Share, shall be used to				146393
support the Office of the Ohio Public Defender's Multi-County				146394

Branch Office Program.					146395
TRAINING ACCOUNT					146396
The foregoing appropriation item 019405, Training Account,					146397
shall be used by the Ohio Public Defender to provide legal					146398
training programs at no cost for private appointed counsel who					146399
represent at least one indigent defendant at no cost and for state					146400
and county public defenders and attorneys who contract with the					146401
Ohio Public Defender to provide indigent defense services.					146402
FEDERAL REPRESENTATION					146403
The foregoing appropriation item 019608, Federal					146404
Representation, shall be used to receive reimbursements from the					146405
federal courts when the Ohio Public Defender provides					146406
representation in federal court cases and to support					146407
representation in such cases.					146408
Section 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO					146409
General Services Fund Group					146410
5F60 870622 Utility and Railroad	\$	30,637,234	\$	31,638,708	146411
Regulation					
5F60 870624 NARUC/NRRI Subsidy	\$	158,000	\$	158,000	146412
5F60 870625 Motor Transportation	\$	4,976,641	\$	5,971,218	146413
Regulation					
5Q50 870626 Telecommunications	\$	5,000,000	\$	5,000,000	146414
Relay Service					
TOTAL GSF General Services					146415
Fund Group	\$	40,771,875	\$	42,767,926	146416
Federal Special Revenue Fund Group					146417
3330 870601 Gas Pipeline Safety	\$	597,959	\$	597,959	146418
3500 870608 Motor Carrier Safety	\$	7,351,660	\$	7,351,660	146419
3CU0 870627 Electric Market	\$	91,183	\$	0	146420
Modeling					

3EA0	870630	Energy Assurance Planning	\$	384,000	\$	384,000	146421
3ED0	870631	State Regulators Assistance	\$	231,824	\$	231,824	146422
3V30	870604	Commercial Vehicle Information Systems/Networks	\$	100,000	\$	100,000	146423
TOTAL FED Federal Special Revenue							146424
Fund Group			\$	8,756,626	\$	8,665,443	146425
State Special Revenue Fund Group							146426
4A30	870614	Grade Crossing Protection Devices-State	\$	1,347,357	\$	1,347,357	146427
4L80	870617	Pipeline Safety-State	\$	181,992	\$	181,992	146428
4S60	870618	Hazardous Material Registration	\$	450,395	\$	450,395	146429
4S60	870621	Hazardous Materials Base State Registration	\$	373,346	\$	373,346	146430
4U80	870620	Civil Forfeitures	\$	277,347	\$	277,496	146431
5590	870605	Public Utilities Territorial Administration	\$	3,880	\$	3,880	146432
5600	870607	Special Assessment	\$	97,000	\$	97,000	146433
5610	870606	Power Siting Board	\$	631,508	\$	631,618	146434
5BP0	870623	Wireless 9-1-1 Administration	\$	36,440,000	\$	18,220,000	146435
5HD0	870629	Radioactive Waste Transportation	\$	98,800	\$	98,800	146436
6380	870611	Biofuels/Municipal Waste Technology	\$	570	\$	0	146437
6610	870612	Hazardous Materials Transportation	\$	898,800	\$	898,800	146438

TOTAL SSR State Special Revenue				146439
Fund Group		\$ 40,800,995	\$ 22,580,684	146440
TOTAL ALL BUDGET FUND GROUPS		\$ 90,329,496	\$ 74,014,053	146441
COMMUNITY-VOICEMAIL SERVICE PILOT PROGRAM				146442
The Community-voicemail Service Pilot Program assessments				146443
authorized by Section 6 of Sub. S.B. 162 of the 128th General				146444
Assembly shall cease. These assessments shall be refunded without				146445
interest to those assessed under the program by the Public				146446
Utilities Commission within 60 days of the effective date of this				146447
section.				146448
Section 367.10. PWC PUBLIC WORKS COMMISSION				146449
General Revenue Fund				146450
GRF 150904 Conservation General		\$ 21,953,000	\$ 29,297,300	146451
Obligation Debt				
Service				
GRF 150907 State Capital		\$ 106,770,600	\$ 215,571,100	146452
Improvements				
General Obligation				146453
Debt Service				
TOTAL GRF General Revenue Fund		\$ 128,723,600	\$ 244,868,400	146454
Clean Ohio Conservation Fund Group				146455
7056 150403 Clean Ohio Operating		\$ 300,000	\$ 288,980	146456
Expenses				
TOTAL 056 Clean Ohio Conservation		\$ 300,000	\$ 288,980	146457
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 129,023,600	\$ 245,157,380	146458
CONSERVATION GENERAL OBLIGATION DEBT SERVICE				146459
The foregoing appropriation item 150904, Conservation General				146460
Obligation Debt Service, shall be used to pay all debt service and				146461
related financing costs during the period from July 1, 2011,				146462

through June 30, 2013, at the times they are required to be made 146463
for obligations issued under sections 151.01 and 151.09 of the 146464
Revised Code. 146465

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 146466

The foregoing appropriation item 150907, State Capital 146467
Improvements General Obligation Debt Service, shall be used to pay 146468
all debt service and related financing costs during the period 146469
from July 1, 2011, through June 30, 2013, at the times they are 146470
required to be made for obligations issued under sections 151.01 146471
and 151.08 of the Revised Code. 146472

CLEAN OHIO OPERATING EXPENSES 146473

The foregoing appropriation item 150403, Clean Ohio Operating 146474
Expenses, shall be used by the Ohio Public Works Commission in 146475
administering Clean Ohio Conservation Fund (Fund 7056) projects 146476
pursuant to sections 164.20 to 164.27 of the Revised Code. 146477

REIMBURSEMENT TO THE GENERAL REVENUE FUND 146478

(A) On or before July 15, 2013, the Director of the Public 146479
Works Commission shall certify to the Director of Budget and 146480
Management the following: 146481

(1) The total amount disbursed from appropriation item 146482
700409, Farmland Preservation, during the FY 2012-FY 2013 146483
biennium; and 146484

(2) The amount of interest earnings that have been credited 146485
to the Clean Ohio Conservation Fund (Fund 7056) that are in excess 146486
of the amount needed for other purposes as calculated by the 146487
Director of the Public Works Commission. 146488

(B) If the Director of Budget and Management determines under 146489
division (A)(2) of this section that there are excess interest 146490
earnings, the Director of Budget and Management shall, on or 146491
before July 15, 2013, transfer the excess interest earnings to the 146492

General Revenue Fund in an amount equal to the total amount 146493
disbursed under division (A)(1) of this section from the Clean 146494
Ohio Conservation Fund (Fund 7056). 146495

Section 369.10. RAC STATE RACING COMMISSION 146496

State Special Revenue Fund Group 146497

5620 875601 Thoroughbred Race \$ 1,796,328 \$ 1,696,456 146498
Fund

5630 875602 Standardbred \$ 1,697,418 \$ 1,697,452 146499
Development Fund

5640 875603 Quarter Horse \$ 1,000 \$ 1,000 146500
Development Fund

5650 875604 Racing Commission \$ 3,095,331 \$ 2,934,178 146501
Operating

5C40 875607 Simulcast Horse \$ 12,000,000 \$ 12,000,000 146502
Racing Purse

TOTAL SSR State Special Revenue 146503

Fund Group \$ 18,590,078 \$ 18,329,087 146504

Holding Account Redistribution Fund Group 146505

R021 875605 Bond Reimbursements \$ 100,000 \$ 100,000 146506

TOTAL 090 Holding Account 146507

Redistribution

Fund Group \$ 100,000 \$ 100,000 146508

TOTAL ALL BUDGET FUND GROUPS \$ 18,690,078 \$ 18,429,087 146509

Section 371.10. BOR BOARD OF REGENTS 146511

General Revenue Fund 146512

GRF 235321 Operating Expenses \$ 2,300,000 \$ 2,300,000 146513

GRF 235401 Lease Rental Payments \$ 83,151,600 \$ 57,634,400 146514

GRF 235402 Sea Grants \$ 285,000 \$ 285,000 146515

GRF 235406 Articulation and \$ 2,000,000 \$ 2,000,000 146516
Transfer

GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000	146517
GRF 235409	Information System	\$	800,000	\$	800,000	146518
GRF 235414	State Grants and Scholarship Administration	\$	1,230,000	\$	1,230,000	146519
GRF 235417	Ohio Learning Network	\$	2,532,688	\$	2,532,688	146520
GRF 235428	Appalachian New Economy Partnership	\$	737,366	\$	737,366	146521
GRF 235433	Economic Growth Challenge	\$	440,000	\$	440,000	146522
GRF 235438	Choose Ohio First Scholarship	\$	15,750,085	\$	15,750,085	146523
GRF 235443	Adult Basic and Literacy Education - State	\$	7,302,416	\$	7,302,416	146524
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,317,547	\$	15,317,547	146525
GRF 235474	Area Health Education Centers Program Support	\$	900,000	\$	900,000	146526
GRF 235501	State Share of Instruction	\$	1,735,530,031	\$	1,751,225,497	146527
GRF 235502	Student Support Services	\$	632,974	\$	632,974	146528
GRF 235504	War Orphans Scholarships	\$	4,787,833	\$	4,787,833	146529
GRF 235507	OhioLINK	\$	6,100,000	\$	6,100,000	146530
GRF 235508	Air Force Institute of Technology	\$	1,740,803	\$	1,740,803	146531
GRF 235510	Ohio Supercomputer Center	\$	3,347,418	\$	3,347,418	146532

GRF 235511	Cooperative Extension Service	\$	22,220,910	\$	22,220,910	146533
GRF 235514	Central State Supplement	\$	11,503,651	\$	10,928,468	146534
GRF 235515	Case Western Reserve University School of Medicine	\$	2,146,253	\$	2,146,253	146535
GRF 235519	Family Practice	\$	3,166,185	\$	3,166,185	146536
GRF 235520	Shawnee State Supplement	\$	2,448,523	\$	2,326,097	146537
GRF 235524	Police and Fire Protection	\$	107,814	\$	107,814	146538
GRF 235525	Geriatric Medicine	\$	522,151	\$	522,151	146539
GRF 235526	Primary Care Residencies	\$	1,500,000	\$	1,500,000	146540
GRF 235535	Ohio Agricultural Research and Development Center	\$	33,100,000	\$	33,100,000	146541
GRF 235536	The Ohio State University Clinical Teaching	\$	9,668,941	\$	9,668,941	146542
GRF 235537	University of Cincinnati Clinical Teaching	\$	7,952,573	\$	7,952,573	146543
GRF 235538	University of Toledo Clinical Teaching	\$	6,198,600	\$	6,198,600	146544
GRF 235539	Wright State University Clinical Teaching	\$	3,011,400	\$	3,011,400	146545
GRF 235540	Ohio University Clinical Teaching	\$	2,911,212	\$	2,911,212	146546
GRF 235541	Northeast Ohio Medical University Clinical	\$	2,994,178	\$	2,994,178	146547

	Teaching					
GRF 235552	Capital Component	\$	20,638,274	\$	20,638,274	146548
GRF 235555	Library Depositories	\$	1,440,342	\$	1,440,342	146549
GRF 235556	Ohio Academic	\$	3,172,519	\$	3,172,519	146550
	Resources Network					
GRF 235558	Long-term Care	\$	195,300	\$	195,300	146551
	Research					
GRF 235563	Ohio College	\$	80,284,265	\$	80,284,265	146552
	Opportunity Grant					
GRF 235572	The Ohio State	\$	766,533	\$	766,533	146553
	University Clinic					
	Support					
GRF 235599	National Guard	\$	16,912,271	\$	16,912,271	146554
	Scholarship Program					
GRF 235909	Higher Education	\$	108,262,500	\$	201,555,000	146555
	General Obligation					
	Debt Service					
TOTAL GRF	General Revenue Fund	\$	2,226,105,156	\$	2,308,878,313	146556
	General Services Fund Group					146557
2200 235614	Program Approval and	\$	1,311,567	\$	1,457,959	146558
	Reauthorization					
4560 235603	Sales and Services	\$	199,250	\$	199,250	146559
5JC0 235649	Co-op Internship	\$	14,000,000		14,000,000	146560
	Program					
5JC0 235667	Ohio College	\$	6,000,000	\$	6,000,000	146561
	Opportunity					
	Grant-Proprietary					
5JC0 235668	Air Force Institute	\$	4,000,000	\$	4,000,000	146562
	of Technology -					
	Defense/Aerospace					
	Graduate Studies					
	Institute					
TOTAL GSF	General Services					146563

Fund Group		\$	25,510,817	\$	25,657,209	146564
Federal Special Revenue Fund Group						146565
3120 235609	Tech Prep	\$	183,850	\$	183,850	146566
3120 235611	Gear-up Grant	\$	3,900,000	\$	3,900,000	146567
3120 235612	Carl D. Perkins Grant/Plan Administration	\$	912,961	\$	912,961	146568
3120 235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000	146569
3120 235641	Adult Basic and Literacy Education - Federal	\$	14,835,671	\$	14,835,671	146570
3120 235659	Race to the Top Scholarship Program	\$	2,400,000	\$	3,780,000	146571
3120 235660	Race to the Top Educator Preparation Reform Initiative	\$	448,000	\$	1,120,000	146572
3120 235661	Americorps Grant	\$	260,000	\$	260,000	146573
3H20 235608	Human Services Project	\$	3,500,000	\$	3,500,000	146574
3N60 235638	College Access Challenge Grant	\$	4,381,431	\$	4,381,431	146575
TOTAL FED	Federal Special Revenue					146576
Fund Group		\$	34,021,913	\$	36,073,913	146577
State Special Revenue Fund Group						146578
4E80 235602	Higher Educational Facility Commission Administration	\$	29,100	\$	29,100	146579
5FR0 235640	Joyce Foundation Grant	\$	919,719	\$	919,719	146580
5FR0 235647	Developmental Education Initiatives	\$	135,000	\$	135,000	146581
5FR0 235657	Win-Win Grant	\$	37,000	\$	15,000	146582

5P30	235663	Variable Savings Plan	\$	8,946,994	\$	9,072,136	146583
6450	235664	Guaranteed Savings Plan	\$	900,293	\$	907,514	146584
6820	235606	Nursing Loan Program	\$	891,320	\$	891,320	146585
TOTAL SSR State Special Revenue							146586
Fund Group							
			\$	11,859,426	\$	11,969,789	146587
Third Frontier Research & Development Fund Group							146588
7011	235634	Research Incentive	\$	8,000,000	\$	8,000,000	146589
Third Frontier Fund							
TOTAL 011 Third Frontier Research & Development Fund Group							146590
TOTAL ALL BUDGET FUND GROUPS							
			\$	2,305,497,312	\$	2,390,579,224	146591

Section 371.10.10. LEASE RENTAL PAYMENTS 146593

The foregoing appropriation item 235401, Lease Rental 146594
Payments, shall be used to meet all payments at the times they are 146595
required to be made during the period from July 1, 2011, through 146596
June 30, 2013, by the Chancellor of the Board of Regents under 146597
leases and agreements made under section 154.21 of the Revised 146598
Code. These appropriations are the source of funds pledged for 146599
bond service charges or obligations issued pursuant to Chapter 146600
154. of the Revised Code. 146601

Section 371.10.20. SEA GRANTS 146602

The foregoing appropriation item 235402, Sea Grants, shall be 146603
used as required matching Funds by The Ohio State University's Sea 146604
Grant program to enhance the economic value, public utilization, 146605
and responsible management of Lake Erie and Ohio's coastal 146606
resources. 146607

Section 371.10.30. ARTICULATION AND TRANSFER 146608

The foregoing appropriation item 235406, Articulation and 146609

Transfer, shall be used by the Chancellor of the Board of Regents 146610
to maintain and expand the work of the Articulation and Transfer 146611
Council to develop a system of transfer policies to ensure that 146612
students at state institutions of higher education can transfer 146613
and have coursework apply to their majors and degrees at any other 146614
state institution of higher education without unnecessary 146615
duplication or institutional barriers under sections 3333.16, 146616
3333.161, and 3333.162 of the Revised Code. 146617

Section 371.10.40. MIDWEST HIGHER EDUCATION COMPACT 146618

The foregoing appropriation item 235408, Midwest Higher 146619
Education Compact, shall be distributed by the Chancellor of the 146620
Board of Regents under section 3333.40 of the Revised Code. 146621

Section 371.10.50. INFORMATION SYSTEM 146622

The foregoing appropriation item 235409, Information System, 146623
shall be used by the Chancellor of the Board of Regents to support 146624
the development and implementation of information technology 146625
solutions designed to improve the performance and services of the 146626
Chancellor of the Board of Regents and the University System of 146627
Ohio. Information technology solutions shall be provided by the 146628
Ohio Academic Research Network (OARnet). 146629

Section 371.10.60. STATE GRANTS AND SCHOLARSHIP 146630
ADMINISTRATION 146631

The foregoing appropriation item 235414, State Grants and 146632
Scholarship Administration, shall be used by the Chancellor of the 146633
Board of Regents to administer the following student financial aid 146634
programs: Ohio College Opportunity Grant, Ohio War Orphans' 146635
Scholarship, Nurse Education Assistance Loan Program, Ohio Safety 146636
Officers College Memorial Fund, and any other student financial 146637
aid programs created by the General Assembly. The appropriation 146638

item also shall be used to support all state financial aid audits 146639
and student financial aid programs created by Congress, and to 146640
provide fiscal services for the Ohio National Guard Scholarship 146641
Program. 146642

Section 371.10.70. OHIO LEARNING NETWORK 146643

The foregoing appropriation item 235417, Ohio Learning 146644
Network, shall be used by the Chancellor of the Board of Regents 146645
to support the continued implementation of the Ohio Learning 146646
Network, a consortium organized under division (U) of section 146647
3333.04 of the Revised Code to expand access to dual enrollment 146648
opportunities for high school students, as well as adult and 146649
higher education opportunities through technology. The funds shall 146650
be used by the Ohio Learning Network to develop and promote 146651
learning and assessment through the use of technology, to test and 146652
provide advice on emerging learning-directed technologies, and to 146653
facilitate cost-effectiveness through shared educational 146654
technology investments. 146655

Of the foregoing appropriation item 235417, Ohio Learning 146656
Network, up to \$250,000 in each fiscal year shall be used by the 146657
Chancellor of the Board of Regents to fund staff support and 146658
operations of the Ohio Digital Learning Task Force established in 146659
Section 371.60.80 of this act. 146660

Section 371.10.80. APPALACHIAN NEW ECONOMY PARTNERSHIP 146661

The foregoing appropriation item 235428, Appalachian New 146662
Economy Partnership, shall be distributed to Ohio University to 146663
continue a multi-campus and multi-agency coordinated effort to 146664
link Appalachia to the new economy. Ohio University shall use 146665
these funds to provide leadership in the development and 146666
implementation of initiatives in the areas of entrepreneurship, 146667
management, education, and technology. 146668

Section 371.10.90. ECONOMIC GROWTH CHALLENGE 146669

The foregoing appropriation item 235433, Economic Growth Challenge, shall be used for administrative expenses of the Research Incentive Program and other economic advancement initiatives undertaken by the Chancellor of the Board of Regents. 146670
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The Chancellor of the Board of Regents shall use any appropriation transfer to the foregoing appropriation item 235433, Economic Growth Challenge, to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. 146674
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Section 371.20.10. CHOOSE OHIO FIRST SCHOLARSHIP 146682

The foregoing appropriation item 235438, Choose Ohio First Scholarship, shall be used to operate the program prescribed in sections 3333.60 to 3333.70 of the Revised Code. 146683
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An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235438, Choose Ohio First Scholarship, at the end of fiscal year 2012 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2013. 146686
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Section 371.20.20. ADULT BASIC AND LITERACY EDUCATION 146691

The foregoing appropriation item 235443, Adult Basic and Literacy Education - State, shall be used to support the adult basic and literacy education instructional grant program and state leadership program. The supported programs shall satisfy the state match and maintenance of effort requirements for the state-administered grant program. 146692
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Section 371.20.30. POST-SECONDARY ADULT CAREER-TECHNICAL EDUCATION 146698
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The foregoing appropriation item 235444, Post-Secondary Adult Career-Technical Education, shall be used by the Chancellor of the Board of Regents in each fiscal year to provide post-secondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code. 146700
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Section 371.20.40. AREA HEALTH EDUCATION CENTERS 146705

The foregoing appropriation item 235474, Area Health Education Centers Program Support, shall be used by the Chancellor of the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program. 146706
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Section 371.20.50. STATE SHARE OF INSTRUCTION FORMULAS 146713

The Chancellor of the Board of Regents shall establish procedures to allocate the foregoing appropriation item 235501, State Share of Instruction, based on the formulas, enrollment, course completion, degree attainment, and student achievement factors in the instructional models set out in this section. 146714
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(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS 146719

(1) As soon as possible during each fiscal year of the biennium ending June 30, 2013, in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment, consistent with the definitions in the Higher Education Information (HEI) system's enrollment files, to the Chancellor of the Board of Regents. 146720
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(2) In defining the number of full-time equivalent students 146726

for state subsidy purposes, the Chancellor of the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code.

(3) In calculating the core subsidy entitlements for university branch and main campuses, the Chancellor of the Board of Regents shall use the following count of FTE students:

(a) The subsidy eligible enrollments by model shall equal only those FTE students who successfully complete the course as defined and reported through the Higher Education Information (HEI) system course enrollment file;

(b) For those undergraduate FTE students with successful course completions, identified in division (A)(3)(a) of this section, that had an expected family contribution less than 2190 or were determined to have been in need of remedial education shall be defined as at-risk students and shall have their eligible completions weighted by the following:

(i) Campus-specific course completion rates by model;

(ii) Campus-specific course completion indexes, where the indexes are calculated based upon the number of at-risk students enrolled during the 2009-2010 academic year; and

(iii) A statewide average at-risk course completion weight determined for each subsidy model. The statewide average at-risk course completion weight shall be determined by calculating the difference between the percentage of traditional students who complete a course and the percentage of at-risk students who complete the same course.

(4) In calculating the core subsidy entitlements for Medical II models only, students repeating terms may be no more than five

per cent of current year enrollment. 146758

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT 146759

For purposes of calculating state share of instruction 146760

allocations, the total instructional costs per full-time 146761

equivalent student shall be: 146762

Model	Fiscal	Fiscal	146763
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Year 2012	Year 2013
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ARTS AND HUMANITIES 1	\$8,000	\$8,207	146764
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ARTS AND HUMANITIES 2	\$10,757	\$11,036	146765
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ARTS AND HUMANITIES 3	\$13,853	\$14,212	146766
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ARTS AND HUMANITIES 4	\$20,228	\$20,751	146767
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ARTS AND HUMANITIES 5	\$32,605	\$33,449	146768
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ARTS AND HUMANITIES 6	\$38,027	\$39,011	146769
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BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$7,124	\$7,308	146770
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BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$8,164	\$8,376	146771
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BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$10,430	\$10,700	146772
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BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$12,406	\$12,727	146773
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BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$19,267	\$19,765	146774
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BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,684	\$23,272	146775
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BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$29,426	\$30,188	146776
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MEDICAL 1	\$51,214	\$52,539	146777
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MEDICAL 2	\$46,876	\$48,089	146778
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SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$7,306	\$7,495	146779
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MEDICINE 1			
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SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$10,242	\$10,507	146780
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MEDICINE 2			
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SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$12,242	\$12,559	146781
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MEDICINE 3			
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SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$15,592	\$15,995	146782
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MEDICINE 4			
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SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$20,250	\$20,774	146783
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MEDICINE 5			
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SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$22,357	\$22,935	146784
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$28,000	\$28,724	146785
MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$37,731	\$38,707	146786
MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$52,676	\$54,039	146787
MEDICINE 9			

Doctoral I and Doctoral II models shall be allocated in accordance with division (D)(2) of this section. 146788
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(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL, AND GRADUATE WEIGHTS 146790
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For the purpose of implementing the recommendations of the State Share of Instruction Consultation and the Higher Education Funding Study Council that priority be given to maintaining state support for science, technology, engineering, mathematics, medicine, and graduate programs, the costs in division (B) of this section shall be weighted by the amounts provided below: 146792
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Model	Fiscal Year 2012	Fiscal Year 2013	
ARTS AND HUMANITIES 1	1.0000	1.0000	146798 146799
ARTS AND HUMANITIES 2	1.0000	1.0000	146800
ARTS AND HUMANITIES 3	1.0000	1.0000	146801
ARTS AND HUMANITIES 4	1.0000	1.0000	146802
ARTS AND HUMANITIES 5	1.0425	1.0425	146803
ARTS AND HUMANITIES 6	1.0425	1.0425	146804
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000	146805
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000	146806
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000	146807
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000	146808
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425	146809
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425	146810

BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425	146811
MEDICAL 1	1.6456	1.6456	146812
MEDICAL 2	1.7462	1.7462	146813
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	1.0000	1.0000	146814
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	1.0017	1.0017	146815
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	1.6150	1.6150	146816
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	1.6920	1.6920	146817
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	1.4222	1.4222	146818
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	1.8798	1.8798	146819
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	1.4380	1.4380	146820
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	1.5675	1.5675	146821
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	1.1361	1.1361	146822
(D) CALCULATION OF STATE SHARE OF INSTRUCTION FORMULA			146823
ENTITLEMENTS AND ADJUSTMENTS			146824
(1) Of the foregoing appropriation item 235501, State Share			146825
of Instruction, 7.5 per cent of the fiscal year 2012 appropriation			146826
and 10 per cent of the fiscal year 2013 appropriation for			146827
state-supported community colleges, state community colleges, and			146828
technical colleges shall be allocated to colleges in proportion to			146829
their share of college student success factors as adopted by the			146830
Chancellor of the Board of Regents in formal communication to the			146831
Controlling Board on August 30, 2010.			146832
(2) Of the foregoing appropriation item 235501, State Share			146833

of Instruction, up to 12.89 per cent of the appropriation for 146834
university main campuses in each fiscal year shall be reserved for 146835
support of doctoral programs to implement the funding 146836
recommendations made by representatives of the universities. The 146837
amount so reserved shall be referred to as the doctoral set-aside. 146838

The doctoral set-aside shall be allocated to universities as 146839
follows: 146840

(a) 70 per cent of the doctoral set-aside in fiscal year 2012 146841
and 60 per cent of the doctoral set-aside in fiscal year 2013 146842
shall be allocated to universities in proportion to their share of 146843
the total number of Doctoral I equivalent FTEs as calculated on an 146844
institutional basis using the greater of the two-year or five-year 146845
FTEs for the period fiscal year 1994 through fiscal year 1998 with 146846
annualized FTEs for fiscal years 1994 through 1997 and all-term 146847
FTEs for fiscal year 1998 as adjusted to reflect the effects of 146848
doctoral review and subsequent changes in Doctoral I equivalent 146849
enrollments. For the purposes of this calculation, Doctoral I 146850
equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 146851
times the sum of Doctoral II FTEs. 146852

(b) 15 per cent of the doctoral set-aside in fiscal year 2012 146853
and 20 per cent of the doctoral set-aside in fiscal year 2013 146854
shall be allocated to universities in proportion to each campus's 146855
share of the total statewide doctoral degrees, weighted by the 146856
cost of the doctoral discipline. In calculating each campus's 146857
doctoral degrees the Chancellor of the Board of Regents shall use 146858
the three-year average doctoral degrees awarded for the three-year 146859
period ending in the prior year. 146860

(c) 7.5 per cent of the doctoral set-aside in fiscal year 146861
2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 146862
shall be allocated to universities in proportion to their share of 146863
research grant activity, using a data collection method that is 146864
reviewed and approved by the presidents of Ohio's doctoral degree 146865

granting universities. In the event that the data collection 146866
method is not available, funding for this component shall be 146867
allocated to universities in proportion to their share of research 146868
grant activity published by the National Science Foundation. Grant 146869
awards from the Department of Health and Human Services shall be 146870
weighted at 50 per cent. 146871

(d) 7.5 per cent of the doctoral set-aside in fiscal year 146872
2012 and 10 per cent of the doctoral set-aside in fiscal year 2013 146873
shall be allocated to universities based on other quality measures 146874
that contribute to the advancement of quality doctoral programs. 146875
These other quality measures shall be identified by the Chancellor 146876
in consultation with universities. If for any reason metrics for 146877
distributing the quality component of the doctoral set-aside are 146878
not identified prior to the fiscal year allocation process, this 146879
portion of the doctoral set-aside funds shall be allocated to 146880
universities based on division (D)(2)(a) of this section. 146881

(3) Of the foregoing appropriation item 235501, State Share 146882
of Instruction, 7.01 per cent of the appropriation for university 146883
main campuses in each fiscal year shall be reserved for support of 146884
Medical II FTEs. The amount so reserved shall be referred to as 146885
the medical II set-aside. 146886

The medical II set-aside shall be allocated to universities 146887
in proportion to their share of the total number of Medical II 146888
FTEs as calculated in division (A) of this section, weighted by 146889
model cost. 146890

The Northeast Ohio Medical University may use funds from the 146891
addition of 35 medical students resulting from its partnership 146892
with Cleveland State University to establish the Northeast Ohio 146893
Medical University academic campus at Cleveland State University 146894
to enable 50 per cent or more of the medical curriculum to be 146895
based in Cleveland at Cleveland State University, local hospitals, 146896
and community- and neighborhood-based primary care clinics. 146897

Cleveland State University shall not receive state capital 146898
appropriations to pay for facilities for the academic campus. 146899

(4) Of the foregoing appropriation item 235501, State Share 146900
of Instruction, 1.61 per cent of the appropriation for university 146901
main campuses in each fiscal year shall be reserved for support of 146902
Medical I FTEs. The amount so reserved shall be referred to as the 146903
medical I set-aside. 146904

The medical I set-aside shall be allocated to universities in 146905
proportion to their share of the total number of Medical I FTEs as 146906
calculated in division (A) of this section. 146907

(5) Of the foregoing appropriation item 235501, State Share 146908
of Instruction, 15 per cent of the fiscal year 2012 appropriation 146909
for university main campuses and 20 per cent of the fiscal year 146910
2013 appropriation for university main campuses shall be reserved 146911
for support of associate, baccalaureate, master's, and 146912
professional level degree attainment. 146913

The degree attainment funding shall be allocated to 146914
universities in proportion to each campus's share of the total 146915
statewide degrees granted, weighted by the cost of the degree 146916
programs. 146917

In calculating the subsidy entitlements for degree attainment 146918
at university main campuses, the Chancellor of the Board of 146919
Regents shall use the following count of degrees and degree costs: 146920

(a) For those associate degrees awarded by a state-supported 146921
university, the subsidy eligible degrees granted are defined as 146922
only those earned by students attending a university that received 146923
funding under GRF appropriation item 235418, Access Challenge, in 146924
fiscal year 2009. 146925

(b) For professional law and legal studies degrees awarded by 146926
a state-supported university, the subsidy-eligible degrees at each 146927
institution shall equal no more than the following: 146928

University of Akron	132	146929
University of Cincinnati	90	146930
Cleveland State University	192	146931
The Ohio State University	149	146932
University of Toledo	134	146933

(c) In calculating each campus's count of degrees, the
Chancellor of the Board of Regents shall use the three-year
average associate, baccalaureate, master's, and professional
degrees awarded for the three-year period ending in the prior
year.

(d) Eligible associate degrees defined in division (D)(5)(a)
of this section and all bachelor's degrees earned by a student
that either had an expected family contribution less than 2190,
was determined to have been in need of remedial education, is
Native American, African American, or Hispanic, or is at least age
26 at the time of graduation, shall be defined as degrees earned
by an at-risk student and shall be weighted by the following:

(i) A campus-specific degree completion index, where the
index is calculated based on the number of at-risk students
enrolled during a two-year degree cohort beginning in fiscal year
2000 or 2001 and earning a degree in eight years or less; and

(ii) A statewide average at-risk completion weight determined
by calculating the difference between the percentage of
traditional students who earned a degree and the percentage of
at-risk students who earned a degree during the same time period.

(6) Each campus's state share of instruction base formula
earnings shall be determined as follows:

(a) For each campus in each fiscal year, the instructional
costs shall be determined by multiplying the amounts listed above
in divisions (B) and (C) of this section by (i) average
subsidy-eligible FTEs for the two-year period ending in the prior

year for all models except Doctoral I and Doctoral II; and (ii) 146960
average subsidy-eligible FTEs for the five-year period ending in 146961
the prior year for all models except Doctoral I and Doctoral II. 146962

(b) The Chancellor of the Board of Regents shall compute the 146963
two calculations listed in division (D)(6)(a) of this section and 146964
use the greater amount as each campus's instructional costs. 146965

(c) The Chancellor of the Board of Regents shall compute a 146966
uniform state share of instructional costs for each sector. 146967

(i) For the state-supported community colleges, state 146968
community colleges, and technical colleges, the Chancellor of the 146969
Board of Regents shall compute the uniform state share of 146970
instructional costs by dividing the sector level appropriation 146971
total as determined by the Chancellor in division (A)(1) of 146972
Section 371.20.60 of this act and adjusted pursuant to divisions 146973
(B) and (C) of Section 371.20.60 of this act, less the student 146974
college success allocation as described in division (D)(1) of this 146975
section, by the sum of all eligible campuses' instructional costs 146976
as calculated in division (D)(6)(b) of this section. 146977

(ii) For the state-supported university branch campuses, the 146978
Chancellor of the Board of Regents shall compute the uniform state 146979
share of instructional costs by dividing the sector level 146980
appropriation, as determined by the Chancellor in division (A)(2) 146981
of Section 371.20.60 of this act and adjusted pursuant to division 146982
(B) of Section 371.20.60 of this act by the sum of all campuses' 146983
instructional costs as calculated in division (D)(6)(b) of this 146984
section. 146985

(iii) For the state-supported university main campuses, the 146986
Chancellor of the Board of Regents shall compute the uniform state 146987
share of instructional costs by dividing the sector level 146988
appropriation, as determined by the Chancellor in division (A)(3) 146989
of Section 371.20.60 of this act and adjusted pursuant to division 146990

(B) of Section 371.20.60 of this act, less the doctoral set-aside, 146991
less the medical I set-aside, less the medical II set-aside, and 146992
less the degree attainment funding as calculated in divisions 146993
(D)(2) to (5) of this section, by the sum of all campuses' 146994
instructional costs as calculated in division (D)(6)(b) of this 146995
section. 146996

(d) The formula entitlement for each sector's campuses shall 146997
be determined by multiplying the uniform state share of 146998
instructional costs calculated in division (D)(6)(c) of this 146999
section by the campus's instructional cost determined in division 147000
(D)(6)(b) of this section. 147001

(7) In addition to the student success allocation, doctoral 147002
set-aside, medical I set-aside, medical II set-aside, and the 147003
degree attainment allocation determined in divisions (D)(1) to (5) 147004
of this section and the formula entitlement determined in division 147005
(D)(6) of this section, an allocation based on facility-based 147006
plant operations and maintenance (POM) subsidy shall be made. For 147007
each eligible campus, the amount of the POM allocation in each 147008
fiscal year shall be distributed based on what each campus 147009
received in the fiscal year 2009 POM allocation. 147010

Any POM allocations required by this division shall be funded 147011
by proportionately reducing formula entitlement earnings, 147012
including the POM allocations, for all campuses in that sector. 147013

(8) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING 147014

(a) In addition to and after the adjustments noted above, in 147015
fiscal year 2012, no campus shall receive a state share of 147016
instruction allocation that is less than the lesser of the 147017
following two amounts, net of funding for the medical II 147018
set-aside: 147019

(i) The prior year's state share of instruction amount 147020
reduced by 3 per cent, or 147021

(ii) The prior year's state share of instruction amount 147022
reduced by a percentage equal to the percentage change from the 147023
prior year in the campus's sector's state share of instruction 147024
funding minus three percentage points. Funds shall be made 147025
available to support this allocation by proportionately reducing 147026
formula entitlement earnings from those campuses, within each 147027
sector, that are not receiving stability funding. 147028

(b) In fiscal year 2013, in addition to and after the 147029
adjustments noted above, no campus shall receive a state share of 147030
instruction allocation that is less than the lesser of the 147031
following two amounts, net of funding for the medical II 147032
set-aside: 147033

(i) The prior year's state share of instruction amount 147034
reduced by 4 per cent, or 147035

(ii) The prior year's state share of instruction amount 147036
reduced by a percentage equal to the percentage change from the 147037
prior year in the campus's sector's state share of instruction 147038
funding minus four percentage points. Funds shall be made 147039
available to support this allocation by proportionately reducing 147040
formula entitlement earnings from those campuses, within each 147041
sector, that are not receiving stability funding. 147042

(c) For main campus universities that operate a medical 147043
school, in fiscal year 2012 no campus shall receive an allocation 147044
for the medical II set-aside that is less than the lesser of the 147045
following amounts: 147046

(i) The prior year's allocation for the medical II set-aside 147047
reduced by 2 per cent, or 147048

(ii) The prior year's allocation for the medical II set-aside 147049
reduced by a percentage equal to the percentage change from the 147050
prior year in the total medical II set-aside minus two percentage 147051
points. Funds shall be made available to support this allocation 147052

by proportionately reducing formula entitlement earnings from 147053
public medical schools, within each sector, that are not receiving 147054
stability funding. 147055

(d) In fiscal year 2013, no main campus university that 147056
operates a medical school shall receive an allocation for the 147057
medical II set-aside that is less than 97 per cent of the prior 147058
year's allocation for the medical II set-aside. Funds shall be 147059
made available to support this allocation by proportionately 147060
reducing formula entitlement earnings from public medical schools, 147061
within each sector, that are not receiving stability funding. 147062

(9) CAPITAL COMPONENT DEDUCTION 147063

After all other adjustments have been made, state share of 147064
instruction earnings shall be reduced for each campus by the 147065
amount, if any, by which debt service charged in Am. H.B. 748 of 147066
the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General 147067
Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 147068
675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th 147069
General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, 147070
Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 147071
562 of the 127th General Assembly for that campus exceeds that 147072
campus's capital component earnings. The sum of the amounts 147073
deducted shall be transferred to appropriation item 235552, 147074
Capital Component, in each fiscal year. 147075

(E) EXCEPTIONAL CIRCUMSTANCES 147076

Adjustments may be made to the state share of instruction 147077
payments and other subsidies distributed by the Chancellor of the 147078
Board of Regents to state-assisted colleges and universities for 147079
exceptional circumstances. No adjustments for exceptional 147080
circumstances may be made without the recommendation of the 147081
Chancellor and the approval of the Controlling Board. 147082

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 147083

INSTRUCTION	147084
The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation item 235501, State Share of Instruction, before the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.	147085 147086 147087 147088 147089 147090
Any reductions made to appropriation item 235501, State Share of Instruction, after the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.	147091 147092 147093 147094 147095
(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION	147096
The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to the Chancellor of the Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor.	147097 147098 147099 147100 147101 147102 147103 147104 147105 147106 147107
Section 371.20.60. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2012 AND 2013	147108 147109
(A) The foregoing appropriation item 235501, State Share of Instruction, shall be distributed according to the section of this act entitled "STATE SHARE OF INSTRUCTION FORMULAS."	147110 147111 147112
(1) Of the foregoing appropriation item 235501, State Share	147113

of Instruction, \$400,039,672 in fiscal year 2012 and \$403,657,477 147114
in fiscal year 2013 shall be distributed to state-supported 147115
community colleges, state community colleges, and technical 147116
colleges. 147117

(2) Of the foregoing appropriation item 235501, State Share 147118
of Instruction, \$115,139,824 in fiscal year 2012 and \$116,181,104 147119
in fiscal year 2013 shall be distributed to state-supported 147120
university branch campuses. 147121

(3) Of the foregoing appropriation item 235501, State Share 147122
of Instruction, \$1,220,350,535 in fiscal year 2012 and 147123
\$1,231,386,916 in fiscal year 2013 shall be distributed to 147124
state-supported university main campuses. 147125

(B) Of the amounts earmarked in division (A) of this section, 147126
\$60,996,059 in each fiscal year shall be distributed to eligible 147127
colleges and universities based on each campus's share of the 147128
appropriation item 235418, Access Challenge, in fiscal year 2009. 147129

(C) Of the amount earmarked in division (A)(1) of this 147130
section, \$10,323,056 in each fiscal year shall be distributed 147131
among state-supported community colleges, state community 147132
colleges, and technical colleges in an amount equal to the amount 147133
each institution received in fiscal year 2009 from the 147134
supplemental tuition subsidy earmarked under Section 375.30.25 of 147135
H.B. 119 of the 127th General Assembly. 147136

(D) The state share of instruction payments to the 147137
institutions shall be in substantially equal monthly amounts 147138
during the fiscal year, unless otherwise determined by the 147139
Director of Budget and Management pursuant to section 126.09 of 147140
the Revised Code. Payments during the last six months of the 147141
fiscal year shall be distributed after approval of the Controlling 147142
Board upon the request of the Chancellor of the Board of Regents. 147143

Section 371.20.65. TRANSFER OF INSTRUCTIONAL SUBSIDIES 147144
BETWEEN UNIVERSITIES 147145

Notwithstanding any provision of law to the contrary, in 147146
consultation with the Chancellor of the Board of Regents, a 147147
state-supported university may request to transfer state share of 147148
instruction subsidy allocations of the foregoing appropriation 147149
item 235501, State Share of Instruction, between a university main 147150
campus and any university branch campus for which the university 147151
main campus is affiliated to best accomplish institutional goals 147152
and objectives. At the request of the Chancellor of the Board of 147153
Regents, the Director of Budget and Management may transfer the 147154
requested amounts of state share of instruction appropriation 147155
allocations between affiliated university branch campuses and 147156
university main campuses. 147157

Section 371.20.70. RESTRICTION ON FEE INCREASES 147158

The boards of trustees of state-assisted institutions of 147159
higher education shall restrain increases in in-state 147160
undergraduate instructional and general fees. Each state 147161
university, university branch, and the Northeast Ohio Medical 147162
University shall not increase its in-state undergraduate 147163
instructional and general fees more than 3.5 per cent over what 147164
the institution charged for the preceding academic year. 147165

Each community college, state community college, and 147166
technical college shall not increase its in-state undergraduate 147167
instructional and general fees by more than \$200 more than the 147168
institution charged for the preceding academic year. 147169

These limitations shall not apply to increases required to 147170
comply with institutional covenants related to their obligations 147171
or to meet unfunded legal mandates or legally binding obligations 147172
incurred or commitments made prior to the effective date of this 147173

section with respect to which the institution had identified such 147174
fee increases as the source of funds. Any increase required by 147175
such covenants and any such mandates, obligations, or commitments 147176
shall be reported by the Chancellor of the Board of Regents to the 147177
Controlling Board. These limitations may also be modified by the 147178
Chancellor of the Board of Regents, with the approval of the 147179
Controlling Board, to respond to exceptional circumstances as 147180
identified by the Chancellor of the Board of Regents. 147181

Section 371.20.80. HIGHER EDUCATION - BOARD OF TRUSTEES 147182

(A) Funds appropriated for instructional subsidies at 147183
colleges and universities may be used to provide such branch or 147184
other off-campus undergraduate courses of study and such master's 147185
degree courses of study as may be approved by the Chancellor of 147186
the Board of Regents. 147187

(B) In providing instructional and other services to 147188
students, boards of trustees of state-assisted institutions of 147189
higher education shall supplement state subsidies with income from 147190
charges to students. Except as otherwise provided in this act, 147191
each board shall establish the fees to be charged to all students, 147192
including an instructional fee for educational and associated 147193
operational support of the institution and a general fee for 147194
noninstructional services, including locally financed student 147195
services facilities used for the benefit of enrolled students. The 147196
instructional fee and the general fee shall encompass all charges 147197
for services assessed uniformly to all enrolled students. Each 147198
board may also establish special purpose fees, service charges, 147199
and fines as required; such special purpose fees and service 147200
charges shall be for services or benefits furnished individual 147201
students or specific categories of students and shall not be 147202
applied uniformly to all enrolled students. A tuition surcharge 147203
shall be paid by all students who are not residents of Ohio. 147204

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees.

Each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

(C) The boards of trustees of state-assisted institutions of higher education shall ensure that faculty members devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per academic term per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Chancellor of the Board of Regents.

(D) The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the

exclusive prerogative of boards of trustees. Any delegation of 147237
authority by a board of trustees in other areas of responsibility 147238
shall be accompanied by appropriate standards of guidance 147239
concerning expected objectives in the exercise of such delegated 147240
authority and shall be accompanied by periodic review of the 147241
exercise of this delegated authority to the end that the public 147242
interest, in contrast to any institutional or special interest, 147243
shall be served. 147244

Section 371.20.90. STUDENT SUPPORT SERVICES 147245

The foregoing appropriation item 235502, Student Support 147246
Services, shall be distributed by the Chancellor of the Board of 147247
Regents to Ohio's state-assisted colleges and universities that 147248
incur disproportionate costs in the provision of support services 147249
to disabled students. 147250

Section 371.30.10. WAR ORPHANS SCHOLARSHIPS 147251

The foregoing appropriation item 235504, War Orphans 147252
Scholarships, shall be used to reimburse state-assisted 147253
institutions of higher education for waivers of instructional fees 147254
and general fees provided by them, to provide grants to 147255
institutions that have received a certificate of authorization 147256
from the Chancellor of the Board of Regents under Chapter 1713. of 147257
the Revised Code, in accordance with the provisions of section 147258
5910.04 of the Revised Code, and to fund additional scholarship 147259
benefits provided by section 5910.032 of the Revised Code. 147260

An amount equal to the unexpended, unencumbered portion of 147261
the foregoing appropriation item 235504, War Orphans Scholarships, 147262
at the end of fiscal year 2012 is hereby reappropriated to the 147263
Board of Regents for the same purpose for fiscal year 2013. 147264

Section 371.30.20. OHIOLINK 147265

The foregoing appropriation item 235507, OhioLINK, shall be used by the Chancellor of the Board of Regents to support OhioLINK, a consortium organized under division (U) of section 3333.04 of the Revised Code to serve as the state's electronic library information and retrieval system, which provides access statewide to an extensive set of electronic databases and resources and the library holdings of Ohio's public and participating private nonprofit colleges and universities, and the State Library of Ohio.

Section 371.30.30. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235508, Air Force Institute of Technology, shall be used by the director of the Air Force Institute to: (A) strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio; and (B) support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University.

Section 371.30.40. OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235510, Ohio Supercomputer Center, shall be used by the Chancellor of the Board of Regents to support the operation of the Ohio Supercomputer Center, a consortium organized under division (U) of section 3333.04 of the Revised Code, located at The Ohio State University. The Ohio Supercomputer Center is a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate.

Funds shall be used, in part, to support the Ohio

Supercomputer Center's Computational Science Initiative, which 147296
includes its industrial outreach program, Blue Collar Computing, 147297
and its School of Computational Science. These collaborations 147298
between the Ohio Supercomputer Center and Ohio's colleges and 147299
universities shall be aimed at making Ohio a leader in using 147300
computer modeling to promote economic development. 147301

Section 371.30.50. COOPERATIVE EXTENSION SERVICE 147302

The foregoing appropriation item 235511, Cooperative 147303
Extension Service, shall be disbursed through the Chancellor of 147304
the Board of Regents to The Ohio State University in monthly 147305
payments, unless otherwise determined by the Director of Budget 147306
and Management under section 126.09 of the Revised Code. 147307

Section 371.30.60. CENTRAL STATE SUPPLEMENT 147308

The Chancellor of the Board of Regents shall, in consultation 147309
with Central State University, develop a plan whereby the 147310
foregoing appropriation item 235514, Central State Supplement, 147311
shall be used in a manner consistent with the goals of increasing 147312
enrollment, improving course completion, and increasing the number 147313
of degrees conferred. The Chancellor shall submit a summary of the 147314
plan to the Speaker of the House of Representatives, the President 147315
of the Senate, and the Governor by December 31, 2011. 147316

The foregoing appropriation item 235514, Central State 147317
Supplement, shall be disbursed by the Chancellor of the Board of 147318
Regents to Central State University. The first two disbursements 147319
in fiscal year 2012 shall be made on a quarterly basis. Beginning 147320
January 1, 2012, the funds shall be disbursed to Central State 147321
University in accordance with the plan developed by the Chancellor 147322
under this section. 147323

The Chancellor shall monitor the implementation of the plan 147324
and the use of funds. Central State University shall provide any 147325

information requested by the Chancellor related to the 147326
implementation of the plan. If the Chancellor determines that 147327
Central State University's use of supplemental funds is not in 147328
accordance with the plan or if the plan is not having the desired 147329
effect, the Chancellor may notify Central State University that 147330
the plan is suspended. Upon receiving such notice, Central State 147331
University shall avoid all unnecessary expenditures under the 147332
plan. The Chancellor shall notify the Controlling Board of the 147333
suspension of the plan and within sixty days prepare a new plan 147334
for the use of any remaining funds. 147335

Section 371.30.70. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 147336
MEDICINE 147337

The foregoing appropriation item 235515, Case Western Reserve 147338
University School of Medicine, shall be disbursed to Case Western 147339
Reserve University through the Chancellor of the Board of Regents 147340
in accordance with agreements entered into under section 3333.10 147341
of the Revised Code, provided that the state support per full-time 147342
medical student shall not exceed that provided to full-time 147343
medical students at state universities. 147344

Section 371.30.80. FAMILY PRACTICE 147345

The Chancellor of the Ohio Board of Regents shall develop 147346
plans consistent with existing criteria and guidelines as may be 147347
required for the distribution of appropriation item 235519, Family 147348
Practice. 147349

Section 371.30.90. SHAWNEE STATE SUPPLEMENT 147350

The Chancellor of the Board of Regents shall, in consultation 147351
with Shawnee State University, develop a plan whereby the 147352
foregoing appropriation item 235520, Shawnee State Supplement, 147353
shall be used in a manner consistent with the goals of improving 147354

course completion, increasing the number of degrees conferred, and 147355
furthering the university's mission of service to the Appalachian 147356
region. The Chancellor shall submit a summary of the plan to the 147357
Speaker of the House of Representatives, the President of the 147358
Senate, and the Governor by December 31, 2011. 147359

The foregoing appropriation item 235520, Shawnee State 147360
Supplement, shall be disbursed by the Chancellor of the Board of 147361
Regents to Shawnee State University. The first two disbursements 147362
in fiscal year 2012 shall be made on a quarterly basis. Beginning 147363
January 1, 2012, the funds shall be disbursed to Shawnee State 147364
University in accordance with the plan developed by the Chancellor 147365
under this section. 147366

The Chancellor shall monitor the implementation of the plan 147367
and the use of funds. Shawnee State University shall provide any 147368
information requested by the Chancellor related to the 147369
implementation of the plan. If the Chancellor determines that 147370
Shawnee State University's use of supplemental funds is not in 147371
accordance with the plan or if the plan is not having the desired 147372
effect, the Chancellor may notify Shawnee State University that 147373
the plan is suspended. Upon receiving such notice, Shawnee State 147374
University shall avoid all unnecessary expenditures under the 147375
plan. The Chancellor shall notify the Controlling Board of the 147376
suspension of the plan and within sixty days prepare a new plan 147377
for the use of any remaining funds. 147378

Section 371.40.10. POLICE AND FIRE PROTECTION 147379

The foregoing appropriation item 235524, Police and Fire 147380
Protection, shall be used for police and fire services in the 147381
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 147382
Portsmouth, Xenia Township (Greene County), Rootstown Township, 147383
and the City of Nelsonville that may be used to assist these local 147384
governments in providing police and fire protection for the 147385

central campus of the state-affiliated university located therein. 147386

Section 371.40.20. GERIATRIC MEDICINE 147387

The Chancellor of the Board of Regents shall develop plans 147388
consistent with existing criteria and guidelines as may be 147389
required for the distribution of appropriation item 235525, 147390
Geriatric Medicine. 147391

Section 371.40.30. PRIMARY CARE RESIDENCIES 147392

The Chancellor of the Board of Regents shall develop plans 147393
consistent with existing criteria and guidelines as may be 147394
required for the distribution of appropriation item 235526, 147395
Primary Care Residencies. 147396

The foregoing appropriation item 235526, Primary Care 147397
Residencies, shall be distributed in each fiscal year of the 147398
biennium, based on whether or not the institution has submitted 147399
and gained approval for a plan. If the institution does not have 147400
an approved plan, it shall receive five per cent less funding per 147401
student than it would have received from its annual allocation. 147402
The remaining funding shall be distributed among those 147403
institutions that meet or exceed their targets. 147404

Section 371.40.40. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 147405
CENTER 147406

The foregoing appropriation item 235535, Ohio Agricultural 147407
Research and Development Center, shall be disbursed through the 147408
Chancellor of the Board of Regents to The Ohio State University in 147409
monthly payments, unless otherwise determined by the Director of 147410
Budget and Management under section 126.09 of the Revised Code. 147411
The Ohio Agricultural Research and Development Center shall not be 147412
required to remit payment to The Ohio State University during the 147413
biennium ending June 30, 2013, for cost reallocation assessments. 147414

The cost reallocation assessments include, but are not limited to, 147415
any assessment on state appropriations to the Center. 147416

The Ohio Agricultural Research and Development Center, an 147417
entity of the College of Food, Agricultural, and Environmental 147418
Sciences of The Ohio State University, shall further its mission 147419
of enhancing Ohio's economic development and job creation by 147420
continuing to internally allocate on a competitive basis 147421
appropriated funding of programs based on demonstrated 147422
performance. Academic units, faculty, and faculty-driven programs 147423
shall be evaluated and rewarded consistent with agreed-upon 147424
performance expectations as called for in the College's 147425
Expectations and Criteria for Performance Assessment. 147426

Section 371.40.50. STATE UNIVERSITY CLINICAL TEACHING 147427

The foregoing appropriation items 235536, The Ohio State 147428
University Clinical Teaching; 235537, University of Cincinnati 147429
Clinical Teaching; 235538, University of Toledo Clinical Teaching; 147430
235539, Wright State University Clinical Teaching; 235540, Ohio 147431
University Clinical Teaching; and 235541, Northeast Ohio Medical 147432
University Clinical Teaching, shall be distributed through the 147433
Chancellor of the Board of Regents. 147434

Section 371.40.60. CAPITAL COMPONENT 147435

The foregoing appropriation item 235552, Capital Component, 147436
shall be used by the Chancellor of the Board of Regents to 147437
implement the capital funding policy for state-assisted colleges 147438
and universities established in Am. H.B. 748 of the 121st General 147439
Assembly. Appropriations from this item shall be distributed to 147440
all campuses for which the estimated campus debt service 147441
attributable to new qualifying capital projects is less than the 147442
campus's formula-determined capital component allocation. Campus 147443
allocations shall be determined by subtracting the estimated 147444

campus debt service attributable to new qualifying capital 147445
projects from the campus's formula-determined capital component 147446
allocation. Moneys distributed from this appropriation item shall 147447
be restricted to capital-related purposes. 147448

Any campus for which the estimated campus debt service 147449
attributable to qualifying capital projects is greater than the 147450
campus's formula-determined capital component allocation shall 147451
have the difference subtracted from its State Share of Instruction 147452
allocation in each fiscal year. Appropriation equal to the sum of 147453
all such amounts except that of the Ohio Agricultural Research and 147454
Development Center shall be transferred from appropriation item 147455
235501, State Share of Instruction, to appropriation item 235552, 147456
Capital Component. Appropriation equal to any estimated Ohio 147457
Agricultural Research and Development Center debt service 147458
attributable to qualifying capital projects that is greater than 147459
the Center's formula-determined capital component allocation shall 147460
be transferred from appropriation item 235535, Ohio Agricultural 147461
Research and Development Center, to appropriation item 235552, 147462
Capital Component. 147463

Section 371.40.70. LIBRARY DEPOSITORIES 147464

The foregoing appropriation item, 235555, Library 147465
Depositories, shall be distributed to the state's five regional 147466
depository libraries for the cost-effective storage of and access 147467
to lesser-used materials in university library collections. The 147468
depositories shall be administrated by the Chancellor of the Board 147469
of Regents, or by OhioLINK at the discretion of the Chancellor. 147470

Section 371.40.80. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 147471

The foregoing appropriation item 235556, Ohio Academic 147472
Resources Network, shall be used by the Chancellor of the Board of 147473
Regents to support the operations of the Ohio Academic Resources 147474

Network, a consortium organized under division (U) of section 147475
3333.04 of the Revised Code, which shall include support for 147476
Ohio's colleges and universities in maintaining and enhancing 147477
network connections, using new network technologies to improve 147478
research, education, and economic development programs, and 147479
sharing information technology services. To the extent network 147480
capacity is available, OARnet shall support allocating bandwidth 147481
to eligible programs directly supporting Ohio's economic 147482
development. 147483

Section 371.40.90. LONG-TERM CARE RESEARCH 147484

The foregoing appropriation item 235558, Long-term Care 147485
Research, shall be disbursed to Miami University for long-term 147486
care research. 147487

Section 371.50.10. OHIO COLLEGE OPPORTUNITY GRANT 147488

(A) Except as provided in division (C) of this section: 147489

Of the foregoing appropriation item 235563, Ohio College 147490
Opportunity Grant, \$37,000,000 in each fiscal year shall be used 147491
by the Chancellor of the Board of Regents to award need-based 147492
financial aid to students enrolled in eligible four-year public 147493
institutions of higher education, excluding early college high 147494
school and post-secondary enrollment option participants. 147495

Of the foregoing appropriation item 235563, Ohio College 147496
Opportunity Grant, \$41,000,000 in each fiscal year shall be used 147497
by the Chancellor of the Board of Regents to award need-based 147498
financial aid to students enrolled in eligible four-year private 147499
nonprofit institutions of higher education, excluding early 147500
college high school and post-secondary enrollment option 147501
participants. 147502

The remainder of the foregoing appropriation item 235563, 147503
Ohio College Opportunity Grant, shall be used by the Chancellor of 147504

the Board of Regents to award needs-based financial aid to 147505
students enrolled in eligible private for-profit career colleges 147506
and schools. 147507

An amount equal to the unexpended, unencumbered portion of 147508
the foregoing appropriation item 235563, Ohio College Opportunity 147509
Grant, at the end of fiscal year 2012 is hereby reappropriated to 147510
the Board of Regents for the same purpose for fiscal year 2013. 147511

(B)(1) As used in this section: 147512

(a) "Eligible institution" means any institution described in 147513
divisions (B)(2)(a) to (c) of section 3333.122 of the Revised 147514
Code. 147515

(b) The three "sectors" of institutions of higher education 147516
consist of the following: 147517

(i) State colleges and universities, community colleges, 147518
state community colleges, university branches, and technical 147519
colleges; 147520

(ii) Eligible private nonprofit institutions of higher 147521
education; 147522

(iii) Eligible private for-profit career colleges and 147523
schools. 147524

(2) If the Chancellor determines that the amounts 147525
appropriated for support of the Ohio College Opportunity Grant 147526
program are inadequate to provide grants to all eligible students 147527
as calculated under division (D) of section 3333.122 of the 147528
Revised Code, the Chancellor may create a distribution formula for 147529
fiscal year 2012 and fiscal year 2013 based on the formula used in 147530
fiscal year 2011, or may follow methods established in division 147531
(C)(1)(a) or (b) of section 3333.122 of the Revised Code. The 147532
Chancellor shall notify the Controlling Board of the distribution 147533
method. Any formula calculated under this division shall be 147534

complete and established to coincide with the start of the 147535
2011-2012 academic year. 147536

(C) Prior to determining the amount of funds available to 147537
award under this section and section 3333.122 of the Revised Code, 147538
the Chancellor shall use the foregoing appropriation item 235563, 147539
Ohio College Opportunity Grant, to pay for renewals or partial 147540
renewals of scholarships students receive under the Ohio Academic 147541
Scholarship Program under sections 3333.21 and 3333.22 of the 147542
Revised Code. In paying for scholarships under this division, the 147543
Chancellor shall deduct funds from the allocations made under 147544
division (A) of this section. Deductions shall be proportionate to 147545
the amounts allocated to each sector from the total amounts 147546
appropriated for each sector under the foregoing appropriation 147547
item 235563, Ohio College Opportunity Grant, and the foregoing 147548
appropriation item 235667, Ohio College Opportunity Grant - 147549
Proprietary. 147550

In each fiscal year, the Chancellor shall not distribute or 147551
obligate or commit to be distributed an amount greater than what 147552
is appropriated under the foregoing appropriation item 235563, 147553
Ohio College Opportunity Grant. 147554

(D) The Chancellor shall establish, and post on the Ohio 147555
Board of Regents' web site, award tables based on any formulas 147556
created under division (B) of this section. The Chancellor shall 147557
notify students and institutions of any reductions in awards under 147558
this section. 147559

On or before August 31, 2011, the Chancellor of the Board of 147560
Regents shall submit award tables to the Controlling Board for the 147561
2011-2012 academic year and allocations of Ohio College 147562
Opportunity Grant awards not already specified in section 3333.122 147563
of the Revised Code. 147564

(E) Notwithstanding section 3333.122 of the Revised Code, no 147565

student shall be eligible to receive an Ohio College Opportunity Grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years, less the number of semesters or quarters in which the student received an Ohio Instructional Grant.

Section 371.50.20. THE OHIO STATE UNIVERSITY CLINIC SUPPORT

The foregoing appropriation item 235572, The Ohio State University Clinic Support, shall be distributed through the Chancellor of the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

Section 371.50.30. NATIONAL GUARD SCHOLARSHIP PROGRAM

The Chancellor of the Board of Regents shall disburse funds from appropriation item 235599, National Guard Scholarship Program, at the direction of the Adjutant General. During each fiscal year, the Chancellor of the Board of Regents, within ten days of cancellation, may certify to the Director of Budget and Management the amount of canceled prior-year encumbrances in appropriation item 235599, National Guard Scholarship Program. Upon receipt of the certification, the Director of Budget and Management may transfer cash in an amount up to the amount certified from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM0). Upon the request of the Adjutant General, the Chancellor of the Board of Regents shall seek Controlling Board approval to authorize additional expenditures for appropriation item 235623, National Guard Scholarship Reserve Fund. Upon approval of the Controlling Board, the additional amounts are hereby appropriated. The Chancellor of the Board of Regents shall disburse funds from appropriation item 235623, National Guard Scholarship Reserve Fund, at the direction of the Adjutant General.

In each fiscal year, the Adjutant General, in consultation with the Chancellor of the Board of Regents and the Director of Budget and Management, shall determine if the amounts appropriated in appropriation item 235599, National Guard Scholarship Program, are adequate to provide scholarships equal to one hundred per cent of tuition charges to all eligible applicants attending a state institution of higher education.

Notwithstanding divisions (C) and (D)(1)(a) of section 5919.34 of the Revised Code, if amounts appropriated are determined to be inadequate in any fiscal year, the Adjutant General shall accommodate available funds by proportionally reducing the amount of each scholarship awarded to a student attending a state institution of higher education. The Adjutant General shall then notify each state institution of higher education of the percentage that scholarship amounts were reduced. Each state institution of higher education shall then provide a matching award to each scholarship recipient in an amount equal to the amount that recipient's scholarship was reduced.

Section 371.50.40. PLEDGE OF FEES

Any new pledge of fees, or new agreement for adjustment of fees, made in the biennium ending June 30, 2013, to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Chancellor of the Board of Regents, unless approved in a previous biennium.

Section 371.50.50. HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235909, Higher Education General Obligation Debt Service, shall be used to pay all debt

service and related financing costs at the times they are required 147626
to be made during the period from July 1, 2011, through June 30, 147627
2013, for obligations issued under sections 151.01 and 151.04 of 147628
the Revised Code. 147629

Section 371.50.60. SALES AND SERVICES 147630

The Chancellor of the Board of Regents is authorized to 147631
charge and accept payment for the provision of goods and services. 147632
Such charges shall be reasonably related to the cost of producing 147633
the goods and services. Except as otherwise provided by law, no 147634
charges may be levied for goods or services that are produced as 147635
part of the routine responsibilities or duties of the Chancellor. 147636
All revenues received by the Chancellor of the Board of Regents 147637
shall be deposited into Fund 4560, and may be used by the 147638
Chancellor of the Board of Regents to pay for the costs of 147639
producing the goods and services. 147640

Section 371.50.63. OHIO COLLEGE OPPORTUNITY GRANT - 147641
PROPRIETARY 147642

The foregoing appropriation item 235667, Ohio College 147643
Opportunity Grant - Proprietary, shall be used by the Chancellor 147644
of the Board of Regents to award needs-based financial aid to 147645
students enrolled in eligible private for-profit career colleges 147646
and schools, pursuant to section 3333.122 of the Revised Code and 147647
section 371.50.10 of this act. 147648

An amount equal to the unexpended, unencumbered portion of 147649
the foregoing appropriation item 235667, Ohio College Opportunity 147650
Grant - Proprietary, at the end of fiscal year 2012 is hereby 147651
reappropriated to the Board of Regents for the same purpose for 147652
fiscal year 2013. 147653

In each fiscal year, the Chancellor shall not distribute or 147654
obligate or commit to be distributed an amount greater than what 147655

is appropriated under the foregoing appropriation item 235667, 147656
Ohio College Opportunity Grant - Proprietary. 147657

Section 371.50.65. AIR FORCE INSTITUTE OF TECHNOLOGY - 147658
DEFENSE/AEROSPACE GRADUATE STUDIES INSTITUTE 147659

The foregoing appropriation item 235668, Air Force Institute 147660
of Technology - Defense/Aerospace Graduate Studies Institute, 147661
shall be used by the Defense/Aerospace Graduate Studies Institute 147662
to strengthen regional job training, equip Ohio's workforce with 147663
needed skills, and strengthen the research and educational 147664
linkages among Department of Defense facilities in Ohio, 147665
institutions of higher education in Ohio, and available industry 147666
jobs in Ohio. These funds shall be matched by private industry 147667
partners or the Department of Defense in the aggregate amount of 147668
\$2,500,000 over the FY 2012 - FY 2013 biennium. 147669

Section 371.50.70. HIGHER EDUCATIONAL FACILITY COMMISSION 147670
ADMINISTRATION 147671

The foregoing appropriation item 235602, Higher Educational 147672
Facility Commission Administration, shall be used by the 147673
Chancellor of the Board of Regents for operating expenses related 147674
to the Chancellor of the Board of Regents' support of the 147675
activities of the Ohio Higher Educational Facility Commission. 147676
Upon the request of the Chancellor, the Director of Budget and 147677
Management shall transfer up to \$29,100 cash in fiscal year 2012 147678
and up to \$29,100 cash in fiscal year 2013 from the HEFC Operating 147679
Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 147680
4E80). 147681

Section 371.50.80. NURSING LOAN PROGRAM 147682

The foregoing appropriation item 235606, Nursing Loan 147683
Program, shall be used to administer the nurse education 147684

assistance program. Up to \$167,580 in each fiscal year may be used 147685
for operating expenses associated with the program. Any additional 147686
funds needed for the administration of the program are subject to 147687
Controlling Board approval. 147688

Section 371.50.90. VETERANS PREFERENCES 147689

The Chancellor of the Board of Regents shall work with the 147690
Department of Veterans Services to develop specific veterans 147691
preference guidelines for higher education institutions. These 147692
guidelines shall ensure that the institutions' hiring practices 147693
are in accordance with the intent of Ohio's veterans preference 147694
laws. 147695

Section 371.60.10. STATE NEED-BASED FINANCIAL AID 147696
RECONCILIATION 147697

By the first day of August in each fiscal year, or as soon as 147698
possible thereafter, the Chancellor of the Board of Regents shall 147699
certify to the Director of Budget and Management the amount 147700
necessary to pay any outstanding prior year obligations to higher 147701
education institutions for the state's need-based financial aid 147702
programs. The amounts certified are hereby appropriated to 147703
appropriation item 235618, State Need-based Financial Aid 147704
Reconciliation, from revenues received in the State Need-based 147705
Financial Aid Reconciliation Fund (Fund 5Y50). 147706

Section 371.60.20. (A) As used in this section: 147707

(1) "Board of trustees" includes the managing authority of a 147708
university branch district. 147709

(2) "State institution of higher education" has the same 147710
meaning as in section 3345.011 of the Revised Code. 147711

(B) The board of trustees of any state institution of higher 147712
education, notwithstanding any rule of the institution to the 147713

contrary, may adopt a policy providing for mandatory furloughs of 147714
employees, including faculty, to achieve spending reductions 147715
necessitated by institutional budget deficits. 147716

Section 371.60.40. EFFICIENCY ADVISORY COMMITTEE 147717

The Chancellor of the Board of Regents shall establish an 147718
efficiency advisory committee for the purpose of generating 147719
optimal efficiency plans for campuses, identifying shared services 147720
opportunities, and sharing best practices. The efficiency advisory 147721
committee shall also attempt to reduce the cost of textbooks and 147722
other education resource materials. The committee shall meet at 147723
the call of the Chancellor or the Chancellor's designee, but at 147724
least quarterly. Each state institution of higher education shall 147725
designate an employee to serve as its efficiency officer 147726
responsible for the evaluation and improvement of operational 147727
efficiencies on campus. Each efficiency officer shall serve on the 147728
efficiency advisory committee. 147729

Section 371.60.50. TEXTBOOK AFFORDABILITY 147730

Each state institution of higher education shall submit to 147731
the Chancellor of the Board of Regents by December 31, 2011, a 147732
plan to reduce the cost to students of textbooks and other 147733
education resource materials. 147734

Section 371.60.60. TUITION TRUST AUTHORITY APPROPRIATION LINE 147735
ITEM TRANSFER 147736

On July 1, 2011, or as soon as possible thereafter, the 147737
Director of Budget and Management, upon request by the Chancellor 147738
of the Board of Regents, shall cancel any existing encumbrances 147739
against appropriation item 095602, Variable Savings Plans, and 147740
re-establish them against appropriation item 235663, Variable 147741
Savings Plans. The re-established encumbrance amounts are hereby 147742

appropriated. 147743

On July 1, 2011, or as soon as possible thereafter, the 147744
Director of Budget and Management, upon request by the Chancellor 147745
of the Board of Regents, shall cancel any existing encumbrances 147746
against appropriation item 095601, Guaranteed Savings Plan, and 147747
re-establish them against appropriation item 235664, Guaranteed 147748
Savings Plan. The re-established encumbrance amounts are hereby 147749
appropriated. 147750

Section 371.60.70. (A) Notwithstanding anything to the 147751
contrary in sections 3333.81 to 3333.88 of the Revised Code, the 147752
distance learning clearinghouse required to be established under 147753
those sections shall be located at the Ohio Resource Center for 147754
Mathematics, Science, and Reading administered by the College of 147755
Education and Human Ecology at The Ohio State University. The 147756
College shall provide access to its online repository of 147757
educational content to offer courses from multiple providers at 147758
competitive prices for Ohio students in grades kindergarten to 147759
twelve. 147760

(B) The College shall review the content of each course 147761
offered to assess the course's alignment with the academic 147762
standards adopted under division (A) of section 3301.079 of the 147763
Revised Code and shall publish its determination about the degree 147764
of alignment. 147765

(C) The College shall indicate, for each course offered, the 147766
academic credit that a student may reasonably expect to earn upon 147767
successful completion of the course. However, in accordance with 147768
section 3333.85 of the Revised Code, the school district or school 147769
in which the student is enrolled retains full authority to 147770
determine the credit awarded to the student. 147771

(D) As prescribed by section 3333.84 of the Revised Code, the 147772
fee charged for a course shall be set by the course provider. The 147773

College may retain a percentage of the fee to offset the cost of 147774
maintaining the course repository. 147775

(E) The College may establish policies to protect the 147776
proprietary interest in or intellectual property of the 147777
educational content and courses that are housed in the course 147778
repository. The College may require end users to agree to the 147779
terms of any such policies prior to accessing the repository. 147780

Section 371.60.80. (A) The Ohio Digital Learning Task Force 147781
is hereby established to develop a strategy for the expansion of 147782
digital learning that enables students to customize their 147783
education, produces cost savings, and meets the needs of Ohio's 147784
economy. The Task Force shall consist of the following members: 147785

(1) The Chancellor of the Ohio Board of Regents or the 147786
Chancellor's designee; 147787

(2) The Superintendent of Public Instruction or the 147788
Superintendent's designee; 147789

(3) The Director of the Governor's Office of 21st Century 147790
Education or the Director's designee; 147791

(4) Up to six members appointed by the Governor, who shall be 147792
representatives of school districts or community schools, 147793
established under Chapter 3314. of the Revised Code, that are 147794
high-performing of their type and have demonstrated the ability to 147795
incorporate technology into the classroom successfully; 147796

(5) A member appointed by the President of the Senate; 147797

(6) A member appointed by the Speaker of the House of 147798
Representatives. 147799

(B) Members of the Task Force shall be appointed not later 147800
than sixty days after the effective date of this section. 147801
Vacancies on the Task Force shall be filled in the same manner as 147802
the original appointments. Members shall serve without 147803

compensation. 147804

(C) The Governor shall designate the chairperson of the Task Force. All meetings of the Task Force shall be held at the call of the chairperson. 147805
147806
147807

(D) The Task Force shall do all of the following: 147808

(1) Request information from textbook publishers about the development of digital textbooks and other new digital content distribution methods for use by primary, secondary, and post-secondary schools and institutions and examine that information; 147809
147810
147811
147812
147813

(2) Examine potential cost savings and efficiency of utilizing digital textbooks and other new digital content distribution methods in primary, secondary, and post-secondary schools and institutions; 147814
147815
147816
147817

(3) Examine potential academic benefits of utilizing digital textbooks and other new digital content distribution methods, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments; 147818
147819
147820
147821
147822
147823

(4) Examine digital content pilot programs and initiatives currently operating at primary, secondary, and post-secondary schools and institutions in Ohio, including, but not limited to, those financed in part with federal funds; 147824
147825
147826
147827

(5) Examine any state-level initiatives to provide or facilitate use of digital content in primary, secondary, and post-secondary schools and institutions in Ohio. 147828
147829
147830

(E) The Task Force shall make recommendations regarding all of the following: 147831
147832

(1) The creation of high quality digital content and 147833

instruction in grades kindergarten to twelve for free access by	147834
public and nonpublic schools and students receiving home	147835
instruction;	147836
(2) High quality professional development for teachers and	147837
principals providing online instruction or blended learning	147838
programs;	147839
(3) Funding strategies that create incentives for high	147840
performance, innovation, and options in course providers and	147841
delivery;	147842
(4) Student assessment and accountability;	147843
(5) Infrastructure to support digital learning;	147844
(6) Mobile learning and mobile learning applications;	147845
(7) The clearinghouse established under section 3333.82 of	147846
the Revised Code;	147847
(8) Ways to align the resources and digital learning	147848
initiatives of state agencies and offices;	147849
(9) Methods for removing redundancy and inefficiency in, and	147850
for providing coordination, of all digital learning programs,	147851
including the provision of free online instruction to public and	147852
nonpublic schools on a statewide basis;	147853
(10) Methods of addressing future changes in technology and	147854
learning.	147855
(E) Not later than March 1, 2012, the Task Force shall issue	147856
a report of its findings and recommendations to the Governor, the	147857
President of the Senate, and the Speaker of the House of	147858
Representatives. Upon issuance of its report, the Task Force shall	147859
cease to exist.	147860
Section 371.60.90. Not later than six months after the	147861
effective date of this section, the Chancellor of the Ohio Board	147862

of Regents shall do both of the following: 147863

(A) Take steps to facilitate full implementation of any 147864
digital textbook and digital content pilot programs currently 147865
planned at any state institutions of higher education in Ohio; 147866

(B) Take steps to ensure that those pilot programs examine 147867
the potential cost savings and efficiencies of digital content and 147868
the potential academic benefits, including, but not limited to, 147869
the ability to individualize content to specific student learning 147870
styles, accessibility for individuals with disabilities, and the 147871
integration of formative and other online assessments. 147872

Section 371.70.10. On July 1, 2011, or as soon as possible 147873
thereafter, the Chancellor of the Board of Regents shall pay to 147874
The Ohio State University an amount equal to the cash balance in 147875
the OSU Highway/Transportation Research Fund (Fund 6490). The 147876
amount of the payment is hereby appropriated from Fund 6490. Upon 147877
completion of the payment, Fund 6490 is hereby abolished and the 147878
Chancellor of the Board of Regents shall cancel any existing 147879
encumbrances against appropriation item 235607, The Ohio State 147880
University Highway/Transportation Research. 147881

Section 373.10. DRC DEPARTMENT OF REHABILITATION AND 147882
CORRECTION 147883
General Revenue Fund 147884
GRF 501321 Institutional \$ 909,547,156 \$ 866,592,589 147885
Operations
GRF 501403 Prisoner Compensation \$ 8,599,255 \$ 8,599,255 147886
GRF 501405 Halfway House \$ 43,637,069 \$ 43,622,104 147887
GRF 501406 Lease Rental Payments \$ 42,863,100 \$ 104,301,500 147888
GRF 501407 Community \$ 25,859,382 \$ 25,839,390 147889
Nonresidential
Programs

GRF	501408	Community Misdemeanor Programs	\$	14,906,800	\$	14,906,800	147890
GRF	501501	Community Residential Programs - CBCF	\$	62,692,785	\$	62,477,785	147891
GRF	502321	Mental Health Services	\$	58,525,816	\$	51,778,513	147892
GRF	503321	Parole and Community Operations	\$	68,197,272	\$	63,783,848	147893
GRF	504321	Administrative Operations	\$	21,996,504	\$	20,085,474	147894
GRF	505321	Institution Medical Services	\$	209,231,014	\$	195,241,961	147895
GRF	506321	Institution Education Services	\$	20,237,576	\$	18,086,492	147896
GRF	507321	Institution Recovery Services	\$	5,786,109	\$	5,375,737	147897
TOTAL GRF	General Revenue Fund		\$	1,492,079,838	\$	1,480,691,448	147898
General Services Fund Group							147899
1480	501602	Services and Agricultural	\$	3,579,250	\$	3,584,263	147900
2000	501607	Ohio Penal Industries	\$	38,000,000	\$	38,000,000	147901
4830	501605	Property Receipts	\$	182,723	\$	182,086	147902
4B00	501601	Sewer Treatment Services	\$	2,145,630	\$	2,157,682	147903
4D40	501603	Prisoner Programs	\$	14,900,000	\$	14,900,000	147904
4L40	501604	Transitional Control	\$	1,168,843	\$	1,213,120	147905
4S50	501608	Education Services	\$	2,376,041	\$	2,359,775	147906
5710	501606	Training Academy Receipts	\$	125,000	\$	125,000	147907
5930	501618	Laboratory Services	\$	6,665,137	\$	6,664,729	147908
5AF0	501609	State and Non-Federal Awards	\$	1,440,000	\$	1,440,000	147909
5H80	501617	Offender Financial Responsibility	\$	2,000,000	\$	2,000,000	147910

5L60 501611	Information	\$	600,000	\$	600,000	147911
	Technology Services					
TOTAL GSF	General Services Fund	\$	73,182,624	\$	73,226,655	147912
Group						
Federal Special Revenue Fund Group						147913
3230 501619	Federal Grants	\$	9,013,558	\$	9,180,703	147914
TOTAL FED	Federal Special Revenue					147915
Fund Group		\$	9,013,558	\$	9,180,703	147916
TOTAL ALL BUDGET FUND GROUPS		\$	1,574,276,020	\$	1,563,098,806	147917
	TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL					147918
	SENTENCING REFORMS					147919
	For the purposes of implementing criminal sentencing reforms,					147920
	and notwithstanding any other provision of law to the contrary,					147921
	the Director of Budget and Management, at the request of the					147922
	Director of Rehabilitation and Correction, may transfer up to					147923
	\$14,000,000 in appropriations, in each of fiscal years 2012 and					147924
	2013, from appropriation item 501321, Institutional Operations, to					147925
	any combination of appropriation items 501405, Halfway House;					147926
	501407, Community Residential Programs; 501408, Community					147927
	Misdemeanor Programs; and 501501, Community Residential Programs -					147928
	CBCF.					147929
	OHIO BUILDING AUTHORITY LEASE PAYMENTS					147930
	The foregoing appropriation item 501406, Lease Rental					147931
	Payments, shall be used to meet all payments at the times they are					147932
	required to be made during the period from July 1, 2011, through					147933
	June 30, 2013, by the Department of Rehabilitation and Correction					147934
	to the Ohio Building Authority under the primary leases and					147935
	agreements for those buildings made under Chapter 152. of the					147936
	Revised Code. These appropriations are the source of funds pledged					147937
	for bond service charges or obligations issued pursuant to Chapter					147938
	152. of the Revised Code.					147939

OSU MEDICAL CHARGES					147940
Notwithstanding section 341.192 of the Revised Code, at the					147941
request of the Department of Rehabilitation and Correction, The					147942
Ohio State University Medical Center, including the James Cancer					147943
Hospital and Solove Research Institute and the Richard M. Ross					147944
Heart Hospital, shall provide necessary care to persons who are					147945
confined in state adult correctional facilities. The provision of					147946
necessary care shall be billed to the Department at a rate not to					147947
exceed the authorized reimbursement rate for the same service					147948
established by the Department of Job and Family Services under the					147949
Medical Assistance Program.					147950
Section 375.10. RSC REHABILITATION SERVICES COMMISSION					147951
General Revenue Fund					147952
GRF 415402 Independent Living	\$	252,000	\$	252,000	147953
Council					
GRF 415406 Assistive Technology	\$	26,618	\$	26,618	147954
GRF 415431 Office for People	\$	126,567	\$	126,567	147955
with Brain Injury					
GRF 415506 Services for People	\$	12,777,884	\$	12,777,884	147956
with Disabilities					
GRF 415508 Services for the Deaf	\$	28,000	\$	28,000	147957
TOTAL GRF General Revenue Fund	\$	13,211,069	\$	13,211,069	147958
General Services Fund Group					147959
4670 415609 Business Enterprise	\$	1,308,431	\$	1,303,090	147960
Operating Expenses					
TOTAL GSF General Services					147961
Fund Group	\$	1,308,431	\$	1,303,090	147962
Federal Special Revenue Fund Group					147963
3170 415620 Disability	\$	97,579,095	\$	97,579,095	147964
Determination					

3790	415616	Federal - Vocational Rehabilitation	\$	103,160,426	\$	103,150,102	147965
3L10	415601	Social Security Personal Care Assistance	\$	3,370,000	\$	3,370,000	147966
3L10	415605	Social Security Community Centers for the Deaf	\$	772,000	\$	772,000	147967
3L10	415608	Social Security Special Programs/Assistance	\$	1,521,406	\$	1,520,184	147968
3L40	415612	Federal Independent Living Centers or Services	\$	652,222	\$	652,222	147969
3L40	415615	Federal - Supported Employment	\$	929,755	\$	929,755	147970
3L40	415617	Independent Living/Vocational Rehabilitation Programs	\$	2,137,338	\$	2,137,338	147971
TOTAL FED Federal Special							147972
Revenue Fund Group			\$	210,122,242	\$	210,110,696	147973
State Special Revenue Fund Group							147974
4680	415618	Third Party Funding	\$	10,802,589	\$	10,802,589	147975
4L10	415619	Services for Rehabilitation	\$	3,700,000	\$	3,700,000	147976
4W50	415606	Program Management Expenses	\$	11,636,730	\$	11,587,201	147977
TOTAL SSR State Special							147978
Revenue Fund Group			\$	26,139,319	\$	26,089,790	147979
TOTAL ALL BUDGET FUND GROUPS			\$	250,781,061	\$	250,714,645	147980
INDEPENDENT LIVING COUNCIL							147981

The foregoing appropriation item 415402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council and to support state independent living centers and independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

Of the foregoing appropriation item 415402, Independent Living Council, \$67,662 in each fiscal year shall be used as state matching funds for vocational rehabilitation innovation and expansion activities.

ASSISTIVE TECHNOLOGY

The total amount of the foregoing appropriation item 415406, Assistive Technology, shall be provided to Assistive Technology of Ohio to provide grants and assistive technology services for people with disabilities in the State of Ohio.

OFFICE FOR PEOPLE WITH BRAIN INJURY

The foregoing appropriation item 415431, Office for People with Brain Injury, shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.

Of the foregoing appropriation item 415431, Office for People with Brain Injury, \$44,067 in each fiscal year shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

VOCATIONAL REHABILITATION SERVICES

The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

At the request of the Chancellor of the Board of Regents, the 148012
Director of Budget and Management may transfer any unexpended, 148013
unencumbered appropriation in fiscal year 2012 or fiscal year 2013 148014
from appropriation item 235502, Student Support Services, to 148015
appropriation item 415506, Services for People with Disabilities. 148016
Any appropriation so transferred shall be used by the Ohio 148017
Rehabilitation Services Commission to obtain additional federal 148018
matching funds to serve disabled students. 148019

SERVICES FOR THE DEAF 148020

The foregoing appropriation item 415508, Services for the 148021
Deaf, shall be used to provide grants to community centers for the 148022
deaf. 148023

FEDERAL - VOCATIONAL REHABILITATION 148024

Of the foregoing appropriation item 415616, Federal - 148025
Vocational Rehabilitation, \$250,000 in each fiscal year shall be 148026
provided to the Ohio Association of Rehabilitation Facilities to 148027
monitor provider accreditation compliance. 148028

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 148029

The foregoing appropriation item 415617, Independent 148030
Living/Vocational Rehabilitation Programs, shall be used to 148031
support vocational rehabilitation programs. 148032

SOCIAL SECURITY REIMBURSEMENT FUNDS 148033

Reimbursement funds received from the Social Security 148034
Administration, United States Department of Health and Human 148035
Services, for the costs of providing services and training to 148036
return disability recipients to gainful employment shall be 148037
expended from the Social Security Reimbursement Fund (Fund 3L10), 148038
to the extent funds are available, as follows: 148039

(A) Appropriation item 415601, Social Security Personal Care 148040
Assistance, to provide personal care services in accordance with 148041

section 3304.41 of the Revised Code;				148042
(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and				148043 148044 148045 148046
(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.				148047 148048 148049 148050 148051 148052 148053 148054
PROGRAM MANAGEMENT EXPENSES				148055
The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.				148056 148057 148058 148059 148060
Section 377.10. RCB RESPIRATORY CARE BOARD				148061
General Services Fund Group				148062
4K90 872609 Operating Expenses	\$	528,624	\$	523,013 148063
TOTAL GSF General Services Fund Group				148064
	\$	528,624	\$	523,013 148065
TOTAL ALL BUDGET FUND GROUPS	\$	528,624	\$	523,013 148066
Section 379.10. RDF REVENUE DISTRIBUTION FUNDS				148068
Volunteer Firefighters' Dependents Fund				148069
7085 800985 Volunteer Firemen's Dependents Fund	\$	300,000	\$	300,000 148070

TOTAL 085 Volunteer Firefighters'				148071
Dependents Fund	\$	300,000	\$ 300,000	148072
Agency Fund Group				148073
4P80 001698 Cash Management	\$	3,100,000	\$ 3,100,000	148074
Improvement Fund				
5JG0 110633 Gross Casino Revenue	\$	5,778,617	\$ 138,882,294	148075
County Fund				
5JH0 110634 Gross Casino Revenue	\$	3,852,412	\$ 92,588,196	148076
County Student Fund				
5JJ0 110636 Gross Casino Revenue	\$	566,531	\$ 13,615,911	148077
Host City Fund				
5JK0 875610 Ohio State Racing	\$	339,919	\$ 8,169,547	148078
Commission Fund				
5JL0 038629 Problem Casino	\$	226,612	\$ 5,446,364	148079
Gambling and				
Addictions Fund				
5JN0 055654 Ohio Law Enforcement	\$	226,612	\$ 5,446,364	148080
Training Fund				
6080 001699 Investment Earnings	\$	50,000,000	\$ 150,000,000	148081
7062 110962 Resort Area Excise	\$	1,000,000	\$ 1,000,000	148082
Tax				
7063 110963 Permissive Tax	\$	1,904,500,000	\$ 1,980,700,000	148083
Distribution				
7067 110967 School District	\$	317,000,000	\$ 330,000,000	148084
Income Tax				
TOTAL AGY Agency Fund Group	\$	2,286,590,703	\$ 2,728,948,676	148085
Holding Account Redistribution				148086
R045 110617 International Fuel	\$	40,000,000	\$ 40,000,000	148087
Tax Distribution				
TOTAL 090 Holding Account				148088
Redistribution Fund				
Revenue Distribution Fund Group	\$	40,000,000	\$ 40,000,000	148089
7049 038900 Indigent Drivers	\$	2,200,000	\$ 2,200,000	148090

		Alcohol Treatment					
7050	762900	International	\$	30,000,000	\$	30,000,000	148091
		Registration Plan					
		Distribution					
7051	762901	Auto Registration	\$	539,000,000	\$	539,000,000	148092
		Distribution					
7054	110954	Local Government	\$	16,000,000	\$	11,000,000	148093
		Property Tax					
		Replacement - Utility					
7060	110960	Gasoline Excise Tax	\$	393,000,000	\$	395,000,000	148094
		Fund					
7065	110965	Public Library Fund	\$	354,000,000	\$	345,000,000	148095
7066	800966	Undivided Liquor	\$	14,100,000	\$	14,100,000	148096
		Permits					
7068	110968	State and Local	\$	193,000,000	\$	196,000,000	148097
		Government Highway					
		Distribution					
7069	110969	Local Government Fund	\$	577,000,000	\$	391,000,000	148098
7081	110981	Local Government	\$	291,000,000	\$	181,000,000	148099
		Property Tax					
		Replacement-Business					
7082	110982	Horse Racing Tax	\$	100,000	\$	100,000	148100
7083	700900	Ohio Fairs Fund	\$	1,400,000	\$	1,400,000	148101
TOTAL RDF Revenue Distribution							148102
Fund Group			\$	2,410,800,000	\$	2,105,800,000	148103
TOTAL ALL BUDGET FUND GROUPS			\$	4,737,690,703	\$	4,875,048,676	148104

ADDITIONAL APPROPRIATIONS

148105

Appropriation items in this section shall be used for the 148106
purpose of administering and distributing the designated revenue 148107
distribution funds according to the Revised Code. If it is 148108
determined that additional appropriations are necessary for this 148109
purpose, such amounts are hereby appropriated. 148110

GENERAL REVENUE FUND TRANSFERS				148111
Notwithstanding any provision of law to the contrary, in				148112
fiscal year 2012 and fiscal year 2013, the Director of Budget and				148113
Management may transfer from the General Revenue Fund to the Local				148114
Government Tangible Property Tax Replacement Fund (Fund 7081) in				148115
the Revenue Distribution Fund Group, those amounts necessary to				148116
reimburse local taxing units under section 5751.22 of the Revised				148117
Code. Also, in fiscal year 2012 and fiscal year 2013, the Director				148118
of Budget and Management may make temporary transfers from the				148119
General Revenue Fund to ensure sufficient balances in the Local				148120
Government Tangible Property Tax Replacement Fund (Fund 7081) and				148121
to replenish the General Revenue Fund for such transfers.				148122
Section 381.10. SAN BOARD OF SANITARIAN REGISTRATION				148123
General Services Fund Group				148124
4K90 893609 Operating Expenses	\$	141,839	\$ 126,850	148125
TOTAL GSF General Services				148126
Fund Group	\$	141,839	\$ 126,850	148127
TOTAL ALL BUDGET FUND GROUPS	\$	141,839	\$ 126,850	148128
Section 383.10. OSB OHIO STATE SCHOOL FOR THE BLIND				148130
General Revenue Fund				148131
GRF 226100 Personal Services	\$	6,593,546	\$ 6,593,546	148132
GRF 226200 Maintenance	\$	619,528	\$ 619,528	148133
GRF 226300 Equipment	\$	65,505	\$ 65,505	148134
TOTAL GRF General Revenue Fund	\$	7,278,579	\$ 7,278,579	148135
General Services Fund Group				148136
4H80 226602 Education Reform	\$	60,086	\$ 60,086	148137
Grants				
TOTAL GSF General Services				148138
Fund Group	\$	60,086	\$ 60,086	148139
Federal Special Revenue Fund Group				148140

3100	226626	Coordinating Unit	\$	2,527,104	\$	2,527,104	148141
3DT0	226621	Ohio Transition Collaborative	\$	1,800,000	\$	1,800,000	148142
3P50	226643	Medicaid Professional Services Reimbursement	\$	50,000	\$	50,000	148143
TOTAL FED Federal Special Revenue Fund Group							148144
State Special Revenue Fund Group							148146
4M50	226601	Work Study and Technology Investment	\$	698,521	\$	698,521	148147
TOTAL SSR State Special Revenue Fund Group							148148
TOTAL ALL BUDGET FUND GROUPS							148150
 Section 385.10. OSD OHIO SCHOOL FOR THE DEAF							148152
General Revenue Fund							148153
GRF	221100	Personal Services	\$	7,842,339	\$	7,842,339	148154
GRF	221200	Maintenance	\$	814,532	\$	814,532	148155
GRF	221300	Equipment	\$	70,786	\$	70,786	148156
TOTAL GRF General Revenue Fund							148157
General Services Fund Group							148158
4M10	221602	Education Reform Grants	\$	74,903	\$	74,903	148159
TOTAL GSF General Services Fund Group							148160
Federal Special Revenue Fund Group							148162
3110	221625	Coordinating Unit	\$	2,460,135	\$	2,460,135	148163
3R00	221684	Medicaid Professional Services Reimbursement	\$	35,000	\$	35,000	148164
3Y10	221686	Early Childhood Grant	\$	300,000	\$	300,000	148165

TOTAL FED Federal Special				148166
Revenue Fund Group	\$	2,795,135	\$ 2,795,135	148167
State Special Revenue Fund Group				148168
4M00 221601 Educational Program	\$	190,000	\$ 190,000	148169
Expenses				
5H60 221609 Even Start Fees and	\$	126,750	\$ 126,750	148170
Gifts				
TOTAL SSR State Special Revenue				148171
Fund Group	\$	316,750	\$ 316,750	148172
TOTAL ALL BUDGET FUND GROUPS	\$	11,914,445	\$ 11,914,445	148173

Section 387.10. SFC SCHOOL FACILITIES COMMISSION 148175

General Revenue Fund				148176
GRF 230908 Common Schools	\$	150,604,900	\$ 341,919,400	148177
General Obligation				
Debt Service				
TOTAL GRF General Revenue Fund	\$	150,604,900	\$ 341,919,400	148178
State Special Revenue Fund Group				148179
5E30 230644 Operating Expenses	\$	8,950,000	\$ 8,550,000	148180
TOTAL SSR State Special Revenue				148181
Fund Group	\$	8,950,000	\$ 8,550,000	148182
TOTAL ALL BUDGET FUND GROUPS	\$	159,554,900	\$ 350,469,400	148183

Section 387.20. COMMON SCHOOLS GENERAL OBLIGATION DEBT 148185

SERVICE 148186

The foregoing appropriation item 230908, Common Schools 148187
 General Obligation Debt Service, shall be used to pay all debt 148188
 service and related financing costs at the times they are required 148189
 to be made during the period from July 1, 2011, through June 30, 148190
 2013, for obligations issued under sections 151.01 and 151.03 of 148191
 the Revised Code. 148192

OPERATING EXPENSES 148193

The foregoing appropriation item 230644, Operating Expenses, 148194
shall be used by the Ohio School Facilities Commission to carry 148195
out its responsibilities under this section and Chapter 3318. of 148196
the Revised Code. 148197

In both fiscal years 2012 and 2013, the Executive Director of 148198
the Ohio School Facilities Commission shall certify on a quarterly 148199
basis to the Director of Budget and Management the amount of cash 148200
from interest earnings to be transferred from the School Building 148201
Assistance Fund (Fund 7032), the Public School Building Fund (Fund 148202
7021), and the Educational Facilities Trust Fund (Fund N087) to 148203
the Ohio School Facilities Commission Fund (Fund 5E30). The amount 148204
transferred from the School Building Assistance Fund (Fund 7032) 148205
may not exceed investment earnings credited to the fund, less any 148206
amount required to be paid for federal arbitrage rebate purposes. 148207

If the Executive Director of the Ohio School Facilities 148208
Commission determines that transferring cash from interest 148209
earnings is insufficient to support operations and carry out its 148210
responsibilities under this section and Chapter 3318. of the 148211
Revised Code, the Commission may, with the approval of the 148212
Controlling Board, transfer cash not generated from interest from 148213
the Public School Building Fund (Fund 7021) and the Educational 148214
Trust Fund (Fund N087) to the Ohio School Facilities Commission 148215
Fund (Fund 5E30). 148216

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 148217

At the request of the Executive Director of the Ohio School 148218
Facilities Commission, the Director of Budget and Management may 148219
cancel encumbrances for school district projects from a previous 148220
biennium if the district has not raised its local share of project 148221
costs within thirteen months of receiving Controlling Board 148222
approval under section 3318.05 or 3318.41 of the Revised Code. The 148223
Executive Director of the Ohio School Facilities Commission shall 148224
certify the amounts of the canceled encumbrances to the Director 148225

of Budget and Management on a quarterly basis. The amounts of the 148226
canceled encumbrances are hereby appropriated. 148227

Section 387.30. AMENDMENT TO PROJECT AGREEMENT FOR 148228
MAINTENANCE LEVY 148229

The Ohio School Facilities Commission shall amend the project 148230
agreement between the Commission and a school district that is 148231
participating in the Accelerated Urban School Building Assistance 148232
Program on the effective date of this section, if the Commission 148233
determines that it is necessary to do so in order to comply with 148234
division (B)(3)(c) of section 3318.38 of the Revised Code. 148235

Section 387.40. CANTON CITY SCHOOL DISTRICT PROJECT 148236

(A) The Ohio School Facilities Commission may commit up to 148237
thirty-five million dollars to the Canton City School District for 148238
construction of a facility described in this section, in lieu of a 148239
high school that would otherwise be authorized under Chapter 3318. 148240
of the Revised Code. The Commission shall not commit funds under 148241
this section unless all of the following conditions are met: 148242

(1) The District has entered into a cooperative agreement 148243
with a state-assisted technical college; 148244

(2) The District has received an irrevocable commitment of 148245
additional funding from nonpublic sources; and 148246

(3) The facility is intended to serve both secondary and 148247
postsecondary instructional purposes. 148248

(B) The Commission shall enter into an agreement with the 148249
District for the construction of the facility authorized under 148250
this section that is separate from and in addition to the 148251
agreement required for the District's participation in the 148252
Classroom Facilities Assistance Program under section 3318.08 of 148253
the Revised Code. Notwithstanding that section and sections 148254

3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The Commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission.

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

Section 387.50. Notwithstanding any other provision of law to the contrary, the Ohio School Facilities Commission may determine the amount of funding available for disbursement in a given fiscal year for any project approved under sections 3318.01 to 3318.20 of the Revised Code in order to keep aggregate state capital spending within approved limits and may take actions including, but not limited to, determining the schedule for design or bidding of approved projects, to ensure appropriate and supportable cash flow.

Section 387.60. Notwithstanding division (B) of section 148285
3318.40 of the Revised Code, the Ohio School Facilities Commission 148286
may provide assistance to at least one joint vocational school 148287
district each fiscal year for the acquisition of classroom 148288
facilities in accordance with sections 3318.40 to 3318.45 of the 148289
Revised Code. 148290

Section 387.70. (A) As used in this section, "equity list" 148291
means the school district percentile rankings calculated under 148292
section 3318.011 of the Revised Code. 148293

(B) Not later than thirty days after the effective date of 148294
this section, the Department of Education shall create an 148295
alternate equity list for fiscal year 2011, for use in funding 148296
projects for fiscal year 2012, by recalculating each school 148297
district's percentile ranking under section 3318.011 of the 148298
Revised Code and shall certify the alternate equity list to the 148299
Ohio School Facilities Commission. For this purpose, the 148300
Department shall recalculate each school district's percentile 148301
ranking using the district's "average taxable value" as that term 148302
is defined in the version of section 3318.011 of the Revised Code, 148303
as it results from the amendments to that section enacted by this 148304
act. 148305

(C) The Commission shall use the alternate equity list 148306
certified under division (B) of this section to determine the 148307
priority for assistance under sections 3318.01 to 3318.20 of the 148308
Revised Code for fiscal year 2012 for each school district that 148309
has not previously been offered funding under those sections. 148310
However, no district that already has been offered assistance 148311
under those sections for fiscal year 2011 prior to the 148312
Commission's receipt of the alternate equity list shall be denied 148313
the opportunity for assistance under those sections for that 148314
fiscal year. 148315

(D) Notwithstanding any provision of Chapter 3318. of the Revised Code to the contrary, for each school district that receives the Commission's conditional approval of the district's project under sections 3318.01 to 3318.20 of the Revised Code for fiscal year 2012, the district's portion of the basic project cost shall be the lesser of the following:

(1) The amount required under section 3318.032 of the Revised Code calculated using the percentile in which the district ranks on the alternate equity list certified under division (B) of this section;

(2) The amount required under section 3318.032 of the Revised Code calculated using the percentile in which the district ranks on the original equity list for fiscal year 2011.

Section 389.10. SOS SECRETARY OF STATE

General Revenue Fund					148330	
GRF 050321	Operating Expenses	\$	2,144,030	\$	2,144,030	148331
GRF 050407	Pollworkers Training	\$	234,196	\$	234,196	148332
TOTAL GRF	General Revenue Fund	\$	2,378,226	\$	2,378,226	148333
General Services Fund Group					148334	
4120 050609	Notary Commission	\$	475,000	\$	475,000	148335
4130 050601	Information Systems	\$	49,000	\$	49,000	148336
4140 050602	Citizen Education	\$	25,000	\$	25,000	148337
	Fund					
4S80 050610	Board of Voting	\$	7,200	\$	7,200	148338
	Machine Examiners					
5FG0 050620	BOE Reimbursement and	\$	100,000	\$	100,000	148339
	Education					
TOTAL General Services	Fund Group	\$	656,200	\$	656,200	148340
Federal Special Revenue	Fund Group					148341
3AH0 050614	Election	\$	800,000	\$	800,000	148342

	Reform/Health and Human Services				
3AS0 050616	Help America Vote Act (HAVA)	\$	3,000,000	\$	3,000,000 148343
TOTAL FED	Federal Special Revenue				148344
Fund Group		\$	3,800,000	\$	3,800,000 148345
State Special Revenue	Fund Group				148346
5990 050603	Business Services Operating Expenses	\$	14,385,400	\$	14,385,400 148347
TOTAL SSR	State Special Revenue				148348
Fund Group		\$	14,385,400	\$	14,385,400 148349
Holding Account	Redistribution Fund Group				148350
R001 050605	Uniform Commercial Code Refunds	\$	30,000	\$	30,000 148351
R002 050606	Corporate/Business Filing Refunds	\$	85,000	\$	85,000 148352
TOTAL 090	Holding Account				148353
Redistribution	Fund Group	\$	115,000	\$	115,000 148354
TOTAL ALL BUDGET	FUND GROUPS	\$	21,334,826	\$	21,334,826 148355
	POLLWORKER TRAINING				148356
	The foregoing appropriation item 050407, Pollworkers Training, shall be used to reimburse county boards of elections for pollworker training pursuant to section 3501.27 of the Revised Code. At the end of fiscal year 2012, an amount equal to the unexpended, unencumbered portion of appropriation item 050407, Pollworkers Training, is hereby reappropriated in fiscal year 2013 for the same purpose.				148357 148358 148359 148360 148361 148362 148363
	BOARD OF VOTING MACHINE EXAMINERS				148364
	The foregoing appropriation item 050610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners,				148365 148366 148367

and for other expenses that are authorized to be paid from the 148368
Board of Voting Machine Examiners Fund, which is created in 148369
section 3506.05 of the Revised Code. Moneys not used shall be 148370
returned to the person or entity submitting equipment for 148371
examination. If it is determined that additional appropriations 148372
are necessary, such amounts are hereby appropriated. 148373

HAVA FUNDS 148374

An amount equal to the unexpended, unencumbered portion of 148375
appropriation item 050616, Help America Vote Act (HAVA) Voting 148376
Machines, at the end of fiscal year 2012 is reappropriated for the 148377
same purpose in fiscal year 2013. 148378

An amount equal to the unexpended, unencumbered portion of 148379
appropriation item 050614, Election Reform/Health and Human 148380
Services, at the end of fiscal year 2012 is reappropriated for the 148381
same purpose in fiscal year 2013. 148382

The Director of Budget and Management shall credit the 148383
ongoing interest earnings from the Election Reform/Health and 148384
Human Services Fund (Fund 3AH0), the Help America Vote Act (HAVA) 148385
Voting Machines Fund (Fund 3AS0), and the Election Data Collection 148386
Grant Fund (Fund 3AC0) to the respective funds and distribute 148387
these earnings in accordance with the terms of the grant under 148388
which the money is received. 148389

HOLDING ACCOUNT REDISTRIBUTION GROUP 148390

The foregoing appropriation items 050605, Uniform Commercial 148391
Code Refunds, and 050606, Corporate/Business Filing Refunds, shall 148392
be used to hold revenues until they are directed to the 148393
appropriate accounts or until they are refunded. If it is 148394
determined that additional appropriations are necessary, such 148395
amounts are hereby appropriated. 148396

ABOLITION OF THE TECHNOLOGY IMPROVEMENTS FUND 148397

On July 1, 2011, or as soon as possible thereafter, the 148398
Director of Budget and Management shall transfer the cash balance 148399
in the Technology Improvements Fund (Fund 5N90) to the Business 148400
Services Operating Expenses Fund (Fund 5990). The Director shall 148401
cancel any existing encumbrances against appropriation item 148402
050607, Technology Improvements, and re-establish them against 148403
appropriation item 050603, Business Services Operating Expenses. 148404
The re-established encumbered amounts are hereby appropriated. 148405
Upon completion of the transfer, Fund 5N90 is abolished. 148406

Section 391.10. SEN THE OHIO SENATE 148407

General Revenue Fund 148408

GRF 020321 Operating Expenses \$ 10,911,095 \$ 10,911,095 148409

TOTAL GRF General Revenue Fund \$ 10,911,095 \$ 10,911,095 148410

General Services Fund Group 148411

1020 020602 Senate Reimbursement \$ 852,001 \$ 852,001 148412

4090 020601 Miscellaneous Sales \$ 34,497 \$ 34,497 148413

TOTAL GSF General Services 148414

Fund Group \$ 886,498 \$ 886,498 148415

TOTAL ALL BUDGET FUND GROUPS \$ 11,797,593 \$ 11,797,593 148416

OPERATING EXPENSES 148417

On July 1, 2011, or as soon as possible thereafter, the Clerk 148418
of the Senate may certify to the Director of Budget and Management 148419
the amount of the unexpended, unencumbered balance of the 148420
foregoing appropriation item 020321, Operating Expenses, at the 148421
end of fiscal year 2011 to be reappropriated to fiscal year 2012. 148422
The amount certified is hereby reappropriated to the same 148423
appropriation item for fiscal year 2012. 148424

On July 1, 2012, or as soon as possible thereafter, the Clerk 148425
of the Senate may certify to the Director of Budget and Management 148426
the amount of the unexpended, unencumbered balance of the 148427

foregoing appropriation item 020321, Operating Expenses, at the 148428
end of fiscal year 2012 to be reappropriated to fiscal year 2013. 148429
The amount certified is hereby reappropriated to the same 148430
appropriation item for fiscal year 2013. 148431

Section 393.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM 148432

General Revenue Fund 148433

GRF 866321 CSV Operations \$ 129,998 \$ 126,664 148434

TOTAL GRF General Revenue Fund \$ 129,998 \$ 126,664 148435

General Services Fund 148436

5GN0 866605 Serve Ohio Support \$ 67,500 \$ 67,500 148437

TOTAL GSF General Services Fund \$ 67,500 \$ 67,500 148438

Federal Special Revenue Fund Group 148439

3R70 866617 AmeriCorps Programs \$ 8,279,290 \$ 8,272,110 148440

TOTAL FED Federal Special Revenue 148441

Fund Group \$ 8,279,290 \$ 8,272,110 148442

State Special Revenue Fund Group 148443

6240 866604 Volunteer Contracts \$ 49,130 \$ 47,870 148444

and Services

TOTAL SSR State Special Revenue 148445

Fund Group \$ 49,130 \$ 47,870 148446

TOTAL ALL BUDGET FUND GROUPS \$ 8,525,918 \$ 8,514,144 148447

Section 395.10. CSF COMMISSIONERS OF THE SINKING FUND 148449

Debt Service Fund Group 148450

7070155905 Third Frontier \$ 29,323,300 \$ 63,640,300 148451

Research and

Development Bond

Retirement Fund

7072155902 Highway Capital \$ 143,176,000 \$ 150,789,300 148452

Improvement Bond

	Retirement Fund				
7073155903	Natural Resources Bond	\$	5,375,300	\$	25,209,100 148453
	Retirement Fund				
7074155904	Conservation Projects	\$	24,556,800	\$	29,297,300 148454
	Bond Retirement Fund				
7076155906	Coal Research and	\$	7,861,100	\$	5,577,700 148455
	Development Bond				
	Retirement Fund				
7077155907	State Capital	\$	113,306,600	\$	215,571,100 148456
	Improvement Bond				
	Retirement Fund				
7078155908	Common Schools Bond	\$	150,604,900	\$	341,919,400 148457
	Retirement Fund				
7079155909	Higher Education Bond	\$	108,262,500	\$	201,555,000 148458
	Retirement Fund				
7080155901	Persian Gulf,	\$	5,497,700	\$	10,112,100 148459
	Afghanistan, and Iraq				
	Conflicts Bond				
	Retirement Fund				
7090155912	Job Ready Site	\$	9,859,200	\$	15,680,500 148460
	Development Bond				
	Retirement Fund				
TOTAL DSF Debt Service Fund Group		\$	597,823,400	\$	1,059,351,800 148461
TOTAL ALL BUDGET FUND GROUPS		\$	597,823,400	\$	1,059,351,800 148462
	ADDITIONAL APPROPRIATIONS				148463
	Appropriation items in this section are for the purpose of				148464
	paying debt service and financing costs on bonds or notes of the				148465
	state issued under the Ohio Constitution and acts of the General				148466
	Assembly. If it is determined that additional amounts are				148467
	necessary for this purpose, such amounts are hereby appropriated.				148468
	Section 397.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY				148469
	DEVELOPMENT FOUNDATION				148470

Tobacco Master Settlement Agreement Fund Group				148471
5M90 945601 Operating Expenses	\$	436,500	\$ 426,800	148472
TOTAL TMF Tobacco Master Settlement Agreement Fund Group	\$	436,500	\$ 426,800	148473
TOTAL ALL BUDGET FUND GROUPS	\$	436,500	\$ 426,800	148474

Section 399.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY 148476
148477

General Services Fund Group				148478
4K90 886609 Operating Expenses	\$	477,490	\$ 472,260	148479
TOTAL GSF General Services Fund Group	\$	477,490	\$ 472,260	148481
TOTAL ALL BUDGET FUND GROUPS	\$	477,490	\$ 472,260	148482

Section 401.10. BTA BOARD OF TAX APPEALS 148484

General Revenue Fund				148485
GRF 116321 Operating Expenses	\$	1,600,000	\$ 1,700,000	148486
TOTAL GRF General Revenue Fund	\$	1,600,000	\$ 1,700,000	148487
TOTAL ALL BUDGET FUND GROUPS	\$	1,600,000	\$ 1,700,000	148488

Section 403.10. TAX DEPARTMENT OF TAXATION 148490

General Revenue Fund				148491
GRF 110321 Operating Expenses	\$	73,500,000	\$ 73,550,000	148492
GRF 110404 Tobacco Settlement Enforcement	\$	200,000	\$ 200,000	148493
GRF 110412 Child Support Administration	\$	15,804	\$ 15,804	148494
GRF 110901 Property Tax Allocation - Taxation	\$	610,900,000	\$ 616,000,000	148495
TOTAL GRF General Revenue Fund	\$	684,615,804	\$ 689,765,804	148496
General Services Fund Group				148497
2280 110628 Tax Reform System	\$	13,638,008	\$ 13,642,176	148498

		Implementation				
4330	110602	Tape File Account	\$	197,802	\$	197,878 148499
5AP0	110632	Discovery Project	\$	2,445,799	\$	2,445,657 148500
5BW0	110630	Tax Amnesty Promotion and Administration	\$	2,500,000	\$	0 148501
5CZ0	110631	Vendor's License Application	\$	250,000	\$	250,000 148502
5N50	110605	Municipal Income Tax Administration	\$	339,798	\$	339,975 148503
5N60	110618	Kilowatt Hour Tax Administration	\$	150,000	\$	150,000 148504
5V80	110623	Property Tax Administration	\$	12,195,733	\$	12,099,303 148505
5W40	110625	Centralized Tax Filing and Payment	\$	200,000	\$	200,000 148506
5W70	110627	Exempt Facility Administration	\$	50,000	\$	50,000 148507
TOTAL GSF General Services						148508
Fund Group			\$	31,967,140	\$	29,374,989 148509
State Special Revenue Fund Group						148510
4350	110607	Local Tax Administration	\$	19,028,339	\$	19,225,941 148511
4360	110608	Motor Vehicle Audit	\$	1,474,081	\$	1,474,353 148512
4370	110606	Litter/Natural Resource Tax Administration	\$	20,000	\$	20,000 148513
4380	110609	School District Income Tax	\$	5,859,041	\$	5,860,650 148514
4C60	110616	International Registration Plan	\$	689,296	\$	689,308 148515
4R60	110610	Tire Tax Administration	\$	245,462	\$	246,660 148516
5V70	110622	Motor Fuel Tax	\$	5,384,254	\$	5,086,236 148517

		Administration				
6390	110614	Cigarette Tax	\$	1,384,217	\$	1,384,314 148518
		Enforcement				
6420	110613	Ohio Political Party	\$	500,000	\$	500,000 148519
		Distributions				
6880	110615	Local Excise Tax	\$	782,630	\$	782,843 148520
		Administration				
TOTAL SSR State Special Revenue						148521
Fund Group			\$	35,367,320	\$	35,270,305 148522
Agency Fund Group						148523
4250	110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000 148524
7095	110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000 148525
TOTAL AGY Agency Fund Group			\$	1,567,800,000	\$	1,567,800,000 148526
Holding Account Redistribution Fund Group						148527
R010	110611	Tax Distributions	\$	50,000	\$	50,000 148528
R011	110612	Miscellaneous Income	\$	50,000	\$	50,000 148529
		Tax Receipts				
TOTAL 090 Holding Account						148530
Redistribution Fund Group			\$	100,000	\$	100,000 148531
TOTAL ALL BUDGET FUND GROUPS			\$	2,319,850,264	\$	2,322,311,098 148532
HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK						148533
The foregoing appropriation item 110901, Property Tax						148534
Allocation - Taxation, is hereby appropriated to pay for the						148535
state's costs incurred due to the Homestead Exemption, the						148536
Manufactured Home Property Tax Rollback, and the Property Tax						148537
Rollback. The Tax Commissioner shall distribute these funds						148538
directly to the appropriate local taxing districts, except for						148539
school districts, notwithstanding the provisions in sections						148540
321.24 and 323.156 of the Revised Code, which provide for payment						148541
of the Homestead Exemption, the Manufactured Home Property Tax						148542
Rollback, and Property Tax Rollback by the Tax Commissioner to the						148543
appropriate county treasurer and the subsequent redistribution of						148544

these funds to the appropriate local taxing districts by the 148545
county auditor. 148546

Upon receipt of these amounts, each local taxing district 148547
shall distribute the amount among the proper funds as if it had 148548
been paid as real property taxes. Payments for the costs of 148549
administration shall continue to be paid to the county treasurer 148550
and county auditor as provided for in sections 319.54, 321.26, and 148551
323.156 of the Revised Code. 148552

Any sums, in addition to the amounts specifically 148553
appropriated in appropriation item 110901, Property Tax Allocation 148554
- Taxation, for the Homestead Exemption, the Manufactured Home 148555
Property Tax Rollback, and the Property Tax Rollback payments, 148556
which are determined to be necessary for these purposes, are 148557
hereby appropriated. 148558

TAX AMNESTY PROMOTION AND ADMINISTRATION 148559

The foregoing appropriation item 110630, Tax Amnesty 148560
Promotion and Administration, shall be used to pay expenses 148561
incurred to promote and administer the tax amnesty program to be 148562
conducted from May 1, 2012, through June 15, 2012, by the 148563
Department of Taxation pursuant to Section 757.40 of this act. 148564

MUNICIPAL INCOME TAX 148565

The foregoing appropriation item 110995, Municipal Income 148566
Tax, shall be used to make payments to municipal corporations 148567
under section 5745.05 of the Revised Code. If it is determined 148568
that additional appropriations are necessary to make such 148569
payments, such amounts are hereby appropriated. 148570

TAX REFUNDS 148571

The foregoing appropriation item 110635, Tax Refunds, shall 148572
be used to pay refunds under section 5703.052 of the Revised Code. 148573
If it is determined that additional appropriations are necessary 148574

for this purpose, such amounts are hereby appropriated.	148575
INTERNATIONAL REGISTRATION PLAN AUDIT	148576
The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.	148577 148578 148579 148580
TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT	148581
Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.	148582 148583 148584 148585 148586 148587 148588
CENTRALIZED TAX FILING AND PAYMENT FUND	148589
The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers of cash shall not exceed \$400,000 in the biennium.	148590 148591 148592 148593 148594 148595
TOBACCO SETTLEMENT ENFORCEMENT	148596
The foregoing appropriation item 110404, Tobacco Settlement Enforcement, shall be used by the Tax Commissioner to pay costs incurred in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.	148597 148598 148599 148600
Section 403.20. FUND TRANSFERS TO TAX AMNESTY PROGRAM	148601
Notwithstanding any provision of law to the contrary, not later than thirty days following the effective date of this	148602 148603

section, the Director of Budget and Management shall transfer 148604
 \$2,500,000 from the General Revenue Fund to the Tax Amnesty 148605
 Promotion and Administration Fund (5BW0), which is hereby created 148606
 in the state treasury. The funds shall be used by the Department 148607
 of Taxation to pay expenses incurred in promoting and 148608
 administering the tax amnesty program that is to be conducted from 148609
 May 1, 2012, through June 15, 2012, pursuant to section 757.40 of 148610
 this act. 148611

Section 405.10. DOT DEPARTMENT OF TRANSPORTATION 148612

General Revenue Fund 148613

GRF 775451 Public Transportation \$ 7,300,000 \$ 7,300,000 148614
 - State

GRF 776465 Ohio Rail Development \$ 2,000,000 \$ 2,000,000 148615
 Commission

GRF 777471 Airport Improvements \$ 750,000 \$ 750,000 148616
 - State

TOTAL GRF General Revenue Fund \$ 10,050,000 \$ 10,050,000 148617

TOTAL ALL BUDGET FUND GROUPS \$ 10,050,000 \$ 10,050,000 148618

Section 407.10. TOS TREASURER OF STATE 148620

General Revenue Fund 148621

GRF 090321 Operating Expenses \$ 7,743,553 \$ 7,743,553 148622

GRF 090401 Office of the Sinking \$ 502,304 \$ 502,304 148623
 Fund

GRF 090402 Continuing Education \$ 377,702 \$ 377,702 148624

GRF 090524 Police and Fire \$ 7,900 \$ 7,900 148625
 Disability Pension

Fund

GRF 090534 Police and Fire Ad Hoc \$ 87,000 \$ 87,000 148626
 Cost of Living

GRF 090554 Police and Fire \$ 600,000 \$ 600,000 148627

	Survivor Benefits				
GRF 090575	Police and Fire Death	\$ 20,000,000	\$ 20,000,000	20,000,000	148628
	Benefits				
TOTAL GRF	General Revenue Fund	\$ 29,318,459	\$ 29,318,459	29,318,459	148629
	General Services Fund Group				148630
4E90 090603	Securities Lending	\$ 4,829,441	\$ 4,829,441	4,829,441	148631
	Income				
5770 090605	Investment Pool	\$ 550,000	\$ 550,000	550,000	148632
	Reimbursement				
5C50 090602	County Treasurer	\$ 170,057	\$ 170,057	170,057	148633
	Education				
6050 090609	Treasurer of State	\$ 135,000	\$ 135,000	135,000	148634
	Administrative Fund				
TOTAL GSF	General Services				148635
Fund Group		\$ 5,684,498	\$ 5,684,498	5,684,498	148636
	Agency Fund Group				148637
4250 090635	Tax Refunds	\$ 6,000,000	\$ 6,000,000	6,000,000	148638
TOTAL Agency	Fund Group	\$ 6,000,000	\$ 6,000,000	6,000,000	148639
TOTAL ALL BUDGET	FUND GROUPS	\$ 41,002,957	\$ 41,002,957	41,002,957	148640

Section 407.20. OFFICE OF THE SINKING FUND 148642

The foregoing appropriation item 090401, Office of the 148643
Sinking Fund, shall be used for costs incurred by or on behalf of 148644
the Commissioners of the Sinking Fund and the Ohio Public 148645
Facilities Commission with respect to State of Ohio general 148646
obligation bonds or notes, and the Treasurer of State with respect 148647
to State of Ohio general obligation and special obligation bonds 148648
or notes, including, but not limited to, printing, advertising, 148649
delivery, rating fees and the procurement of ratings, professional 148650
publications, membership in professional organizations, and other 148651
services referred to in division (D) of section 151.01 of the 148652
Revised Code. The General Revenue Fund shall be reimbursed for 148653

such costs relating to the issuance and administration of Highway 148654
Capital Improvement bonds or notes authorized under Ohio 148655
Constitution, Article VIII, Section 2m and Chapter 151. of the 148656
Revised Code. That reimbursement shall be made from appropriation 148657
item 155902, Highway Capital Improvement Bond Retirement Fund, by 148658
intrastate transfer voucher pursuant to a certification by the 148659
Office of the Sinking Fund of the actual amounts used. The amounts 148660
necessary to make such a reimbursement are hereby appropriated 148661
from the Highway Capital Improvement Bond Retirement Fund created 148662
in section 151.06 of the Revised Code. 148663

POLICE AND FIRE DEATH BENEFIT FUND 148664

The foregoing appropriation item 090575, Police and Fire 148665
Death Benefits, shall be disbursed quarterly by the Treasurer of 148666
State at the beginning of each quarter of each fiscal year to the 148667
Board of Trustees of the Ohio Police and Fire Pension Fund. The 148668
Treasurer of State shall certify such amounts quarterly to the 148669
Director of Budget and Management. By the twentieth day of June of 148670
each fiscal year, the Board of Trustees of the Ohio Police and 148671
Fire Pension Fund shall certify to the Treasurer of State the 148672
amount disbursed in the current fiscal year to make the payments 148673
required by section 742.63 of the Revised Code and shall return to 148674
the Treasurer of State moneys received from this appropriation 148675
item but not disbursed. 148676

TAX REFUNDS 148677

The foregoing appropriation item 090635, Tax Refunds, shall 148678
be used to pay refunds under section 5703.052 of the Revised Code. 148679
If the Director of Budget and Management determines that 148680
additional amounts are necessary for this purpose, such amounts 148681
are hereby appropriated. 148682

Section 409.10. VTO VETERANS' ORGANIZATIONS 148683

General Revenue Fund					148684
		VAP AMERICAN EX-PRISONERS OF WAR			148685
GRF	743501	State Support	\$	28,910	\$ 28,910 148686
		VAN ARMY AND NAVY UNION, USA, INC.			148687
GRF	746501	State Support	\$	63,539	\$ 63,539 148688
		VKW KOREAN WAR VETERANS			148689
GRF	747501	State Support	\$	57,118	\$ 57,118 148690
		VJW JEWISH WAR VETERANS			148691
GRF	748501	State Support	\$	34,321	\$ 34,321 148692
		VCW CATHOLIC WAR VETERANS			148693
GRF	749501	State Support	\$	66,978	\$ 66,978 148694
		VPH MILITARY ORDER OF THE PURPLE HEART			148695
GRF	750501	State Support	\$	65,116	\$ 65,116 148696
		VVV VIETNAM VETERANS OF AMERICA			148697
GRF	751501	State Support	\$	214,776	\$ 214,776 148698
		VAL AMERICAN LEGION OF OHIO			148699
GRF	752501	State Support	\$	349,189	\$ 349,189 148700
		VII AMVETS			148701
GRF	753501	State Support	\$	332,547	\$ 332,547 148702
		VAV DISABLED AMERICAN VETERANS			148703
GRF	754501	State Support	\$	249,836	\$ 249,836 148704
		VMC MARINE CORPS LEAGUE			148705
GRF	756501	State Support	\$	133,947	\$ 133,947 148706
		V37 37TH DIVISION VETERANS' ASSOCIATION			148707
GRF	757501	State Support	\$	6,868	\$ 6,868 148708
		VFW VETERANS OF FOREIGN WARS			148709
GRF	758501	State Support	\$	284,841	\$ 284,841 148710
TOTAL GRF General Revenue Fund			\$	1,887,986	\$ 1,887,986 148711
TOTAL ALL BUDGET FUND GROUPS			\$	1,887,986	\$ 1,887,986 148712
		RELEASE OF FUNDS			148713
		The Director of Budget and Management may release the			148714
		foregoing appropriation items 743501, 746501, 747501, 748501,			148715

749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501, 148716
and 758501, State Support. 148717

Section 411.10. DVS DEPARTMENT OF VETERANS SERVICES 148718

General Revenue Fund 148719

GRF 900321 Veterans' Homes \$ 27,369,946 \$ 27,369,946 148720

GRF 900402 Hall of Fame \$ 107,075 \$ 107,075 148721

GRF 900408 Department of Veterans Services \$ 1,901,823 \$ 1,901,823 148722

GRF 900901 Persian Gulf, Afghanistan, and Iraq Compensation Debt Service \$ 5,486,600 \$ 10,112,100 148723

TOTAL GRF General Revenue Fund \$ 34,865,444 \$ 39,490,944 148724

General Services Fund Group 148725

4840 900603 Veterans' Homes Services \$ 305,806 \$ 312,458 148726

TOTAL GSF General Services Fund \$ 305,806 \$ 312,458 148727

Group

Federal Special Revenue Fund Group 148728

3680 900614 Veterans Training \$ 769,500 \$ 754,377 148729

3740 900606 Troops to Teachers \$ 136,786 \$ 133,461 148730

3BX0 900609 Medicare Services \$ 2,500,000 \$ 2,490,169 148731

3L20 900601 Veterans' Homes Operations - Federal \$ 23,455,379 \$ 23,476,269 148732

TOTAL FED Federal Special Revenue 148733

Fund Group \$ 26,861,665 \$ 26,854,276 148734

State Special Revenue Fund Group 148735

4E20 900602 Veterans' Homes Operating \$ 10,117,680 \$ 10,319,078 148736

6040 900604 Veterans' Homes \$ 347,598 \$ 398,731 148737

Improvement			
TOTAL SSR State Special Revenue			148738
Fund Group	\$ 10,465,278	\$ 10,717,809	148739
Persian Gulf, Afghanistan, and Iraq Compensation Fund Group			148740
7041 900615 Veteran Bonus Program	\$ 1,605,410	\$ 1,147,703	148741
- Administration			
7041 900641 Persian Gulf,	\$ 25,425,000	\$ 24,300,000	148742
Afghanistan, and Iraq Compensation			
TOTAL 041 Persian Gulf,			148743
Afghanistan, and Iraq			148744
Compensation Fund Group	\$ 27,030,410	\$ 25,447,703	148745
TOTAL ALL BUDGET FUND GROUPS	\$ 99,528,603	\$ 102,823,190	148746
PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL			148747
OBLIGATION DEBT SERVICE			148748
The foregoing appropriation item 900901, Persian Gulf,			148749
Afghanistan and Iraq Compensation Debt Service, shall be used to			148750
pay all debt service and related financing costs during the period			148751
from July 1, 2011, through June 30, 2013, on obligations issued			148752
for Persian Gulf, Afghanistan and Iraq Conflicts Compensation			148753
purposes under sections 151.01 and 151.12 of the Revised Code.			148754
Section 413.10. DVM STATE VETERINARY MEDICAL BOARD			148755
General Services Fund Group			148756
4K90 888609 Operating Expenses	\$ 322,375	\$ 319,857	148757
5BV0 888602 Veterinary Student	\$ 30,000	\$ 30,000	148758
Loan Program			
TOTAL GSF General Services			148759
Fund Group	\$ 352,375	\$ 349,857	148760
TOTAL ALL BUDGET FUND GROUPS	\$ 352,375	\$ 349,857	148761
Section 415.10. DYS DEPARTMENT OF YOUTH SERVICES			148763

General Revenue Fund				148764
GRF	470401	RECLAIM Ohio	\$ 168,716,967 \$	162,362,228 148765
GRF	470412	Lease Rental Payments	\$ 10,221,800 \$	27,230,100 148766
GRF	470510	Youth Services	\$ 16,702,728 \$	16,702,728 148767
GRF	472321	Parole Operations	\$ 10,830,019 \$	10,583,118 148768
GRF	477321	Administrative Operations	\$ 12,222,051 \$	11,855,389 148769
TOTAL GRF General Revenue Fund				\$ 218,693,565 \$ 228,733,563 148770
General Services Fund Group				148771
1750	470613	Education Reimbursement	\$ 8,160,277 \$	8,151,056 148772
4790	470609	Employee Food Service	\$ 150,000 \$	150,000 148773
4A20	470602	Child Support	\$ 450,000 \$	400,000 148774
4G60	470605	General Operational Funds	\$ 125,000 \$	125,000 148775
5BN0	470629	E-Rate Program	\$ 535,000 \$	535,000 148776
TOTAL GSF General Services Fund Group				\$ 9,420,277 \$ 9,361,056 148778
Federal Special Revenue Fund Group				148779
3210	470601	Education	\$ 1,774,469 \$	1,517,840 148780
3210	470603	Juvenile Justice Prevention	\$ 300,000 \$	300,000 148781
3210	470606	Nutrition	\$ 1,747,432 \$	1,704,022 148782
3210	470610	Rehabilitation Programs	\$ 36,000 \$	36,000 148783
3210	470614	Title IV-E Reimbursements	\$ 6,000,000 \$	6,000,000 148784
3BY0	470635	Federal Juvenile Programs FFY 07	\$ 56,471 \$	2,000 148785
3BZ0	470636	Federal Juvenile Programs FFY 08	\$ 82,000 \$	1,618 148786
3CP0	470638	Federal Juvenile	\$ 500,000 \$	300,730 148787

		Programs FFY 09					
3CR0	470639	Federal Juvenile	\$	800,000	\$	479,900	148788
		Programs FFY 10					
3FB0	470641	Federal Juvenile	\$	135,000	\$	600,000	148789
		Programs FFY 11					
3FC0	470642	Federal Juvenile	\$	0	\$	135,000	148790
		Programs FFY 12					
3V50	470604	Juvenile	\$	2,010,000	\$	2,000,000	148791
		Justice/Delinquency					
		Prevention					
TOTAL FED		Federal Special Revenue					148792
Fund Group			\$	13,441,372	\$	13,077,110	148793
State Special Revenue		Fund Group					148794
1470	470612	Vocational Education	\$	762,126	\$	758,210	148795
TOTAL SSR		State Special Revenue					148796
Fund Group			\$	762,126	\$	758,210	148797
TOTAL ALL BUDGET FUND GROUPS			\$	242,317,340	\$	251,929,939	148798

COMMUNITY PROGRAMS 148799

Of the foregoing appropriation item 470401, RECLAIM Ohio, an 148800
amount equal to forty-five per cent of the unexpended, 148801
unencumbered balance used for the purpose of funding juvenile 148802
correctional facilities, at the end of each fiscal year, is hereby 148803
reappropriated to the next fiscal year, and shall be used for the 148804
purpose of expanding Targeted RECLAIM, the Behavioral Health 148805
Juvenile Justice Initiative, and other evidence-based community 148806
programs. 148807

OHIO BUILDING AUTHORITY LEASE PAYMENTS 148808

The foregoing appropriation item 470412, Lease Rental 148809
Payments, shall be used to meet all payments at the times they are 148810
required to be made for the period from July 1, 2011, through June 148811
30, 2013, by the Department of Youth Services to the Ohio Building 148812
Authority under the leases and agreements for facilities made 148813

under Chapter 152. of the Revised Code. This appropriation is the	148814
source of funds pledged for bond service charges on related	148815
obligations issued pursuant to Chapter 152. of the Revised Code.	148816
EDUCATION REIMBURSEMENT	148817
The foregoing appropriation item 470613, Education	148818
Reimbursement, shall be used to fund the operating expenses of	148819
providing educational services to youth supervised by the	148820
Department of Youth Services. Operating expenses include, but are	148821
not limited to, teachers' salaries, maintenance costs, and	148822
educational equipment. This appropriation item may be used for	148823
capital expenses related to the education program.	148824
EMPLOYEE FOOD SERVICE AND EQUIPMENT	148825
Notwithstanding section 125.14 of the Revised Code, the	148826
foregoing appropriation item 470609, Employee Food Service, may be	148827
used to purchase any food operational items with funds received	148828
into the fund from reimbursements for state surplus property.	148829
FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES	148830
In collaboration with the county family and children first	148831
council, the juvenile court of that county that receives	148832
allocations from one or both of the foregoing appropriation items	148833
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer	148834
portions of those allocations to a flexible funding pool as	148835
authorized by the section of this act titled "FAMILY AND CHILDREN	148836
FIRST FLEXIBLE FUNDING POOL."	148837
Section 501.10. All items set forth in this section are	148838
hereby appropriated for fiscal year 2012 out of any moneys in the	148839
state treasury to the credit of the Administrative Building Fund	148840
(Fund 7026) that are not otherwise appropriated.	148841
CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD	148842
C87416 Statehouse Boiler Replacement \$ 900,000	148843

Total Capitol Square Review and Advisory Board	\$	900,000	148844
TOTAL Administrative Building Fund	\$	900,000	148845

Section 501.20. All items set forth in this section are 148847
hereby appropriated for fiscal year 2012 out of any moneys in the 148848
state treasury to the credit of the Parks and Recreation 148849
Improvement Fund (Fund 7035) that are not otherwise appropriated. 148850

DNR DEPARTMENT OF NATURAL RESOURCES 148851

C725S3 Caesar Creek Marina	\$	4,000,000	148852
Total Department of Natural Resources	\$	4,000,000	148853
TOTAL Parks and Recreation Improvement Fund	\$	4,000,000	148854

Section 503.10. PERSONAL SERVICE EXPENSES 148856

Unless otherwise prohibited by law, any appropriation from 148857
which personal service expenses are paid shall bear the employer's 148858
share of public employees' retirement, workers' compensation, 148859
disabled workers' relief, and insurance programs; and the costs of 148860
centralized financial services, centralized payroll processing, 148861
and related reports and services; centralized human resources 148862
services, including affirmative action and equal employment 148863
opportunity programs; the Office of Collective Bargaining; the 148864
Employee Assistance Program; centralized information technology 148865
management services; administering the enterprise resource 148866
planning system; and administering the state employee merit system 148867
as required by section 124.07 of the Revised Code. These costs 148868
shall be determined in conformity with the appropriate sections of 148869
law and paid in accordance with procedures specified by the Office 148870
of Budget and Management. Expenditures from appropriation item 148871
070601, Public Audit Expense - Intra-State, may be exempted from 148872
the requirements of this section. 148873

Section 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 148874
AGAINST THE STATE 148875

Except as otherwise provided in this section, an 148876
appropriation in this act or any other act may be used for the 148877
purpose of satisfying judgments, settlements, or administrative 148878
awards ordered or approved by the Court of Claims or by any other 148879
court of competent jurisdiction in connection with civil actions 148880
against the state. This authorization does not apply to 148881
appropriations to be applied to or used for payment of guarantees 148882
by or on behalf of the state, or for payments under lease 148883
agreements relating to, or debt service on, bonds, notes, or other 148884
obligations of the state. Notwithstanding any other statute to the 148885
contrary, this authorization includes appropriations from funds 148886
into which proceeds of direct obligations of the state are 148887
deposited only to the extent that the judgment, settlement, or 148888
administrative award is for, or represents, capital costs for 148889
which the appropriation may otherwise be used and is consistent 148890
with the purpose for which any related obligations were issued or 148891
entered into. Nothing contained in this section is intended to 148892
subject the state to suit in any forum in which it is not 148893
otherwise subject to suit, and is not intended to waive or 148894
compromise any defense or right available to the state in any suit 148895
against it. 148896

Section 503.30. CAPITAL PROJECT SETTLEMENTS 148897

This section specifies an additional and supplemental 148898
procedure to provide for payments of judgments and settlements if 148899
the Director of Budget and Management determines, pursuant to 148900
division (C)(4) of section 2743.19 of the Revised Code, that 148901
sufficient unencumbered moneys do not exist in the fund to support 148902
a particular appropriation to pay the amount of a final judgment 148903
rendered against the state or a state agency, including the 148904
settlement of a claim approved by a court, in an action upon and 148905
arising out of a contractual obligation for the construction or 148906
improvement of a capital facility if the costs under the contract 148907

were payable in whole or in part from a state capital projects 148908
appropriation. In such a case, the Director may either proceed 148909
pursuant to division (C)(4) of section 2743.19 of the Revised Code 148910
or apply to the Controlling Board to increase an appropriation or 148911
create an appropriation out of any unencumbered moneys in the 148912
state treasury to the credit of the capital projects fund from 148913
which the initial state appropriation was made. The amount of an 148914
increase in appropriation or new appropriation approved by the 148915
Controlling Board is hereby appropriated from the applicable 148916
capital projects fund and made available for the payment of the 148917
judgment or settlement. 148918

If the Director does not make the application authorized by 148919
this section or the Controlling Board disapproves the application, 148920
and the Director does not make application under division (C)(4) 148921
of section 2743.19 of the Revised Code, the Director shall for the 148922
purpose of making that payment make a request to the General 148923
Assembly as provided for in division (C)(5) of that section. 148924

Section 503.40. RE-ISSUANCE OF VOIDED WARRANTS 148925

In order to provide funds for the reissuance of voided 148926
warrants under section 126.37 of the Revised Code, there is hereby 148927
appropriated, out of moneys in the state treasury from the fund 148928
credited as provided in section 126.37 of the Revised Code, that 148929
amount sufficient to pay such warrants when approved by the Office 148930
of Budget and Management. 148931

Section 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 148932
BALANCES OF OPERATING APPROPRIATIONS 148933

(A) An unexpended balance of an operating appropriation or 148934
reappropriation that a state agency lawfully encumbered prior to 148935
the close of a fiscal year is hereby reappropriated on the first 148936
day of July of the following fiscal year from the fund from which 148937

it was originally appropriated or reappropriated for the following 148938
period and shall remain available only for the purpose of 148939
discharging the encumbrance: 148940

(1) For an encumbrance for personal services, maintenance, 148941
equipment, or items for resale, other than an encumbrance for an 148942
item of special order manufacture not available on term contract 148943
or in the open market or for reclamation of land or oil and gas 148944
wells, for a period of not more than five months from the end of 148945
the fiscal year; 148946

(2) For an encumbrance for an item of special order 148947
manufacture not available on term contract or in the open market, 148948
for a period of not more than five months from the end of the 148949
fiscal year or, with the written approval of the Director of 148950
Budget and Management, for a period of not more than twelve months 148951
from the end of the fiscal year; 148952

(3) For an encumbrance for reclamation of land or oil and gas 148953
wells, for a period ending when the encumbered appropriation is 148954
expended or for a period of two years, whichever is less; 148955

(4) For an encumbrance for any other expense, for such period 148956
as the Director approves, provided such period does not exceed two 148957
years. 148958

(B) Any operating appropriations for which unexpended 148959
balances are reappropriated beyond a five-month period from the 148960
end of the fiscal year by division (A)(2) of this section shall be 148961
reported to the Controlling Board by the Director of Budget and 148962
Management by the thirty-first day of December of each year. The 148963
report on each such item shall include the item, the cost of the 148964
item, and the name of the vendor. The report shall be updated on a 148965
quarterly basis for encumbrances remaining open. 148966

(C) Upon the expiration of the reappropriation period set out 148967
in division (A) of this section, a reappropriation made by this 148968

section lapses, and the Director of Budget and Management shall 148969
cancel the encumbrance of the unexpended reappropriation not later 148970
than the end of the weekend following the expiration of the 148971
reappropriation period. 148972

(D) Notwithstanding division (C) of this section, with the 148973
approval of the Director of Budget and Management, an unexpended 148974
balance of an encumbrance that was reappropriated on the first day 148975
of July by this section for a period specified in division (A)(3) 148976
or (4) of this section and that remains encumbered at the close of 148977
the fiscal biennium is hereby reappropriated on the first day of 148978
July of the following fiscal biennium from the fund from which it 148979
was originally appropriated or reappropriated for the applicable 148980
period specified in division (A)(3) or (4) of this section and 148981
shall remain available only for the purpose of discharging the 148982
encumbrance. 148983

(E) The Director of Budget and Management may correct 148984
accounting errors committed by the staff of the Office of Budget 148985
and Management, such as re-establishing encumbrances or 148986
appropriations cancelled in error, during the cancellation of 148987
operating encumbrances in November and of nonoperating 148988
encumbrances in December. 148989

(F) If the Controlling Board approved a purchase, that 148990
approval remains in effect so long as the appropriation used to 148991
make that purchase remains encumbered. 148992

Section 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 148993
RE-ESTABLISHMENT OF ENCUMBRANCES 148994

Any cash transferred by the Director of Budget and Management 148995
under section 126.15 of the Revised Code is hereby appropriated. 148996
Any amounts necessary to re-establish appropriations or 148997
encumbrances under section 126.15 of the Revised Code are hereby 148998
appropriated. 148999

Section 503.70. INCOME TAX DISTRIBUTION TO COUNTIES	149000
There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.	149001 149002 149003 149004 149005
Section 503.80. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD	149006 149007
Any money that the Controlling Board approves for expenditure or any increase in appropriation that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2013.	149008 149009 149010 149011 149012
Section 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S RESIDENCE	149013 149014
If the Governor's Residence Fund (Fund 4H20) receives payment for use of the residence pursuant to section 107.40 of the Revised Code, the amounts so received are hereby appropriated to appropriation item 100604, Governor's Residence Gift.	149015 149016 149017 149018
Section 503.93. PENSION SHIFT REPLACEMENT	149019
The Director of Budget and Management may authorize additional expenditures from various General Revenue Fund and non-General Revenue Fund appropriation items in order to fully fund the employer's share of public retirement system contributions for state employees who are paid directly by warrant of the Director of Budget and Management. Any additional expenditures authorized by the Director of Budget and Management under this paragraph are hereby appropriated.	149020 149021 149022 149023 149024 149025 149026 149027

Section 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 149028

Unless the agency and nuclear electric utility mutually agree 149029
to a higher amount by contract, the maximum amounts that may be 149030
assessed against nuclear electric utilities under division (B)(2) 149031
of section 4937.05 of the Revised Code and deposited into the 149032
specified funds are as follows: 149033

<u>Fund</u>	<u>User</u>	<u>FY 2012</u>	<u>FY 2013</u>	
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$ 131,785	\$ 131,785	149034 149035
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$ 930,525	\$ 930,576	149036
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$ 279,838	\$ 279,966	149037
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$ 1,415,945	\$ 1,415,945	149038

Section 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED 149039
149040

Notwithstanding any provision of law to the contrary, the 149041
Director of Budget and Management, through June 30, 2013, may 149042
transfer interest earned by any state fund to the General Revenue 149043
Fund. This section does not apply to funds whose source of revenue 149044
is restricted or protected by the Ohio Constitution, federal tax 149045
law, or the "Cash Management Improvement Act of 1990," 104 Stat. 149046
1058 (1990), 31 U.S.C. 6501 et seq., as amended. 149047

Section 512.30. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS 149048
149049

Notwithstanding any provision of law to the contrary, during 149050
fiscal years 2012 and 2013, the Director of Budget and Management 149051

may transfer up to \$60,000,000 in cash from non-General Revenue 149052
Funds that are not constitutionally restricted to the General 149053
Revenue Fund in order to ensure that available General Revenue 149054
Fund receipts and balances are sufficient to support General 149055
Revenue Fund appropriations in each fiscal year. The Director 149056
shall not make transfers from any non-General Revenue Fund if more 149057
than thirty per cent of the total fund value consists of cash from 149058
donations. 149059

Section 512.40. FISCAL YEAR 2011 GENERAL REVENUE FUND ENDING 149060
BALANCE 149061

Notwithstanding divisions (B) and (C) of section 131.44 of 149062
the Revised Code, the Director of Budget and Management shall 149063
determine the surplus General Revenue Fund revenue that existed on 149064
June 30, 2011, in excess of the amount required under division 149065
(A)(3) of section 131.44 of the Revised Code, and transfer from 149066
the General Revenue Fund, to the extent of the amount so 149067
determined, the following: 149068

(A) To the Disaster Services Fund (Fund 5E20), a cash amount 149069
up to \$25,000,000; 149070

(B) To the Controlling Board Emergency Purposes Fund (Fund 149071
5KM0), a cash amount of up to \$20,000,000. 149072

Section 512.60. NATURAL RESOURCES PUBLICATIONS 149073

On July 1, 2011, or as soon as possible thereafter, the 149074
Director of Budget and Management, at the request of the Director 149075
of Natural Resources, shall transfer the remaining cash balance in 149076
the Natural Resources Publications and Promotional Materials Fund 149077
(Fund 5080) to the Departmental Projects Fund (Fund 1550) and the 149078
Geological Mapping Fund (Fund 5110) in such amounts as determined 149079
by the Director of Budget and Management after consultation with 149080
the Director of Natural Resources. The Director of Budget and 149081

Management shall cancel all existing encumbrances against 149082
appropriation item 725684, Natural Resources Publications, and 149083
reestablish them against appropriation item 725601, Departmental 149084
Projects, and appropriation item 725646, Ohio Geological Mapping. 149085
Upon completion of the transfer, the Natural Resources 149086
Publications and Promotional Materials Fund is hereby abolished. 149087
Beginning July 1, 2011, all moneys from the sale of books, 149088
bulletins, maps, or other publications and promotional materials 149089
shall be credited to the Departmental Projects Fund (Fund 1550) or 149090
the Geological Mapping Fund (Fund 5110) as determined by the 149091
Director of Natural Resources. 149092

Section 512.70. On July 1, 2011, or as soon as possible 149093
thereafter, the Director of Budget and Management shall transfer 149094
the cash balance in the Penalty Enforcement Fund (Fund 5K70) to 149095
the Labor Operating Fund (Fund 5560). The Director shall cancel 149096
any existing encumbrances against appropriation item 800621, 149097
Penalty Enforcement, and re-establish them against appropriation 149098
item 800615, Industrial Compliance. The re-established encumbrance 149099
amounts are hereby appropriated. Upon completion of the transfer, 149100
Fund 5K70 is abolished. 149101

Section 512.80. ABOLISHMENT OF PASSPORT FUND 149102

On July 1, 2011, or as soon as possible thereafter, the 149103
Director of Budget and Management shall transfer the cash balance 149104
in the PASSPORT Fund (Fund 4U90) to the Nursing Home Franchise 149105
Permit Fee Fund (Fund 5R20). Upon completion of the transfer, Fund 149106
4U90 is abolished. The Director shall cancel any existing 149107
encumbrances against appropriation item 490602, PASSPORT Fund, and 149108
reestablish them against appropriation item 600613, Nursing 149109
Facility Bed Assessments. The reestablished encumbrance amounts 149110
are hereby appropriated. 149111

Section 512.90. DIESEL EMISSIONS REDUCTION GRANT PROGRAM 149112

There is established in the Highway Operating Fund (Fund 149113
7002) in the Department of Transportation a Diesel Emissions 149114
Reduction Grant Program. The Director of Environmental Protection 149115
shall administer the program and shall solicit, evaluate, score, 149116
and select projects submitted by public and private entities that 149117
are eligible for the federal Congestion Mitigation and Air Quality 149118
(CMAQ) Program. The Director of Transportation shall process 149119
Federal Highway Administration-approved projects as recommended by 149120
the Director of Environmental Protection. 149121

In addition to the allowable expenditures set forth in 149122
section 122.861 of the Revised Code, Diesel Emissions Reduction 149123
Grant Program funds also may be used to fund projects involving 149124
the purchase or use of hybrid and alternative fuel vehicles that 149125
are allowed under guidance developed by the Federal Highway 149126
Administration for the CMAQ Program. 149127

Public entities eligible to receive funds under section 149128
122.861 of the Revised Code and CMAQ shall be reimbursed from the 149129
Department of Transportation's Diesel Emissions Reduction Grant 149130
Program. 149131

Private entities eligible to receive funds under section 149132
122.861 of the Revised Code and CMAQ shall be reimbursed through 149133
transfers of cash from the Department of Transportation's Diesel 149134
Emissions Reduction Grant Program to the Diesel Emissions 149135
Reduction Fund (Fund 3FH0), which is hereby created and to be used 149136
by the Environmental Protection Agency. 149137

Appropriation item 715693, Diesel Emissions Reduction Grants, 149138
is established with an appropriation of \$10,000,000 in FY 2012 and 149139
\$10,000,000 in FY 2013. Total expenditures between both the 149140
Environmental Protection Agency and the Department of 149141
Transportation shall not exceed the amounts appropriated in this 149142

section. 149143

On or before June 30, 2012, any unencumbered balance of the 149144
foregoing appropriation item 715693, Diesel Emissions Reduction 149145
Grants, for fiscal year 2012 is appropriated for the same purposes 149146
in fiscal year 2013. 149147

Any cash transfers or allocations under this section 149148
represent CMAQ program moneys within the Department of 149149
Transportation for use by the Diesel Emissions Reduction Grant 149150
Program by the Environmental Protection Agency. These allocations 149151
shall not reduce the amount of such moneys designated for 149152
metropolitan planning organizations. 149153

The Director of Environmental Protection, in consultation 149154
with the Directors of Development and Transportation, shall 149155
develop guidance for the distribution of funds and for the 149156
administration of the Diesel Emissions Reduction Grant Program. 149157
The guidance shall include a method of prioritization for 149158
projects, acceptable technologies, and procedures for awarding 149159
grants. 149160

Section 515.20. (A) On the effective date of the amendment of 149161
the statutes creating the Division of Oil and Gas Resources 149162
Management in the Department of Natural Resources by this act, the 149163
functions, assets, and liabilities of the Division of Mineral 149164
Resources Management in the Department of Natural Resources with 149165
respect to oil and gas are transferred to the Division of Oil and 149166
Gas Resources Management. The Division of Oil and Gas Resources 149167
Management is successor to, assumes the obligations and authority 149168
of, and otherwise continues the Division of Mineral Resources 149169
Management with respect to oil and gas. No right, privilege, or 149170
remedy, and no duty, liability, or obligation, accrued under the 149171
Division of Mineral Resources Management with respect to oil and 149172
gas is impaired or lost by reason of the transfer and shall be 149173

recognized, administered, performed, or enforced by the Division 149174
of Oil and Gas Resources Management. 149175

(B) Business commenced but not completed by the Division of 149176
Mineral Resources Management or by the Chief of the Division of 149177
Mineral Resources Management with respect to oil and gas shall be 149178
completed by the Division of Oil and Gas Resources Management or 149179
the Chief of the Division of Oil and Gas Resources Management in 149180
the same manner, and with the same effect, as if completed by the 149181
Division of Mineral Resources Management or by the Chief of the 149182
Division of Mineral Resources Management. 149183

(C) All of the Division of Mineral Resources Management's 149184
rules, orders, and determinations with respect to oil and gas 149185
continue in effect as rules, orders, and determinations of the 149186
Division of Oil and Gas Resources Management until modified or 149187
rescinded by the Division of Oil and Gas Resources Management. If 149188
necessary to ensure the integrity of the numbering of the 149189
Administrative Code, the Director of the Legislative Service 149190
Commission shall renumber the Division of Mineral Resources 149191
Management's rules with respect to oil and gas to reflect their 149192
transfer to the Division of Oil and Gas Resources Management. 149193

(D) The Director of Budget and Management shall determine the 149194
amount of unexpended balances in the appropriation accounts that 149195
pertain to the Division of Mineral Resources Management with 149196
respect to oil and gas and shall recommend to the Controlling 149197
Board their transfer to the appropriation accounts that pertain to 149198
the Division of Oil and Gas Resources Management. The Chief of the 149199
Division of Mineral Resources Management shall provide full and 149200
timely information to the Controlling Board to facilitate the 149201
transfer. 149202

(E) Whenever the Division of Mineral Resources Management or 149203
the Chief of the Division of Mineral Resources Management is 149204

referred to in a statute, contract, or other instrument with 149205
respect to oil and gas, the reference is deemed to refer to the 149206
Division of Oil and Gas Resources Management or to the Chief of 149207
the Division of Oil and Gas Resources Management, whichever is 149208
appropriate in context. 149209

(F) No pending action or proceeding being prosecuted or 149210
defended in court or before an agency with respect to oil and gas 149211
by the Division of Mineral Resources Management or the Chief of 149212
the Division of Mineral Resources Management is affected by the 149213
transfer and shall be prosecuted or defended in the name of the 149214
Division of Oil and Gas Resources Management or the Chief of the 149215
Division of Oil and Gas Resources Management, whichever is 149216
appropriate. Upon application to the court or agency, the Division 149217
of Oil and Gas Resources Management or the Chief of the Division 149218
of Oil and Gas Resources Management shall be substituted as a 149219
party. 149220

Section 515.23. On the effective date of the amendments to 149221
section 1517.03 of the Revised Code by this act, the terms of 149222
office of members appointed to the Ohio Natural Areas Council 149223
under section 1517.03 of the Revised Code prior to its amendment 149224
by this act are terminated. 149225

Section 515.30. (A) On the effective date of the amendment of 149226
the statutes governing the Ohio Coal Development Office by this 149227
act, the Ohio Coal Development Office and all of its functions, 149228
together with its assets and liabilities, are transferred from 149229
within the Ohio Air Quality Development Authority to within the 149230
Department of Development. The Ohio Coal Development Office in the 149231
Department of Development assumes the obligations of and otherwise 149232
constitutes the continuation of the Ohio Coal Development Office 149233
in the Ohio Air Quality Development Authority. 149234

(B) Any business commenced but not completed by the Ohio Coal Development Office in the Ohio Air Quality Development Authority or the Director of that office on the effective date of the amendment of the statutes governing that Office by this act shall be completed by the Ohio Coal Development Office in the Department of Development or the Director of that Office in the same manner, and with the same effect, as if completed by the Ohio Coal Development Office in the Ohio Air Quality Development Authority or the Director of that Office. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired by reason of the transfer required by this section and shall be administered by the Ohio Coal Development Office in the Department of Development.

(C) All of the rules, orders, and determinations of the Ohio Coal Development Office in the Ohio Air Quality Development Authority or of the Ohio Air Quality Development Authority in relation to that Office continue in effect as rules, orders, and determinations of the Ohio Coal Development Office in the Department of Development until modified or rescinded by that Office or by the Department of Development in relation to that Office. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Ohio Air Quality Development Authority in relation to the Ohio Coal Development Office in the Ohio Air Quality Development Authority to reflect the transfer to the Department of Development.

(D) Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all of the employees of the Ohio Coal Development Office in the Ohio Air Quality Development Authority are transferred to the Ohio Coal Development Office in the Department of Development and retain their positions and all the benefits accruing thereto.

(E) Whenever the Ohio Coal Development Office in the Ohio Air Quality Development Office or the Authority in relation to that Office is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Ohio Coal Development Office in the Department of Development or the Director of Development in relation to that Office, whichever is appropriate in context.

(F) Any action or proceeding pending on the effective date of the amendment of the statutes governing the Ohio Coal Development Office by this act is not affected by the transfer of that Office and shall be prosecuted or defended in the name of the Department of Development or the Ohio Coal Development Office in that Department. In all such actions and proceedings, the Department of Development or the Ohio Coal Development Office in that Department, upon application to the court, shall be substituted as a party.

Section 515.40. (A) On the effective date of this section, the building and facility operations and management functions of the Ohio Building Authority (OBA) under Chapter 152. of the Revised Code, and the related functions, assets, and liabilities, including, but not limited to, funds, accounts, records, regardless of form or medium, leases, agreements, and contracts of the OBA are transferred to the Department of Administrative Services. Notwithstanding Chapters 123., 124., 125., 126., and 153. of the Revised Code, the Department is thereupon and thereafter successor to, assumes the powers and obligations of, and otherwise constitutes the continuation of the building and facilities operations and management functions of the OBA as provided in the applicable sections of Chapter 152. of the Revised Code or in any agreements relating to building and facility operation and management functions to which the Ohio Building Authority is a party, including the invoicing and collection of

rent from local government tenants in state office buildings. All 149299
statutory references to OBA with regard to building and facility 149300
operations and management functions are deemed to be references to 149301
the Department of Administrative Services. 149302

(B) Any business relating to its building and facility 149303
operations and management functions commenced but not completed by 149304
the OBA by the date of transfer shall be completed by the 149305
Department of Administrative Services, in the same manner, and 149306
with the same effect, as if completed by the OBA. No validation, 149307
cure, right, privilege, remedy, obligation, or liability is lost 149308
or impaired by reason of the transfer and shall be administered by 149309
the Department of Administrative Services. All of the OBA's rules, 149310
orders, and determinations related to building and facility 149311
operations and management functions continue in effect as rules, 149312
orders, and determinations of the Department of Administrative 149313
Services, until modified or rescinded by the Department of 149314
Administrative Services. If necessary to ensure the integrity of 149315
the Administrative Code rule numbering system, the Director of the 149316
Legislative Service Commission shall renumber the OBA's rules 149317
related to the OBA's building and facility operations and 149318
management functions to reflect their transfer to the Department 149319
of Administrative Services. 149320

(C) Employees of the OBA designated as building and facility 149321
operations and management staff may be transferred to the 149322
Department of Administrative Services as the Department determines 149323
to be necessary for successful implementation of this section, to 149324
the extent possible, with no loss of service credit. 149325

(D) No judicial or administrative action or proceeding to 149326
which the OBA is a party that is pending on the effective date of 149327
this section or such later date as may be established by an 149328
authorized officer of the OBA and the Director of Administrative 149329

Services, and related to its building and facility operations and 149330
management functions, is affected by the transfer of functions. 149331
Any such action or proceeding shall be prosecuted or defended in 149332
the name of the Director of Administrative Services. On 149333
application to the court or agency, the Director of Administrative 149334
Services shall be substituted for the OBA or an authorized officer 149335
of the OBA as a party to the action or proceeding. 149336

(E) On and after the effective date of this section, 149337
notwithstanding any provision of the law to the contrary, if 149338
requested by the Director of Administrative Services, the Director 149339
of Budget and Management shall make the budget changes made 149340
necessary by the transfer, if any, including administrative 149341
reorganization, program transfers, the creation of new funds, and 149342
the consolidation of funds as authorized by this section. The 149343
Director of Budget and Management may, if necessary, establish 149344
encumbrances or parts of encumbrances as needed in fiscal year 149345
2012 in the appropriate fund and appropriation item for the same 149346
purpose and for payment to the same vendor. The established 149347
encumbrances plus any additional amounts determined to be 149348
necessary for the Department of Administrative Services to perform 149349
the building and facility operation and management functions of 149350
the Ohio Building Authority are hereby appropriated. 149351

(F) Not later than thirty days after the transfer of the 149352
building and facility operation and management functions of the 149353
Ohio Building Authority to the Department of Administrative 149354
Services, an authorized officer of the Ohio Building Authority 149355
shall certify to the Director of Administrative Services the 149356
unexpended balance and location of any funds and accounts 149357
designated for building and facility operation and management 149358
functions and custody of such funds and accounts shall be 149359
transferred to the Department of Administrative Services. 149360

(G) Notwithstanding any other provisions of this section, the 149361

Ohio Building Authority may, subsequent to the effective date of 149362
this section, meet for the purpose of better accomplishing the 149363
transfer of the building and facility operation and management 149364
functions described in this section. At any such meeting, the Ohio 149365
Building Authority may take necessary or appropriate actions to 149366
effect an orderly transition relating to the transfer of such 149367
functions. 149368

(H) Not later than August 1, 2011, employees of the Ohio 149369
Building Authority designated as building and facility operation 149370
and management staff shall be eligible to participate in group 149371
health plans offered to state employees pursuant to sections 149372
124.81 or 124.82 of the Revised Code. 149373

Section 515.50. (A) On the effective date of this section, 149374
the Construction Compliance Section of the Equal Employment 149375
Opportunity Office of the Department of Administrative Services 149376
and all of its functions, together with its assets and 149377
liabilities, are transferred from the Department of Administrative 149378
Services to the Department of Commerce. The Construction 149379
Compliance Section of the Department of Commerce assumes the 149380
obligations of and otherwise constitutes the continuation of the 149381
Construction Compliance Section of the Equal Employment 149382
Opportunity Office of the Department of Administrative Services. 149383

(B) Any business commenced, but not completed by the 149384
Construction Compliance Section of the Equal Employment 149385
Opportunity Office of the Department of Administrative Services or 149386
the Director of Administrative Services in relation to the Section 149387
shall be completed by the Construction Compliance Section of the 149388
Department of Commerce or the Director of Commerce in the same 149389
manner, and with the same effect, as if completed by the 149390
Construction Compliance Section of the Equal Employment 149391
Opportunity Office of the Department of Administrative Services or 149392

the Director of Administrative Services. Any validation, cure, 149393
right, privilege, remedy, obligation, or liability is not lost or 149394
impaired by reason of the transfer, and shall be administered by 149395
the Construction Compliance Section of the Department of Commerce. 149396

(C) All of the rules, orders, and determinations of the 149397
Construction Compliance Section of the Equal Employment 149398
Opportunity Office of the Department of Administrative Services or 149399
of the Department of Administrative Services in relation to the 149400
Construction Compliance Section continue in effect as rules, 149401
orders, and determinations of the Construction Compliance Section 149402
of the Department of Commerce until modified or rescinded by the 149403
Construction Compliance Section of the Department of Commerce. If 149404
necessary to ensure the integrity of the numbering of the 149405
Administrative Code, the Director of the Legislative Service 149406
Commission shall renumber rules of the Department of 149407
Administrative Services in relation to the Construction Compliance 149408
Section of the Equal Employment Opportunity Office of the 149409
Department of Administrative Services to reflect the transfer to 149410
the Department of Commerce. 149411

(D) Subject to the lay-off provisions of sections 124.321 to 149412
124.328 of the Revised Code, all of the employees of the 149413
Construction Compliance Section of the Equal Employment 149414
Opportunity Office of the Department of Administrative Services 149415
are transferred to the Construction Compliance Section of the 149416
Department of Commerce and retain their positions and all the 149417
benefits accruing thereto. 149418

(E) Whenever the Construction Compliance Section of the Equal 149419
Employment Opportunity Office of the Department of Administrative 149420
Services or the Department of Administrative Services in relation 149421
to the Section is referred to in any law, contract, or other 149422
document, the reference shall be deemed to refer to the 149423
Construction Compliance Section in the Department of Commerce or 149424

the Director of Commerce in relation to the Section, whichever is appropriate in context.

(F) Any action or proceeding pending on the effective date of this section is not affected by the transfer of the Construction Compliance Section of the Equal Employment Opportunity Office of the Department of Administrative Services and shall be prosecuted or defended in the name of the Department of Commerce or the Construction Compliance Section of the Department of Commerce. In all such actions and proceedings, the Department of Commerce or the Construction Compliance Section of the Department of Commerce, upon application to the court or agency, shall be substituted as a party.

Section 515.60. Effective July 1, 2011, the School Employees Health Care Board is abolished. All equipment, assets, and records of the Board are transferred to the Department of Administrative Services. The Department of Administrative Services shall designate the positions, if any, to be transferred to the Department of Administrative Services.

The Department of Administrative Services and the Department of Education shall enter into an interagency agreement to transfer to the Department of Administrative Services any designated positions and all equipment, assets, and records of the Board by July 1, 2011, or as soon as possible thereafter. The interagency agreement may include provisions to transfer property and any other provisions necessary for the continued administration of Board activities under section 9.901 of the Revised Code.

Any positions of the Board that the Department of Administrative Services designates for transfer, and any equipment assigned to those positions, are transferred to the Department of Administrative Services. Any employees of the Board in positions so transferred retain the rights specified in sections 124.321 to

124.328 of the Revised Code, and any employee transferred to the Department of Administrative Services retains the employee's respective classification, but the Department of Administrative Services may reassign and reclassify the employee's position and compensation as the Department determines to be in the interest of office administration.

Effective July 1, 2011, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 200458, School Employees Health Care Board, and re-establish them against appropriation item 100403, Public Employees Health Care Program. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 200458, School Employees Health Care Board, by July 1, 2011, shall be completed under appropriation item 100403, Public Employees Health Care Program, in the same manner, and with the same effect, as if completed with regard to appropriation item 200458, School Employees Health Care Board. All of the rules, orders, and determinations associated with the Board continue in effect as rules, orders, and determinations associated with the Department of Administrative Services until modified or rescinded by the Director of Administrative Services. If necessary to ensure the integrity of the Administrative Code rule numbering system, the Director of the Legislative Service Commission shall renumber the rules relating to the Board to reflect their transfer to the Department of Administrative Services. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered with regard to appropriation item 100403, Public Employees Health Care Program. On and after July 1, 2011, if the School Employees Health Care Board is referred to in any statute, rule, contract, grant, or other document, the reference is deemed to refer to the Department of Administrative Services.

Section 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS	149488
Certain appropriations are in this act for the purpose of	149489
paying debt service and financing costs on general obligation	149490
bonds or notes of the state issued pursuant to the Ohio	149491
Constitution and acts of the General Assembly. If it is determined	149492
that additional appropriations are necessary for this purpose,	149493
such amounts are hereby appropriated.	149494
Section 518.20. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF	149495
STATE	149496
Certain appropriations are in this act for the purpose of	149497
making lease rental payments pursuant to leases and agreements	149498
relating to bonds or notes issued by the Ohio Building Authority	149499
or the Treasurer of State, or previously by the Ohio Public	149500
Facilities Commission, pursuant to the Ohio Constitution and acts	149501
of the General Assembly. If it is determined that additional	149502
appropriations are necessary for this purpose, such amounts are	149503
hereby appropriated.	149504
Section 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM	149505
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS	149506
The Office of Budget and Management shall process payments	149507
from general obligation and lease rental payment appropriation	149508
items during the period from July 1, 2011, through June 30, 2013,	149509
relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m,	149510
2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and	149511
Chapters 151. and 154. of the Revised Code. Payments shall be made	149512
upon certification by the Treasurer of State of the dates and the	149513
amounts due on those dates.	149514
Section 518.40. AUTHORIZATION FOR OHIO BUILDING AUTHORITY AND	149515
OBM TO EFFECTUATE CERTAIN LEASE RENTAL PAYMENTS	149516

The Office of Budget and Management shall process payments 149517
from lease rental payment appropriation items during the period 149518
from July 1, 2011, through June 30, 2013, pursuant to the lease 149519
agreements entered into relating to bonds or notes issued under 149520
Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of 149521
the Revised Code. Payments shall be made upon certification by the 149522
Ohio Building Authority of the dates and the amounts due on those 149523
dates. 149524

Section 521.10. STATE AND LOCAL REBATE AUTHORIZATION 149525

There is hereby appropriated, from those funds designated by 149526
or pursuant to the applicable proceedings authorizing the issuance 149527
of state obligations, amounts computed at the time to represent 149528
the portion of investment income to be rebated or amounts in lieu 149529
of or in addition to any rebate amount to be paid to the federal 149530
government in order to maintain the exclusion from gross income 149531
for federal income tax purposes of interest on those state 149532
obligations under section 148(f) of the Internal Revenue Code. 149533

Rebate payments shall be approved and vouchered by the Office 149534
of Budget and Management. 149535

Section 521.20. STATEWIDE INDIRECT COST RECOVERY 149536

Whenever the Director of Budget and Management determines 149537
that an appropriation made to a state agency from a fund of the 149538
state is insufficient to provide for the recovery of statewide 149539
indirect costs under section 126.12 of the Revised Code, the 149540
amount required for such purpose is hereby appropriated from the 149541
available receipts of such fund. 149542

Section 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT 149543
COST ALLOCATION PLAN 149544

The total transfers made from the General Revenue Fund by the 149545

Director of Budget and Management under this section shall not exceed the amounts transferred into the General Revenue Fund under section 126.12 of the Revised Code.

The director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, from any fund included in the Statewide Indirect Cost Allocation Plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared under section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

The director of an agency may certify to the Director of Budget and Management the amount of expenses paid in error from a fund included in the Statewide Indirect Cost Allocation Plan. The Director of Budget and Management may transfer cash from the fund from which the expenditure should have been made into the fund from which the expenses were erroneously paid, up to the amount of the certification.

Section 521.30.10. OGRIP FUNDS TRANSFER TO THE GENERAL REVENUE FUND

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management may transfer cash in the amount of \$15,072.03 from the Federal Grants OGRIP Fund (Fund 3H60) to the General Revenue Fund. This amount represents residual funds

from old federal grants for the state's OGRIP program that have 149577
been closed by the federal awarding agency. 149578

Section 521.30.20. TRANSFER OF FEDERAL FUNDS 149579

On July 1, 2011, or as soon as possible thereafter, the 149580
Director of Environmental Protection shall certify to the Director 149581
of Budget and Management the cash balance in the DOE Monitoring 149582
and Oversight Fund (Fund 3N40). The Director of Budget and 149583
Management shall transfer the certified amount from Fund 3N40 to 149584
the Federally Supported Response Fund (Fund 3F30). Upon completion 149585
of the transfer, Fund 3N40 is abolished. The Director shall cancel 149586
any existing encumbrances against appropriation item 715657, DOE 149587
Monitoring and Oversight, and re-establish them against 149588
appropriation item 715632, Federally Supported Response. The 149589
re-established encumbrance amounts are hereby appropriated. 149590

On July 1, 2011, or as soon as possible thereafter, the 149591
Director of Environmental Protection shall certify to the Director 149592
of Budget and Management the cash balance in the DOD Monitoring 149593
and Oversight Fund (Fund 3K40). The Director of Budget and 149594
Management shall transfer the certified amount from Fund 3K40 to 149595
the Federally Supported Response Fund (Fund 3F30). Upon completion 149596
of the transfer, Fund 3K40 is abolished. The Director shall cancel 149597
any existing encumbrances against appropriation item 715634, DOD 149598
Monitoring and Oversight, and re-establish them against 149599
appropriation item 715632, Federally Supported Response. The 149600
re-established encumbrance amounts are hereby appropriated. 149601

Section 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 149602

Notwithstanding any provision of law to the contrary, on or 149603
before the first day of September of each fiscal year, the 149604
Director of Budget and Management, in order to reduce the payment 149605
of adjustments to the federal government, as determined by the 149606

plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the Director considers necessary to retain their own interest earnings.

Section 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 149610

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management may cancel and re-establish all or part of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.

Section 521.60. FISCAL STABILIZATION AND RECOVERY 149617

To ensure the level of accountability and transparency required by federal law, the Director of Budget and Management may issue guidelines to any agency applying for federal money made available to this state for fiscal stabilization and recovery purposes, and may prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

Section 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS 149625

(A) The Office of Internal Auditing within the Office of Budget and Management shall, in connection with its duties under sections 126.45 to 126.48 of the Revised Code, monitor and measure the effectiveness of funds allocated to the state as part of the federal American Recovery and Reinvestment Act of 2009. As such, the Office of Internal Auditing shall review how funds allocated to each state agency are spent. For purposes of this section, "state agency" has the same meaning as in division (A) of section 126.45 of the Revised Code.

In addition to the reports required under section 126.47 of

the Revised Code, the Office of Internal Auditing shall submit a 149636
report of its findings to the President of the Senate, Minority 149637
Leader of the Senate, Speaker of the House of Representatives, 149638
Minority Leader of the House of Representatives, and the Chairs of 149639
the committees in the Senate and House of Representatives handling 149640
finance and appropriations. The report shall be submitted every 149641
six months at the following intervals: 149642

(1) For the six-month period ending December 31, 2011, not 149643
later than February 1, 2012; 149644

(2) For the six-month period ending June 30, 2012, not later 149645
than August 1, 2012; 149646

(3) For the six-month period ending December 31, 2012, not 149647
later than February 1, 2013; 149648

(4) For the six-month period ending June 30, 2013, not later 149649
than August 1, 2013. 149650

(B) When, as part of its compliance with the federal American 149651
Recovery and Reinvestment Act of 2009 requirements to monitor and 149652
measure the effectiveness of funds for which the state of Ohio is 149653
the prime recipient, and for which reporting authority has not 149654
been delegated to a sub-recipient, the Office of Budget and 149655
Management submits quarterly reports to the federal government, 149656
the Office of Budget and Management shall also submit those 149657
reports to the President of the Senate, Minority Leader of the 149658
Senate, Speaker of the House of Representatives, Minority Leader 149659
of the House of Representatives, and Chairs and ranking members of 149660
the committees in the Senate and House of Representatives handling 149661
finance and appropriations. The Office of Budget and Management 149662
shall continue to submit quarterly reports to the legislature for 149663
the duration of the period in which the state of Ohio is required 149664
to make reports to the federal government concerning Ohio's use of 149665
the federal American Recovery and Reinvestment Act of 2009 funds. 149666

Section 521.80. FEDERAL FUNDS FOR HISTORIC PRESERVATION LOAN	149667
GUARANTEE	149668
(A) As used in this section:	149669
(1) "Approved historic rehabilitation project" means a	149670
rehabilitation of a historic building that the Director of	149671
Development has approved for a rehabilitation tax credit under	149672
section 149.311 of the Revised Code.	149673
(2) "Federal funds" means federal money available to states	149674
under the American Recovery and Reinvestment Act of 2009 or any	149675
other source of federal money available to the states, that may	149676
lawfully be used for the purposes of this section.	149677
(3) "Owner" and "qualified rehabilitation expenditures" have	149678
the same meanings as in section 149.311 of the Revised Code.	149679
(B) There is hereby created in the state treasury the Ohio	149680
Historic Preservation Tax Credit Fund. The fund shall consist of	149681
money obtained by the Director of Development under division (C)	149682
of this section. Money in the fund shall be used to secure and pay	149683
guarantees of loans for approved historic rehabilitation projects	149684
as provided in this section.	149685
(C) The Director of Development may undertake to secure	149686
\$75,000,000 of federal funds for crediting to the Ohio Historic	149687
Preservation Tax Credit Fund. If the Director secures such funds,	149688
the Director, for the purpose of creating new jobs or preserving	149689
existing jobs and employment opportunities and improving the	149690
economic welfare of the people of this state, shall enter into	149691
loan guarantee contracts under section 166.06 of the Revised Code	149692
in connection with approved historic rehabilitation projects,	149693
except that the guarantees shall be secured solely by and be	149694
payable solely from the Ohio Historic Preservation Tax Credit	149695
Fund. Money deposited into the Ohio Historic Preservation Tax	149696

Credit Fund shall be prioritized by providing loan guarantees for approved historic rehabilitation projects from the first funding round of the Ohio Historic Preservation Tax Credit Program before being used to provide loan guarantees for approved historic rehabilitation projects approved in subsequent funding rounds. The amount of a loan guarantee provided under this section shall not exceed the amount of the credit to be awarded for the approved historic rehabilitation project. References to the loan guarantee fund in divisions (C) and (F) of section 166.06 of the Revised Code shall be construed as references to the Ohio Historic Preservation Tax Credit Fund for the purposes of loan guarantees authorized by this section, except that no transfer shall be made to the Ohio Historic Preservation Tax Credit Fund from the facilities establishment fund as may otherwise be required by that section.

(D) Nothing in this section is a determination by the General Assembly that federal funds are currently available for the purposes of this section. Rather, this section evidences a determination by the General Assembly that public purposes will be advanced by the use of current or future federal funds for the purposes of this section.

Section 605.10. That Section 5 of Am. Sub. H.B. 1 of the 129th General Assembly be amended to read as follows:

Sec. 5. The Director of Development, in consultation with the Director of Budget and Management, shall find within the Department of Development's total unexpended and unencumbered fiscal year 2011 General Revenue Fund appropriation an amount not to exceed \$1,000,000 in order to establish and operate the JobsOhio corporation established in Chapter 187. of the Revised Code. The Director of Development shall identify appropriation items within the General Revenue Fund that are to be reduced for

this purpose, and any reduction in appropriations to these items 149728
pursuant to this section shall not collectively exceed \$1,000,000. 149729
The amounts identified by the Director are hereby appropriated in 149730
General Revenue Fund appropriation item 195527, JobsOhio, for 149731
transition and start-up costs of the JobsOhio corporation, 149732
including, but not limited to, the costs of the incorporation and 149733
formation of the corporation. Nothing in this section shall be 149734
construed as increasing or decreasing the Department of 149735
Development's total fiscal year 2011 General Revenue Fund 149736
appropriation. Any unexpended and unencumbered balance in 149737
appropriation item 195527, JobsOhio, remaining at the end of 149738
fiscal year 2011 is hereby reappropriated for fiscal year 2012. 149739

The Department of Development shall prepare and, not later 149740
than six months after the effective date of this section, submit 149741
to the Controlling Board a report detailing the use of the funds 149742
appropriated under this section. The Department of Development 149743
shall submit to the Controlling Board a report not later than 149744
every six months thereafter detailing the use of the funds 149745
appropriated under this section, until those funds have all been 149746
used. 149747

Section 605.11. That existing Section 5 of Am. Sub. H.B. 1 of 149748
the 129th General Assembly is hereby repealed. 149749

Section 610.10. That Section 205.10 of Am. Sub. H.B. 114 of 149750
the 129th General Assembly be amended to read as follows: 149751

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 149752

State Highway Safety Fund Group 149753

4W40 762321	Operating Expense -	\$	80,003,146	\$	82,403,240	149754
	BMV					
4W40 762410	Registrations	\$	28,945,176	\$	29,813,532	149755

		Supplement				
5V10	762682	License Plate	\$	2,100,000	\$	2,100,000 149756
		Contributions				
7036	761321	Operating Expense -	\$	7,124,366	\$	7,338,097 149757
		Information and				
		Education				
7036	761401	Lease Rental Payments	\$	9,978,300	\$	2,315,700 149758
7036	764033	Minor Capital	\$	1,250,000	\$	1,250,000 149759
		Projects				
7036	764321	Operating Expense -	\$	260,744,934	\$	258,365,903 149760
		Highway Patrol				
7036	764605	Motor Carrier	\$	2,860,000	\$	2,860,000 149761
		Enforcement Expenses				
8300	761603	Salvage and Exchange	\$	19,469	\$	20,053 149762
		- Administration				
8310	761610	Information and	\$	422,084	\$	434,746 149763
		Education - Federal				
8310	764610	Patrol - Federal	\$	2,209,936	\$	2,276,234 149764
8310	764659	Transportation	\$	5,519,333	\$	5,684,913 149765
		Enforcement - Federal				
8310	765610	EMS - Federal	\$	532,007	\$	532,007 149766
8310	769610	Food Stamp	\$	1,546,319	\$	1,546,319 149767
		Trafficking				
		Enforcement - Federal				
8310	769631	Homeland Security -	\$	2,184,000	\$	2,184,000 149768
		Federal				
8320	761612	Traffic Safety -	\$	16,577,565	\$	16,577,565 149769
		Federal				
8350	762616	Financial	\$	5,457,240	\$	5,549,068 149770
		Responsibility				
		Compliance				
8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959 149771
8380	764606	Patrol Reimbursement	\$	50,000	\$	50,000 149772

83C0	764630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894	149773
83F0	764657	Law Enforcement Automated Data System	\$	9,053,266	\$	9,053,266	149774
83G0	764633	OMVI Enforcement/Education	\$	623,230	\$	641,927	149775
83J0	764693	Highway Patrol Justice Contraband	\$	2,100,000	\$	2,100,000	149776
83M0	765624	Operating Expense - Trauma and EMS	\$	2,632,106	\$	2,711,069	149777
83N0	761611	Elementary School Seat Belt Program	\$	305,600	\$	305,600	149778
83P0	765637	EMS Grants	\$	4,106,621	\$	4,229,819	149779
83R0	762639	Local Immobilization Reimbursement	\$	450,000	\$	450,000	149780
83T0	764694	Highway Patrol Treasury Contraband	\$	21,000	\$	21,000	149781
8400	764607	State Fair Security	\$	1,256,655	\$	1,294,354	149782
8400	764617	Security and Investigations	\$	6,432,686	\$	6,432,686	149783
8400	764626	State Fairgrounds Police Force	\$	849,883	\$	849,883	149784
8400	769632	Homeland Security - Operating	\$	737,791	\$	737,791	149785
8410	764603	Salvage and Exchange - Highway Patrol	\$	1,339,399	\$	1,339,399	149786
8460	761625	Motorcycle Safety Education	\$	3,185,013	\$	3,280,563	149787
8490	762627	Automated Title Processing Board	\$	17,316,755	\$	14,335,513	149788
TOTAL	HSF State Highway Safety Fund Group		\$	490,110,733	\$	481,261,100	149789
	General Services Fund Group						149790

4P60	768601	Justice Program Services	\$	998,104	\$	1,028,047	149791
4S30	766661	Hilltop Utility Reimbursement	\$	540,800	\$	540,800	149792
5ET0	768625	Drug Law Enforcement	\$	3,780,000	\$	3,893,400	149793
5Y10	764695	Highway Patrol Continuing Professional Training	\$	170,000	\$	170,000	149794
5Y10	767696	Investigative Unit Continuing Professional Training	\$	15,000	\$	15,000	149795
TOTAL GSF Group		General Services Fund	\$	5,503,904	\$	5,647,247	149796
Federal Special Revenue Fund Group							149797
3290	763645	Federal Mitigation Program	\$	10,110,332	\$	10,413,642	149798
3370	763609	Federal Disaster Relief	\$	27,707,636	\$	27,707,636	149799
3390	763647	Emergency Management Assistance and Training	\$	75,664,821	\$	77,934,765	149800
3CB0	768691	Federal Justice Grants - FFY06	\$	200,000	\$	50,000	149801
3CC0	768609	Justice Assistance Grants - FFY07	\$	583,222	\$	310,000	149802
3CD0	768610	Justice Assistance Grants - FFY08	\$	310,000	\$	150,000	149803
3CE0	768611	Justice Assistance Grants - FFY09	\$	865,000	\$	1,200,000	149804
3CV0	768697	Justice Assistance Grants Supplement - FFY08	\$	2,000	\$	0	149805
3DE0	768612	Federal Stimulus -	\$	1,015,000	\$	1,015,000	149806

		Justice Assistance Grants					
3DH0	768613	Federal Stimulus -	\$	150,000	\$	150,000	149807
		Justice Programs					
3DU0	762628	BMV Grants	\$	1,525,000	\$	1,580,000	149808
3EU0	768614	Justice Assistance Grants - FFY10	\$	650,000	\$	920,000	149809
3L50	768604	Justice Program	\$	11,400,000	\$	11,400,000	149810
3N50	763644	U.S. Department of Energy Agreement	\$	31,672	\$	31,672	149811
TOTAL FED	Federal Special Revenue		\$	130,214,683	\$	132,862,715	149812
	Fund Group						
	State Special Revenue Fund Group						149813
4V30	763662	EMA Service and Reimbursement	\$	4,368,369	\$	4,499,420	149814
5390	762614	Motor Vehicle Dealers Board	\$	180,000	\$	185,400	149815
5B90	766632	Private Investigator and Security Guard Provider	\$	1,562,637	\$	1,562,637	149816
5BK0	768687	Criminal Justice Services - Operating	\$	400,000	\$	400,000	149817
5BK0	768689	Family Violence Shelter Programs	\$	750,000	\$	750,000	149818
5CM0	767691	Federal Investigative Seizure	\$	300,000	\$	300,000	149819
5DS0	769630	Homeland Security	\$	1,414,384	\$	1,414,384	149820
5FF0	762621	Indigent Interlock and Alcohol Monitoring	\$	2,000,000	\$	2,000,000	149821
5FL0	769634	Investigations	\$	899,300	\$	899,300	149822
6220	767615	Investigative Contraband and	\$	375,000	\$	375,000	149823

		Forfeiture				
6570	763652	Utility Radiological	\$	1,415,945	\$	1,415,945 149824
		Safety				
6810	763653	SARA Title III HAZMAT	\$	262,438	\$	262,438 149825
		Planning				
8500	767628	Investigative Unit	\$	90,000	\$	92,700 149826
		Salvage				
TOTAL SSR	State Special Revenue		\$	14,018,073	\$	14,157,224 149827
	Fund Group					
	Liquor Control Fund Group					149828
7043	767321	Liquor Enforcement -	\$	11,897,178	\$	11,897,178 149829
		Operating		<u>11,000,000</u>		<u>11,000,000</u>
TOTAL LCF	Liquor Control Fund Group		\$	11,897,178	\$	11,897,178 149830
				<u>11,000,000</u>		<u>11,000,000</u>
	Agency Fund Group					149831
5J90	761678	Federal Salvage/GSA	\$	1,500,000	\$	1,500,000 149832
TOTAL AGY	Agency Fund Group		\$	1,500,000	\$	1,500,000 149833
	Holding Account Redistribution Fund Group					149834
R024	762619	Unidentified Motor	\$	1,885,000	\$	1,885,000 149835
		Vehicle Receipts				
R052	762623	Security Deposits	\$	350,000	\$	350,000 149836
TOTAL 090	Holding Account		\$	2,235,000	\$	2,235,000 149837
	Redistribution Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	655,479,571	\$	649,560,464 149838
				<u>654,582,393</u>		<u>648,663,286</u>

MOTOR VEHICLE REGISTRATION 149839

The Registrar of Motor Vehicles may deposit revenues to meet 149840
the cash needs of the State Bureau of Motor Vehicles Fund (Fund 149841
4W40) established in section 4501.25 of the Revised Code, obtained 149842
under sections 4503.02 and 4504.02 of the Revised Code, less all 149843
other available cash. Revenue deposited pursuant to this paragraph 149844
shall support, in part, appropriations for operating expenses and 149845

defray the cost of manufacturing and distributing license plates 149846
and license plate stickers and enforcing the law relative to the 149847
operation and registration of motor vehicles. Notwithstanding 149848
section 4501.03 of the Revised Code, the revenues shall be paid 149849
into Fund 4W40 before any revenues obtained pursuant to sections 149850
4503.02 and 4504.02 of the Revised Code are paid into any other 149851
fund. The deposit of revenues to meet the aforementioned cash 149852
needs shall be in approximately equal amounts on a monthly basis 149853
or as otherwise determined by the Director of Budget and 149854
Management pursuant to a plan submitted by the Registrar of Motor 149855
Vehicles. 149856

CAPITAL PROJECTS 149857

The Registrar of Motor Vehicles may transfer cash from the 149858
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 149859
Highway Safety Fund (Fund 7036) to meet its obligations for 149860
capital projects CIR-047, Department of Public Safety Office 149861
Building and CIR-049, Warehouse Facility. 149862

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 149863

The foregoing appropriation item 761401, Lease Rental 149864
Payments, shall be used for payments to the Ohio Building 149865
Authority for the period July 1, 2011, to June 30, 2013, under the 149866
primary leases and agreements for public safety related buildings 149867
financed by obligations issued under Chapter 152. of the Revised 149868
Code. Notwithstanding section 152.24 of the Revised Code, the Ohio 149869
Building Authority may, with approval of the Director of Budget 149870
and Management, lease capital facilities to the Department of 149871
Public Safety. 149872

HILLTOP TRANSFER 149873

The Director of Public Safety shall determine, per an 149874
agreement with the Director of Transportation, the share of each 149875
debt service payment made out of appropriation item 761401, Lease 149876

Rental Payments, that relates to the Department of 149877
Transportation's portion of the Hilltop Building Project, and 149878
shall certify to the Director of Budget and Management the amounts 149879
of this share. The Director of Budget and Management shall 149880
transfer the amounts of such shares from the Highway Operating 149881
Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036). 149882

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND 149883

On July 1, 2011, or as soon as possible thereafter, the 149884
Director of Budget and Management shall transfer the unexpended 149885
and unencumbered cash balance in the Seat Belt Education Fund 149886
(Fund 8440) to the Trauma and Emergency Medical Services Fund 149887
(Fund 83M0). Upon completion of the transfer, Fund 8440 is 149888
abolished. The Director shall cancel any existing encumbrances 149889
against appropriation item 761613, Seat Belt Education Program, 149890
and reestablish them against appropriation item 765624, Operating 149891
Expense - Trauma and EMS. The reestablished encumbrance amounts 149892
are hereby appropriated. 149893

CASH TRANSFERS BETWEEN FUNDS 149894

Notwithstanding any provision of law to the contrary, the 149895
Director of Budget and Management, upon the written request of the 149896
Director of Public Safety, may approve the transfer of cash 149897
between the following six funds: the Trauma and Emergency Medical 149898
Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), 149899
the Investigations Fund (Fund 5FL0), the Emergency Management 149900
Agency Service and Reimbursement Fund (Fund 4V30), the Justice 149901
Program Services Fund (Fund 4P60), and the State Bureau of Motor 149902
Vehicles Fund (Fund 4W40). 149903

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND 149904

Notwithstanding any provision of law to the contrary, the 149905
Director of Budget and Management, upon the written request of the 149906
Director of Public Safety, may approve the transfer of cash from 149907

the Continuing Professional Training Fund (Fund 5Y10), the State 149908
Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), 149909
and the Highway Safety Salvage and Exchange Highway Patrol Fund 149910
(Fund 8410) to the Security, Investigations, and Policing Fund 149911
(Fund 8400). 149912

CASH TRANSFERS OF SEAT BELT FINE REVENUES 149913

Notwithstanding any provision of law to the contrary, the 149914
Controlling Board, upon request of the Director of Public Safety, 149915
may approve the transfer of cash between the following four funds 149916
that receive fine revenues from enforcement of the mandatory seat 149917
belt law: the Trauma and Emergency Medical Services Fund (Fund 149918
83M0), the Elementary School Program Fund (Fund 83N0), and the 149919
Trauma and Emergency Medical Services Grants Fund (Fund 83P0). 149920

STATE DISASTER RELIEF 149921

The State Disaster Relief Fund (Fund 5330) may accept 149922
transfers of cash and appropriations from Controlling Board 149923
appropriation items for Ohio Emergency Management Agency disaster 149924
response costs and disaster program management costs, and may also 149925
be used for the following purposes: 149926

(A) To accept transfers of cash and appropriations from 149927
Controlling Board appropriation items for Ohio Emergency 149928
Management Agency public assistance and mitigation program match 149929
costs to reimburse eligible local governments and private 149930
nonprofit organizations for costs related to disasters; 149931

(B) To accept and transfer cash to reimburse the costs 149932
associated with Emergency Management Assistance Compact (EMAC) 149933
deployments; 149934

(C) To accept disaster related reimbursement from federal, 149935
state, and local governments. The Director of Budget and 149936
Management may transfer cash from reimbursements received by this 149937
fund to other funds of the state from which transfers were 149938

originally approved by the Controlling Board. 149939

(D) To accept transfers of cash and appropriations from 149940
Controlling Board appropriation items to fund the State Disaster 149941
Relief Program, for disasters that have been declared by the 149942
Governor, and the State Individual Assistance Program for 149943
disasters that have been declared by the Governor and the federal 149944
Small Business Administration. The Ohio Emergency Management 149945
Agency shall publish and make available application packets 149946
outlining procedures for the State Disaster Relief Program and the 149947
State Individual Assistance Program. 149948

JUSTICE ASSISTANCE GRANT FUND 149949

The federal payments made to the state for the Byrne Justice 149950
Assistance Grants Program under Title II of Division A of the 149951
American Recovery and Reinvestment Act of 2009 shall be deposited 149952
to the credit of the Justice Assistance Grant Fund (Fund 3DE0), 149953
which is hereby created in the state treasury. All investment 149954
earnings of the fund shall be credited to the fund. 149955

FEDERAL STIMULUS - JUSTICE PROGRAMS 149956

The federal payments made to the state for the Violence 149957
Against Women Formula Grant under Title II of Division A of the 149958
American Recovery and Reinvestment Act of 2009 shall be deposited 149959
to the credit of the Federal Stimulus - Justice Programs Fund 149960
(Fund 3DH0). 149961

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 149962
AGENCY SERVICE AND REIMBURSEMENT FUND 149963

On July 1 of each fiscal year, or as soon as possible 149964
thereafter, the Director of Budget and Management shall transfer 149965
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 149966
the Emergency Management Agency Service and Reimbursement Fund 149967
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 149968
Search and Rescue Unit and other urban search and rescue programs 149969

around the state.	149970
FAMILY VIOLENCE PREVENTION FUND	149971
Notwithstanding any provision of law to the contrary, in each	149972
of fiscal years 2012 and 2013, the first \$750,000 received to the	149973
credit of the Family Violence Prevention Fund (Fund 5BK0) shall be	149974
appropriated to appropriation item 768689, Family Violence Shelter	149975
Programs, and the next \$400,000 received to the credit of Fund	149976
5BK0 in each of those fiscal years shall be appropriated to	149977
appropriation item 768687, Criminal Justice Services - Operating.	149978
Any moneys received to the credit of Fund 5BK0 in excess of the	149979
aforementioned appropriated amounts in each fiscal year shall,	149980
upon the approval of the Controlling Board, be used to provide	149981
grants to family violence shelters in Ohio.	149982
SARA TITLE III HAZMAT PLANNING	149983
The SARA Title III HAZMAT Planning Fund (Fund 6810) is	149984
entitled to receive grant funds from the Emergency Response	149985
Commission to implement the Emergency Management Agency's	149986
responsibilities under Chapter 3750. of the Revised Code.	149987
COLLECTIVE BARGAINING INCREASES	149988
Notwithstanding division (D) of section 127.14 and division	149989
(B) of section 131.35 of the Revised Code, except for the General	149990
Revenue Fund, the Controlling Board may, upon the request of	149991
either the Director of Budget and Management, or the Department of	149992
Public Safety with the approval of the Director of Budget and	149993
Management, increase appropriations for any fund, as necessary for	149994
the Department of Public Safety, to assist in paying the costs of	149995
increases in employee compensation that have occurred pursuant to	149996
collective bargaining agreements under Chapter 4117. of the	149997
Revised Code and, for exempt employees, under section 124.152 of	149998
the Revised Code.	149999
CASH BALANCE FUND REVIEW	150000

Not later than the first day of April in each fiscal year of 150001
the biennium, the Director of Budget and Management shall review 150002
the cash balances for each fund, except the State Highway Safety 150003
Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 150004
4W40), in the State Highway Safety Fund Group, and shall recommend 150005
to the Controlling Board an amount to be transferred to the credit 150006
of Fund 7036 or Fund 4W40, as appropriate. 150007

Section 610.11. That existing Section 205.10 of Am. Sub. H.B. 150008
114 of the 129th General Assembly is hereby repealed. 150009

Section 610.20. That Section 211 of Sub. H.B. 123 of the 150010
129th General Assembly be amended to read as follows: 150011

Sec. 211. WCC WORKERS' COMPENSATION COUNCIL 150012
5FV0 321600 Remuneration Expenses \$ 471,200 \$ 471,200 150013
TOTAL 5FV0 Workers' Compensation \$ 471,200 \$ 471,200 150014
Council Remuneration Fund
TOTAL ALL BUDGET FUND GROUPS \$ 471,200 \$ 471,200 150015

~~WORKERS' COMPENSATION COUNCIL~~ 150016

~~The foregoing appropriation item 321600, Remuneration 150017
Expenses, shall be used to pay the payroll and fringe benefit 150018
costs for employees of the Workers' Compensation Council. 150019~~

Upon the effective date of this section, or as soon as 150020
possible thereafter, the Workers' Compensation Council shall wind 150021
up its affairs. All of the records of the Council shall be 150022
transferred to the Legislative Service Commission, and all of its 150023
other assets and liabilities shall be transferred to the Bureau of 150024
Workers' Compensation. The Bureau of Workers' Compensation is 150025
thereupon and thereafter successor to, and assumes the obligations 150026
of, the Council. 150027

Any business commenced, but not completed by the Council or 150028

the Director of the Council on the effective date of this section 150029
shall be completed by the Administrator of Workers' Compensation 150030
in the same manner, and with the same effect, as if completed by 150031
the Council or the Director of the Council. No validation, cure, 150032
right, privilege, remedy, obligation, or liability is lost or 150033
impaired by reason of the transfer required by this section and 150034
shall be administered by the Administrator. 150035

All employees of the Council cease to hold their positions of 150036
employment on the effective date of this section, or as soon as 150037
possible thereafter. 150038

Once the Workers' Compensation Council is abolished, the 150039
Director of Budget and Management shall transfer the unexpended 150040
and unencumbered cash balance in the Workers' Compensation Council 150041
Remuneration Fund (Fund 5FV0) to the State Insurance Fund (Fund 150042
7023). Upon completion of the transfer, the Workers' Compensation 150043
Council Remuneration Fund is abolished. The Director shall cancel 150044
any existing encumbrances against appropriation item 321600, 150045
Remuneration Expenses, and reestablish them against appropriation 150046
item 855409, Administrative Expenses. The amounts of the 150047
reestablished encumbrances are hereby appropriated. 150048

Once the Workers' Compensation Council is abolished, the 150049
Treasurer of State shall transfer the unexpended and unencumbered 150050
cash balance in the Workers' Compensation Council Fund to the 150051
State Insurance Fund. Upon completion of the transfer, the fund is 150052
abolished. 150053

Wherever the Director or the Council is referred to in any 150054
law, contract, or other document, the reference shall be deemed to 150055
refer to the Administrator or the Bureau of Workers' Compensation, 150056
whichever is appropriate. 150057

No action or proceeding pending on the effective date of this 150058
section is affected by the transfer, and shall be prosecuted or 150059

defended in the name of the Administrator or the Bureau. In all 150060
such actions and proceedings, the Administrator or the Bureau, 150061
upon application to the court, shall be substituted as a party. 150062

Section 610.21. That existing Section 211 of Sub. H.B. 123 of 150063
the 129th General Assembly is hereby repealed. 150064

Section 610.30. That Section 5 of Am. Sub. S.B. 2 of the 150065
129th General Assembly be amended to read as follows: 150066

Sec. 5. The enactment by this act of sections 107.51 to 150067
107.55 and 121.81 to 121.83 of the Revised Code ~~first~~ and the 150068
amendment by this act of section 119.032 of the Revised Code 150069
applies to a proposed rule, the original ~~and any revised~~ version 150070
of which is filed with the Joint Committee on Agency Rule Review 150071
on or after January 1, 2012, and to any rule that is ~~scheduled for~~ 150072
subjected to review under section 119.032 of the Revised Code on 150073
or after January 1, 2012. ~~If rule making proceedings are commenced~~ 150074
~~and completed before January 1, 2012, sections~~ The enactment of 150075
sections 107.51 to 107.55 and 121.81 to 121.83 of the Revised Code 150076
and the amendment by this act of section 119.032 of the Revised 150077
Code do not apply to the proceedings, and section 121.24 of the 150078
Revised Code ~~applies to the proceedings instead. If rule making~~ 150079
~~proceedings are commenced but not completed before January 1,~~ 150080
~~2012, section 121.24 of the Revised Code applies to the original~~ 150081
~~version of the proposed rule if it is filed with the Joint~~ 150082
~~Committee before that date, and sections 107.51 to 107.55 and~~ 150083
~~121.81 to 121.83 of the Revised Code apply to any revised version~~ 150084
~~of the a proposed rule that is filed pending on or after that date~~ 150085
January 1, 2012. 150086

~~Section~~ Notwithstanding its repeal by this act, section 150087
121.24 ~~and sections 107.51 to 107.55 and 121.81 to 121.83~~ of the 150088
Revised Code ~~do not~~ continues to apply to a proposed rule that is 150089

~~deemed the original version of a proposed rule by the carry over~~ 150090
~~provisions in division (I)(2) of section 119.03 of the Revised~~ 150091
~~Code. Whether section 121.24 or sections 107.51 to 107.55 and~~ 150092
~~121.81 to 121.83 of the Revised Code applied to such a proposed~~ 150093
~~rule before its carry over, the results of that application are~~ 150094
~~carried over with the proposed rule pending on January 1, 2012,~~ 150095
~~until the rule-making proceedings are completed.~~ 150096

Section 610.31. That existing Section 5 of Am. Sub. S.B. 2 of 150097
the 129th General Assembly is hereby repealed. 150098

Section 620.10. That Section 125.10 of Am. Sub. H.B. 1 of the 150099
128th General Assembly be amended to read as follows: 150100

Sec. 125.10. Sections 5112.40, 5112.41, 5112.42, 5112.43, 150101
5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised 150102
Code are hereby repealed, effective October 1, ~~2011~~ 2013. 150103

Section 620.11. That existing Section 125.10 of Am. Sub. H.B. 150104
1 of the 128th General Assembly is hereby repealed. 150105

Section 620.12. The seventh paragraph of Section 812.20 of 150106
Am. Sub. H.B. 1 of the 128th General Assembly, which refers to the 150107
taking effect of a repeal of sections 5112.40 to 5112.48 of the 150108
Revised Code, is repealed. 150109

Section 620.13. The intent of Sections 620.10 to 620.12 of 150110
this act is to further delay the repeal of sections 5112.40, 150111
5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 150112
5112.48 of the Revised Code from October 1, 2011, until October 1, 150113
2013. 150114

Section 620.20. That Section 753.60 of Am. Sub. H.B. 1 of the 150115
128th General Assembly be amended to read as follows: 150116

Sec. 753.60. (A) The Governor is authorized to execute a 150117
Governor's Deed in the name of the state conveying to the Dayton 150118
Public School District/Dayton Board of Education, ("grantee"), and 150119
its successors and assigns, all of the state's right, title, and 150120
interest in the following described real estate: 150121

STATE OF OHIO TO BOARD OF EDUCATION 45.3599 Acres 150122

Situated in Section 26, Township 2, Range 7 of the Miami 150123
River Survey, the City of Dayton, the County of Montgomery, the 150124
State of Ohio, being a 2.2361 acre portion of a 15 acres 30 rods 150125
tract conveyed to the State of Ohio as recorded in Deed Book U-2, 150126
Page 40, and being a 22.5673 acre portion of a 24.36 acre tract of 150127
land conveyed to the Trustees of the Southern Ohio Lunatic Asylum 150128
as recorded in Deed Book N-3, Page 233, being an 4.6813 acre 150129
portion of a 21.25 acre tract of land conveyed to the State of 150130
Ohio as recorded in Deed Book 169, Page 583, and being an 8.6742 150131
acre portion of a 33.5 acre tract as conveyed to the State of Ohio 150132
as recorded in Deed Book 169, Page 585, being an 7.2010 acre 150133
portion of a 10.544 acre tract of land as conveyed to the State of 150134
Ohio as recorded in Deed Book 138, Page 125 and being a portion of 150135
City of Dayton Lot Number 61376 and all of Lot Number 61377 of the 150136
revised and consecutive numbers of lots on the plat of the City of 150137
Dayton and more particularly bounded and described as follows: 150138

Beginning at a capped 5/8" Iron Pin found stamped "Woolpert" 150139
at the Southeast corner of a 2.881 acre tract being Parcel 2 of 150140
the Wilmington Woods Plat as recorded in Plat Book 134, Page 3A, 150141
said point also being the northeast corner of an 8.338 acre tract 150142
of land conveyed to the Barry K. Humphries as recorded in 150143
Microfiche 01-0590A04 and the TRUE POINT OF BEGINNING; 150144

Thence with the east line of said 2.881 acre tract being 150145
Parcel 2 and the West line of a 24.36 acre tract of land conveyed 150146
to the Trustees of the Southern Ohio Lunatic Asylum as recorded in 150147

Deed Book N-3, Page 233, North 00°32' 15" East a distance of 150148
459.39 feet to a RR Spike set in the centerline of Wayne Avenue, 150149
passing a 5/8 inch iron pin set at the northeast corner of said 150150
2.881 acre tract and the south right of way of Wayne Avenue at 150151
429.39 feet; 150152

Thence with the centerline of Wayne Ave and the north lines 150153
of said 24.36 acre tract and said 21.25 acre tract, South 150154
89°18'28" East a distance of 790.80 feet to a RR spike set at the 150155
northwest comer of a 1.056 acre tract of land conveyed to the City 150156
of Dayton as recorded in M.F. No. 90-424 E09; 150157

Thence with the west line of said 1.056 acre tract and the 150158
east line of said 21.25 acre tract, South 01°17'05" West a 150159
distance of 230.89 feet to a 5/8 inch iron pin stamped "Riancho", 150160
passing a 5/8 inch iron set at the south right of way of Wayne 150161
Avenue at 30.00 feet; 150162

Thence with the south line of said 1.056 acre tract and the 150163
south line of a 1.056 acre tract of land conveyed to the City of 150164
Dayton as recorded in M.F. No. 78-725 B08, South 89°27' 55" East a 150165
distance of 400.00 feet to a found 5/8" iron pin and passing a 5/8 150166
inch iron pin found stamped "Riancho" at 200.00 feet; 150167

Thence with the east line of said 1.056 acre tract and the 150168
west line of said 33.5 acre tract as conveyed to the State of Ohio 150169
as recorded in Deed Book 169 Page 585, North 1°17'05" East a 150170
distance of 229.79 feet to a RR spike set, passing a 5/8 inch iron 150171
pin set at the south right of way of Wayne Avenue at 199.79 feet; 150172

Thence with the centerline of Wayne Avenue and the north line 150173
of said 33.5 acre tract, South 89°18'28" East a distance of 270.78 150174
feet to a RR spike set at the Intersection of the centerlines of 150175
Watervliet Avenue and Wayne Avenue; 150176

Thence with the centerline of Watervliet Avenue and with the 150177
northerly line of said 33.5 acre tract, South 55°21'16" East a 150178

distance of 231.10 feet to a RR spike set; 150179

Thence with the east line of said 33.5 acre tract and the 150180
west line of a 13.00 acre tract conveyed to the Board of Education 150181
of the Dayton City School District as recorded in Deed Book 1522, 150182
Page 341, South 00°48' 28" West a distance of 709.51 feet to a 5/8 150183
inch iron pin set; 150184

Thence with a new division line, North 89°11'12" West, a 150185
distance of 468.08 feet to a 5/8 inch iron pin set, in the west 150186
line of said 33.5 acre tract and the east line of said 21.25 acre 150187
tract, to a 5/8 inch iron pin set; 150188

Thence with the west line of said 33.5 acre tract and the 150189
east line of said 21.25 acre tract, North 01°07'55" East a 150190
distance of 141.74 feet to a 5/8 inch iron pin set; 150191

Thence with a new division line, North 89°15'53" West, 150192
passing the west line of said 21.25 acre tract and the east line 150193
of said 24.36 acre tract conveyed to The Trustees of the Southern 150194
Ohio Lunatic Asylum as recorded in Deed Book N~3, Page 233 at a 150195
distance of 425.35 feet, for a total distance of 507.35 feet to a 150196
5/8 inch iron pin set; 150197

Thence with a new division line South 01°07'00" West passing 150198
the south line of 24.36 acre tract conveyed to The Trustees of the 150199
Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 150200
233 and the north line of said 10.544 acre tract at a distance of 150201
627.92 feet, for a total distance of 1,013.05 feet to a 5/8 inch 150202
iron pin set in the south line of said 10.544 acre tract; 150203

Thence with the south line of said 10.544 acre tract and the 150204
north line a 20.3 acre tract conveyed to the State of Ohio 150205
Department of Public Works for the use of the Department of Public 150206
Welfare, Dayton State Hospital as recorded in Deed Book 1326, Page 150207
247, North 88°52'07" West a distance of 808.89 feet to a 5/8 inch 150208
iron pin set in the east line of a 11.579 acre tract of land 150209

conveyed to the Hospice of Dayton as recorded in Microfiche 150210
94-0448C08; 150211

Thence with the east line of said 11.579 acre tract of land, 150212
the east line of said 8.338 acre tract as conveyed to Barry K. 150213
Humphries as recorded in M.F. number 01-0590 A04, the west line of 150214
said 10.544 acre tract, and the west line of said 2.36 acre tract, 150215
North 03°24 '08" West a distance of 956.68 feet to a 5/8 inch iron 150216
pin set; 150217

Thence with an easterly line of said 8.338 acre tract, the 150218
westerly line of said 24.36 acre tract, and the north line of said 150219
2.36 acre tract, North 49°49'38" East a distance of 275.99 feet to 150220
a capped 5/8 inch Iron Pin found stamped "LJB"; 150221

Thence with the east line of said 8.338 acre tract and the 150222
west line of a 24.36 acre tract, North 00°32'15" East a distance 150223
of 108.09 feet to a capped 5/8" Iron Pin stamped "Woolpert" and 150224
the TRUE POINT OF BEGINNING, containing 45.3599 acres more or 150225
less. Subject to all easements, agreements and right of ways of 150226
record. 150227

The basis of bearings for this description is the easterly 150228
line of Parcel 2, South 00°32'15 West, as recorded in the 150229
Wilmington Woods Plat as recorded in Plat Book 134, Page 3A; 150230

All iron pins set in the above boundary description are 5/8" 150231
(O.D.) 30" long with a plastic cap stamped "LJB" 150232

(B)(1) Consideration for conveyance of the real estate 150233
described in division (A) of this section is the transfer to the 150234
state at no cost of 8.9874 acres adjacent to the remaining Twin 150235
Valley Behavioral Healthcare/Dayton Campus, subject to the 150236
following conditions: 150237

(a) Within one hundred eighty days after conveyance of the 150238
real estate described in division (A) of this section, grantee at 150239
its own cost shall complete construction of a new western 150240

extension off of Mapleview Avenue to provide a new entrance 150241
roadway to the remaining Twin Valley Behavioral Healthcare/Dayton 150242
Campus and provide an easement to the state for full utilization 150243
of the roadway for the benefit of the remaining Twin Valley 150244
Behavioral Healthcare/Dayton Campus until the property described 150245
in division (B)(1) of this section is transferred to the state. 150246

(b) Within three hundred forty days after the occupancy of 150247
the New Belmont High School, grantee shall demolish and 150248
environmentally restore the 8.9874 acres being transferred to the 150249
state. 150250

(2) In lieu of the transfer of the 8.9874 acres, if the 150251
Director of Mental Health determines that the grantee has 150252
insufficiently performed its construction, demolition, and 150253
environmental restoration obligations specified in division (B)(1) 150254
of this section, the grantee, as consideration, shall pay a 150255
purchase price of \$1,175,000.00 to the state, which is the 150256
appraised value of the 45.3599 acres described in division (A) of 150257
the section less the cost of demolition, site, and utility work. 150258

(C) The real estate described in division (A) of this section 150259
shall be conveyed as an entire tract and not in parcels. 150260

(D) Upon transfer of the 8.9874 acres to the state or payment 150261
of the purchase price, the Auditor of State, with the assistance 150262
of the Attorney General, shall prepare a deed to the real estate 150263
described in division (A) of this section. The deed shall state 150264
the consideration and shall be executed by the Governor in the 150265
name of the state, countersigned by the Secretary of State, sealed 150266
with the Great Seal of the State, presented in the Office of the 150267
Auditor of State for recording, and delivered to the grantee. The 150268
grantee shall present the deed for recording in the Office of the 150269
Montgomery County Recorder. 150270

(E) The grantee shall pay all costs associated with 150271

conveyance of the real estate described in division (A) of this section, including recordation costs of the deed. 150272
150273

(F) If the payment of \$1,175,000.00 is made in lieu of the transfer of the 8.9874 acres to the state, the proceeds of the conveyance of the real estate described in division (A) of this section shall be deposited into the state treasury to the credit of the Department of Mental Health Trust Fund created by section 5119.18 of the Revised Code and the easement described in division (B)(1)(a) of this section shall become a permanent easement. 150274
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150280

(G) The grantee shall not, during any period that any bonds issued by the state to finance or refinance all or a portion of the real estate described in division (A) of this section are outstanding, use any portion of the real estate for a private business use without the prior written consent of the state. 150281
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As used in this division: 150286

"Private business use" means use, directly or indirectly, in a trade or business carried on by any private person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a private person who is not a natural person shall be presumed to be a trade or business. 150287
150288
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"Private person" means any natural person or any artificial person, including a corporation, partnership, limited liability company, trust, or other entity and including the United States or any agency or instrumentality of the United States, but excluding any state, territory, or possession of the United States, the District of Columbia, or any political subdivision thereof that is referred to as a "State or local governmental unit" in Treasury Regulation § 1.103-1(a) and any person that is acting solely and directly as an officer or employee of or on behalf of any such governmental unit. 150292
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150301

(H) This section expires ~~two years after its effective date~~ 150302

on October 16, 2013. 150303

Section 620.21. That existing Section 753.60 of Am. Sub. H.B. 150304
1 of the 128th General Assembly is hereby repealed. 150305

Section 620.30. That Section 105.20 of Sub. H.B. 462 of the 150306
128th General Assembly be amended to read as follows: 150307

Sec. 105.20. All items set forth in this section are hereby 150308
appropriated out of any moneys in the state treasury to the credit 150309
of the School Building Program Assistance Fund (Fund 7032) that 150310
are not otherwise appropriated: 150311

Reappropriations

SFC SCHOOL FACILITIES COMMISSION 150312

C23002	School Building Program Assistance	\$ 523,091,925	150313
C23005	Exceptional Needs	\$ 3,009,397	150314
C23010	Vocation Facilities Assistance Program	\$ 12,203,057	150315
C23011	Corrective Action Grants	\$ 23,336,491	150316
C23012	School for the Blind/Deaf	\$ 12,321,269	150317
Total School Facilities Commission			\$ 573,962,139 150318
TOTAL School Building Program Assistance Fund			\$ 573,962,139 150319

CONSTRUCTION OF NEW BLIND AND DEAF SCHOOLS 150320

Notwithstanding sections 123.01 and 123.15 of the Revised 150321
Code and in addition to its powers under Chapter 3318. of the 150322
Revised Code, the Ohio School Facilities Commission shall 150323
administer the project appropriated in C23012, School for the 150324
Blind/Deaf, pursuant to the memorandum of understanding that the 150325
Ohio State School for the Blind, the Ohio School for the Deaf, and 150326
the Ohio School Facilities Commission signed on October 31, 2007. 150327
The project shall comply to the fullest extent possible with the 150328
specifications and policies set forth in the Ohio School 150329
Facilities Design Manual and shall not be considered a part of any 150330
program created under Chapter 3318. of the Revised Code. Upon 150331

issuance by the Commission of a certificate of completion of the 150332
project, the Commission's participation in the project shall end. 150333

The Executive Director of the Ohio School Facilities 150334
Commission shall comply with the procedures and guidelines 150335
established in Chapter 153. of the Revised Code. Upon the release 150336
of funds for the project by the Controlling Board or the Director 150337
of Budget and Management, the Commission may administer the 150338
project without the supervision, control, or approval of the 150339
Director of Administrative Services. Any references to the 150340
Director of Administrative Services in the Revised Code, with 150341
respect to the administration of the project, shall be read as if 150342
they referred to the Director of the Ohio School Facilities 150343
Commission. 150344

CORRECTIVE ACTION GRANTS 150345

The foregoing appropriation item C23011, Corrective Action 150346
Grants, for fiscal year 2011, may be used to provide funding to 150347
bring facilities up to Ohio School Design Manual standards for a 150348
project funded pursuant to sections 3318.01 to 3318.20 or 3318.40 150349
to 3318.45 of the Revised Code for the correction of work found 150350
during or after project close-out to be defective, or for the 150351
remediation of work found during or after project close-out to be 150352
omitted. Funding shall only be provided for work if the impacted 150353
school district notifies the Executive Director of the Ohio School 150354
Facilities Commission within five years of project close-out. The 150355
Commission may provide funding assistance necessary to take 150356
corrective measures after evaluating defective or omitted work. If 150357
the work to be corrected or remediated is part of a project not 150358
yet completed, the Commission may amend the project agreement to 150359
increase the project budget and use corrective action funding to 150360
provide the local share of the amendment. If the work to be 150361
corrected or remediated was part of a completed project and funds 150362
were retained or transferred pursuant to division (C) of section 150363

3318.12 of the Revised Code, the Commission may enter into a new agreement to address the necessary corrective action. The Commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any funds recovered shall be deposited into the School Building Program Assistance Fund (Fund 7032).

The foregoing appropriation item C23011, Corrective Action Grants, for fiscal year 2012, may be used to provide funding to school districts under the Corrective Action Program in accordance with section 3318.49 of the Revised Code.

Section 620.31. That existing Section 105.20 of Sub. H.B. 462 of the 128th General Assembly is hereby repealed.

Section 620.40. That Section 105.45.70 of Sub. H.B. 462 of the 128th General Assembly, as amended by Am. Sub. H.B. 114 of the 129th General Assembly, be amended to read as follows:

Reappropriations

Sec. 105.45.70.	CCC CUYAHOGA COMMUNITY COLLEGE		150379
C37800	Basic Renovations	\$ 4,406,772	150380
C37803	Technology Learning Center - Western	\$ 43,096	150381
C37807	Cleveland Art Museum - Improvements	\$ 3,100,000	150382
C37812	Building A Expansion Module - Western	\$ 124,332	150383
C37816	College-Wide Wayfinding Signage System	\$ 145,893	150384
C37817	College-Wide Asset Protection & Building	\$ 631,205	150385
C37818	Healthcare Technology Building - Eastern	\$ 13,464,866	150386
C37821	Hospitality Management Program	\$ 2,452,728	150387
C37822	Theater Renovations	\$ 2,243,769	150388
C37824	Rock and Roll Hall of Fame Archive	\$ 18,000	150389
C37826	CW Roof Replacement	\$ 190,735	150390
C37829	College of Podiatric Medicine	\$ 250,000	150391
C37830	Auto Lab Improvements	\$ 240	150392

C37831	Visiting Nurse Association	\$	150,000	150393
C37832	Western Reserve Hospice Center	\$	1,500	150394
C37833	Cleveland Zoological Society	\$	150,000	150395
C37834	Museum of Contemporary Art Cleveland	\$	450,000	150396
C37835	Western Reserve Historical Society	\$	2,800,000	150397
Total Cuyahoga Community College		\$	30,623,136	150398

On July 1, 2011, or as soon as possible thereafter, the 150399
Director of Budget and Management shall cancel ~~any~~ existing 150400
encumbrances against appropriation item C371A9, Western Reserve 150401
Historical Society, totaling \$2,800,000 and reestablish them 150402
against the foregoing appropriation item C37835, Western Reserve 150403
Historical Society. 150404

Section 620.41. That existing Section 105.45.70 of Sub. H.B. 150405
462 of the 128th General Assembly, as amended by Am. Sub. H.B. 114 150406
of the 129th General Assembly, is hereby repealed. 150407

Section 620.51. That Section 5 of Sub. S.B. 162 of the 128th 150408
General Assembly be amended to read as follows: 150409

Sec. 5. (A) There is hereby created the Select Committee on 150410
Telecommunications Regulatory Reform consisting of the following 150411
members: 150412

(1) The chairperson and ranking minority member of the 150413
committee in the Senate to which legislation pertaining to public 150414
utilities is referred; 150415

(2) The chairperson and ranking minority member of the 150416
committee in the House of Representatives to which legislation 150417
pertaining to public utilities is referred; 150418

(3) The chairperson of the Public Utilities Commission or an 150419
officer or employee of the Commission who shall serve as the 150420
chairperson's designee; 150421

(4) The Consumers' Counsel or an officer or employee of the Office of the Consumers' Counsel who shall serve as the designee of the Consumers' Counsel;

(5) One member appointed by the Governor, who is a member of the Governor's staff;

(6) One member appointed by the Governor who is a representative of the telecommunications industry.

(B) The Governor shall make appointments to the Committee not later than ~~sixty days after the effective date of this section~~ November 12, 2010. Vacancies on the Committee shall be filled in the manner provided for original appointments.

(C) The members who serve as chairpersons of the House and Senate committees to which public utility legislation is referred shall serve as co-chairpersons of the Select Committee on Telecommunications Regulatory Reform. The Committee shall meet at the call of the co-chairpersons who shall determine the time, meeting location, and agenda for each meeting of the Committee.

(D) The Committee shall study the impacts of Sub. S.B. 162 as enacted by the 128th General Assembly. The Committee's study shall include, but shall not be limited to, a review of both the economic benefits of the act and the act's impact on jobs, telephone company rates, telephone company quality of service, lifeline program customers, rural markets, rural broadband deployment, and carrier access to private property. ~~The Committee's study shall also include a report on the Community voicemail Service Pilot Program created in S.B. 162 of the 128th General Assembly.~~ The Public Utilities Commission shall cooperate with the Committee as it performs its duties and shall provide reports and any other information requested by the Committee.

(E) The Committee may request assistance from the Legislative

Service Commission. 150453

(F) Not later than ~~four years after the effective date of~~ 150454
~~this section~~ September 13, 2014, the Committee shall submit a 150455
written report of its findings and recommendations to the General 150456
Assembly and the Governor. Upon submission of its report, the 150457
Committee shall cease to exist. 150458

Section 620.52. That existing Section 5 of Sub. S.B. 162 of 150459
the 128th General Assembly is hereby repealed. 150460

Section 620.53. That Section 6 of Sub. S.B. 162 of the 128th 150461
General Assembly is hereby repealed. 150462

Section 630.10. That Section 5 of Sub. H.B. 125 of the 127th 150463
General Assembly, as most recently amended by Sub. H.B. 198 of the 150464
128th General Assembly, be amended to read as follows: 150465

Sec. 5. (A) As used in this section and Section 6 of Sub. 150466
H.B. 125 of the 127th General Assembly: 150467

(1) "Most favored nation clause" means a provision in a 150468
health care contract that does any of the following: 150469

(a) Prohibits, or grants a contracting entity an option to 150470
prohibit, the participating provider from contracting with another 150471
contracting entity to provide health care services at a lower 150472
price than the payment specified in the contract; 150473

(b) Requires, or grants a contracting entity an option to 150474
require, the participating provider to accept a lower payment in 150475
the event the participating provider agrees to provide health care 150476
services to any other contracting entity at a lower price; 150477

(c) Requires, or grants a contracting entity an option to 150478
require, termination or renegotiation of the existing health care 150479
contract in the event the participating provider agrees to provide 150480

health care services to any other contracting entity at a lower price; 150481
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(d) Requires the participating provider to disclose the participating provider's contractual reimbursement rates with other contracting entities. 150483
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(2) "Contracting entity," "health care contract," "health care services," "participating provider," and "provider" have the same meanings as in section 3963.01 of the Revised Code, as enacted by Sub. H.B. 125 of the 127th General Assembly. 150486
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~~(B) With respect to a contracting entity and a provider other than a hospital, no~~ No health care contract ~~that includes shall~~ contain a most favored nation clause ~~shall be entered into, and no~~ health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly. 150490
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~~(C) With respect to a contracting entity and a hospital, no health care contract that includes a most favored nation clause shall be entered into, and no health care contract at the instance of a contracting entity shall be amended or renewed to include a most favored nation clause, for a period of three years after the effective date of Sub. H.B. 125 of the 127th General Assembly, subject to extension as provided in Section 6 of Sub. H.B. 125 of the 127th General Assembly.~~ 150497
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~~(D) This section does not apply to and does not prohibit the continued use of a most favored nation clause in a health care contract that is between a contracting entity and a hospital and that is in existence on the effective date of Sub. H.B. 125 of the 127th General Assembly even if the health care contract is materially amended with respect to any provision of the health care contract other than the most favored nation clause during the~~ 150505
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~~two year period specified in this section or during any extended
period of time as provided in Section 6 of Sub. H.B. 125 of the
127th General Assembly. This section applies to such contract if
that contract is amended, or to any extension or renewal of that
contract.~~ 150512
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Section 630.11. That existing Section 5 of Sub. H.B. 125 of 150517
the 127th General Assembly, as most recently amended by Sub. H.B. 150518
198 of the 128th General Assembly, is hereby repealed. 150519

Section 630.12. That Section 5 of Sub. H.B. 2 of the 127th 150520
General Assembly is hereby repealed. 150521

Section 640.10. That Section 6 of Am. Sub. S.B. 124 of the 150522
128th General Assembly be amended to read as follows: 150523

Sec. 6. A prosecuting attorney or treasurer of a county with 150524
a population greater than eight hundred thousand but less than 150525
nine hundred thousand may determine that the amount of money 150526
appropriated to the respective office from the county Delinquent 150527
Tax and Assessment Collection Fund under division (A) of section 150528
321.261 of the Revised Code exceeds the amount required to be used 150529
by that office as prescribed by division (A)(1) of that section. 150530
If a prosecuting attorney or treasurer of a county with that 150531
population makes such a determination, the prosecuting attorney or 150532
treasurer may expend up to fifty per cent of the excess so 150533
determined to pay the expenses of operating the respective office 150534
that otherwise would be payable from appropriations from the 150535
county general fund, notwithstanding section 321.261 of the 150536
Revised Code. 150537

This section expires December 31, ~~2011~~ 2012. 150538

Section 640.11. That existing Section 6 of Am. Sub. S.B. 124 150539

of the 128th General Assembly is hereby repealed. 150540

Section 690.10. That Section 153 of Am. Sub. H.B. 117 of the 150541
121st General Assembly, as most recently amended by Am. Sub. H.B. 150542
1 of the 128th General Assembly, be amended to read as follows: 150543

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 150544
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 150545
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 150546
repealed, effective October 16, ~~2011~~ 2013. 150547

(B) Any money remaining in the Legislative Budget Services 150548
Fund on October 16, ~~2011~~ 2013, the date that section 5112.19 of 150549
the Revised Code is repealed by division (A) of this section, 150550
shall be used solely for the purposes stated in then former 150551
section 5112.19 of the Revised Code. When all money in the 150552
Legislative Budget Services Fund has been spent after then former 150553
section 5112.19 of the Revised Code is repealed under division (A) 150554
of this section, the fund shall cease to exist. 150555

Section 690.11. That existing Section 153 of Am. Sub. H.B. 150556
117 of the 121st General Assembly, as most recently amended by Am. 150557
Sub. H.B. 1 of the 128th General Assembly, is hereby repealed. 150558

Section 690.20. It is not the intent of the General Assembly, 150559
in amending section 101.01 of the Revised Code in Section 1 of 150560
this act, to supersede the suspension of the repeal and delayed 150561
effective date of that repeal as described in Section 4 of Sub. 150562
H.B. 495 of the 128th General Assembly. 150563

Section 701.10. (A) Prior to the implementation of the rules 150564
under section 153.503 of the Revised Code, a public owner or 150565
public authority contracting for services with a construction 150566

manager at risk or a design-build firm shall require the 150567
construction manager at risk or design-build firm to advertise the 150568
work scopes listed in division (A) of section 153.501 of the 150569
Revised Code and announce procedures for bidders seeking approval 150570
on subcontracts awarded under section 153.501 of the Revised Code. 150571

(B) Prior to the implementation of those rules, a subcontract 150572
awarded under section 153.501 of the Revised Code shall be to the 150573
lowest responsive bidder. 150574

(C) With respect to a general contract awarded for 150575
six-hundred thousand dollars or less, prior to the implementation 150576
of those rules, a bidder for any contract awarded under division 150577
(B)(2) of section 153.52 of the Revised Code shall do both of the 150578
following: 150579

(1) Solicit at least two bids for applicable subcontracts 150580
listed in division (B) of section 153.50 of the Revised Code; 150581

(2) List the selected bidder for each of the applicable 150582
subcontracts listed in division (B) of section 153.50 of the 150583
Revised Code. 150584

(D) Prior to the implementation of the rules under section 150585
153.503 of the Revised Code, a contract for the work described in 150586
division (B)(2) of section 153.52 of the Revised Code shall be 150587
awarded as follows: 150588

(1) To the lowest responsive and responsible bidder in the 150589
public authority's discretion in accordance with section 9.312 of 150590
the Revised Code when the public authority is a state agency or 150591
state institution of higher education; 150592

(2) To the lowest and best separate bidder in the public 150593
authority's discretion when the public authority is a county; 150594

(3) To the lowest responsible bidder in the case of a school 150595
district. 150596

(E) Prior to the implementation of the rules under section 150597
153.503 of the Revised Code, a contract for the work described in 150598
division (B)(2) of section 153.52 of the Revised Code shall be 150599
made directly with the bidder in the manner and upon the terms, 150600
conditions, and applicable limitations related to providing bonds 150601
or bid guaranties otherwise prescribed by law. 150602

Section 701.13. (A) The Director of Administrative Services 150603
shall adopt rules in accordance with Chapter 119. of the Revised 150604
Code to establish guidelines for the provision of surety bonds by 150605
construction managers at risk, as required under section 9.333 of 150606
the Revised Code, and design-build firms, as required under 150607
section 153.70 of the Revised Code. 150608

(B) Except as provided in division (C) of this section, the 150609
amendment or enactment of sections 9.33, 9.331, 9.332, 9.333, 150610
9.334, 9.335, 123.011, 126.141, 153.01, 153.012, 153.03, 153.07, 150611
153.08, 153.50, 153.501, 153.502, 153.503, 153.504, 153.505, 150612
153.51, 153.52, 153.53, 153.54, 153.55, 153.56, 153.581, 153.65, 150613
153.66, 153.67, 153.69, 153.692, 153.693, 153.694, 153.70, 153.71, 150614
153.72, 153.73, 153.80, 3313.46, 3318.111, 3353.04, 3354.16, 150615
3357.16, 4113.61, 5540.03, and 6115.20 of the Revised Code and 150616
Section 701.10 of this act modifying the laws governing the 150617
permissible methods of construction delivery for the construction 150618
of public improvements shall apply only to public improvement 150619
projects commencing on or after the date the rules adopted under 150620
division (A) of this section become effective. 150621

(C) The provisions of the sections listed in division (B) of 150622
this section that are amended or enacted by this act that apply 150623
the provisions of section 7.16 of the Revised Code, as enacted by 150624
this act, are not subject to the delayed application provisions of 150625
that division. 150626

Section 701.20. Not later than July 1, 2012, the Department of Administrative Services shall submit a report to the General Assembly, in accordance with section 101.68 of the Revised Code, on the feasibility of all of the following regarding health care plans to cover persons employed by political subdivisions, public school districts, as defined in section 9.901 of the Revised Code, and state institutions of higher education, as defined in section 3345.011 of the Revised Code:

(A) Designing multiple health care plans that achieve an optimal combination of coverage, cost, choice, and stability, which plans include both state and regional preferred provider plans, set employee and employer premiums, and set employee plan copayments, deductibles, exclusions, limitations, formularies, and other responsibilities;

(B) Maintaining reserves, reinsurance, and other measures to insure the long-term stability and solvency of the health care plans;

(C) Providing appropriate health care information, wellness programs, and other preventive health care measures to health care plan beneficiaries;

(D) Coordinating contracts for services related to the health care plans;

(E) Voluntary and mandatory participation by political subdivisions, public school districts, and institutions of higher education;

(F) The potential impacts of any changes to the existing purchasing structure on existing health care pooling and consortiums;

(G) Removing barriers to competition and access to health care pooling.

No action shall be taken regarding health care coverage for employees of political subdivisions, public school districts, and state institutions of higher education without the enactment of law by the General Assembly.

Section 701.30. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES

As used in this section, "appointing authority" has the same meaning as in section 124.01 of the Revised Code, and "exempt employee" has the same meaning as in section 124.152 of the Revised Code.

Notwithstanding section 124.181 of the Revised Code, in cases where no vacancy exists, an appointing authority may, with the written consent of an exempt employee, assign duties of a higher classification to that exempt employee for a period of time not to exceed two years, and that exempt employee shall receive compensation at a rate commensurate with the duties of the higher classification.

Section 701.40. (A) There is hereby created the Ohio Housing Study Committee with the purpose of formulating a comprehensive review of the policies and results of the Ohio Housing Finance Agency, its programs and its working relationships to ensure that all Agency programs are evaluated by an objective process to ensure all Ohioans receive optimal and measurable benefits afforded to them through the authority of the Agency.

(B) The Committee shall do all of the following:

(1) Perform a comprehensive review of Chapter 175. of the Revised Code to determine the relevance of the chapter and determine whether it should be formally reviewed or amended by the General Assembly, up to and including appropriate legislative oversight and accountability;

(2) Review the Agency's relationships to ensure an equitable

and level playing field regarding its single- and multi-family housing programs; 150687
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(3) Review the Agency's policy leadership and the measurable economic impact and other effects of its programs; 150689
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(4) Review the Agency's Qualified Allocation Plan development process and underlying policies to understand whether objective and measurable results are achieved to fulfill clearly articulated public policy goals; 150691
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(5) Create a quantitative report measuring the economic benefits of the Agency's single- and multi-family programming over the last ten years; 150695
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(6) Evaluate the possible efficiencies of combining existing Ohio Department of Development housing-related programming with those of the Agency. 150698
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The Chairperson of the Committee may include other relevant areas of study as necessary. 150701
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(C) The Committee shall commence on the effective date of this act and shall provide a report expressing its findings and financial, policy, or legislative recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before March 31, 2012. 150703
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(D) The Committee shall be comprised of the Auditor of State, or the Auditor's designee, the Director of Commerce, or the Director's designee, the Director of Development, or the Director's designee, and four members of the General Assembly. Two members shall be appointed by the Speaker of the House of Representatives and two members shall be appointed by the President of the Senate. 150708
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The Governor, Speaker of the House of Representatives, and the President of the Senate shall determine the chairperson of the 150715
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Committee. 150717

(E) The Committee shall meet on a reasonable basis at the 150718
discretion of the chairperson. 150719

(F) All reasonable expenses incurred by the Committee in 150720
carrying out its responsibilities shall be paid by Ohio Housing 150721
Finance Agency funds. In addition to reasonable expenses, the 150722
Committee shall have the discretion to allocation Agency funds to 150723
contract with the Auditor of State for services rendered in 150724
relation to the Committee carrying out its responsibilities, 150725
including financial- and performance-based audits and other 150726
services. The Auditor of State may contract with an independent 150727
auditor. 150728

The Committee may also contract with other independent 150729
entities for services rendered in relation to the Committee 150730
carrying out its responsibilities. Expenditures to pay for the 150731
services of the Auditor of State, independent auditor, or other 150732
services shall not exceed two hundred thousand dollars. 150733

No entity contracting with the Committee for services 150734
rendered shall have a financial or vested interest in the Ohio 150735
Housing Finance Agency, its affiliates, or its nonprofit partners. 150736

Section 701.50. (A) Except as otherwise provided in section 150737
154.24 or 154.25 of the Revised Code, as enacted by this act, with 150738
respect to the functions of the Ohio Public Facilities Commission, 150739
the Treasurer of State shall, on the effective date of this 150740
section and as provided for in this section, supersede and replace 150741
the Ohio Building Authority (referred to in this section as the 150742
"Authority") as the issuing authority in all matters relating to 150743
the issuance of obligations for the financing of capital 150744
facilities for housing branches and agencies of state government 150745
as provided for in section 154.24 of the Revised Code or for 150746
community or technical colleges as provided for in section 154.25 150747

of the Revised Code (together referred to in this section as 150748
"facilities for capital purposes"), as enacted by this act (all 150749
referred to in this section as "superseded matters"). 150750

(B)(1) With respect to superseded matters and facilities for 150751
capital purposes, the Treasurer of State shall: 150752

(a) Succeed to and have and perform all of the duties, 150753
powers, obligations, and functions of the Authority and its 150754
members and officers provided for by law or rule relating to the 150755
issuance of bonds, notes, or other obligations for the purpose of 150756
paying costs of facilities for capital purposes; 150757

(b) Succeed to and have and perform all of the duties, 150758
powers, obligations, and functions, and have all of the rights of, 150759
the Authority and its members and officers provided for in or 150760
pursuant to resolutions, rules, agreements, trust agreements, and 150761
supplemental trust agreements (all referred to collectively in 150762
this section as "basic instruments"), and bonds, notes, and other 150763
obligations (all referred to collectively in this section as 150764
"financing obligations"), previously authorized, entered into, or 150765
issued by the Authority for facilities for capital purposes, which 150766
financing obligations shall be, or shall be deemed to be, 150767
obligations issued by and of the Treasurer of State; and 150768

(c) Be bound by all agreements and covenants of the 150769
Authority, and basic instruments, relating to financing 150770
obligations. 150771

(2) The transfer of superseded matters to the Treasurer of 150772
State pursuant to this section does not affect the validity of any 150773
agreement or covenant, basic instrument, or financing obligation, 150774
or any related document, authorized, entered into, or issued by 150775
the Authority under Chapter 152. of the Revised Code or other 150776
laws, and nothing in this section shall be applied or considered 150777
as impairing the obligations or rights under them. 150778

(3) The Treasurer of State shall not issue any additional 150779
financing obligations pursuant to any basic instrument of the 150780
Authority, including financing obligations to refund financing 150781
obligations previously issued by the Authority. 150782

(C) With respect to proceedings relating to superseded 150783
matters affected by this section: 150784

(1) This section applies to any proceedings that are 150785
commenced after the effective date of this section, and to any 150786
proceedings that are pending, in progress, or completed on that 150787
date, notwithstanding the applicable law previously in effect or 150788
any provision to the contrary in a prior basic instrument, notice, 150789
or other proceeding. 150790

(2) Any proceedings of the Authority that are pending on the 150791
effective date of this section shall be pursued and completed by 150792
and in the name of the Treasurer of State, and any financing 150793
obligations that are sold, issued, and delivered pursuant to those 150794
proceedings shall be deemed to have been authorized, sold, issued, 150795
and delivered in conformity with this section. 150796

(3) Notwithstanding divisions (C)(1) and (2) of this section, 150797
the Authority may, subsequent to the effective date of this 150798
section, meet for the purpose of better accomplishing the transfer 150799
of superseded matters. At any such meeting the Authority may take 150800
necessary or appropriate actions to effect an orderly transition 150801
relating to the issuance of financing obligations, such that all 150802
duties, powers, obligations, and functions of the Authority and 150803
its members and officers with respect to the superseded matters or 150804
under any leases and agreements between the Authority and a state 150805
agency for facilities for capital purposes shall terminate and be 150806
of no further force and effect as to the Authority. 150807

(D) Notwithstanding any other provision of this section, this 150808
section shall not apply to the Authority's interests in or 150809

responsibilities for the operation and maintenance, or any lease 150810
or agreement relating to the operation and maintenance of, the 150811
James A. Rhodes State Office Tower (30 East Broad Street, 150812
Columbus), the Vern Riffe Center for Government and the Arts (77 150813
South High Street, Columbus), the Frank J. Lausche State Office 150814
Building (615 West Superior Avenue, Cleveland), the Michael V. 150815
DiSalle Government Center (One Government Center, Toledo), the 150816
Oliver R. Ocasek Government Office Building (161 South High 150817
Street, Akron), and the State of Ohio Computer Center (1320 Arthur 150818
E. Adams Drive, Columbus). 150819

(E) The Authority and the Treasurer of State shall prepare 150820
any necessary amendments of or supplements to documents or basic 150821
instruments pertaining to the duties, powers, obligations, 150822
functions, and rights relating to superseded matters to which the 150823
Treasurer of State succeeds pursuant to this section. The 150824
authorization by the Authority in its basic instruments relating 150825
to superseded matters for its officers to act in any manner on 150826
behalf of the Authority shall, on and after the effective date of 150827
this section, be authorization for the Treasurer of State, or the 150828
Treasurer of State's staff or employees to whom the Treasurer of 150829
State may delegate the function, to act in the circumstances, 150830
without necessity for amendment of or supplement to any such 150831
documents or basic instruments. 150832

(F) No pending judicial or administrative action or 150833
proceeding in which the Authority, or its members or officers as 150834
such, are a party that pertains to superseded matters shall be 150835
affected by their transfer, but shall be prosecuted or defended in 150836
the name of the Treasurer of State and in any such action or 150837
proceeding the Treasurer of State, upon application to the court, 150838
shall be substituted as a party. 150839

(G) In connection with the duties, powers, obligations, 150840
functions, and rights relating to superseded matters and provided 150841

for in this section, on the effective date of this section: 150842

(1) Copies of all basic instruments, documents, books, 150843
papers, and records of the Authority shall be transferred to the 150844
Treasurer of State upon request, without necessity for assignment, 150845
conveyance, or other action by the Authority. 150846

(2) All appropriations previously made to or for the 150847
Authority for the purposes of the performance of the duties, 150848
powers, obligations, functions, and exercise of rights relating to 150849
superseded matters, to the extent of remaining unexpended or 150850
unencumbered balances, are hereby transferred to and made 150851
available for use and expenditure by the Treasurer of State for 150852
performing the same duties, powers, obligations, and functions and 150853
exercising the same rights for which originally appropriated, and 150854
payments for administrative expenses previously incurred in 150855
connection with them shall be made from the applicable 150856
administrative service fund on vouchers approved by the Treasurer 150857
of State. 150858

(3) All leases and agreements between the Authority and a 150859
state agency for facilities for capital purposes made under 150860
Chapter 152. of the Revised Code shall, and shall be considered 150861
to, continue to bind that state agency. Nothing in this act shall 150862
be considered as impairing the obligations of any state agency 150863
under those leases and agreements. 150864

(4) Any lease, grant, or conveyance made to the Authority 150865
pursuant to section 152.06 of the Revised Code shall be, and shall 150866
be deemed to be, made to the Ohio Public Facilities Commission 150867
pursuant to section 154.16 of the Revised Code, and the Ohio 150868
Public Facilities Commission shall succeed to and have and perform 150869
all of the duties, powers, obligations, and functions, and have 150870
all of the rights, of the Authority and its members and officers 150871
provided for in or pursuant to that lease, grant, or conveyance. 150872

(H) Whenever the Authority, or any of its members or officers, is referred to in any contract or other document relating to those outstanding financing obligations, the reference shall be considered to be, as applicable, to the Ohio Public Facilities Commission or its appropriate officers or to the Treasurer of State or the appropriate staff of the Treasurer of State.

Section 701.60. Within thirty days after the effective date of this section, the Department of Administrative Services shall begin developing recommendations for a state government reorganization plan focused on increased efficiencies in the operation of state government and a reduced number of state agencies. The Department shall present its recommendations to the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate not later than January 1, 2012.

Section 715.10. (A) The Ohio Soil and Water Conservation Commission that is created in section 1515.02 of the Revised Code shall establish a Conservation Program Delivery Task Force to provide recommendations to the Director of Natural Resources regarding how soil and water conservation districts established under section 1515.03 of the Revised Code may advance effective and efficient operations while continuing to provide local program leadership. The Task Force shall examine methods for improving services and removing impediments to organizational management and explore opportunities for sharing services across all levels of government.

(B) The chairperson of the Commission in consultation with the Director shall appoint no more than nine members to the Task Force. The Task Force shall include members of the boards of supervisors of soil and water conservation districts and other

individuals who represent diverse geographic areas of the state 150904
and may include members from the Ohio Federation of Soil and Water 150905
Conservation Districts, the Natural Resources Conservation Service 150906
in the United States Department of Agriculture, the County 150907
Commissioners' Association of Ohio, the Ohio Municipal League, and 150908
the Ohio Township Association. The Task Force may consult with 150909
those organizations and agencies. 150910

(C) The chairperson of the Commission or another member of 150911
the Commission who is designated by the chairperson shall serve as 150912
chairperson of the Task Force. 150913

(D) Members appointed to the Task Force shall serve without 150914
compensation and shall not be reimbursed for expenses. The 150915
Division of Soil and Water Resources shall provide technical and 150916
administrative support as needed by the Task Force. 150917

(E) The Task Force shall hold its first meeting no later than 150918
September 1, 2011, and shall submit a final report of 150919
recommendations to the Director and the Commission no later than 150920
December 31, 2011. Upon submission of the final report, the Task 150921
Force shall cease to exist. 150922

Section 733.10. (A) The Department of Education shall conduct 150923
and publicize a second Educational Choice Scholarship application 150924
period for the 2011-2012 school year to award for that year 150925
scholarships newly authorized by sections 3310.02 and 3310.03 of 150926
the Revised Code, as amended by this act. The second application 150927
period shall commence on the effective date of this section and 150928
shall end at the close of business on the first business day that 150929
is at least forty-five days after the effective date of this 150930
section. 150931

(B) Not later than ten days after the effective date of this 150932
section, the Department shall do both of the following: 150933

(1) Mail, to each person who applied for a scholarship during 150934
the first application period for the 2011-2012 school year but did 150935
not receive a scholarship, a notice announcing the second 150936
application period, the opportunity to re-apply, and the 150937
application deadline; 150938

(2) Post prominently on its web site a list of school 150939
district-operated buildings that meet both of the following 150940
criteria: 150941

(a) For at least two of the three school years from 2007-2008 150942
through 2009-2010, ranked in the lowest ten per cent of school 150943
district buildings according to performance index score reported 150944
under section 3302.03 of the Revised Code; 150945

(b) Were not declared to be excellent or effective under that 150946
section for the 2009-2010 school year. 150947

(C) The Department shall award scholarships for the 2011-2012 150948
school year from applications submitted during the second 150949
application period according to the order of priority listed in 150950
division (B) of section 3310.02 of the Revised Code, as amended by 150951
this act. The Department shall base its award determinations on 150952
the applicant students' status during the 2010-2011 school year. 150953

(D) Notwithstanding any provision of sections 3310.01 to 150954
3310.17 of the Revised Code, any rule of the State Board of 150955
Education, or any policy of the Department to the contrary, the 150956
Department shall not deny a scholarship to a student for whom an 150957
application is submitted during the second application period 150958
solely because the student already has been admitted to a 150959
chartered nonpublic school for the 2011-2012 school year, if both 150960
of the following apply: 150961

(1) A timely application was submitted on the student's 150962
behalf during the first application period for the 2011-2012 150963
school year and the student was denied a scholarship solely 150964

because the number of applications exceeded the number of 150965
available scholarships. 150966

(2) The student either: 150967

(a) Was enrolled, through the final day of scheduled classes 150968
for the 2010-2011 school year, in the district school or community 150969
school indicated on the student's first application for the 150970
2011-2012 school year; 150971

(b) Is eligible to enroll in kindergarten for the 2011-2012 150972
school year and was not enrolled in kindergarten in a nonpublic 150973
school in the 2010-2011 school year. 150974

(E)(1) For purposes of determining eligibility under division 150975
(B) of section 3310.03 of the Revised Code for scholarships 150976
awarded for the 2012-2013 school year, the Department shall post 150977
prominently on its web site a list of school district buildings 150978
that meet both of the following criteria: 150979

(a) For at least two of the three school years from 2008-2009 150980
through 2010-2011, ranked in the lowest ten per cent of school 150981
district buildings according to performance index score; 150982

(b) Were not declared to be excellent or effective under 150983
section 3302.03 of the Revised Code for the 2010-2011 school year. 150984

(2) For purposes of determining eligibility under division 150985
(B) of section 3310.03 of the Revised Code for scholarships 150986
awarded for the 2013-2014 school year, the Department shall post 150987
prominently on its web site a list of school district buildings 150988
that meet both of the following criteria: 150989

(a) For at least two of the three school years from 2009-2010 150990
through 2011-2012, ranked in the lowest ten per cent of school 150991
district buildings according to performance index score; 150992

(b) Were not declared to be excellent or effective under 150993
section 3302.03 of the Revised Code for the 2011-2012 school year. 150994

(3) For purposes of determining eligibility under division 150995
(B) of section 3310.03 of the Revised Code for scholarships 150996
awarded for the 2014-2015 school year, the Department shall post 150997
prominently on its web site a list of school district buildings 150998
that meet both of the following criteria: 150999

(a) For at least two of the three school years from 2010-2011 151000
through 2012-2013, ranked in the lowest ten per cent of school 151001
district buildings according to performance index score; 151002

(b) Were not declared to be excellent or effective under 151003
section 3302.03 of the Revised Code for the 2012-2013 school year. 151004

(F) As used in this section, "enrolled" has the same meaning 151005
as in division (E) of section 3317.03 of the Revised Code. 151006

Section 733.20. (A)(1) Notwithstanding section 3305.03 of the 151007
Revised Code or any other provision of Chapter 3305. of the 151008
Revised Code, an alternative retirement plan established by a 151009
public institution of higher education prior to July 1, 2000, that 151010
is a qualified trust under section 401(a) of the Internal Revenue 151011
Code is hereby designated a provider for purposes of Chapter 3305. 151012
of the Revised Code. 151013

(2) Other than the contributions required under division (D) 151014
of section 3305.06 of the Revised Code and interest on those 151015
contributions at a rate determined by the State Teachers 151016
Retirement Board, a public institution of higher education is not 151017
required to pay any contributions or interest due the State 151018
Teachers Retirement System for an employee who prior to July 1, 151019
2000, made an election to participate in an alternative retirement 151020
plan designated under this section, from the date of the election 151021
as long as participation by the employee continues. 151022

(B) Notwithstanding division (C) of section 3305.05 of the 151023
Revised Code, a public institution of higher education that failed 151024

to timely file with the State Teachers Retirement System a copy of 151025
an election of an employee described in division (A)(2) of this 151026
section may file the election not later than ninety days after the 151027
effective date of this section. The system shall accept the filing 151028
as though made in compliance with section 3305.05 of the Revised 151029
Code. 151030

Section 733.30. Notwithstanding the dates prescribed by 151031
division (D) of section 3311.054 of the Revised Code, not later 151032
than July 1, 2012, the governing board of an educational service 151033
center established under that section shall redistrict the 151034
educational service center's territory into a number of 151035
subdistricts equal to the number of board members designated under 151036
division (B)(1) of that section, based on the results of the 2010 151037
decennial census. At the regular municipal election held in 151038
November 2013, all elected governing board members shall again be 151039
elected from the subdistricts created under this section. 151040

If a governing board fails to redistrict the territory of its 151041
educational service center in accordance with this section, the 151042
superintendent of public instruction shall redistrict the service 151043
center not later than August 1, 2012. 151044

Section 737.11. (A) If an agricultural labor camp is located 151045
within the jurisdiction of a board of health on the effective date 151046
of this section, the board of health shall adopt the rules 151047
required by section 3733.42 of the Revised Code as enacted by this 151048
act not later than twelve months after the effective date of the 151049
enactment of that section by this act. After adopting the rules, 151050
the board of health immediately shall notify the Director of 151051
Health. 151052

(B)(1) The rules governing agricultural labor camps adopted 151053
by the Public Health Council under former section 3733.42 of the 151054

Revised Code as repealed by this act shall remain in effect in a health district to which division (A) of this section applies until the board of health of that district adopts rules under section 3733.42 of the Revised Code as enacted by this act.

(2) On the effective date of the rules adopted by such a board of health as required by section 3733.42 of the Revised Code as enacted by this act, the Public Health Council rules adopted under former section 3733.42 of the Revised Code as repealed by this act cease to be effective within the jurisdiction of that board of health.

(C) Twelve months after the effective date of this section, the Public Health Council shall rescind the rules adopted under former section 3733.42 of the Revised Code as repealed by this act.

(D) As used in this section:

(1) "Agricultural labor camp" and "board of health" have the same meanings as in section 3733.41 of the Revised Code.

(2) "Health district" has the same meaning as in section 3733.21 of the Revised Code.

(3) "Public Health Council" means the Public Health Council created by section 3701.33 of the Revised Code.

Section 737.15. (A) If a marina is located within the jurisdiction of a board of health on the effective date of this section, the board of health shall adopt the rules required by section 3733.21 of the Revised Code as amended by this act not later than twelve months after the effective date of the amendment of that section by this act. After adopting the rules, the board of health immediately shall notify the Director of Health.

(B)(1) The rules governing marinas adopted by the Public Health Council under former section 3733.22 of the Revised Code as

repealed by this act shall remain in effect in a health district 151085
to which division (A) of this section applies until the board of 151086
health of that district adopts rules under section 3733.21 of the 151087
Revised Code as amended by this act. 151088

(2) On the effective date of the rules adopted by such a 151089
board of health as required by section 3733.21 of the Revised Code 151090
as amended by this act, the Public Health Council rules adopted 151091
under former section 3733.22 of the Revised Code as repealed by 151092
this act cease to be effective within the jurisdiction of that 151093
board of health. 151094

(C) Twelve months after the effective date of this section, 151095
the Public Health Council shall rescind the rules adopted under 151096
former section 3733.22 of the Revised Code as repealed by this 151097
act. 151098

(D) As used in this section: 151099

(1) "Board of health," "health district," and "marina" have 151100
the same meanings as in section 3733.21 of the Revised Code. 151101

(2) "Public Health Council" means the Public Health Council 151102
created by section 3701.33 of the Revised Code. 151103

Section 737.30. (A) The Manufactured Homes Commission shall 151104
adopt the rules required by section 4781.26 of the Revised Code as 151105
amended by this act not later than December 1, 2011. After 151106
adopting the rules, the Commission immediately shall notify the 151107
Director of Health. 151108

(B)(1) The rules governing manufactured home parks adopted by 151109
the Public Health Council under former section 3733.02 of the 151110
Revised Code as amended by this act shall remain in effect in a 151111
health district until the Commission adopts rules under section 151112
4781.26 of the Revised Code as amended by this act. 151113

(2) On the effective date of the rules adopted by the 151114

Commission as required by section 4781.26 of the Revised Code as 151115
amended by this act, the Public Health Council rules adopted under 151116
former section 3733.02 of the Revised Code as amended by this act 151117
cease to be effective within the jurisdiction of that board of 151118
health. 151119

(C) No board of health of a city or general health district 151120
shall invoice or collect manufactured home park licensing fees for 151121
calendar year 2012. 151122

(D) As used in this section: 151123

(1) "Manufactured home park," "board of health," and "health 151124
district" have the same meanings as in section 3733.01 of the 151125
Revised Code. 151126

(2) "Public Health Council" means the Public Health Council 151127
created by section 3701.33 of the Revised Code. 151128

Any manufactured home park license and inspection fees 151129
collected pursuant to section 3733.04 of the Revised Code by a 151130
board of health prior to the transition of the annual license and 151131
inspection program to the Manufactured Homes Commission as 151132
required under this act in the amount of two thousand dollars or 151133
less may be transferred to the health fund of the city or general 151134
health district. Any of those funds in excess of two thousand 151135
dollars shall be transferred to the Manufactured Homes Commission 151136
and deposited in the Manufactured Homes Commission Regulatory Fund 151137
created in section 4781.54 of the Revised Code as enacted by this 151138
act. 151139

Section 737.40. The Director of Budget and Management shall 151140
compare and analyze alternatives in order to convert the lottery 151141
from a state-run entity to a commercially run enterprise. The 151142
Director shall develop a competitive selection process in 151143
compliance with Chapter 125. of the Revised Code for the selection 151144

of an entity or entities to operate and manage the lottery. In 151145
completing this task, the Director may hire appropriate experts 151146
who are qualified in lottery evaluation and management. However, 151147
no entity or advisor shall be paid based upon any contingency 151148
contract, agreement, or the value to the state of any subsequent 151149
lottery management or operating agreement. No such entity or 151150
consultant may bid or participate on any subsequent request for 151151
proposals or proposal for operation or management of the lottery. 151152

The request for proposals shall include a provision that the 151153
proceeds payable to the bidder shall be subject to all ordinary 151154
taxes. 151155

By December 15, 2011, the Director shall report to the 151156
General Assembly the Director's proposal for the operation and 151157
management of the lottery, which shall include methods for 151158
realizing optimum value of the lottery for the state when 151159
considering all appropriate factors including, but not limited to, 151160
improvement in the present value of the anticipated existing 151161
lottery stream, past performance, anticipated growth, as well as 151162
any future growth guarantees, up-front payments, and overall 151163
return. 151164

Based upon this report, the Director, by January 15, 2012, 151165
shall propose a request for proposals process to the General 151166
Assembly that outlines the appropriate terms and conditions for 151167
the operation and management of the lottery. 151168

Within ninety days of receipt of the Director's proposal, the 151169
General Assembly may approve or reject the terms and conditions 151170
outlined in the request for proposals by a joint resolution 151171
initiated in the Senate. If the General Assembly does not act 151172
during this period, the Director may move forward with the request 151173
for proposals. 151174

Section 747.20. Notwithstanding the original term of the 151175
appointment, the term of the Manufactured Homes Commission member 151176
who was appointed by the Governor as a representative of the 151177
Department of Health pursuant to division (B)(2)(b) of section 151178
4781.02 of the Revised Code shall end on the effective date of 151179
that section as amended by this act. The initial term of the 151180
registered sanitarian appointed to the Manufactured Homes 151181
Commission pursuant to section 4781.02 of the Revised Code, as 151182
amended by this act, shall expire on the date when the 151183
representative of the Department of Health's term would have 151184
expired, but for this section. 151185

Section 747.30. (A) There is hereby created the Auctioneer 151186
Study Commission consisting of the following members: 151187

(1) A representative of the Department of Taxation appointed 151188
by the Tax Commissioner; 151189

(2) A representative of the Bureau of Motor Vehicles 151190
appointed by the Registrar of Motor Vehicles; 151191

(3) A representative of the Office of the Attorney General 151192
appointed by the Attorney General; 151193

(4) A representative of the Department of Agriculture 151194
appointed by the Director of Agriculture; 151195

(5) A representative of the State Auctioneers Commission 151196
appointed by the Commission; 151197

(6) One member appointed by the Ohio Automobile Dealers 151198
Association; 151199

(7) One member appointed by the Ohio Automobile Auction 151200
Coalition; 151201

(8) One member representing equipment auctioneers; 151202

(9) One member representing consignment facility auctioneers; 151203

(10) Two members of the House of Representatives appointed by the Speaker of the House of Representatives;

(11) Two members of the Senate appointed by the President of the Senate.

(B) All appointments shall be made to the Commission not later than ten days after the effective date of this section. The member representing the Department of Agriculture shall serve as the chairperson. The Commission shall hold its first meeting thirty days after the effective date of this section and shall hold regular meetings as necessary after the initial meeting.

(C) The Commission shall examine the scope of practices for the auctioneer profession and shall make recommendations to the General Assembly regarding those practices.

(D) Not later than January 1, 2012, the Commission shall submit a report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate. Upon submission of the report, the Commission ceases to exist.

Section 747.40. (A) For members of the Residential Construction Advisory Committee serving terms beginning on July 1, 2011, such members' terms shall expire as follows:

(1) The terms of the members described in divisions (A)(3), (A)(6), and one of the members described in division (A)(1) of section 4740.14 of the Revised Code as amended by this act shall expire on June 30, 2012.

(2) The terms of the member described in division (A)(4), one of the members described in division (A)(1), and one of the members described in division (A)(2) of section 4740.14 of the Revised Code as amended by this act shall expire on June 30, 2013.

(3) The terms of the member described in division (A)(5), one 151234
of the members described in division (A)(1), and one of the 151235
members described in division (A)(2) of section 4740.14 of the 151236
Revised Code as amended by this act shall expire on June 30, 2014. 151237

(B) The Director of Commerce shall determine which of the 151238
members appointed pursuant to division (A)(1) of section 4740.14 151239
of the Revised Code as amended by this act will serve the term 151240
described in division (A)(1), which member will serve the term 151241
described in division (A)(2), and which member will serve the term 151242
described in division (A)(3) of this section, and shall determine 151243
which of the members appointed pursuant to division (A)(2) of 151244
section 4740.14 of the Revised Code as amended by this act will 151245
serve the term described in division (A)(2) and which member will 151246
serve the term described in division (A)(3) of this section. 151247

(C) Upon the expiration of the terms described in division 151248
(A) of this section, all successive terms shall last for the 151249
period described in division (C) of section 4740.14 of the Revised 151250
Code as amended by this act. 151251

Section 749.10. The Public Utilities Commission shall, on or 151252
before December 31, 2011, determine appropriate methods under 151253
which to ensure that the reduction in public utility assessments 151254
paid under section 4911.18 of the Revised Code for the Office of 151255
the Ohio Consumers' Counsel for fiscal year 2012 and fiscal year 151256
2013 is distributed to the benefit of Ohio customers of those 151257
public utilities. The Commission shall implement its distribution 151258
methodology in a timely manner. 151259

Section 753.10. (A) As used in this section, "contractor" and 151260
"facility" have the same meanings as in section 9.06 of the 151261
Revised Code, as amended by Sections 101.01 and 101.02 of this 151262
act. 151263

(B)(1) The Director of Administrative Services and the 151264
Director of Rehabilitation and Correction are hereby authorized to 151265
award one or more contracts through requests for proposals for the 151266
operation and management by a contractor of one or more of the 151267
facilities described in divisions (C) to (G) of this section, 151268
pursuant to section 9.06 of the Revised Code, and for the transfer 151269
of the state's right, title, and interest in the real property on 151270
which the facility is situated and any surrounding land as 151271
described in those divisions. 151272

(2) If the Director of Administrative Services and the 151273
Director of Rehabilitation and Correction award a contract of the 151274
type described in division (B)(1) of this section to a contractor 151275
regarding a facility described in division (C), (D), (E), (F), or 151276
(G) of this section, in addition to the requirements, statements, 151277
and authorizations that must be included in the contract pursuant 151278
to division (B) of section 9.06 of the Revised Code, the contract 151279
shall include all of the following regarding the facility that is 151280
the subject of the contract: 151281

(a) An agreement for the sale to the contractor of the 151282
state's right, title, and interest in the facility, the land 151283
situated thereon, and specified surrounding land; 151284

(b) A requirement that the contractor provide preferential 151285
hiring treatment to employees of the Department of Rehabilitation 151286
and Correction in order to retain staff displaced as a result of 151287
the transition of the operation and management of the facility and 151288
to meet the administrative, programmatic, maintenance, and 151289
security needs of the facility; 151290

(c) Notwithstanding any provision of the Revised Code, 151291
authorization for the transfer to the contractor of any supplies, 151292
equipment, furnishings, fixtures, or other assets considered 151293
necessary by the Director of Rehabilitation and Correction and the 151294
Director of Administrative Services for the continued operation 151295

and management of the facility; 151296

(d) A binding commitment that irrevocably grants to the state 151297
a right, upon the occurrence of any triggering event described in 151298
division (B)(2)(d)(i) or (ii) of this section and in accordance 151299
with the particular division, to repurchase the facility and the 151300
real property on which it is situated, any surrounding land that 151301
is to be transferred under the contract, or both the facility and 151302
real property on which it is situated plus the surrounding land 151303
that is to be transferred under the contract. The triggering 151304
events and the procedures for a repurchase under the irrevocable 151305
grant described in this division are as follows: 151306

(i) Before the contractor, or the contractor's successor in 151307
title, may resell or otherwise transfer the facility and the real 151308
property on which it is situated, any surrounding land that is to 151309
be transferred under the contract, or both the facility and real 151310
property on which it is situated plus the surrounding land that is 151311
to be transferred under the contract, the contractor or successor 151312
first must offer the state the opportunity to repurchase the 151313
facility, real property, and surrounding land that is to be resold 151314
or transferred for a price not greater than the purchase price 151315
paid to the state for that facility, real property, or surrounding 151316
land, less depreciation from the time of the conveyance of that 151317
facility, real property, or surrounding land to the contractor, 151318
plus the depreciated value of any capital improvements to that 151319
facility, real property, or surrounding land that were made to it 151320
and funded by anyone other than the state subsequent to the 151321
conveyance to the contractor. The repurchase opportunity described 151322
in this division must be offered to the state at least one hundred 151323
twenty days before the contractor intends to resell or otherwise 151324
transfer the facility, real property, or surrounding land that is 151325
to be resold or transferred. After being offered the repurchase 151326
opportunity, the state has the right to repurchase the facility, 151327

real property, and surrounding land that is to be resold or 151328
otherwise transferred for the price described in this division. 151329

(ii) Upon the contractor's default of any financial agreement 151330
for the purchase of the facility and the real property on which it 151331
is situated, any surrounding land that is to be transferred under 151332
the contract, or both the facility and real property on which it 151333
is situated plus the surrounding land that is to be transferred 151334
under the contract, upon the contractor's default of any other 151335
term in the contract, or upon the contractor's financial 151336
insolvency or inability to meet its contractual obligations, the 151337
state has the right to repurchase the facility and real property, 151338
the surrounding land, or both the facility and real property and 151339
the surrounding land, for a price not greater than the purchase 151340
price paid to the state for that facility, real property, or 151341
surrounding land, less depreciation from the time of the 151342
conveyance of that facility, real property, or surrounding land to 151343
the contractor, plus the depreciated value of any capital 151344
improvements to that facility, real property, or surrounding land 151345
that were made to it and funded by anyone other than the state 151346
subsequent to the conveyance to the contractor. 151347

(3)(a) If the Director of Administrative Services and the 151348
Director of Rehabilitation and Correction award a contract of the 151349
type described in division (B)(1) of this section to a contractor 151350
regarding a facility described in division (C), (D), (E), (F), or 151351
(G) of this section, notwithstanding any provision of the Revised 151352
Code and subject to division (B)(3)(b) of this section, the state 151353
may transfer to the contractor in accordance with the contract any 151354
supplies, equipment, furnishings, fixtures, or other assets 151355
considered necessary by the Director of Rehabilitation and 151356
Correction and the Director of Administrative Services for the 151357
continued operation and management of the facility. For purposes 151358
of this paragraph and the transfer authorized under this 151359

paragraph, any such supplies, equipment, furnishings, fixtures, or 151360
other assets shall not be considered supplies, excess supplies, or 151361
surplus supplies as defined in section 125.12 of the Revised Code 151362
and may be disposed of as part of the transfer of the facility to 151363
the contractor. 151364

(b) If the Director of Administrative Services and the 151365
Director of Rehabilitation and Correction award a contract of the 151366
type described in division (B)(1) of this section to a contractor 151367
regarding the facility described in division (D) of this section, 151368
the Director of Rehabilitation and Correction may transfer to 151369
another state correctional institution to be determined by the 151370
Director of Rehabilitation and Correction the Braille printing 151371
press and related accessories located at the facility described in 151372
division (D) of this section and all programs associated with the 151373
Braille printing press. 151374

(4) Nothing in divisions (B)(1) to (3) or divisions (C) to 151375
(G) of this section restricts the department of rehabilitation and 151376
correction from contracting for only the private operation and 151377
management of any of the facilities described in divisions (C) to 151378
(G) of this section. 151379

(C)(1) As used in division (C) of this section, "grantee" 151380
means an entity that has contracted under section 9.06 of the 151381
Revised Code to privately operate the Lake Erie Correctional 151382
Facility, if the contract includes the clauses described in 151383
division (B)(2) of this section for the purchase of that Facility. 151384

(2) The Governor is authorized to execute a deed in the name 151385
of the state conveying to the grantee, its successors and assigns, 151386
all of the right, title, and interest of the state in the Lake 151387
Erie Correctional Facility, in the City of Conneaut, County of 151388
Ashtabula, State of Ohio, the land situated thereon, and any 151389
surrounding land, which totals approximately 119 acres. 151390

In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate.

(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract.

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land.

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Ashtabula County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall 151422
be deposited into the state treasury to the credit of the Adult 151423
and Juvenile Correctional Facilities Bond Retirement Fund and 151424
shall be used to redeem or defease bonds in accordance with 151425
section 5120.092 of the Revised Code, and any remaining moneys 151426
after such redemption or defeasance shall be transferred in 151427
accordance with that section to the General Revenue Fund. 151428

(9) Division (C) of this section does not restrict the 151429
Department of Rehabilitation and Correction from contracting, not 151430
for the sale of, but only for the private operation and management 151431
of the Lake Erie Correctional Facility. 151432

(10) Division (C) of this section expires two years after its 151433
effective date. 151434

(D)(1) As used in division (D) of this section, "grantee" 151435
means an entity that has contracted under section 9.06 of the 151436
Revised Code to privately operate the Grafton Correctional 151437
Institution, if the contract includes the clauses described in 151438
division (B)(2) of this section for the purchase of that 151439
Institution. 151440

(2) The Governor is authorized to execute a deed in the name 151441
of the state conveying to the grantee, its successors and assigns, 151442
all of the right, title, and interest of the state in the Grafton 151443
Correctional Institution, in the City of Grafton, County of 151444
Lorain, State of Ohio, the land situated thereon, and any 151445
surrounding land, which totals approximately 148 acres. 151446

In preparing the deed, the Auditor of State, with the 151447
assistance of the Attorney General, shall develop a legal 151448
description of the property in conformity with the actual bounds 151449
of the real estate. 151450

(3) Consideration for conveyance of the real estate shall be 151451
set forth in the contract awarded to the grantee and shall be paid 151452

in accordance with the terms of the contract. 151453

(4)(a) The deed may contain any restriction that the Director 151454
of Administrative Services and the Director of Rehabilitation and 151455
Correction determine is reasonably necessary to protect the 151456
state's interest in neighboring state-owned land. 151457

(b) The deed also shall contain restrictions prohibiting the 151458
grantee from using, developing, or selling the real estate, or the 151459
correctional facility thereon, except in conformance with the 151460
restriction, or if the use, development, or sale will interfere 151461
with the quiet enjoyment of the neighboring state-owned land. 151462

(5) The real estate shall be sold as an entire tract and not 151463
in parcels. 151464

(6) Upon payment of the purchase price as set forth in the 151465
contract awarded to the grantee, the Auditor of State, with the 151466
assistance of the Attorney General, shall prepare a deed to the 151467
real estate. The deed shall state the consideration and 151468
restrictions and shall be executed by the Governor in the name of 151469
the state, countersigned by the Secretary of State, sealed with 151470
the Great Seal of the State, presented in the Office of the 151471
Auditor of State for recording, and delivered to the grantee. The 151472
grantee shall present the deed for recording in the Office of the 151473
Lorain County Recorder. 151474

(7) The grantee shall pay all costs associated with the 151475
purchase and conveyance of the real estate, including recordation 151476
costs of the deed. 151477

(8) The proceeds of the conveyance of the real estate shall 151478
be deposited into the state treasury to the credit of the Adult 151479
and Juvenile Correctional Facilities Bond Retirement Fund and 151480
shall be used to redeem or defease bonds in accordance with 151481
section 5120.092 of the Revised Code, and any remaining moneys 151482
after such redemption or defeasance shall be transferred in 151483

accordance with that section to the General Revenue Fund. 151484

(9) Division (D) of this section does not restrict the 151485
Department of Rehabilitation and Correction from contracting, not 151486
for the sale of, but only for the private operation and management 151487
of the Grafton Correctional Institution. 151488

(10) Division (D) of this section expires two years after its 151489
effective date. 151490

(E)(1) As used in division (E) of this section, "grantee" 151491
means an entity that has contracted under section 9.06 of the 151492
Revised Code to privately operate the North Coast Correctional 151493
Treatment Facility, if the contract includes the clauses described 151494
in division (B)(2) of this section for the purchase of that 151495
Facility. 151496

(2) The Governor is authorized to execute a deed in the name 151497
of the state conveying to the grantee, its successors and assigns, 151498
all of the right, title, and interest of the state in the North 151499
Coast Correctional Treatment Facility, in the City of Grafton, 151500
County of Lorain, State of Ohio, the land situated thereon, and 151501
any surrounding land, which totals approximately 171 acres. 151502

In preparing the deed, the Auditor of State, with the 151503
assistance of the Attorney General, shall develop a legal 151504
description of the property in conformity with the actual bounds 151505
of the real estate. 151506

(3) Consideration for conveyance of the real estate shall be 151507
set forth in the contract awarded to the grantee and shall be paid 151508
in accordance with the terms of the contract. 151509

(4)(a) The deed may contain any restriction that the Director 151510
of Administrative Services and the Director of Rehabilitation and 151511
Correction determine is reasonably necessary to protect the 151512
state's interest in neighboring state-owned land. 151513

(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land.

(5) The real estate shall be sold as an entire tract and not in parcels.

(6) Upon payment of the purchase price as set forth in the contract awarded to the grantee, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Lorain County Recorder.

(7) The grantee shall pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

(8) The proceeds of the conveyance of the real estate shall be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund and shall be used to redeem or defease bonds in accordance with section 5120.092 of the Revised Code, and any remaining moneys after such redemption or defeasance shall be transferred in accordance with that section to the General Revenue Fund.

(9) Division (E) of this section does not restrict the Department of Rehabilitation and Correction from contracting, not for the sale of, but only for the private operation and management of the North Coast Correctional Treatment Facility.

(10) Division (E) of this section expires two years after its effective date. 151545
151546

(F)(1) As used in division (F) of this section, "grantee" means an entity that has contracted under section 9.06 of the Revised Code to privately operate the North Central Correctional Institution, if the contract includes the clauses described in division (B)(2) of this section for the purchase of that Institution. 151547
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(2) The Governor is authorized to execute a deed in the name of the state conveying to the grantee, its successors and assigns, all of the right, title, and interest of the state in the North Central Correctional Institution, in the City of Marion, County of Marion, State of Ohio, the land situated thereon, and any surrounding land, which totals approximately 152 acres. 151553
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In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the property in conformity with the actual bounds of the real estate. 151559
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(3) Consideration for conveyance of the real estate shall be set forth in the contract awarded to the grantee and shall be paid in accordance with the terms of the contract. 151563
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151565

(4)(a) The deed may contain any restriction that the Director of Administrative Services and the Director of Rehabilitation and Correction determine is reasonably necessary to protect the state's interest in neighboring state-owned land. 151566
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(b) The deed also shall contain restrictions prohibiting the grantee from using, developing, or selling the real estate, or the correctional facility thereon, except in conformance with the restriction, or if the use, development, or sale will interfere with the quiet enjoyment of the neighboring state-owned land. 151570
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(5) The real estate shall be sold as an entire tract and not 151575

in parcels. 151576

(6) Upon payment of the purchase price as set forth in the 151577
contract awarded to the grantee, the Auditor of State, with the 151578
assistance of the Attorney General, shall prepare a deed to the 151579
real estate. The deed shall state the consideration and 151580
restrictions and shall be executed by the Governor in the name of 151581
the state, countersigned by the Secretary of State, sealed with 151582
the Great Seal of the State, presented in the Office of the 151583
Auditor of State for recording, and delivered to the grantee. The 151584
grantee shall present the deed for recording in the Office of the 151585
Marion County Recorder. 151586

(7) The grantee shall pay all costs associated with the 151587
purchase and conveyance of the real estate, including recordation 151588
costs of the deed. 151589

(8) The proceeds of the conveyance of the real estate shall 151590
be deposited into the state treasury to the credit of the Adult 151591
and Juvenile Correctional Facilities Bond Retirement Fund and 151592
shall be used to redeem or defease bonds in accordance with 151593
section 5120.092 of the Revised Code, and any remaining moneys 151594
after such redemption or defeasance shall be transferred in 151595
accordance with that section to the General Revenue Fund. 151596

(9) Division (F) of this section does not restrict the 151597
Department of Rehabilitation and Correction from contracting, not 151598
for the sale of, but only for the private operation and management 151599
of the North Central Correctional Institution. 151600

(10) Division (F) of this section expires two years after its 151601
effective date. 151602

(G)(1)(a) As used in division (G) of this section, "grantee" 151603
means an entity that has contracted under section 9.06 of the 151604
Revised Code to privately operate a facility at the North Central 151605
Correctional Institution Camp, if the contract includes the 151606

clauses described in division (B)(2) of this section for the 151607
purchase of that facility. 151608

(b) Jurisdiction of the facility described in division 151609
(G)(1)(a) of this section, which is a vacated facility previously 151610
operated by the Department of Youth Services adjacent to the North 151611
Central Correctional Institution, is hereby transferred from the 151612
Department of Youth Services to the Department of Rehabilitation 151613
and Correction. The transfer of jurisdiction of that facility is 151614
hereby ratified and approved. 151615

(2) The Governor is authorized to execute a deed in the name 151616
of the state conveying to the grantee, its successors and assigns, 151617
all of the right, title, and interest of the state in the North 151618
Central Correctional Institution Camp, in the City of Marion, 151619
County of Marion, State of Ohio, the land situated thereon, and 151620
any surrounding land, which totals approximately 106 acres. 151621

In preparing the deed, the Auditor of State, with the 151622
assistance of the Attorney General, shall develop a legal 151623
description of the property in conformity with the actual bounds 151624
of the real estate. 151625

(3) Consideration for conveyance of the real estate shall be 151626
set forth in the contract awarded to the grantee and shall be paid 151627
in accordance with the terms of the contract. 151628

(4)(a) The deed may contain any restriction that the Director 151629
of Administrative Services and the Director of Rehabilitation and 151630
Correction determine is reasonably necessary to protect the 151631
state's interest in neighboring state-owned land. 151632

(b) The deed also shall contain restrictions prohibiting the 151633
grantee from using, developing, or selling the real estate, or the 151634
correctional facility thereon, except in conformance with the 151635
restriction, or if the use, development, or sale will interfere 151636
with the quiet enjoyment of the neighboring state-owned land. 151637

(5) The real estate shall be sold as an entire tract and not 151638
in parcels. 151639

(6) Upon payment of the purchase price as set forth in the 151640
contract awarded to the grantee, the Auditor of State, with the 151641
assistance of the Attorney General, shall prepare a deed to the 151642
real estate. The deed shall state the consideration and 151643
restrictions and shall be executed by the Governor in the name of 151644
the state, countersigned by the Secretary of State, sealed with 151645
the Great Seal of the State, presented in the Office of the 151646
Auditor of State for recording, and delivered to the grantee. The 151647
grantee shall present the deed for recording in the Office of the 151648
Marion County Recorder. 151649

(7) The grantee shall pay all costs associated with the 151650
purchase and conveyance of the real estate, including recordation 151651
costs of the deed. 151652

(8) The proceeds of the conveyance of the real estate shall 151653
be deposited into the state treasury to the credit of the Adult 151654
and Juvenile Correctional Facilities Bond Retirement Fund and 151655
shall be used to redeem or defease bonds in accordance with 151656
section 5120.092 of the Revised Code, and any remaining moneys 151657
after such redemption or defeasance shall be transferred in 151658
accordance with that section to the General Revenue Fund. 151659

(9) Division (G) of this section does not restrict the 151660
Department of Rehabilitation and Correction from contracting, not 151661
for the sale of, but only for the private operation and management 151662
of the North Central Correctional Institution Camp. 151663

(10) Division (G) of this section expires two years after its 151664
effective date. 151665

Section 753.20. (A) The Governor is authorized to execute a 151666
deed in the name of the state conveying to the Ripley Union Lewis 151667

Huntington School District, its successors and assigns, all of the state's right, title, and interest in the following described real estate:

I

Starting at a 5/8" iron pin found on the southerly right-of-way line of Outer Drive, the northeasterly line of Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the northwesterly corner of L.J. Germann's Addition as recorded in Plat Book C-3, page 204, slide 213 in the Brown County, Ohio Recorder's Office;

Thence with the southerly right-of-way line of said Outer Drive and with the northerly line of said Farnbach and Pfeffer for the next four (4) courses;

South 63 degrees 34 minutes 18 seconds West a distance of 24.20 feet;

South 79 degrees 33 minutes 23 seconds West a distance of 92.60 feet;

South 75 degrees 58 minutes 20 seconds West a distance of 347.02 feet;

South 84 degrees 53 minutes 30 seconds West a distance of 10.54 feet;

Thence with a line through the land of said Farnbach and Pfeffer for the next two (2) courses:

South 21 degrees 11 minutes 23 seconds West a distance of 43.58 feet;

South 0 degrees 25 minutes 20 seconds West a distance of 586.49 feet to a point on the southerly line of said Farnbach and Pfeffer and on the northerly line of Michael Ray Schwallie;

Thence with a line through the land of said Schwallie for the

next two (2) courses: 151697

South 0 degrees 25 minutes 20 seconds West a distance of 151698
227.62 feet; 151699

South 35 degrees 47 minutes 10 seconds East a distance of 151700
523.46 feet to a point on the southerly line of said Schwallie and 151701
on the northerly line of the State of Ohio; 151702

Thence with a line through the land of said State of Ohio 151703
three (3) courses: 151704

South 35 degrees 47 minutes 10 seconds East a distance of 151705
29.17 feet; 151706

South 6 degrees 22 minutes 58 seconds West a distance of 151707
29.21 feet; 151708

South 51 degrees 22 minutes 58 seconds West a distance of 151709
583.46 feet and *the true point of beginning*; 151710

Thence from said *true point of beginning* and through the land 151711
of said State of Ohio for the next five (5) courses: 151712

On a curve to the left having a radius of 300.00 feet, an 151713
interior angle of 37 degrees 00 minutes 54 seconds, an arc length 151714
of 193.81 feet, a chord bearing of South 76 degrees 58 minutes 37 151715
seconds East for a chord length of 190.46 feet; 151716

South 58 degrees 28 minutes 11 seconds East a distance of 151717
284.98 feet; 151718

On a curve to the left having a radius of 300.00 feet, an 151719
interior angle of 180 degrees 00 minutes 00 seconds, an arc length 151720
of 942.48 feet, a chord bearing of South 31 degrees 31 minutes 49 151721
seconds West for a chord length of 600.00 feet; 151722

North 58 degrees 28 minutes 11 seconds West a distance of 151723
284.98 feet; 151724

On a curve to the right having a radius of 300.00 feet, an 151725

interior angle of 142 degrees 59 minutes 08 seconds, an arc length 151726
of 748.67 feet, a chord bearing of North 13 degrees 01 minutes 23 151727
seconds East for a chord length of 568.97 feet and CONTAINING 151728
3.925 Acres 151729

This description was prepared by Christopher S. Renshaw, 151730
P.S., Ohio Registration No. 8319 on 16 October 2009. 151731

II 151732

Starting at 5/8" iron pin found on the southerly right-of-way 151733
line of Outer Drive, the northeasterly corner of Edward and Eva K. 151734
Farnbach and Michael S. Pfeffer, Trustee at the northwesterly 151735
corner of L.J. Germann's Addition as recorded in Plat Book C-3, 151736
page 204, slide 213 in the Brown County, Ohio Recorder's Office; 151737

Thence with the southerly right-of-way line of Outer Drive 151738
and with the northerly line of Edward and Eva K. Farnbach, etal 151739
for the next three (3) courses: 151740

South 63 degrees 34 minutes 18 seconds West a distance of 151741
24.20 feet; 151742

South 79 degrees 33 minutes 23 seconds West a distance of 151743
92.60 feet; 151744

South 75 degrees 58 minutes 20 seconds West a distance of 151745
340.45 feet; 151746

Thence through the land of said Farnbach for the next two (2) 151747
courses: 151748

South 21 degrees 11 minutes 23 seconds West a distance of 151749
49.42 feet; 151750

South 0 degrees 25 minutes 20 seconds West a distance of 151751
571.70 feet to a point on the southerly line of said Farnbach and 151752
on the northerly line of Michael Ray Schwallie; 151753

Thence through the land of said Schwallie for the next two 151754
(2) courses: 151755

South 0 degrees 25 minutes 20 seconds West a distance of 151756
234.76 feet; 151757

South 35 degrees 47 minutes 10 seconds East a distance of 151758
518.08 feet to a point on the southerly line of said Schwallie and 151759
on the northerly line of the State of Ohio and *the true point of* 151760
beginning; said point being on the easterly line of said real 151761
estate; 151762

Thence from said *the true point of beginning* and with a line 151763
through the land of said State of Ohio seven (7) courses: 151764

South 35 degrees 47 minutes 10 seconds East a distance of 151765
35.43 feet; 151766

South 6 degrees 22 minutes 58 seconds West a distance of 151767
41.21 feet; 151768

South 51 degrees 22 minutes 58 seconds West a distance of 151769
568.72 feet; 151770

On a curve to the left having a radius of 300.00 feet, an 151771
interior angle of 20 degrees 37 minutes 27 seconds, an arc length 151772
of 107.99 feet, a chord bearing of South 79 degrees 07 minutes 37 151773
seconds West for a chord length of 107.41 feet; 151774

North 51 degrees 22 minutes 58 seconds East a distance of 151775
643.06 feet; 151776

North 6 degrees 22 minutes 57 seconds East a distance of 1.22 151777
feet; 151778

North 35 degrees 47 minutes 10 seconds West a distance of 151779
14.58 feet to a point on the southerly line of said Schwallie and 151780
on the northerly line of said State of Ohio; 151781

Thence with the southerly line of said Schwallie and on the 151782
northerly line of said State of Ohio North 52 degrees 24 minutes 151783
43 seconds East a distance of 50.02 feet to the place of beginning 151784
and CONTAINING 0.740 Acres. 151785

This description was prepared by Christopher S. Renshaw, 151786
P.S., Ohio Registration No. 8319 on 16 October 2009. 151787

III 151788

Starting at a 5/8" iron pin found on the southerly 151789
right-of-way line of Outer Drive, the northeasterly corner of 151790
Edward and Eva K. Farnbach and Michael S. Pfeffer, Trustee at the 151791
northwesterly corner of L.J. Germann's Addition as recorded in 151792
Plat Book C-3, page 204, slide 213 in the Brown County, Ohio 151793
Recorder's Office; 151794

Thence with the southerly right-of-way line of said Outer 151795
Drive and with the northerly line of said Farnbach and Pfeffer for 151796
the next four (4) courses: 151797

South 63 degrees 34 minutes 18 seconds West a distance of 151798
24.20 feet; 151799

South 79 degrees 33 minutes 23 seconds West a distance of 151800
92.60 feet; 151801

South 75 degrees 58 minutes 20 seconds West a distance of 151802
347.02 feet; 151803

South 84 degrees 53 minutes 30 seconds West a distance of 151804
10.54 feet; 151805

Thence with a line through the land of said Farnbach and 151806
Pfeffer for the next two (2) courses: 151807

South 21 degrees 11 minutes 23 seconds West a distance of 151808
43.58 feet; 151809

South 0 degrees 25 minutes 20 seconds West a distance of 151810
586.49 feet to a point on the southerly line of said Farnbach 151811
Pfeffer and on the northerly line of Michael Ray Schwallie; 151812

Thence with a line through the land of said Schwallie for the 151813
next two (2) courses: 151814

South 0 degrees 25 minutes 20 seconds West a distance of 151815

227.62 feet; 151816

South 35 degrees 47 minutes 10 seconds East a distance of 151817
523.46 feet to a point on the southerly line of said Schwallie and 151818
on the northerly line of the State of Ohio and *the true point of* 151819
beginning, said beginning point being on the easterly line of said 151820
real estate; 151821

Thence from said *the true point of beginning* and with a line 151822
through the land of said State of Ohio seven (7) courses: 151823

South 35 degrees 47 minutes 10 seconds East a distance of 151824
29.17 feet; 151825

South 6 degrees 22 minutes 58 seconds West a distance of 151826
29.21 feet; 151827

South 51 degrees 22 minutes 58 seconds West a distance of 151828
583.46 feet; 151829

On a curve to the left having a radius of 300.00 feet, an 151830
interior angle of 7 degrees 49 minutes 53 seconds, an arc length 151831
of 41.01 feet, a chord bearing of South 80 degrees 35 minutes 59 151832
seconds West for a chord length of 40.97 feet; 151833

North 51 degrees 22 minutes 58 seconds East a distance of 151834
610.94 feet; 151835

North 6 degrees 22 minutes 58 seconds East a distance of 151836
13.22 feet; 151837

North 35 degrees 47 minutes 10 seconds West a distance of 151838
20.83 feet to a point on the southerly line of said Schwallie and 151839
on the northerly line of said State of Ohio; 151840

Thence with the southerly line of said Schwallie and on the 151841
northerly line of said State of Ohio North 52 degrees 24 minutes 151842
43 seconds East a distance of 20.01 feet to the place of beginning 151843
and CONTAINING 0.295 Acres. 151844

This description was prepared by Christopher S. Renshaw, 151845

P.S., Ohio Registration No. 8319 on 16 October 2009. 151846

IV 151847

Starting at a spike found in the centerline of U.S. Route No. 151848
52, 62 & 68, at the southeasterly corner of Surgical Appliance 151849
Industries, Inc.'s 2.00 Acre tract as recorded in Deed Book 164, 151850
page 778 in the Brown County, Ohio Recorder's Office; 151851

Thence with the line of said Surgical Appliance Industries, 151852
Inc. South 52 degrees 38 minutes 52 seconds West a distance of 151853
80.00 feet to a point on the on the southerly right-of-way line of 151854
said U.S. Route No. 52, 62 & 68; 151855

Thence with the southerly right-of-way line of said U.S. 151856
Route No. 52, 62 & 68 South 36 degrees 23 minutes 01 seconds East 151857
a distance of 19.72 feet to *the true point of beginning*; 151858

South 52 degrees 41 minutes 03 seconds West a distance of 151859
260.37 feet; 151860

South 49 degrees 59 minutes 41 seconds West a distance of 151861
179.65 feet; 151862

On a curve to the left having a radius of 200.00 feet, an 151863
interior angle of 43 degrees 45 minutes 50 seconds, an arc length 151864
of 152.76 feet, a chord bearing of South 28 degrees 06 minutes 46 151865
seconds West for a chord length of 149.08 feet; 151866

South 6 degrees 13 minutes 51 seconds West a distance of 151867
204.40 feet; 151868

On a curve to the left having a radius of 100.00 feet, an 151869
interior angle of 44 degrees 44 minutes 55 seconds, an arc length 151870
of 78.10 feet, a chord bearing of South 16 degrees 08 minutes 36 151871
seconds East for a chord length of 76.13 feet; 151872

South 38 degrees 31 minutes 04 seconds East a distance of 151873
266.21 feet; 151874

On a curve to the left having a radius of 50.00 feet, an 151875

interior angle of 53 degrees 35 minutes 34 seconds, an arc length 151876
of 46.77 feet, a chord bearing of South 65 degrees 18 minutes 51 151877
seconds East for a chord length of 45.08 feet; 151878

North 87 degrees 53 minutes 23 seconds East a distance of 151879
6.15 feet; 151880

On a curve to the right having a radius of 12.50 feet, an 151881
interior angle of 143 degrees 13 minutes 01 seconds, an arc length 151882
of 31.25 feet, a chord bearing of South 20 degrees 30 minutes 07 151883
seconds East for a chord length of 23.72; 151884

South 51 degrees 40 minutes 10 seconds West a distance of 151885
345.58 feet; 151886

On a curve to the left having a radius of 125.00 feet, an 151887
interior angle of 43 degrees 33 minutes 25 seconds, an arc length 151888
of 95.03 feet, a chord bearing of South 29 degrees 53 minutes 28 151889
seconds West for a chord length of 92.75 feet; 151890

South 8 degrees 06 minutes 45 seconds West a distance of 151891
65.53 feet; 151892

On a curve to the right have a radius of 63.00 feet, an 151893
interior angle of 91 degrees 48 minutes 38 seconds, an arc length 151894
of 100.95 feet, a chord bearing of South 54 degrees 01 minutes 04 151895
seconds West for a chord length of 90.49 feet; 151896

North 80 degrees 04 minutes 37 seconds West a distance of 151897
579.25 feet; 151898

On a curve to the right having a radius of 150.00 feet, an 151899
interior angle of 26 degrees 20 minutes 16 seconds, an arc length 151900
of 68.95 feet, a chord bearing of North 66 degrees 54 minutes 29 151901
seconds West for a chord length of 68.35 feet; 151902

North 53 degrees 44 minutes 21 seconds West a distance of 151903
229.52 feet; 151904

North 46 degrees 10 minutes 36 seconds West a distance of 151905

25.00 feet;	151906
North 52 degrees 49 minutes 16 seconds West a distance of	151907
55.12 feet;	151908
On a curve to the left having a radius of 205.00 feet, an	151909
interior angle of 75 degrees 47 minutes 45 seconds, an arc length	151910
of 271.19 feet, a chord bearing of South 89 degrees 16 minutes 52	151911
seconds West for a chord length of 251.85 feet;	151912
South 51 degrees 22 minutes 58 seconds West a distance of	151913
139.29 feet;	151914
On a curve to the left having a radius of 55.00 feet, an	151915
interior angle of 105 degrees 02 minutes 01 seconds, an arc length	151916
of 100.83 feet, a chord bearing of South 01 degrees 08 minutes 03	151917
seconds East for a chord length of 87.29 feet;	151918
South 53 degrees 39 minutes 03 seconds East a distance of	151919
447.62 feet;	151920
North 53 degrees 39 minutes 03 seconds West a distance of	151921
447.62 feet;	151922
On a curve to the right having a radius of 55.00 feet, an	151923
interior angle of 105 degrees 02 minutes 01 seconds, an arc length	151924
of 100.83 feet, a chord bearing of North 01 degrees 08 minutes 03	151925
seconds West for a chord length of 87.29 feet;	151926
North 51 degrees 22 minutes 58 seconds East a distance of	151927
139.29 feet;	151928
On a curve to the right having a radius of 205.00 feet, an	151929
interior angle of 75 degrees 47 minutes 45 seconds, an arc length	151930
of 271.19 feet, a chord bearing of North 89 degrees 16 minutes 52	151931
seconds East for a chord length of 251.85 feet;	151932
South 52 degrees 49 minutes 16 seconds East a distance of	151933
55.12 feet;	151934
South 46 degrees 10 minutes 36 seconds East a distance of	151935

25.00 feet;	151936
South 53 degrees 44 minutes 21 seconds East a distance of	151937
229.52 feet;	151938
On a curve to the left having a radius of 150.00 feet, an	151939
interior angle of 26 degrees 20 minutes 16 seconds, an arc length	151940
of 68.95 feet, a chord bearing of South 66 degrees 54 minutes 29	151941
seconds East for a chord length of 68.35 feet;	151942
South 80 degrees 04 minutes 37 seconds East a distance of	151943
579.25 feet;	151944
On a curve to the left having a radius of 63.00 feet, an	151945
interior angle of 91 degrees 48 minutes 38 seconds, an arc length	151946
of 100.95 feet, a chord bearing of North 54 degrees 01 minutes 04	151947
seconds East for a chord length of 90.49 feet;	151948
North 8 degrees 06 minutes 45 seconds East a distance of	151949
65.53 feet;	151950
On a curve to the right having a radius of 125.00 feet, an	151951
interior angle of 43 degrees 33 minutes 25 seconds, an arc length	151952
of 95.03 feet, a chord bearing of North 29 degrees 53 minutes 28	151953
seconds East for a chord length of 92.75 feet;	151954
North 51 degrees 40 minutes 10 seconds East a distance of	151955
345.58 feet;	151956
North 51 degrees 06 minutes 24 seconds East a distance of	151957
242.53 feet;	151958
On a curve to the left having a radius of 75.00 feet, an	151959
interior angle of 89 degrees 40 minutes 16 seconds, an arc length	151960
of 117.38 feet, a chord bearing of North 06 degrees 16 minutes 16	151961
seconds East for a chord length of 105.76 feet;	151962
North 38 degrees 33 minutes 52 seconds West a distance of	151963
100.75 feet;	151964
North 53 degrees 36 minutes 14 seconds East a distance of	151965

396.32 feet. 151966

This description was prepared by Christopher S. Renshaw, 151967
P.S., Ohio Registration No. 8319 on 16 October 2009. 151968

(B) Consideration for conveyance of the real estate is the 151969
mutual benefit accruing to the state and the Ripley Union Lewis 151970
Huntington School District from the use of the real estate so that 151971
a water well may be constructed and operated. 151972

(C) The Ripley Union Lewis Huntington School District shall 151973
use the real estate to construct and operate a water well. If the 151974
Ripley Union Lewis Huntington School District ceases to use the 151975
real estate to construct and operate a water well, all right, 151976
title, and interest in the real estate immediately reverts to the 151977
state without the need for any further action by the state. 151978

(D) The Ripley Union Lewis Huntington School District shall 151979
pay the costs of the conveyance. 151980

(E) Within thirty days after the effective date of this 151981
section, the Auditor of State, with the assistance of the Attorney 151982
General, shall prepare a deed to the real estate. The deed shall 151983
state the consideration and the condition. The deed shall be 151984
executed by the Governor in the name of the state, countersigned 151985
by the Secretary of State, sealed with the Great Seal of the 151986
State, presented in the office of the Auditor of State for 151987
recording, and delivered to the Ripley Union Lewis Huntington 151988
School District. The Ripley Union Lewis Huntington School District 151989
shall present the deed for recording in the office of the Brown 151990
County Recorder. 151991

(F) This section expires one year after its effective date. 151992

Section 753.23. (A) The Governor is authorized to execute a 151993
deed in the name of the state (Kent State University) conveying to 151994
the Board of Township Trustees of Jackson Township in Stark County 151995

and its successors and assigns all of the state's right, title, 151996
and interest in the following described real estate: 151997

Known as and being a part of the Southeast and Southwest 151998
Quarters of Section 13, Township 11 (Jackson) R-9, County of 151999
Stark, State of Ohio. Also being a part of tracts of land conveyed 152000
to the state of Ohio as recorded in Deed Volume 3109, Page 573 of 152001
the records of Stark County and being more fully bounded and 152002
described as follows: 152003

Commencing at a hex head iron bar in a monument box (JAC 152004
080), being the southeast corner of said Southwest Quarter of 152005
Section 13 and also being an angle point on the centerline of 152006
Dressler Road (C.R. 224) (Variable Width) as recorded in file 106 152007
of the Stark County Engineers Office; 152008

Thence, along the centerline of Dressler Road, N 1803'31" E a 152009
distance of 223.09 feet to the True Place of beginning for the 152010
parcel herein described; 152011

1. Thence N 56°56'23" W a distance of 241.46 feet to a 5/8" 152012
rebar set, said line passes over a 5/8" rebar set at 41.41 feet; 152013

2. Thence N 01°44'30" W a distance of 230.40 feet to a 5/8" 152014
rebar set; 152015

3. Thence N 67°27'21" E a distance of 150.00 feet to a 5/8" 152016
rebar set; 152017

4. Thence S 63°25'06" E a distance of 199.60 feet to a point 152018
in the centerline of Dressler Road, said line passes over a 5/8" 152019
rebar set at 159.15 feet; 152020

5. Thence, along the centerline of Dressler Road, S 18°03'31" 152021
W a distance of 347.32 feet to the true place of beginning and 152022
containing 2.025 acres of land, more or less of which 0.970 acres 152023
are located in the Southeast Quarter of Section 13 and 1.055 acres 152024
are located in the Southwest Quarter of Section 13. 152025

The above described area is contained within the Stark County Auditor's Permanent Parcel Numbers 1680061 and 1680066. 152026
152027

The basis of bearings in this description is based on the Ohio North Zone, State Plane Coordinates NAD 83 (86). 152028
152029

The statement of "5/8" rebar Set" refers to a 5/8" x 30" Dia. Rebar set with a plastic i.d. cap stamped "SCE". 152030
152031

This description was prepared and reviewed by Daniel J. Houck, Professional Surveyor No. 7851 in March of 2010, of the Stark County Engineer's Office. This description is based on a survey made by the Stark County Engineer's Office in March of 2010, under the direction and supervision of Keith A. Bennett, Professional Surveyor No. 7615. (Attachment A) 152032
152033
152034
152035
152036
152037

(B) Consideration for conveyance of the real estate is the mutual benefit accruing to the state from Jackson Township's use of the real estate for a fire station. 152038
152039
152040

(C) If the use of the real estate as a fire station is discontinued, the real estate reverts to Kent State University, and Jackson Township shall raze the building currently on the real estate and remove from the real estate any contaminants relating to the building's use as a fire station. 152041
152042
152043
152044
152045

(D) The Board of Township Trustees of Jackson Township in Stark County shall pay the costs of the conveyance. 152046
152047

(E) The Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and the reverter. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the Board of Township Trustees of Jackson Township in Stark County. The Board of Township Trustees of Jackson Township in Stark County shall present the deed for 152048
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recording in the Office of the Stark County Recorder. 152057

(F) This section expires one year after its effective date. 152058

Section 753.25. (A) The Governor is authorized to execute a 152059
deed in the name of the state conveying to the Board of County 152060
Hospital Trustees of The MetroHealth System ("MetroHealth"), in 152061
the name of the County of Cuyahoga, State of Ohio, its successors 152062
and assigns, all of the state's right, title, and interest in the 152063
following listed parcels of real estate located in the County of 152064
Cuyahoga, State of Ohio: 00821- 008, 00821-009, 00821-010, 152065
00821-011, 00821-012, 00821-013, 00821-014, 00821-015, 00821-016, 152066
and 00821-017. 152067

In preparing the deed, the Auditor of State, with the 152068
assistance of the Attorney General, shall develop a legal 152069
description of the real estate in conformity with the actual 152070
bounds of the real estate. 152071

(B) Consideration for conveyance of the real estate shall be 152072
ten dollars. 152073

(C) The state shall convey the real estate described in 152074
division (A) of this section together with the building situated 152075
upon it, along with the amount of \$3,400,000 to demolish the 152076
building. Notwithstanding any provision of law to the contrary, 152077
the Director of Mental Health shall disburse \$3,400,000 from 152078
appropriation item C58010, Campus Consolidation, as set forth in 152079
Sub. H.B. 462 of the 128th General Assembly, to the grantee within 152080
thirty days after the conveyance of the real estate. After the 152081
disbursement, the state shall, within four months, complete a 152082
physical inventory of assets, relocate assets that are to be 152083
removed from the building, and itemize assets that are to remain 152084
with the transferred real estate and building. 152085

(D) The real estate described in division (A) of this section 152086

shall be sold as an entire tract and not in parcels. 152087

(E) The grantee shall pay all costs associated with the 152088
purchase and conveyance of the real estate, including costs of any 152089
surveys and recordation costs of the deed. 152090

(F) The grantee shall not, during any period that any bonds 152091
issued by the state to finance or refinance all or a portion of 152092
the real estate described in division (A) of this section are 152093
outstanding, use any portion of the real estate for a private 152094
business use without the prior written consent of the state. As 152095
used in this division: 152096

(1) "Private business use" means use, directly or indirectly, 152097
in a trade or business carried on by any private person other than 152098
use as a member of, and on the same basis as, the general public. 152099
Any activity carried on by a private person who is not a natural 152100
person shall be presumed to be a trade or business. 152101

(2) "Private person" means any natural person or any 152102
artificial person, including a corporation, partnership, limited 152103
liability company, trust, or other entity and including the United 152104
States or any agency or instrumentality of the United States, but 152105
excluding any state, territory, or possession of the United 152106
States, the District of Columbia, or any political subdivision 152107
thereof that is referred to as a "state or local governmental 152108
unit" in Treasury Regulation 1.103-1(a) and any person that is 152109
acting solely and directly as an officer or employee of or on 152110
behalf of such a governmental unit. 152111

(G) The grantee shall not sell, convey, or transfer ownership 152112
of the real estate described in division (A) of this section 152113
before December 1, 2019, or before receiving written confirmation 152114
from the state that all of the state's bonded capital indebtedness 152115
associated with any of the buildings located on the real estate 152116
has been fully satisfied. 152117

(H) The Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate. The deed shall state the consideration and the conditions and restrictions and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Cuyahoga County Recorder.

(I) This section expires one year after its effective date.

Section 753.27. (A) The Governor is authorized to execute a deed in the name of the state, on behalf of Cleveland State University, conveying to a purchaser as yet to be determined (hereinafter the "grantee"), its heirs and assigns or its successors and assigns, all of the state's right, title, and interest in the real estate located at 21425 Shelburne Road, City of Shaker Heights, County of Cuyahoga, State of Ohio, such real estate consisting of the building formerly used as the residence for the President of Cleveland State University, and the land on which it is situated.

(B) In preparing the deed, the Auditor of State, with the assistance of the Attorney General, shall develop a legal description of the real estate in conformity with the actual bounds of the real estate.

(C) Consideration for conveyance of the real estate shall be as is agreed upon by Cleveland State University and the grantee.

(D) The deed may contain any condition or restriction that the Governor or Cleveland State University determines is reasonably necessary to protect the state's interests.

(E) The grantee shall pay all costs associated with the

conveyance, including recordation costs of the deed. 152148

(F) Upon payment of the purchase price, the Auditor of State, 152149
with the assistance of the Attorney General, shall prepare a deed 152150
to the real estate. The deed shall state the consideration and any 152151
conditions or restrictions and shall be executed by the Governor 152152
in the name of the state, countersigned by the Secretary of State, 152153
sealed with the Great Seal of the State, presented in the Office 152154
of the Auditor of State for recording, and delivered to the 152155
grantee. The grantee shall present the deed for recording in the 152156
Office of the Cuyahoga County Recorder. 152157

(G) This section expires one year after its effective date. 152158

Section 753.30. (A) The Governor is authorized to execute a 152159
deed in the name of the state conveying to a buyer or buyers to be 152160
determined in the manner provided in division (B) of this section 152161
all of the state's right, title, and interest in real estate 152162
situated in the Township of Green, County of Scioto, and State of 152163
Ohio that the Director of Administrative Services determines is no 152164
longer required for state purposes and more particularly described 152165
as follows: 152166

Being part of French Grant Lots 15 and 16 and being part of 152167
Site No. 5 and part of Site No. 6 of the Greater Portsmouth Area 152168
Industrial Park Subdivision and being part of the Greater 152169
Portsmouth Growth Corporation parcel as recorded in Volume 658 at 152170
Page 489 among the land records of Scioto County, Ohio, and 152171
beginning at a 1" diameter iron pipe with cap set in the east 152172
right-of-way line of Old U.S. 52 County Road No. 1, said point 152173
being, North 10° 49' 47" West, 391.16 feet from a concrete 152174
monument found marking the northwest corner of the Ohio Power 152175
Company parcel as recorded in Volume 719 at Page 227 among the 152176
said land records of Scioto County, Ohio; 152177

Thence with the said east right-of-way line of Old U.S. 52 152178

County Road No. 1, North 10° 49' 47" West 810.88 feet to a 1" diameter iron pipe with cap set; 152179
152180

Thence through the said Greater Portsmouth Growth Corporation parcel, North 66° 38' 51" East, 1039.14 feet to a 1" diameter iron pipe with cap set in the west right-of-way line of the Norfolk & Southern Railroad; 152181
152182
152183
152184

Thence with the said west right-of-way line of the Norfolk & Southern Railroad, South 29° 36' 10" East, passing a 1" diameter iron pipe with cap set at 1414.00 feet, a total distance of 1415.00 feet to a 30" diameter oak marking the northeast corner of Plymouth Heights No. 1 as recorded in Plat Book 4 at Page 6 among the said land records of Scioto County, Ohio; 152185
152186
152187
152188
152189
152190

Thence with the north line of the said Plymouth Heights No. 1, South 66° 38' 51" West, passing a 1" diameter iron pipe with cap set at 3.00 feet, a total distance of 1170.02 feet to a 1" diameter iron pipe with cap set marking the southeast corner of the said Ohio Power Company parcel; 152191
152192
152193
152194
152195

Thence with the east line of the said Ohio Power Company parcel and through the said Greater Portsmouth Growth Corporation parcel, North 23° 21' 09" West, passing the northeast corner of the said Ohio Power Company parcel at 233.14 feet, a total distance of 615.00 feet to a 1" diameter iron pipe with cap set; 152196
152197
152198
152199
152200

Thence continuing through the said Greater Portsmouth Growth Corporation parcel, South 66° 38' 51" West, 199.00 feet to the point of beginning. Containing a total of 37.312 acres of land of which 27.628 acres lies within Site No, 5 of the said Greater Portsmouth Area Industrial Park Subdivision and 9.684 acres lies within Site No. 6 of said Greater Portsmouth Area Industrial Park Subdivision. 152201
152202
152203
152204
152205
152206
152207

Subject to all legal easements. 152208

Bearings oriented to State Plane Coordinates. 152209

Excepting from the above described 37.312 acre parcel the 152210
following 1.148 acre City of Portsmouth parcel. 152211

Situate in the Township of Green, County of Scioto, State of 152212
Ohio, and being a part of a 37.312 acre parcel of land conveyed to 152213
the State of Ohio, by and through the Department of Administrative 152214
Services for the use of the Department of Youth Services, by deed 152215
of record in Deed Book 875, Page 128, this and all subsequent deed 152216
and plat references made being to the records of the Recorder's 152217
Office, Scioto County, Ohio, and being more particularly described 152218
as follows: 152219

Beginning at an iron pin called for and found at the 152220
southerly corner of the aforementioned 37.312 acre parcel, said 152221
iron pin also being the easterly corner of a parcel of land 152222
conveyed to the Ohio Power Company in Deed Book 719, Page 227, and 152223
said iron pin in the northerly line of the Plymouth Heights No. I 152224
Subdivision, of record in Plat Book 4, Page 6, being the true 152225
point of beginning of the proposed water storage, tank site being 152226
described; 152227

Thence, North 23° 21' 09" West, with the westerly line of the 152228
said 37.312 acre parcel, and the easterly line of the Ohio Power 152229
Company, and the easterly line of a 2.116 acre parcel conveyed to 152230
Mike Holtzapfel in Deed Book 905, Page 244, a distance of 258.14 152231
feet to an iron pin set, passing a concrete monument called for 152232
but not found at the northeasterly corner of the Ohio Power 152233
Company, and the southeasterly corner of Holtzapfel, at 233.14 152234
feet; 152235

Thence, North 66° 38' 51" East, leaving the said westerly 152236
line, a distance of 193.69 feet to an iron pin set; 152237

Thence, South 23° 21' 09" East a distance of 258.14 feet to 152238
an iron pin set in the southerly line of the said 37.312 acre 152239
parcel, and the northerly line of the Plymouth Heights No. 1 152240

Subdivision; 152241

Thence, South 66° 38' 51" West, with the southerly line of 152242
the said 37.312 acre parcel, and the northerly line of said 152243
Plymouth Heights No. 1, a distance of 193.69 feet to the true 152244
point of beginning of the parcel being described. The parcel, as 152245
described above, contains 1.148 acres, more or less, of which the 152246
southerly fifty feet, or 0.222 acres is an Ohio Power Company 152247
easement, of record in Deed Book 719, Page 229. 152248

Iron pins set are five eighths inch diameter rebar, thirty 152249
inches long, set flush to the surface with yellow identification 152250
caps. The basis for bearing is the southerly line of the said 152251
37.312 acre parcel, which bears South 66' 38' 51" West. 152252

The above description was prepared by Roger M. Smith, P.S., 152253
P.E., Ohio Registered Surveyor, S-6899. 152254

This description may be modified to a final form if 152255
modifications are needed. 152256

The real property described above is conveyed subject to all 152257
easements, covenants, conditions, and restrictions of record; all 152258
legal highways; zoning, building and other laws, ordinances, and 152259
regulations; and real estate taxes and assessments not yet due and 152260
payable. 152261

(B)(1) The Director of Administrative Services shall offer 152262
the real estate, improvements and chattels located on the parcel 152263
described in division (A) of this section for sale "as is" in its 152264
present condition according to the following process: 152265

The real estate described in division (A) of this section 152266
shall be sold as an entire parcel and not subdivided. 152267

The Director of Administrative Services shall conduct a 152268
sealed bid sale and the real estate shall be sold to the highest 152269
bidder at a price acceptable to both the Director of 152270

Administrative Services and the Director of Youth Services. 152271

(2) The contract for sale of the real estate described in 152272
division (A) of this section shall include a condition that 152273
requires the purchaser to provide preferential hiring treatment to 152274
employees or former employees of the Department of Youth Services 152275
in order to retain or rehire staff displaced as a result of the 152276
closure of the facility located on the property, to the extent the 152277
purchaser's use of the facility requires employees in the same or 152278
similar positions as those displaced as a result of the closure. 152279

The contract for sale also shall include a binding commitment 152280
that irrevocably grants to the state a right, upon the occurrence 152281
of any triggering event described in division (B)(2)(a) or (b) of 152282
this section and in accordance with the particular division, to 152283
repurchase the facility and the real property on which it is 152284
situated, any surrounding land that is to be transferred under the 152285
contract, or both the facility and real property on which it is 152286
situated plus the surrounding land that is to be transferred under 152287
the contract. The triggering events and the procedures for a 152288
repurchase under the irrevocable grant described in this division 152289
are as follows: 152290

(a) Before the purchaser, or the purchaser's successor in 152291
title, may resell or otherwise transfer the facility and the real 152292
property on which it is situated, any surrounding land that is to 152293
be transferred under the contract, or both the facility and real 152294
property on which it is situated plus the surrounding land that is 152295
to be transferred under the contract, the purchaser or successor 152296
first must offer the state the opportunity to repurchase the 152297
facility, real property, and surrounding land that is to be resold 152298
or transferred for a price not greater than the purchase price 152299
paid to the state for that facility, real property, or surrounding 152300
land, less depreciation from the time of the conveyance of that 152301
facility, real property, or surrounding land to the purchaser, 152302

plus the depreciated value of any capital improvements to that 152303
facility, real property, or surrounding land that were made to it 152304
and funded by anyone other than the state subsequent to the 152305
conveyance to the purchaser. The repurchase opportunity described 152306
in this division must be offered to the state at least one hundred 152307
twenty days before the purchaser intends to resell or otherwise 152308
transfer the facility, real property, or surrounding land that is 152309
to be resold or transferred. After being offered the repurchase 152310
opportunity, the state has the right to repurchase the facility, 152311
real property, and surrounding land that is to be resold or 152312
otherwise transferred for the price described in this division. 152313

(b) Upon the purchaser's default of any financial agreement 152314
for the purchase of the facility and the real property on which it 152315
is situated, any surrounding land that is to be transferred under 152316
the contract, or both the facility and real property on which it 152317
is situated plus the surrounding land that is to be transferred 152318
under the contract, upon the purchaser's default of any other term 152319
in the contract, or upon the purchaser's financial insolvency or 152320
inability to meet its contractual obligations, the state has the 152321
right to repurchase the facility and real property, the 152322
surrounding land, or both the facility and real property and the 152323
surrounding land, for a price not greater than the purchase price 152324
paid to the state for that facility, real property, or surrounding 152325
land, less depreciation from the time of the conveyance of that 152326
facility, real property, or surrounding land to the purchaser, 152327
plus the depreciated value of any capital improvements to that 152328
facility, real property, or surrounding land that were made to it 152329
and funded by anyone other than the state subsequent to the 152330
conveyance to the purchaser. 152331

(3) The Director of Administrative Services shall advertise 152332
the sealed bid sale in a newspaper of general circulation within 152333
Scioto County once a week for three consecutive weeks prior to the 152334

date of the sealed bid sale. The Director of Administrative Services may reject any and all bids from the sealed bid sale. The terms of sale shall be ten per cent of the purchase price in cash, bank draft, or certified check payable within five business days following written notification of the acceptance of the bid by the Director of Administrative Services, with the balance payable within sixty days after the date of the written notification of the acceptance of the bid by the Director of Administrative Services. A purchaser who does not complete the conditions of the sale as prescribed in this division shall forfeit the ten per cent of the purchase price paid to the state as liquidated damages. Should a purchaser not complete the conditions of sale as described in this division, the Director of Administrative Services is authorized to accept the next highest bid by collecting ten per cent of the revised purchase price from that bidder and to proceed to close the sale, provided that the secondary bid meets all other criteria provided for in this section. If the Director of Administrative Services rejects all bids from the sealed bid sale, the Director may repeat the sealed bid process described in this section or may use an alternate sale process acceptable to the Director of Youth Services.

Advertising costs and any other costs incident to the sale of real estate described in division (A) of this section shall be paid by the Department of Youth Services.

Upon notice from the Director of Administrative Services, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate to the purchaser identified by the Director of Administrative Services. The deed shall be executed by the Governor, countersigned by the Secretary of State, presented in the Office of the Auditor of State for recording, and delivered to the grantee at closing and upon the grantee's payment of the balance of the purchase price. The

grantee shall present the deed for recording in the office of the 152367
Scioto County Recorder. 152368

The grantee shall pay all costs associated with the purchase 152369
and conveyance of the real estate, including the costs of 152370
recording the deed. 152371

The net proceeds of the conveyance of the real estate shall 152372
be deposited into the State Treasury to the credit of the Adult 152373
and Juvenile Correctional Facilities Bond Retirement Fund and 152374
shall be used to offset bond indebtedness for the Ohio River 152375
Valley Juvenile Correctional Facility capital projects. The 152376
Director of Budget and Management may direct that any moneys 152377
remaining in the fund after the redemption or defeasance of the 152378
bonds issued for those projects be transferred to the General 152379
Revenue Fund. 152380

(C) This section expires two years after its effective date. 152381

Section 755.10. The Director of Transportation may enter into 152382
agreements as provided in this section with the United States or 152383
any department or agency of the United States, including, but not 152384
limited to, the United States Army Corps of Engineers, the United 152385
States Forest Service, the United States Environmental Protection 152386
Agency, and the United States Fish and Wildlife Service. An 152387
agreement entered into pursuant to this section shall be solely 152388
for the purpose of dedicating staff to the expeditious and timely 152389
review of environmentally related documents submitted by the 152390
Director of Transportation, as necessary for the approval of 152391
federal permits. The agreements may include provisions for advance 152392
payment by the Director of Transportation for labor and all other 152393
identifiable costs of the United States or any department or 152394
agency of the United States providing the services, as may be 152395
estimated by the United States, or the department or agency of the 152396
United States. The Director shall submit a request to the 152397

Controlling Board indicating the amount of the agreement, the 152398
services to be performed by the United States or the department or 152399
agency of the United States, and the circumstances giving rise to 152400
the agreement. 152401

Section 757.10. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 152402

(A) On or before the tenth day of each month of the period 152403
beginning August 1, 2011, and ending June 30, 2013, the Tax 152404
Commissioner shall determine and certify to the Director of Budget 152405
and Management the amount to be credited during that month to the 152406
Local Government Fund and Public Library Fund pursuant to 152407
divisions (B) to (D) of this section. 152408

(B) Notwithstanding any provision of section 131.51 of the 152409
Revised Code to the contrary, for each month in the period 152410
beginning August 1, 2011, and ending June 30, 2013: 152411

(1) The amount credited first to the Local Government Fund 152412
shall be as provided in division (C) of this section; 152413

(2) The amount credited next to the Public Library Fund shall 152414
be according to the schedule in division (D) of this section. 152415

(C) Pursuant to division (B)(1) of this section, amounts 152416
shall be credited to the Local Government Fund as follows: 152417

(1)(a) In August 2011, seventy-five per cent of the amount 152418
credited in August 2010; in August 2012, fifty per cent of the 152419
amount credited in August 2010; 152420

(b) In September 2011, seventy-five per cent of the amount 152421
credited in September 2010; in September 2012, fifty per cent of 152422
the amount credited in September 2010; 152423

(c) In October 2011, seventy-five per cent of the amount 152424
credited in October 2010; in October 2012, fifty per cent of the 152425
amount credited in October 2010; 152426

(d) In November 2011, seventy-five per cent of the amount	152427
credited in November 2010; in November 2012, fifty per cent of the	152428
amount credited in November 2010;	152429
(e) In December 2011, seventy-five per cent of the amount	152430
credited in December 2010; in December 2012, fifty per cent of the	152431
amount credited in December 2010;	152432
(f) In January 2012, seventy-five per cent of the amount	152433
credited in January 2011; in January 2013, fifty per cent of the	152434
amount credited in January 2011;	152435
(g) In February 2012, seventy-five per cent of the amount	152436
credited in February 2011; in February 2013, fifty per cent of the	152437
amount credited in February 2011;	152438
(h) In March 2012, seventy-five per cent of the amount	152439
credited in March 2011; in March 2013, fifty per cent of the	152440
amount credited in March 2011;	152441
(i) In April 2012, seventy-five per cent of the amount	152442
credited in April 2011; in April 2013, fifty per cent of the	152443
amount credited in April 2011;	152444
(j) In May 2012, seventy-five per cent of the amount credited	152445
in May 2011; in May 2013, fifty per cent of the amount credited in	152446
May 2011;	152447
(k) In June 2012, seventy-five per cent of the amount	152448
credited in June 2011; in June 2013, fifty per cent of the amount	152449
credited in June 2011;	152450
(l) In July 2012, fifty per cent of the amount credited in	152451
July 2010.	152452
(2) For each month in the period beginning August 1, 2011,	152453
and ending June 30, 2013, an amount sufficient to make the	152454
distributions required for that month under divisions (E)(2)(a),	152455
(b), and (c) of this section.	152456

(3)(a) For each month in the period beginning August 1, 2011, 152457
and ending June 30, 2012, an amount equal to one-eleventh of the 152458
difference between fifty million dollars and the amount to be 152459
credited for that month under division (C)(4)(a) of this section; 152460

(b) For each month in the period beginning July 1, 2012, and 152461
ending June 30, 2013, an amount equal to one-twelfth of the 152462
difference between fifty million dollars and the amount to be 152463
credited for that month under division (C)(4)(a) of this section. 152464

(4) The amounts described in division (C)(3) of this section 152465
shall be credited each month from any of the taxes credited to the 152466
General Revenue Fund in the preceding month. The amounts described 152467
in divisions (C)(1) and (2) of this section shall be credited each 152468
month from the following sources of revenue: 152469

(a) Any of the taxes credited to the General Revenue Fund in 152470
the preceding month, in an amount equal to the difference between 152471
the amount to be credited for each month under division (C)(2) of 152472
this section and the sum of the following amounts: 152473

(i) The total amount that would be distributed to county 152474
undivided local government funds in that month under division 152475
(E)(2)(a) of this section if any county undivided local government 152476
fund that received a total distribution between five hundred 152477
thousand dollars and seven hundred fifty thousand dollars in 152478
fiscal year 2011 were not entitled to a distribution under that 152479
division; 152480

(ii) The total amount that would be distributed to county 152481
undivided local government funds in that month under divisions 152482
(E)(2)(b) or (c) of this section, as applicable, if those 152483
divisions applied to county undivided local government funds that 152484
received a total distribution between five hundred thousand 152485
dollars and seven hundred fifty thousand dollars in fiscal year 152486
2011 and if the amount to be distributed to a county undivided 152487

local government fund under that division equaled one-eleventh or 152488
one-twelfth of the difference between five hundred thousand 152489
dollars and the total amount to be allocated to the fund in fiscal 152490
year 2012 or 2013, as applicable. 152491

(b) Revenue arising from the personal income tax levied under 152492
Chapter 5747. of the Revised Code, in an amount equal to the total 152493
amount to be credited for each month under divisions (C)(1) and 152494
(2) of this section after subtraction of the amount credited from 152495
commercial activity tax revenue under division (C)(3)(a) of this 152496
section. 152497

(D) Pursuant to division (B)(2) of this section, amounts 152498
shall be credited from revenue arising from the kilowatt-hour tax 152499
and sales tax levied under section 5727.81 or 5739.02 of the 152500
Revised Code, respectively, to the Public Library Fund as follows: 152501

(1) In August 2011 and in August 2012, ninety-five per cent 152502
of the amount credited in August 2010; 152503

(2) In September 2011 and in September 2012, ninety-five per 152504
cent of the amount credited in September 2010; 152505

(3) In October 2011 and in October 2012, ninety-five per cent 152506
of the amount credited in October 2010; 152507

(4) In November 2011 and in November 2012, ninety-five per 152508
cent of the amount credited in November 2010; 152509

(5) In December 2011 and in December 2012, ninety-five per 152510
cent of the amount credited in December 2010; 152511

(6) In January 2012 and in January 2013, ninety-five per cent 152512
of the amount credited in January 2011; 152513

(7) In February 2012 and in February 2013, ninety-five per 152514
cent of the amount credited in February 2011; 152515

(8) In March 2012 and in March 2013, ninety-five per cent of 152516
the amount credited in March 2011; 152517

(9) In April 2012 and in April 2013, ninety-five per cent of the amount credited in April 2011; 152518
152519

(10) In May 2012 and in May 2013, ninety-five per cent of the amount credited in May 2011; 152520
152521

(11) In June 2012 and in June 2013, ninety-five per cent of the amount credited in June 2011; 152522
152523

(12) In July 2012, ninety-five per cent of the amount credited in July 2010. 152524
152525

(E) Notwithstanding any other provision of the Revised Code to the contrary, the total amount credited to the Local Government Fund in each month for the period beginning August 1, 2011, and ending June 30, 2013, shall be distributed by the tenth day of that month in the following manner: 152526
152527
152528
152529
152530

(1) The total amount credited to the Local Government Fund in each month pursuant to division (C)(1) of this section shall be distributed as follows: 152531
152532
152533

(a) Each county undivided local government fund shall receive a distribution from the Local Government Fund based on its proportionate share of the total amount received from the fund in that respective month in fiscal year 2011. As used in this section, "total amount received" does not include payments received in fiscal year 2011 under division (C) of section 5725.24 of the Revised Code. 152534
152535
152536
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152538
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152540

(b) Each municipal corporation that received a direct distribution in fiscal year 2011 from the Local Government Fund under division (C) of section 5747.50 of the Revised Code shall receive a distribution based on its proportionate share of the total amount of direct distributions made to municipal corporations from the fund in that respective month in fiscal year 2011. 152541
152542
152543
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152545
152546
152547

(2) The total amount credited to the Local Government Fund in 152548
each month pursuant to division (C)(2) of this section shall be 152549
distributed as follows: 152550

(a) If a county undivided local government fund's total 152551
distribution in fiscal year 2011 was equal to or less than seven 152552
hundred fifty thousand dollars, the fund shall receive a 152553
distribution equal to the difference between the amount 152554
distributed to the fund in that respective month in fiscal year 152555
2011 and the amount allocated to the fund for the month under 152556
division (E)(1)(a) of this section. 152557

(b) For each month in the period beginning August 1, 2011, 152558
and ending June 30, 2012, if a county undivided local government 152559
fund's total distribution in fiscal year 2011 exceeded seven 152560
hundred fifty thousand dollars and if the sum of the amount 152561
allocated to the fund in July 2011 and the amounts to be allocated 152562
to the fund between August 1, 2011, and June 30, 2012, under 152563
division (E)(1)(a) of this section is less than seven hundred 152564
fifty thousand dollars, the fund shall receive a distribution 152565
equal to one-eleventh of the difference between seven hundred 152566
fifty thousand dollars and that sum. 152567

(c) For each month in the period beginning July 1, 2012, and 152568
ending June 30, 2013, if a county undivided local government 152569
fund's total distribution in fiscal year 2011 exceeded seven 152570
hundred fifty thousand dollars and if the total amount to be 152571
allocated to the fund in fiscal year 2013 under division (E)(1)(a) 152572
of this section is less than seven hundred fifty thousand dollars, 152573
the fund shall receive a distribution equal to one-twelfth of the 152574
difference between seven hundred fifty thousand dollars and the 152575
total amount to be allocated to the fund in fiscal year 2013 under 152576
division (E)(1)(a) of this section. 152577

(3) The total amount credited to the Local Government Fund in 152578
each month pursuant to division (C)(3) of this section shall be 152579

distributed to each county undivided local government fund based 152580
on each fund's proportionate share of the total amount received 152581
from the Local Government Fund in that respective month in fiscal 152582
year 2011. As used in this section, "total amount received" does 152583
not include payments received in fiscal year 2011 under division 152584
(C) of section 5725.24 of the Revised Code. 152585

(F) Notwithstanding any other provision of the Revised Code 152586
to the contrary, by the tenth day of each month of the period 152587
beginning July 1, 2011, and ending December 31, 2011, each county 152588
undivided public library fund shall receive a distribution from 152589
the Public Library Fund equal to the product derived by 152590
multiplying the following amounts: 152591

(1) The total amount credited to the Public Library Fund in 152592
that month; 152593

(2) A percentage calculated by multiplying one hundred by the 152594
quotient obtained by dividing the sum of the county's 152595
distributions from the Public Library Fund during calendar year 152596
2010 by the sum of distributions made to all counties from the 152597
Public Library Fund during calendar year 2010. 152598

(G) Notwithstanding any other provision of the Revised Code 152599
to the contrary, by the tenth day of each month of the period 152600
beginning January 1, 2012, and ending June 30, 2013, each county 152601
undivided public library fund shall receive a distribution from 152602
the Public Library Fund equal to the product derived by 152603
multiplying the following amounts: 152604

(1) The total amount credited to the Public Library Fund in 152605
that month; 152606

(2) A percentage calculated by multiplying one hundred by the 152607
quotient obtained by dividing the sum of the county's 152608
distributions from the Public Library Fund during calendar year 152609
2011 by the sum of distributions made to all counties from the 152610

Public Library Fund during calendar year 2011. 152611

(H) For the 2012 and 2013 distribution years, the Tax 152612
Commissioner is not required to issue the certifications otherwise 152613
required by sections 5747.47, 5747.501, and 5747.51 of the Revised 152614
Code, but shall provide to each county auditor by July 20, 2011, 152615
and July 20, 2012, an estimate of the amounts to be received by 152616
the county in the ensuing year from the Public Library Fund and 152617
the Local Government Fund pursuant to this section and any other 152618
section of the Revised Code. The Tax Commissioner may report to 152619
each county auditor additional revised estimates of the 2011, 152620
2012, or 2013 distributions at any time during fiscal years 2012 152621
and 2013. 152622

Section 757.20. A school district, joint vocational school 152623
district, or local taxing unit may appeal a levy classification or 152624
any amount used in the calculation of total resources as defined 152625
under division (A) of section 5727.84 or division (A) of section 152626
5751.20 of the Revised Code. Such an appeal shall be filed in 152627
writing, including via electronic mail, with the Tax Commissioner. 152628
Upon receiving such an appeal, the Tax Commissioner shall make a 152629
determination of the merits of the appeal and, if the appeal is 152630
upheld, make necessary changes within the classifications or 152631
calculations. The determination of the Tax Commissioner is final 152632
and not subject to appeal. After June 30, 2013, no changes shall 152633
be made in the classifications or calculations. 152634

Section 757.30. The Tax Commissioner shall conduct a review 152635
of the operations of the Board of Tax Appeals, and, not later than 152636
November 15, 2011, shall submit a written report to the Governor, 152637
Speaker of the House of Representatives, and President of the 152638
Senate providing an assessment of the Board's operations and 152639
recommendations for improvement. The Tax Commissioner's review 152640
shall include consultation with persons who have participated in 152641

or have had matters before the Board and are familiar with the 152642
Board's operations and procedures. The report shall include 152643
recommendations for improving the appeals process, internal 152644
operations, and other operational matters the Commissioner deems 152645
advisable. The Commissioner may designate an employee of the 152646
Department of Taxation to conduct the review. 152647

Section 757.40. (A) As used in this section: 152648

(1) "Qualifying delinquent taxes" means any tax levied under 152649
Chapters 5731., 5733., 5735., 5739., 5743., 5747., 5748., and 152650
5751. of the Revised Code, including the taxes levied under 152651
sections 5707.03, 5727.24, 5733.41, and 5747.41 of the Revised 152652
Code, taxes required to be withheld under Chapters 5747. and 5748. 152653
of the Revised Code, and taxes required to be paid by a seller 152654
levied under Chapter 5741. of the Revised Code, which were due and 152655
payable from any person as of May 1, 2011, were unreported or 152656
underreported, and remain unpaid. 152657

(2) "Qualifying delinquent taxes" does not include any tax 152658
for which a notice of assessment or audit has been issued, for 152659
which a bill has been issued, which relates to a tax period that 152660
ends after the effective date of this section, or for which an 152661
audit has been conducted or is currently being conducted. 152662

(3) "Seller" has the same meaning as defined in section 152663
5741.01 of the Revised Code. 152664

(B) The Tax Commissioner shall establish and administer a tax 152665
amnesty program with respect to qualifying delinquent taxes. The 152666
program shall commence on May 1, 2012, and shall conclude on June 15, 2012. The Tax Commissioner shall issue forms and instructions 152667
and take other actions necessary to implement the program. The Tax 152668
Commissioner shall publicize the program so as to maximize public 152669
awareness and participation in the program. The Commissioner may 152670
152671

contract with such parties as the Commissioner deems necessary for 152672
promotion, computer support, or administration of the program. 152673

(C) During the program, if a person pays the full amount of 152674
qualifying delinquent taxes owed by that person and one-half of 152675
any interest that has accrued as a result of the person failing to 152676
pay those taxes in a timely fashion, the Tax Commissioner shall 152677
waive or abate all applicable penalties and one-half of any 152678
interest that accrued on the qualifying delinquent taxes. 152679

(D) The Tax Commissioner may require a person participating 152680
in the program to file returns or reports, including amended 152681
returns and reports, in connection with the person's payment of 152682
qualifying delinquent taxes. 152683

(E) A person who participates in the program and pays in full 152684
any outstanding qualifying delinquent tax and the interest payable 152685
on such tax in accordance with this section shall not be subject 152686
to any criminal prosecution or any civil action with respect to 152687
that tax, and no assessment shall thereafter be issued against 152688
that person with respect to that tax. 152689

(F) Taxes and interest collected under the program shall be 152690
credited to the General Revenue Fund, except that: 152691

(1) Qualifying delinquent taxes levied under section 152692
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 152693
distributed to the appropriate counties and transit authorities in 152694
accordance with section 5739.21 of the Revised Code during the 152695
next distribution required under that section; 152696

(2) Qualifying delinquent taxes levied under section 152697
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 152698
distributed to the appropriate counties and transit authorities in 152699
accordance with section 5741.03 of the Revised Code during the 152700
next distribution required under that section; 152701

(3) Qualifying delinquent taxes levied under Chapter 5748. of 152702

the Revised Code shall be credited to the school district income 152703
tax fund and then paid to the appropriate school district with the 152704
next payment required under division (D) of section 5747.03 of the 152705
Revised Code; 152706

(4) Qualifying delinquent taxes levied under Chapter 5731. of 152707
the Revised Code shall be divided between the General Revenue Fund 152708
and the municipal corporation or township in which the tax 152709
originates in accordance with section 5731.48 of the Revised Code; 152710

(5) Qualifying delinquent taxes levied under Chapter 5735. of 152711
the Revised Code shall be distributed according to the 152712
requirements of sections 5735.23, 5735.26, 5735.27, 5735.291, and 152713
5735.30 of the Revised Code; and 152714

(6) Qualifying delinquent taxes levied under section 152715
5743.021, 5743.024, 5743.026, 5743.321, 5743.323, or 5743.324 of 152716
the Revised Code shall be distributed as required under sections 152717
5743.021, 5743.024, and 5743.026 of the Revised Code. 152718

Section 757.41. Section 757.40 of this act is hereby 152719
repealed, effective June 16, 2012. The repeal of Section 757.40 of 152720
this act does not affect, after the effective date of the repeal, 152721
the rights, remedies, or actions authorized under that section. 152722

Section 757.42. (A) For the purposes of this section: 152723

(1) "Use tax" means a tax levied under Chapter 5741. of the 152724
Revised Code. 152725

(2) "Consumer" has the same meaning as defined in section 152726
5741.01 of the Revised Code. 152727

(3) "Audit" has the same meaning as defined in section 152728
5703.50 of the Revised Code. 152729

(B) The Tax Commissioner shall establish and administer a use 152730
tax amnesty program independently from the amnesty program 152731

established in Section 757.40 of this act with respect to 152732
delinquent use taxes that are qualifying delinquent taxes under 152733
that section. The program established under this section shall 152734
commence on the effective date of this section and shall conclude 152735
on May 1, 2013. The Commissioner shall issue forms and 152736
instructions and take other actions necessary to implement the 152737
program and may adopt rules to administer the program. The 152738
Commissioner may contract with such parties as the Commissioner 152739
deems necessary for promotion, computer support, or administration 152740
of the program. 152741

(C) If, during the program, a consumer pays the full amount 152742
of use tax for which the consumer has outstanding liability on or 152743
after January 1, 2010, that has accrued as a result of the 152744
consumer failing to pay those taxes in a timely fashion or a 152745
failure of the taxes to be remitted in a timely fashion, the 152746
Commissioner shall waive or abate all delinquent use tax owed by 152747
the consumer before January 1, 2010, and all applicable penalties 152748
and interest accrued before and after January 1, 2010. For any 152749
consumer that does not participate in the use tax amnesty program 152750
under this section, the Commissioner may audit and make an 152751
assessment against the consumer for all delinquent use tax due 152752
from that consumer on or after January 1, 2008, plus all 152753
applicable penalties and interest, as permitted by section 5703.58 152754
of the Revised Code. 152755

(D) As soon as practical after the effective date of this 152756
section, the Tax Commissioner shall implement and adopt rules to 152757
administer a payment plan program. Upon application by a consumer 152758
that participates in the use tax amnesty program under this 152759
section, the Commissioner may enter into a payment plan with the 152760
consumer allowing the participant to pay the amount of use tax 152761
owed by the consumer over a time period of up to twenty-four 152762
months, plus interest computed at the rate per annum determined 152763

under section 5703.47 of the Revised Code. If the consumer fails 152764
to remit the unpaid use tax or fails to comply with the terms of a 152765
payment plan, the Commissioner shall certify to the Attorney 152766
General any remaining unpaid amount in accordance with section 152767
131.02 of the Revised Code. 152768

(E) A consumer against which the Tax Commissioner has issued 152769
an assessment on or before the effective date of this section is 152770
not eligible to participate in the use tax amnesty program 152771
established under this section. 152772

(F) A person who participates in the program and pays the 152773
required outstanding delinquent tax in accordance with this 152774
section shall not be subject to any criminal prosecution or any 152775
civil action with respect to that tax, and no assessment shall 152776
thereafter be issued against that person with respect to that tax. 152777

(G) Taxes and interest collected under the program shall be 152778
credited to the General Revenue Fund, except that delinquent taxes 152779
levied under section 5741.021, 5741.022, or 5741.023 of the 152780
Revised Code shall be distributed to the appropriate counties and 152781
transit authorities in accordance with section 5741.03 of the 152782
Revised Code during the next distribution required under that 152783
section. 152784

Section 757.50. All inheritance tax files that still remain 152785
open under temporary order, or otherwise, for which the "ultimate 152786
succession" pursuant to former sections 5731.28 and 5731.29 of the 152787
Revised Code as those sections existed before their repeal by S.B. 152788
326 of the 107th General Assembly (effective July 1, 1968), 152789
relating to the inheritance tax, has not been finalized and have 152790
not been submitted to the Department of Taxation as explained 152791
below, shall be considered to be closed as of January 1, 2013. 152792

Notwithstanding the former sections of the Revised Code 152793
constituting the Ohio Inheritance Tax as those sections existed 152794

before their repeal by that act, all claims and inquiries must be received by the Department of Taxation, or postmarked on or before, December 31, 2012.

Section 757.60. The amendment by this act of division (00) of section 5739.01 of the Revised Code is to clarify the General Assembly's intent of that section when enacted.

Section 757.80. The amendment by this act of section 5709.07 of the Revised Code applies to tax years 2011 and thereafter.

Section 757.90. For the purposes of this section, "proceedings" and "securities" have the same meaning as in section 133.01 of the Revised Code.

The amendment or enactment by this act of sections 145.56, 319.301, 3305.08, 3307.41, 3309.66, 3316.041, 3316.06, 3316.08, 3317.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, and 5748.09 of the Revised Code apply to any proceedings commenced after the effective date of sections 145.56, 3305.08, 3307.41, 3309.66, 3316.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, and 5748.09 of the Revised Code and, so far as their provisions support the actions taken, also apply to any proceedings that on that effective date are pending, in progress, or completed, and to any elections authorized, conducted, or certified and securities authorized or issued pursuant to those proceedings, notwithstanding any law, resolution, ordinance, order, advertisement, notice, or other proceeding in effect before that effective date. Any proceedings pending or in progress on, or completed by, that effective date, elections authorized, conducted, or certified, and securities sold, issued, and delivered, or validated, pursuant to those proceedings, are ratified with respect to, and shall be deemed to have been taken, authorized, conducted, certified, sold, issued, delivered, or

validated in conformity with section 5748.09 of the Revised Code 152825
and the amended sections so far as their provisions support the 152826
actions taken. To the extent those proceedings are proper in all 152827
other respects, if the proceedings are filed with a board of 152828
elections in anticipation of the taking effect of those amendments 152829
and enactments and in a manner that would be valid if the 152830
amendments and enactments took effect on the date they became law, 152831
then that board of elections, so long as it received a 152832
confirmation stating an intention to proceed from or on behalf of 152833
the board of education within five business days after the 152834
effective date of the amendments and enactments shall accept the 152835
proceedings and take any actions or make any arrangements 152836
necessary for the submission of a question to the electors or 152837
otherwise required by the Revised Code. 152838

The amendment or enactment by this act of sections 145.56, 152839
319.301, 3305.08, 3307.41, 3309.66, 3316.041, 3316.06, 3316.08, 152840
3317.08, 5505.22, 5705.214, 5705.29, 5748.01, 5748.05, 5748.081, 152841
and 5748.09 of the Revised Code provide additional or supplemental 152842
provisions for subject matter that may also be the subject of 152843
other laws, and are intended to be supplemental to, and not in 152844
derogation of, any similar authority provided by, derived from, or 152845
implied by the Ohio Constitution, or any other law, including laws 152846
amended by this act, or any charter, order, resolution, or 152847
ordinance; and those amendments and enactments shall not be 152848
interpreted to negate the authority provided by, derived from, or 152849
implied by such constitution, laws, charters, orders, resolutions, 152850
or ordinances. 152851

Section 757.93. The amendment by this act of division (C) of 152852
section 5733.351 of the Revised Code is intended to clarify the 152853
law as it existed before the enactment of this act and shall be 152854
construed accordingly. 152855

Section 761.10. (A) Any member of the 129th General Assembly 152856
may request the clerk of their respective chamber to reduce the 152857
member's base salary by five per cent for the remainder of that 152858
General Assembly. For purposes of this division, a member's base 152859
salary is the salary amount specified in divisions (A)(1) and (3) 152860
of section 101.27 of the Revised Code, as increased by division 152861
(B) of that section, for the 129th General Assembly. 152862

(B) The base salary of any member who is appointed to the 152863
129th General Assembly after July 1, 2011, shall be \$57,555 for 152864
the remainder of the term to which the member was appointed. 152865

(C) The clerks of each chamber shall, on a quarterly basis, 152866
request the Director of Budget and Management to transfer all 152867
savings derived as a result of divisions (A) and (B) of this 152868
section to GRF appropriation item 600540, Second Harvest Food 152869
Banks, and those amounts transferred are hereby appropriated. 152870

Section 801.20. As used in the uncodified law of this act, 152871
"American Recovery and Reinvestment Act of 2009" means the 152872
"American Recovery and Reinvestment Act of 2009," Pub. L. No. 152873
111-5, 123 Stat. 115. 152874

Section 801.30. REVENUE GENERATED BY TRANSFER OF LIQUOR 152875
ENTERPRISE TO JOBSOHIO 152876

The revenue estimates for fiscal year 2012 assume receipt of 152877
\$500,000,000 in cash from JobsOhio pursuant to section 4313.02 of 152878
the Revised Code, as enacted by this act, and the transfer of the 152879
enterprise acquisition project authorized therein. 152880

Section 803.40. Sections 121.40, 121.401 to 121.404, 1501.40, 152881
3301.70, 3333.043, and 4503.93 of the Revised Code continue to 152882
operate the same as they did before their amendment by this act, 152883
except for the name of the Ohio Community Service Council being 152884

changed to the Ohio Commission on Service and Volunteerism. 152885

Section 803.60. Section 3903.301 of the Revised Code shall 152886
apply only to formal delinquency proceedings that commence under 152887
sections 3903.01 to 3903.59 of the Revised Code on or after the 152888
effective date of this act. 152889

Section 803.70. The amendment by this act to section 119.032 152890
of the Revised Code does not accelerate the taking effect of the 152891
amendment to that section by S.B. 2 of the 129th General Assembly, 152892
which takes effect January 1, 2012. 152893

Section 806.10. The items of law contained in this act, and 152894
their applications, are severable. If any item of law contained in 152895
this act, or if any application of any item of law contained in 152896
this act, is held invalid, the invalidity does not affect other 152897
items of law contained in this act and their applications that can 152898
be given effect without the invalid item of law or application. 152899

Section 809.10. An item of law, other than an amending, 152900
enacting, or repealing clause, that composes the whole or part of 152901
an uncodified section contained in this act has no effect after 152902
June 30, 2013, unless its context clearly indicates otherwise. 152903

Section 812.10. Except as otherwise provided in this act, the 152904
amendment, enactment, or repeal by this act of a section is 152905
subject to the referendum under Ohio Constitution, Article II, 152906
section 1c and therefore takes effect on the ninety-first day 152907
after this act is filed with the Secretary of State or, if a later 152908
effective date is specified below, on that date. 152909

The amendment or repeal of sections 9.231, 9.24, 127.16, 152910
1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 152911

1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 2744.05, 3111.04, 152912
3113.06, 3119.54, 3901.3814, 3923.281, 3963.01, 4731.65, 4731.71, 152913
5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 152914
5101.571, 5101.58, 5111.0112, and 5111.941 of the Revised Code 152915
takes effect October 1, 2011. 152916

The amendment or enactment of sections 123.10, 154.11, 152917
154.24, 154.25, 5120.105, 5707.031, 5725.151, 5725.24, and 152918
5751.011 of the Revised Code and Sections 701.50 and 515.40 of 152919
this act takes effect January 1, 2012. 152920

The amendment of sections 131.44 and 131.51 of the Revised 152921
Code takes effect June 1, 2013. 152922

Section 812.20. The amendment, enactment, or repeal by this 152923
act of the sections listed below is exempt from the referendum 152924
under Ohio Constitution, Article II, section 1d and section 1.471 152925
of the Revised Code and therefore takes effect immediately when 152926
this act becomes law or, if a later effective date is specified 152927
below, on that date. 152928

Sections 9.06, 9.833, 9.90, 9.901, 101.532, 101.82, 111.12, 152929
111.16, 111.18, 111.181, 111.28, 111.29, 117.13, 121.37, 124.09, 152930
124.14, 124.141, 124.15, 124.23, 124.231, 124.25, 124.26, 124.27, 152931
124.31, 125.15, 125.18, 125.213, 125.28, 125.89, 126.04, 126.12, 152932
126.24, 127.14, 149.091, 149.11, 149.311, 187.02, 187.03, 305.171, 152933
319.301, 505.60, 505.601, 505.603, 901.09, 924.52, 927.69, 152934
1309.528, 1327.46, 1327.50, 1327.501, 1327.51, 1327.511, 1327.54, 152935
1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1501.031, 152936
1515.14, 1545.071, 1551.311, 1551.32, 1551.35, 1555.02, 1555.03, 152937
1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1701.07, 1702.59, 152938
1703.031, 1703.07, 1776.83, 1785.06, 3301.07, 3301.16, 3301.162, 152939
3301.81, 3301.82, 3302.031, 3302.07, 3306.01, 3306.011, 3306.012, 152940
3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 152941
3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.12, 152942

3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29,	152943
3306.291, 3306.292, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51,	152944
3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.059,	152945
3311.0510, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76,	152946
3313.411, 3313.55, 3313.64, 3313.6410, 3313.843, 3313.88,	152947
3313.976, 3313.978, 3313.979, 3313.981, 3314.012, 3314.08,	152948
3314.085, 3314.087, 3314.088, 3314.091, 3314.10, 3314.11,	152949
3314.111, 3314.13, 3314.35, 3315.01, 3316.041, 3316.06, 3316.20,	152950
3316.21, 3317.01, 3317.011, 3317.013, 3317.014, 3317.016,	152951
3317.017, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023,	152952
3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0212, 3317.0216,	152953
3317.03, 3317.031, 3317.04, 3317.05, 3317.051, 3317.053, 3317.061,	152954
3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12,	152955
3317.16, 3317.17, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011,	152956
3318.051, 3318.36, 3319.19, 3319.39, 3319.57, 3319.62, 3323.091,	152957
3323.14, 3323.142, 3323.31, 3324.05, 3326.33, 3326.39, 3327.02,	152958
3327.04, 3327.05, 3329.16, 3345.14, 3345.81, 3349.242, 3353.15,	152959
3365.01, 3365.08, 3506.05, 3701.0211, 3704.06, 3704.14, 3734.901,	152960
3745.015, 3745.016, 3793.04, 3793.21, 4115.101, 4121.03, 4121.12,	152961
4121.121, 4121.125, 4121.128, 4121.44, 4121.75, 4121.76, 4121.77,	152962
4121.78, 4121.79, 4123.341, 4123.342, 4123.35, 4141.08, 4141.11,	152963
4301.43, 4511.191, 4725.34, 4733.15, 4733.151, 5111.0122,	152964
5111.0213, 5111.0215, 5111.945, 5112.99, 5112.991, 5120.092,	152965
5123.0419, 5126.0511, 5126.11, 5126.18, 5126.24, 5703.05,	152966
5705.211, 5715.26, 5727.84, 5727.85, 5727.86, 5747.46, 5747.51,	152967
5747.52, 5747.53, 5751.20, 5751.21, 5751.22, 5751.23, and 6109.21.	152968
The amendment, enactment, or repeal of sections 109.572,	152969
173.21, 173.35 (5119.69), 173.351 (5119.691), 173.36 (5119.692),	152970
340.03, 340.05, 340.08, 340.091, 340.11, 2317.02, 2317.422,	152971
2903.33, 3306.12 (3317.0212), 3313.65, 3318.49, 3326.11, 3701.07,	152972
3701.74, 3721.02, 3721.50, 3721.51, 3721.56, 3721.561 (3721.56),	152973
3721.58, 3722.011 (5119.701), 3722.021 (5119.711), 3722.022	152974
(5119.712), 3722.03 (5119.72), 3722.041 (5119.731), 3722.05	152975

(5119.74), 3722.06 (5119.75), 3722.07 (5119.76), 3722.08 152976
(5119.77), 3722.09 (5119.78), 3722.10 (5119.79), 3722.11 152977
(5119.80), 3722.12 (5119.81), 3722.13 (5119.82), 3722.14 152978
(5119.83), 3722.15 (5119.84), 3722.151 (5119.85), 3722.16 152979
(5119.86), 3722.17 (5119.87), 3722.18 (5119.88), 3722.99, 3737.83, 152980
3737.841, 3769.08, 3769.20, 3769.26, 3781.183, 3791.043, 5101.35, 152981
5101.60, 5101.61, 5111.023, 5111.025, 5111.113, 5111.222, 152982
5111.231, 5111.24, 5111.243, 5111.244, 5111.25, 5111.254, 152983
5111.911, 5111.912, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 152984
5119.18, 5119.61, 5119.613 (5119.614), 5119.62, 5119.621, 152985
5119.622, 5119.623, 5119.99, 5122.15, 5701.13, and 5731.39 of the 152986
Revised Code takes effect July 1, 2011. 152987

The amendment of sections 5112.40, 5112.41, and 5112.46 of 152988
the Revised Code takes effect October 1, 2011. 152989

Sections of this act prefixed with section numbers in the 152990
200's, 300's, 400's, 500's, and 600's, except for Sections 152991
309.30.40, 501.10, 515.20, 690.10, and 690.11 of this act and 152992
except for the amendment of Section 105.45.70 of Sub. H.B. 462 of 152993
the 128th General Assembly. 152994

Sections 701.20, 733.10, 749.10, 753.10, 757.10, 757.20, and 152995
757.30 of this act. 152996

Sections 801.20, 812.10, 812.20, and 812.30 of this act. 152997

Section 812.30. The sections that are listed in the left-hand 152998
column of the following table combine amendments by this act that 152999
are and that are not exempt from the referendum under Ohio 153000
Constitution, Article II, sections 1c and 1d and section 1.471 of 153001
the Revised Code. 153002

The middle column identifies the amendments to the listed 153003
sections that are subject to the referendum under Ohio 153004
Constitution, Article II, section 1c and therefore take effect on 153005

the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum	
102.02	All amendments except as described in the right-hand column	The amendment in division (A) striking through "the director appointed by the workers' compensation council;"	153015
109.57	All amendments except as described in the right-hand column	The amendment to division (G) takes effect July 1, 2011	153016
173.14	All amendments except as described in the right-hand column	The amendments to divisions (A)(1)(d) and (f) take effect July 1, 2011	153017
173.26	All amendments except as described in the right-hand column	The amendment to division (A)(4) takes effect July 1, 2011	153018
173.42	All amendments except as described in the right-hand column	The amendment to division (I)(3) takes effect July 1, 2011	153019
187.01	The amendment to division (I)	All amendments except as described in the middle column	153020

1551.33	The amendment in division (C) striking through "1551.13,"	All amendments except as described in the middle column	153021
3313.29	The amendment striking "149.41" and inserting "149.381"	The amendment striking "(I)" and inserting "(E)"	153022
3314.10	The amendments to divisions (A) and (B)(1)	The amendments to division (B)(2)	153023
3314.19	All amendments except amendments to division (A)	Amendments to division (A)	153024
3314.22	All amendments except as described in the right column	The amendments to division (A)(3) and (4) striking references to the office of community schools and inserting references to the department of education	153025
3317.06	The amendments to divisions (A)(2), (K), and (L) and the addition of division (O)	All amendments except as described in the middle column	153026
3318.032	The amendment inserting "subject to a new project scope and estimated costs under section 3318.054 of the Revised Code,"	1. The amendment striking "one-year" and inserting "thirteen-month" 2. The amendment striking "year" and inserting "period"	153027
3318.05	The amendment inserting ", subject to section 3318.054 of the Revised Code"	The amendment striking "one year" and inserting "thirteen months"	153028

3318.41	The amendments to divisions (D)(2) and (H)	The amendment to division (D)(1)(b)	153029
3319.17	The amendment to division (B)	Amendment to division (A)	153030
3721.01	All amendments except as described in the right-hand column	The amendment to division (A)(1)(c)(iv) takes effect July 1, 2011	153031
3722.01 (5119.70)	The amendments to division (A)(13)	All amendments except the amendments to division (A)(13)	153032
3722.04 (5119.73)	The amendments to division (C)	All amendments except the amendments to division (C)	153033
3734.57	All amendments except amendments to division (A)	Amendments to division (A)	153034
3745.11	The amendment inserting division (S)(3) and amendments in division (S)(1) relating thereto	All amendments except as described in the middle column	153035
4115.10	All amendments except as described in the right-hand column	The amendment in division (A) striking "penalty enforcement" and inserting " <u>labor operating</u> " and striking ", which is hereby created in the state treasury	153036
5111.873	1. The amendment to division (A) that inserts "subject to division (D) of this section" 2. All of division (D)	All amendments except as described in the middle column	153037
5119.22	All amendments except as	The amendments to	153038

	described in the right-hand column	division (A)(1)(a) and the paragraph following division (A)(1)(d)(iii) take effect July 1, 2011	
5123.19	All amendments except as described in the right-hand column	The amendment to division (B) takes effect July 1, 2011	153039
5126.05	The amendment to division (D)	The amendment to division (A)(4)	153040
	Section 812.40. The amendments to sections 5101.26, 5123.19, and 5123.191 of the Revised Code are subject to the referendum under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. However:		153041 153042 153043 153044 153045
	In section 5101.26 of the Revised Code, the amendment striking "and 5101.5211 to 5101.5216" takes effect on October 1, 2011.		153046 153047 153048
	The amendment to divisions (B) and (G) of section 5123.191 of the Revised Code take effect October 1, 2012.		153049 153050
	Section 815.20. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:		153051 153052 153053 153054 153055 153056 153057 153058
	Section 9.06 of the Revised Code as amended by Am. Sub. H.B. 130 of the 127th General Assembly and Am. Sub. H.B. 1 of the 128th General Assembly.		153059 153060 153061

Section 121.37 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153062 153063
Section 123.01 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153064 153065
Section 124.11 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153066 153067
Section 124.23 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153068 153069
Section 124.27 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153070 153071
Section 124.34 of the Revised Code as amended by Am. Sub. H.B. 1 and Am. Sub. H.B. 16 of the 128th General Assembly.	153072 153073
Section 127.16 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153074 153075
Section 505.49 of the Revised Code as amended by both Am. Sub. H.B. 490 and Am. H.B. 515 of the 124th General Assembly.	153076 153077
Section 1901.02 of the Revised Code as amended by both Am. Sub. H.B. 238 and Sub. H.B. 338 of the 128th General Assembly.	153078 153079
Section 1533.111 of the Revised Code as amended by Am. Sub. H.B. 66 and H.B. 296 of the 126th General Assembly.	153080 153081
Sections 1923.01 and 1923.02 of the Revised Code as amended by both Sub. H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly.	153082 153083 153084
Section 2903.33 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153085 153086
Section 3301.07 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153087 153088
Section 3311.054 as amended by Am. Sub. H.B. 601 and Am. Sub. S.B. 230 of the 121st General Assembly.	153089 153090

Section 3313.65 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153091 153092
Section 3317.02 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153093 153094
Section 3317.024 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153095 153096
Section 3317.03 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153097 153098
Section 3317.20 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153099 153100
Section 3323.091 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153101 153102
Section 3323.142 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153103 153104
Section 3721.01 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153105 153106
Section 3722.01 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153107 153108
Section 4115.04 of the Revised Code as amended by Sub. H.B. 443 and Am. Sub. H.B. 699 of the 126th General Assembly.	153109 153110
Section 4517.01 of the Revised Code as amended by Am. H.B. 9 and Am. Sub. H.B. 114 of the 129th General Assembly.	153111 153112
Section 4928.01 of the Revised Code as amended by both Am. Sub. S.B. 181 and Am. Sub. S.B. 232 of the 128th General Assembly.	153113 153114
Section 5111.211 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153115 153116
Section 5112.30 of the Revised Code as amended by Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153117 153118
Section 5112.37 of the Revised Code as amended by Am. Sub.	153119

H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153120
Section 5119.16 of the Revised Code as amended by Am. Sub.	153121
H.B. 1 and S.B. 79 of the 128th General Assembly.	153122
Section 5123.0412 of the Revised Code as amended by Am. Sub.	153123
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153124
Section 5123.0413 of the Revised Code as amended by Am. Sub.	153125
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153126
Section 5123.0417 of the Revised Code as amended by Am. Sub.	153127
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153128
Section 5123.19 of the Revised Code as amended by Am. Sub.	153129
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153130
Section 5126.05 of the Revised Code as amended by Am. Sub.	153131
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153132
Section 5126.054 of the Revised Code as amended by Am. Sub.	153133
H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	153134
Section 5126.0512 of the Revised Code as amended by Am. Sub.	153135
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